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FEDERAL AND STATE
WEIGHTS AND MEASURES LAWS
Through 1949 Editions

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL BUREAU OF STANDARDS
Circular 101

Federal and State Weights and Measures Laws

Through 1949 Enactments

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PREFACE

This compilation of weights and measures laws is the fourth such compilation to be published by the National Bureau of Standards, earlier volumes having been issued in 1904, 1912, and 1926. This volume supersedes National Bureau of Standards Miscellaneous Publication M20, Third Edition (1926), "Federal and State Laws Relating to Weights and Measures".

The information here presented is not elsewhere available in a single volume, and comprises a collection of Federal and State laws, and certain Federal regulations, dealing with the regulatory control of commercial weighing and measuring equipment and practices. The effort has been to bring the material completely up to date through the 1949 sessions of the several State legislatures. The material has been selected for publication on the basis of presenting what will be most useful in this field to weights and measures officials, lawyers, equipment manufacturers, shippers, and business interests in general, and material considered of secondary importance or interest has consistently been eliminated from those sections which are reported.

Citations are given to the latest available official codes or compiled statutes, to the latest generally accepted compiled statutes if "official" works are not available, or, in the case of the more recent enactments, to the session laws. Thus those requiring to do so may readily locate the original sources from which the extracts published herein have been obtained. Dates of original enactment and last amendment are included, insofar as these could be determined. Separate, detailed tables of contents for the laws of each State and for the Federal laws, and a comprehensive topical index of the entire volume combine to provide means for locating quickly and effectively specific statutory provisions of each jurisdiction.

There has been for a number of years a growing demand from those enforcing or affected by weights and measures legislation, and from students, for an up to date compilation of the laws on this subject. It is believed that the needs of these groups will be met adequately by this publication. It is believed further, that this presentation of the prevailing statutory basis for weights and measures supervision and control in the United States will tend strongly to promote uniformity among the several jurisdictions and to encourage the strengthening of the laws and the extension of weights and measures supervision to areas not now adequately protected. Such results will be a valuable contribution to the orderly exchange of commodities and services in the commerce of the Nation.

E. U. CONDON,
Director, National Bureau of Standards.

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NOTES

1. A citation applies to all sections following the citation, to the point where another citation is given. In the text, when a citation carries over from an "odd" page to the succeeding "even" page, the citation is repeated and is shown as "continued".

2. The year of original enactment of each section is shown in brackets at the end of the section, thus: [1911]. If the section has been amended, the year of last amendment is combined with the year of enactment, thus: [1911; last amended 1929].

3. Editorial notes, placed in brackets and identified as "Ed. Note", are utilized whenever it is considered advisable to supply explanatory information of a general character.

4. Footnotes to particular sections, identified by reference numbers, appear in small type immediately following the section to which they are referenced.

Federal and State Weights and Measures Laws

INTRODUCTION

The authority of the Congress of the United States in the field of weights and measures is found in the Constitution of the United States in two places in the same section, these being clause 3 and clause 5 of Section 8 of Article I. The first of these is commonly spoken of as the "interstate commerce" clause and the second as the "weights and measures" clause. Enactments under clause 3 are interstate only in their application; enactments under clause 5 are intrastate as well as interstate in their application, and so govern transactions wholly within a State as well as transactions between States. If there is any conflict between the provisions of an "intrastate" Federal law and a State law, the Federal requirement supersedes the conflicting State requirement.

The text of the United States Constitutional provisions is as follows:

Const. U. S., Art. I.

Sec. 8. The Congress shall have Power * * * To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; * * * To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; * * *

The Congress has enacted only a very few laws regulating weights and measures or weighing or measuring practices. The principal acts of this character which are now in effect are the following, all of which are reported in the section on Federal laws:

1. The Standard Barrel Act (1915), which establishes a barrel for "fruits, vegetables, and other dry commodities other than cranberries" and another somewhat smaller barrel for cranberries. This act is *intrastate* in its application.

2. The Standard Lime Barrel Act (1916), which establishes a "large" and a "small" barrel for lime. This act is *interstate* in its application.

3. The Standard Container Act of 1916, which establishes standard climax baskets for grapes and other fruits and vegetables and standard baskets and other containers for small fruits, berries, and vegetables. This act is *interstate* in its application.

4. The Standard Container Act of 1928, which establishes standard hampers, round stave baskets, and splint baskets for fruits and vegetables. This act is *intrastate* in its application.

5. The Packers and Stockyards Act (1921), under which there is prescribed a degree of Federal control over weighing facilities and practices at certain stockyards and live poultry markets.

6. The Food, Drug and Cosmetic Act (1938), which superseded the Food and Drugs Act (1913), and which, among other provisions, deals with misbranded food, drugs, devices, and cosmetics when in package form. This act is *interstate* in its application.

For reasons which are not clear at this time the Congress was very slow to act on the subject of

weights and measures during the early years of the Nation's existence. Although there is a record of sporadic discussions relative to the important matter of adoption of standards, beginning with the first message of President Washington on January 8, 1790, the first effective action of the Congress toward this end was the passage of the Mint Act of 1828, the pertinent part of which was as follows:

That, for the purpose of securing a due conformity in weight of the coins of the United States * * * the brass troy pound procured by the minister of the United States at London, in the year one thousand eight hundred and twenty-seven, for the use of the mint, and now in the custody of the Mint at Philadelphia, shall be the standard troy pound of the Mint of the United States, conformably to which the coinage thereof shall be regulated.

In amended form this provision is still in effect, as reported on page 40 under the citation, U. S. Code, 1946 Ed., Title 31, Ch. 8, Sec. 364.

Two years after passage of the Mint Act there was offered to the Senate (on May 29, 1830) a resolution which, being unanimously adopted, started a chain of events which culminated in the establishment of a uniform system of weights and measures standards for the United States. This Senate Resolution was as follows:

Resolved, That the Secretary of the Treasury be directed to cause a comparison to be made of the standards of weights and measures now used at the principal custom-houses in the United States, and report to the Senate at the next session of Congress.

The adoption of this resolution followed upon a report to the Senate by one of its committees to the effect that investigation had disclosed differences in the standards used in the custom houses with resulting revenue losses of large amount.

For an account of what immediately followed, quotation is made from National Bureau of Standards Miscellaneous Publication M122, "Weights and Measures in Congress", pp. 14-15:

The Secretary of the Treasury at the time the comparison of standards used in the customhouses was begun was S. D. Ingham. He delegated this work to Ferdinand Rudolph Hassler, who was at that time Superintendent of the Coast Survey. Mr. Hassler made his first report on March 3, 1831, which was transmitted to the President of the United States and to the Senate by Secretary Ingham. A more complete report was submitted by Mr. Hassler on June 20, 1832. Louis McLane was Secretary of the Treasury at this time, and in his letter of transmittal to the President of the Senate, Mr. McLane stated that Mr. Hassler's investigations showed that large discrepancies were found to exist among the weights and measures in use at the different ports. While some discrepancies

were large and some small, the average value of the various denominations agreed fairly well with the weights and measures in use in Great Britain at the time of the American Revolution. Mr. McLane further stated: "It is, nevertheless, a serious evil, inasmuch as it produces inequalities in the duties levied at the different ports; and thus contravenes the spirit of the Constitution, which declares that all duties, imposts, and excises, shall be uniform throughout the United States. It is believed, however, that this department has full authority to correct the evil, by causing uniform and accurate weights and measures, and authentic standards, to be supplied to all custom houses."

The Secretary of the Treasury gave a broad interpretation to the resolution of May 29, 1830, as is indicated by the statement above, and instructed Mr. Hassler to proceed to the construction of the weights and measures to be supplied to the customhouses in order to assure uniformity in the customs. Preliminary to the construction of these weights and measures, it was necessary to select the units and prepare the standards. It was decided that the yard of 36 inches, the avoirdupois pound of 7,000 grains, the gallon of 231 cubic inches, and the bushel of 2,150.42 inches be adopted.

The brass bar made by Troughton of London for the Coast and Geodetic Survey and brought to this country by Hassler in 1813, was adopted as the standard of length. This bar was 82 inches long, and the standard yard selected was the one comprised between the twenty-seventh and the sixty-third inch marks. This was believed equal to the English standard yard at 62° Fahrenheit, although direct comparison with that standard had not been made.

The avoirdupois pound was derived from the troy pound of the mint. For this purpose, the avoirdupois pound was assumed to be 7000/5760 pounds troy.

The units of capacity selected were closer than any other to the average in use at that time in the United States. They were the wine gallon of 231 cubic inches and the Winchester bushel of 2,150.42 cubic inches.

After the adoption of the units referred to above, the work of constructing the weights and measures for the customhouses was begun in earnest. Hassler made progress reports to the Secretary of the Treasury over a period of several years. His letters are full of interesting statements about the work in general, and the difficulties encountered in the performance of so large and responsible a task are clearly shown.

While Hassler and his assistants were working at feverish haste to complete the construction of the standards, a memorial was sent to Congress from businessmen of Philadelphia urging Congress to establish a standard of weights and measures. The memorial was referred to a committee of which Representative Horace Binny was chairman. Representative Binny reported from that committee on February 17, 1835. He reviewed previous action of Congress on this subject, and read extracts from Hassler's reports which he hoped would make Congress realize the confused state of affairs in commercial transactions. He offered the following resolution:

Resolved, That it is highly expedient that the Treasury Department should complete, with as little delay as practicable, the fabrication of standards of weights and measures, for the supply of the different customhouses of the United States, upon the principles set forth in the reports of the Secretary of the Treasury to the Senate, on March 3, 1831, and June 20, 1832.

Representative Binny had obtained several letters and progress reports of the work which Hassler had written to the Secretary of the Treasury. These were read and made a part of the records of Congress, together with the above resolution.

The Binny resolution was not adopted as offered, but in the following year there was adopted a Joint Resolution directing distribution of Standards to the States, as follows:

Joint Resolution of Congress, June 14, 1836.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the

Secretary of the Treasury be, and he hereby is, directed to cause a complete set of all weights and measures adopted as standards and now either made or in progress of manufacture for the use of the several customhouses, and for other purposes, to be delivered to the governor of each State in the Union, or such person as he may appoint, for the use of the States, respectively, to the end that a uniform standard of weights and measures may be established throughout the United States.

The Joint Resolution of 1836 was supplemented in 1838 by legislation which directed the Secretary of the Treasury to furnish balances to the States. This provision was added as one of numerous amendments to an appropriation act, the original purpose of which was "to provide for the support of the Military Academy of the United States for the year 1838", as follows:

Public 53, 25th Congress, 2nd Session, July 7, 1838.

* * * * *

Sec. 7. *And be it further enacted*, That the Secretary of the Treasury cause to be made, under the superintendence of Mr. Hassler, one standard balance for each State, and when completed that he cause them to be delivered to the respective Governors for the use of the respective States.

Under this authority not *one* balance, but *three* balances were prepared for each State.

The Joint Resolution of 1836 and the law of 1838 were supplemented by two other Joint Resolutions, in 1866 and 1881, authorizing further distribution of standards, as follows:

Joint Resolution of Congress, July 27, 1866.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to furnish to each State, to be delivered to the governor thereof, one set of standard weights and measures of the metric system for the use of the States, respectively.

Joint Resolution of Congress, March 3, 1881.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to cause a complete set of all the weights and measures adopted as standards to be delivered to the governor of each State in the Union, for the use of agricultural colleges in the States, respectively, which have received a grant of lands from the United States, and also one set of the same for the use of the Smithsonian Institution: *Provided*, That the cost of each set shall not exceed two hundred dollars, and a sum sufficient to carry out the provisions of this resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The practical effect of the distribution of standards and balances as authorized by the Joint Resolutions of 1836, 1866, and 1881, and the law of 1838 has been the adoption by States as State standards, of the standards so furnished. As a consequence there is uniformity of standards throughout the country as a result of Congressional action but without any broad and specific Congressional requirement to that effect.

In 1866 the Congress passed a law legalizing the use throughout the United States of the metric sys-

tem of weights and measures and including tables of legal equivalents for metric units in terms of units of weight and measure customarily in use in the United States. This important statute is commonly referred to in weights and measures circles as the "Law of 1866"; its provisions are reported on page 10 under the citation, U. S. Code, 1946 Ed., Title 15, Ch. 6, Metric System.

The United States was one of the signatories to a treaty known as the "Metric Convention", signed in 1875, under the terms of which the International Bureau of Weights and Measures was created and its duties prescribed. A translation of the convention, and of appendix No. 1 containing the regulations appended thereto, as amended, follows:

Metric Convention: Signed at Paris, May 20, 1875; ratification advised by the Senate, May 15, 1878; ratified by the President, May 28, 1878; ratifications exchanged, August 2, 1878; proclaimed, September 27, 1878. As amended by the convention signed at Sevres, October 6, 1921; ratification advised by the Senate, January 5, 1923; ratified by the President, September 19, 1923; ratification of the United States, deposited with the Government of the French Republic, October 24, 1923; proclaimed, October 27, 1923.

His Excellency the President of the United States of America, His Majesty the Emperor of Germany, His Majesty the Emperor of Austria-Hungary, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Excellency the President of the Argentine Confederation, His Majesty the King of Denmark, His Majesty the King of Spain, His Excellency the President of the French Republic, His Majesty the King of Italy, His Excellency the President of the Republic of Peru, His Majesty the King of Portugal and the Algarves, His Majesty the Emperor of all the Russias, His Majesty the King of Sweden and Norway, His Excellency the President of the Swiss Confederation, His Majesty the Emperor of the Ottomans, and His Excellency the President of the Republic of Venezuela, desiring international uniformity and precision in standards of weight and measure, have resolved to conclude a convention to this effect, and have named as their plenipotentiaries the following: * * *

Who, after having exhibited their full powers, which were found to be in good and due form, have agreed upon the following articles:

Article 1. The high contracting parties engage to establish and maintain, at their common expense, a scientific and permanent international bureau of weights and measures, the location of which shall be at Paris.

Art. 2. The French Government shall take all the necessary measures to facilitate the purchase, or, if expedient, the construction, of a building which shall be especially devoted to this purpose, subject to the conditions stated in the regulations which are subjoined to this convention.

Art. 3. The operation of the international bureau shall be under the exclusive direction and supervision of an international committee of weights and measures, which latter shall be under the control of a general conference for weights and measures, to be composed of the delegates of all the contracting Governments.

Art. 4. The general conference for weights and measures shall be presided over by the president for the time being of the Paris Academy of Sciences.

Art. 5. The organization of the bureau, as well as the formation and the powers of the international committee, and of the general conference for weights and measures, are established by the regulations subjoined to this convention.

Art. 6. The international bureau of weights and measures shall be charged with the following duties:

First. All comparisons and verifications of the new prototypes of the meter and kilogram.

Second. The custody of the international prototypes.

Third. The periodical comparison of the national standards with the international prototypes and with their test copies, as well as comparisons of the standard thermometers.

Fourth. The comparison of the prototypes with the fundamental standards of nonmetrical weights and measures used in different countries for scientific purposes.

Fifth. The sealing and comparison of geodesic measuring bars.

Sixth. The comparison of standards and scales of precision, the verification of which may be requested by governments or by scientific societies, or even by constructors or men of science.

Art. 7. After the committee shall have proceeded with the work of coordinating the measures relative to electric units and when the general conference shall have so decided by a unanimous vote, the bureau will have charge of the establishment and keeping of the standards of the electric units and their test copies and also of comparing with those standards, the national or other standards of precision.

The bureau is also charged with the duty of making the determinations relative to physical constants, a more accurate knowledge of which may be useful in increasing precision and further insuring uniformity in the provinces to which the above-mentioned units belong (article 6 and first paragraph of article 7).

It is finally charged with the duty of coordinating similar determinations effected in other institutions.

Art. 8. The international prototypes and standards and also their test copies shall be deposited in the bureau; access to the deposit shall be solely reserved for the international committee.

Art. 9. The entire expense of the construction and outfit of the international bureau of weights and measures, together with the annual cost of its maintenance and the expenses of the committee, shall be defrayed by contributions from the contracting states, the amount of which shall be computed in proportion to the actual population of each.

Art. 10. The amounts representing the contributions of each of the contracting States shall be paid at the beginning of each year, through the ministry of foreign affairs of France, into the *Caisse de dépôts et consignations* at Paris, whence they may be drawn as occasion may require, upon the order of the director of the bureau.

Art. 11. Those Governments which may take advantage of the privilege, open to every State, of acceding to this convention shall be required to pay a contribution, the amount of which shall be fixed by the committee on the basis established in article 9, and which shall be devoted to the improvement of the scientific apparatus of the bureau.

Art. 12. The high contracting parties reserve to themselves the power of introducing into the present convention, by common consent, any modifications the propriety of which may have been shown by experience.

Art. 13. At the expiration of twelve years this convention may be abrogated by any one of the high contracting parties, so far as it is concerned.

Any Government which may avail itself of the right of terminating this convention, so far as it is concerned, shall be required to give notice of its intentions one year in advance, and by so doing shall renounce all rights of joint ownership in the international prototypes and in the bureau. * * *

Appendix No. 1, Regulations.

Article 1. The international bureau of weights and measures shall be established in a special building, possessing all the necessary safeguards of stillness and stability.

It shall comprise, in addition to the vault, which shall be devoted to the safe-keeping of the prototypes, rooms for mounting the comparators and balances; a laboratory, a library, a room for the archives, workrooms for the employes, and lodgings for the watchmen and attendants.

Art. 2. It shall be the duty of the international committee to acquire and fit up the aforesaid building and to set in operation the work for which it was designed.

In case of the committee's inability to obtain a suitable

building one shall be built under its directions and in accordance with its plans.

Art. 3. The French Government shall, at the request of the international committee, take the necessary measures to cause the bureau to be recognized as an establishment of public utility.

Art. 4. The international committee shall cause the necessary instruments to be constructed, such as comparators for the standards of line and end measures, apparatus for the determination of absolute dilatations, balances for weighing in air and in vacuo, comparators for geodetic measuring bars, etc.

Art. 5. The entire expense incurred in the purchase or construction of the building, and in the purchase and placing of the instruments and apparatus, shall not exceed 400,000 francs.

Art. 6. The annual appropriation for the international bureau consists of two parts, one of which is fixed, the other complementary.

The fixed part is, in principle, 250,000 francs, but on the unanimous vote of the committee may be raised to 300,000 francs. It is borne by all the States and autonomous colonies that adhered to the meter convention before the sixth general conference.

The complementary part is made up of contributions from the States and autonomous colonies that joined the convention after the aforesaid general conference. The committee is charged with the duty of drawing up on the motion of the director the annual budget, but without exceeding the amount computed in accordance with the provisions of the two paragraphs above. The budget is made known every year by means of a special financial report to the Governments of the high contracting parties.

If the committee find it necessary either to increase beyond 300,000 francs the fixed part of the annual appropriation or to modify the computation of the contributions as determined by article 20 of these regulations, it should lay the matter before the Governments so as to enable them to issue in good time the needed instructions to their delegates to the next general conference in order that the said conference may deliberate to good purpose. The decision will stand only in the case that no opposition shall have been expressed before or in the conference by any of the contracting States.

If the State should let three years go without paying its contribution, that contribution shall be divided among the other States proportionally to their own contribution. The additional sum thus paid by the States to make up the whole of the appropriation of the bureau shall be regarded as an advance to the delinquent State and shall be reimbursed to them if that State should make good its arrears. The advantages and prerogatives conferred by adhering to the meter convention are suspended in the case of States that have been delinquent three years.

After three more years the delinquent State shall be expelled from the convention and the reckoning of the contributions restored in accordance with the provisions of article 20 of these regulations.

Art. 7. The general conference mentioned in article 3 of this convention shall be at Paris, upon the summons of the international committee, at least once every six years.

It shall be its duty to discuss and initiate measures necessary for the dissemination and improvement of the metrical system, and to pass upon such new fundamental metrological determinations as may have been made during the time when it was not in session. It shall receive the report of the international committee concerning the work that has been accomplished, and shall replace one-half of the international committee by secret ballot.

The voting in the general conference shall be by States; each State shall be entitled to one vote.

Each of the members of the international committee shall be entitled to a seat at the meetings of the conference. They may at the same time be delegates of their Governments.

Art. 8. The international committee mentioned in article 3 of the convention shall be composed of 18 members all from different States.

At the time of the renewal by halves of the international committee the outgoing members shall be first those who may have been provisionally elected to fill vacancies between two sessions of the conference; and the others will be drawn by lot. Outgoing members may be reelected.

Art. 9. The international committee organizes itself by electing by its own secret vote its chairman and secretary. Those appointments are notified to the Governments of the high contracting parties.

The chairman and the secretary of the committee and the director of the bureau must belong to different countries.

Once organized, the committee can not hold other elections or make other appointments until three months shall have elapsed after the notice of a vacancy calling for a vote shall have been given to all the members.

Art. 10. The international committee directs all the metrological works that the high contracting parties shall decide to have carried on jointly.

It is also charged with the duty of seeing to the conservation of the international prototypes and standards.

It may, lastly, institute the cooperation of specialists in questions of metrology and coordinate the results of their work.

Art. 11. The committee shall meet at least once in two years.

Art. 12. The balloting in the committee is by a majority vote; in case of a tie vote the chairman has the casting vote.

Decisions are only valid if the members present are at least one half of the elected members forming the committee.

Subject to that condition absent members have a right to delegate their votes to present members who must prove that they have been so delegated. This also applies to appointments by secret ballot.

The director of the bureau is a nonvoting member of the committee.

Art. 13. During the interval occurring between two sessions the committee shall have the right to discuss questions by correspondence.

In such cases, in order that its resolutions may be considered to have been adopted in due form, it shall be necessary for all the members of the committee to have been called upon to express their opinions.

Art. 14. The international committee for weights and measures shall provisionally fill such vacancies as may occur in it; these elections shall take place by correspondence, each of the members being called upon to take part therein.

Art. 15. The international committee will draw up a detailed set of regulations for the organization and work of the bureau and will fix the dues to be paid for the extraordinary works provided by articles 6 and 7 of the convention.

Those dues will be applied to improving the scientific equipment of the bureau. A certain amount may be drawn annually for the retirement fund from the total dues collected by the bureau.

Art. 16. All communications from the international committee to the Governments of the high contracting parties shall take place through the diplomatic representatives of such countries at Paris.

For all matters requiring the attention of the French authorities, the committees shall have recourse to the ministry of foreign affairs of France.

Art. 17. A regulation drawn up by the committee will determine the maximum staff for each category of the personnel of the bureau. The director and his assistants shall be elected by secret ballot by the international committee. Other appointments shall be notified to the Governments of the high contracting parties. The director will appoint the other members of the personnel within the bounds laid by the regulation mentioned in the first paragraph above.

Art. 18. The director of the bureau shall have access to the place where the international prototypes are deposited only in pursuance of a resolution of the committee and in the presence of at least one of its members. The place of deposit of the prototype shall be opened only by means of three keys, one of which shall be in the possession of the director of archives

of France, the second in that of the chairman of the committee, and the third in that of the director of the bureau.

The standards of the class of national prototypes alone shall be used for the ordinary comparing work of the bureau.

Art. 19. The director of the bureau shall annually furnish to the committee: First, a financial report concerning the accounts of the preceding year, which shall be examined, and if found correct, a certificate to that effect shall be given him; second, a report on the condition of the apparatus; third, a general report concerning the work accomplished during the course of the year just closed.

The international committee shall make to each of the Governments of the high contracting parties an annual report concerning all its scientific, technical, and administrative operations, and concerning those of the bureau. The chairman of the committee shall make a report to the general conference concerning the work that has been accomplished since its last session.

The reports and publications of the committee shall be in the French language. They shall be printed and furnished to the Governments of the high contracting parties.

Art. 20. The scale of contributions spoken of in article 9 of the convention is established for its fixed part on the basis of the appropriation referred to in article 6 of the present regulations and of the population; the normal contribution of each State can not be less than five to a thousand nor more than 15 per cent of the whole appropriation, regardless of the population. In order to establish that scale, it shall first be found which are the States that are in the conditions required for the minimum and maximum and the remainder of the quota shall be distributed among the other States in the direct ratio of their population.

The quota thus reckoned stands for the whole time included between two consecutive general conferences and can only be modified in the meanwhile in the following cases:

(a) If one of the adhering States allows three successive years to pass without making its payments;

(b) When, on the contrary, a State which had been previously delinquent for more than three years pays up its arrears, and the occasion arises to return to the other Governments the advances made by them.

The complementary contribution is computed on the same basis of population and is like that which the States that have long belonged to the convention pay under the same conditions.

If after adhering to the convention a State declares it would like to extend the benefits thereof to one or more of its colonies that are not autonomous, the number of the population of the said colonies would be added to that of the State in reckoning the scale of contributions.

When a colony that is recognized as autonomous shall desire to adhere to the convention, it will be regarded with respect to its admission into the convention and as the mother country may decide, either as a dependency of that mother country or as a contracting State.

Art. 21. The expense of constructing the international prototypes and the standards and test copies which are to accompany them shall be defrayed by the high contracting parties in accordance with the scale fixed in the foregoing article.

The amounts to be paid for the comparison and verification of standards required by States not represented at this convention shall be regulated by the committee in conformity with the rates fixed in virtue of article 15 of the regulations.

Art. 22. These regulations shall have the same force and value as the convention to which they are annexed. * * *

On January 2, 1890, "meter No. 27" and "kilogram No. 20", being copies of the international prototype meter and kilogram preserved at the International Bureau of Weights and Measures, were opened at the White House and accepted by President Harrison as national standards. Duplicates of these, being "meter No. 21" and "kilogram No. 4", were received later in the same year. These standards were

given into the custody of the Office of Standard Weights and Measures of the Coast and Geodetic Survey of the Treasury Department.

In 1893 a ruling of fundamental importance with respect to standards was made by T. C. Mendenhall, the Superintendent of Standard Weights and Measures. This ruling, which subsequently came to be known as the "Mendenhall Order", was approved April 5, 1893, by the Secretary of the Treasury; its essential part is as follows:

Bulletin No. 26, "Fundamental Standards of Length and Mass", United States Coast and Geodetic Survey, Treasury Department, April 5, 1893.

* * * the Office of Weights and Measures, with the approval of the Secretary of the Treasury, will in the future, regard the International Prototype Metre and Kilogramme as fundamental standards, and the customary units, the yard and the pound, will be derived therefrom in accordance with the Act of July 28, 1866. * * *

Bulletin No. 26 also carried a "Note", as follows:

NOTE.—Reference to the Act of 1866, results in the establishment of the following:

Equations

$$1 \text{ yard} = \frac{3600}{3937} \text{ metre.}$$

$$1 \text{ pound avoirdupois} = \frac{1}{2.2046} \text{ kilo.}$$

A more precise value of the English pound avoirdupois is

$$\frac{1}{2.20462} \text{ kilo.,}$$

differing from the above by about one part in one hundred thousand, but the equation established by law is sufficiently accurate for all ordinary conversions.

As already stated, in work of high precision the kilogramme is now all but universally used and no conversion is required.

The National Bureau of Standards continues to consider the relation

$$1 \text{ yard} = \frac{3600}{3937} \text{ meter}$$

which may also be expressed

$$1 \text{ meter} = 39.37 \text{ inches}$$

as an exact equivalent. In the case of the relation between the avoirdupois pound and the kilogram, however, the National Bureau of Standards now recognizes as the fundamental relation

$$1 \text{ avoirdupois pound} = 0.453\,592\,427\,7 \text{ kilogram}$$

which corresponds with

$$1 \text{ kilogram} = 2.204\,622\,341 \text{ avoirdupois pounds.}$$

Certain additional nonstatutory material, referring to units of the metric system, is reported here to make it a matter of record in connection with the weights and measures laws:

Order of the Treasury Department to officers of the customs, June 17, 1913.

On and after July 1, 1913, the unit of weight for imported diamonds, pearls and other precious stones will be the metric carat of 200 milligrams.

Circular C43 of the National Bureau of Standards, November 1, 1913.

Beginning July 1, 1913, the Bureau of Standards will recognize the international metric carat of 200 milligrams as the unit of weight for diamonds and other precious stones and will use this unit for the purposes of certification of all carat weights submitted to the Bureau for test.

Army Regulations, 1944, Regulation 40-590, paragraph 17-b.

In time of peace and, so far as practicable, in time of war all prescriptions shall be written in the metric system. * * *

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U. S. Code, 1946 Ed., Title 15, Ch. 7—National Bureau of Standards.

Sec. 271. Bureau established.

The Office of Standard Weights and Measures shall be known as the National Bureau of Standards. [1901]

[ED. NOTE.—The National Bureau of Standards was in the Treasury Department until the creation of the Department of Commerce and Labor by Act Feb. 14, 1903, Ch. 552, 32 Stat. 826, when it was transferred to that Department. Subsequently, by Act Mar. 4, 1913, Ch. 141, 37 Stat. 737, the Department of Commerce and Labor was divided into the Department of Commerce and the Department of Labor at which time the National Bureau of Standards was assigned to the Department of Commerce.]

Sec. 272. Functions and activities.

The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to undertake the following functions:

(a) The custody, maintenance, and development of the national standards of measurement, and the provision of means and methods for making measurements consistent with those standards, including the comparison of standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government.

(b) The determination of physical constants and properties of materials when such data are of great importance to scientific or manufacturing interests and are not to be obtained of sufficient accuracy elsewhere.

(c) The development of methods for testing materials, mechanisms, and structures, and the testing of materials, supplies, and equipment, including items purchased for use of Government departments and independent establishments.

(d) Cooperation with other governmental agencies and with private organizations in the establishment of standard practices, incorporated in codes and specifications.

(e) Advisory service to Government agencies on scientific and technical problems.

(f) Invention and development of devices to serve special needs of the Government.

In carrying out the functions enumerated in this section, the Secretary is authorized to undertake the following activities and similar ones for which need may arise in the operations of Government agencies, scientific institutions, and industrial enterprises:

- (1) the construction of physical standards;
- (2) the testing, calibration, and certification of standards and standard measuring apparatus;
- (3) the study and improvement of instruments and methods of measurements;

(4) the investigation and testing of railroad track scales, elevator scales, and other scales used in weighing commodities for interstate shipment;

(5) cooperation with the States in securing uniformity in weights and measures laws and methods of inspection;

(6) the preparation and distribution of standard samples such as those used in checking chemical analyses, temperature, color, viscosity, heat of combustion, and other basic properties of materials; also the preparation and sale or other distribution of standard instruments, apparatus and materials for calibration of measuring equipment;

(7) the development of methods of chemical analysis and synthesis of materials, and the investigation of the properties of rare substances;

(8) the study of methods of producing and of measuring high and low temperatures; and the behavior of materials at high and at low temperatures;

(9) the investigation of radiation, radioactive substances, and X-rays, their uses, and means of protection of persons from their harmful effects;

(10) the study of the atomic and molecular structure of the chemical elements, with particular reference to the characteristics of the spectra emitted, the use of spectral observations in determining chemical composition of materials, and the relation of molecular structure to the practical usefulness of materials;

(11) the broadcasting of radio signals of standard frequency;

(12) the investigation of the conditions which affect the transmission of radio waves from their source to a receiver;

(13) the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(14) the study of new technical processes and methods of fabrication of materials in which the Government has a special interest; also the study of methods of measurement and technical processes used in the manufacture of optical glass and pottery, brick, tile, terra cotta, and other clay products;

(15) the determination of properties of building materials and structural elements, and encouragement of their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

(16) metallurgical research, including study of alloy steels and light metal alloys; investigation of foundry practice, casting, rolling, and forging; prevention of corrosion of metals and alloys; behavior of bearing metals; and development of standards for metals and sands;

(17) the operation of a laboratory of applied mathematics;

(18) the prosecution of such research in engineering, mathematics, and the physical sciences as may be necessary to obtain basic data pertinent to the functions specified herein; and

(19) the compilation and publication of general scientific and technical data resulting from the performance of the functions specified herein or from other sources when such data are of importance to scientific or manufacturing interests or to the general public, and are not available elsewhere, including demonstration of the results of the Bureau's work by exhibits or otherwise as may be deemed most effective. [1901; last amended 1950.]

[ED. NOTE.—The text of the above section as here presented is from Public Law 619—81st Congress, Chapter 486—2nd Session, approved July 22, 1950, which by its terms amends Section 2 of the Act of March 3, 1901 (31 Stat. 1449). Section 2 of the Act of March 3, 1901 is now codified as Section 272 of the United States Code and it is presumed that the amended language will be codified as Section 272 of the Code. Accordingly, the amendment is here presented as Section 272 of the Code.

Although the new language relates specifically to the functions and activities of the Secretary of Commerce, these functions and activities have been delegated to the National Bureau of Standards, and thus the new text comprises, in effect, a statement of the functions and activities of the National Bureau of Standards.]

Sec. 273. Same: For whom exercised.

The bureau shall exercise its functions for the Government of the United States; for any State or municipal government within the United States; or for any scientific society, educational institution, firm, corporation, or individual within the United States engaged in manufacturing or other pursuits requiring the use of standards or standard measuring instruments. All requests for the services of the bureau shall be made in accordance with the rules and regulations established in sections 276 and 277 of this title. [1901]

Sec. 274. Director: Appointment; powers and duties; report.

The director shall be appointed by the President, by and with the advice and consent of the Senate. He shall have the general supervision of the bureau, its equipment, and the exercise of its functions. He shall make an annual report to the Secretary of Commerce, including an abstract of the work done during the year and a financial statement. He may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the bureau in the exercise of its functions. [1901; last amended 1913.]

Sec. 276. Fees.

For all comparisons, calibrations, tests, or investigations, performed by the National Bureau of Standards under sections 271–278 of this title, as amended and supplemented, except those performed for the Government of the United States or State governments within the United States, a fee sufficient in each case to compensate the National Bureau of

U. S. Code, 1946 Ed., Title 15, Ch. 7—National Bureau of Standards—Continued.

Standards for the entire cost of the services rendered shall be charged, according to a schedule prepared by the Director of the National Bureau of Standards and approved by the Secretary of Commerce. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts. [1901; last amended 1932.]

Sec. 277. Regulations.

The Secretary of Commerce shall, from time to time, make regulations regarding the payment of fees, the limits of tolerance to be attained in standards submitted for verification, the sealing of standards, the disbursement and receipt of moneys, and such other matters as he may deem necessary for carrying into effect sections 271–278 of this title. [1901; last amended 1913.]

Sec. 281. Testing materials for District of Columbia.

Materials for fireproof buildings, other structural materials, and all materials other than materials for paving and for fuel, purchased for and to be used by the government of the District of Columbia, when necessary in the judgment of the commissioners to be tested, shall be tested by the Bureau of Standards under the same conditions as similar testing is required to be done for the United States Government. [1913]

Sec. 282. National hydraulic laboratory; establishment; purpose; study of Federal and State projects.

There is hereby authorized to be established in the Bureau of Standards of the Department of Commerce a national hydraulic laboratory for the determination of fundamental data useful in hydraulic research and engineering, including laboratory research relating to the behavior and control of river and harbor waters, the study of hydraulic structures

and water flow, and the development and testing of hydraulic instruments and accessories: *Provided*, That no test, study, or other work on a problem or problems connected with a project the prosecution of which is under the jurisdiction of any department or independent agency of the Government shall be undertaken in the laboratory herein authorized until a written request to do such work is submitted to the Director of the Bureau of Standards by the head of the department or independent agency charged with the execution of such project: *And provided further*, That any State or political subdivision thereof may obtain a test, study, or other work on a problem connected with a project the prosecution of which is under the jurisdiction of such State or political subdivision thereof. [1930]

U. S. Code, 1946 Ed., Title 15, Ch. 6—Metric System.

Sec. 204. Metric system authorized.

It shall be lawful throughout the United States of America to employ the weights and measures of the metric system; and no contract or dealing, or pleading in any court, shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system. [1866]

Sec. 205. Authorized tables.

The tables in the schedule annexed¹ shall be recognized in the construction of contracts and in all legal proceedings as establishing, in terms of the weights and measures on June 22, 1874, in use in the United States, the equivalents of the weights and measures expressed therein in terms of the metric system; and the tables may lawfully be used for computing, determining, and expressing in customary weights and measures the weights and measures of the metric system. [1866]

¹ See page 11.

Tables of units.

MEASURES OF LENGTH

Metric denominations and values		Equivalents in denominations in use	
Myriameter.....	10,000 meters.	6.2137 miles.	
Kilometer.....	1,000 meters.	0.62137 miles, or 3,280 feet and 10 inches.	
Hectometer.....	100 meters.	328 feet and 1 inch.	
Dekameter.....	10 meters.	393.7 inches.	
Meter.....	1 meter.	39.37 inches.	
Decimeter.....	$\frac{1}{10}$ of a meter.	3.937 inches.	
Centimeter.....	$\frac{1}{100}$ of a meter.	0.3937 inch.	
Millimeter.....	$\frac{1}{1000}$ of a meter.	0.0394 inch.	

MEASURES OF CAPACITY

Metric denominations and values			Equivalents in denominations in use	
Names	Number of liters	Cubic measure	Dry measure	Liquor or wine measure
Kiloliter or stere.....	1,000	1 cubic meter.....	1.308 cubic yards.....	264.17 gallons.
Hectoliter.....	100	$\frac{1}{10}$ of a cubic meter.....	2 bushels and 3.35 pecks.....	26.417 gallons.
Dekaliter.....	10	10 cubic decimeters.....	9.08 quarts.....	2.6417 gallons.
Liter.....	1	1 cubic decimeter.....	0.908 quart.....	1.0567 quarts.
Deciliter.....	$\frac{1}{10}$	$\frac{1}{10}$ of a cubic decimeter.....	6.1022 cubic inches.....	0.845 gill.
Centiliter.....	$\frac{1}{100}$	10 cubic centimeters.....	0.6102 cubic inch.....	0.338 fluid ounce.
Milliliter.....	$\frac{1}{1000}$	1 cubic centimeter.....	0.061 cubic inch.....	0.27 fluid dram.

MEASURES OF SURFACE

Metric denominations and values		Equivalents in denominations in use	
Hectare.....	10,000 square meters.	2.471 acres.	
Are.....	100 square meters.	119.6 square yards.	
Centare.....	1 square meter.	1,550 square inches.	

WEIGHTS

Metric denominations and values			Equivalents in denominations in use
Names	Number of grams	Weight of what quantity of water at maximum density	Avoirdupois weight
Millier or tonneau.....	1,000,000	1 cubic meter.....	2204.6 pounds.
Quintal.....	100,000	1 hectoliter.....	220.46 pounds.
Myriagram.....	10,000	10 liters.....	22.046 pounds.
Kilogram or kilo.....	1,000	1 liter.....	2.2046 pounds.
Hectogram.....	100	1 deciliter.....	3.5274 ounces.
Dekagram.....	10	10 cubic centimeters.....	0.3527 ounce.
Gram.....	1	1 cubic centimeter.....	15.432 grains.
Decigram.....	$\frac{1}{10}$	$\frac{1}{10}$ of a cubic centimeter.....	1.5432 grains.
Centigram.....	$\frac{1}{100}$	10 cubic millimeters.....	0.1543 grain.
Milligram.....	$\frac{1}{1000}$	1 cubic millimeter.....	0.0154 grain.

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Gauge
For Sheet and Plate Iron and Steel.

Sec. 206. Standard gauge.

For the purpose of securing uniformity the follow-

ing is established as the only standard gauge for
sheet and plate iron and steel in the United States
of America, namely:

Number of gauge	Approximate thickness in fractions of an inch	Approximate thickness in decimal parts of an inch	Approximate thickness in millimeters	Weight per square foot in ounces avoirdupois	Weight per square foot in pounds avoirdupois	Weight per square foot in kilograms	Weight per square meter in kilograms	Weight per square meter in pounds avoirdupois
0000000	1-2	0.5	12.7	320	20.0	9.072	97.65	215.28
000000	15-32	.46875	11.90625	300	18.75	8.505	91.55	201.82
00000	7-16	.4375	11.1125	280	17.50	7.983	85.44	188.37
0000	13-32	.40625	10.31875	260	16.25	7.371	79.33	174.91
000	3-8	.375	9.525	240	15	6.804	73.24	161.46
00	11-32	.34375	8.73125	220	13.75	6.237	67.13	148.00
0	5-16	.3125	7.9375	200	12.50	5.67	61.03	134.55
1	9-32	.28125	7.14375	180	11.25	5.103	54.93	121.09
2	17-64	.265625	6.746875	170	10.625	4.819	51.88	114.37
3	1-4	.25	6.35	160	10	4.536	48.82	107.64
4	15-64	.234375	5.953125	150	9.375	4.252	45.77	100.91
5	7-32	.21875	5.55625	140	8.75	3.969	42.72	94.18
6	13-64	.203125	5.159375	130	8.125	3.685	39.67	87.45
7	3-16	.1875	4.7625	120	7.5	3.402	36.62	80.72
8	11-64	.171875	4.365625	110	6.875	3.118	33.57	74.00
9	5-32	.15625	3.96875	100	6.25	2.835	30.52	67.27
10	9-64	.140625	3.571875	90	5.625	2.552	27.46	60.55
11	1-8	.125	3.175	80	5	2.268	24.41	53.82
12	7-64	.109375	2.778125	70	4.375	1.984	21.36	47.09
13	3-32	.09375	2.38125	60	3.75	1.701	18.31	40.36
14	5-64	.078125	1.984375	50	3.125	1.417	15.26	33.64
15	9-128	.0703125	1.7859375	45	2.8125	1.276	13.73	30.27
16	1-16	.0625	1.5875	40	2.5	1.134	12.21	26.91
17	9-160	.05625	1.42875	36	2.25	1.021	10.99	24.22
18	1-20	.05	1.27	32	2	.9072	9.765	21.53
19	7-160	.04375	1.11125	28	1.75	.7938	8.544	18.84
20	3-80	.0375	.9525	24	1.50	.6804	7.324	16.15
21	11-320	.034375	.873125	22	1.375	.6237	6.713	14.80
22	1-32	.03125	.79375	20	1.25	.567	6.103	13.46
23	9-320	.028125	.714375	18	1.125	.5103	5.493	12.11
24	1-40	.025	.635	16	1	.4536	4.882	10.76
25	7-320	.021875	.555625	14	.875	.3969	4.272	9.42
26	3-160	.01875	.47625	12	.75	.3402	3.662	8.07
27	11-640	.0171875	.4365625	11	.6875	.3119	3.357	7.40
28	1-64	.015625	.396875	10	.625	.2835	3.052	6.73
29	9-640	.0140625	.3571875	9	.5625	.2551	2.746	6.05
30	1-80	.0125	.3175	8	.5	.2268	2.441	5.38
31	7-640	.0109375	.2778125	7	.4375	.1984	2.136	4.71
32	13-1280	.01015625	.25796875	6½	.40625	.1843	1.983	4.37
33	3-320	.009375	.238125	6	.375	.1701	1.831	4.04
34	11-1280	.00859375	.21828125	5½	.34375	.1559	1.678	3.70
35	5-640	.0078125	.1984375	5	.3125	.1417	1.526	3.36
36	9-1280	.00703125	.17859375	4½	.28125	.1276	1.373	3.03
37	17-2560	.006640625	.168671875	4¼	.265625	.1205	1.297	2.87
38	1-160	.00625	.15875	4	.25	.1134	1.221	2.69

The same and no other shall be used in determining duties and taxes levied by the United States of America on sheet and plate iron and steel. But sections 206-208, inclusive, of this title, shall not be construed to increase duties upon any articles which may be imported. [1893]

Sec. 207. Preparation of standards by Secretary of Commerce.

The Secretary of Commerce is authorized and required to prepare suitable standards in accordance with section 206 of this title. [1893; last amended 1913.]

Sec. 208. Variations.

In the practical use and application of the standard gauge established in section 206 of this title a variation of $2\frac{1}{2}$ percent, either way may be allowed. [1893]

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Barrel Act.

Sec. 234. Standard barrel for fruits, vegetables and other dry commodities; standard barrel for cranberries.

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 stave, 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 head, 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. [1915]

[ED. NOTE.—Lime is not now included within the purview of this law, since a more recent act has established standard barrels for lime upon a weight basis, see Secs. 237-242, pages 15-16.]

Sec. 235. Sale or shipment of barrel of less capacity than standard; penalty; exception.

It shall be unlawful to sell, offer, or expose for sale in any State, Territory, or the District of Columbia, or to ship from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia or to a foreign country, a barrel containing fruits or vegetables or any other dry commodity of less capacity than the standard barrels defined in the preceding section, or subdivisions thereof known as the third, half, and three-quarters barrel, and any person guilty of a willful violation of any

of the provisions of sections 234-236 of this title shall be deemed guilty of a misdemeanor and be liable to a fine not to exceed \$500, or imprisonment not to exceed six months, in the court of the United States having jurisdiction: *Provided, however*, That no barrel shall be deemed below standard within the meaning of said sections 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. [1915]

Sec. 236. Variations and tolerances; prosecutions; exception.

Reasonable variations shall be permitted and tolerance shall be established by rules and regulations made by the Director of the Bureau of Standards and approved by the Secretary of Commerce. Prosecutions for offenses under this section or either of the two preceding sections may be begun upon complaint of local sealers of weights and measures or other officers of the several States and Territories appointed to enforce the laws of the said States or Territories, respectively, relating to weights and measures: *Provided, however*, That nothing in this section or sections 234 and 235 of this title shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count. [1915]

Rules and Regulations Under The Federal Standard Barrel Act.

[ED. NOTE.—There are given below the rules and regulations promulgated under authority of the Standard Barrel Act. This material is presented in the form in which it is published in National Bureau of Standards Circular No. 7, issued September 18, 1917.]

PARAGRAPH 1. (a) The capacities of the standard barrel for fruits, vegetables, and other dry commodities, other than cranberries, and its subdivisions, are as follows:

Size	Cubic inches	Bushels *	Quarts *
Barrel.....	7,056	3.281	105
Three-fourths barrel.....	5,292	2.461	78 $\frac{3}{4}$
One-half barrel.....	3,528	1.641	52 $\frac{1}{2}$
One-third barrel.....	2,352	1.094	35

* Struck measure.

(b) The capacities of the standard cranberry barrel and its subdivisions are as follows:

Size	Cubic inches	Bushels *	Quarts *
Cranberry barrel.....	5,826	2.709	86 45/64
Three-fourths cranberry barrel.....	4,369.5	2.032	65 1/64
One-half cranberry barrel.....	2,913	1.355	43 11/32
One-third cranberry barrel.....	1,942	.903	28 29/32

* Struck measure.

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Barrel Act—Continued.

PAR. 2. (a) Any barrel having the dimensions specified for a standard barrel for fruits, vegetables, and other dry commodities other than cranberries, in section 1 of the standard-barrel law, or any barrel or a subdivision thereof having the contents specified in section 1 of the standard-barrel law and in paragraph 1 (a) of these rules and regulations, regardless of its form or dimensions, is a legal standard barrel for fruits, vegetables, or other dry commodities other than cranberries, or a legal subdivision thereof. No other barrel or subdivision in barrel form is a legal container for fruits, vegetables, or other dry commodities other than cranberries.

(b) Any barrel having the dimensions specified for a standard barrel for cranberries in section 1 of the standard-barrel law, or any subdivision thereof having the contents specified in paragraph 1 (b) of these rules and regulations, regardless of its form or dimensions, is a legal standard barrel for cranberries or a legal subdivision thereof. No other barrel or subdivision in barrel form is a legal container for cranberries.

PAR. 3. The tolerance established hereafter for the dimension specified as "distance between heads" shall be applied as follows on the various types of barrels in use:

(a) When a barrel or subdivision thereof has two heads, the tolerance shall be applied to the distance between the inside surfaces of the heads and perpendicular to them.

(b) When a barrel or subdivision thereof has but one head and a croze ring or other means for the insertion of a head, such as an inside hoop, etc., at the opposite end, the tolerance shall be applied to the distance from the inside surface of the bottom head and perpendicular to it to the inside edge of the croze ring, or to a point where the inside surface of a head would come were such head inserted in the barrel.

(c) When a barrel or subdivision thereof has but one head and no croze ring or other means for the insertion of a head, such as an inside hoop, etc., at the opposite end, the tolerance shall be applied to the distance from the inside surface of the bottom head and perpendicular to it to a point $1\frac{1}{8}$ inches from the opposite end of the staves in the case of a barrel or a $\frac{3}{4}$ barrel, and to a point 1 inch or $\frac{7}{8}$ inch from the opposite end of the staves in the case of the $\frac{1}{2}$ barrel and $\frac{3}{8}$ barrel, respectively. When a barrel or subdivision thereof has been manufactured with but one head and no croze ring or other means for the insertion of a head at the opposite end, and it is desired to insert a second head, the croze ring shall be so cut that the inside edge shall not be more than $1\frac{1}{8}$ inches from the end of the staves in the case of a barrel or $\frac{3}{4}$ barrel or not more than 1 inch or $\frac{7}{8}$ inch from the end of the staves in the case of the $\frac{1}{2}$ barrel and $\frac{3}{8}$ barrel, respectively, or the other means shall be so adjusted that the inside surface of the head when inserted shall not exceed these distances from the end of the staves.

PAR. 4. The tolerance established hereafter for the dimension specified as "effective diameter of head" shall be applied to the diameter of the head over all, including the part which fits into the croze ring of the completed barrel.

The tolerance established hereafter for the dimension specified as "effective diameter of head" shall be applied as follows on the various types of barrels and subdivisions in use:

(a) When a barrel or subdivision thereof has two heads, the tolerance shall be applied to the mean of the average diameters from inside to inside of staves at the inner edges of the heads.

(b) When a barrel or subdivision thereof has but one head and a croze ring or other means for the insertion of a head at the opposite end, the tolerance shall be applied to the mean of the average diameters, one taken from inside to inside of staves at the inner edge of the head, the other from inside to inside of staves at the inner edge of the croze ring, or from inside to inside of staves at a point where the inside surface of a head would come were such head inserted in the barrel.

(c) When a barrel or subdivision thereof has but one head and no croze ring or other means for the insertion of a head at the opposite end, the tolerance shall be applied to the mean of the average diameters, one taken from inside to inside of staves at the inner edge of the head, the other taken from

inside to inside of staves at a point $1\frac{1}{8}$ inches from the end of the staves in the case of a barrel or $\frac{3}{4}$ barrel, or at a point 1 inch or $\frac{7}{8}$ inch from the end of the staves in the case of a $\frac{1}{2}$ barrel or $\frac{3}{8}$ barrel, respectively.

The standard allowance for depth of croze ring shall be $\frac{3}{8}$ inch. Therefore, the standard "effective diameter of head" in the case of the standard barrel is $16\frac{3}{4}$ inches and in the case of the standard cranberry barrel is $15\frac{7}{8}$ inches.

PAR. 5. Whenever in these rules and regulations the error on a dimension is mentioned, this error shall be determined by taking the difference between the actual measured dimension and the standard dimension. The error is an error of excess and is to be preceded by a plus sign when the measured dimension is greater than the standard dimension. The error is an error in deficiency and is to be preceded by a minus sign when the measured dimension is less than the standard dimension.

(a) The standard dimensions of a barrel for fruits, vegetables, and other dry commodities other than cranberries, and of a barrel for cranberries, with which the actual measured dimensions are to be compared, are as follows:

Dimensions	Barrel for fruits, vegetables, and other dry commodities other than cranberries	Barrel for cranberries
Diameter of head.....	<i>Inches</i> 17 $\frac{3}{8}$	<i>Inches</i> 16 $\frac{3}{4}$
Effective diameter of head (see par. 4).....	16 $\frac{3}{4}$	15 $\frac{7}{8}$
Distance between heads.....	26	25 $\frac{1}{4}$
Circumference of bulge, outside measurement.....	64	58 $\frac{1}{2}$
Length of stave.....	28 $\frac{1}{2}$	28 $\frac{1}{2}$

(b) In the case of all subdivisions of the barrel for fruits, vegetables, and other dry commodities other than cranberries, and all subdivisions of the barrel for cranberries, the following dimensions are hereby standardized for the purpose of the application of tolerances, and the actual measured dimensions are to be compared with these:

Subdivisions of barrel for fruits, vegetables, and other dry commodities other than cranberries

Dimensions	$\frac{3}{4}$ barrel	$\frac{1}{2}$ barrel	$\frac{3}{8}$ barrel
Effective diameter of head (see par. 4).....	<i>Inches</i> 15 $\frac{1}{2}$	<i>Inches</i> 13 $\frac{3}{8}$	<i>Inches</i> 11 $\frac{5}{8}$
Distance between heads.....	23 $\frac{1}{2}$	20 $\frac{1}{2}$	18
Circumference of bulge, outside measurement.....	58 $\frac{1}{2}$	51 $\frac{1}{2}$	45 $\frac{1}{4}$

Subdivisions of barrel for cranberries

Dimensions	$\frac{3}{4}$ barrel	$\frac{1}{2}$ barrel	$\frac{3}{8}$ barrel
Effective diameter of head (see par. 4).....	<i>Inches</i> 14 $\frac{3}{8}$	<i>Inches</i> 12 $\frac{5}{8}$	<i>Inches</i> 11
Distance between heads.....	23	20	17 $\frac{1}{2}$
Circumference of bulge, outside measurement.....	53 $\frac{3}{8}$	47	41 $\frac{3}{8}$

PAR. 6. For the purpose of the application of tolerances, barrels for fruits, vegetables, and other dry commodities other than cranberries, are hereby divided into two classes as follows:

Class 1 shall include (a) all barrels no dimension of which is in error by more than the following amounts, and (b) all

barrels one or more of the dimensions of which are in error by more than the following amounts, and which in addition have no demension in error in the opposite direction:

	<i>Error, inches</i>
Effective diameter of head	1/4
Distance between heads	1/4
Circumference of bulge, outside measurement	1 1/2

Class 2 shall include all barrels at least one dimension of which is in error by more than the amounts given above, but which in addition have at least one dimension in error in the opposite direction. (This class includes all barrels mentioned in section 1 of the law in the proviso reading: "Provided, That any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel.")

PAR. 7. (a) The tolerances to be allowed in excess or in deficiency on the dimensions of all barrels of class 1 shall be as follows:

	<i>Tolerance, inches</i>
Diameter of head	1/4
Effective diameter of head	1/4
Distance between heads	1/4
Circumference of bulge, outside measurement	1 1/2
Length of stave	1/2

If no dimension of a barrel of class 1 is in error by more than the tolerance given above, then the barrel is within the tolerance allowed.

If one or more of the dimensions of a barrel of class 1 is in error by more than the tolerance given above, then the barrel is not within the tolerance allowed.

(b) The tolerance to be allowed in excess or in deficiency on all barrels of class 2 shall be 1 1/2 inches (1.5 inches), and this tolerance is to be applied to the result obtained by the application of the following rule:

Having determined the error of each dimension and given to each its proper sign (see par. 5), add the errors on the effective diameter of head and the distance between heads algebraically and multiply the result by 1.67 (or 5/3). Then add this result to the error on the circumference of bulge algebraically. If the result obtained is not greater than the tolerance given above, then the barrel is within the tolerance allowed; if the result is greater than this tolerance, then the barrel is not within the tolerance allowed.

NOTE.—To find the algebraic sum of a number of quantities having different signs, first add all those having one sign; then add all those having the opposite sign; then subtract the smaller sum from the larger, giving this result the sign of the larger quantity.

(c) The tolerance to be allowed in excess or in deficiency on the dimensions of all barrels for cranberries shall be as follows:

	<i>Tolerance, inches</i>
Diameter of head	1/4
Effective diameter of head	1/4
Distance between heads	1/4
Circumference of bulge, outside measurement	1 3/8
Length of stave	1/2

If no dimension of a barrel for cranberries is in error by more than the tolerance given above, then the barrel is within the tolerance allowed.

If one or more of the dimensions of a barrel for cranberries is in error by more than the tolerance given above, then the barrel is not within the tolerance allowed.

(d) The tolerances to be allowed in excess or in deficiency on all subdivisions of the standard barrel for fruits, vegetables, and other dry commodities other than cranberries, and on all subdivisions of the standard barrel for cranberries, shall be the values given in the following table, and these tolerances are to be applied to the result obtained by the application of the following rule:

Having determined the error on each dimension and given to each its proper sign (see par. 5), add the errors on the effective diameter of head and the distance between heads algebraically and multiply the result by 1.67 (or 5/3). Then add this result to the error on the circumference of bulge algebraically. If the result obtained is not greater than the tolerance given in the following table for the proper subdivision, then the barrel is within the tolerance allowed; if the result is greater than this tolerance, then the barrel is not within the tolerance allowed.

Size of subdivision	Tolerance	
	For fruits, vegetables, and other dry commodities	For cranberries
	<i>Inches</i>	<i>Inches</i>
Three-quarters barrel	1 3/8 (1.375)	1 1/4 (1.25)
One-half barrel	1 1/4 (1.25)	1 3/8 (1.25)
One-third barrel	1 1/8 (1.125)	1 (1.00)

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Lime Barrel Act.

Sec. 237. Standard barrel.

There is established a large and a small barrel of lime, the large barrel to consist of two hundred and eighty pounds and the small barrel to consist of one hundred and eighty pounds, net weight. [1916]

Sec. 238. Penalty for selling in barrels not marked.

It shall be unlawful for any person to sell or offer for sale lime imported in barrels from a foreign country, or to sell or offer for sale lime in barrels for shipment from any State or Territory or the District of Columbia, to any other State or Territory or the District of Columbia, unless there shall be stenciled or otherwise clearly marked on one or both heads of the small barrel the figures "180 lbs. net" and of the large barrel the figures "280 lbs. net" before the importation or shipment, and on either barrel in addition the name of the manufacturer of the lime and where manufactured, and if imported, the name of the country from which it is imported. [1916]

Sec. 239. Sale in containers of less capacity than barrel.

When lime is sold in interstate or foreign commerce in containers of less capacity than the standard small barrel, it shall be sold in fractional parts of said standard small barrel, and the net weight of lime contained in such container shall by stencil or otherwise be clearly marked thereon, together with the name of the manufacturer thereof, and the name of the brand, if any, under which it is sold, and, if imported, the name of the country from which it is imported. [1916]

Sec. 240. Rules and regulations.

Rules and regulations for the enforcement of sections 237-242 * * *, not inconsistent with the provisions of said sections, shall be made by the Director of the Bureau of Standards and approved by

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Lime Barrel Act—Continued.

the Secretary of Commerce, and such rules and regulations shall include reasonable variations or tolerances which may be allowed. [1916]

Sec. 241. Penalty for violations.

It shall be unlawful to pack, sell, or offer for sale for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, any barrels or other containers of lime which are not marked as provided in sections 238 and 239 * * *, or to sell, charge for, or purport to deliver from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, as a large or small barrel or a fractional part of said small barrel of lime, any less weight of lime than is established by the provisions of sections 237-242 * * * and any person guilty of a violation of the provisions of said sections shall be deemed guilty of a misdemeanor and be liable to a fine not exceeding \$100. [1916]

Sec. 242. Prosecutions.

It shall be the duty of each district attorney, to whom satisfactory evidence of any violation of sections 237-242 * * * is presented, to cause appropriate proceedings to be commenced and prosecuted in the United States court having jurisdiction of such offense. [1916]

Rules and Regulations Under The Federal Standard Lime Barrel Act.

[ED. NOTE.—There are given below those rules and regulations promulgated under authority of the Standard Lime Barrel Act. This material is presented in the form in which it is published in National Bureau of Standards Circular No. C64, issued April 20, 1917.]

PARAGRAPH 1. The act, "39 Stat., ch. 396, p. 530, 64th Congress," approved August 23, 1916, entitled "An act to standardize lime barrels," shall be known and referred to as the "standard lime barrel act."

PAR. 2. These rules and regulations are to be understood and construed to apply to lime in barrels, or other containers packed, sold, or offered for sale for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia; and to lime in containers of less capacity than the standard small barrel sold in interstate or foreign commerce; and to lime imported in barrels from a foreign country and sold or offered for sale; also to lime not in barrels or containers of less capacity than the standard small barrel sold, charged for, or purported to be delivered as a large or small barrel or a fractional part of said small barrel of lime from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia.

PAR. 3. Lime in barrels shall be packed only in barrels containing 280 pounds or 180 pounds, net weight. For the purposes of this paragraph the word "barrel" is defined as a cylindrical or approximately cylindrical vessel, cask, or drum.

PAR. 4. The term "container of less capacity than the standard small barrel," as mentioned in section 3 of the law and as used in these rules and regulations, is defined as any container not in barrel form containing therein a net weight of lime of less than 180 pounds.

The term "label," as used in these rules and regulations, is

defined as any printed, pictorial, or other matter upon the surface of a barrel or other container of lime subject to the provisions of this act, or upon cloth or paper or the like which is permanently affixed to it by pasting or in a similar manner.

The term "tag" is defined as a tough and strong strip of cloth or paper or the like, bearing any printed, pictorial, or other matter, which is loose at one end and which is secured to a container of lime subject to the provisions of this act.

PAR. 5. (a) The lettering required upon barrels of lime by section 2 of the law shall be as follows: The statement of net weight shall be in boldface capital letters and figures at least 1 inch in height and not expanded or condensed; it shall be clear, legible, and permanent, and so placed with reference to the other lettering that it is conspicuous. The name of the manufacturer of the lime and where manufactured, and, if imported, the name of the country from which it is imported, shall be in boldface letters at least one-half inch in height and not expanded or condensed, and shall be clear, legible, conspicuous, and permanent. None of these letters and figures shall be superimposed upon each other, nor shall any other characters be superimposed upon the required lettering or otherwise obscure it. All the above statements shall form parts of the principal label.

(b) The information required upon containers of lime of less capacity than the standard small barrel by section 3 of the law shall be included in a label: *Provided, however*, That in order to allow the utilization of second hand or returnable bags made of cloth, burlap, or the like, such information may be upon a tag firmly attached to the container in a prominent and conspicuous position. In case a tag is used to give the required information there must not be any label or another tag upon the container which bears any statement having reference to lime, or any statement of weight whatever, which is not identical with the information upon the tag mentioned above; if a container is to be utilized which bears any such inaccurate information upon a label, such container shall be turned inside out or such information shall be obliterated in so far as it is inaccurate by blotting out the letters or figures, or if such inaccurate information is upon a tag, by removing such tag.

If the required lettering is upon a label, the statement of net weight shall be in boldface capital letters and figures at least three-fourths inch in height and not expanded or condensed; it shall be clear, legible, and permanent, and so placed with reference to the other lettering that it is conspicuous. The word "net" shall form part of the statement of weight. The name of the manufacturer of the lime and the name of the brand, if any, under which it is sold, and, if imported, the name of the country from which it is imported, shall be in boldface letters at least one-half inch in height and not expanded or condensed, and shall be clear, legible, conspicuous, and permanent. None of these letters and figures shall be superimposed upon each other, nor shall any other characters be superimposed upon the required lettering or otherwise obscure it. All the above statements shall form parts of the principal label.

If the required lettering is upon a tag, the statement of net weight shall be in boldface capital letters and figures not less than one-half the height of the largest letters or figures used upon such tag: *Provided, however*, That in every case they shall be not less than one-eighth inch in height (12-point capitals), and not expanded or condensed. The word "net" shall form part of the statement of weight. The statement shall be clear, legible, and permanent, and so placed with reference to the other lettering that it is conspicuous. The name of the manufacturer of the lime, and the name of the brand, if any, under which it is sold, and, if imported, the name of the country from which it is imported, shall be in boldface letters and figures not less than one-eighth inch in height (12-point capitals), and not expanded or condensed, and shall be clear, legible, conspicuous, and permanent. None of these letters and figures shall be superimposed upon each other nor shall any other characters be superimposed upon the required lettering or otherwise obscure it. All the above statements shall be included upon the same side of the tag.

(c) In case the lime is actually packed in barrels or in containers of less capacity than the standard small barrel by some

person other than the manufacturer of the lime, the information mentioned above must be given in the manner there described, and in addition there must be a statement to this effect: "Packed by _____" (giving the name and address of the packer). This statement shall be in letters not smaller than is specified for the general statement required in the case of barrels and containers of less capacity than the standard small barrel, respectively (see (a) and (b) above); it shall not be obscured and shall form part of the principal label or be upon the same side of the tag as in those cases provided.

(d) In the case of all lime sold in barrels, the actual place of manufacture of the lime shall be stated on the barrel. In general, this will be the name of the post office nearest or most accessible to the plant. However, when the actual place of manufacture of the lime and the offices of the company are separated but are within the boundaries of the same county of a State, or when, though not within the boundaries of the same county they are so close together that the post-office address of the offices represents substantially and to all intents and purposes the actual place of manufacture of the lime, then the post-office address of the offices of the company will be sufficient: *Provided, however*, That the address given shall always correctly show the State in which the lime is actually manufactured.

More than one place of manufacture of a manufacturer shall not be shown on the same barrel unless the one at which the particular lime in question is manufactured is pointed out.

If the location of the home offices is stated and this is not the place of manufacture within the meaning of the above definition, an additional statement must be included to this effect: "Manufactured at _____" (giving the location of the plant).

PAR. 6. (a) When lime is packed in barrels the tolerance to be allowed on the large barrel or the small barrel of lime shall be 5 pounds in excess or in deficiency on any individual barrel: *Provided, however*, That the average error on 10 barrels of the same nominal weight and packed by the same manufacturer shall in no case be greater than 2 pounds in excess or in deficiency. In case all the barrels available are not weighed, those which are weighed shall be selected at random.

(b) When lime is packed in containers of less capacity than the standard small barrel, the tolerance to be allowed in excess or in deficiency on individual containers of various weights, shall be the values given in the column headed "Tolerance on individual package," of the following table: *Provided, however*, That the average error on 10 containers of the same nominal weight and packed by the same manufacturer shall in no case be greater than the values given in the column headed "Tolerance on average weight," of the following table. In case all the containers available are not weighed, those which are weighed shall be selected at random.

Weight of package	Tolerance on individual package	Tolerance on average weight
	Pounds	Pounds
Not greater than 50 lbs.	1½	¾
More than 50 lbs. and not greater than 100 lbs.	2	¾
More than 100 lbs. and not greater than 150 lbs.	3	1½
More than 150 lbs. and less than 180 lbs.	4	1½

(c) When lime in bulk is sold, charged for, or purported to be delivered as a definite number of large or small barrels, the tolerance to be allowed in excess or in deficiency on such amounts of lime shall be 15 pounds per 1,800 pounds (10 small barrels), or 25 pounds per 2,800 pounds (10 large barrels).

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Container Acts of 1916 and 1928.

Sec. 251. Standard container act of 1916: Standards for climax baskets.

Standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively:

(a) The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used.

(b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenth inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

(c) The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenth of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used.

The standards for Climax baskets for mushrooms shall be those set forth above, except that a one-pound Climax basket of the following dimensions shall be standard for mushrooms when plainly stamped or marked on the side of the basket with the words "for mushrooms only": Length of bottom piece, seven and three-fourths inches; width of bottom piece, three and three-sixteenths inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and five-eighths inches; top of basket—length, nine and three-eighths inches; width, four and three-eighths inches—all outside measurements. Basket to have a cover four and three-eighths by nine and three-eighths inches, when cover is used. [1916; last amended 1934.]

Sec. 252. Same: Standard baskets for small fruits and vegetables.

The standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities, namely, dry one-half pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half pint shall contain sixteen and eight-tenths cubic inches.

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Container Acts of 1916 and 1928—Continued.

(b) The dry pint shall contain thirty-three and six-tenths cubic inches.

(c) The dry quart shall contain sixty-seven and two-tenths cubic inches. [1916]

Sec. 253. Same: Failure to conform to standards; penalty; exception.

It shall be unlawful to manufacture for shipment, or to sell for shipment, or to ship from any State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, any Climax baskets or other containers for small fruits, berries, or vegetables, whether filled or unfilled, which do not conform to the provisions of this subchapter [Secs. 251–256], or to use in any such shipment for any commodity other than mushrooms the one-pound Climax basket, provided for in section 251 of this title; and any person guilty of a willful violation of any of the provisions of said subchapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not exceeding \$25: *Provided*, That nothing contained in this section shall apply to the manufacture, sale, or shipment of Climax baskets, baskets, or other containers for small fruits, berries, and vegetables when intended for export to foreign countries when such Climax baskets, baskets, or other containers for small fruits, berries, and vegetables accord with the specifications of the foreign purchasers or comply with the law of the country to which shipment is made or to be made. [1916; last amended 1934.]

Sec. 254. Same: Examination and test by Department of Agriculture; rules and regulations.

The examination and test of Climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether such baskets or other containers comply with the provisions of this subchapter [Secs. 251–256], shall be made by the Department of Agriculture, and the Secretary of Agriculture shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary. [1916]

Sec. 255. Same: Prosecutions.

It shall be the duty of each district attorney to whom satisfactory evidence of any violation of this subchapter [Secs. 251–256] is presented to cause appropriate proceedings to be commenced and prosecuted in the proper court of the United States for the enforcement of the penalties as in such case provided in said subchapter. [1916]

Sec. 256. Same: Guaranty protection.

No dealer shall be prosecuted under the provisions of this subchapter [Secs. 251–256] when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the

United States from whom such Climax baskets, baskets, or other containers, as defined in said subchapter, were purchased, to the effect that said Climax baskets, baskets, or other containers are correct within the meaning of said subchapter. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of Climax baskets, baskets, or other containers to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this subchapter. [1916]

Sec. 257. Standard container act of 1928: Standard hampers and round stave baskets.

The standard hampers and round stave baskets for fruits and vegetables shall be of the following capacities: One-eighth bushel, one-fourth bushel, one-half bushel, five-eighths bushel, three-fourths bushel, one bushel, one-and-one-fourth bushels, one-and-one-half bushels, and two bushels, which, respectively, shall be of the cubic content set forth in this section. For the purposes of this subchapter [Secs. 257–257i] a bushel, standard dry measure, has a capacity of two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(a) The standard one-eighth-bushel hamper or round stave basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The standard one-fourth-bushel hamper or round stave basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(c) The standard one-half-bushel hamper or round stave basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(cc) The standard five-eighths-bushel hamper or round stave basket shall contain one thousand three hundred and forty-four cubic inches.

(d) The standard three-fourths-bushel hamper or round stave basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(e) The standard one-bushel hamper or round stave basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(f) The standard one-and-one-fourth-bushel hamper or round stave basket shall contain two thousand six hundred and eighty-eight cubic inches.

(g) The standard one-and-one-half-bushel hamper or round stave basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches.

(h) The standard two-bushel hamper or round stave basket shall contain four thousand three hundred and eighty-four one-hundredths cubic inches. [1928]

Sec. 257a. Same: Standard splint baskets.

The standard splint baskets for fruits and vegetables shall be the four-quart basket, eight-quart basket, twelve-quart basket, sixteen-quart basket,

twenty-four-quart basket, and thirty-two-quart basket, standard dry measure. For the purposes of this subchapter [Secs. 257-257i] a quart standard dry measure has a capacity of sixty-seven and two-tenths cubic inches.

(a) The four-quart splint basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The eight-quart splint basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(c) The twelve-quart splint basket shall contain eight hundred and six and four-tenths cubic inches.

(d) The sixteen-quart splint basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(e) The twenty-four quart splint basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(f) The thirty-two quart splint basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches. [1928]

Sec. 257b. Same: Tolerances; attaching of covers.

The Secretary of Agriculture shall in his regulations under this subchapter [Secs. 257-257i] prescribe such tolerances as he may find necessary to allow in the capacities for hampers, round stave baskets, and splint baskets set forth in sections 257 and 257a of this title in order to provide for reasonable variations occurring in the course of manufacturing and handling. If a cover be used upon any hamper or basket mentioned in this subchapter, it shall be securely fastened or attached in such a manner, subject to the regulations of the Secretary of Agriculture, as not to reduce the capacity of such hamper or basket below that prescribed therefor. [1928]

Sec. 257c. Same: Approval of manufacturers' dimension specifications.

No manufacturer shall manufacture hampers, round stave baskets, or splint baskets for fruits and vegetables unless the dimension specifications for such hampers, round stave baskets, or splint baskets shall have been submitted to and approved by the Secretary of Agriculture, who is hereby directed to approve such specifications if he finds that hampers, round stave baskets, or splint baskets for fruits and vegetables made in accordance therewith would not be deceptive in appearance and would comply with the provisions of sections 257 and 257a of this title. [1928]

Sec. 257d. Same: Violations; penalty; exception; guaranty protection.

It shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled, or parts of such hampers, round stave bas-

kets, or splint baskets that do not comply with this subchapter [Secs. 257-257i]: *Provided*, That this subchapter shall not apply to Climax baskets, berry boxes, and till baskets which comply with the provisions of sections 251-256 of this title, and the regulations thereunder. Any individual, partnership, association, or corporation that violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500: *Provided further*, That no person shall be prosecuted under the provisions of this subchapter when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within the United States from whom the hampers, round stave baskets, or splint baskets, as defined in this subchapter, were purchased, to the effect that said hampers, round stave baskets, or splint baskets are correct, within the meaning of this subchapter. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of the hampers, round stave baskets, or splint baskets to such person, and in such case such party or parties making such sale shall be amenable to the prosecution, fines, and other penalties which would attach in due course under the provisions of this subchapter to the person who made the purchase. [1928]

Sec. 257e. Same: Seizure of illegal hampers and baskets; condemnation; procedure.

Any hamper, round stave basket, or splint basket for fruits or vegetables, whether filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets not complying with this subchapter [Secs. 257-257i], which shall be manufactured for sale or shipment, offered for sale, sold, or shipped, may be proceeded against in any district court of the United States within the district where the same shall be found and may be seized for confiscation by a process of libel for condemnation. Upon request the person entitled shall be permitted to retain or take possession of the contents of such hampers or baskets, but in the absence of such request, or when the perishable nature of such contents makes such action immediately necessary, the same shall be disposed of by destruction or sale, as the court or a judge thereof may direct. If such hampers, round stave baskets, splint baskets, or parts thereof be found in such proceeding to be contrary to this subchapter, the same shall be disposed of by destruction, except that the court may by order direct that such hampers, baskets, or parts thereof be returned to the owner thereof or sold upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such hampers, baskets, or parts thereof shall not be sold or used contrary to law. The proceeds of any sale under this section, less legal costs and charges, shall be paid over to the person entitled thereto. The proceedings in such seizure cases shall conform as near as may be

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Container Acts of 1916 and 1928—Continued.

to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in such case, and all such proceedings shall be at the suit and in the name of the United States [1928]

Sec. 257f. Same: Hampers and baskets for foreign countries; conformity to foreign specification; banana hampers.

This subchapter [Secs. 257-257i] shall not prohibit the manufacture for sale or shipment, offer for sale, sale, or shipment of hampers, round stave baskets, splint baskets, or parts thereof, to any foreign country in accordance with the specifications of a foreign consignee or customer not contrary to the law of such foreign country; nor shall this subchapter prevent the manufacture or use of banana hampers of the shape and character now in commercial use as shipping containers for bananas. [1928]

Sec. 257g. Same: Prosecutions.

It shall be the duty of each United States district attorney to whom satisfactory evidence of any violation of this subchapter [Secs. 257-257i] is presented to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States in his district for the enforcement of the provisions of this subchapter. [1928]

Sec. 257h. Same: Regulations; examination and tests.

The Secretary of Agriculture shall prescribe such regulations as he may find necessary for carrying into effect the provisions of this subchapter [Secs. 257-257i], and shall cause such examinations and tests to be made as may be necessary in order to determine whether hampers, round stave baskets, and splint baskets, or parts thereof, subject to this subchapter, meet its requirements, and may take samples of such hampers, baskets, or parts thereof, the cost of which samples, upon request, shall be paid to the person entitled. [1928]

Sec. 257i. Same: Authority of Secretary of Agriculture.

For carrying out the purposes of this subchapter the Secretary of Agriculture is authorized to cooperate with State, county, and municipal authorities, manufacturers, dealers, and shippers, to employ such persons and means, and to pay such expenses, including rent, printing publications, and the purchase of supplies and equipment in the District of Columbia and elsewhere, as he shall find to be necessary, and there are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. [1928]

Regulations Under The Federal Standard Container Act of 1916 and The Federal Standard Container Act of 1928.

[ED. NOTE.—There are given below the consolidated regulations promulgated under authority of the Standard

Container Acts of 1916 and 1928. Formerly, regulations were issued separately for each of these acts. This material is presented in the form in which it was published in the Federal Register, Vol. 8, No. 254, December 23, 1943.]

Code of Federal Regulations, Title 7, Chapter I, Subchapter A, Part 41—Standard Containers.

§ 41.1 *Meaning of words.* Words used in these regulations in the singular form shall be considered to import the plural, or vice versa, as the case may demand.

§ 41.2 *Definitions; general.* For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) "Act of 1916" means the U. S. Standard Container Act approved August 31, 1916, as amended (39 Stat. 674; 48 Stat. 930; 15 U.S.C. 251-256);

(b) "Act of 1928" means the U. S. Standard Container Act approved May 21, 1928 (45 Stat. 685, 15 U.S.C. 257-257i);

(c) "Administrator" means the War Food Administrator or any officer or employee of the Department of Agriculture to whom the Administrator has heretofore delegated or may hereafter delegate the authority to act in his stead;

(d) "Director" means the Director of Food Distribution of the War Food Administration, or any officer or employee of the War Food Administration to whom the Director has heretofore delegated or may hereafter delegate the authority to act in his stead;

(e) "Branch" means the Fruit and Vegetable Branch of the Food Distribution Administration;

(f) "Chief of Branch" means the Chief of the Fruit and Vegetable Branch of the Food Distribution Administration or any officer or employee of the Branch to whom has heretofore been delegated or may hereafter be delegated the authority to act in his stead.

§ 41.3 *Definitions; act of 1916.* (a) "Containers" means Climax baskets for grapes and other fruit and vegetables and for mushrooms, and baskets or other containers for small fruits, berries, and vegetables, including those commonly known as berry boxes and till baskets, made of veneer, corrugated or solid fibreboard, metal or other material, ventilated or non-ventilated;

(b) "Climax basket" means a basket approximately rectangular in shape, with handle, and having slanting sides composed of one or more pieces of material bound at the top by bands of heavier material, and having solid bottom, or having sides and bottom formed from one continuous piece of material;

(c) "Standard basket or other container for small fruits, berries, and vegetables" means (1) a small, open or partly open container generally known as a berry box or till basket, commonly made in the following sizes: $\frac{1}{2}$ pint, pint, quart, 2 quart, 3 quart, and 4 quart; the larger sizes sometimes used with handles; used as a display or retail sales package or as a sub-container within a crate or other carrier, but not usually in itself a primary shipping container; or (2) any other baskets for the above commodities not covered by the act of 1928 (made in multiples of the dry one quart).

§ 41.4 *Definitions; act of 1928.* (a) "Containers" means all styles and types of hampers, round stave baskets, and splint or market baskets for fruits and vegetables, made of veneer, corrugated or solid fibreboard, metal or other material, ventilated or non-ventilated;

(b) "Hamper" means a container, usually round, but which may be elliptical or polygonal, larger at top than at bottom, and of greater depth than width; having slatted or solid sides and solid or fabricated bottom, or having sides and bottom formed of one continuous piece of material;

(c) "Round stave basket" means a round container, larger at top than at bottom, and of greater width than depth, having slatted or solid sides and solid or fabricated bottom, or having sides and bottom formed from one continuous piece of material;

(d) "Splint basket" means a basket commonly known to the trade as a market basket, approximately rectangular in shape, usually with handle or handles, the sides and bottom of which are formed of solid or fabricated material, usually bound at the top by bands of heavier material;

(e) "Dimension specifications" means the numerical designations of inside and outside measurements necessary properly to classify a container as to its capacity, shape, and appearance;

(f) "Deceptive appearance" means the appearance of a basket or hamper such as to give to the ordinary individual the impression that the container is of greater or lesser capacity than that of a standard container of the same size, or such that it is not readily distinguishable from other standard sizes established by the act.

ADMINISTRATION

§ 41.5 *Chief of Branch.* The Chief or Acting Chief of Branch shall perform for and under the supervision of the Administrator and the Director, such duties as the Administrator or the Director may require in enforcing the provisions of the acts and these regulations.

MARKING REQUIREMENTS—ACT OF 1916

§ 41.6 *Marking requirements for 1-pound Climax baskets.* The required marking or stamping of these baskets "for mushrooms only" shall be not less than 2½ inches in length over all, and composed of letters not less than three-eighths of an inch in height.

SPECIFICATIONS—ACT OF 1928

§ 41.7 *Submission of specifications.* In order to comply with section 4 of the act of 1928, each manufacturer of hampers, round stave baskets, and splint or market baskets shall submit over his signature on forms provided for that purpose dimension specifications to the Chief of Branch for his approval; and the manufacture of such containers shall not be undertaken until the specifications therefor have been approved by the Chief of Branch.

§ 41.8 *Approval of specifications.* The Chief of Branch will approve all such dimension specifications if he finds that the containers made in accordance therewith are of the proper cubical capacity and are not of deceptive appearance.

§ 41.9 *Alteration of specifications.* The dimension specifications of any container which have been approved under the provisions of the Act of 1928 shall not be changed nor altered in any way without the prior approval of the Chief of Branch.

§ 41.10 *Ordering of forms.* Manufacturers of containers covered by this act shall secure prior approval of specifications for such containers before ordering or obtaining forms therefor.

§ 41.11 *Certification of specifications and marking.* The dimension specifications, if approved, will be specifically certified by the Chief of Branch; and the certificate will bear an identification number which may be used by the manufacturer to whom it is issued in stamping or otherwise marking in the following style the container covered by the certificate:

708
U. S.
4 Qts.

TESTING OF SAMPLES

§ 41.12 *Samples for examination.* For the purpose of determining whether containers comply with the requirements of the acts of 1916 and 1928 as to capacity and, in the case of

containers covered by the act of 1928, as to deceptive appearance and conformity to approved specifications, carefully made samples shall be submitted to the Chief of Branch at his request. Such samples may be called for prior to the approval of the dimension specifications under the act of 1928, and additional samples may be called for from time to time in the discretion of the Chief of Branch for subsequent test as to their compliance with these acts.

§ 41.13 *Method of testing.* Except as provided in § 41.14, the capacity of samples referred to in § 41.12 shall be determined by the bulk-for-bulk method, as described in U. S. D. A. Miscell. Pub. No. 75, or by reckoning from inside dimensions. Except as provided in § 41.14, only the capacity of the container when level full shall be considered, regardless of any extension of the sides above such top hoops or bands to serve as a support for the cover.

§ 41.14 *Testing containers in which the inside top hoop sets down.* The capacity of a container which is constructed with the inside top hoop set down to accommodate a cover shall be determined by first obtaining the total capacity in the usual manner and from it deducting the number of cubic inches contained in the space between the upper edge of the inside top hoop and the upper ends of the staves. The capacity of this space shall be computed by the formula: Diameter squared x 0.7854 x the average depth.

§ 41.15 *Satisfactory samples.* Samples when tested will be considered satisfactory if the results of the tests are such as to indicate that in the factory run of such containers there will be practically as many over standard as under standard capacity within the established tolerances and, in the case of containers covered by the act of 1928, that they conform to the approved specifications.

TOLERANCES OR VARIATIONS

§ 41.16 *Excess or deficiency.* For the purpose of allowing for variations in the capacity of containers incidental to manufacture, the excess or deficiency in the capacity of any container over or under the standard capacity prescribed for such container by the acts may be as much as, but not more than, the tolerance for excess and deficiency shown in Table 1; however, where departures from the standard capacity occur in any lot of containers, the proportion over and under the standard capacity shall be approximately equal; and no lot shall be considered satisfactory in which the containers are within the deficiency tolerance but all under the standard capacity prescribed for such containers by the act.

§ 41.17 *Table 1: Schedule of capacity tolerances allowed under the act of 1916.*

Standard capacity	Tolerances	
	Excess	Deficiency
	<i>Cubic inches</i>	<i>Cubic inches</i>
½ pint.....	1	$\frac{3}{4}$
1 pint.....	2	1½
1 quart.....	3	2
2 quarts.....	5	2½
3 quarts.....	7½	3¾
4 quarts.....	10	5
12 quarts.....	23	12

§ 41.18 *Tolerances for sizes not shown in Table 1.* If a container has a capacity to which a standard is applicable under the act of 1916, but which is not specified in the column headed "Standard capacity" in Table 1, the excess or the deficiency allowed shall be that permitted for the next smaller capacity specified in the table.

U. S. Code, 1946 Ed., Title 15, Ch. 6—Standard Container Acts of 1916 and 1928—Continued.

§ 41.19 Table 2: Schedule of capacity tolerances allowed under the act of 1928.

Standard capacity	Tolerances	
	Excess	Deficiency
	<i>Cubic inches</i>	<i>Cubic inches</i>
1/8 bushel (4 quarts) -----	10	5
1/4 bushel (8 quarts) -----	16	8
3/8 bushel (12 quarts) -----	23	12
1/2 bushel (16 quarts) -----	30	15
5/8 bushel (20 quarts) -----	36	18
3/4 bushel (24 quarts) -----	40	20
1 bushel (32 quarts) -----	50	25
1 1/4 bushels (40 quarts) -----	58	29
1 1/2 bushels (48 quarts) -----	65	33

§ 41.20 Dimension tolerances for Climax baskets; act of 1916. The tolerances or variations in dimensions of Climax baskets for grapes and other fruits and vegetables and for mushrooms shown in Table 3 are found to be reasonable and necessary and are hereby allowed, subject, however, to the tolerances in capacity allowed in § 41.17 of these regulations.

§ 41.21 Application of dimension tolerances for Climax baskets. The excess or deficiency in any dimension specified below in the column designated "Basket dimensions" over or under the measurement prescribed for such dimensions in section 1 of the act of 1916 may be as much as, but not more than, the amount specified opposite such dimension in the column designated "Excess" or "Deficiency," as the case may be.

§ 41.22 Table 3: Schedule of dimension tolerances for Climax baskets.

Basket dimensions (outside measurements)	Tolerances	
	Excess	Deficiency
	<i>Inch</i>	<i>Inch</i>
Combined length and width of top:		
2-quart and 1-pound mushroom ---	1/2	1/4
4-quart -----	5/8	3/4
12-quart -----	3/4	1/2
Height, all sizes -----	1/8	1/8
Width of bottom, all sizes -----	1/8	1/8
Length of bottom, all sizes -----	1/8	1/8
Thickness of bottom, all sizes -----	1/32	1/32
Length of cover, all sizes -----	1/8	1/8
Width of cover, all sizes -----	1/8	1/8

U. S. Code, 1946 Ed., Title 7, Ch. 9—"Packers and Stockyards Act."

Sec. 182. Definitions.

(a) When used in this chapter [Secs. 181–231]—

* * * * *

(2) The term "Secretary" means the Secretary of Agriculture;

* * * * *

(4) The term "livestock" means cattle, sheep, swine, horses, mules, or goats—whether live or dead; [1921]

* * * * *

Sec. 192. Unlawful for packer or live poultry dealer to use unfair or deceptive practice or device.

It shall be unlawful for any packer or any live poultry dealer or handler to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; [1921; last amended 1935.]

* * * * *

Sec. 201. Definitions: Stockyard services; market agency.

When used in this chapter [Secs. 181–231]—

(a) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard;

(b) The term "stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of livestock;

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser. [1921]

Sec. 202. Same: Stockyard.

(a) When used in sections 201–203, 205–217a * * * the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. Sections 201–203, 205–217a * * * shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of sections 201–203, 205–217a * * * until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition. [1921]

Sec. 205. Services to be furnished; weighing by agency of State.

It shall be the duty of every stockyard owner and market agency to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard: *Provided*, That in any State where the weighing of livestock at a stockyard is

conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter [Secs. 181-231]; and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title. [1921; last amended 1926.]

Sec. 208. Unjust practices in furnishing services unlawful.

It shall be the duty of every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful. [1921]

Sec. 209. Penalty for violations.

(a) If any stockyard owner, market agency, or dealer violates any of the provisions of sections 205-207, or 208 * * * or of any order of the Secretary made under sections 201-203, 205-217a * * * he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation. [1921]

* * * *

Sec. 210. Proceedings before Secretary for violations.

(a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the "defendant") in violation of the provisions of sections 205-207, or 208 * * *, or of an order of the Secretary made under sections 201-203, 205-217a * * *, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to the complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency

of a State or Territory having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subdivision (a) of this section.

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of sections 201-203, 205-217a * * * concerning which any question may arise under any of the provisions of sections 201-203, 205-217a * * *, or relating to the enforcement of any of the provisions of sections 201-203, 205-217a * * *. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money. [1921]

* * * *

Sec. 211. Order of Secretary as to charges and practices.

Whenever after full hearing upon a complaint made as provided in section 210 * * *, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate of charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed. [1921; last amended 1939.]

Sec. 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce.

Whenever in any investigation under the provisions of sections 201-203, 205-217a * * * or in any investigation instituted by petition of the stockyard owner or market agency concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation,

U. S. Code, 1946 Ed., Title 7, Ch. 9—"Packers and Stockyards Act"—Continued.

or practice of any stockyard owner or market agency, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is hereby forbidden, and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. [1921]

Sec. 213. Prevention of unfair, discriminatory, or deceptive practices or devices.

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing or handling, in commerce at a stockyard, of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subdivision (a) of this section, the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. [1921]

Sec. 215. Failure to obey orders; penalty.

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 * * * shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States. [1921]

* * * * *

Sec. 218. Live poultry dealers and handlers: Unfair, deceptive and fraudulent practices; necessity to curb.

The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various

unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices. [1935]

Sec. 218a. Same: Designation of cities and markets where unfair practices exist; licenses required; penalty.

(a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in the preceding section and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in Section 191 of this title and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this chapter [Secs. 181-231] is financially unable to fulfill the obligations that he would incur as a licensee. [1935]

Sec. 218d. Same: Suspension and revocation of license.

Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of sections 218-

218d of this title, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if violation is flagrant or repeated he may by order revoke the license of the offender. [1935]

Sec. 228. Rules and regulations.

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter [Secs. 181–231] and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; * * * [1921]

Regulations Under The Packers and Stockyards Act.

[ED. NOTE.—There are given below those regulations promulgated under authority of the Packers and Stockyards Act which are considered necessary for a complete understanding of the weights and measures provisions of the act. This material is presented in the form in which it is published in Service and Regulatory Announcements 164 of the Office of Marketing Services of the United States Department of Agriculture, issued June 1943 and reprinted with amendments, February 1945.]

201.2 *Terms defined.* When used in these regulations, the terms as defined in the act, shall apply with equal force and effect. In addition, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

* * * * *

(b) "Administration" means the Office of Marketing Services, War Food Administration.

(c) "Director" means the Director of Marketing Services, War Food Administration, or any officer or employee of that Administration to whom the Director has heretofore lawfully delegated, or to whom the Director may hereafter lawfully delegate, the authority to act in his stead.

* * * * *

(g) "Licensee" means any person who holds a valid unrevoked license from the Secretary of Agriculture issued under title V of the act [Secs. 218–218d, U.S.C.A., Title 7].

* * * * *

201.43 *Market agencies and licensees to make prompt accounting and transmittal of net proceeds.*—Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the owner of the livestock, or his duly authorized agent the net proceeds received from the sale and a true written account of such sale showing the number, weight and price of each kind of animal sold * * *. Each licensee acting as a broker, factor, or commission merchant shall, before the close of the next business day following the sale of live poultry consigned to it for sale, transmit or deliver to the owner of the live poultry or his duly authorized agent the net proceeds received from such sale and a true written account thereof showing the number of pounds and the price of each kind of poultry sold * * *.

201.44 *Market agencies and licensees to render prompt accounting for purchases on order.*—Each market agency and licensee shall, promptly, following the purchase of livestock or live poultry on a commission or agency basis, transmit or deliver to the person for whose account such purchase was made, or his duly authorized agent, a true written account of the purchase showing the number, weight, and price of each kind of animal purchased, or the weight and price of each kind of poultry purchased, * * *.

201.49 *Requirements regarding scale tickets evidencing weighing livestock and live poultry.*—When livestock or live poultry is weighed for purposes of purchase or sale, or purchase and sale, a scale ticket shall be issued which shall show the name of the agency performing the weighing service, the date of the weighing, the number of the scale or other information identifying the scale upon which the weighing is performed, the name of the seller, the name of the buyer, the name of the consignor, or suitable designations by which the seller, buyer, or consignor may be identified. In the case of livestock in addition to the information referred to above the scale ticket shall show the number of head, kind, and actual weight of the livestock, the amount of dockage, if any, and the name or initials of the person who weighed the livestock. In the case of live poultry in addition to the information referred to above, the scale ticket shall show the number of coops weighed, the gross, tare, and net weights and the name or initials of the person operating the scale at the time the weighing is done. Only stockyard owners, market agencies, or licensees shall weigh livestock or live poultry and execute and issue scale tickets. Scale tickets issued under this section shall be in triplicate form, serially numbered, and if such tickets are used on a type-registering beam they shall conform to the specifications of the National Bureau of Standards. * * *

201.65 *Accurate weights.*—Each stockyard owner, market agency, or licensee, who weighs livestock at stockyards or live poultry in designated markets shall maintain and operate the scales used for such weighing so as to insure accurate weights.

201.66 *Scales; testing of.*—Each stockyard owner, market agency, or licensee who weighs livestock or live poultry for purposes of purchase or sale or who furnishes scales for those purposes shall cause such scales to be tested properly by competent agencies at suitable intervals in accordance with instructions of the Director, copies of which will be furnished to each stockyard owner, market agency, or licensee.

201.67 *Scale operators to be competent.*—Each stockyard owner, market agency, or licensee shall employ only competent persons to operate scales for weighing livestock and live poultry for the purposes of purchase or sale. They shall require such employees to operate the scales in accordance with instructions of the Director, copies of which will be furnished to each stockyard owner, market agency, or licensee who employs persons to operate scales used for the purposes herein indicated.

201.68 *Scales; reports of tests and inspections.*—Each stockyard owner, market agency, or licensee, who weighs livestock and live poultry for purposes of purchase or sale, shall furnish reports of tests and inspections of scales used for these purposes, on forms which will be furnished by the Director on request. When executed one copy of such form shall be retained by the stockyard owner, market agency or licensee, and he shall cause one copy to be retained by the agency conducting the test and inspection of the scales, and the third copy shall be delivered to the local supervisor of the Packers and Stockyards Division, Livestock Branch, Office of Marketing Services, having charge of the work under the act in the particular district in which the scales being tested are located. In case the test and inspection of scales as herein required are conducted by an agency of a State or municipality or other governmental subdivision, the forms ordinarily used by such agency for reporting tests and inspections of scales shall be accepted in lieu of the forms furnished for this purpose by the Director: *Provided*, That the test and inspection forms used by the State or other governmental agency contain substantially the same information as that required by the official form.

201.69 *Scales; repairs and adjustments after inspection.*—No scale shall be used by any stockyard owner, market agency, or licensee unless it has been found upon test and inspection to be in a condition to give accurate weights. If any repairs, adjustments, or replacements are made upon a scale it shall not be placed in use until it has again been tested and inspected in accordance with these regulations.

201.70 *Reweighing.*—Stockyard owners, market agencies, or licensees or their employees shall reweigh livestock or live poultry on request of duly authorized employees of the Administration.

U. S. Code, 1946 Ed., Title 7, Ch. 9—"Packers and Stockyards Acts"—Continued.

201.71 *Weighing for purposes other than purchase or sale.*—Every stockyard owner, market agency, or licensee who weighs livestock or live poultry for purposes other than purchase or sale shall show on the scale tickets or other records used in connection with such weights the fact that they are not weights for purposes of purchase or sale.

201.79 *Packer scales; maintenance and operation.*—Packers owning or operating scales on which livestock is weighed for purposes of purchase in commerce for slaughter shall maintain and operate such scales so as to insure accurate weights.

Public Law 717—75th Congress, Ch. 675—3rd Session, Supp. 5, [U. S. Code, 1946 Ed., Title 21, Secs. 301—392; 52 Stat. 1040—1059.]—"Federal Food, Drug, and Cosmetic Act."

[ED. NOTE.—There are given below those sections of the act and those regulations promulgated under its authority, which are considered necessary for a complete understanding of the weights and measures provisions of the act. This material is presented in the form in which it is published in Service and Regulatory Announcements, Food, Drug, and Cosmetic No. 1, Revision 3 of the Federal Security Agency, issued August 1939 and revise issued March 1949, in the introduction of which, it is stated:

"This publication contains an unofficial print of the Federal Food, Drug, and Cosmetic Act, as amended, and general regulations, as amended, for its administration. The third revision incorporates all changes made in the Act and general regulations since the printing of the second revision in July 1946. The section numbers of the regulations printed herein have been revised to comply with the changes in the Code of Federal Regulations announced in the Federal Register of November 27, 1948 (13 F. R. 6969). * * *"]

To prohibit the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHAPTER I—SHORT TITLE

SECTION 1. This Act may be cited as the Federal Food, Drug, and Cosmetic Act.

General Regulation. [§1.] (a) The provisions of regulations promulgated under the Act with respect to the doing of any act shall be applicable also to the causing of such act to be done.

(b) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in regulations promulgated under the Act.

CHAPTER II—DEFINITIONS

SEC. 201. For the purposes of this Act—

(a) The term "Territory" means any Territory or possession of the United States, including the District of Columbia and excluding the Canal Zone.

(b) The term "interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(c) The term "Agency" means the Federal Security Agency.

(d) The term "Administrator" means the Federal Security Administrator.

(e) The term "person" includes individual, partnership, corporation, and association.

(f) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(g) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(h) The term "device" (except when used in paragraph (n) in this section and in sections 301 (i), 403 (f), 502 (c), and 602 (c) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(i) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(j) The term "official compendium" means the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(k) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(l) The term "immediate container" does not include package liners.

(m) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

Regulation. [§ 1.2] Labeling includes all written, printed, or graphic matter accompanying an article at any time while such article is in interstate commerce or held for sale after shipment or delivery in interstate commerce.

[SEC. 201. For the purposes of this Act—]

(n) If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

Regulation. [§ 1.3] The existence of a difference of opinion, among experts qualified by scientific training and experience, as to the truth of a representation made or suggested in the labeling is a fact (among other facts) the failure to reveal which may render the labeling misleading, if there is a material weight of opinion contrary to such representation.

CHAPTER III—PROHIBITED ACTS AND PENALTIES

PROHIBITED ACTS

SEC. 301. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 404 or 505.

(g) The manufacture within any Territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 303 (c) (2), which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 303 (c) (3), which guaranty or undertaking is false.

Regulation. [§ 1.4] In case of the giving of a guaranty or undertaking referred to in section 303 (c) (2) or (3) of the Act, each person signing such guaranty or undertaking shall be considered to have given it.

[SEC. 301. The following acts and the causing thereof are hereby prohibited:]

* * * * *

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded.

* * * * *

PENALTIES

SEC. 303. (a) Any person who violates any of the provisions of section 301 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

(b) Notwithstanding the provisions of subsection (a) of this section, in case of a violation of any of the provisions of section 301, with intent to defraud or mislead, the penalty shall be imprisonment for not more than three years, or a fine of not more than \$10,000, or both such imprisonment and fine.

(c) No person shall be subject to the penalties of subsection (a) of this section, (1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Administrator the name and address of the person from whom he purchased or received such article and copies of all documents, if any there be, pertaining to the delivery of the article to him; or (2) for having violated section 301 (a) or (d), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect, in case of an alleged violation of section 301 (a), that such article is not adulterated or misbranded, within the meaning of this Act, designating this Act, or to the effect, in case of an alleged violation of section 301 (d), that such article is not an article which may not, under the provisions of section 404 or 505, be introduced into interstate commerce; or (3) for having violated section 301 (a), where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with regulations promulgated by the Administrator under this Act, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer

Public Law 717—75th Congress, Ch. 675—3rd Session, Supp. 5, [21 U. S. C. 301—392; 52 Stat. 1040—1059]—“Federal Food, Drug, and Cosmetic Act”
—Continued.

of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Administrator under this Act.

Regulation. [§ 1.5] (a) A guaranty or undertaking referred to in section 303 (c) (2) of the Act may be:

- (1) limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or
- (2) general and continuing, in which case, in its application to any shipment or other delivery of an article, it shall be considered to have been given at the date such article was shipped or delivered by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking under section 303 (c) (2) of the Act:

(1) Limited Form for use on invoice or bill of sale.

(Name of person giving the guaranty or undertaking) hereby guarantees that no article listed herein is adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, or is an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(Signature and post-office address of person giving the guaranty or undertaking.)

(2) General and Continuing Form.

The article comprising each shipment or other delivery hereafter made by (name of person giving the guaranty or undertaking) to, or on the order of (name and post-office address of person to whom the guaranty or undertaking is given) is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and not an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(Signature and post-office address of person giving the guaranty or undertaking.)

(c) The application of a guaranty or undertaking referred to in section 303 (c) (2) of the Act to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes adulterated or misbranded within the meaning of the Act, or becomes an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(d) A guaranty or undertaking referred to in section 303 (c) (2) of the Act shall state that the shipment or other delivery of coal-tar color covered thereby was manufactured by a signer thereof. It may be a part of or attached to the invoice or bill of sale covering such color. If such shipment or delivery is from a foreign manufacturer, such guaranty or undertaking shall be signed by such manufacturer and by an agent of such manufacturer who resides in the United States.

(e) The following are suggested forms of guaranty or undertaking under section 303 (c) (3) of the Act:

(1) For domestic manufacturers.

(Name of manufacturer) hereby guarantees that all coal-tar colors listed herein were manufactured by him, and are from batches certified in accordance with the applicable regulations promulgated under the Federal Food, Drug, and Cosmetic Act.

(Signature and post-office address of manufacturer.)

(2) For foreign manufacturers.

(Name of manufacturer and agent) hereby severally guarantee that all coal-tar colors listed herein were manufactured by (name of manufacturer), and are from batches certified in accordance with the applicable regulations promulgated under the Federal Food, Drug, and Cosmetic Act.

(Signature and post-office address of manufacturer.)

(Signature and post-office address of agent.)

(f) For the purpose of a guaranty or undertaking under section 303 (c) (3) of the Act the manufacturer of a shipment or other delivery of a coal-tar color is the person who packaged such color.

(g) A guaranty or undertaking, if signed by two or more persons, shall state that such persons severally guarantee the article to which it applies.

(h) No representation or suggestion that an article is guaranteed under the Act shall be made in labeling.

SEIZURE

SEC. 304. (a) Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 404 or 505, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or anytime thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: *Provided, however,* That no libel for condemnation shall be instituted under this Act, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act, or (2) when the Administrator has probable cause to believe from facts found without hearing, by him or any officer or employee of the Agency that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business to which the case shall be removed for trial.

* * * * *

REPORT OF MINOR VIOLATIONS

SEC. 306. Nothing in this Act shall be construed as requiring the Administrator to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this Act whenever

he believes that the public interest will be adequately served by a suitable written notice or warning.

CHAPTER IV—FOOD

DEFINITIONS AND STANDARDS FOR FOOD

SEC. 401. Whenever in the judgment of the Administrator such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations¹ fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container: *Provided*, That no definition and standard of identity and no standard of quality shall be established for fresh or dried fruits, fresh or dried vegetables, or butter, except that definitions and standards of identity may be established for avocados, cantaloupes, citrus fruits, and melons. In prescribing any standard of fill of container, the Administrator shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. In the prescribing of any standard of quality for any canned fruit or canned vegetable, consideration shall be given and due allowance made for the differing characteristics of the several varieties of such fruit or vegetable. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Administrator shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. Any definition and standard of identity prescribed by the Administrator for avocados, cantaloupes, citrus fruits, or melons shall relate only to maturity and to the effects of freezing.

¹ Service and Regulatory Announcements, Food, Drug, and Cosmetic No. 2, Rev. 1.

MISBRANDED FOOD

SEC. 403. A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

Regulation. [§ 1.7] (a) Among representations in the labeling of a food which render such food misbranded is a false or misleading representation with respect to another food or a drug, device, or cosmetic.

(b) The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

[SEC. 403. A food shall be deemed to be misbranded—]

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Administrator.

Regulation. [§ 1.8] (a) Where a food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as "Manufactured for and Packed by _____," "Distributed by _____" or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) If a person manufactures, packs, or distributes a food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents shall reveal the quantity of food in the package, exclusive of wrappers and other material packed with such food.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity.

(f) (1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and, except in case of frozen food which is so consumed, shall express the volume at 68° Fahrenheit (20° Centigrade). A statement of dry measure shall be in terms of the United States bushel of 2150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof; or in terms of the United States standard barrel and its subdivisions of third, half, and three-quarters barrel. However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subparagraph (1) of this paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of food in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the food as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of the food. A common

Public Law 717—75th Congress, Ch. 675—3rd Session, Supp. 5, [21 U. S. C. 301-392; 52 Stat. 1040-1059]—"Federal Food, Drug, and Cosmetic Act"—Continued.

fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h) (1) If the quantity of food in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this section, and which is applicable to such food under the provisions of paragraph (e) (2) of this section, the statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one quart of food shall be "1 quart"; and not "2 pints" or "32 fluid ounces"), unless the statement is made in accordance with the provisions of subparagraph (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for examples, $1\frac{3}{4}$ quarts may be expressed as "1 quart $1\frac{1}{2}$ pints" or "1 quart 1 pint 8 fluid ounces"; $1\frac{1}{4}$ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for examples, instead of "1 quart 16 fluid ounces" the statement shall be " $1\frac{1}{2}$ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be " $1\frac{1}{2}$ pounds" or "1 pound 8 ounces").

(2) In the case of a food with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

(k) Where the statement does not express the minimum quantity:

(1) variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

(2) variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice.

But under subparagraph (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the food is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(1) The extent of variations from the stated quantity of

the contents permissible under paragraphs (j) and (k) of this section in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A food shall be exempt from compliance with the requirements of clause (2) of section 403 (c) of the Act if:

- (1) The quantity of the contents, as expressed in terms applicable to such food under the provisions of paragraph (e) (2) of this section, is less than one-half ounce avoirdupois, or less than one-half fluid ounce, or (in case the units of the food can be easily counted without opening the package) less than six units; or
- (2) The statement of the quantity of the contents of the package, together with all other words, statements, and information required by or under authority of the Act to appear on the label, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 403 (f) of the Act and regulations promulgated thereunder.

[SEC. 403. A food shall be deemed to be misbranded—]

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with the other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Regulation. [§ 1.9] (a) A word, statement, or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by section 403 (f) of the Act by reason (among other reasons) of:

- (1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;
 - (2) The failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;
 - (3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;
 - (4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;
 - (5) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or
 - (6) Smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.
- (b) No exemption depending on insufficiency of label space, as prescribed in regulations promulgated under section 403 (e) or (i) of the Act, shall apply if such insufficiency is caused by:
- (1) The use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;
 - (2) The use of label space, to give greater conspicuousness to any word, statement, or other information than is required by section 403 (f) of the Act; or
 - (3) The use of label space for any representation in a foreign language.

- (c) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.
- (2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.
- (3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

[SEC. 403. A food shall be deemed misbranded—]
 (h) If it purports to be or is represented as—

(2) a food for which a standard or standards of fill of container have been prescribed by regulations as provided by section 401, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

REGULATIONS MAKING EXEMPTIONS

SEC. 405. The Administrator shall promulgate regulations exempting from any labeling requirements of this Act (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling, or repacking establishment.

Regulation. [§ 1.13] (a) (1) An open container is a container of rigid or semi-rigid construction, which is not closed by lid, wrapper, or otherwise.

- (2) An open container of a fresh fruit or fresh vegetable, the quantity of contents of which is not more than one dry quart, shall be exempt from the labeling requirements of paragraphs (c), (g) (2) (with respect to the name of the food specified in the definition and standard), and (i) (1) of section 403 of the Act; but such exemption shall be on the condition that if two or more such containers are enclosed in a crate or other shipping package, such crate or package shall bear labeling showing the number of such containers enclosed therein and the quantity of the contents of each.

CHAPTER V—DRUGS AND DEVICES
 MISBRANDED DRUGS AND DEVICES

SEC. 502. A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

Regulation. [§ 1.101] (a) Among representations in the labeling of a drug or device which render such drug or device **misbranded is a false or misleading representation with respect to another drug or device or a food or cosmetic.**

(b) The labeling of a drug which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such drug in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

[SEC. 502. A drug or device shall be deemed to be misbranded—]

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Administrator.

Regulation. [§ 1.102] (a) If a drug or device is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such drug or device, such as "Manufactured for and Packed by _____" "Distributed by _____," or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) Where a person manufactures, packs, or distributes a drug or device at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such drug or device was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any drug or device from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents of a package of a drug shall reveal the quantity of such drug in the package, exclusive of wrappers and other material packed with such drug.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers and users of such drug to express quantity thereof and which give accurate information as to such quantity. But if no general usage in expressing accurate information as to the quantity of such drug exists among consumers and users thereof, the statement of the quantity of a drug which is not in tablet, capsule, ampul, or other unit form shall be in terms of weight if the drug is solid, semisolid, or viscous, or in terms of measure if the drug is liquid; the statement of the quantity of a drug which is in such unit form shall be in terms of the numerical count of such units, supplemented, when necessary to give accurate information as to the quantity of such drug in the package, by such statement (in such terms, manner, and form as are not misleading) of the weight or measure of such units, or of the quantity of each active ingredient in each such unit, as will give such information.

(3) The statement of the quantity of a device shall be expressed in terms of numerical count.

(f) A statement of weight shall be in terms of the avoirdupois pound, ounce, and grain, or of the kilogram, gram, and milligram. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, fluid ounce, and fluid dram subdivisions thereof, or of the liter, milliliter, or cubic centimeter, and shall express the volume at 68° Fahrenheit (20° Centigrade).

Public Law 717—75th Congress, Ch. 675—3rd Session, Supp. 5, [21 U. S. C. 301—392; 52 Stat. 1040—1059]—“Federal Food, Drug, and Cosmetic Act”
—Continued.

(g) Statements of the quantity of a drug shall contain only such fractions as are generally used in expressing the quantity of such drug. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than three places, except in the case of a statement of the quantity of an active ingredient in a unit of a drug.

(h) (1) Unless made in accordance with the provisions of subparagraph (2) of this paragraph, a statement of the quantity of a drug, in the terms of weight or measure applicable to such drug under the provisions of paragraph (e) (2) of this section, shall express the number of the largest unit specified in paragraph (f) of this section which is contained in the package (for example, the statement of the label of a package which contains one pint of a drug shall be “1 pint,” and not “16 fluid ounces”). Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for example, $1\frac{1}{4}$ pounds may be expressed as “1 pound 4 ounces”). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for example, instead of “1 quart 16 fluid ounces” the statement shall be “ $1\frac{1}{2}$ quarts” or “1 quart 1 pint”).

(2) In the case of a drug with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement of the quantity of a drug or device shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement, except in the case of ampuls, shall be considered to express the average quantity. The statement of the quantity of a drug in ampuls shall be considered to express the minimum quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure of a drug caused by ordinary and customary exposure, after such drug is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large. In the case of a liquid drug in ampuls the variation above the stated measure shall comply with the excess volume prescribed by the National Formulary for filling of ampuls.

(k) Where the statement does not express the minimum quantity:

- (1) Variations from the stated weight or measure of a drug shall be permitted when caused by ordinary and customary exposure, after such drug is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;
- (2) Variations from the stated weight, measure, or numerical count of a drug or device shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages which occur in good packing practice.

But under subparagraph (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the drug or device is

below the quantity stated and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(l) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this regulation in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A drug or device shall be exempt from compliance with the requirements of clause (2) of section 502 (b) of the Act if:

- (1) The statement of the quantity of the contents, as expressed in terms applicable to such drug or device under the provisions of paragraph (e) (2) of this section, together with all other words, statements, and information required by or under authority of the Act to appear on the label of such drug or device, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 502 (c) of the Act and regulations promulgated thereunder, or
- (2) The quantity of the contents of the package, as expressed in terms of numerical count in compliance with paragraph (e) (2) or (3) of this section, is less than six units, and such units can be easily counted without opening the package.

[SEC. 502. A drug or device shall be deemed to be misbranded—]

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Regulation. [§ 1.103] (a) A word, statement, or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by section 502 (c) of the Act by reason (among other reasons) of:

- (1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;
- (2) The failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;
- (3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;
- (4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;
- (5) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or
- (6) Smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

(b) No exemption depending on insufficiency of label space, as prescribed in regulations promulgated under section 502 (b) or (c) of the Act, shall apply if such insufficiency is caused by:

- (1) The use of label space for any word, statement, de-

sign, or device which is not required by or under authority of the Act to appear on the label;

- (2) The use of label space to give greater conspicuousness to any word, statement, or other information than is required by section 502 (c) of the Act; or
- (3) The use of label space for any representation in a foreign language.
- (c) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.
- (2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.
- (3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

* * * * *

[Sec. 502. A drug or device shall be deemed to be misbranded—]

* * * * *

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; * * *

CHAPTER VI—COSMETICS

MISBRANDED COSMETICS

SEC. 602. A cosmetic shall be deemed to be misbranded—

(a) If its label is false or misleading in any particular.

Regulation. [§ 1.201] (a) Among representations in the labeling of a cosmetic which render such cosmetic misbranded is a false or misleading representation with respect to another cosmetic or a food, drug, or device.

(b) The labeling of a cosmetic which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such cosmetic in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

[Sec. 602. A cosmetic shall be deemed to be misbranded—]

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted and exemptions as to small packages shall be established, by regulations prescribed by the Administrator.

Regulation. [§ 1.202] (a) If a cosmetic is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such cosmetic such as "Manufactured for and Packed by _____," "Distributed by _____," or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) Where a person manufactures, packs, or distributes a cosmetic at a place other than his principal place of business, the label may state the principal place of business in lieu of

the actual place where each package of such cosmetic was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any cosmetic from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents shall reveal the quantity of cosmetic in the package, exclusive of wrappers and other material packed with such cosmetic.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such cosmetic and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quality of such cosmetic exists, the statement shall be in terms of liquid measure if the cosmetic is liquid, or in terms of weight if the cosmetic is solid, semi-solid, or viscous, or in such terms of numerical count, or numerical count and weight or measure, as will give accurate information as to the quantity of the cosmetic in the package.

(f) (1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and shall express the volume at 68° Fahrenheit (20° Centigrade). However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subparagraph (1) of this paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of cosmetic in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the cosmetic as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of the cosmetic. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h) (1) If the quantity of cosmetic in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this section, and which is applicable to such cosmetic under the provisions of paragraph (c) (2) of this section, the statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one pint of cosmetic shall be "1 pint" and not "16 fluid ounces"), unless the statement is made in accordance with the provisions of subparagraph (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for example, $\frac{1}{4}$ quarts may be expressed as "1 quart $\frac{1}{2}$ pints" or "1 quart 1 pint 8 fluid ounces"; $\frac{1}{4}$ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for example, instead of "1 quart 16 fluid ounces" the statement shall be "1 $\frac{1}{2}$ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be "1 $\frac{1}{2}$ pounds" or "1 pound 8 ounces").

Public Law 717—75th Congress, Ch. 675—3rd Session, Supp. 5, [21 U. S. C. 301—392; 52 Stat. 1040—1059]—“Federal Food, Drug, and Cosmetic Act”—Continued.

- (2) In the case of a cosmetic with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in a package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.
- (i) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.
- (j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the cosmetic is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.
- (k) Where the statement does not express the minimum quantity:

- (1) Variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the cosmetic is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure.
- (2) Variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice. But under subparagraph (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the cosmetic is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(1) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this section in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A cosmetic shall be exempt from compliance with the requirements of clause (2) of section 602 (b) of the Act if the quantity of the contents of the package, as expressed in terms applicable to such cosmetic under the provisions of paragraph (e) (2) of this section, is less than one-fourth ounce avoirdupois, or less than one-eighth fluid ounce, or (in case the units of the cosmetic can be easily counted without opening the package) less than six units.

[SEC. 602. A cosmetic shall be deemed to be misbranded—]

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Regulation. [§ 1.203] (a) A word, statement, or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by section 602 (c) of the Act by reason (among other reasons) of:

- (1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;
 - (2) The failure of such word, statement, or information to appear on two or more parts or panels of the label each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;
 - (3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;
 - (4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;
 - (5) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device;
 - (6) Smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.
- (b) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.
- (2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.

[SEC. 602. A cosmetic shall be deemed to be misbranded—]

(d) If its container is so made, formed, or filled as to be misleading.

CHAPTER VII—GENERAL ADMINISTRATIVE PROVISIONS

EXAMINATIONS AND INVESTIGATIONS

SEC. 702. (a) The Administrator is authorized to conduct examinations and investigations for the purposes of this Act through officers and employees of the Agency or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Administrator as an officer of the Agency. In the case of food packed in a Territory the Administrator shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all provisions of this Act, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term “United States” means the States and the District of Columbia.

CHAPTER IX—MISCELLANEOUS

SEC. 902. (a) * * * the Act of March 4, 1923¹² (U. S. C., 1934 ed., title 21, sec. 6; 42 Stat. 1500, ch. 268), defining butter and providing a standard therefor; the Act of July 24, 1919¹³ (U. S. C.,

1934 ed., title 21, sec. 10; 41 Stat. 271, ch. 26), defining wrapped meats as in package form * * * shall remain in force and effect and be applicable to the provisions of this Act.

(b) Meats and meat food products shall be exempt from the provisions of this Act to the extent of the application or the extension thereto of the Meat Inspection Act, approved March 4, 1907, as amended (U. S. C., 1934 ed., title 21, secs. 71-91; 34 Stat. 1260 *et seq.*).

* * * * *

(Approved June 25, 1938.)

¹² That for the purposes of the Food and Drug Act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768), "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per centum by weight of milk fat, all tolerances having been allowed for.

¹³ That the word "package" where it occurs the second and last time in the Act entitled "An act to amend section 8 of an act entitled, 'An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,'" approved March 3, 1913, shall include and shall be construed to include wrapped meats inclosed in papers or other materials as prepared by the manufacturers thereof for sale.

U. S. Code, 1946 Ed., Title 15, Ch. 2—"Federal Trade Commission Act."

Sec. 45. Unfair methods of competition unlawful; prevention; proceeding by commission.

(a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Commission is empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to chapter 9 of Title 49, and persons, partnerships, or corporations subject to sections 181-203, 205-228 and 229 of Title 7, except as provided in section 227 of Title 7, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing * * * If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by sections 41-46 and 47-58 of this title, it shall make a report in writing in which it shall state its findings as to the facts and

shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. * * * [1914; last amended 1938.]

U. S. Code, 1946 Ed., Title 7, Ch. 6—"Federal Insecticide, Fungicide and Rodenticide Act."

Sec. 135. Definitions.

For the purposes of sections 135-135k * * * —
 a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

* * * * *

p. The term "Secretary" means the Secretary of Agriculture.

* * * * *

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

* * * * *

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

* * * * *

(f) If any word, statement, or other information required by or under authority of sections 135-135k * * * to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; * * * [1947]

Sec. 135a. Prohibited acts; marking requirements; exception to act.

(a) It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory, or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver in the original

U. S. Code, 1946 Ed., Title 7, Ch. 6—"Federal Insecticide, Fungicide and Rodenticide Act"—Continued.
unbroken package to any other person, any of the following:

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(5) Any economic poison which is adulterated or misbranded

b. Notwithstanding any other provision of sections 135-135k, no article shall be deemed in violation of said sections when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(3) for any person to give a guaranty or undertaking provided for in section 135e which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 135e may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; [1947]

Sec. 135d. Rules and regulations; examinations; notification to violators.

a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of sections 135-135k

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of sections 135-135k, and if it shall appear from any such examination that they fail to comply with the requirements of said sections, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. *Provided*, That nothing in said sections shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings, minor violations of said sections

whenever he believes that the public interest will be adequately served by a suitable written notice of warning. [1947]

Sec. 135e. Exemptions from penalties.

a. The penalties provided for a violation of section 135a (a) shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of sections 135-135k, designating said sections. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of said sections;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary. [1947]

Sec. 135f. Penalties for violations.

b. Any person violating any provision other than section 135a (a) (1) shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction for each subsequent offense be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: [1947]

Sec. 135g. Seizures.

a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

- (l) in the case of an economic poison—
- (a) if it is adulterated or misbranded;

* * * * *

(c) if it fails to bear on its label the information required by sections 135-135k * * * [1947]

Sec. 135k. Cooperation between department and agencies.

The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official agricultural or other regulatory agency of any State, Territory, District, possession or any political subdivision thereof, in carrying out the provisions of sections 135-135k * * *, and in securing uniformity of regulations. [1947]

U. S. Code, 1946 Ed., Title 7, Ch. 21A—"Tobacco Inspection Act."

Sec. 511e. Weighing; fees; construction of section.

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons, whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as * * * weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this chapter [Secs. 511-511q], may be disposed of in accordance with the terms of such agreement or license. * * *

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise. [1935]

Sec. 511i. Unlawful acts.

It shall be unlawful—

* * * * *

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter [Secs. 511-511q] knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

* * * * *

- (f) For any person falsely to represent or other-

wise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter. [1935]

* * * * *

Sec. 511k. Penalty for violations.

Any person violating any provisions of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both. [1935]

U. S. Code, 1946 Ed., Title 7, Ch. 38—"Agricultural Marketing Act of 1946."

Sec. 1622. Duties of secretary of agriculture.

The Secretary of Agriculture is directed and authorized:

(a) To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: * * *

(c) To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

* * * * *

(h) To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, * * * except that no person shall be required to use the service authorized by this subsection. * * * [1946]

Sec. 1626. Agricultural products defined.

When used in this chapter [Secs. 1621-1629], the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof. [1946]

U. S. Code, 1946 Ed., Title 19, Ch. 1—Customs, Testing of Weighing and Measuring Apparatus at Ports.

Sec. 40. Semiyearly comparison of weights and measures used in customhouses.

At ports at which there are a collector, comptroller, and surveyor, it shall be the duty of the surveyor, who shall be in all cases subject to the direction of the collector—

U. S. Code, 1946 Ed., Title 19, Ch. 1—Customs, Testing of Weighing and Measuring Apparatus at Ports—Continued.

First. To superintend and direct all inspectors, weighers, measurers, and gaugers within his port.

* * * * *

Eighth. To examine, and, from time to time, and particularly on the first Mondays of January and July in each year, try the weights, measures, and other instruments used in ascertaining the duties on imports, with standards to be provided by each collector at the public expense for that purpose; and where disagreements or errors are discovered, to report the same to the collector; and to obey and execute such directions as he may receive for correcting the same, agreeably to the standards. [1799; last amended 1930.]

[ED. NOTE.—In U. S. Code, 1946 Ed., following the foregoing section, it is stated: "Office of surveyor of customs abolished except in Port of New York, see section 5a of this title."]

U. S. Code, 1946 Ed., Title 19, Ch. 3—Customs, Bushel Weights.

Sec. 391. Legal weight of bushel for certain products.

For the purpose of estimating the duties on importations of grain, the number of bushels shall be ascertained by weight, instead of by measuring; and sixty pounds of wheat, fifty-six pounds of corn, fifty-six pounds of rye, forty-eight pounds of barley, thirty-two pounds of oats, sixty pounds of peas, and forty-two pounds of buckwheat, avoirdupois weight, shall respectively be estimated as a bushel. [1866]

U. S. Code, 1946 Ed., Title 19, Ch. 4—Customs, Units and Invoices.

Sec. 1001. Bushel weights of certain commodities; ton; line button measure.

Par. 722. Barley, hulled or unhulled, 20 cents per bushel of forty-eight pounds; * * *

Par. 724. Corn or maize, including cracked corn, 25 cents per bushel of fifty-six pounds; * * *

Par. 726. Oats, hulled or unhulled, 16 cents per bushel of thirty-two pounds; * * *

Par. 728. Rye, 15 cents per bushel of fifty-six pounds; * * *

Par. 729. Wheat, 42 cents per bushel of fifty pounds; * * *

Par. 734. Apples, green or ripe, 25 cents per bushel of fifty pounds; * * *

Par. 738. Cider, 5 cents per gallon; vinegar, 8 cents per proof gallon: *Provided*, That the standard proof for vinegar shall be 4 per centum by weight of acetic acid.

Par. 747. Pineapples, 50 cents per crate of two and forty-five one hundredths cubic feet; * * *

Par. 762. Oil-bearing seeds and materials: * * * flaxseed, 65 cents per bushel of fifty-six pounds; * * *

Par. 766. Sugar beets, 80 cents per ton of two thousand pounds; * * *

Par. 779. Hay, \$5 per ton of two thousand pounds; straw, \$1.50 per ton of two thousand pounds; broom corn, \$20 per ton of two thousand pounds; rice straw, and rice fiber, \$10 per ton of two thousand pounds.

Par. 1509. Buttons: Line button measure.—* * * *Provided*, That the term "line" as used in this paragraph and paragraph 1510 shall mean the line button measure of one-fortieth of one inch.

Sec. 1481. Weights and measures to be used in custom invoices.

(a) All invoices of merchandise to be imported into the United States shall set forth—

* * * * *

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States; [1930]

* * * * *

Sec. 1494. Expense of weighing and measuring.

In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the consignee before its release from customs custody. [1930]

U. S. Code, 1946 Ed., Title 26, Ch. 26—"Internal Revenue Code," Intoxicating Liquor.

[ED. NOTE.—The Internal Revenue Code was approved on Feb. 10, 1939 (53 Stat. 1), and reenacted many of the provisions of earlier revenue laws. Secs. 2808, 2809, 2842, and 2845, below, trace their origin to Act of July 20, 1868, Ch. 186; and Sec. 3150 traces its origin to Act of July 13, 1866, Ch. 184.]

Sec. 2808. Instruments to prevent and detect fraud.

For the prevention and detection of frauds by distillers of spirits, the Commissioner may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits. [1939]

Sec. 2809. Standard of proof spirits; standard gallon.

* * * * *

(c) Proof spirits shall be held to be that alcoholic liquor which contains one-half of its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (.7939) at sixty degrees Fahrenheit.

(d) In all sales of spirits a gallon shall be held to be a gallon of proof spirit, according to the standard prescribed in the preceding subsection, set forth and

declared for the inspection and gauging of spirits throughout the United States. [1939]

Sec. 2842. Penalty for using false weights and measures.

Every person who knowingly uses any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than one year nor more than three years. [1939]

Sec. 2845. Authorized barrel of proof spirits.

Every distiller shall make a return of the number of barrels of spirits distilled by him, counting forty gallons of proof spirits to the barrel, whenever such return is demanded by the collector of the district. [1939]

Sec. 3150. Fermented liquors: Standard barrel.

(a) There shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, * * * a tax of \$7 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel authorized and defined by law. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel, containing less than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third, and not more than one-half, shall be accounted one-half; more than one-half, and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead.

The provisions of this section requiring the accounting of hogsheads, barrels, and fractional parts of barrels at the next higher quantity shall not apply where the contents of such hogsheads, barrels, or fractional parts of barrels are within the limits of tolerance established by the Commissioner by regulations which he is hereby authorized to prescribe with the approval of the Secretary; and no assessment shall be made and no tax shall be collected for any excess in any case where the contents of the hogsheads, barrels, or fractional parts of barrels heretofore or hereafter used are within the limits of the tolerance so prescribed. [1939]

U. S. Code, 1946 Ed., Title 27, Ch. 8—"Federal Alcohol Administration Act."

Sec. 205. Marking requirements.

It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or

other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

(e) To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with such regulations, to be prescribed by the Secretary of the Treasury, with respect to packaging, marking, branding, and labeling and size and fill of container (1) as will prohibit deception of the consumer with respect to such products or the quantity thereof * * *; (2) as will provide the consumer with adequate information as to * * * the net contents of the package, * * * [1935; last amended 1942.]

U. S. Code, 1946 Ed., Title 31, Ch. 8—Coins and Coinage.

Sec. 316. Silver coins; weight.

The silver coins of the United States shall be a dollar; a half-dollar, or fifty-cent piece; a quarter-dollar, or twenty-five-cent piece; and a dime, or ten-cent piece. The weight of said coins shall be that determined by the President under the provisions of section 821 of this title. [1873; last amended 1939.]

[ED. NOTE.—Under the "Regulations for the Transaction of Business at the Mints, Assay Offices, and Bullion Depositories of the United States," revised December 1, 1947, the weights of silver coins are as follows: Dollar, 412.5 grains; half-dollar, 192.9 grains; quarter-dollar, 96.45 grains; dime, 38.58 grains.]

Sec. 317. Minor coins: Standard weight.

The minor coins of the United States shall be a five-cent piece, and a one-cent piece. * * * The weight of the piece of 5 cents shall be seventy-seven and sixteen-hundredths grains troy, and of the one-cent piece, forty-eight grains. [1873; last amended 1890.]

Sec. 349. Deviations allowed in adjusting weights: Silver coins.

In adjusting the weight of silver coins the following deviations shall not be exceeded in any single piece: In the dollar, six grains; in the half-dollar, four grains; in the quarter-dollar, three grains; and in the dime, one and one-half grains. [1873; last amended 1947.]

Sec. 350. Same: Minor coins.

In adjusting the weight of the minor coins * * *, there shall be no greater deviation allowed than three grains for the 5-cent piece and two grains for the 1-cent piece. [1873; last amended 1890.]

U. S. Code, 1946 Ed., Title 31, Ch. 8—Coins and Coinage—Continued.

Sec. 363. Assay commissioners.

To secure a due conformity in the silver coins to their respective standards of fineness and weight, the judge of the District Court for the Eastern District of Pennsylvania, the Comptroller of the Currency, the assayer of the assay office at New York, and such other persons as the President shall, from time to time, designate, shall meet as assay commissioners, at the mint in Philadelphia, to examine and test, in the presence of the Director of the Mint, the fineness and weight of the coins reserved by the several mints for this purpose, on the second Wednesday in February, annually, and may continue their meetings by adjournment, if necessary. If a majority of the commissioners fail to attend at any time appointed for their meeting, the Director of the Mint shall call a meeting of the commissioners at such other time as he may deem convenient. If it appears by such examination and test that these coins do not differ from the standard fineness and weight by a greater quantity than is allowed by law, the trial shall be considered and reported as satisfactory. If, however, any greater deviation from the legal standard or weight appears, this fact shall be certified to the President; and if, on a view of the circumstances of the case, he shall so decide, the officers implicated in the error shall be thenceforward disqualified from holding their respective offices. [1873; last amended 1934.]

[ED. NOTE.—In U. S. Code, 1946 Ed., following the foregoing section, it is stated: * * * "Words 'gold and preceding words 'silver coins' were omitted from original enactment of this section, inasmuch as the coinage of gold was discontinued and existing gold coins were withdrawn from circulation by section 315b of this title and all laws inconsistent therewith were repealed by section 446 of this title."]

Sec. 364. Standard troy pound for regulation of coinage.

For the purpose of securing a due conformity in weight of the coins of the United States to the provisions of the laws relating to coinage, the standard troy pound of the Bureau of Standards of the United States shall be the standard troy pound of the mint of the United States, conformably to which the coin-

age thereof shall be regulated. [1873; last amended 1911.]

Sec. 365. Standard weights for mints and assay offices.

It shall be the duty of the Director of the Mint to procure for each mint and assay office, to be kept safely thereat, a series of standard weights corresponding to the standard troy pound of the Bureau of Standards of the United States, consisting of a one-pound weight and the requisite subdivisions and multiples thereof, from the hundredths part of a grain to twenty-five pounds. The troy weight ordinarily employed in the transactions of such mints and assay offices shall be regulated according to the above standards at least once in every year, under the inspection of the superintendent and assayer; and the accuracy of those used at the mint at Philadelphia shall be tested annually, in the presence of the assay commissioners, at the time of the annual examination and test of coins. [1873; last amended 1911.]

U. S. Code, 1946 Ed., Title 18, Ch. 7—Coins and Coinage, False Weights.

Sec. 280. Alteration of weights or scales at mints or assay offices.

If any of the gold or silver coins struck or coined at any of the mints of the United States * * * shall be of less weight or value than the same ought to be, pursuant to law, or if any of the scales or weights used at any of the mints or assay offices of the United States shall be defaced, altered, increased, or diminished through the fault or connivance of any officer or person employed at the said mints or assay offices, with a fraudulent intent; * * * every such officer or person who commits any of the said offenses shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. [1909]

U. S. Code, 1946 Ed., Title 46, Ch. 2—Shipping, Register Tonnage.

Sec. 77. Register tonnage defined.

The register tonnage of every vessel built within the United States or owned by a citizen or citizens thereof shall be * * * in tons of one hundred cubic feet each, to be ascertained as follows: * * * [1864; last amended 1946.]

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315 (6)	Prima facie evidence of intent to violate the Act ..	100	Access to scales, etc.
315 (7)	Guaranty protection	101	Penalty for failure to weigh or to falsely weigh ..
315 (8)	Department of Agriculture and Industries to administer ..	112	General penalty
Code 1940, Title 2, Ch. 1, Art. 20—Insecticides and Fungicides		Code 1940, Title 29, Ch. 1—Alcoholic Beverages	
Sec. 330	Misbranding a misdemeanor	Sec. 5	Packages for alcoholic beverages
335	When deemed misbranded	Code 1940, Title 48, Ch. 1, Art. 2—Public Service Commission	
Code 1940, Title 2, Ch. 1, Art. 21—Kerosene		Sec. 38	Meters: Rules, regulations, and standards ..
Sec. 338	Definition	39	Same: Inspection and test
340	Rules and regulations	40	Same: Testing on complaint; testing fees ..
341	Correct measure	Code 1940, Title 14, Ch. 45, Art. 1—Frauds	
344	Invoice of sale	Sec. 211	False advertising; penalty
345	Violations a misdemeanor	225	Weights; coal
Code 1940, Title 2, Ch. 1, Art. 25—Agricultural Products			
Sec. 406	Containers for agricultural products		
410	Limitation		

Code 1940, Title 2, Ch. 1, Art. 1—Department of Agriculture and Industries.

Sec. 1. Definitions.

For the purpose of this title [Secs. 1-677] the word "person" means an individual, a partnership, a corporation, or two or more individuals having a joint or common interest. The word "sell" or "sold" shall imply the sale, keeping for sale, offer or exposure for sale, having in possession for sale, delivery, or distribution in this state, of the product or article in question. The word "commissioner" shall mean, unless otherwise indicated by the context, the com-

missioner of agriculture and industries: * * * [1923.]

Sec. 3. Prima facie evidence of possession with intent to sell.

The having in possession of any article, substance, material or product, the sale of which is regulated under the provisions of this chapter [Secs. 1-633], by any person who manufactures, sells, keeps for sale, offers, or exposes for sale, serves, distributes or delivers the same, shall be prima facie evidence of having in possession with intent to sell; except that this or any of the penalties set forth in this chapter shall not apply to any common carrier when said

article, substance, materials, or products were received by said carrier for transportation in the ordinary course of business, and without actual knowledge of the adulteration, misbranding, under standard grade, weight, or measure claimed. [1923]

Sec. 4. Rules and regulations; enforcement; notice.

The commissioner of the department of agriculture and industries is charged with the execution and enforcement of the laws and provisions contained in this chapter [Secs. 1-633] and he is authorized and empowered, with the approval of the state board of agriculture and industries, to promulgate such rules and regulations as are reasonable and necessary to accomplish the evident purpose and intent of the law. The commissioner shall give notice of all rules and regulations promulgated as herein provided to all parties in interest, and to all parties who are likely to be interested in the same, within thirty days after the promulgation thereof, and such rules and regulations shall not become effective until the expiration of said thirty day period. [1923; last amended 1927.]

Sec. 5. Evidence of rules, regulations, and notices.

The rules, regulations or notices purporting to be published by authority of the state board of agriculture and industries in book or pamphlet form, and typed or printed copies of all acts, rules, regulations or notices certified to by the commissioner or the board, shall be received as evidence of the passage or issuance and legal publication of such rules, regulations or notices as of the date mentioned or provided for therein, in all courts and places without further proof. * * * [1923; last amended 1927.]

Sec. 11. Hindering or obstructing commissioner.

Any person who shall hinder or obstruct any authorized agent of the commissioner by refusing to allow entrance at any reasonable time into any place of business for the purpose of carrying out the provisions of this chapter [Secs. 1-633], or by refusing to deliver samples as herein provided, when same are requested and value tendered, is hereby declared to be guilty of a misdemeanor. [1923]

Sec. 12. Penalties.

Any person violating any provisions of this chapter [Secs. 1-633], or the rules and regulations issued thereunder, shall be guilty of a misdemeanor and, upon conviction, unless otherwise provided in this chapter, shall be fined not more than five hundred dollars, and may also be sentenced to hard labor for not more than six months. [1923; last amended 1927.]

Code 1940, Constitution of 1901, Art. 4—Constitutional Restriction.

Sec. 77. Restriction on weights and measures enforcement.

No state office shall be continued or created for the inspection or measuring of any merchandise, manu-

facture, or commodity, but any county or municipality may appoint such officers when authorized by law. [1901]

Code 1940, Title 2, Ch. 1, Art. 36—Weights and Measures.

Sec. 587. State standards.

There is but one unit or standard measure of length and surface, one of weight, one of capacity for liquid substances, and one of capacity for dry substances, throughout this state, which must be in conformity with the standard measure of length, surface, weight and capacity established by congress. Any firm, association, corporation or person, selling, offering or exposing for sale any commodity by weight or measure which does not correspond with such standard or measure is guilty of a misdemeanor. [1852; last amended 1927.]

Sec. 588. Construction of contracts.

All contracts made within this state for any work to be done, or for anything to be sold or delivered, must be construed to have been according to the standard of weight and measure thus ascertained, unless the parties stipulate to the contrary. [1852; last amended 1927.]

Sec. 589. Standards of weights and measures.

The standards of weights and measures received from the United States under a resolution of congress approved June 14, 1836 and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or renewal thereof, and such as shall be procured by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards by which all state, county and municipal standards of weights and measures shall be tried, proved, and sealed. [1923; last amended 1927.]

Sec. 590. Custody of standards.

The state standards shall be kept by the commissioner of agriculture and industries in a safe and suitable place in his office from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. He shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures. He shall also purchase such apparatus as shall be found necessary to a proper prosecution of the work of the office, to be known as working standards. He shall compare such working standards with the state standards at such times as he shall deem necessary to prove the accuracy of the working standards. He shall keep a record of all standards and other apparatus belonging to the state for the purposes of this article [Secs. 587-633] and

Code 1940, Title 2, Ch. 1, Art. 36—Weights and Measures—Continued.

take a receipt for same from his successor in office. [1923; last amended 1927.]

Sec. 591. Duties of commissioner.

The commissioner shall, at least once in five years, try, and prove, by the state standards, all weights, measures and other apparatus which may belong to any county or city, and shall seal such, when found to be accurate, stamping on them the letter "A" and the last two figures of the year with seals which he shall have and keep for that purpose. He shall have and keep a general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use, in the state. He shall, upon the written request of any citizen, firm, corporation, or educational institution in the state, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in this state. He shall at least once annually test all scales, weights, and measures used in checking the receipts and 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 through the supervisory board and to the executive officer of the institution concerned; and, at the request of such board or executive officer, the commissioner shall appoint in writing one or more employees then in the actual service of each institution, who shall act as special deputy or deputies, without extra compensation, for the purpose of checking the receipts and disbursements of supplies. He shall include a report¹ of the work done by his office in his general report to the state board of agriculture and industries. The commissioner shall inspect all standards and apparatus used by the counties and cities at least once in five years and shall keep a record of same. He shall at least once in five years visit the various cities and counties of the state in order to inspect the work of the local sealers. The commissioner shall issue from time to time regulations for guidance for city and county sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1923; last amended 1927.]

¹ See Sec. 19, Ti. 2, annual report of commissioner to governor.

Sec. 592. Local sealers: Appointment; custody of standards.

The board of revenue, court of county commissioners, or like governing body of each county, and the mayor, or other governing body of any city, may appoint for their respective county or city, one or more sealers of weights and measures; provided, however, that two or more counties may appoint jointly for their counties a sealer, subject to the approval of the commissioner; and, provided, further, that any county and any city within the county may jointly appoint a sealer of weights and measures, subject to the approval of the commissioner. No person shall be appointed as local sealer of weights

and measures until he has received a certificate from the commissioner showing that such person had the qualifications required by the state board of agriculture and industries. All such counties or cities appointing a sealer of weights and measures shall keep, at all times, at the expense of the county or city, or both, such standards and apparatus of such material and construction as the commissioner may direct. All such standards and apparatus having been tried and accurately proven shall be sealed and certified to by the commissioner as hereinbefore provided, and shall be then preserved by the county or city sealer as public standards for such county or city. [1923; last amended 1927.]

Sec. 593. Same: Terms; salaries; removal; bonds.

Sealers appointed under the preceding section shall hold office for such terms, and shall receive such salaries, as the appointing power may prescribe. The salary herein provided for shall be paid out of the county or city treasury, as the case may be, and no fee shall be charged by the local sealer or by the county or city, for inspecting, testing or sealing of weights, measures, or weighing or measuring devices. Sealers appointed under this section may be removed at any time, by the authority which appointed them, for non-leaseance, misfeasance, or malfeasance in office. The local sealer shall forthwith on his appointment give a bond in such penal sum with such surety as is approved by the appointing power for the faithful performance of the duties of his office. [1923; last amended 1927.]

Sec. 594. Same: Records; reports.

The local sealer of weights and measures shall keep a complete record of all of his official acts and shall make annual report duly sworn to on the first day of October to the commissioner of agriculture and industries on blanks to be furnished by the commissioner, which report shall be included in the commissioner's general report to the state board of agriculture and industries. The local sealers shall make such reports to the appointing power as may be designated by the appointing power. [1923; last amended 1927.]

Sec. 595. Same: Powers and duties.

When not otherwise provided by law, the commissioner of agriculture and industries within the state, the county sealer within the county and the city sealer within the city 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 reward, 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 amount represented, and whether they be offered for sale or sold in a manner in accordance with the law. He shall at least once 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 at any reasonable time, 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 test. Whenever the commissioner or a local sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1923; last amended 1927.]

Sec. 596. Sealing of weight and measures.

Whenever the commissioner or a 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 weight, measure, or weighing or measuring device with appropriate devices to be approved by the commissioner. [1923]

Sec. 597. Condemnation of weights and measures.

The commissioner or a local sealer shall condemn, seize and may destroy weights, measures, or weighing or measuring devices which are false or fraudulent, or can not be made to conform to the legal standards. He shall condemn and shall mark or tag as "condemned for repairs" such weights, measures, or weighing or measuring devices which are found incorrect and yet, in his best judgment, may be repaired. The owners or users of any weights, measures, or weighing or measuring devices which have been condemned for repairs shall have the same repaired and corrected within ten days, and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the commissioner or 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 commissioner or sealer. [1927]

Sec. 598. Seizure of weights and measures.

The commissioner or any local sealer of weights and measures is hereby authorized and empowered to seize for use as evidence, without formal warrant, any incorrect, 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 the law. [1923; last amended 1927.]

Sec. 599. Police powers.

There is hereby conferred upon the commissioner and local sealers the same powers in their respective jurisdictions as are possessed by sheriffs of this state for the purpose of carrying out the provisions of this article [Secs. 587-633] only, and in the exercise of their duties they shall upon demand, exhibit their badges to any person questioning their authority, and they are authorized and empowered to make arrests of any person violating any provision of this article. [1927]

Sec. 600. Definitions.

The words "weights, measures, or weighing or measuring devices," as used in this article [Secs. 587-633] 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 article shall be construed to include barter and exchange. [1927]

Sec. 601. Offenses.

Any person who, by himself or 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 reward, or in the computation of any charge for services rendered on the basis 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 tool or appliance used in connection therewith which has not been sealed by the commissioner or by a 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 commissioner or a 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 violate any provision of this article [Secs. 587-633] for which a specific penalty has not been provided; or who shall sell, or offer or expose for sale, or use or have in his possession for the purpose of using or selling any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor. [1923; last amended 1927.]

Code 1940, Title 2, Ch. 1, Art. 36—Weights and Measures—Continued.

Sec. 602. Evidence.

In all prosecutions for the violation of any laws relating to weights and measures, the possession of a weight or measure or weighing or measuring device, which has been altered, changed, or in any manner tampered with so that the same shall give a false or wrong weight or measure in either buying or selling any commodity, thing or service, shall be prima facie evidence of the guilt of the person having the same in possession. [1927]

Sec. 603. Misdemeanor to give short weight or measure.

Whoever, in buying or selling any property, or directing or permitting any employee or agent so to do, makes or gives a false or short weight or measure, or whoever has charge of scales fixed for the purpose of misweighing an article bought or sold, or, having scales for the purpose of weighing property, reports a false or untrue weight; or whoever uses in the sale of a commodity, a computing scale or device indicating the weight and price of such commodity upon which scale or device the graduation or indication is false, or inaccurately placed, either as to weight or price, shall be guilty of a misdemeanor. [1927]

[ED. NOTE.—In the Code of Alabama 1940, following the foregoing section, it is stated: "This section does not conflict with nor repeal Tit. 14, Sec. 225 and hence a sale of coal is governed by the latter statute. Woodard v. State, 30 Ala. App. 144, 2 So. (2d) 330; Woodard v. State, 241 Ala. 557, 3 So. (2d) 530." See page 60 for Title 14, Sec. 225.]

Sec. 604. Bushel and barrel weights.

Whenever any of the following commodities¹ shall be sold or delivered, and when no special written contract or agreement shall be made to the contrary, the bushel or barrel of such commodities shall be the weight per bushel or barrel named herein; and the fractional part of the bushel or barrel shall be the corresponding fractional part of the weight per bushel or barrel named herein for such commodity. All such commodities shall be bought or sold by actual weight unless otherwise agreed to in writing between the seller or buyer; provided, however, that any of such commodities may be sold by numerical count; and provided further, turnips, kale, mustard and spinach salad, and other vegetables, customarily sold by the bunch, may be sold by the bunch.

	<i>Pounds per bushel</i>
Alfalfa seed	60
Apples, green	50
Apples, green, 2½ bushels per barrel	50
Apples, dried	24
Apple seed	40
Bluegrass seed	14
Beans, dried	60
Beans, green, in pod	30
Beans, green, in pod, 2½ bushels per barrel	30
Beans, castor	46
Beans, velvet, shelled	60
Beets	50
Blackberries	48
Blackberries, dried	28

	<i>Pounds per Bushel</i>
Black Medic (cleaned)	56
Bran	20
Broom-corn	42
Burr clover	10
Buckwheat	50
Barley	48
Carrots	50
Cabbage	50
Carpet Grass seed	25
Cherries, with stems	56
Cherries, without stems	64
Corn, shelled	56
Corn, in ear, shucked	70
Corn, in ear, with shucks	75
Corn, green, with shucks	100
Corn, green, with shucks, 2½ bushels per barrel	100
Cornmeal, unbolted	48
Cornmeal, bolted	48
Cucumbers	48
Chestnuts	50
Cement	80
Coke	40
Charcoal	22
Coal, stone	80
Canary seed	60
Clover seed, red and white	60
Cottonseed	32
Crimson clover	60
Flaxseed (Linseed)	56
Flour (in wood), 196 pounds per barrel	56
Gooseberries	48
Grapes, with stems	48
Grapes, without stems	60
Horseradish	50
Hickory nuts	50
Hair, plastering	8
Hominy	62
Hungarian grass seed	48
Herds grass	45
Hemp seed	44
Kaffir corn	56
Japan clover, (Ispedeza)	25
Johnson grass seed	25
Land plaster	100
Lime, unslacked	80
Lime, slacked	40
Liquids, 42 gallons per barrel	42
Millet seed (German, Missouri, Tennessee)	50
Melilotus seed, (cleaned)	60
Orchard grass seed	14
Osage orange seed	33
Oats, seed	32
Onions, matured	57
Onions, top buttons	28
Onions, button sets	32
Parsnips	45
Peas, dry	60
Peas, green, in hull	30
Peaches, matured	50
Peaches, dried, unpeeled	33
Peaches, dried, peeled	38
Pears, matured	50
Pears, dried	26
Plums	64
Pieplant	50
Potatoes, Irish	60
Potatoes, sweet	55
Peanuts	22
Popcorn, shelled	56
Popcorn, unshelled	70
Quinces, matured	48
Raspberries	48
Rape seed	50
Rye seed	56
Red Top	14

	Pounds per Bushel
Rye grass, Italian	20
Rice	45
Sage	4
Sorghum molasses, 12 pounds per gallon	
Sorghum seed	50
Strawberries	48
Salad, turnips, kale	30
Salad, mustard, spinach	30
Spelt	40
Turnips	55
Turnips, rutabagas	50
Tomatoes	56
Timothy seed	45
Velvet grass seed	7
Walnuts	50
Wheat	60

[1883; last amended 1927.]

A slight rearrangement has been made for convenience of reference.

Sec. 605. Sale of ice regulated.

It shall be unlawful for any person, firm, or corporation to sell ice in any other manner than by weight. All ice shall be correctly weighed by the seller at the time of delivery to the purchaser. All agents or employees of any person, firm or corporation engaged in the sale and delivery of ice shall be provided with suitable and correct weighing devices to be used for the purpose of correctly weighing each piece of ice delivered, and it shall be unlawful for any such agent or employee to report or make a charge for any quantity of ice in excess of the quantity, in pounds, or fraction thereof, actually delivered according to the weight thereof. It shall be unlawful for any person, firm or corporation delivering ice to refuse, on demand, to allow the purchaser to witness the weighing of the same at the time of delivery, or to refuse, on demand, to furnish the purchaser with a weight slip at the time of delivery containing the name of the person, firm or corporation selling the ice, the number of pounds sold, and signed by the agent or employee of such person, firm or corporation. Whoever, being engaged in the business of selling ice at retail, and not engaged in the delivery of the same under a contract, refuses to sell from any place or vehicle engaged in the regular distribution of ice at retail a piece of ice at the fair value thereof to any person other than an ice dealer, shall, if such person tenders in payment the fair value thereof in the amount of five cents or any multiple thereof not more than fifty cents in legal money of the United States, be guilty of a misdemeanor. [1927]

Sec. 606. Bottles for milk and cream.

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 or jars 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, initial or trade mark of the manu-

facturer, and a designating number, which designation shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the commissioner of agriculture and industries upon application by the manufacturer, and upon the filing by the manufacturer of a bond in a sum of one thousand dollars, with surety, to be approved by the commissioner, conditioned upon their conformance with the requirements of this section and such regulations as may be promulgated by the state board of agriculture and industries for the purposes 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 commissioner. [1927]

Sec. 607. Sale or use of non-standard bottles.

Any manufacturer or dealer who sells or offers to sell milk or cream bottles to be used in the state that do not comply as to size and marking with the provisions of this article [Secs. 587-633], shall suffer a penalty of five hundred dollars, to be recovered by the attorney general in an action against the offender's bondsman, to be brought in the name of the state in the circuit court of Montgomery County, Alabama. Any dealer who offers for sale or who uses, for the purpose of selling milk or cream, jars, or bottles that do not comply with the requirements of this article as to markings and capacity, shall be guilty of offering for sale or using a false or insufficient measure. [1927]

Sec. 608. Sealers' duties as to milk bottles.

Sealers of weights and measures are not required to seal bottles for milk or cream marked as in this article [Secs. 587-633] provided, but they shall have the power to, and shall from time to time, make test on individual bottles in order to ascertain if the provisions of this article are being complied with, and they shall immediately report violations found to the commissioner. [1927]

Sec. 609. Coal: Weighing of on public scales.

When a dealer or dealers in coal in cities or towns, where public scales are kept, may be requested by a person or persons buying as much as five hundred pounds of coal at any one time to weigh such coal upon the public scales, said dealer or dealers shall do so, the person or persons buying the coal to pay the fee for weighing same, if such be of proper weight, otherwise such fee shall be paid by said dealer. Any dealer refusing to weigh or to have weighed such coal as required in this section, or to pay such fee for weighing the same as herein required, shall be guilty of a misdemeanor. [1927]

Sec. 610. Same: Sold by weight; ton.

It shall be unlawful to sell or offer to sell any coal, coke or charcoal in any other manner than by weight, and when sold by the ton, two thousand pounds avoirdupois shall be the weight of the ton.

Code 1940, Title 2, Ch. 1, Art. 36—Weights and Measures—Continued.

No coal, charcoal or coke shall be sold at retail which contained at the time the weight was taken, more water or other liquid substance than is due to natural conditions, weather conditions, or causes incident to the mining, cleaning or handling of the coal, charcoal or coke, except by and with consent of the purchaser. [1927]

Sec. 611. Same: Delivery tickets.

It shall be unlawful for any person to deliver any coal, coke or charcoal without such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, coke or charcoal contained in the vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of such tickets shall be surrendered to the commissioner or sealer of weights and measures upon his demand for his inspection, and this ticket or weight slip issued by him when he desires to retain the original shall be delivered to the purchaser of said coal, coke or charcoal, or his agent 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 purchase is made. [1927]

Sec. 612. Packaged commodities; Marking requirements.

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 and tolerances shall be established by rules and regulations made and promulgated by the state board of agriculture and industries; 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 article [Secs. 587-633]. [1927]

Sec. 613. Same: Definitions.

The words in "package form" ["in package form"] as used in this article [Secs. 587-633] 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, mak-

ing one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package. "Package" as used in this article, does not include any container in which are packed or contained packages of a smaller size of a commodity, but the provisions of this article apply only to the container directly including the commodity. [1927]

Sec. 614. Fruits, nuts, vegetables and grain to be sold by weight; exceptions; "original standard container" defined.

Except as otherwise provided in this article [Secs. 587-633] or except when sold in the original standard container, all fruit, nuts, vegetables and grain shall be sold at retail by avoirdupois weight or numerical count. The words "original standard container," as used in this section shall mean and include only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is established by regulations of the state board of agriculture and industries, the contents of which have not been removed or repacked by the retailer, and upon which is plainly and conspicuously marked the net quantity of the contents thereof in terms of weight, measure or numerical count. This section shall not apply to the sale, by the bunch, of fresh beets, onions, turnips, carrots and other similar vegetables usually and customarily sold by the bunch. [1927]

Sec. 615. Standard containers for agricultural products.

The state board of agriculture and industries is authorized to fix and promulgate as the official standards for this state for any container for any agricultural product the standard for such product which may have been promulgated or announced therefor under the authority of the congress of the United States, and in carrying out the provisions of this section the commissioner is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things referred to herein. [1923; last amended 1927.]

Sec. 616. Rules and regulations; specifications and tolerances.

The state board of agriculture and industries shall have the right and power to adopt and promulgate all reasonable and necessary rules and regulations for the better enforcement of the provisions of law relative to weights and measures and the sale of commodities, things or service by weight or measure. The board shall prescribe specifications as to the type of make-up and reasonable variations or tolerances for all weights, measures, and weighing and measuring devices, used, offered or exposed for sale, sold or given away in the state. Any weight, measure, or weighing or measuring device which does not comply with these specifications or does not conform with the state's standards within such tolerances shall be a false and incorrect weight, measure, or weighing or measuring device. The board shall prescribe reasonable rules and regulations for the submission of samples and the examination of type and approval

or disapproval of all types of weights or measures or weighing or measuring devices used, offered or exposed for sale, or given away in the state. [1927]

Sec. 617. Standard containers for farm products.

It shall be the duty of the state board of agriculture and industries to fix and promulgate official standards for containers of farm products and to change any of them from time to time as may be found necessary. [1923; last amended 1927.]

Sec. 618. Commodity sales by net weight only; exception.

Whenever any commodity other than bale cotton 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 article [Secs. 587-633] it shall be understood and construed to mean the net weight of the commodity. [1927]

Sec. 619. Presumptive evidence.

For the purposes of this article [Secs. 587-633], proof of the existence of weights or measures or weighing or measuring devices in or about any building, enclosure, stand or vehicle in or from which it is shown buying or selling is commonly carried on, shall be presumptive proof of their regular use for such purposes and of their ownership by the person so using or possessing them, and such fact shall be deemed to remain established until disproved beyond reasonable doubt. [1927]

Sec. 620. Measuring devices for oil.

Any person engaged in the business of the sale of oil at retail shall use a standard liquid measure, which measure shall not be of a larger capacity than the amount of the purchase by any purchaser; provided, that this shall not prevent the use of a correct liquid-measuring device when so located and disposed as to be clearly visible to, and readable by the customer from any position which he may reasonably be expected to assume. [1927]

Sec. 621. Weighmasters.

All persons engaged in the business of weighing for hire, who shall weigh or measure any commodity, produce or article, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article is based, shall be known as a public weighmaster, and all such weighmasters shall be appointed by the commissioner; provided, that any persons not engaged in the business of weighing for hire, but to whom the services of a certified weigher are necessary for the proper conduct of any business in which they may be engaged, may upon application to the commissioner have one or more of their employees, or some other suitable person, designated by the said commissioner to act as weighmaster

for such person. Each weighmaster shall, before entering upon his duties, make oath, faithfully to execute his trust as a weighmaster. The commissioner shall issue a certificate of such appointment or designation and shall keep a record of same. [1927]

Sec. 622. Same: Rights and duties.

The rights and duties of all weighmasters shall be prescribed by said commissioner with the approval of the board and such weighmasters shall not receive compensation from the state for the duties so performed. [1927]

Sec. 623. Same: Weight certificate.

The commissioner shall also prescribe the form of weight certificate to be used by all public weighmasters in this state. Such certificate shall state thereon the kind of commodity, produce or article, the number of units of the same, the date of the receipt of the commodity, produce or article, the owner, agent or consignee, the total weight of the commodity, produce or article, the vessel, railroad, team, truck or other means by which the commodity, produce or article was received, and any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the commodity, produce or article from a like kind. No certificate other than the one herein prescribed shall be used by any public weighmaster in this state, and such certificate, when so made and properly signed, shall be prima facie evidence of such weights. [1927]

Sec. 624. Same: Seals.

It shall be the duty of every weighmaster in this state to provide himself with a seal, at his own expense, which seal shall have inscribed on the outer margin thereof his name and the word "Alabama," with the words "Public Weigher" inscribed in center of said seal, which seal shall be impressed upon each and every weight certificate issued by such weighmaster, and said seal, when applied to weight certificates, shall be a recognized authority of accuracy. [1927]

Sec. 625. Same: Records.

All public weighmasters shall keep and preserve correct and accurate records of all public weighings as provided by this article [Secs. 587-633], which records shall be open at all times for inspection by the commissioner or his assistants. [1927]

Sec. 626. Same: Contents of certificates of weights.

All certificates of weights and measures, as provided by this article [Secs. 587-633], shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weighmaster. [1927]

Sec. 627. Same: False weight certificates.

Any weighmaster who shall issue a certificate of weights and measures giving a false weight or meas-

Code 1940, Title 2, Ch. 1, Art. 36—Weights and Measures—Continued.

ure of any article or commodity weighed or measured by him or his representative to any person, shall be guilty of a misdemeanor, and in addition thereto shall forfeit his certificate as weighmaster, which certificate, when so forfeited, shall be turned over to the commissioner. [1927]

Sec. 628. Same: Requesting issue of false weight certificate; penalty.

Any person, firm or corporation who shall request a weighmaster to weigh any product, commodity or article falsely or incorrectly, or who shall request a false or incorrect certificate of weight or measure, or any person issuing a certificate of weights and measures who is not a weighmaster as provided for in this article [Secs. 587-633], shall be guilty of a misdemeanor. [1927]

Sec. 629. Same: Reweighings.

When doubt or differences arise as to the correctness of the net or gross weight of any amount or part of any commodity, produce or article for which a certificate of weights and measures has been issued by a public weighmaster, the owner, agent or consignee may, upon complaint to the commissioner, or his assistants, have said amount or part of the amount of any commodity, produce or article reweighed by the commissioner or his assistant, or a public weighmaster designated by him, the services for which reweigh, then performed by the said commissioner or his assistants, shall be gratis. [1927]

Sec. 630. Same: Term; appointment; fee.

The term of appointment for weighmasters shall be for one year, and a fee of two and one-half dollars shall be paid by each person, appointed or designated as weighmaster to the commissioner, which fee shall accrue to the agricultural fund. [1927]

Sec. 631. Same: Bond.

Each weighmaster shall, before entering upon his duties and before securing a certificate of appointment from the commissioner, file with the commissioner a bond in such sum as shall be prescribed by the commissioner, under the rules and regulations promulgated by the state board of agriculture and industries, conditioned that he will faithfully execute his trust as weighmaster and pay damages resulting to any person from his negligence as such. [1927]

Sec. 632. Refusal to permit tests; penalty.

Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring device, or appliances and accessories connected with any or all of such devices which is in his possession or

under his control, or who by himself, or his employe or agent, or as a proprietor or manager, refuses to exhibit any article, commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the commissioner or to a sealer, for the purpose of allowing the same to be tested, examined or inspected as provided for in this article [Secs. 587-633] shall be guilty of a misdemeanor. [1927]

Sec. 633. Improper operation of devices.

It shall be unlawful for any person to operate any weighing or measuring device in any other manner than that which would be a regular, and intended method of operation by the manufacturer as is evidenced by the make-up of the device itself as being the proper method of operation. [1927]

Code 1940, Title 37, Ch. 10, Art. 1—Cities and Towns, Weights and Measures.

Sec. 470. Public scales; inspection of weights and measures.

The council or other governing body of any town or city may provide public scales and an inspection of weights and measures, and may provide punishment for persons, firms and corporations using fraudulent weights and measures; * * * [1907]

Code 1940, Title 37, Ch. 10, Art. 5—Cities and Towns, Regulation of Slaughter Houses.

Sec. 499. Slaughter houses may be established; weighing of livestock; fees.

All cities and towns of this state shall have the power to establish, control, and regulate slaughter houses and pens, and * * * to provide for the weighing and herding outside of the city or town, of all livestock intended for slaughter, and to fix, regulate and collect reasonable fees and charges to pay the expenses of carrying out the powers granted in this section. [1907]

Code 1940, Title 2, Ch. 1, Art. 5—"Alabama Seed Law."

Sec. 45 (2). Definitions.

* * * When used in this article [Secs. 45 (1) - 45 (9)]—

(b) The term "agricultural seeds" shall include the seeds of grasses, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds, and mixtures of such seeds. (c) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.* * * (t) The term "labeling" includes all labels, and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in con-

tainers, and includes invoices and other bills of shipment. * * * [1943]

Sec. 45 (3). Marking requirements.

I. For agricultural seed. Each container of agricultural seed in excess of two pounds which is sold, offered for sale, exposed for sale, or distributed within this state for planting or sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written in ink or printed label of a size not less than $2\frac{3}{8} \times 4\frac{3}{4}$ inches in the English language, giving information for the following items: * * * (9) Net weight. * * *

II. For vegetable seed. * * * Vegetable seed in containers in excess of [two (2) pounds for beans, peas, edible soybeans, edible cowpeas and corn, and one (1) pound for all other vegetable seed] * * * shall be labeled to show * * * (b) net weight, * * * [1943]

Sec. 45 (4). Prohibitions pertaining to marking requirements.

(a) It shall be unlawful for any person to sell, offer for sale, expose for sale, or distribute within this state—* * * (2) Any agricultural, [or] vegetable * * * seed not labeled in accordance with the provisions of this article, [Secs. 45 (1)–45 (9)] or having a false or misleading labeling. * * *

(b) It shall be unlawful for any person within this state—* * * (3) To hinder or obstruct in any way any authorized person in the performance of his duties under this article. (4) To fail to comply with a "stop-sale" or "non-use" order. * * * [1943]

Sec. 45 (5). Exemptions.

(a) The provisions of this article [Secs. 45 (1)–45 (9)] do not apply—(1) To seed when sold directly to, and in the presence of the consumer and taken from container properly labeled in accordance with the provisions of this article; but the provisions shall in no way exempt the vendor from the analysis given on the tag or label attached to any container. (2) To seed or grain not intended for sowing or planting purposes if proper indication of such intention is shown. (3) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, that for seed to be processed and stored in the same room from which seed are delivered for planting, sowing or resale, each bag shall bear a label or there shall be displayed a large placard with the following words "For Processing—Not for sale" and further provided that seed held in storage for interstate shipment need be labeled only with a lot number supported by an analysis in office files, and also provided that any labeling or other representations which may be made with respect to such seed shall be subject to this article. (4) To seed produced in Alabama and sold by one farmer to another with

the provision that if such seed are advertised for sale by a paid advertisement or by free advertisement through publications of the Alabama department of agriculture and industries that such seed shall be subject to all of the requirements of this article. (5) To seed sold or distributed by the grower thereof, unless such grower is also a dealer, to a local merchant in due course of trade and by such local merchant resold in due course of trade, but without advertising and without holding himself out as a dealer as herein defined. [1943]

Sec. 45 (7). Duties and authority of state board of agriculture and industries.

The state board of agriculture and industries shall have power to prescribe, and after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysing, testing and examining agricultural [and] vegetable * * * seed, * * * to adopt sizes of containers for seed sold, offered for sale or distributed in Alabama, and such other rules and regulations as may be necessary to secure the efficient enforcement of this article. [Secs. 45 (1)–45 (9)]. [1943]

Sec. 45 (8). Duties and authority of commissioner of agriculture and industries.

It shall be the duty of the commissioner of agriculture and industries, who may act individually or through his authorized agents: (a) To inspect, sample, make analysis of, and test agricultural, [and] vegetable * * * seeds transported, sold, offered or exposed for sale or distribution within this state, for sowing or planting purposes, at such time and place and to such extent as he may deem necessary to determine whether said seeds are in compliance with the provisions of this article [Secs. 45 (1)–45 (9)], and to notify promptly the person who transported, sold, offered or exposed the seed for sale, of any violation. (b) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to this article and the rules and regulations thereunder. (c) To issue and enforce a written or printed "Stop-Sale" or "Suspension from Sale" or "Non-use" order to the owner or custodian of any lot of agricultural * * * or vegetable seed which is found to be in violation of any of the provisions of this article, which shall prohibit further sale or use of such seed until such officer has evidence that the law has been complied with: Provided, that in respect to seeds which have been denied sale, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, praying for a judgment as to the justification and said order and for the discharge of such seed from the order prohibiting this sale in accordance with the findings of the court. * * * [1943]

Code 1940, Title 2, Ch. 1, Art. 5—"Alabama Seed Law"—Continued.

Sec. 45 (9). Seizure; penalty for violations; prosecutions.

Any lot of agricultural, [or] vegetable * * * seed not in compliance with the provisions of this article [Secs. 45 (1)—45 (9)] shall be subject to seizure. Every violation of the provisions of this article shall be deemed a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not exceeding one hundred dollars (\$100.00) for the first offense and not exceeding two hundred and fifty dollars (\$250.00) for each subsequent similar offense. The issuance of a "Suspension from Sale or Use" order shall be in accordance with article 33 of Title 2 of the 1940 Code. [1943]

Code 1940, Title 2, Ch. 1, Art. 8—Commercial Feeds.

Sec. 56. Definitions.

The term "commercial feeds" shall be held to include all feed stuffs used for feeding domestic and wild animals and domestic and wild birds; except whole seed or grains, the unmixed meals made directly from entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo when packed for human consumption, whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials. [1911; last amended 1935.]

Sec. 57. Marking requirements; standard packages.

Every lot or parcel of commercial feeds sold in this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying: the net weight of the package (provided that all commercial feeds shall be in standard weight bags or packages of twenty-five, fifty, one hundred, one hundred and fifty, or two hundred pounds, except that packages weighing five pounds, eight and one-third pounds, or ten pounds, net, may be distributed to retailers in fifty or one hundred pound containers and sold only when the packages are tagged or labeled as provided in this article [Secs. 56-68], * * * [1911; last amended 1947.]

Sec. 60. Regulation of bulk sales.

Whenever any commercial feeds as defined in Section 56 of this Article [Secs. 56-68] are kept for sale in bulk, stored in bins, or otherwise, the person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of Section 57 * * * [1911; last amended 1947.]

Sec. 62. Commissioner to be notified of shipments.

It shall be the duty of persons shipping commercial feeds to notify the commissioner in writing by mail or otherwise on the day of shipment, or within twenty-four hours thereafter, of every shipment exceeding five tons. Such notice shall state the brand,

number of sacks, the weight of each sack or package or bundle, and to whom shipped and addressed. [1927]

Sec. 64. Commissioner may suspend sale.

If at any time the commissioner or his duly authorized agent, shall have reason to believe that any feed offered for sale in this state does not comply with the requirements of this article [Secs. 56-68], it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such feed meets the requirements of this article. If he shall find that the same does not comply with this article, then he is authorized to seize or cause to be seized the feed for confiscation as provided for in this chapter. [1927]

Sec. 66. Crushed or ground corn.

* * * Crushed or ground whole ear corn when sold by itself is a commercial feed, as defined in section 56 of this article [Secs. 56-68], and the sale thereof within this state shall be governed by the provisions of this article and the rules and regulations prescribed by the state board of agriculture and industries. [1919; last amended 1923.]

Code 1940, Title 2, Ch. 1, Art. 10—Standard Packages for Corn Meal.

Sec. 134. Corn meal defined.

For the purpose of this article [Secs. 134-135], the term "corn meal" shall be deemed to include all products in the form of meal or grits derived from corn with or without additional processing, such as bolting, degumming, or refining, and all mixtures of same with chemicals and other modifying agents. [1907; last amended 1945.]

Sec. 135. Standard packages.

No person shall sell, offer for sale, expose for sale, have in possession with intent to sell, pack, or deliver in this state corn meal or grits in packages of sizes other than five (5) pounds, ten (10) pounds, twenty-five (25) pounds, fifty (50) pounds, one hundred (100) pounds, and two hundred (200) pounds; provided any person may, on order, weigh and sell, from bulk corn meal or grits, any number of pounds desired by a customer. However, any person may sell, offer for sale, expose for sale, have in possession with intent to sell, pack, or deliver in this state corn meal or grits in weight packages weighing less than five (5) pounds. [1907; last amended 1945.]

Code 1940, Title 2, Ch. 1, Art. 11—Standard Containers for Corn, Grains, and Cotton Seed Hulls.

Sec. 136. Misdemeanor.

Any person who sells corn, oats, rye, wheat, barley, or cotton seed hulls, in sacks or bags, except in quantities hereinafter respectively prescribed, shall be guilty of a misdemeanor. [1923]

Sec. 137. Size sacks authorized to be used; marking requirements.

Oats shall be sold in sacks containing two and one-half and five bushels, weighing net respectively eighty and one hundred and sixty pounds; rye and corn in two and two and one-half bushel sacks weighing net one hundred and twelve pounds and one hundred and forty pounds respectively; wheat in two and two and one-half bushel sacks weighing net respectively one hundred and twenty and one hundred and fifty pounds; barley, in two and three bushel sacks weighing net respectively ninety-six and one hundred and forty-four pounds; and cotton seed hulls in one hundred pound sacks or bags; provided, that such sacks, bags or packages shall have plainly marked or stenciled thereon in large type and figures, the net quantities herein required * * * [1923]

Sec. 138. Bulk sales.

The foregoing provisions shall apply only when said articles are sold in sacks, bags or other packages, and shall not prevent the sale of any of said articles in bulk. These provisions shall not apply to sales of grains or cereals by the producer or grower of such grains or cereals. [1923.]

Code 1940, Title 2, Ch. 1, Art. 12—Cotton, Seed Cotton, and Gins.

Sec. 141. Cotton: Deduction from weight of.

It shall be unlawful for any person in buying or selling baled cotton, or in weighing such cotton for any person other than himself to deduct from the actual weight thereof, as shown on a level-standing beam of the scale, or to use in weighing cotton untested weights, so as to deprive the seller of the cotton of any of its real value. [1887; last amended 1927.]

Sec. 142. Same: Penalty for violating preceding section.

Any person who violates the preceding section shall be guilty of a misdemeanor. But deductions may be made by mutual consent of buyer and seller or their authorized agents or representatives, on wet or damaged cotton bales, on each bale so weighed or deducted from. [1887; last amended 1923.]

Sec. 143. Same: Warehouseman's record.

Any corporation, company, individual, his or their agents, operating or owning places for storing, weighing or dealing in cotton, doing business in this state, who fails to keep a record of all bale cotton weighed by warehousemen, corporations, companies, individuals or their agents for whom each bale of cotton is weighed, with the names of such persons posted on the books daily together with the weight and description of each bale, or who fails to keep such record open to the inspection of the public at all reasonable times, shall be guilty of a misdemeanor. [1889; last amended 1927.]

Sec. 150. Same: Purchaser's records.

Any person who purchases cotton in this state who shall fail to keep a record showing the name and address of the person from whom the same was purchased, the date of said purchase and the identification marks on and weight of said cotton, shall be guilty of a misdemeanor. [1927]

Sec. 157. Same: Marking.

Every person who gins cotton in this state shall mark, label or tag the same in such manner as prescribed by the state board of agriculture and industries. [1907; last amended 1927.]

Sec. 161. Same: Sampling.

No more than six ounces of cotton shall be taken from any bale of cotton, under the pretext of sampling the same; but after the sale of the cotton, and after the weight thereof has been ascertained and agreed upon, the buyer may take from the bale, at his own loss, six ounces more of cotton, for comparison with the sample by which he bought. Any person violating any of the provisions of this section shall be guilty of a misdemeanor; and in prosecutions under this section, the ownership of the cotton need not be alleged or proved. [1927]

Sec. 162. Same: Moving before weighing.

Without the consent of the seller, cotton must not be removed from the place where it may be when sold, until the weight thereof has been ascertained. [1873; last amended 1887.]

Sec. 167. Seed cotton: Records.

All persons engaged in the traffic in seed cotton are required to keep legibly written in a book, which shall be open to public inspection, the names of all persons from whom they purchase or receive, by way of barter or exchange, or traffic of any sort, any seed cotton, with the number of pounds and the date of purchase, barter or exchange. [1919]

Sec. 168. Same: Exceptions.

The foregoing provision of this subdivision [Secs. 167-170] shall not apply to the purchase of seed cotton, sold under process of law, or in satisfaction of landlord's lien, in the collection of his rents, advances or mortgages previously given on the cotton sold; nor to ginners who purchase seed cotton from their customers delivered to their gins. [1919; last amended 1927.]

Sec. 169. Same: Offenses.

Any person who shall engage in the traffic of seed cotton and who shall fail to keep the book or record as provided by law, shall be guilty of a misdemeanor. [1923; last amended 1927.]

Sec. 173. Cotton gins: Rules and regulations.

Power is hereby conferred upon the commissioner, with the approval of the state board of agriculture

Code 1940, Title 2, Ch. 1, Art. 12—Cotton, Seed Cotton, and Gins—Continued.

and industries, to establish rules and regulations not inconsistent with law, for the conduct, management and operation of cotton gins, the separation of sand or other foreign material from the lint or seed, the character, amount and weight of bagging and ties to be used, the marking or tagging of cotton, the records to be kept, reports made as to ginning and other like matters that may tend to protect the interests of the public. [1923; last amended 1927.]

Code 1940, Title 2, Ch. 1, Art. 13—Babcock Test.

Sec. 195. Use of standard test required.

It shall be unlawful for any person, either for himself or another to falsely manipulate or under-read or over-read or take inaccurate samples or make any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensory, ice cream plant, milk plant, or milk depot, or when sold or purchased. * * * cream test must be weighed. The scales must be sensitive and accurate. The tester and owner or owners are jointly responsible for their accuracy. * * * [1923]

Sec. 199. Babcock test bottles, pipettes, and weights.

Any person, firm, company, association, corporation, or agent thereof, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount or percentage of butterfat contained therein, as determined by the Babcock test, shall use standard Babcock bottles, pipettes, and weights, as defined in specifications for "Standard Babcock Testing Glassware and Weights," which shall be passed by the state board of agriculture and industries. All such Babcock test bottles, pipettes, and weights, so used, shall be subject to inspection, and proper approval or condemnation, in the same manner as is authorized in the inspection of other weighing or measuring devices. It shall be unlawful for any person, persons, firm or company, association, corporation, or any agent or agents thereof, to use any other than standard test bottles, pipettes, and weights to determine the amount of fat in milk or cream bought on the butterfat basis as determined by the Babcock test. All bottles and pipettes used in measuring milk or milk products for making determinations of the per cent of fat in said milk or milk products, shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word, "sealed," and in the side of the pipette, or the side or the bottom of the bottle, the name, initials, or trade mark of the manufacturer and his designating number, which designating number shall be furnished by the commissioner of agriculture and industries upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of one thousand dollars, with

the sureties to be approved by said commissioner, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished shall be kept in the office of said commissioner. Any manufacturer who sells Babcock or other milk, cream, or butter test bottles or pipettes, to be used in this state, that do not comply with the provisions of this section, shall suffer a penalty of five hundred dollars, to be recovered by the attorney general in action in the name of the state upon the bond of such manufacturer. No person shall use, for the purpose of determining the per cent of milk fat in milk or milk products, any bottles or pipettes purchased after six months from the date on which this article [Secs. 186-207] shall take effect, unless they comply with the provisions of this section relating thereto. [1923]

Code 1940, Title 2, Ch. 1, Art. 15, Secs. 274-281—Eggs.

[En. Note.—These sections provide for the promulgation by the state board of agriculture and industries of weight and grade standards for eggs. The pertinent sections are not given in detail because their provisions relate primarily to quality.]

Code 1940, Title 2, Ch. 1, Art. 16—Commercial Fertilizers.

Sec. 292. Notice of shipments.

It shall be the duty of persons shipping fertilizer or fertilizing material to notify the commission in writing by mail or otherwise on the day of shipment, or within twenty-four hours thereafter of every shipment exceeding five tons and to notify the commissioner of all shipments of five tons or less in accordance with regulations to be adopted by the state board of agriculture and industries. Such notice shall state the brand name, number of sacks, the net weight of each sack or package, the guaranteed analysis, and to whom shipped and their address. [1885; last amended 1935.]

Sec. 295. Marking requirements.

Every bag, barrel or package of commercial fertilizer sold or distributed within this state, shall have affixed thereto a tag or label containing a legible and plainly printed statement in the English language, clearly and truly certifying the following information in the order indicated. (1) Net weight of each bag, barrel or package in pounds; * * * There shall be no objection to the printing of the above information on bags, barrels and packages by the manufacturer, cooperative or importer; however, this is not required. * * * [1923; last amended 1935.]

Sec. 298. Misbranded packages.

If any commercial fertilizer or fertilizer material sold in Alabama shall prove less in weight or in avail-

able phosphoric acid, nitrogen or potash than guaranteed on the tags or branded on the sacks, bags or packages containing the same, and if, by reason of such deficiency, the commercial value of such fertilizer shall fall more than five per cent below the guaranteed total commercial value of such fertilizers, or fertilizer materials, then the purchaser shall be entitled to a refund; and if required to sue for the collection of the same, he shall be entitled to recover not only the purchase price paid for the amount of the shortage, but in addition thereto, he may recover an amount equal to one-half of the total purchase price. [1923]

Code 1940, Title 2, Ch. 1, Art. 17—Standard Packages for Flour.

Sec. 301. Flour defined.

For the purpose of this article [Secs. 301–302], the term "flour" shall include flours derived from cereals or other vegetable sources and mixtures of the same with or without added chemicals or other modifying agents. [1927; last amended 1945.]

Sec. 302. Standard packages.

No person shall sell, offer for sale, expose for sale, have in possession with intent to sell, pack, or deliver in this state flour in packages of sizes other than five (5) pounds, ten (10) pounds, twenty-five (25) pounds, fifty (50) pounds, one hundred (100) pounds, and two hundred (200) pounds; provided any person may, on order, weigh and sell, from bulk flour, any number of pounds desired by a customer. However, any person may sell, offer for sale, expose for sale, have in possession with intent to sell, pack, or deliver in this state flour in weight packages weighing less than five (5) pounds. However, the provisions of this section shall not apply to the sale of flour to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds. [1927; last amended 1945.]

Code 1940, Title 2, Ch. 1, Art. 18—Foods and Drugs.

Sec. 304. Prohibited acts.

No person within this state shall manufacture for sale therein, have in possession with intent to sell, offer or expose for sale, sell, or deliver any article of food or drugs which is adulterated or misbranded within the meaning of this article [Secs. 303–315]. [1909]

Sec. 305. Definitions.

The word "article" when referring to food or drugs, is used in the broad and comprehensive sense and has reference to the food product or the drug product in question. The term "food" as used herein shall include all articles of food, drink, confectionery, or condiment, whether simple, mixed or compound, used or intended for use by man or domestic animals. The term "drug" as used herein shall include all medicines and preparations recog-

nized in the United States pharmacopoeia or national formulary for internal or external use and any substance or mixture of substances to be used for the cure, mitigation or prevention of diseases in man or domestic animals. * * * [1909]

Sec. 308. Misbranding.

The term "misbranded" as used herein, shall apply to all drugs, or foods, or articles which enter into the composition of food, the package or label of which shall bear or contain any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, * * * [1909]

Sec. 309. Misbranding of foods.

An article of food shall also be deemed misbranded in the following cases: * * * If in package form the name of the article, together with the quantity of the contents in terms of weight, measure, or numerical count and the name and principal address of the manufacturer or other person, responsible for placing the article on the market, be not plainly and conspicuously marked on the outside of the package. If in package form, the package be not filled with the food it purports to contain, within the limits of tolerance fixed by the state board of agriculture and industries, irrespective of whether the quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count. * * * [1909]

Sec. 311. Guaranty protection.

No dealer shall be prosecuted under the provisions of this article [Secs. 303–315] when he can establish a bona fide guaranty signed by a reputable wholesaler, jobber or manufacturer within the United States, from whom he purchased such articles, that they are not adulterated or misbranded within the meaning of this article, designating it, and that he has no knowledge of such adulteration or misbranding at the time they were purchased. Such guaranty shall contain the name and address of the vendor who shall, be amenable to the prosecutions, fines and other penalties to which the purchaser would otherwise be amenable. [1909; last amended 1927.]

Sec. 314. Prima facie evidence of violation.

The having in possession by any person, firm, or corporation who manufactures or exposes for sale any adulterated or misbranded food within the meaning of this article [Secs. 303–315], shall be prima facie evidence of having in possession with intent to sell in violation of its provisions, except that any manufacturer, wholesaler or jobber, may keep properly identified goods specially set apart in his stock for sale in other states which might otherwise be in violation of the provisions of this article. [1909; last amended 1940.]

Code 1940, Title 2, Ch. 1, Art. 18a—Cosmetics.

Sec. 315(1). Definitions.

(A) As used in this Act, [Secs. 315 (1)–315 (8)] unless the context requires a different meaning: "article," when referring to a cosmetic, is used in the broad and comprehensive sense and has reference to the cosmetic product in question; "cosmetic" means an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and the component parts of such an article; it does not include soap; * * * (B) Other words and phrases used in this Act shall be defined as in Section 1 of Title 2 of the 1940 Code. The Act shall be construed and interpreted pursuant to the rules of construction contained in Title 1 of the 1940 Code. [1947]

Sec. 315(2). Misbranding prohibited.

No person shall, within this State, manufacture for sale, or have in his possession with the intent to sell, or offer or expose for sale, or sell, or deliver, any cosmetic which is adulterated or misbranded within the meaning of this Act [Secs. 315 (1)–315 (8)]. [1947]

Sec. 315(4). When deemed misbranded.

(A) A cosmetic shall be deemed misbranded: 1) if its labeling is false or misleading in any particular; 2) if it is in package form and does not bear a label containing the name and place of business of the manufacturer, packer, or distributor and a statement of the quantity of the contents in terms of weight, measure or numerical count; 3) if any word, statement, or other information required to be placed in the labeling by or under authority of this Act [Secs. 315 (1)–315 (8)] is not placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; 4) if its container is so made, formed, or filled as to be misleading. (B) The Commissioner of Agriculture and Industries may permit reasonable variations and exemptions of small packages, from item 2 of Subsection A. [1947]

Sec. 315(5). Violation a misdemeanor.

A person who violates any provision of this Act [Secs. 315 (1)–315 (8)] or any rule or regulation duly promulgated by the Board of Agriculture and Industries is guilty of a misdemeanor. [1947]

Sec. 315(6). Prima facie evidence of intent to violate the Act.

The having in possession of an adulterated or misbranded cosmetic shall be prima facie evidence of having it in possession with the intent to sell it in violation of this Act [Secs. 315 (1)–315 (8)]. But a manufacturer, wholesaler, or jobber may keep such

products set apart in his stock for sale in other States if he properly identifies them, although the possession of such products might otherwise be in violation of this Act. [1947]

Sec. 315(7). Guaranty protection.

(A) No dealer shall be prosecuted under this Act [Secs. 315 (1)–315 (8)] when he can establish 1) a bona fide guarantee, signed by a reputable wholesaler, jobber, or manufacturer from whom he purchased the article, that the article is not adulterated or misbranded within the meaning of this Act (designating it), and 2) that he had no knowledge of such adulteration or misbranding at the time the article was purchased. A guarantee given pursuant to this Section must contain the name and address of the vendor from whom the article was purchased. [1947]

Sec. 315(8). Department of Agriculture and Industries to administer.

This Act [Secs. 315 (1)–315 (8)] shall be administered and enforced by the Department of Agriculture and Industries. * * * The Board of Agriculture and Industries shall have the power to make rules and regulations necessary to effectuate the purposes of the Act and to fix the standards of purity and quality of cosmetics. [1947]

Code 1940, Title 2, Ch. 1, Art. 20—Insecticides and Fungicides.

Sec. 330. Misbranding a misdemeanor.

It shall be unlawful for any person to manufacture within the State of Alabama, or to sell within the state, any insecticide, paris green, lead arsenate, or a fungicide, which is adulterated or misbranded within the meaning of this article [Secs. 329–337]; and any person who shall violate any of the provisions of this article, shall be guilty of a misdemeanor. [1923.]

Sec. 335. When deemed misbranded.

* * * For the purpose of this article [Secs. 329–337] an article shall be deemed to be misbranded—in the case of insecticides, paris greens, lead arsenates, and fungicides: * * *; if in package form, and the contents as stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. * * * [1923]

Code 1940, Title 2, Ch. 1, Art. 21—Kerosene.

Sec. 338. Definition.

The term "kerosene" wherever used in this article [Secs. 338–346] shall be construed to mean kerosene or other like products of petroleum used for illuminating, heating, or cooking purposes, or for any other purposes for which kerosene is ordinarily and customarily used. * * * [1935]

Sec. 340. Rules and regulations.

The state board of agriculture and industries * * * shall have authority to promulgate

* * * such rules and regulations not inconsistent with the provisions hereof as in their judgment may be necessary to the proper enforcement of this article [Secs. 338-346]. [1935]

Sec. 341. Correct measure.

It is the duty of the commissioner from time to time * * * to determine whether or not said products are sold or offered for sale in correct measure claimed by the person, firm or corporation selling or offering same for sale * * *. [1935]

Sec. 344. Invoice of sale.

* * * No sale or delivery of kerosene shall be made from a tank, wagon, or motor vehicle or delivery truck unless the driver in charge of said vehicle shall deliver to the party receiving such product an invoice showing number of gallons of said product * * *. [1935]

Sec. 345. Violations a misdemeanor.

Any person, firm, association or corporation * * * who sells, offers for sale in or for importation into this state any such product * * * in violation of the laws of this state, shall be guilty of a misdemeanor. * * * [1935]

Code 1940, Title 2, Ch. 1, Art. 25—Agricultural Products.

Sec. 406. Containers for agricultural products.

The commissioner shall have the power to: * * * inspect, test and examine the containers for agricultural products; * * *. The board shall have the power to: * * * determine and adopt standards for any and all containers for agricultural products and to provide for and require the marking of such containers; * * *. [1923; last amended 1935.]

Sec. 410. Limitation.

The provisions of this article [Secs. 405-415] shall apply only when agricultural products are sold in sacks, bags, crates, boxes, packages or other containers. * * * [1935]

Sec. 412. Rules and regulations.

The board is hereby authorized to promulgate all general rules and regulations necessary and practicable to the carrying out of the purposes of this article [Secs. 405-415] by the commissioner. * * * [1923; last amended 1935.]

Sec. 415. Marking requirements; offenses.

* * * After standards for containers for any agricultural products have been promulgated no person shall use in the marketing in any wise of such product any other container or containers than those fixed as standards. In the marketing of any agricultural product the container thereof shall be marked or labeled in accordance with the provisions of this article [Secs. 405-415] and the rules and regulations promulgated by the board with reference thereto.

Any person violating any provisions of this article shall be guilty of a misdemeanor. * * * [1923; last amended 1935.]

Code 1940, Title 2, Ch. 1, Art. 26—Motor Fuels.

Sec. 429. Correct measure.

It is the duty of the commissioner from time to time to * * * determine whether or not said products [gasoline, benzine, naphtha, or other liquid motor fuels] are sold or offered for sale in correct measure claimed by the person, firm or corporation selling or offering same for sale * * *. [1935]

Sec. 431. Rules and regulations.

The state board of agriculture and industries * * * shall have authority to promulgate rules and regulations necessary to secure the safe handling of gasoline or other liquid motor fuels, and other such rules and regulations not inconsistent with the provisions hereof as in their judgment may be necessary to the proper enforcement of this chapter [article, Secs. 416-437]. [1935]

Sec. 434. Invoice of sale.

* * * No sale or delivery of gasoline, benzine, naphtha, or other liquid motor fuel shall be made from a tank-wagon, or motor vehicle or delivery truck unless the driver in charge of said vehicle shall deliver to the party receiving such product an invoice showing number of gallons of said product * * *. [1935]

Sec. 436. Violations a misdemeanor.

Any person, firm, association or corporation * * * who sells, offers for sale in or for importation into this state, any such product otherwise in violation of the laws of this state shall be guilty of a misdemeanor. * * * [1935]

Code 1940, Title 2, Ch. 1, Art. 27—Paint.

Sec. 438. Definition.

The term "paint," as used in this article [Secs. 438-449], shall include white lead in oil, or any compound intended for the same use, paste, or semi-paste, liquid or mixed paint of every kind ready for use, varnishes, drying oils, turpentine, or any compound or product intended for use as paint, or for similar uses. [1923; last amended 1927.]

Sec. 439. Labeling.

Every person who shall sell within this state, any paint as defined in the preceding section, shall accurately label the same. [1923; last amended 1927.]

Sec. 440. Marking requirements.

* * * The label shall also state, in case of liquid paints, and other compounds, on packages holding one quart or more, the net measure of contents of each can, package or container. In case of white lead and other paints and compounds, the label shall show on packages weighing four pounds

Code 1940, Title 2, Ch. 1, Art. 27—Paint—Continued.
or more the net weight of each can, package or container. [1923]

Sec. 449. Failure to label a misdemeanor.

Any failure to label any article as specified in this chapter [article, Secs. 438-449] * * * or any statements of any kind which are misleading or deceptive or which are not true, shall constitute a misdemeanor. [1923]

Code 1940, Title 2, Ch. 1, Art. 33—Sales Regulations.

Sec. 494. Suspension of sale of articles.

If at any time the commissioner or his duly authorized agent, shall have reason to believe that any product or products or article, the possession or sale of which is regulated by any provision of this chapter [Secs. 1-633], do not comply with the requirements of this chapter, as to ingredients, substance, analysis, marking or labeling, weight or measure of the same, it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such product or article is made up, compounded or marked as required by law and rules and regulations under authority of law. If he shall find that the same does not comply with such laws and rules and regulations, either before or after the making of such suspension order, then he is authorized to proceed with regard to the same as provided in this article [Secs. 494-503], or he may order in writing the same to be held at his disposition pending the placing of such product or article in such condition as will meet the requirements of such laws, rules and regulation, under the supervision and direction of the commissioner or his duly authorized agent, or at the discretion of the commissioner proceeding with regards to the same as provided in this article. Provided in case the owner of such product or article denies by written notice to the commissioner or his agent that the same is not in compliance with the laws, rules or regulations and requests a hearing thereon, the commissioner or his agent shall as soon as practicable thereafter proceed as provided in this article, in order that the court may hear and decide said issue and proceed as provided for in this article. Any person who moves, transports, sells or in any other manner disposes of any product or article after such product has been ordered suspended or held as hereinbefore provided shall be guilty of a misdemeanor. Provided that such product or article may be moved, transported or otherwise disposed of by and in compliance with written order by the commissioner. [1923; last amended 1935.]

Sec. 495. Seizure of misbranded articles.

Any article, substance, material, or product, the possession and sale of which is regulated under the provisions of this chapter [Secs. 1-633], which is adulterated, misbranded or under standard, grade, weight or measure claimed within the meaning of any provision of this chapter, and which is manu-

factured for sale, held in possession with intent to sell, offered or exposed for sale, or sold or delivered within this state, shall be liable to be proceeded against in the circuit court of the county where the same is found, and seized for confiscation by writ of attachment for condemnation. * * * If a judgment of condemnation and confiscation is rendered against such article or product as being adulterated, misbranded, or under standard, grade, weight or measure, within the meaning of this article [Secs. 494-503], the same shall be disposed of by destruction or sale, as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the agricultural fund, but such goods shall not be sold contrary to the provisions of this article; provided, however, that upon the payment of the costs of such attachment proceedings and the execution and delivery of a good and sufficient bond to the effect that such article shall not be sold or otherwise disposed of contrary to the provisions of this article, the court may by order direct that such article or product shall be delivered to the owner thereof. [1923; last amended 1927.]

Sec. 503. Right of entry.

The commissioner is authorized in person or by deputy or by his agents to have free access at all reasonable hours to all premises, places of business, buildings, transportation facilities, or packages or containers of whatever kind used in the manufacture, transportation, importation, sale or storage of any article, substance, material or product, the sale of which is regulated under the provisions of this chapter [Secs. 1-633], and shall have the power and authority to examine and inspect any parcel, container or receptacle containing or supposed to contain any of said articles, substances, material or product, and upon paying or offering to pay full value of said specimen or sample to take therefrom samples or specimens for analysis, examination and inspection. [1923; last amended 1927.]

Code 1940, Title 8, Ch. 2, Art. 4—Standard Measures for Oysters or Shrimp.

Sec. 116. Oysters and shrimp: Standard measures.

A standard measure for oysters or shrimp is established, which said measure shall consist of a tub or other round vessel of the following dimensions: It shall measure seventeen inches in diameter inside, at the bottom and twenty-one and a half inches in diameter, inside at the top, and fourteen and a half inches inside from bottom to top perpendicularly. Two of these measures filled to the top shall make one barrel, and all shrimp or oysters bought and sold in this state in the shell shall be measured in a measure of these dimensions, or a measure holding a fraction or multiple thereof, and it shall be unlawful for any person to have in his possession any measure for oysters in the shell or shrimp which shall differ inside from the measure herein provided for, or de-

mand or require a greater or less measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters or shrimp until it has been measured and stamped by the oyster inspection [inspector]. The oyster inspector shall measure such measures and shall visit for that purpose each place where oysters or shrimp are bought and sold, and he shall keep a book in which shall be recorded the dimensions of all measures so measured. [1882; last amended 1915.]

Sec. 125. Same: Inspectors.

There shall be appointed by the director [of conservation] with the approval of the governor a chief enforcement officer, a chief oyster inspector and such assistant inspectors as are required properly to execute the functions of the department of conservation as described in this title [Secs. 1-252]. * * * The chief enforcement officer and the chief oyster inspector and assistant oyster inspectors shall be subject to the direction and supervision of the director of conservation. [1892; last amended 1919.]

Code 1940, Title 22, Ch. 8.—Narcotic Drugs.

Sec. 239. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 252. Enforcement of law.

It is hereby made the duty of the state board of health, its agents, inspectors, officers and representatives, and all peace officers of the state, and all prosecuting attorneys, to enforce all provisions of this chapter [Secs. 232-255]. * * *. [1935]

Sec. 255. Penalties.

Any person violating any provision of this chapter [Secs. 232-255] shall be guilty of a misdemeanor, and upon conviction for the first offense shall be fined not less than fifty dollars nor more than two hundred dollars and may be sentenced to hard labor for the county for not more than six months, and upon conviction for the second offense shall be fined not less than one hundred dollars or more than five hundred dollars and may be sentenced to hard labor for the county for not more than six months, and upon conviction for a subsequent offense shall be fined not less than five hundred dollars and shall be sentenced to hard labor for the county for not more than six months. [1931; last amended 1935.]

Acts 1949, Act No. 207—"Alabama Coal Mine Safety Law of 1949."

Sec. 3. Procurement of standards; testing of scales.

* * * The department [of industrial relations] shall procure, as provided by law, for the

state at the state's expense a full and complete set of standards and other equipment, such as, in its opinion, are necessary in the testing of scales, beams, and other necessary apparatus, to be used for the correct weighing of coal and other material at the coal mines, according to the state standard of weights; and said chief [of the Division of Safety and Inspection of the Department of Industrial Relations] and mine inspectors shall examine, test and cause to be adjusted as often as occasion demands, all scales and other apparatus used in weighing coal at coal mines. At all mines where coal is weighed for payment to miners or sale, a set of United States standard weights, consisting of not less than four, must be on hand for convenience of weighman and check-weighman in testing said scales. [1949]

Sec. 97. Scales to be provided.

The owner or operator of each coal mine, at which the miners are paid by weight, shall provide such mines with suitable scales of standard make for the weighing of all coal, when contracted to be weighed. [1949]

Sec. 98. Ton; miner to be credited with full weight.

All coal mined in this state, contracted for payment by the ton or other measure shall be weighed or measured and the full weight or measure thereof shall be credited to the miner of such coal, and two thousand pounds shall constitute a ton of coal. [1949]

Sec. 99. Check weighman; duties.

In all coal mines the miners employed and working therein may furnish a check weighman or check measurer, who shall, at all times, have full access to and the right to examine the scales, and to see all measures and weights and accounts kept of same, and shall keep an accurate account of the coal, but not more than the above authorized persons shall have such right of access, examination and inspection of scales, measures and accounts at the same time. The weighman and check weighman shall properly test the scales with the United States standard test weights before coal is weighed thereon. [1949]

Sec. 100. Access to scales, etc.

The mine inspector, miners employed in the coal mines and the owner of the land or persons interested in the rental and royalty of such mines, shall at all times have full right of access to scales used at said mines, including tally sheets or tally books in which the weight of the coal is kept, to examine the amount of coal mined, for the purpose of testing the accuracy thereof. [1949]

Sec. 101. Penalty for failure to weigh or to falsely weigh.

Any person or corporation operating any coal mine in which miners or other laborers are employed to mine or cut coal for a compensation to be determined by the weight of the coal mined or cut, who

Acts 1949, Act No. 207—"Alabama Coal Mine Safety Law of 1949"—Continued.

fails to weigh, or cause to be weighed, accurately and correctly, any coal so mined or cut by such miners or laborers, must, on conviction, be fined for each offense not less than ten dollars nor more than one hundred dollars. [1949]

Sec. 112. General penalty.

Any unlawful act for which no other penalty is herein provided, shall be a misdemeanor punishable by a fine of not less than ten dollars, and not more than five hundred dollars or by imprisonment in jail for not more than one year or both such fine and imprisonment. [1949]

Code 1940, Title 29, Ch. 1—Alcoholic Beverages.

Sec. 5. Packages for alcoholic beverages.

The functions, duties and powers of the board [alcoholic beverage control board] shall be as follows:

* * * * *

To determine the nature, form and capacity of all packages to be used for containing liquor, alcohol or malt or brewed beverages to be kept or sold under this chapter [Secs. 1-78], and to prescribe the form and contents of all labels and seals to be placed thereon. [1936-37]

* * * * *

Code 1940, Title 48, Ch. 1, Art. 2—Public Utilities.

Sec. 38. Meters: Rules and regulations to secure accuracy.

The commission [public service commission] may prescribe reasonable rules, regulations, and standards to secure the substantial accuracy of all meters, * * * and appliances for measurement which shall be complied with by the utility and consumer. [1920]

Sec. 39. Same: Inspection and test.

The commission [public service commission] may provide for the inspection of the manner in which any utility complies with the rules, regulations, and standards fixed by the commission to secure the accuracy of all meters, * * * and appliances for measurement, and the commission may examine and test the same under such rules and regulations as it may prescribe * * *. [1920]

Sec. 40. Same: Testing on complaint; testing fees.

Any consumer or user may have any meter or appliance for measuring tested by the commission [public service commission] upon payment of fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers, the fee to be paid by the consumer or user at the time of his request, but to be paid by the utility and refunded to the consumer or user if the measuring appliances be found unreasonably defective or incorrect to the substantial disadvantage of the consumer or user. [1920]

Code 1940, Title 14, Ch. 45, Art. 1—Frauds.

Sec. 211. False advertising; penalty.

(a) No person, firm, corporation or association shall, with intent to sell or in anywise dispose of real estate, merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding real estate, merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading. * * * (d) No person, firm, corporation or association shall, with intent to sell, or increase the consumption thereof, or create an interest therein, make, publish, disseminate, circulate, or place before the public in this state, or cause, directly or indirectly to be made, published, disseminated, or placed before the public in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular or pamphlet, or in any other manner, an advertisement of any sort regarding articles of food, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading. * * *

(f) Any person, firm, corporation, association or the agent or servant of any other person, firm, corporation or association violating any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or be imprisoned in the county jail not more than sixty days, or by both such fine and imprisonment; and each sale, advertisement or representation in contravention of the provisions of this section shall be deemed a distinct offense and shall subject the offender to such punishment. [1915; last amended 1931.]

Sec. 225. Weights; coal.

Whoever knowingly sells and delivers any coal, except at the weight and measure prescribed by law, shall, upon conviction, be fined not less than five dollars nor more than one hundred dollars. [1907]

[ED. NOTE.—In the Code 1940, following the foregoing section, it is stated: "This section should be reconciled with tit. 2, Sec. 603, by limiting this section to the sale of coal and by construing tit. 2, Sec. 603 as not applying to the sale of coal. Woodard v. State, 30 Ala. App. 144, 146, 2 So. (2d) 330." See page 46 for Title 2, Sec. 603.]

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—Weights and Measures.

Sec. 35-5-1. Standards.

The standards of weights and measures in this Territory shall be those adopted and now used or that may be adopted and used by the United States. [1939]

Sec. 35-5-2. Treasurer, ex-officio inspector of weights and measures.

The Treasurer [of the Territory of Alaska] shall be ex-officio inspector of weight and measures and of weighing and measuring appliances. It shall be his duty to procure and keep such standard sets of weights and measures as may be found necessary to carry out the provisions of this Act [Secs. 35-5-1—35-5-11]; he shall test or cause to be tested, by such standards, all weights, measures, weighing and measuring appliances and devices used in the ascertainment of weight or measure in the buying, selling, or transporting, of goods, wares, merchandise, or other commodities and to seal such as are found accurate with an appropriate seal or mark to be kept by him for that purpose; such seal or mark shall be placed so as to be easily seen, and shall show the date on which the inspection is made. [1939]

Sec. 35-5-3. Incorrect weights and measures.

The inspector shall condemn and seize incorrect weights or measures or weighing or measuring devices that, in his judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet may be repaired he shall mark with a tag, "condemned for repairs." The owner or user of any weights or measures or weighing or measuring appliance so marked or tagged shall have the same repaired or corrected within ninety days unless, upon satisfactory showing, the inspector shall extend such time, and he shall neither use nor dispose of the

same in any way, but shall hold the same at the disposal of the inspector. Any weight or measure, weighing or measuring appliance, that has been condemned for repairs and has not been repaired as required in this section, shall be confiscated by the inspector. [1939]

Sec. 35-5-4. Verification and testing.

Any person may send any weight, measure, weighing or measuring appliance intended for use in this Territory to the inspector for verification and testing. Such person shall give his name and address in full, a description of his occupation or business, and the purpose for which and the place where the same is to be used, and a complete record of such information shall be made and kept by the inspector. [1939]

Sec. 35-5-5. Changing or removing marks; penalty.

Any person who shall willfully or fraudulently change any weight, measure, weighing or measuring appliance after the same has been inspected, tested and sealed by the inspector, or who shall remove or destroy any tag or mark or seal which has been placed in or thereon by the inspector for the purpose of this chapter [Secs. 35-5-1—35-5-11] shall be liable upon conviction to pay a fine of not to exceed Five Hundred, (\$500.00), Dollars or be imprisoned for a period not to exceed one year. [1939]

Sec. 35-5-6. Inspector; deputies; police powers.

The inspector may deputize the employees in his or any Territorial department, with the consent of the head of such department, to aid him in the performance of the duties assigned to him under the provisions of this chapter [Secs. 35-5-1—35-5-11] and he and his authorized agents or assistants are hereby made special policemen and are authorized and empowered to arrest without formal warrant any violators of any provisions of this chapter, and to

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seize for use as evidence, without formal warrant, any false weight, false measure or false weighing or measuring appliance found to be used or intended to be used for sale of any commodity in this Territory and may, in the performance of his official duties, enter or go into or upon, without formal warrant, any public place, building, or premises to make such tests as may be necessary to carry out the provisions of this chapter. [1939]

Sec. 35-5-7. Using untested weights and measures; seal; false weights or measures.

After the weights, measures, or weighing or measuring appliances of any person, firm or corporation have been tested and sealed or tested and condemned, such person, firm or corporation may use weights, measures, or weighing and measuring appliances thereafter acquired and not yet tested, provided he or it shall first procure a seal from the inspector and shall permanently affix the same to the particular weight, measure or appliance. The inspector may, in his discretion, deliver such seal, appropriately marked, to the applicant. Any weight, measure or appliance bearing such seal may be used until the inspector shall test and seal or test and condemn the same in the manner as in this Act [Secs. 35-5-1—35-5-11] provided. Nothing herein shall be construed as authorizing or permitting the use of any false weight or measure, or weighing or measuring appliance whether the same be tested or not. [1939]

Sec. 35-5-8. Incorporated towns.

The inspector upon request of any incorporated town, is hereby authorized to loan to such incorporated town, for use therein, the official standards of weights and measures under such reasonable rules and regulations as he may prescribe. [1939]

Sec. 35-5-9. City ordinances.

None of the provisions herein contained shall be construed to alter, modify or repeal any ordinance relating to weights and measures now adopted by any municipality in this Territory, provided that no ordinance relating to weights and measures shall establish standards of weights and measures other than such as will conform to those adopted by this Territory. [1939]

Sec. 35-5-10. "Weight" means "net weight."

Whenever any goods, wares, merchandise, or other 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 such goods, wares, merchandise, or commodity. [1939]

Sec. 35-5-11. False weights and measures; penalty.

Any person who offers or exposes for sale, sells, or uses in the buying or selling of any goods, wares, merchandise, or other commodities or things, a false

weight or measure, or weighing or measuring appliance which has not been sealed by the inspector or who sells less than the quantity he represents or who violates any provision of this Chapter [Secs. 35-5-1—35-5-11] for which a specific penalty has not been provided, or shall knowingly mark or stamp a false weight or measure or false tare upon any cask or package, or shall knowingly sell or offer for sale any cask or package, so marked, or who uses or has in his possession for the purpose of selling or using any device or instrument to be used to falsify any weight or measure is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars or imprisonment not exceeding one year or by both such fine and imprisonment. [1939]

Compiled Laws Annotated 1949, Vol. 2, Title 40, Ch. 3, Art. 1—"Uniform Narcotic Drug Act."

Sec. 40-3-10. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1943]

Sec. 40-3-19. Enforcement and cooperation.

It is hereby made the duty of the United States Marshals, Deputy Marshals, any officer appointed to enforce narcotic laws in this Territory or other Territorial and municipal law enforcement officers and all United States attorneys and their assistants, to enforce all provisions of this Act [Secs. 40-3-1—40-3-23] and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this Territory, and of all the other states, relating to narcotic drugs. [1943]

Sec. 40-3-20. Penalties.

Any person violating any provision of this Act [Secs. 40-3-1—40-3-23] shall upon first conviction be punished, for the first offense, by a fine not exceeding Five Thousand (\$5,000.00) Dollars, or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment, and for any subsequent offense, by fine not exceeding Ten Thousand (\$10,000.00) Dollars, or by imprisonment in the penitentiary not less than two years nor more than ten years, or by both such fine and imprisonment. [1943]

Laws 1949, Ch. 129—"Alaska Food, Drug and Cosmetic Act."

Sec. 2. Definitions.

For the purposes of this Act—

(a) The term "Commissioner of Health" means the chief executive of the Alaska Department of Health or his authorized representative.

(b) The term "Board" means the Board of Health of Alaska.

(c) The term "person" includes individual, partnership, corporation, and association.

(d) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(e) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(f) The term "device" (except when used in paragraph (1) of this section and in Section 3 (j), 11 (i) and 15 (c) and 18 (c) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(g) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap, intended for cleansing purposes only.

(h) The term "official compendium" means the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(i) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act, that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(j) The term "immediate container" does not include package liners.

(k) The term "labeling" means all labels and other written, printed or graphic matter (1) upon

an article or any of its containers or wrappers, or (2) accompanying such article.

(l) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such condition of use as are customary or usual.

* * * * *

(q) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment.

(r) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.). [1949]

Sec. 3. Prohibited acts.

The following acts and the causing thereof within the Territory of Alaska are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Section * * * 16.

* * * * *

(g) The giving of a guaranty or undertaking, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the Territory of Alaska from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal of disposal of a detained or embargoed article in violation of Section 6.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with

Laws 1949, Ch. 129—"Alaska Food, Drug and Cosmetic Act"—Continued.

respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1949]

* * * * *

Sec. 4. Injunction.

In addition to the remedies hereinafter provided the Commissioner of Health is hereby authorized to apply to the U. S. District Court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Section 3. [1949]

Sec. 5. Penalties and guaranty.

(a) Any person who violates any of the provisions of Section 3 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the Federal jail for not more than six months or by a fine of not more than \$500.00, or by both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment in the Federal jail for not more than one year, or to a fine of not more than \$500.00, or to both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated Section 3 (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Territory of Alaska from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act. [1949]

* * * * *

Sec. 6. Seizure.

(a) Whenever the Commissioner of Health finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the Commissioner of Health or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. [1949]

* * * * *

Sec. 9. Definitions and standards for food.

Whenever in the judgment of the Commissioner of Health such action will promote honesty and fair dealing in the interest of consumers, the Board shall

promulgate regulations fixing and establishing for any food, or class of food, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform as far as practicable to the definitions and standards promulgated under authority of the Federal Act. [1949]

Sec. 11. Misbranded food.

A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(h) If it purports to be or is represented as—

* * * * *

(2) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by Section 9, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1949]

* * * * *

Sec. 15. Misbranded drugs and devices.

A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an

accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(i) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1949]

Sec. 16. Exemptions in case of drugs and devices.

A drug sold on a written prescription signed by a member of the medical, dental, or veterinary profession (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of Section 15 (b) and (c) if—

(1) Such member of the medical, dental, or veterinary profession is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental, or veterinary profession. [1949]

Sec. 19. Misbranded cosmetics.

A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading. [1949]

Sec. 21. Regulations.

(a) The authority to promulgate regulations for the efficient enforcement of this Act is hereby vested in the Board. The Board is hereby authorized to make the regulations promulgated under this Act conform, in so far as practicable, with those promulgated under the Federal Act. [1949]

* * * * *



ARIZONA

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Sec 76-101. Standards.

The weights and measures fixed by the United States as standard, and such as shall be supplied by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards by which all weights and measures shall be tried, approved and sealed. [1912; last amended 1928.]

Sec. 76-102. Fees.

The person owning or using weights or measures shall pay to the inspector the following fees for inspecting, testing, and sealing the same:

Counter scales of capacity of six pounds or less.....	\$0.15
Counter scales of capacity of more than six pounds....	.25
Counter scales of one thousand pounds or less.....	.50
Portable platform scales of capacity of more than one thousand pounds.....	1.00
Dormant or floor scales.....	2.50
Railroad track scales.....	5.00
Spring scales of capacity of thirty pounds or more....	.50
Spring scales of capacity of less than thirty pounds....	.25
Other devices for weighing, not herein specified, each..	.50
Measures containing one gallon or less.....	.05
Measures containing more than one gallon, for each gallon or fractional part thereof.....	.05
Yard measures or fractional parts thereof.....	.05

When a weight or measure is tested by the inspector oftener than once a year, no fee shall be charged for more than one inspection per year unless such weight or measure be found upon the subsequent testing to be false and incorrect. [1912; last amended 1943.]

Sec. 76-102a. State inspector: Appointment.

The state inspector of weights and measures shall be appointed by the governor, with the consent of the senate, for a term ending February 1, 1945, and thereafter for terms of two (2) years. * * * [1943]

Sec. 76-103. Same: Duties.

The inspector shall—

Take charge of the state standard; and keep them in a safe place from which they shall not be removed except for repairs or for certification;

Maintain the state standards in good order and submit them at least once in ten years to the national bureau of standards for certification;

At least once in two years try and prove by the state standards all testing apparatus belonging to any city, and seal the same when found to be accurate by stamping on them the letter "A" and the last two figures of the year, with seals kept for that purpose;

Use a portable set of testing appliances in the inspection of all weights, measures, or devices, owned by the state or by any person in precincts, towns or cities with a population of not more than five thousand¹ nor less than nine hundred inhabitants ac-

ording to the latest official census, and compare such portable set with the state standards at least once annually, and cause it to correspond with the state standards;

Have and keep a general supervision of the weighing and measuring devices, offered for sale;

Upon the written request of any person or state institution test devices used as standards;

At least once annually test all scales, weights, and measures used in checking the receipts or disbursements of supplies in all state institutions and report in writing his findings to the executive officers of the institutions;

On the first day of June in each year make to the governor a report of the work done by his office;

At least once every year inspect the work of local sealers and he may inspect the weighing or measuring appliances of any person;

In all precincts, towns, or cities of not less than nine hundred nor more than five thousands inhabitants, and in other places on request, inspect at least once a year all instruments or mechanical devices for weighing or measuring exposed for sale, used, or employed, within the city by any person;

From time to time weigh or measure packages or amounts of commodities, gas or oil, kept or offered for sale or sold, or in the process of delivery, to determine whether the same contain the amount represented, and whether they are offered for sale or sold in accordance with law, and for such purposes he may without warrant enter into or upon any place or premises, or stop any vendor, dealer, or wagon and proceed to some convenient place for the purpose of making the test.

When the inspector finds a violation of law relating to weights and measure he may cause the violator to be prosecuted. When the inspector finds that instruments correspond with the standards, he shall seal such instruments, with appropriate devices. The inspector shall condemn and seize and may destroy incorrect instrument[s], such as may be repaired he shall mark as "condemned for repairs," and the owner or user shall have the same repaired or corrected within fifteen days and may not meanwhile use or dispose of the same but hold the same at the disposal of the inspector; an apparatus which has been "condemned for repairs" and is not repaired as required shall be confiscated by the inspector. The inspector shall keep in a book, and in a card index system, a complete list of all measuring devices inspected and tested, the name of the person owning the same and the date and result of such inspection. He shall issue from time to time regulations for the guidance and government of city sealers. He shall give a bond in the sum of five thousand dollars, with sureties to be approved by the governor, for the faithful performance of the duties of his office, and for the safety of the standards entrusted 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. [1912; last amended 1928.]

1 See section 76-106 providing for a city sealer in each city or town of a population of seven thousand five hundred or over.

Sec. 76-104. Water, electric and gas meters.

In cities or towns with a population of not more than five thousand nor less than nine hundred, at least once in every two years, the inspector shall test the accuracy of every meter used or to be used in the measuring of water, electricity or gas for consumers. If the meter tested be found to measure too fast or too slow by as much as three per cent, such meter shall be condemned by him and shall not be used until corrected and made to measure accurately, and unless made to conform to the standard within thirty days after condemnation, he is not required to retest such condemned water, gas, or electric meter for one year thereafter. The inspector shall keep in a book and card index system a complete list of all meters inspected and tested, the name of the person owning the same, the name of the furnisher of the water, gas, or electricity, the name of the consumer thereof, and the date and result of such inspection. He shall, upon the written request of any person test any water, gas, or electric meters used as standards in the state, and at least once every year, test all water, gas, and electric meters used in any state institution and report in writing his findings to the executive officers of the institution. [1912; last amended 1928.]

Sec. 76-105. City to acquire testing apparatus.

The governing body of each city required to appoint a sealer, shall keep at all times a complete set of testing apparatus, of such materials and construction as the state inspector may designate, and after having been proved shall be sealed and certified to by him and preserved by the city sealer as the public standards for such city. If the legislative body shall neglect for six months so to do, the city clerk on notification and request by the state inspector shall provide such standards and cause the same to be tried, sealed, and deposited at the expense of the city. [1912; last amended 1928.]

Sec. 76-106. City sealer: Appointment; duties.

(a) There shall be a city sealer of weights and measures in each city or town of a population of seven thousand five hundred or over, to be appointed by the governing body for one year, at a salary of not less than nine hundred dollars per annum.

(b) Two or more cities or towns may combine with one set of standards and one sealer, upon the written consent of the state inspector.

(c) The city sealer, within his jurisdiction, shall have the same powers and duties as prescribed in this chapter [Secs. 76-101—76-129] for the state

inspector, except as to state institutions therein. His annual and monthly reports shall be made to the governing body of the city or town and to the state inspector, and his bond shall be in the amount of one thousand dollars. The fees shall be the same as those allowed to the state inspector, collected subject to the same provisions, and shall be paid monthly to the city treasurer with an itemized list thereof. [1912; last amended 1941.]

Sec. 76-107. Offenses; penalties.

Any person who shall offer or expose for sale, sell, use or retain in his possession, a false weighing or measuring device, or one not sealed by the city sealer or the state inspector within one year, or who shall dispose of any condemned weighing or measuring device, or remove any tag placed thereon by a sealer or by the state inspector; or sells or offers for sale any commodity less than the quantity he represents; or sells or offers for sale, or has in his possession for the purpose of selling or using, any device to be used to falsify any weight or measure, shall be guilty of a misdemeanor, and punished by fine of not less than twenty-five, nor more than two hundred and fifty dollars, or by imprisonment for not more than three months or by both such fine and imprisonment, and upon a subsequent conviction he shall be punished by a fine of not less than fifty, nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [1912; last amended 1928.]

Sec. 76-108. Evidence; police powers.

The proximity of any weighing or measuring device to any merchandise kept, sold or offered by any person shall be prima facie evidence of the use of such device for weighing or measuring the same. The inspector and city sealers are hereby made special peace officers, and may arrest without warrant any violator of the law in relation to weights and measures, and may seize for use as evidence and without warrant any false or unsealed weighing or measuring device, or package or amounts of commodities found, offered or exposed for sale or sold in violation of such law. [1912; last amended 1928.]

Sec. 76-109. Meter measurement.

It shall be unlawful for any person to sell water, electric energy, or gas, used or to be used for commercial or domestic purposes, except by meter measurement if the consumer shall request the same; or to charge and collect for a greater amount than actually furnished during the period for which the charge was made; but an allowance of not exceeding three per cent may be made for inaccuracy in meter measurement. * * * The inspector and sealers shall be under the direction of the corporation commission in all matters pertain-

Code Annotated 1939, Vol. 5, Ch. 76—Weights and Measures—Continued.

ing to meter inspection. [1912; last amended 1928.]

[ED. NOTE.—In the Arizona Code Annotated 1939, following the foregoing section, it is stated: "Constitution of Arizona, art. 15, Sec. 3 confers exclusive power upon the corporation commission to fix the classifications and rates of the public service corporations above mentioned, cities and towns excepted, and in so far as this section may limit the powers of the corporation commission it is unconstitutional. *State v. Tucson Gas, Elec. Light & Power Co.*, 15 Ariz. 294, 138 Pac. 781. The corporation commission, upon application or upon its own motion, notice, and hearing, possesses the power to require illuminating gas to be sold by meter measurement, and may forbid a gas company from charging and collecting for a greater amount of gas than that 'actually furnished during the period for which charge is made,' if the facts in the case show that such charge is just and reasonable, but the legislature has no such power. *State v. Tucson Gas, Elec. Light & Power Co.*, 15 Ariz. 294, 138 Pac. 781." See page 72 for Constitution of Arizona, art. 15, Sec. 3.]

Sec. 76-110. Officials not to deal in appliances.

It shall be unlawful for the inspector or any city sealer to keep or offer for sale or sell to any dealer in merchandise for use in the state, any weighing or measuring device, or be interested directly or indirectly in such sale. [1912; last amended 1928.]

Sec. 76-111. Meter testing; fees; offenses; penalties.

It shall be unlawful for any person in any city having a city sealer, to install any meter for measuring water, electricity or gas without first having had such meter tested by the city sealer, or to use any such meter which has been tested and condemned by the inspector or city sealer without first having the same corrected. In cities having a sealer every person furnishing water, gas, or electricity shall file at the office of the sealer a complete written list of the readings of all meters, together with the individual meter numbers, and the address of the premises upon which such meter is located, upon the day such readings are made. The fee for making the test of any meter shall be one dollar, to be paid by the party demanding the test, but if the meter is in use and is found to be measuring too fast by as much as three per cent, the furnisher shall pay the fee. Any person violating any provision of this or the two preceding sections shall be guilty of a misdemeanor and punished by a fine of not less than ten, nor more than two hundred and fifty dollars, or by imprisonment for not less than one nor more than ninety days, or by both such fine and imprisonment. The continuance of such violation from day to day shall be deemed a separate offense as to each day. [1912; last amended 1928.]

Sec. 76-112. Obstructing or impersonating inspectors.

Any person who hinders or obstructs in any way the state inspector or any city sealer in his duty, or impersonates in any way said inspector or sealer, shall be guilty of a misdemeanor. [1912; last amended 1928.]

Sec. 76-113. Standards of weights and measures.

For weighing grain, hay, coal, groceries, and other like heavy articles of commerce, the standard unit of weight shall be the pound avoirdupois, containing seven thousand grains troy; for weighing precious metals and jewels the unit shall be the pound troy, containing five thousand seven hundred sixty grains; for weighing goods and medicines when same are used in compound, and filling prescriptions by druggists, the unit shall be the pound apothecary's containing five thousand seven hundred sixty grains troy, but in all other cases, such drugs and medicines shall be sold by avoirdupois weight; for measuring grain, fruit, coal, vegetables, the unit shall be the Winchester bushel, containing two thousand one hundred fifty and forty-two hundredths cubic inches; and for measuring all liquids, except such as enter into the composition of medical preparations, the unit shall be the liquid gallon, containing two hundred thirty-one cubic inches. Such liquids as are used in the composition of medical prescriptions shall be measured by the apothecary's fluid measure. The unit of linear measure shall be the yard, containing thirty-six inches in length, and being identical with the imperial yard of Great Britain. [1912; last amended 1928.]

Sec. 76-114.¹ Bread: Marking requirements.

It shall be unlawful for any person to offer for sale or sell any bread in loaves without having written or stamped thereon, or on the label attached thereto, with indelible letters and figures, the name of the manufacturer and the correct net weight thereof, or at the time when such bread is so wrapped and marked, with an allowance of five per cent for bread over one day old, and of ten per cent if over two days old; all loaves over three days old shall be deemed stale bread and sold as such. [1912; last amended 1928.]

¹ See also Secs. 68-415—68-417, page 78; standard weights of bread, tolerances, scales, enforcement, and exceptions.

Sec. 76-115. Coal: Sale by weight; delivery tickets.

It shall be unlawful to sell or offer to sell coal in any other manner than by weight. No person shall deliver coal without such delivery being accompanied by a delivery ticket in duplicate, on each of which shall be indelibly written the gross weight of the load, the tare of the delivery vehicle, quantity of coal on the container used in such deliveries, and the name of the purchaser and the dealer. One ticket shall be surrendered to the inspector or sealer upon his demand for his inspection, and the other delivered to the purchaser at the time of the delivery or when the sale is made. [1912; last amended 1928.]

Sec. 76-116. Bottles for distilled water, milk, or cream.

Bottles used for the sale of distilled water, milk, and cream, shall be of the capacity of one-half gallon, three pints, one quart, one pint, one-half

pint, and one gill, filled full to the bottom of the lip. The following variations of individual bottles or jars may be allowed, but the average content of not less than twenty-five bottles selected at random from at least four times the number tested must not be in error by more than one-fourth of the tolerances: Six drams above and six drams below on the half gallon, five drams above and five drams below on the three pint, four drams above and four drams below on the quart, three drams above and three drams below on the pint, two drams above and two drams below on the half pint, and two drams above and two drams below on the gill.

Bottles or jars used for the sale of distilled water, milk or cream shall have clearly blown or otherwise permanently marked in the side of the bottles the capacity of the bottles, and in the side or bottom of bottles the name, initials, or trademark, of the dealer using same. Any dealer who uses for the purpose of selling distilled water, milk, or cream, jars or bottles that do not comply with the requirements of this section as to marking and capacity, shall be guilty of using a false or insufficient measure. The inspector and city sealers are not required to seal all such bottles or jars, but they shall from time to time make tests of individual bottles. [1912; last amended 1928.]

Sec. 76-117. Wood and ice: Methods of sale.

It shall be unlawful for any person to sell or offer to sell any cut, sawed or split wood in any other manner than by the cord or fractional part thereof, and no person shall deliver such wood without delivery tickets as heretofore required in the delivery and sale of coal. Ice sold at retail shall be by weight. [1912; last amended 1928.]

Sec. 76-118. Hay: Methods of sale.

It shall be unlawful to sell or offer to sell baled hay in any other manner than by weight, except by an agreement between the seller and the purchaser. No person shall deliver any hay without such delivery being accompanied by delivery tickets as heretofore required in the sale and delivery of coal, except that loose hay in stacks or by wagon load may be sold by measurement by an agreement between the seller and the purchaser. When hay is shipped in carloads the weight of the bales need not be marked. Each bale shall have marked thereon the correct weight in pounds or fractions of a pound avoirdupois; and it shall be unlawful for any person to sell or offer for sale any such bale of hay on which the correct weight has not been marked. An allowance of three per cent in weight for shrinkage shall be made on all bales less than six months old, and of five per cent if over six months old, if the age of such bale be marked thereon. [1912; last amended 1928.]

Sec. 76-119. Meats: Methods of sale.

It shall be unlawful to sell or offer to sell any fresh meat, or fish, in any other manner than by weight. No person shall deliver such fresh meat without a delivery ticket on which shall be indelibly marked in pounds or fractions of a pound avoirdupois, the correct weight and the name of the purchaser and dealer, and given to the purchaser at the time the sale is made. [1912; last amended 1928.]

Sec. 76-121. Packaged commodities: Marking requirements; tolerances.

Where butter, [coffee]¹, tea, baking powder, oatmeal, tapioca and all cereals and farinaceous goods, wheat flour, buckwheat flour, cornmeal, rice, beans, sugar, barley, bran, wheat, oats, corn, potatoes, onions, seed, ham, bacon, lard, lard compounds or substitutes, soda crackers, or dried fruits, are sold in packages or containers, each package or container shall have written or stamped upon the wrapper or upon the package or container the correct weight of the contents, in pounds and ounces, or fractions of a pound avoirdupois; and it shall be unlawful for any person to sell or offer for sale any such package or container of such commodities on which the correct weight of the contents has not been written or stamped. An allowance of not exceeding two and a half per cent shall be made for shrinkage on all containers of wheat flour, buckwheat flour, cornmeal, rice, beans, sugar, barley, bran, wheat, oats, corn, potatoes, onions, seed, ham, bacon, or butter. [1912; last amended 1928.]

¹ The word "coffee" is to be found in the original act and also in the side title in both the Revised Statutes of 1928 and the 1939 Code, but is not contained in the body of the section in either the Revised Statutes or the Code.

Sec. 76-122. Vinegar and oils: Marking requirements.

Where vinegar, sweet oil, or olive oil are sold in bottles or cans, each shall have written or stamped upon the wrapper or upon the bottle or can the correct quantity of the contents in gallons, quarts, pints, or gills, or fractional parts thereof; and it shall be unlawful for any person to sell or offer for sale any such bottle or can upon the wrapper, bottle, or can, of which the correct quantity of the contents has not been written or stamped. [1912; last amended 1928.]

Sec. 76-123. Penalty.

Any person violating any of the eight preceding sections [Secs. 76-114-76-119, 76-121, 76-122] shall be guilty of a misdemeanor, and punished by a fine of not less than five [\$5.00], nor more than two hundred and fifty dollars [\$250]. [1912; last amended 1928.]

Sec. 76-125. Public weighmasters: Definition; bonds; seals.

Any person engaged in the business of weighing cotton or other products for hire, or who shall

Code Annotated 1939, Vol. 5, Ch. 76—Weights and Measures—Continued.

weigh cotton or other products and issue therefor a weight certificate intended to be accepted as an accurate weight upon which a purchase or sale is to be based or who shall engage in the business of weighing motor vehicles, trailers or semi-trailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on such vehicles, or who shall engage in the business of weighing any object or thing for the public generally for hire, shall be known as a public weighmaster, and shall file a bond with the state inspector of weights and measures in the sum of one thousand dollars, for the faithful performance of his duties, and shall, at his expense, obtain from such inspector a seal for the stamping of weight certificates in such form as the inspector may prescribe. Such seal shall be the property of the state to be returned to the inspector upon termination of the lawful use thereof and any certificate of weight bearing such seal, shall be recognized as accurate. [1927; last amended 1935.]

Sec. 76-126. Same: Weight certificates.

The state inspector shall prescribe a form of weight certificates to be used by public weighmasters, to be known as the State Certificate of Weights and Measures, and shall state therein the kind of product, its number of units, the date of receipt of the product, the owner, agent or consignee, the total weight of the product, the transportation by which received, and such other information as may be necessary to distinguish or identify the product from a like kind, and if a motor vehicle, trailer or semi-trailer, the engine, serial or other identifying number, the date of the weighing and the owner and the weight thereof. No other certificates shall be used by public weighmasters, but whenever there may be issued a warehouse receipt for the product weighed, the form of such warehouse receipt shall be such as is prescribed in the law relating to warehouse receipts, and the certificate of weight may be made a part of such warehouse receipt. Public weighmasters shall keep and preserve correct and accurate records of all public weighing for at least five years, at all times to be open for inspection by the inspector, or his deputy. [1927; last amended 1935.]

Sec. 76-127. Same: False weight certificates; offenses.

Any public weighmaster who issues any false or fraudulent certificate shall be guilty of a misdemeanor, and the inspector may compel the return to him of the state seal or declare his bond as public weighmaster forfeited. Any person who shall request the public weighmaster or any person employed by him to weigh any cotton or other product or any motor vehicle, trailer, or semi-trailer or other object or thing falsely or incorrectly, or

who shall request the issuance of a false or incorrect state certificate of weight, or any person issuing a state certificate of weight who is not a public weighmaster, or any person who violates any other provision of this article [Secs. 76-101—76-129], shall be guilty of a misdemeanor. [1927; last amended 1935.]

Sec. 76-129. Same: Reweighings; deputy weighmasters.

When any doubt or difference arises as to the correctness of the weight of any cotton or other product or of any motor vehicle, trailer or semi-trailer, or other object or thing for which a state certificate of weights has been issued by a public weighmaster, the owner, agent or purchaser may upon complaint to the state inspector, have said cotton or other product or said motor vehicle, trailer or semi-trailer or other object or thing reweighed by the inspector, or by a public weighmaster designated by him, upon depositing a sufficient sum of money to defray actual cost of the reweighing. If on reweighing a difference in the original weight is discovered as a result of fraud, carelessness or faulty apparatus, the cost of reweighing and the loss occasioned by such difference in weight shall be borne by the public weighmaster who issued such certificate. Public weighmasters employing or designating any person to act for them as deputy public weighmaster are responsible for all acts performed by such person, and the public weighmaster shall forward to the inspector the name and address of any person so appointed forthwith upon his appointment. [1927; last amended 1935.]

Constitution, Art. 15; Code Annotated 1939, Vol. 1—The Corporation Commission.

Sec. 2. Public service corporations.

All corporations other than municipal engaged in carrying persons or property for hire; or in furnishing gas, oil, or electricity for light, fuel, or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes; or in transmitting messages or furnishing public telegraph or telephone service, and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations. [1911]

Sec. 3.¹ Rules and regulations.

The corporation commission shall have full power to, and shall, * * * make reasonable rules, regulations, and orders, by which such corporations shall be governed in the transaction of business within the state, * * *; Provided, that incorporated cities and towns may be authorized by law to exercise supervision over public service corporations doing business therein, * * *. [1911]

¹See Sec. 76-109, page 69, and editor's note thereunder; meter inspection.

Code Annotated 1939, Vol. 4, Ch. 49, Art. 6—"Arizona Fertilizer Law of 1937."

Sec. 49-602. Definitions.

* * * * *

"Commercial fertilizer" means any substance, including any combination or mixture of substances, designed and fit for use in inducing increased crop yields or plant growth when applied to the soil, except unmanipulated animal and vegetable manures, liming materials, residue or sludge from sewage disposal plant, and gypsum;

"Fertilizer material" means any substance which is or may be used with another substance in the compounding of mixed fertilizers, or for direct application to the soil, principally as a source of plant food; [1937]

* * * * *

Sec. 49-603. Enforcement officer.

This act [Secs. 49-601—49-625] shall be administered by the state chemist. The head of the department of agricultural chemistry and soils of the agricultural experiment station of the University of Arizona is constituted state chemist for the enforcement of this act. [1937]

Sec. 49-604. Registration.

(a) It shall be unlawful for any person, acting for himself, or as agent, to sell or offer for sale within the state any commercial fertilizer or fertilizer material that has not been registered as required by this section.

(b) Any person who may desire to sell or offer for sale, either by himself or through another person, mixed fertilizer or fertilizer materials in this state, shall first file with the state chemist, on registration forms supplied by him, a signed statement, giving the name and address of the applicant and the following information with respect to each brand or grade, in the following order: 1. weight of each package in pounds; * * * [1937]

Sec. 49-605. Marking requirements.

(a) Each person who offers for sale or sells commercial fertilizer or fertilizer material in this state shall mark upon each container or associate with each shipment or some document relative thereto the information required by subsections (b) and (c) of section 4 [Sec. 49-604]. The information may either be branded or printed directly on the bag or other shipping container, or may be printed on a tag, label, or certificate which shall be affixed to the shipping container or otherwise associated with the shipment, as provided in this section.

(b) If shipped in bags, barrels, or other containers commonly used, the data required by subsections (b) and (c) of section 4 shall be printed:

1. either directly on the package, or, 2. on tags to be affixed to the package by the manufacturer.

* * * * *

(c) If shipped in packages weighing five pounds or less, the information may be printed in any appropriate way on the container in which the material is delivered to the purchaser, or upon a common shipping container in which the smaller packages are shipped. [1937]

* * * * *

Sec. 49-622. Offenses.

Each of the following offenses shall be a misdemeanor and any person upon conviction thereof shall be punished as provided by law for the punishment of misdemeanors:

1. The violation of any one of the following provisions of this act [Secs. 49-601—49-625]: subsection (a) of section 4 [Sec. 49-604]; subsection (b) of section 4; section 5 [Sec. 49-605]; * * * [1937]

Code Annotated 1939, Vol. 4, Ch. 49, Art. 14—"Agricultural Minerals Act of 1947."

Sec. 49-1402. Definitions.

In this act [Secs. 49-1401—49-1413], unless the context otherwise requires:

"manufacturer" means a person engaged in the business of preparing, mixing, or manufacturing agricultural minerals;

"sell" or "sale" includes exchange;

"agricultural minerals" are mineral or chemical substances, or mixture of mineral or chemical substances and organic substances which are applied to the soil primarily for purposes other than as a direct source of plant food except unmanipulated animal or vegetable manures, and unmanipulated residue or sludge from sewage disposal plants; [1947]

* * * * *

Sec. 49-1403. Enforcing official.

This act [Secs. 49-1401—49-1413] shall be administered by the state chemist. The head of the department of agricultural chemistry and soils of the agricultural experiment station of the University of Arizona is constituted state chemist for the enforcement of this act. [1947]

Sec. 49-1404. Registration.

(a) It shall be unlawful for any person acting for himself, or as agent, to sell or offer for sale within the state any agricultural mineral that has not been registered as required by this section.

(b) Any person who may desire to sell or offer for sale, either by himself or through another person, agricultural minerals in this state, shall first file with the state chemist, on registration form supplied by him, a signed statement, giving the name

Code Annotated 1939, Vol. 4, Ch. 49, Art. 14—
"Agricultural Minerals Act of 1947"—Continued.

and address of the applicant and the following information with respect to each brand or grade:
(l) weight of each package in pounds; * * *

(d) For the privilege of registration, the person applying therefor shall pay to the state chemist in advance of registration fifty dollars for each brand or grade, as the case may be. Said registration shall expire on the thirty-first day of December of the year for which it is made. [1947]

* * * * *

Sec. 49-1405. Marking requirements.

Each person who offers for sale or sells agricultural minerals in this state shall mark on each container or associate with each shipment or some document relative thereto the information required by section 4 [Sec. 49-1404]. * * * [1947]

Sec. 49-1412. Penalties.

Any person, who, by himself, or through another, in connection with the sale of any substance or mixture of substances included within the scope of this act [Secs. 49-1401—49-1413]:

(a) Makes any material or substantial misrepresentation;

(b) Makes any false promises of a character likely to influence, induce or deceive;

(c) Causes to be published or distributed false or misleading literature, or causes to be displayed false or misleading advertisements; is guilty of a misdemeanor. [1947]

Code Annotated 1939, Vol. 4, Ch. 49, Art. 9—"Arizona Citrus Fruit Standardization Act."

Sec. 49-903. Enforcement officer.

The provisions of this act [Secs. 49-901—49-925] shall be enforced by the supervisor of inspection¹ * * *. It shall also be the duty of the state entomologist and his deputies and of the state quarantine inspectors to enforce this act. Said supervisor and his deputies and the state entomologist and his deputies and the state quarantine inspectors are hereinafter called the enforcing officers.

In addition to the deputies and clerks, * * *, there shall be appointed by the supervisor of inspection an inspector from among the employees of each citrus fruit packing plant or citrus fruit packer in the state of Arizona, or from among other suitable persons, which employee or other person shall be designated by the person, firm or corporation operating such citrus packing plant, and who shall be compensated by such firm, person or corporation, for his services as inspector. * * * [1933]

¹ See Sec. 49-1005, page 75, Office of Supervisor of inspection created.

Sec. 49-910. Penalty for violations.

Any person who shall violate any of the provisions of this act [Secs. 49-901—49-925] shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00), or be imprisoned not more than one year, or both. [1933]

Sec. 49-913. Standard packages.

* * * the supervisor may provide for standard packages other than those established in this act. [Secs. 49-901—49-925], but no standard packages shall be eliminated or changed without two years' notice to the industry involved. [1933]

Sec. 49-914. Definitions.

* * * * *

"Containers" or "Packages," shall mean any container used for packing, shipping or selling citrus fruits.

* * * * *

"Citrus fruit" shall mean the fruit of any tree of the orange, lemon, lime, grapefruit, tangerine, cumquat or other citrus tree which produces edible citrus fruit suitable for human consumption. [1933]

* * * * *

Sec. 49-922. Standard containers.

(a) The citrus fruit in any one container shall be uniform in size. Grapefruit and oranges, except tangerines and mandarins, shall be regularly packed throughout in closed standard containers numbers 1, 1a, or 2 (subsection (c)), and lemons in closed standard containers numbers 3 or 4 (subsection (c)). * * *

(b) Every container of citrus fruit shall bear in plain sight and plain letters on one outside end: * * * 3, the number of fruit in the container or the cubical content of the container, together with the average diameter of the fruit; * * *

(c) The following shall be standard containers, all dimensions to be determined by inside measurements in inches:

1. Standard two-compartment orange or grapefruit box, each compartment: depth, eleven and one-half; width, eleven and one-half; length, twelve.

1a. Standard one-compartment orange or grapefruit box: depth, eleven and one-half; width, eleven and one-half; length, twenty-four.

2. Standard two-compartment half orange or grapefruit box, each compartment: depth, five and three-fourths; width, eleven and one-half; length, twelve.

3. Standard two-compartment lemon box, each compartment: depth, ten; width, thirteen; length, twelve and one-half.

4. Standard two-compartment half lemon box, each compartment: depth, five; width, thirteen; length, twelve and one-half.

(d) Lids for standard containers numbers 1 and 2 (subsection (c)) shall be not more than twenty-six and one-eighth inches in length. Lids for standard containers numbers 3 and 4 (subsection (c)) shall be not more than twenty-seven and one-eighth inches in length. [1933; last amended 1941.]

Sec. 49-923. Irregular containers.

*** Provided, further, that citrus fruits may be offered for sale, sold, or transported in, into or through the state of Arizona, in irregular containers, other than standard packages, when such irregular containers are so marked as to clearly indicate that the same are not standard packages as herein described. [1933]

Code Annotated 1939, Vol. 4, Ch. 49, Art. 10—"The Arizona Fruit and Vegetable Standardization Act."

Sec. 49-1004. Construction of act.

(a) All fresh fruits and vegetables when being packed, or after packing, or when delivered for shipment, loaded, shipped or being transported, offered for sale or sold in the state of Arizona for which grades, standards and standard containers are herein established shall be construed as coming within the meaning of this act [Secs. 49-1001—49-1037]. [1929; last amended 1937.]

* * * * *

Sec. 49-1005. Enforcement officer.

There is hereby created the office of supervisor of inspection, the holder whereof is hereinafter referred to as the supervisor, who shall be appointed by, hold office at the pleasure of, and be under the supervision and direction of the dean of agriculture of the University of Arizona, which supervisor's duties shall be to enforce the provisions of this act [Secs. 49-1001—49-1037]. [1929]

* * * * *

Sec. 49-1026. Standard packages.

*** the supervisor may provide for standard packages other than those established in this act. [Secs. 49-1001—49-1037], but no standard packages shall be eliminated or changed without two years notice to the industry involved. [1929]

* * * * *

Sec. 49-1027. Definitions.

* * * * *

"Containers" or "Packages" shall mean any container used for packing, shipping or selling fruits or vegetables.

"Subcontainers" shall mean any basket or other receptacle used within a container.

* * * * *

"Fruits" or "vegetables" shall mean the food product of any tree, vine or plant which produces

edible fruits or vegetables suitable for human consumption. [1929]

* * * * *

Sec. 49-1031. Violations.

It shall be unlawful:

1. To pack, or cause to be packed, sell, offer for sale, deliver for shipment, load, ship or transport for shipment any fruits or vegetables which do not conform to the requirements of this act [Secs. 49-1001—49-1037];

2. To prepare, deliver for shipment, load, ship, transport, offer for sale or sell for shipment, a deceptive pack, load, arrangement or display of fruits or vegetables, or to mislabel any container or display of such fruits or vegetables. [1929; last amended 1937.]

Sec. 49-1034. Standard packs and containers for cantaloupe.

* * * * *

The following standards are hereby established as standard packs for the respective standard containers as shown (inside depth and width, outside length) :

Jumbo Cantaloupe Crate 13x13x23½ Packed 27, 36 or 45 melons; Standard Cantaloupe Crate 12x12x23½ Packed 27, 36 or 45 melons; Pony Cantaloupe Crate 11x11x23½ Packed 45 or 54 melons; Jumbo Flat Cantaloupe Crate 5x14½x23½ Packed 8, 9, 10, 11 or 12 melons; Standard Flat Cantaloupe [Crate] 4½x13x23½ Packed 9, 12, or 15 melons; California Standard Flat Cantaloupe Crate 4½x13½x23½ Packed 9, 12, or 15 melons; Pony Flat Cantaloupe Crate 4x12x23½ Packed 15 or 18 melons.

*** each crate of cantaloupes shall be conspicuously marked, in letters not less than three-eighths of an inch in height, stating the exact number of melons packed therein, and all cantaloupe packs other than those provided in this section, shall be conspicuously marked, in letters not less than three-eighths of an inch in height "Irregular pack." Packed cantaloupes shall be in standard containers as prescribed in this section, provided, that other sized containers may be used if conspicuously marked, in letters not less than three-eighths of an inch in height, "Irregular sized container." No containers are established for unpacked or loose cantaloupes. Containers which are not lidded shall not be required to show the markings prescribed in this section. [1929]

Sec. 49-1035. Standard packs and containers for lettuce.

* * * * *

Packed lettuce shall be in standard containers as follows: (inside depth and width, outside length) :

Standard crate	13 x 18 x 24½
Half crate	9 x 13 x 24½

provided, that other sized containers may be used if conspicuously marked, in letters not less than

Code Annotated 1939, Vol. 4, Ch. 49, Art. 10—"The Arizona Fruit and Vegetable Standardization Act"—Continued.

three-eighths of an inch in height, "Irregular container."

Head lettuce, when packed, or after packing, or when shipped, delivered for shipment, offered for sale or sold as a standard pack for shipment from the State, shall contain either two dozen, two and a half dozen, three dozen, three and a half dozen, four dozen, four and a half dozen, five dozen, seventy-five or ninety heads of lettuce per crate, and shall be tightly packed, with a slight bulge of crates when lidded, * * *

In the case of head lettuce in standard packs, there shall be the same numerical count of regularly arranged heads in each layer, and no heads shall be placed outside of the regular arrangements of uniform flat layers, excepting that in case of sizes smaller than four and a half dozen, a bridge of from three to four heads shall be permitted.

In case of head lettuce in other than standard packs, there shall not be a variation in numerical count of more than two heads between any two layers in one container.

Both iced and dry packed lettuce shall be considered as packed.

* * * all crates of head lettuce, when packed shall be plainly and conspicuously stamped or stenciled on the outside thereof, in figures not less than three-eighths of an inch in height, with the exact number of heads contained therein; provided, that in the case of crates of sizes packed smaller than four and a half dozen, the contents may vary not more than four heads from the count as marked.

Crates in which lettuce is not packed to conform with the requirements for a standard pack established above shall be conspicuously marked "Irregular pack" in letters not less than three-eighths of an inch in height. [1929]

Sec. 49-1036. Vegetable standards; sizes of bunches; sale by weight.

(a) * * * When bunched, carrots shall be virtually uniform in size, and when ranging in diameter from one to one and one-fourth inches shall contain seven carrots to the bunch; if over one and one-fourth inches, five carrots to the bunch. * * *

(b) * * * When bunched, beets and turnips shall contain not less than four nor more than five roots to the bunch.

(d) [c] * * * Spinach, when being sold, or advertised for sale, whether wholesale or retail, shall be sold by the pound.

(e) [d] * * * Asparagus, bunched or loose, when advertised for sale, offered for sale, or sold, either at wholesale or retail, shall be sold by the pound.

* * * * *

(j) [i] * * * When prepared for sale, advertised, or offered for sale, or sold, strawberries shall be

contained in the dry pint basket, containing an interior capacity of approximately thirty-three and six-tenths inches. [1929; last amended 1937.]

Code Annotated 1939, Vol. 4, Ch. 50, Art. 9—Dairy Products.

Sec. 50-904. General powers and duties of commissioner.

The commissioner [state dairy commissioner] is empowered to enforce compliance with the provisions of this act [Secs. 50-901—50-954], * * * [1931]

Sec. 50-940. Testing of milk and cream: Tester's license required: bottles and pipettes; fee.

(a) No person shall be permitted to test milk or cream for the purpose of determining the butterfat content thereof, when the results of such test shall determine the purchase of [or] sales value of [or] the legal standard of such product, unless such tester shall have a state tester's license therefor. * * * (e) Standard eight per cent milk bottles shall be approved for such use. Only standard long neck nine or eighteen gram fifty per cent cream test bottles shall be approved. Standard seventeen and six-tenths millimetre pipettes shall be approved only for use in testing milk. All test charges of cream samples shall be weighed on scales, the sensitivity of which shall be not more than thirty milligrams and the standard weights shall be nine grams and eighteen grams. All test bottles, while in use as such, shall have been tested for accuracy by the commissioner and shall have the letter "A" etched thereon as a guarantee of his approval. Such milk test bottles as shall show an inaccuracy in excess of one-tenth of a one per cent division on the scale of such bottle shall be rejected. A fee of one dollar shall be charged by the state for each dozen such bottles so tested and etched. [1931]

Sec. 50-946. False tests or weights.

It shall be unlawful for any person purchasing dairy products on the basis of butterfat content or weight, to report false test or weight or settle or pay for such products on any other basis than the actual test or weight. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [1931]

Sec. 50-951. Standard weights of butter packages.

Butter, when sold, offered or exposed for sale in paper containers to the retail trade, shall be in packages of one-quarter pound, one-pound, or two-pound packages, net, standard avoirdupois weight, no tolerance in deficiency being allowed. Any person violating the provision of this section shall be guilty of a misdemeanor. [1931]

Code Annotated 1939, Vol. 4, Ch. 50, Art. 10—Commercial Feeds.

Sec. 50-1001. Definition.

The term "commercial feeds" includes all materials used for feeding animals or birds, except:

1. Unmixed whole seeds or grains, as defined by United States grain standards;

2. The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, milo, and other grain sorghums;

3. Unground hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials. [1937]

Sec. 50-1002. Marking requirements.

(a) All manufacturers, importers, jobbers, firms, associations, corporations, or persons shall, before selling, offering, exposing for sale, or distributing any brand of commercial feed, have printed on or attached to each bag, package, or carton, in a conspicuous place on the outside, or deliver with each bulk lot, a plainly printed statement, hereafter referred to as the label, containing in clear, legible print in the English language:

1. The net weight of the contents of the package, bag, carton or bulk lot. [1937]

* * * * *

Sec. 50-1012. Offenses; penalties.

(a) Any manufacturer, importer, jobber, firm, association, corporation or person who:

* * * * *

3. Impedes, obstructs, hinders or otherwise prevents or attempts to obstruct or prevent the state chemist or his authorized agent in the performance of his duty,

* * * * *

7. Sells any commercial feed which carries upon or attached to the package any false or misleading statements regarding the contents, feeding value, or net weight thereof, or,

8. Violates any other provision of this act [Secs. 50-1001-50-1015], shall be guilty of a misdemeanor and upon conviction fined not more than one hundred dollars for the first violation and not less than fifty nor more than three hundred dollars for each subsequent violation. [1937]

* * * * *

Sec. 50-1013. Enforcement officer.

(a) The state chemist shall enforce the provisions of this act [Secs. 50-1001-50-1015], and shall have power to prescribe and enforce administrative rules and regulations not in conflict with the provisions hereof.

(b) The head of the department of agricultural chemistry and soils, of the Arizona agricultural experiment station, is hereby designated state chemist for the enforcement of this act. [1937]

Code Annotated 1939, Vol. 5, Ch. 68, Art. 4—Food.

Sec. 68-401. Definitions.

The term "food" as used herein shall include all articles, whether simple, mixed or compound, used

for food, drink, confectionery, or condiment, by man or animal;

The term "misbranded" shall apply to all articles of food, or which enter into the composition of food, the package or label of which bears any false statement, design, or device, regarding such article, or regarding the ingredients, or substances contained therein, which shall be false or misleading in any particular, and to any food product falsely branded as to the place in which it was manufactured, or produced;

The term "package" shall include any container, of whatsoever material or nature, used for enclosing any article of food. [1912; last amended 1928.]

* * * * *

Sec. 68-403. When deemed misbranded.

Food or liquid [liquor]¹ is mislabeled or misbranded.

* * * * *

If it be labeled or branded or colored so as to deceive or mislead, or tend to deceive or mislead the purchaser; or

If it be falsely labeled in any respect; or

* * * * *

If, when in package, and the contents are stated in terms of weight and measure, such weight and measure are not plainly and correctly stated on the outside of the package; or

* * * * *

If, having no label, it is an imitation or adulteration, or is sold or offered for sale under a name, designation, description, or misrepresentation, which is false or misleading in any particular; * * * [1912; last amended 1928.]

¹ The bracketed word "liquor" was inserted in the 1939 Code by its compilers. It was a part of the original act, the word "liquid" being substituted for the word "liquor" in the Revised Statutes of 1928.

Sec. 68-404. Prima facie evidence of violation.

The possession of any adulterated, mislabeled, or misbranded article of food by any manufacturer, producer, jobber, packer, or dealer in food, or agent, or servant of any such person, shall be prima facie evidence of the violation of the provisions of this article [Secs. 68-401-68-425]. [1912; last amended 1928.]

Sec. 68-406. Examination of misbranded food.

The superintendent [of public health] shall cause the director [of the state laboratory] to make examinations and analyses of food on sale in Arizona, suspected of being adulterated, mislabeled, or misbranded. * * * [1912; last amended 1928.]

Sec. 68-410. Penalties; seizure.

Any person violating any provision of this article [Secs. 68-401-68-425] shall be guilty of a mis-

Code Annotated 1939, Vol. 5, Ch. 68, Art. 4—Food
—Continued.

demeanor, and punished by a fine of not less than five nor more than five hundred dollars, or imprisoned not exceeding six months, or by both such fine and imprisonment. Food found to be adulterated, mislabeled, or misbranded, may, by order of any court, be seized and destroyed. [1912; last amended 1928.]

Sec. 68—412. Guaranty protection.

No dealer shall be prosecuted when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party, residing in the United States, from whom he purchased such articles to the effect that the food or liquid¹ is not adulterated, mislabeled, or misbranded, and the dealer at the time of making such sale was not aware that the article was mislabeled. Said guaranty, to afford protection must contain the name and address of the party making the sales to said dealer, and an itemized statement showing the article purchased; or a general guaranty may be filed with the secretary of the United States department of agriculture by the manufacturer, wholesaler, jobber, or other party in the United States and be given a serial number, which number shall appear on each and every package of goods sold under such guaranty with words showing such guarantee under the Food and Drugs Act of the Congress of the United States. If the guarantor resides within this state, and it appears from the certificate of the director of the state laboratory that such articles were adulterated, mislabeled or misbranded, within the meaning of the National Pure Food Act, the county attorney shall forthwith notify the attorney-general of the United States of such violation. [1912; last amended 1928.]

¹ Compare footnote to Sec. 68—403, page 77.

Sec. 68—415.¹ Bread: Standard weights; tolerances.

A loaf of bread sold, offered or exposed for sale, as fresh bread, shall be of the following standard weights: One pound; one and one-half pounds; or multiples of one pound; determined by the average of not less than twenty loaves of one unit, of one kind of bread, weighed with or without wrappers, not less than twelve hours after baking. When twin or multiple loaves are wrapped at the place where baked, or sold to the consumer wrapped and undivided, the loaf must conform to the said weight requirements, and if unwrapped or divided prior to sale, each unit must conform to the weight requirements. A tolerance, in excess of the standard weight, is allowed of one ounce on one pound loaves; one and one-half ounces on one and one-half pound loaves; two ounces on loaves weighing two pounds or more. No tolerance below the standard weight is allowed. [1925; last amended 1928.]

¹ See also Sec. 76—114, page 70; marking requirements for bread.

Sec. 68—416. Same: Scales and weights; enforcement officers.

Every manufacturer or seller of bread shall keep scales and weights, suitable for weighing bread, in a conspicuous place in the bakery or store, and shall, when requested by the buyer and in the buyer's presence, weigh any loaf of bread sold or offered for sale. The state and city inspectors of weights and measures shall enforce the provisions hereof, * * * [1925; last amended 1928.]

Sec. 68—417. Same; Exceptions.

The preceding * * * sections [Secs. 68—415 and 68—416] shall not apply to fancy breads, nor to bread baked by special order of the consumer; nor to stale bread sold as such, the seller shall at the time of sale expressly state to the buyer that it is stale bread, and not offered or sold as stale bread until twelve hours or more after baking. Any person violating any provision of this or the preceding * * * sections shall be guilty of a misdemeanor. [1925; last amended 1928.]

Code Annotated 1939, Vol. 5, Ch. 68, Art. 9, Secs. 68—901 to 68—911—Eggs.

[ED. NOTE.—These sections comprise requirements for the grading of eggs including minimum weights for the different size grades, and are not given in detail because the requirements relate primarily to quality.]

Code Annotated 1939, Vol. 5, Ch. 68, Art. 8—"The Arizona Uniform Narcotics Act of 1935."

Sec. 68—820. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to such package a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 68—833. Enforcement.

It is hereby made the duty of the board of health, its officers, agents, inspectors, and representatives, and of all peace officers, and of all county attorneys, to enforce all provisions of this act [Secs. 68—801—68—838], * * * [1935]

Sec. 68—834. Penalties.

Any person violating any provision of this act [Secs. 68—801—68—838] shall upon conviction be punished for the first offense by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment in the county jail for not less than six months nor more than one year, or by both such fine and imprisonment; and for any subsequent offense, such person shall upon conviction be punished by a fine of not less than one thousand nor more than five thousand dollars, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment. [1935]

Code Annotated 1939, Vol. 5, Ch. 69, Art. 2—Public Service Corporations.

Sec. 69-231. Weighing of cars and freight; testing of railroad scales.

* * * * *

The commission [corporation commission] may enforce reasonable regulations for the weighing of cars and freight offered for shipment over any line of railroad, and test the weights made by any railroad and scales used in weighing freight or cars. [1912; last amended 1928.]

Sec. 69-232. Electrical, gas, and water corporations: Standards of service; test of appliances.

The commission [corporation commission] may ascertain and fix just and reasonable standards, classification, regulations, practices, measurements, or service to be furnished and followed by all electrical, gas and water corporations; * * * establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such corporation. * * * Any consumer or user of any product, commodity or service of a public service corporation may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission, the fee to be paid by the consumer or user at the time of his request, but to be paid by the corporation and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user. [1912; last amended 1928.]

Code Annotated 1939, Vol. 5, Ch. 72, Art. 1—Spirituous Liquors.

Sec. 72-113. Unlawful acts.

* * * * *

(b) It shall be unlawful:

* * * * *

2. For any off-sale retailer * * * to sell spirituous liquor in any container having a capacity of less than eight (8) ounces. [1935; last amended 1939.]

* * * * *

[ED. NOTE.—The Superintendent of Liquor Licenses and Control administers and enforces the provisions of this article, Secs. 72-101—72-117.]

Code Annotated 1939, Vol. 3, Ch. 43, Art. 1—Misdemeanors.

Sec. 43-110. Punishment when not prescribed.

Except when a different punishment is prescribed by this Code [Penal Code, Secs. 43-101—43-6116], * * * every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding three hundred dollars, or by both. When an act or omission is declared by a statute to be a public offense, and no penalty for the offense is prescribed

in any statute, the act or omission is punishable as a misdemeanor. [1901]

Code Annotated 1939, Vol. 3, Ch. 43, Art. 26—Frauds. 43-2606. Smelter frauds.

Any person or the agent of any person, engaged in the milling, smelting, sampling, concentrating, reducing, shipping or purchasing of ores in this state, who shall in any manner, knowingly alter or change the true value of any ores delivered to him, so as to deprive the seller of the correct value of the same, or who shall substitute other ores for those delivered, or who shall issue any bill of sale or certificate of purchase that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot of ore purchased; or who by any secret understanding, or agreement with another, shall issue a bill of sale or a certificate of purchase that does not correctly and truthfully set forth the weight, assay value and total amount paid for the ore purchased by him, shall be guilty of a misdemeanor, and fined not exceeding one thousand [\$1,000], nor less than one hundred dollars [\$100], or imprisoned in the county jail not more than one [1] year or both. [1901]

Sec. 43-2620. False advertising; penalty.

Any person who shall, knowingly and with the intent to sell to the public any property, real or personal, or any services, or to induce the public to acquire an interest therein, make and publish any advertisement, either printed or by public outcry or proclamation, or otherwise, containing any false, fraudulent, deceptive or misleading representations in respect to such property or services, or the manner of sale or distribution thereof; * * * is guilty of a misdemeanor, and shall be punished for the first offense by a fine of not less than twenty-five dollars [\$25.00] nor more than two hundred and fifty dollars [\$250], or imprisonment in the county jail for not less than thirty [30] nor more than ninety [90] days; for second offense, by a fine not less than fifty [\$50.00] nor more than five hundred dollars [\$500] or imprisonment in the county jail for not less than sixty [60] days nor more than six [6] months; for the third offense, by a fine of not less than one hundred dollars [\$100] nor more than one thousand dollars [\$1,000], or imprisonment in the county jail for not less than ninety [90] days nor more than one [1] year. [1919]

Sec. 43-2621. Penalty for falsifying package weights.

Every person who in putting up in any bag, bale, barrel, or other package, any hops, cotton, wool, grain, hay or other goods usually sold in same by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight, with intent thereby to sell the goods therein, or to enable another to sell the same, for an increased weight, is punishable by a fine of not less than twenty-five dollars. [1887]

ARKANSAS

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Sec. 79-101. Standards of weights and measures.

The set of weights and measures prepared by the United States under the act of Congress, approved the fourteenth day of June, A. D. 1836, and delivered to the Governor of the State of Arkansas, and now deposited in the office of the Secretary of State, be and the same is hereby declared to be the standard of all weights and measures used in this State, and the clerk of the county court of each county in this State shall procure, as soon as practicable, at the expense of the county, a complete set of weights and measures, which shall conform to said standard, and shall be sealed by the Secretary of State. [1859]

Sec. 79-102. State sealing.

The Secretary of State shall procure a seal or stamp, with the letters "S. A." upon it, with which he shall seal all weights and measures which he shall compare with the said standard in his office and find to be correct; and such weights and measures, after being so sealed, shall be a lawful standard for the county by which they were procured; and the Secretary of State shall charge the sum of four dollars [\$4.00] for testing and sealing such weights and measures. [1859]

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Sec. 79-103. County sealing.

The several clerks of the county courts shall, with the seal required by this act to be provided, seal all weights and measures that may be presented to them for that purpose, which correspond with the county standard. [1838]

[ED. NOTE.—In the Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "The words 'seal required by this act' refer to Sec. 1 of ch. 156 of the Revised Statutes which read in part 'He shall also procure * * * one seal with the initials of the county; which * * * seal, shall be safely and securely kept by said clerk.'"

The remainder of the section specified the weights and measures which the clerk should obtain and is superseded by Sec. 79-101."]

Sec. 79-104. Testing and sealing by county clerks.

The county clerks of all and every county in the State are hereby directed and required to comply with the law as directed in sections 8003, 8004 and 8005 of Kirby's Digest [Secs. 79-101—79-103], and be prepared at all times to test and seal all scales and measures presented for test and found correct. [1913]

Sec. 79-105. Violation of preceding section: Penalty; compensation for testing scales.

Neglect or failure from any cause to comply with section 1 [Sec. 79-104] of this act shall constitute a misdemeanor and subject the clerk so offending

same, to a fine of one dollar [\$1.00] for each day he fails to be prepared with his tests and seal. The clerk shall receive the sum of ten cents [10c] for each pair of scales or measures presented to him for test, to be paid by the person, firm or corporation presenting same and five cents [5c] per mile one way for traveling to wagon scales and twenty-five cents [25c] for sealing them, to be paid by the owners. [1913]

Sec. 79-106. Duty to have scales and measures tested.

Every person, firm or corporation who buy and sell any kind of goods, produce, cotton, cotton seed, hay, feed stuffs and all kinds of merchandise, usually bought and sold, shall have their scales and measures tested and sealed on or before the first day of September and each year thereafter. Failure to comply with the provisions of this section shall constitute a misdemeanor and shall subject the individual, firm or corporation to a fine of one dollar [\$1.00] for each day so offending. [1913]

Sec. 79-107. Measures and toll dishes.

There shall always be kept in a public mill by the owner or occupier thereof an accurate half bushel measure, and an accurate set of toll dishes. [1895]

Sec. 79-108. Penalty for violation of preceding section.

For each breach of any of the provisions of this act [Secs. 79-107, 79-108], by the owner or occupier of a public mill, he shall forfeit and pay to the party aggrieved by such breach, ten dollars [\$10.00], to be recovered by action (of debt) with costs, before any justice of the peace. [1895]

[ED. NOTE.—In the Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "The words 'of debt' were enclosed in parentheses by the compiler since all forms of action heretofore existing were abolished under Sec. 27-201 and but one form of action, called the 'civil action' established under Sec. 27-201."]

Sec. 79-109. Inspection of weights and measures by constables and marshals.

It shall be the duty of the constable of every township and of the marshal of every city or town where complaint be made to him by three [3] or more citizens to inspect any scales, weights and measures used for weighing or measuring any kind of goods or produce or commercial substances, and such officers shall make an annual inspection of all such weights, measures and scales, and if at any time he finds any such scales, weights and measures not to [do not] conform to the lawful standard, he shall cause the person, firm or corporation using same to be prosecuted therefor and one-half of any fine assessed therefor shall be paid to said officer. [1838; last amended 1913.]

Sec. 79-110. Marking requirements for grain, fertilizer, flour, etc.

It shall be unlawful for any corporation, firm, manufacturer, merchant or other dealer, their agent

or employees, to sell, or offer for sale, any grain, chops, bran, fertilizer, meal, or flour in sacks, barrels, or other packages, unless the true weight of such grain, chops, bran, fertilizer, meal, or flour be stamped or marked upon the sacks, barrels, or other packages. [1905]

Sec. 79-111. Penalty for violation of preceding section.

Any corporation, shipper, manufacturer, merchant or other dealer, their agents or employees, who shall violate the provisions of section 1 [Sec. 79-110] of this act, shall be deemed guilty of a misdemeanor, and, upon conviction before any justice of the peace or circuit court, shall be fined in any sum not less than twenty dollars [\$20.00], and every sack, barrel, or other package of such grain, chops, bran, fertilizer, meal or flour offered for sale, in violation of this act [Secs. 79-110, 79-111], shall constitute a separate offense. [1905]

Sec. 79-112. Goods to weigh as marked; penalty.

Every package, bag or bundle of goods or merchandise shall contain in weight what it is branded, marked or said to contain. And any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one dollar nor more than twenty-five dollars [\$25.00] for each package, bag or bundle sold in violation of this law. [1913]

Sec. 79-113. Legal bushel weights for certain commodities.

The legal weight per bushel [shall be]¹

	Pounds per Bushel
Corn, shelled	56
Corn, in ear, husked	70
Corn, in ear, unhusked	74
Wheat	60
Oats	32
Cotton seed	33½
Corn meal	48
Barley	48
Rye	56
Potatoes	60
Potatoes, sweet	50
Onions	57
White beans	60
Peas	60
Flax seed	56
Blue grass seed	14
Clover seed	60
Timothy seed	60
Millet seed	50
Buckwheat	52
Red top	14
Orchard grass	14
Sorghum	50
Green apples	50
Dried apples	24
Dried peaches	33
Bran	20
Salt	50
Turnips	57
Broom corn seed	48
Johnson grass	28

[1887]

¹ Rearranged slightly for convenience of reference.

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Sec. 79-114. Bushel measure for apples.

A box nine [9] inches deep, twelve [12] inches wide and twenty [20] inches long shall constitute a lawful bushel measure for apples. [1903]

Sec. 79-115. Penalty for violation of preceding section.

Any person violating the provisions of this act [Secs. 79-114, 79-115] shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten [\$10.00] nor more than twenty-five dollars [\$25.00] for each offense. [1903]

Sec. 79-116. False or short weight or measure; false apparatus; penalty.

Whoever knowingly buys or sells or permits any person in his employ to buy or sell any property and make or give any false or short weights or measure and any person owning or having charge of any scales fixed for the purpose of misweighing any article bought or sold and any person having any such scales for the purpose of weighing any property and who knowingly reports any false or untrue weight and any firm or corporation using (in the sale of any commodity), a computing scale or device indicating the weight and price of such commodity upon which scale or device the graduation or indication are false or inaccurately placed, either as to weight or price, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars [\$50.00], nor more than one hundred dollars [\$100.00], and each sale made on any such scale or device shall constitute a separate offense. [1911]

Sec. 79-117. Fruit and other merchantable commodity: Fraudulent packing; penalty.

Any person who shall pack any fruit, or other merchantable commodity, with the fraudulent intent of thereby cheating others by a misrepresentation of the contents, either as to quality or quantity, shall, on conviction thereof, be punished by a fine, not exceeding five hundred dollars [\$500.00], or by imprisonment at hard labor, not exceeding one [1] year, or both. [1911]

Sec. 79-118. Same: Sale of fraudulent packages; penalty.

Any person who shall sell, pledge or hypothecate any such commodity, knowing the same to be packed in the fraudulent manner aforesaid, with the intent to cheat and deceive shall, on conviction thereof, be punished as provided in the first section [Sec. 79-116] of this act. [1911]

Sec. 79-119. Log measurement: Doyle stick.

The Doyle stick or standard of log measurement be and the same is hereby declared to be the standard by which all saw logs bought, sold, cut or hauled in this State shall be scaled or estimated. [1901]

Sec. 79-120. Use of different measure; penalty.

Any person or persons buying, selling, cutting or hauling sawlogs within the limits of this State, who shall use or attempt to use any combination stick, or any other stick or standard than that mentioned in section one [Sec. 79-119] of this act for the purpose of scaling, or estimating the number of feet in such logs sold, bought, cut or hauled, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars [\$50.00] nor more than two hundred dollars [\$200] for each offense, to be assessed by the jury trying the case, and to be collected and appropriated as other public fines, provided, that in scaling logs under this act [Secs. 79-119, 79-120], the average diameter inside the bark shall be taken. [1901]

Sec. 79-121. Rule for measurement of timber.

In all contracts for the sale of timber in which the point of measurement to determine the diameter of the log is not specifically provided for, said diameter shall be determined by the diameter of the stump measured at a point the same distance in inches above the ground as the diameter in inches of the timber called for in the contract, regardless of how many inches above the ground the log may have been severed. [1943]

Sec. 79-122. Manner of measurement; exceptions.

In determining the diameter of timber in sales provided for in section 1 [Sec. 79-121] herein, the measurement shall be made from the inside covering one bark to the outside covering of the other bark, provided nothing in this Act [Secs. 79-121—79-123] shall apply to cypress, tupelo gum, and cottonwood. [1943]

Sec. 79-123. Violation termed trespass.

Any violation of this Act [Secs. 79-121—79-123] shall be termed a trespass. [1943]

Sec. 79-124. "Cord" defined.

A cord shall be defined as containing one hundred twenty-eight [128] cubic feet, and a unit of pulp wood shall be defined as containing one hundred and twenty-eight [128] cubic feet and this shall be the basis for purchase of timber for [or] payment of labor in severing where said production is handled on cordage basis. [1939]

Sec. 79-125. Barrel capacity for cistern measurement.

Whenever in any contract for the repair or construction of any cistern in this State, the capacity of which is represented in barrels, there is no other specification of the holding capacity of said barrels, the term "barrel" shall be taken and held, in law, as meaning and intending a holding capacity which is the exact equivalent of the cubical contents of thirty-six [36] times that of the standard gallon

measure of the United States, now in use, and kept, as required by law, in the office of the Secretary of State of Arkansas. [1885]

Statutes 1947 Annotated, Vol. 2, Title 19—Powers of Cities and Towns.

Sec. 19-2303. Weighing or measuring of articles for sale.

They shall have power * * * to provide for the measuring or weighing of hay, wood, or any other article for sale; * * *, and to punish by fines any violation of this provision; * * * [1875; last amended 1901.]

Sec. 19-3301. Maintenance and regulation of markets.

[The city council] * * * may have full power to prevent forestalling, to prohibit or regulate huckstering in the markets, and to adopt such rules and regulations as are necessary to prevent fraud, and to preserve order in the market. They may authorize the immediate seizure, arrest and removal from any market of any person or persons violating its regulations, as established by ordinance, together with any article in their possession, * * *. [1875]

Sec. 19-3401. Power to regulate sale of milk.

Municipalities are hereby authorized to regulate, in accordance with the terms of the 1939 edition of the United States Public Health Service Milk Ordinance, the production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products sold for ultimate consumption within such municipalities. [1935; last amended 1939.]

Statutes 1947 Annotated, Vol. 5, Title 52, Ch. 7—Mine Scales.

Sec. 52-701. Sale of coal by weight.

It shall be the duty of every corporation, person, firm or association engaged in the business of mining coal in this state, to sell said coal by weight and to cause same to be accurately weighed by an authorized weigher, before delivery to any purchaser thereof, or to any person whomsoever for transportation. [1941]

Sec. 52-702. Scales and measures; inspection.

It shall be the duty of every corporation, company, or person engaged in the business of mining and selling coal by weight or measure, (employing ten [10] or more persons), to procure and constantly keep on hand at the proper place the necessary scales and measures and whatever else may be necessary to correctly weigh and measure the coal mined by such corporation, company, or person, and it shall be the duty of the mine inspector to visit each coal mine operated therein, and where such scales and measures are kept, at least once in each year, and test the correctness of such scales and measures. The owner or operator of each coal mine, or any two [2] or more of the miners working

therein, may, in writing, require his attendance at the place where such scales and measures are kept, at other times in order to test the correctness thereof, and it shall be his duty to comply with such request as soon as he can after receiving such request. [1899; last amended 1905.]

[Ed. NOTE.—In the Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "In so far as this section relates to measures, it may be superseded by Sec. 52-701. The words 'and employing ten or more persons' were inclosed in parentheses by the compiler, being deemed superseded by Sec. 52-413." Sec. 52-413 provides that "the provisions of all statutes in force heretofore enacted and in force, regulating coal mines, and fixing the duties and jurisdiction of the state mine inspector, shall apply to all coal mines, and all operators of coal mines, irrespective of the number of men employed therein, it being the express intention of this act [section] to remove the exemption from compliance with such statutes now applicable to mines employing less than ten [10] men under ground in twenty-four [24] hours, and the state mine inspector is hereby given jurisdiction under such statutes over all coal mines, regardless of the number of employees therein, and all coal mines and all operators thereof are hereby made subject to the provisions of all such statutes [which] shall be enforced in the number [manner] now provided by law."]

Sec. 52-703. Penalty for violations of scales and measures act.

Any corporation or person violating any of the provisions of this act [Secs. 52-702—52-703] shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be fined not less than twenty-five dollars [\$25] and not more than five hundred dollars [\$500]; and the officers, agents or employees of the corporation or company whose duty it was to do or perform the act, or to cause it to be done and performed, which is the subject of the indictment, may be indicted jointly with said corporation or company, and upon conviction thereof be fined in any sum not less than twenty-five dollars [\$25] nor more than five hundred dollars [\$500]. [1899]

Sec. 52-704. Test weights.

Every agent, owner, lessee, or operator engaged in mining coal in any quantity, (where ten [10] or more men are worked underground), shall furnish and keep on hand for the use of the state mine inspector, for inspecting, testing, and examining scales, 500 pounds of United States standard testing weights. [1905]

[Ed. NOTE.—In the Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "The words 'where ten or more men are worked underground' were enclosed in parentheses by the compiler, being deemed superseded by Sec. 52-413." See Ed. note following Sec. 52-702.]

Sec. 52-705. Duties of weighman and check-weighman; oath; election.

The weighman employed at any mine shall, before entering upon his duties, take and subscribe an oath, or affirmation, before some proper officer, to do justice between employer and employee, and

Statutes 1947 Annotated, Vol. 5, Title 52, Ch. 7—
Mine Scales—Continued.

to weigh the output from the mine honestly and correctly. The miners engaged in working any mine shall have the privilege, if they so desire, of selecting, by a majority vote, and employing, at their own expense, a check-weighman, who shall in like manner take an oath, and who shall have like rights, powers and privileges, in attending and seeing that coal is correctly weighed, and who shall be subject to same penalties as the regular weighman, and each of such weighmen shall keep account of all coal weighed at the mines in a well-bound book kept for that purpose. * * * [1893]

Sec. 52-706. Coal not to be screened until weighed; exception; penalty.

It shall be unlawful for any mine owner, lessee or operator of coal mines in this State, (where ten [10] or more men are employed underground), employing miners at bushel or ton rates, or other quantity to pass the output of coal mined by said miners over any screen or any other device which shall take any part from the value thereof before same shall have been weighed and duly credited to the employee sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of Arkansas, * * * provided, that in Cane Creek, River and Logan townships in Logan county, and all of Johnson county, except Grant township, all coal mined and paid for by weight may be paid for on the mine run basis or upon the screen coal basis, which shall be a matter of agreement between the operators and the miners. * * *

Any owner, agent, lessee or operator of any coal mine in this State (where ten [10] or more men are employed underground), who shall knowingly violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred dollars [\$200.00] nor more than five hundred dollars [\$500.00] for each offense, or by imprisonment in the county jail for a period of not less than sixty [60] days nor more than six [6] months, or both such fine and imprisonment; and each day any mine or mines are operated thereafter, shall be a separate and distinct offense; proceedings to be instituted in any court having competent jurisdiction. [1915]

[ED. NOTE.—In Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "The words 'where ten or more men are employed underground' in both instances were enclosed in parentheses by the compiler, being deemed superseded by Sec. 52-413." See Ed. note following Sec. 52-702.]

Sec. 52-707. Transporting coal before weighing forbidden; weighers.

It shall be unlawful for any person, firm, corporation or association to transport coal in trucks or other vehicles from a mine over the public highways, streets, or alleys, in the State of Arkansas,

without such coal has been previously weighed by an official coal weigher hereinafter provided for, except, in case where such coal is being moved from a mine to the nearest official weigher, or where said coal is being transported from a mine to a railroad car to be loaded thereon and weighed and shipped in due course of business. Provided, any person operating scales that have been tested and sealed as provided by the general law shall be, upon demand, authorized as a weigher under the provisions of this act [Secs. 52-701, 52-707—52-717] and be permitted to charge such sums for his service as may be agreed to between such weigher and the transporter of coal. [1941]

Sec. 52-708. Enforcement officer; official weighers; rules and regulations; penalty.

It shall be the duty of the state mine inspector¹ of the State of Arkansas to cause this act [Secs. 52-701, 52-707—52-717] to be enforced. The state mine inspector, a representative of the United Mine Workers of America District 21, and a representative of the Arkansas-Oklahoma Coal Operators Association, to be named by the respective associations, shall make and promulgate reasonable rules and regulations for carrying this act into effect. A copy of said rules and regulations shall be kept on file in the office of the state mine inspector. They shall designate the location of scales and name official coal weighers to weigh said coal, so as to afford weighing facilities at the mines, or as near the mines as may be practicable and convenient to coal producers, coal buyers and coal sellers, and of persons, firms, corporations and associations engaged in transporting coal over the said public highways, streets and alleys. They shall also make and promulgate reasonable rules and regulations for the guidance of official weighers provided for herein in weighing said coal, making and keeping records of such weights, of the vehicles used in the transportation of said coal, and of the movement of such vehicles over and upon said public highways, streets and alleys. When such rules and regulations have been made and promulgated, they shall have the binding force and effect of a law, and a violation of any such rules and regulations shall be deemed to be a misdemeanor and punishable as provided herein. [1941]

¹ Now State Police Department. See Sec. 18, Acts 1949, Act 268, page 88.

Sec. 52-709. Oath and bond of official weigher.

Each said official weigher, before entering upon the discharge of his duties as such, shall take and subscribe to an oath or affirmation to the effect that he is a citizen of the State of Arkansas; he resides in _____ County, the county in which he proposes to act as such official weigher; that he is qualified elector of the state; that he will honestly and correctly weigh all coal brought to him to be weighed; that he will faithfully discharge his duties

as such official weigher, and truly and correctly record and certify to such weights. Such oath or affirmation may be administered by the state mine inspector¹, or by any officer authorized by law to administer oaths in this State. Said official weigher shall also make and execute a bond to the State of Arkansas, for the use and benefit of all persons who may suffer damage on account of the neglect of duty of said official weigher. Said bond shall be in the penal sum of one thousand dollars [\$1,000.00] with good and sufficient surety thereon, to be approved by the state mine inspector. Any person, firm, corporation or association suffering damage by reason of any neglect of official duty by the official weigher, shall have a right of action against him and the sureties on his bond. The said state mine inspector may, in his discretion, accept as sureties on said bond, any bonding company authorized to do business in this State, or individuals. Said bond, when approved, shall be filed in the office of the County Clerk of the county in which said official weigher resides, and be recorded and kept on file as other official bonds are now kept. A certified copy of said bond shall be sufficient for all purposes whatsoever. [1941]

¹ Now State Police Department. See Sec. 18, Acts 1949, Act 268, page 88.

Sec. 52-710. Duties of official weigher; certificates.

Said official coal weigher shall weigh accurately all coal brought to him to be weighed, and shall truthfully certify to the correct weights thereof on such forms as may be prescribed in the rules made and promulgated as hereinbefore provided. Said certificates shall show the date the coal was weighed, and name and address of the seller, and the name of the mine from which the coal was removed; the name and address of the buyer and the destination of said coal; the name and address of the person in charge of the truck or other vehicle in which said coal is being transported; the gross weight of the load, the tare of the truck or vehicle containing the coal, and the net weight of the coal in the load. It shall also state the motor number of the vehicle containing the coal, the license number of the truck or vehicle, if any, the name of the state issuing the license, and such other information as may be required under the rules and regulations herein provided for. [1941]

Sec. 52-711. Fees for weighing.

Said official coal weigher shall charge, demand and receive for his services in weighing and certifying to the weights of said coal as provided for herein, the sum of not more than twenty cents [20c] per ton of two thousand [2,000] pounds thereof weighed by him to be fixed by the rules hereinbefore provided for. He shall receive twenty cents [20c] for each load of coal weighed by him where the coal weighed is less than one [1] ton of two

thousand [2,000] pounds. Said fees shall be paid by the person having the coal weighed and at the time the coal is weighed. Said coal weigher shall receive no other fees or remuneration for his service in weighing said coal or certifying to the weights as provided for herein, or for performing the duties required of him under this act [Secs. 52-701, 52-707—52-717], or as may be provided for under the rules and regulations aforesaid. [1941]

Sec. 52-712. Certificates of weight; carbon copies; to whom delivered.

The certificate provided for herein shall be made out by the said official weigher with a pen and ink or other indelible substance, so that there will be one original and four impression copies, each of which shall be legible. Said official weigher shall, at the time of weighing each load of coal, deliver to the person in charge of the truck or vehicle containing the coal so weighed two [2] true copies of said certificate, one of which copies shall be retained by the said person in charge of the truck or vehicle and kept in his actual possession and upon his person at all times while he is operating said truck or vehicle. If he shall retire from said truck or vehicle before making delivery thereof to the person to whom the load of coal is to be delivered, he shall deliver said copy over to his successor who shall retain it in said manner until he makes delivery of the coal as aforesaid. Such certificate shall be delivered over in immediate succession to any and all persons operating said truck or vehicle until the coal is delivered to its final destination. No person or persons shall operate said truck or vehicle except the one having said certificate in his possession and upon his person. The other said copy shall be by the driver of said truck delivered over to the person to whom the coal is finally delivered. [1941]

Sec. 52-713. Contents of certificate to be recorded.

Said official weigher shall, at the time of weighing each said load of coal enter in a well-bound book the matters and things hereinbefore required to be given in the certificate of said weigher. The forms in said book shall be prescribed in the rules and regulations hereinbefore provided for. The things recorded in said book shall agree with the matters and things set forth in said certificate. He shall retain said book in his possession subject to the inspection of the state mine inspector and any citizen of the State, or any interested party, until his term of office shall expire, at which time he shall deliver said book over to the state mine inspector's¹ office, where it shall be kept as a part of the official records of said inspector's office. [1941]

¹ Now State Police Department. See Sec. 18, Acts 1949, Act 268, page 88.

Sec. 52-714. Disposition of carbon copies of certificate.

Said official weigher, at the close of each day's work of weighing coal shall deliver in person, or

Statutes 1947 Annotated, Vol. 5, Title 52, Ch. 7—
Mine Scales—Continued.

forward by mail, to the state mine inspector¹ at his office, two [2] true copies of each certificate of the loads weighed by him that day. One of said copies shall be retained by the state mine inspector in his office, and the other shall be by him forwarded to the office of the administrative agency of the Bituminous Coal Commission, engaged in the administration of the "Bituminous Coal Act of 1937"² for the use of the officers of said administrative agency. [1941]

¹ Now State Police Department. See Sec. 18, Acts 1949, Act 268, page 88.

² The Bituminous Coal Act of 1937, referred to in this section, was Act of Congress of Apr. 26, 1937, ch. 127, 50 Stat. at Large 72, which, as amended May 21, 1943, ch. 97, 57 Stat. at Large 82, expired August 24, 1943.

Sec. 52-715. Penalty for violations.

Whoever shall be found guilty of violating any provision of this act [Secs. 52-701, 52-707—52-717] shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five [\$25.00] dollars nor more than one hundred [\$100.00] dollars, or be imprisoned in the county jail for not less than fifteen [15] days nor more than sixty [60] days, or by both such fine and imprisonment, in the discretion of the court or jury trying the case. [1941]

Sec. 57-716. Weighers: Appointment; term.

All official coal weighers shall be appointed by the Arkansas State Police Commission, and they shall hold office until their services as such weighers are terminated by the Police Commission. All reports required by said Act No. 382 [Secs. 52-701, 52-707—52-717] to be made by said weighers to the State Mine Inspector shall hereafter be made to the State Police Commission. [1941; last amended 1949.]

Sec. 52-717. Arrests of persons violating act; seizure.

It shall be the duty of all public officers, charged with the duty of enforcing the criminal laws of this state, to make arrests of persons violating any of the provisions of this act [Secs. 52-701, 52-707—52-717]. Members of the State Highway Police Department are hereby charged with the duty of excluding from the public highways of this state all trucks or vehicles hauling coal in violation of this act. It is not intended to repeal any existing laws against illegal use of the highways by trucks or vehicles, but this act shall be cumulative of all existing laws or such other laws as may be hereafter enacted. If any person at the time of his arrest shall have possession of a truck or vehicle being operated in violation of this act, such vehicle and the coal contained therein shall be seized by such arresting officer and held as evidence until released by the court, but not until after said coal has been

weighed and a record made of said coal and truck, as is required by this act. [1941]

Acts 1949, Act 268—Mine Scales, Enforcement and Transfer of Powers.

Sec. 18. Transfer of functions to state police department from state mine inspector.

All powers, duties and requirements conferred upon the Arkansas State Mine Inspector under Act No. 382 of the Acts of the General Assembly of the State of Arkansas, for the year 1941 [Secs. 52-701, 52-707—52-717], are hereby revoked and all such powers, duties and authority conferred upon the said State Mine Inspector by said Act are hereby transferred to and conferred upon the State Police Department of the State of Arkansas; and it shall hereafter be the duty of said State Police Department to administer said Act and to perform all duties and requirements heretofore conferred upon and required of the said State Mine Inspector under said Act. [1949]

Statutes 1947 Annotated, Vol. 5, Title 53, Ch. 5—
Measurement and Sale of Oil and Gas.

Sec. 53-501. Crude petroleum oil measured in gage-tanks; exception.

All crude petroleum oil produced in this State shall be measured in gage-tanks. The pipe lines through which such crude petroleum oil is conveyed from oil wells to such gage-tanks shall be placed on the surface of the ground and no by-passes shall extend from such pipe lines between such oil wells and gage-tanks; providing that this act [Secs. 53-501, 53-502] shall not apply to oil wells in operation prior to the date of the passage of this act. [1939]

Sec. 53-502. Enforcement; records.

The Oil and Gas Commission shall have supervision and control of the measurement of crude petroleum oil produced in this State as set forth in section 1 [Sec. 53-501] of this act. The Commission shall make a daily record of the measurement of such crude petroleum oil and it is authorized and empowered to make reasonable and necessary rules and regulations for the enforcement of the purposes of this act [Secs. 53-501, 53-502]. [1939]

Sec. 53-506. Purchases measured on one hundred per cent tank-tables.

It shall be unlawful for any person, persons, firm or corporation who may purchase any oil produced in this State to in any way discount, dock, or short such crude oil for waste, shrinking or other causes, but such purchases when computed shall be on one hundred per cent [100%] net oil measured on one hundred per cent [100%] tank-tables and corrected to sixty [60] degrees Fahrenheit. All production, runs to storage and deliveries are to be based on one hundred per cent [100%] tank-tables, with proper

adjustments for temperature, B. S. and water. [1911]

Sec. 53-507. Penalty for violating preceding section.

Any person, persons, firm or corporation found guilty of violating the provisions of this act [Secs. 53-506, 53-507] shall be adjudged guilty of a misdemeanor and shall be fined in any sum not less than \$500.00 nor more than \$3,000.00. [1941]

Acts 1949, Act 474—"Standard Gas Measurement Law."

Sec. 2. "Cubic foot of gas" defined.

The term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas (including natural and casinghead) contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws,¹ corrected for deviation. [1949]

¹The reference here is to physical relations for an ideal gas, and specifically to those physical laws which relate volume to temperature and pressure (of gases) known as Boyle's Law, Charles' Law, and Dalton's Law.

Sec. 3. Sale.

Each and every sale, and each and every purchase, delivery and receipt of gas by volume hereafter made in this State, by, for or on behalf of an oil and gas lease owner, royalty owner thereunder, or other mineral interest owner, shall be made, and such gas shall be measured, calculated, purchased, delivered and accounted for on the basis of "a standard cubic foot of gas", as defined in Section 2 of this act. [1949]

Sec. 4. Penalties for violations.

Any person, association of persons, or corporation who, as purchaser thereto, shall violate any of the provisions of this Act, shall, upon conviction, be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), for each offense recoverable in the name of the State, in the Circuit Court of the County in which the offense occurred, and each day of such violation shall constitute a separate offense. One-half of such penalty may be recovered by and for the use of any person, association of persons, or corporation whose gas has not been so measured, calculated, or accounted for, such suit to be brought in the name of and for the use of the party or parties aggrieved. [1949]

Sec. 5. Saving clause.

If any part, section, sub-section, paragraph, sentence, clause, phrase, or word contained in this Act

shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of the Act, and the General Assembly, hereby declares that it would have enacted, and does here now enact, said remaining portions, despite any such invalidity. [1949]

Statutes 1947 Annotated, Vol. 5, Title 54—Log Measurement.

Sec. 54-101. County surveyor to act as timber inspector.

The county surveyors of each county of the State of Arkansas shall be ex-officio timber inspectors for their respective counties and shall discharge the duties and receive the fees herein provided. [1883; last amended 1901.]

Sec. 54-106. Same: Deputy timber inspectors.

Said timber inspectors may appoint one or more deputies for their respective counties, * * * [1883; last amended 1901.]

Sec. 54-301. Certificate of measurement.

Said county timber inspectors shall, in person or by deputy, at the request of any owner of logs, timber or lumber, after a scalement or measurement thereof, make a bill, stating therein the number of logs, the number of feet (board measure) contained in such logs and lumber and the number of feet, cubic, running or board measure, contained in said timber, and at whose request the same was scaled or measured, and to whom scaled or measured, a copy of which bill he shall enter upon the books of his office, to be provided by him and kept for that purpose, with the marks as they occurred upon the logs. A correct bill of the same shall be given to such owner, with a certificate thereto attached that it is a true and correct bill, which bill, so certified, shall be presumptive evidence of the facts therein contained, and of the correctness of such scalement or measurement in all courts, except in favor of the inspector or deputy inspector who made the same. [1883; last amended 1901.]

Sec. 54-302.¹ Method of scaling logs.

Said county timber inspectors and their deputies shall in surveying or measuring logs, make such allowance for hollow, rotten or crooked logs as would make them equal to good, sound, straight, merchantable logs; and all logs that are straight and sound are to be measured at their full size, inside the bark at the small end; and all logs over twenty-four feet long, not exceeding thirty-six feet, shall be scaled or measured as two logs, allowing such rise from the first to the second log as the same may require, or as may seem proper in the opinion of the inspector or his deputy. [1883; last amended 1901.]

¹ See Secs. 79-119-79-122, page 84; standard to be used in measuring logs.

Statutes 1947 Annotated, Vol. 5, Title 54—Log Measurement—Continued.

Sec. 54-311. Fees of timber inspector.

They shall be entitled to receive the following fees for services, viz.: Five cents [5c] per thousand feet for scaling or measuring and making out survey bills for all logs he is called upon to scale or measure; twelve cents [12c] per thousand feet, running measure, for measuring square timber; ten cents [10c] per thousand feet for sawed lumber, including bills; and in all cases such fees shall be paid by the owner of the logs, timber or lumber scaled or measured. * * * [1883; last amended 1901.]

Sec. 54-312. Wage basis for cutting timber.

All wages for piece work when applied to the severance of timber on a cordage basis when such piece work is paid for on the basis of measures of volume or weight, shall be computed upon the basis of such measures of volume or weight as such measures of volume or weight are now or may hereafter be defined by the Statutes of the State of Arkansas. [1939]

Sec. 54-313. Same: Penalty.

Any employer who, in paying wages for piece work, makes payment of an amount less than the wages earned when computed as provided in section 1 of this act [Sec. 54-312], shall be liable to his employee for the difference between the amount paid and the amount of wages earned when computed as provided in section 1 [Sec. 54-312] of this act, shall be liable to said employee for a further sum equal to such difference. [1939]

Sec. 54-314. Price basis for timber purchases.

Any person who purchases products as provided in section one [Sec. 54-312] of this act at a price based on the volume or weight of such products shall pay for the same upon the basis of such measures as such measures are now, or may hereafter be, defined by the Statutes of this State. [1939]

Sec. 54-315. Same: Penalty.

Any person who, in making payment for products bought at a price based on volume, makes a payment of an amount less than the correct total when computed as provided in section 3 [Sec. 54-314] of this act, shall be liable to the seller for the difference between the amount paid and the total when computed as provided in section 3 [Sec. 54-314] of this act, and in addition shall be liable to said seller for a further sum equal to such difference. [1939].

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 2—Economic Poisons.

Sec. 77-201. Definitions.

For the purpose of this act [Secs. 77-201—77-210]:

(a) The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating (1) any insects or other invertebrates (except those living in man and other higher animals), (2) rodents, (3) weeds, and (4) fungi or viruses infecting vegetation. [1947]

* * * * *

Sec. 77-202. Containers; marking requirements.

It shall be unlawful to offer for sale or sell within the State any economic poison * * * except as follows:

* * * * *

(c) The economic poison must be sold in or directly from the registrant's or manufacturer's container, and there must be affixed to said container a label bearing * * * (3) the net weight or measure of the contents. [1947]

* * * * *

Sec. 77-208. Withdrawal from sale.

Inspectors of the Plant Board may by issuance of a written notice to the person in possession, withdraw from sale any economic poison or device which is being offered for sale or sold in violation of the provisions of this act [Secs. 77-201—77-210], and after such notice is issued it shall be unlawful to sell such economic poison or device until the provisions of this act have been complied with [and] a written release has been issued by the Plant Board. [1947]

Sec. 77-209. Penalties for violations.

Any person who shall offer for sale or sell any economic poison or device in violation of any of the provisions of section 2 [Sec. 77-202] or section 8 [Sec. 77-208] of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed three hundred dollars [\$300.00]. [1947]

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 5—"The Agricultural Products Grading Act of 1925."

Sec. 77-502. Definitions.

For the purpose of this act [Secs. 77-501—77-517] the following terms shall be construed respectively, to mean:

"Board"—The State Plant Board of Arkansas.

* * * * *

"Agricultural Products"—Horticultural, viticultural, bee and other agricultural products. [1925]

* * * * *

Sec. 77-503. Promulgation of standards; tolerances.

* * * * * the State Plant Board is hereby authorized and empowered after investigation and public hearing * * * * * to fix and promulgate official standards for containers of farm products and to change any of them from time to time. The Board

in its rules, regulations or notices promulgated pursuant to this act [Secs. 77-501—77-517] shall prescribe such tolerances as may be deemed necessary permitting such variations from the standards fixed under the provisions of this act as are reasonably incident * * * to the manufacture of containers for such products. [1925]

Sec. 77-505. Adoption of federal standards.

The Board is authorized to fix and promulgate as the official standard for this State for any agricultural product or container, the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, * * * [1925]

Sec. 77-513. Compliance with standards for containers.

Whenever any standard for a container for an agricultural product becomes effective under this act [Secs. 77-501—77-517], no person shall thereafter manufacture for commerce within the jurisdiction of this State or sell, ship or offer for sale in such commerce any container either filled or unfilled, to which the standard is applicable which does not comply with such standard subject to such tolerances as may be permitted under this act. [1925]

Sec. 77-515. Penalties for violations.

Any person who shall violate any of the provisions of this act [Secs. 77-501—77-517] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred [\$500.00] dollars or by imprisonment for not more than ninety [90] days or by both such fine and imprisonment. [1925]

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 6—"The Arkansas Fruit and Vegetable Labeling Act of 1947."

Sec. 77-602. Enforcement.

The State Plant Board of Arkansas shall administer and enforce the provisions of this act [Secs. 77-601—77-611]. [1947]

Sec. 77-603. Products to which act applies.

The provisions of this act [Secs. 77-601—77-611] are limited to peaches, tomatoes, strawberries, Irish potatoes and apples which are grown and produced in the State of Arkansas: * * * [1947]

Sec. 77-605. Closed containers: Marking requirements.

It shall be unlawful for any person to expose, or offer for sale, or have in his possession for sale, or sell, transport, deliver or consign any product covered by this act [Secs. 77-601—77-611] in a closed package unless the container has been plainly marked or tagged in an indelible manner showing, (1) the name and address of the producer, shipper or other person responsible for packing the product,

(2) contents in terms of net weight, measure or numerical count. * * * All markings shall be not less than one-fourth inch in height, except that "Culls" must be marked in letters not less than one [1] inch in height. [1947]

Sec. 77-608. Exemptions.

This act [Secs. 77-601—77-611] shall not apply to (1) products sold directly by producer to consumer, (2) products sold by producer in consumer packages or in bulk to retail trade exclusively in the State of Arkansas, and (3) products in transit from point of origin to place of processing, further grading or conditioning within the State of Arkansas. [1947]

Sec. 77-609. Penalties for violations.

Each person, who by himself, his agents or employees, violates any of the provisions of this act [Secs. 77-601—77-611] shall for each offense be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding \$25.00 nor less than \$10.00 for the first offense; not exceeding \$50.00 nor less than \$25.00 or 30 days in jail for the second offense; not exceeding \$200.00 nor less than \$100.00 or 30 days in jail, or both, for the third and all subsequent offenses, and all costs for each and every offense. [1947]

Sec. 77-610. Definitions.

For the purpose of this act [Secs. 77-601—77-611], the following terms shall be construed respectively to mean:

* * * * *

"Closed Package"—A barrel, box, basket, sack, carrier, or crate, of which all of the contents cannot readily be seen or inspected when such package is prepared for market. [1947]

* * * * *

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 7—Cotton Seed Meal and Fertilizer.

Sec. 77-702. Marking requirements.

All persons, companies, manufacturers, dealers or agents, before selling or offering for sale in this State any cotton seed meal, complete fertilizer or fertilizer materials, shall brand, print or attach to each bag, barrel or package, the name and address of the manufacturer or guarantor; the weight of the package, bag, barrel, or otherwise, in pounds; * * * [1947]

Sec. 77-711. Stopping illegal sales.

The Commissioner of Revenues¹ * * * shall have authority to stop the sale of any cotton seed meal, fertilizer or fertilizer materials when it is found in violation of this act [Secs. 77-701—77-714]. [1947]

¹ Now State Plant Board. See Sec. 1, Acts 1949, Act 327, page 93.

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 7—
Cotton Seed Meal and Fertilizer—Continued.

Sec. 77-714. Penalties for violations.

Any person selling or offering for sale any cotton seed meal, fertilizer or fertilizer materials, without first having complied with the provisions of this act [Secs. 77-701—77-714], shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than one hundred [\$100.00] dollars nor more than five hundred [\$500.00] dollars. [1947]

Statutes 1947 Annotated, Vol. 6, Title 77, Ch. 8—Cotton and Cotton Gins.

Sec. 77-805. See cotton: Ginners' records.

Every person or corporation owning and/or operating any cotton gin within this State shall make and keep in a well bound book a record of all seed cotton purchased at or for said gin, which record shall show the name and address of the seller, the amount of seed cotton purchased, the date purchased and the purchase price, * * * [1937]

Sec. 77-806. Same: Penalty.

Any person or corporation owning or operating any gin within the State of Arkansas, who shall fail to make and keep the record required in section 1 [Sec. 77-805] of this act, or who shall refuse or fail to permit inspection thereof, by any of the officers mentioned in section 1 of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$10.00 nor more than \$1,000.00. [1937]

Sec. 77-807. Cotton: Fees for weighing by private weighers.

It shall be unlawful for any person, corporation or warehouseman doing business in this State to charge more than ten [10] cents per bale for weighing, sampling and marking cotton. [1895]

Sec. 77-808. Same: Penalty.

Any persons, corporation or warehouseman violating the provisions of section 1 [Sec. 77-807] of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten [10] nor more than twenty-five [25] dollars. [1895]

Sec. 77-809. Same: Fees for weighing by public weigher.

It shall be unlawful for any person or persons, weighing cotton for, or by the authority of any city of the first or second class or incorporated towns, to charge more than five [5] cents per bale during the months of October, November, December and January, and ten [10] cents for and during the remaining months of each year for weighing and marking cotton. [1899]

Sec. 77-810. Same: Penalty for improper charge.

Any person violating the provisions of section 1 [Sec. 77-809] of this act, shall be deemed guilty of

a misdemeanor, and upon conviction, shall be fined in any sum not less than ten [10] nor more than twenty-five [25] dollars. [1899]

Sec. 77-811. Same: Weighers' records.

All persons weighing cotton for the public, in this State, and receiving compensation therefore, shall be required to keep a book, or record of all cotton weighed by them, giving the weight and marks of each bale, and for whom weighed, and to whom sold, where the purchaser is known to the weigher, which book, or record shall be kept subject to inspection by the public. [1901]

Sec. 77-812. Penalty for violation of preceding section.

Any such weigher who shall refuse to keep such books, or records, or who shall, on demand of any person, fail or refuse to exhibit the same, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty [\$50.00] dollars nor more than one hundred [\$100.00] dollars. [1901]

Acts 1949, Act 227—Commercial Feeding Stuff.

Sec. 1. Marking requirements; standard weight packages.

That every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale in this State, shall have affixed thereto, or printed thereon in a conspicuous place on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying the weight of the package (provided, that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of 5, 10, 25, 50, 75, 100 pounds) * * *. [1949]

Sec. 2. Definition.

That the term "concentrated commercial feeding stuffs" shall be held to include dehydrated foods for dogs and cats and all feeds used for livestock and poultry, except whole hays, straws, and corn stover when the same are not mixed with other materials, nor shall it apply to the unmixed whole seeds or grains of cereals when not mixed with other materials. [1949]

Sec. 6. Bulk sales.

* * * provided, further, whenever any concentrated commercial feeding stuff, as defined in section 2 of this Act, is kept for sale in bulk, stored in bins, or otherwise, the manufacturer, dealer, or jobber, or importer keeping the same for sale shall keep on hand cards of proper size, upon which the statements in section 1 of this Act is or are plainly printed; and, if the feeding stuff is sold at retail in bulk or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber, or importer shall furnish the purchaser with one of said cards, upon which is printed the statement or statements described in this section; * * *

provided, that nothing in this Act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers and manipulators. [1949]

Sec. 11. Rules and regulations.

That the Commissioner of Revenues¹ shall from time to time prescribe and publish rules and regulations for carrying out the provisions of this act. [1949]

¹ Now State Plant Board. See Sec. 1, Acts 1949, Act 327, below.

Sec. 14. Penalty for violations.

That any manufacturer, jobber, importer, agent or dealer who shall violate any of the provisions of this Act, or the regulations adopted by the Commissioner [of Revenues¹], upon conviction thereof, shall be fined not exceeding fifty dollars for the first offense nor more than two hundred dollars for each subsequent offense, * * * provided that the Commissioner or any of his deputies or inspectors shall have the power to compromise the penalty herein fixed by imposing such penalty as the merits of the case demand. [1949]

¹ Now State Plant Board. See Sec. 1, Acts 1949, Act 327, below.

Sec. 15. Notice of violation.

That whenever the Commissioner of Revenues¹ or his duly authorized representative, becomes cognizant of any violation of the provisions of this Act, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if same be known, and after thirty days he shall notify the prosecuting attorney of the district where such violation occurred, who shall cause proceedings to be commenced against the person or persons so violating the Act, and the same prosecuted in the manner required by law. [1949]

¹ Now State Plant Board. See Sec. 1, Acts 1949, Act 327, below.

Acts 1949, Act 327—Commercial Fertilizer and Commercial Feeding Stuffs, Transfer of Functions.

Sec. 1. Transfer of functions of Commissioner of Revenues to State Plant Board.

All of the powers, duties, functions, and authority vested in the Commissioner of Revenues governing the manufacture, sale, distribution, inspection and control of concentrated commercial feeds and all of the powers, duties, functions, and authority vested in the Commissioner of Revenues governing the manufacture, sale, distribution, inspection and control of commercial fertilizers and fertilizer materials and cottonseed meal, are hereby transferred to and conferred upon the State Plant Board. [1949]

Statutes 1947 Annotated, Vol. 7, Title 82, Ch. 9—Food.

Sec. 82-902. Offenses; penalties.

It shall be unlawful for any person to manufacture, sell, offer for sale or have in possession for

the purpose of sale within the State any article of food * * * which is adulterated or misbranded within the meaning of this act [Secs. 82-902—82-910]; and any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and for such offense shall, upon conviction thereof, be fined not to exceed five hundred dollars [\$500.00], or shall be sentenced to one [1] year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be fined not less than one thousand dollars [\$1,000.00] or sentenced to one [1] year's imprisonment, or both such fine and imprisonment, in the discretion of the court. [1907; last amended 1939.]

Sec. 82-903. Rules and regulations.

The authority to promulgate regulations for the efficient enforcement of this Act [Secs. 82-902—82-910] is hereby vested in the State Board of Health. The State Board of Health is hereby authorized (1) to adopt, in so far as practicable, the regulations from time to time promulgated under the Federal Food and Drug Act [21 U. S. C. Sec. 301 et seq.; 52 Stats. 1040 et seq.]; and (2) to make the regulations promulgated under this act conform in so far as practicable with those promulgated under the Federal Act. [1907; last amended 1939.]

Sec. 82-904. Inspections.

The examination of specimens of foods * * * shall be made by the State Health Officer, or under the direction and supervision of such officer, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act [Secs. 82-902—82-910]; * * * [1907; last amended 1939.]

Sec. 82-907. "Food" defined.

* * * The term "food" as used herein shall include all articles used for food, drink, confectionery or condiment by man or other animal, whether simple, mixed or compound. [1907]

Sec. 82-908. Misbranding defined.

For the purpose of this act [Secs. 82-902—82-910], an article shall be deemed to be [misbranded]:

* * * * *
IN THE CASE OF FOOD
* * * * *

Second, (2) [a]. If its container is so made, formed, or filled as to be misleading. (b) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the label-

Statutes 1947 Annotated, Vol. 7, Title 82, Ch. 9—Food
—Continued.

ing) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of [the] package. [1907; last amended 1939.]

* * * * *

Sec. 82-909. Guaranty protection.

No dealer shall be prosecuted under the provisions of this act [Secs. 82-902—82-910] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the State, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecution, fines and other penalties which would attach in due course to the dealer under the provisions of this act. [1907]

Sec. 82-910. Quarantine; condemnation.

(a) Whenever a duly authorized agent of the State Board of Health finds, or has probable cause to believe, that any food, or drug, is adulterated or misbranded within the meaning of this act [Secs. 82-902—82-910], he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been quarantined, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the courts. It shall be unlawful for any person to remove or dispose of such quarantined article by sale or otherwise without such permission.

(b) When an article quarantined under subsection (a) has been found by such agent to be adulterated or misbranded, he shall petition the judge of the police, county, or circuit court in whose jurisdiction the article is quarantined, for the condemnation and destruction of such article. * * * [1907; last amended 1939.]

Sec. 82-927. Vinegar: Marking requirements.

For the purposes of this act [Secs. 82-926—82-931] the following vinegars shall be deemed to be misbranded:

* * * * *

2. If it be labeled or branded so as to deceive or mislead the purchaser.

3. In package form the quantity of the contents be not plainly and conspicuously marked on

the outside of the package in terms of weight, measure or other numerical count; provided, however, that reasonable variations shall be permitted. [1921]

* * * * *

Sec. 82-928. Same: Federal requirements.

The standards of purity and quality together with all rules and regulations governing the quality and the labeling of vinegar which have been or which may hereafter be promulgated and adopted by the secretary of the United States Department of Agriculture under the Federal Food and Drug Act of June 30, 1906, as amended August 23, 1912,¹ shall be in force under this act [Secs. 82-926—82-931]; it being the intent of this act that the same standard of purity and quality and rules and regulations which may now or at any time hereafter be in force under said Federal statute shall also be in force under this act. [1921]

¹ This act was superseded by the Federal Food, Drug, and Cosmetic Act of June 25, 1938, now administered by the Federal Security Agency; 21 U. S. C. 301 et seq.; 52 Stats. 1040 et seq.

Sec. 82-929. Same: Offenses.

It shall be unlawful for any person or persons, firm, partnership, association of persons, company, corporation, or any officer or officers, agent, servant or employee of any such firm, partnership, association of persons, company or corporation, either directly or indirectly to manufacture, produce, sell, offer or expose for sale, any adulterated vinegar within the meaning of this act [Secs. 82-926—82-931], or to sell, expose or offer for sale, any vinegar which is misbranded within the meaning of this act. [1921]

Sec. 82-930. Same: Penalties.

Any person, firm, partnership, association of persons, company, corporation or any officer, agent, servant or employee of such person, firm, partnership, association of persons, company or corporation, violating any of the provisions of this act [Secs. 82-926—82-931], or any of the rules and regulations, governing the quality and labeling of vinegar as set forth and adopted in section 3 [Sec. 82-928] of this act, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding one thousand dollars [\$1,000] and each day any such person, firm, partnership, association of persons, company or corporation, or any officer, agent, servant, or employee thereof shall manufacture or expose or offer for sale any vinegar, the manufacture and sale of which is prevented by this act, shall constitute a separate offense within the meaning of this act. [1921]

Sec. 82-931. Same: Guaranty protection.

No dealer shall be prosecuted under the provisions of this act [Secs. 82-926—82-931] when he

can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party from whom he purchased such vinegar to the effect that the same is not adulterated or misbranded within the meaning of this act or within the meaning of the rules and regulations governing the quality and labeling of vinegar as set forth and adopted in section 3 [Sec. 82-928] of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such vinegar to such dealer and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act. [1921]

Statutes 1947 Annotated, Vol. 7, Title 82, Ch. 9—
Testing of Milk and Cream.

Sec. 82-913. Jurisdiction.

* * * nothing in this act [Secs. 82-912—82-918] shall be construed to deprive any city of the First or Second Class of any of its police powers now or hereafter granted. * * *

* * * the duties discharged under the terms of this act shall be discharged in so far as is practicable and reasonable in cooperation with the municipal authorities wherever such authorities exist. [1941]

Sec. 82-914. False tests; methods of test; scales; glassware.

It shall be unlawful:

(2) In determining the value of milk, cream or other dairy products by the use of the Babcock test, to give any false reading or in any way manipulate the test so as to give a higher or lower per cent of butterfat than the milk, cream or other dairy products actually contain, or to cause any inaccuracy in reading the per cent of butterfat by securing from any quantity of milk, cream or other dairy products to be tested an inaccurate sample for the test. The result of test reported to producer for basis of payment must be the same as laboratory record of the test, all records to be in indelible pencil or ink and filed for a period of at least sixty [60] days. * * *

(3) To use other than the Babcock method, or such method of testing as may be approved by the American Association of Agricultural Chemists or the American Dairy Science Association, when testing milk or cream, the test of which is to be used as a basis for making payment for the milk or cream thus tested.

(4) To use other than torsion balance scales, or such scales as may be approved by the American Association of Agricultural Chemists or the American Dairy Science Association when weighing cream

for testing, when such tests are to be used as a basis for making payment for such cream.

* * * * *

(6) To use other than specifications for apparatus and chemicals and directions for testing milk and cream which conform to those adopted by the American Association of Agricultural Chemists or the American Dairy Science Association with such additions as are deemed advisable to make them applicable to the provisions of this act [Secs. 82-912—82-918]. All types of test tubes, bottles, pipettes, instruments, or specified weights used in connection with testing or determining the value of milk, cream or other dairy products by the use of the Babcock test shall be approved by the American Association of Agricultural Chemists or the American Dairy Science Association. Cream test weights shall be certified by the manufacturer as to accuracy and stamped on both top and bottom. [1941]

Sec. 82-916. Violations; penalty.

Any person or persons, firm or corporation who shall hinder or obstruct or in any way interfere with the State Health Officer or his deputies while discharging the duties of inspection * * *, or who shall in any way obstruct or hinder said State Health Officer from carrying out the full meaning and intent of sections of this act [Secs. 82-912—82-918], * * *, shall be guilty of a misdemeanor and shall be fined a sum not less than twenty-five [\$25.00] dollars, nor more than three hundred [\$300.00] dollars. [1941]

Sec. 82-917. Appointment of deputies.

The State Board of Health is hereby authorized and empowered to appoint such deputies and office assistants as in its judgment may be deemed necessary to fully carry out the provisions of this act [Secs. 82-912—82-918]: * * * [1941]

Statutes 1947 Annotated, Vol. 7, Title 82, Ch. 10—
Narcotic Drugs.

Sec. 82-1010. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1937]

Sec. 82-1019. Enforcement officers.

It is hereby made the duty of the State Health Officer, his officers, agents, inspectors and representatives, and of all peace officers within the State, and of all county attorneys, to enforce all provisions of this act [Secs. 82-1001—82-1023], * * * [1937]

Statutes 1947 Annotated, Vol. 7, Title 82, Ch. 10—
Narcotic Drugs—Continued.

Sec. 82-1020. Penalties for violations.

Any person violating any provision of this act [Secs. 82-1001—82-1023] shall upon conviction be punished, for the first offense, by a fine not exceeding \$100.00 or by imprisonment in jail for not exceeding six [6] months, or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding \$500.00 or by imprisonment in State prison for not exceeding one year or by both such fine and imprisonment. [1937]

Statutes 1947 Annotated, Vol. 6, Title 73, Ch. 2—
Public Utilities.

Sec. 73-218. Rules and regulations; meters.

The Department [Arkansas Public Service Commission], upon complaint, or upon its own motion, shall, upon reasonable notice and after a hearing, have the power to:

* * * * *

(3) * * * prescribe reasonable regulations * * * for the measurement thereof [gas or electricity for light, heat, or power purposes and water, within municipalities for municipal, domestic, or industrial use], establish or approve reasonable rules, regulations, specifications and standards to secure the accuracy of all meters or appliances for measurement; and provide for the examination and testing of any and all appliances used for the measurement of any product, commodity, or service of any public utility. [1935]

* * * * *

Statutes 1947 Annotated, Vol. 6, Title 73, Ch. 13—
Railroad Track Scales.

Sec. 73-1342. Duties of railroads.

All railroads operating in this State are hereby required to keep and maintain track or railroad scales at all stations or depots where as many as one hundred [100] cars of coal, corn or cotton seed are received annually by such railroad; and said railroads are hereby required at the request of the consignee of a car load of coal to properly weigh each and every such car after the same shall reach its destination and furnish to each such consignee, upon request, by a written certificate of weighman, within one day after such car shall have reached its destination, correct weight of each carload of coal received for such consignee.

And no consignee shall be required to pay any freight or other railroad charge until furnished as aforesaid with said weights, nor pay any greater amount of freight than is shown by such certificate. [1907]

Sec. 73-1343. Penalty for violations.

Any railroad in this State failing or refusing to comply with any of the provisions of this act [Secs.

73-1342, 73-1343] shall be subject to a penalty of not less than one hundred [\$100.00] nor more than five hundred dollars [\$500.00], to be paid to the county in which such point of destination lies, for every failure or refusal to comply with the provisions of this act; and each day upon which it may refuse or fail to comply with this act shall constitute a separate offense. [1907]

Sec. 73-1344. Weighing of railroad cars; certificates.

At all such stations it shall be the duty of the railroad company to properly weigh each and every car after the same shall have been loaded and furnish to each shipper by written certificate of weighman within one day after the same shall have been received by said company, correct weights of each car and of the contents of each car delivered to them by the shipper. [1903]

[Ed. NOTE.—In Arkansas Statutes 1947 Annotated, following the foregoing section, it is stated: "The words 'all such stations' in this section refer to the stations at which scales were required to be maintained under Sec. 1 of this act which was superseded by Sec. 73-1342. Section 1 of this act, however, was limited to providing scales for the weighing of coal and it is therefore probable that Secs. 73-1344—73-1346 are still limited in their application to the weighing of coal."]

Sec. 73-1345. Contents of certificate of weight.

The certificate of weight to be given to shippers as provided in section 2 [Sec. 73-1344] * * * shall contain in addition to the correct weight of the car and its contents, the date of delivery and the number of the car. [1903]

Sec. 73-1346. Non-compliance with weighing provisions: Penalty.

Any railroad in this State failing or refusing to comply with any of the provisions of this act [Secs. 73-1344—73-1346] shall be subject to a penalty of one hundred dollars [\$100.00] to be paid to the county, for every failure or refusal, and each day upon which it may refuse or fail to comply with this act shall constitute a separate offense. [1903]

[Ed. NOTE.—Sec. 73-126, Arkansas Statutes 1947 Annotated, provides for enforcement of laws pertaining to railroads, as follows: "It is hereby made the duty of the Commission [Arkansas Public Service Commission], on complaint, to enforce by necessary order or orders, any or all laws of this State pertaining to railroads and express companies."]

Acts 1907, Act 196—Public Ginners and Weighers.

Sec. 1. Definition.

That each and every person, individual, firm or corporation, who maintain and operate a ginnery for the purpose of ginning, packing, and baling cotton are hereby declared to be a public ginner, and a public and lawful weigher of cotton in his county. [1907]

* * * * *

Sec. 2. Duties; fees; certificates.

It is hereby made the duty of each public ginner to keep an accurate pair of scales and correctly weigh each bale of cotton ginned and baled by him, or caused to be ginned and baled by him, as soon as taken from the press. And he shall keep in a book, to be provided by him, a record of the number of the bales ginned and packed by him, the date each bale was ginned and packed and the name of the owner thereof.

And he shall plainly and securely place upon, or attach to, each bale of cotton so ginned and baled by him, by stamp, tag or otherwise, the number and weight thereof.

He shall be allowed to charge five cents for weighing each bale of cotton so ginned by him. And he shall give to each owner or person for whom he may gin and bale cotton a certificate showing the number and weight of each bale of cotton and the date of ginning. [1907]

Sec. 3. County clerk to test scales.

It shall be the duty of the county clerk to cause to be tested by the standard or test furnished to each county clerk, the scales of each public ginner in his county once a year or as much oftener as may be necessary. [1907]

Sec. 4. Inaccurate or false weighing.

That if any ginner, his agent or employee, knowingly weigh any bale of cotton inaccurately, or falsely weigh same, he shall be guilty of a misdemeanor. [1907]

Sec. 5. Penalty; scope of act.

Any person who shall violate any provision of this act [Secs. 1-5], shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten dollars nor more than twenty-five dollars.

Provided, the provisions of this Bill shall apply only [to] the counties of Bradley, Drew, Ashley, Nevada, Woodruff, Lincoln, and Chicot. [1907]

Acts 1923, Special, Act 259—County Weigher for Jackson County.

Sec. 1. Election.

That at the next general election for State and county officers, and every two years thereafter, there shall be elected in the same manner and under the same restrictions as provided by law for the election of other county officials, a county weigher for the County of Jackson, who shall hold his office for a term of two years, or until his successors shall have been elected and qualified. [1923]

Sec. 2. Bond.

That any county weigher elected or appointed under the provisions of this Act [Secs. 1-9], before entering upon the duties of his office shall execute

a good and sufficient bond to the State of Arkansas in the sum of two thousand dollars to be conditioned upon the faithful performance of his duties as such officer, said bond to be approved by the county judge of said county. [1923]

Sec. 3. Duties.

That when a county weigher is elected or appointed under the provisions of this Act [Secs. 1-9], he shall prepare a convenient place in the city of Newport in said county, easy of access to the public, and he shall keep a pair of scales which shall be tested as is now provided by law, and shall weigh, without unnecessary delay, all cotton in the bale, cotton seed and coal sold or marketed in the city of Newport or which may be delivered to purchasers in the city of Newport under a purchase made elsewhere in Jackson County. He shall also weigh any cotton in the seed, grain, cattle, hogs, or any other article of produce not above specifically mentioned sold in the city of Newport when either the buyer or seller shall demand the weighing thereof. [1923]

Sec. 4. Appointment of deputies; bond.

That any county weigher elected or appointed under this Act [Secs. 1-9] shall have the power and authority to appoint one or more deputies for whose official acts he shall be responsible, and he shall require of such deputies a good and sufficient bond to the State of Arkansas in the sum of one thousand dollars conditioned upon the faithful performance of his duties as such deputy and for the protection of the county weigher for any loss which he might sustain by any act of such deputy, said appointment and bond to be approved by the county judge of said county. [1923]

Sec. 5. Certificates of weight; records.

Said county weigher, and any deputy appointed, shall deliver to the person or persons having any commodities weighed a certificate giving the gin number and weight of each bale of cotton and the date of weighing, and shall also give a certificate showing the weight and the date of weighing of all cotton in the seed, coal, grain, cattle, hogs or other produce weighed by him. He shall keep a record of all cotton and other commodities weighed by him, and said record shall be kept in his office subject to public inspection at all times. [1923]

Sec. 6. Fees.

Any county weigher elected or appointed under the provisions of this Act [Secs. 1-9] shall receive as full compensation for his services 10 cents for each bale of cotton weighed and 10 cents for each wagon or truck load or each separate amount or draft of cotton, cotton seed, coal, cattle, hogs, hay, grain or other produce that he may be required or called on to weigh. Said fees for such weighing shall be paid by the purchaser. [1923]

Acts 1923, Special, Act 259—County Weigher for Jackson County—Continued.

Sec. 7. Penalty for violations.

If any person or persons, firm or corporation, other than the said county weigher or his legally appointed deputy, shall weigh or attempt to weigh any cotton in the bale, cotton seed, or coal sold or marketed in the city of Newport, where said county weigher maintains scales as provided for in this Act

[Secs. 1-9] and is acting in his official capacity in person or by legally appointed deputy, such person or persons, firms or corporations shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than twenty-five dollars, and each weighing or attempted weighing of each bale of cotton or each separate amount of cotton seed or coal shall constitute a separate offense. [1923]

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Constitution, Art. XI—Legislative Power Relating to Weights and Measures.

Sec. 14. Legislature may provide for measurement of merchandise and appointment of officers for such measurement.

The legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise, manufactured articles and commodities, and may provide for the appointment of such officers as may be necessary for such inspection, measurement and graduation. [1911]

Deering's Business and Professions Code, Div. V, Ch. 1—General Provisions Relating to Weights and Measures.

[Ed. NOTE.—Under Statute 1939, Ch. 43, Sec. 1, providing for the codification of certain weights and measures laws, which codification is published in Deering's Business and Professions Code as Division V, and under several other statutes, certain previously enacted statutes relative to weights and measures were repealed. These repealed statutes were originally enacted, or were based upon, statutes enacted during the period 1872–1935.]

Sec. 12001. Definitions limited to this division.

The definitions in this chapter [Secs. 12001–12027] apply to this division [Secs. 12001–13001] only and do not affect the provisions of any other division. [1939]

Sec. 12002. Definitions: Department.

"Department" means the State Department of Agriculture. [1939]

Sec. 12003. Same: Director.

"Director" means the Director of Agriculture of the State of California. [1939]

Sec. 12004. Same: State Sealer.

"State Sealer" means the chief of the division of the department charged with the enforcement of the provisions of this division [Secs. 12001–13001]. [1939]

Sec. 12005. Same: Deputy State Sealer.

"Deputy State Sealer" means any sealer appointed by the State to serve in a county having no county sealer. [1939]

Sec. 12006. Same: County Sealer.

"County Sealer" means any sealer appointed by a county.¹ [1939]

¹ See Sec. 12200, page 106.

Sec. 12008. Same: "Sealer," when used separately.

"Sealer," when used without qualification, includes the State Sealer, Deputy State Sealers, and county sealers and their deputies. [1939]

Sec. 12009. Same: Sell.

"Sell," in any of its variant forms, includes barter, exchange, trade, keep for sale, offer for sale, or expose for sale, in any of their variant forms. [1939]

Sec. 12010. Same: Use.

"Use," in any of its variant forms includes keep for use in any of its variant forms. [1939]

Sec. 12011. Same: Person.

"Person" includes person, firm, corporation or association. [1939]

Sec. 12011.5. Same: Copies; standards; copies of the standard weights and measures.

Wherever in this division [Secs. 12001–13001] the terms "copies" or "standards" or "copies of the standard weights and measures" are used, such terms shall refer to the original standards in the possession of the department or to true and accurate copies derived therefrom. [1939]

Sec. 12011.6. Same: Container.

"Container" means any receptacle or carton, whether lidded or unlidded, into which a commodity is packed or placed, or any wrappings with or into which any commodity is wrapped or put for sale. [1949]

Sec. 12012. Director's powers, how exercised.

The director may exercise any power conferred upon the department or upon the State Sealer by

Deering's Business and Professions Code, Div. V, Ch. 1
—General Provisions Relating to Weights and Measures—Continued.

this division [Secs. 12001–13001] through the State Sealer or otherwise. [1939]

Sec. 12013. Police powers of sealers.

All sealers and their deputies, in the performance of their official duties, have the powers of peace officers. [1939]

Sec. 12014. Sealing or condemning without test.

Any sealer who seals any weight, measure, balance or weighing or measuring instrument or apparatus before first testing and making it conform with the standards of the State, or who condemns any weight, measure, balance or weighing or measuring instrument or apparatus without first testing it is guilty of a misdemeanor. [1939]

Sec. 12015. Sealer's duty to prosecute.

Any sealer having knowledge of a violation of any of the provisions of any law relating to weights and measures shall cause the violator to be prosecuted. [1939]

Sec. 12016. Interference with sealer.

Any person who hinders or obstructs in any way any sealer, or his deputy, in the performance of his official duties, is guilty of a misdemeanor. [1939]

Sec. 12017. Corporate responsibility.

All officers, directors and managers of corporations, whose respective corporations use or sell any weights, measures, or weighing or measuring instruments which are subject to inspection shall comply with the provisions of this division [Secs. 12001–13001] on behalf of their respective corporations; and all officers, directors and managers of corporations, whose respective corporations sell any commodity which is subject to inspection shall comply with the provisions of this division on behalf of their respective corporations.

In case any corporation violates any of the provisions of this division, the corporation and the officers thereof directly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor. [1939]

Sec. 12018. Refusal to exhibit.

Any person neglecting or refusing to exhibit any weight, measure, weighing or measuring instrument, or appliances and accessories connected therewith in his possession or under his control, to any sealer for inspection and examination is guilty of a misdemeanor. [1939]

Sec. 12019. False weight or measure: Definition of.

A false weight or measure is one which does not conform to the standard established or recognized by this division [Secs. 12001–13001]. [1939]

Sec. 12020. Same: Use of false weight or measure; misdemeanor.

Every person who uses any weight or measure, or any weighing or measuring instrument, knowing it to be false, is guilty of a misdemeanor. [1939; last amended 1947.]

Sec. 12021. Same: False labeling or tare; misdemeanor.

Every person who knowingly marks or stamps false or short weight or measure, or knowingly takes false tare, on any container, or knowingly sells any container so marked, is guilty of a misdemeanor. [1939; last amended 1941.]

Sec. 12022. Concealing materials to increase weight; penalty.

Every person who, in putting up in any container, goods usually sold by weight, puts in or conceals therein any other substance including moisture, except such moisture as may be included or absorbed by the goods or commodity contained therein during preparation for market or processing in accordance with ordinary commercial practice, for the purpose of increasing the weight of such container with intent thereby to sell the goods therein or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars (\$25.00) for each offense. [1939; last amended 1941.]

Sec. 12023. Sale by net weight, measure, or count required.

Every person who by himself or his employee or agent, or as the employee or agent of another, sells any commodity, at, by, or according to gross weight or measure, or at, by, as, of, or according to any weight, measure or count which is greater than the true net weight, measure or count thereof, or which is less than the standard net weight, standard net measure or standard net count, including tolerances, as such standards and tolerances are established pursuant to the provisions of this division [Secs. 12001–13001] is guilty of a misdemeanor. [1939]

Sec. 12024. Misrepresentation of quantity.

Every person, who by himself, or through or for another, sells any commodity in less quantity than he represents it to be is guilty of a misdemeanor. [1939]

Sec. 12024.4. Poultry, fowl and rabbits: To be sold by live weight, dressed weight, or table dressed weight; marking requirements when sold in original packages.

It shall be unlawful for any retailer to sell or advertise for sale to the consumer any poultry, fowl, or rabbits, in any manner other than live weight, dressed weight, or table dressed weight; provided, however, that this does not prevent the sale of baby chicks, turkey poults, started chicks, started poults, laying hens, or breeding stock by the head count.

"Live weight" shall mean the weight of poultry, fowl, or rabbits alive.

"Dressed weight" shall mean the weight of the poultry or fowl, after being killed, and plucked of feathers.

"Table dressed weight" shall mean the weight of poultry or fowl when completely dressed or dismembered for cooking.

"Dressed weight" and "table dressed weight" of rabbit shall be synonymous, and shall mean the weight of the rabbit, after being killed, and skinned, and the head, feet, and entrails removed.

In each separate transaction the weight of the poultry, fowl, or rabbit, upon which the basis of settlement is made, shall be the weight of the commodity when prepared and delivered in the manner as specified by the customer.

Provided, however, that any commodity specified in this section need not be weighed at time of sale when the commodity is sold in the wrapper or container in which it was received, or into which it was packed, and on which appears the net weight of the commodity therein, as marked by the processor, packer, wholesaler, or jobber, and further providing that the name and address of the processor, packer, wholesaler, or jobber, shall be clearly and conspicuously stated in connection with the statement of net weight. [1949]

Sec. 12024.5. Sale of meat, fish, poultry, etc. by weight required.

It shall be unlawful for any person to sell or advertise for sale in retail stores for consumer use any dressed poultry or any other fowl or rabbits in dressed form, or smoked, fresh or pickled meats or fish other than by weight determined at time of sale on a scale or a beam properly sealed in accordance with the provisions of this division [Secs. 12001-13001]; provided, however, that any commodity specified in this section need not be weighed at time of sale when sold in the wrapper or container in which it was received by the retailer or into which it was packed and on which appears the net weight of the commodity therein as marked by the manufacturer, processor, packer, wholesaler, or jobber. [1939; last amended 1949.]

Sec. 12025. Refusal to exhibit commodity; misdemeanor.

Any person, who by himself, or his employee or agent, or as a proprietor or manager, refuses to exhibit any commodity being sold at a given weight or quantity, or ordinarily so sold, to a sealer for the purpose of allowing the same to be proved as to the quantity thereof is guilty of a misdemeanor. [1939]

Sec. 12026. Violation of provisions a misdemeanor.

Except as otherwise specifically provided, any person violating any of the provisions of this division [Secs. 12001-13001] is guilty of a misdemeanor. [1939]

Sec. 12027. Rules and regulations.

The director may make rules and regulations for the purpose of carrying out the provisions of this division [Secs. 12001-13001]. [1939]

Deering's Business and Professions Code, Div. V, Ch. 2, Art. 1—State Administration.

Sec. 12100. Supervision of weighing and measuring devices.

Where not otherwise provided by law, the Department of Agriculture has general supervision of the weights and measures and weighing and measuring devices sold or used in the State. [1939]

Sec. 12101. Investigations by department of agriculture.

The department shall investigate conditions in the various counties and cities in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers. [1939]

Sec. 12102. Departmental reports.

The department shall annually report to the Governor, and shall prior to each regular session report to the Legislature the work under this division [Secs. 12001-13001], and shall make such recommendations as may be proper and necessary. [1939]

Sec. 12103. Departmental records.

The department shall keep a complete record of all of its acts, a record of prosecutions, and the reports of the various sealers. These records and reports shall be open to the public. [1939]

Sec. 12103.5. Enforcement officers.

The duty of enforcing this division [Secs. 12001-13001] and carrying out its provisions and requirements is vested in the director and in each sealer acting under the supervision and direction of the director. [1945]

Sec. 12104. Instructions to sealers.

The department shall issue instructions and make recommendations to the county sealers and such instructions and recommendations shall govern the procedure to be followed by such officers in the discharge of their duties. [1939]

Sec. 12105. Departmental biennial inspections.

The department shall, at least once in two years, inspect the work of the local sealers and may inspect the weights, measures, balances or any other weighing or measuring devices of any person. [1939]

Sec. 12106. Equipment of state institutions to be tested.

The department shall, at least once annually and as often as requested by the Department of Finance or the executive officer of a State institution, test the scales, weights and measures used in checking the receipt and disbursement of supplies in any

Deering's Business and Professions Code, Div. V, Ch. 2, Art. 1—State Administration—Continued.

State institution, and shall report in writing its findings to the executive officer of the institution concerned and to the Department of Finance. [1939]

Sec. 12107. Tolerances and specifications.

The department may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State similar to the tolerances and specifications recommended by the National Bureau of Standards, and it may establish a standard or standards of net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients, and prescribe such tolerances for the same as may be necessary for the proper protection of the public.

Whenever a standard of net weight or net measure or net count has been established for any commodity, it is unlawful to sell such commodity by, at, or for a quantity greater or less than the standard by more than the prescribed tolerance. [1939; last amended 1945.]

Sec. 12107.5. Container tares.

The department may establish a tare or tares for each of the several types of containers used in making deliveries of edible agricultural commodities to shippers, processors or other handlers and prescribe such tolerances as may be necessary for the proper protection of persons engaging in transactions wherein the computation of tares affects the purchase price.

Such tares shall be established in accordance with rules and regulations promulgated by the director. The director, and sealers under his supervision and direction, shall be the enforcing officers of this section.

Any person who deducts a tare for the containers herein specified shall keep a record of such deductions for one year, which record shall be subject to inspection by the director and any sealer.

It shall be unlawful to deduct any such container tare different than a tare established by the director. A violation of this section shall constitute a misdemeanor. [1945]

Deering's Business and Professions Code, Div. V, Ch. 2, Art. 2—Local Administration.

Sec. 12200. County sealer: Appointment; term; removal; expenses; deputies.

There is in each county the office of county sealer of weights and measures. The county sealer shall be appointed by the board of supervisors, except in chartered counties where a different method of appointment is prescribed. The term of office of such sealer is four years from and after his appointment and until his successor is appointed but he may be removed as hereinafter provided.

In addition to his salary each county sealer and deputy county sealer is entitled to his necessary traveling and other expenses incurred in the performance of his duties.

A county sealer may, with the consent of the power appointing him, appoint a deputy or deputies when necessary or expedient to carry out the duties of his office. Such deputies shall serve at the pleasure of the county sealer.

The sealer may employ such clerks and employees as may be approved by the appointing power. Any such clerk or employee shall not have authority to enforce the provisions of this chapter [Secs. 12100—12217]. [1939; last amended 1947.]

Sec. 12201. Same: Vacancy.

If from any cause a vacancy occurs in the office of county sealer, the director upon learning of such vacancy shall immediately transmit to the board of supervisors or other appointing power a list of persons certified by him to be eligible for the position. If the appointing power fails to appoint a county sealer within 30 days after the receipt of such list, the director shall assign as soon as practicable a Deputy State Sealer who shall perform all the duties of the county sealer in such county.

The actual cost of such services shall be paid by the county in the same manner in which other claims against the county are paid.

The compensation for a Deputy State Sealer shall be in accordance with the salary range established by the State Personnel Board for this classification. In addition to this compensation, the Deputy State Sealer shall be repaid by the county for his actual traveling expenses in connection with his work in the county. [1939; last amended 1947.]

Sec. 12202. Examination for county and deputy county sealers; Eligibility.

The director shall cause to be examined persons desiring to become county sealers and deputy county sealers and shall prescribe rules and regulations governing such examinations given for the purpose of determining the fitness, experience, and qualifications of candidates for these positions. Successful candidates shall be given a certificate of eligibility which shall be good for five years unless revoked. [1939]

Sec. 12203. Eligibility certificates for county sealers.

No person shall hereafter be appointed to the office of county sealer or deputy county sealer unless he has a certificate of eligibility from the director; provided that, if the position of deputy county sealer cannot be filled from the lists, a temporary appointment may be made, upon the written recommendation of the director, for a period not exceeding six months. Certificates of eligibility of incumbent county sealers and deputy county sealers shall be renewed upon expiration without further examination. [1939; last amended 1947.]

Sec. 12204. Same: In chartered counties.

In chartered counties providing for civil service examination of sealers and deputy sealers the director shall issue a certificate of eligibility without further examination upon presentation of a certificate showing the candidate has passed such examination. In such counties the board or commission responsible for such civil service examination may require a certificate of eligibility from the director as a minimum qualification. [1939]

Sec. 12205. Attendance at meetings of sealers' association.

For the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office, every county sealer and Deputy State Sealer serving in a county shall attend the annual meeting of the voluntary association of the sealers of the State and such other meetings as the department or the board of supervisors requires.

He shall be allowed all actual and necessary traveling expenses incurred while on any service that requires him to go outside the county. Such expenses shall be a charge against the county in which he is employed. [1939]

Sec. 12206. Jurisdiction of county sealers.

The jurisdiction of a sealer appointed by, or a Deputy State Sealer employed for, a county extends over the entire territorial limits of the county. [1939]

Sec. 12209. Sealers' standards and reports.

Every sealer shall:

(a) Carefully preserve all copies of the standards of weights and measures in his possession;

(b) Keep the copies in a safe and suitable place when not actually in use;

(c) Annually and at such other times as the department requires file with the department a written report of the work done by him, of the weights, measures, weighing and measuring instruments inspected or tested by him, the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this division [Secs. 12001-12901] and of all other matters and things pertaining to his duties or which may be required by the department. [1939]

Sec. 12209.5. Educational material.

Each sealer may, when so directed by the board of supervisors, issue and cause to be distributed to such persons as he may deem proper illustrative material or statements best adapted to insure the correct use of weights and measures and weighing and measuring devices and may prepare exhibits designed to inform the public for its protection of the duties performed by weights and measures officials. [1941]

Sec. 12210. Testing of weighing and measuring devices.

Each sealer shall, within his county inspect, try and test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, sold, or used by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area, weight or measurement of quantities, things, produce, articles for distribution or consumption, purchased or offered or submitted by such person or persons for sale, hire or reward and ascertain if the same are correct. [1939]

Sec. 12211. Inspection of packaged goods; seizure.

Each sealer shall, from time to time, weigh or measure packages, containers or amounts of commodities sold, or in the process of delivery, in order to determine whether the same contain the quantity or amount represented and whether they are being sold in accordance with law.

Whenever a package or container is found to contain a less amount than that represented, the sealer shall in writing order same off sale and require that an accurate statement of quantity be placed on each such package or container before same may be released for sale by the sealer in writing. The sealer may seize as evidence any package or container which is found to contain a less amount than that represented. [1939; last amended 1949.]

Sec. 12212. Frequency of tests.

Each sealer shall, at least once in each year, or as much oftener as he deems necessary, see that the weights, measures and all weighing and measuring apparatus, used in his county are correct. [1939]

Sec. 12213. Right of entry.

Each sealer may, in the general performance of his duty, without formal warrant, enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk-dealer, driver of a coal, ice, delivery, or other wagon or vehicle, containing commodities for sale or delivery and, if necessary, require him to proceed with the commodity to some place which the sealer may specify for the purpose of making the proper tests. [1939]

Sec. 12214. Removal of sealer from office.

Upon satisfactory evidence presented to the director that the county sealer of any county is guilty of neglect of duty, incompetence, or misconduct in office, the trial board hereinafter provided for shall hold a hearing or hearings at such times and places as it shall provide.

The director and the president of the voluntary association of the sealers of the State shall select an impartial third person who, with them, shall com-

Deering's Business and Professions Code, Div. V, Ch. 2,
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pose a county sealer's trial board to determine whether the sealer is guilty of the charges presented.

At least 10 days prior to the date of hearing the director shall give notice in writing to said sealer of the time and place of hearing and such information as to the nature of the charges as will enable the sealer to make a defense thereto.

At such hearing or hearings, the trial board shall hear such evidence as is offered and thereafter within 30 days make an order dismissing the charges or an order disqualifying the sealer.

In case the order disqualifies the sealer, the director shall forthwith revoke the sealer's certificate of eligibility and declare the office vacant and a copy of the order shall be immediately transmitted by the director to the board of supervisors and the auditor of the county in which the sealer held office.

The certificate of a deputy sealer may be revoked in the same manner and for the same causes that a certificate of a sealer may be revoked. [1939; last amended 1947.]

Deering's Business and Professions Code, Div. V,
Ch. 3—Standards of Weights and Measures.

Sec. 12300. Construction of contracts for work or sale of commodities.

Contracts made within this State for work to be done or for anything to be sold or delivered by weight or measure shall be construed according to the common standards, or according to the weights and measures of the metric system authorized by Congress, as the contract provides. [1939]

Sec. 12301. Contract based on metric system.

No contract or pleading is invalid or subject to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system. [1939]

Sec. 12302. Common standards of weights and measures.

The standard weights and measures now in charge of the State Department of Agriculture and furnished to this State by the government of the United States, are the common standards of weights and measures throughout the State, and consist of:

(a) One standard yard measure.

(b) One set of standard weights, comprising one troy pound, and nine avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five, and fifty pounds, respectively.

(c) One set of standard troy ounce weights, divided decimally from 10 ounces to the one ten-thousandth of an ounce.

(d) One set of standard liquid capacity measures, consisting of one wine gallon of two hundred and thirty-one cubic inches, one half-gallon, one quart, one pint, and one half-pint measure.

(e) One standard half-bushel, containing one

thousand and seventy-five cubic inches and twenty-one hundredths of a cubic inch, according to the inch hereby adopted as the standard. [1939]

Sec. 12303. State standards of weights and measures.

The standards of weights and measures received from the United States, such new weights and measures as may be received in addition thereto or renewal thereof, and such copies as shall be procured by the State and certified by the National Bureau of Standards are the State standards by which all State and county standards of weights and measures shall be tried, proved and sealed. [1939]

Sec. 12304. Same: Safekeeping of; certification of.

The standards shall be kept by the department in a safe and suitable place in its office from which they shall not be removed except for repairs or certification.

The department shall maintain such standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. [1939]

Sec. 12305. Same: Copies of; when used.

In addition to the original standards, the State shall also have a complete set of copies of the original standards of weights and measures for adjusting county standards. The original standards shall not be used except for the adjustment of this set of copies and for certification purposes. [1939]

Sec. 12306. Same: Additional copies of; copies for deputy state sealers.

Additional complete sets of copies of the original standards of weights and measures may be purchased by the department when necessary for use by any deputy State sealer employed in counties. The department shall provide copies of the original standards for use by deputy State sealers in counties. [1939]

Sec. 12308. County copies of State standards.

The legislative body of each county shall, upon the appointment of a sealer provide copies of the State's standards of weights and measures at county expense. These copies shall be verified and certified to by the department. [1939]

Sec. 12309. Same: By whom furnished; test and approval of; certification of.

The department shall, at the request of the legislative body of any county, furnish copies of the standard weights and measures of the State at the expense of the county requesting them. It shall upon request of the legislative body of any county or upon the request of a sealer of any such county test and approve copies of the State's standards of weights and measures procured by such county to be used by a county sealer.

Copies furnished under the provisions of this section or copies tested and approved shall be true

and correct; shall be sealed and certified to; and stamped with the letter "C". Such copies need not be of the same material or construction as the standards of the State and such copies may be furnished in any suitable materials or construction that the county requiring the same may specify, subject to the approval of the department. [1939]

Sec. 12310. Same: Correction of by department.

The department shall inspect and correct the standards used by each county and at least once in two years compare the same with those in its possession and keep a record of the same.

Sealers shall, upon the request of the department, deliver to it the copies of the State's standards of weights and measures in their possession, and used in the discharge and performance of their duties, for verification and certification. Any incidental expense of such comparison and verification shall be borne by the county whose weights and measures are compared and verified. [1939]

Sec. 12311. Sealer's duty to have copies of standards in his possession tested and proved.

Every sealer shall, at least every two years, cause to be proved and tested by the department copies of the standards in his possession. If, upon inspection, the copies of the weights and measures tested are found to be incorrect, they shall be adjusted, if practicable, but if not, new copies shall be procured and certified to in the same manner as original copies. [1939]

Sec. 12312. Certified standards as evidence.

In any prosecution for a violation of any of the provisions of this division [Secs. 12001-13001] any copy of the standards of weights and measures of the State furnished, procured, and certified to under the provisions of this division, shall be admitted in evidence upon the trial as prima facie true and correct. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 4—Units of Weight and Measure.

Sec. 12400. Standard units of weight.

The standard avoirdupois and troy weights are the units of weight from which all other weights are derived and ascertained. [1939]

Sec. 12401. Same: Avoirdupois pound; hundredweight; ton; ounce.

The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred sixty, is divided into sixteen equal parts, called avoirdupois ounces; the hundred weight consists of one hundred avoirdupois pounds, and twenty hundred weight constitutes a ton. The avoirdupois ounce is divided into sixteen equal parts called avoirdupois drams. [1939]

Sec. 12402. Same: Troy ounce; pennyweight; grain.

The troy ounce is equal to the twelfth part of

the troy pound. The troy pennyweight is equal to the twentieth part of the troy ounce, and the troy grain is equal to the twenty-fourth part of the troy pennyweight. [1939]

Sec. 12403. Same: Apothecary's pound; ounce; dram; scruple; grain.

The apothecary's pound is equal to the troy pound. The apothecary's ounce is equal to the twelfth part of the apothecary's pound. The apothecary's dram is equal to the one-eighth part of the apothecary's ounce. The scruple is equal to the one-third part of the apothecary's dram, and the grain is equal to one-twentieth of the scruple. [1939]

Sec. 12404. Full weight in avoirdupois tons and pounds: Violation a misdemeanor.

In all sales of coal, hay, and other commodities, usually sold by the ton or fractional parts thereof, the seller shall give to the purchaser full weight, at the rate of two thousand pounds to the ton.

In all sales of articles which are sold in commerce by avoirdupois weight, the seller shall give to the purchaser full weight, at the rate of sixteen ounces to the pound.

Any person violating this section is guilty of a misdemeanor. [1939]

Sec. 12405. Standard units of measure: Gallon; quart; pint; gill; fluid ounce; fluid dram.

The standard gallon and its parts are the units of capacity for liquids, from which all other measures of liquids are derived and ascertained. The liquid quart is equal to the one-fourth part of the standard gallon. The pint is equal to the one-eighth part of the gallon. The gill is equal to the one-fourth part of the pint. The fluid ounce is equal to the one-sixteenth part of the pint. The fluid dram is equal to the eighth part of the fluid ounce, and the minim is equal to the sixtieth part of the fluid dram. [1939]

Sec. 12406. Same: Barrel; hogshead.

The barrel is equal to thirty-one and a half gallons. Two barrels constitute a hogshead. [1939]

Sec. 12407. Same: Half-bushel.

The standard half-bushel is the unit of capacity for substances other than liquids, from which all other measures of such substances are derived and ascertained. [1939]

Sec. 12408. Same: Subdivisions of bushel.

The peck, half-peck, quarter-peck, quart, and pint measures for measuring commodities other than liquid are derived from the half-bushel by successively dividing that measure by two. [1939]

Sec. 12409. Bushel weights.

Whenever wheat, rye, shelled Indian corn, barley, buckwheat, flaxseed, or oats, are sold by the bushel,

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—Units of Weight and Measure—Continued.

and no special agreement as to the weight or measurement is made by the parties, the bushel consists of 60 pounds of wheat, of 56 pounds of rye, of 56 pounds of shelled Indian corn, of 48 pounds of barley, of 48 pounds of buckwheat, of 56 pounds of flaxseed, and 32 pounds of oats. [1939; last amended 1941.]

Sec. 12410. Heap-measure sales; dimensions of measures.

The measures of capacity for coal, ashes, marl, manure, Indian corn in the ear, fruit, and roots of every kind, and for all other commodities commonly sold by heap-measure, are the half-bushel and its multiples and subdivisions; and the measures used to measure such commodities shall be made circular, with plane and even bottom, and shall be of the following diameters from outside to outside: the bushel, nineteen and a half inches; half-bushel, fifteen and a half inches, and the peck, twelve and a third inches. [1939]

Sec. 12411. Heaping of measures.

All commodities sold by heap-measure shall be heaped up in the form of a cone; the outside of the measure, by which the same are measured, to be the limit of the base of the cone, and such cone to be as high as the article will admit. [1939]

Sec. 12412. Standard units of measure: Yard.

The standard yard is the unit or standard measure of length and surface from which all other measures of extension, whether lineal, superficial, or solid, are derived and ascertained. [1939]

Sec. 12413. Same: Foot; inch.

The yard is divided into three equal parts, called feet, and each foot into twelve equal parts, called inches. For measures of cloths and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths and sixteenths. [1939]

Sec. 12414. Same: Rod; pole; perch; mile; chain; link.

The rod, pole, or perch contains five and a half yards, and the mile one thousand seven hundred sixty yards. The chain for measuring land is twenty-two yards long, and divided into one hundred equal parts, called links. [1939]

Sec. 12415. Same: Acre.

The acre for land-measure shall be measured horizontally, and contains ten square chains, and is equivalent in area to a rectangle sixteen rods in length and ten in breadth. Six hundred forty acres constitute a square mile. [1939]

Sec. 12416. Log measurement.

There shall be but one standard for the measurement of logs throughout this State; provided, however, that the parties to any contract may agree upon the use of any other table, scale, or method for the measurement of logs under the contract. [1939; last amended 1941.]

Sec. 12417. Same: Spaulding's Table.

The following table, known as Spaulding's Table for the Measurement of Logs, is hereby made the standard and table for the measurement of logs throughout this State.

Length, feet.	Diameter inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.
12	10	38	12	39	843	12	68	2,625	13	10	41
12	11	47	12	40	889	12	69	2,706	13	11	51
12	12	58	12	41	936	12	70	2,798	13	12	62
12	13	71	12	42	984	12	71	2,874	13	13	76
12	14	86	12	43	1,033	12	72	2,960	13	14	93
12	15	103	12	44	1,086	12	73	3,047	13	15	111
12	16	121	12	45	1,134	12	74	3,135	13	16	131
12	17	141	12	46	1,186	12	75	3,224	13	17	152
12	18	162	12	47	1,239	12	76	3,314	13	18	175
12	19	184	12	48	1,293	12	77	3,405	13	19	199
12	20	207	12	49	1,348	12	78	3,497	13	20	224
12	21	231	12	50	1,404	12	79	3,590	13	21	250
12	22	256	12	51	1,461	12	80	3,634	13	22	277
12	23	282	12	52	1,519	12	81	3,779	13	23	305
12	24	309	12	53	1,578	12	82	3,874	13	24	334
12	25	337	12	54	1,638	12	83	3,970	13	25	365
12	26	366	12	55	1,700	12	84	4,067	13	26	396
12	27	396	12	56	1,763	12	85	4,165	13	27	429
12	28	427	12	57	1,827	12	86	4,264	13	28	462
12	29	459	12	58	1,893	12	87	4,364	13	29	497
12	30	492	12	59	1,960	12	88	4,465	13	30	533
12	31	526	12	60	2,028	12	89	4,566	13	31	569
12	32	561	12	61	2,098	12	90	4,668	13	32	607
12	33	597	12	62	2,169	12	91	4,771	13	33	646
12	34	634	12	63	2,241	12	92	4,875	13	34	686
12	35	673	12	64	2,315	12	93	4,980	13	35	729
12	36	713	12	65	2,390	12	94	5,085	13	36	772
12	37	755	12	66	2,467	12	95	5,192	13	37	817
12	38	798	12	67	2,545	12	96	5,300	13	38	864

Length, feet.	Diameter, inches.	Contents, feet.									
13	39	913	14	25	393	15	11	59	15	84	5,084
13	40	963	14	26	427	15	12	72	15	85	5,206
13	41	1,014	14	27	462	15	13	88	15	86	5,330
13	42	1,066	14	28	498	15	14	107	15	87	5,455
13	43	1,119	14	29	535	15	15	128	15	88	5,581
13	44	1,176	14	30	574	15	16	151	15	89	5,707
13	45	1,228	14	31	613	15	17	176	15	90	5,835
13	46	1,284	14	32	654	15	18	202	15	91	5,964
13	47	1,342	14	33	696	15	19	230	15	92	6,094
13	48	1,400	14	34	739	15	20	258	15	93	6,225
13	49	1,460	14	35	785	15	21	288	15	94	6,356
13	50	1,521	14	36	831	15	22	320	15	95	6,490
13	51	1,582	14	37	880	15	23	352	15	96	6,625
13	52	1,645	14	38	931	15	24	387	16	10	50
13	53	1,709	14	39	983	15	25	421	16	11	63
13	54	1,774	14	40	1,037	15	26	457	16	12	77
13	55	1,841	14	41	1,092	15	27	495	16	13	94
13	56	1,909	14	42	1,148	15	28	533	16	14	114
13	57	1,979	14	43	1,205	15	29	573	16	15	137
13	58	2,050	14	44	1,267	15	30	615	16	16	161
13	59	2,123	14	45	1,323	15	31	657	16	17	188
13	60	2,197	14	46	1,383	15	32	701	16	18	216
13	61	2,272	14	47	1,445	15	33	746	16	19	245
13	62	2,349	14	48	1,508	15	34	792	16	20	276
13	63	2,427	14	49	1,572	15	35	841	16	21	308
13	64	2,507	14	50	1,638	15	36	891	16	22	341
13	65	2,589	14	51	1,704	15	37	943	16	23	376
13	66	2,672	14	52	1,772	15	38	997	16	24	412
13	67	2,757	14	53	1,841	15	39	1,053	16	25	449
13	68	2,843	14	54	1,911	15	40	1,111	16	26	488
13	69	2,931	14	55	1,983	15	41	1,170	16	27	528
13	70	3,021	14	56	2,056	15	42	1,230	16	28	569
13	71	3,113	14	57	2,131	15	43	1,291	16	29	612
13	72	3,206	14	58	2,208	15	44	1,357	16	30	656
13	73	3,301	14	59	2,286	15	45	1,417	16	31	701
13	74	3,396	14	60	2,366	15	46	1,482	16	32	748
13	75	3,492	14	61	2,447	15	47	1,548	16	33	796
13	76	3,590	14	62	2,530	15	48	1,616	16	34	845
13	77	3,688	14	63	2,614	15	49	1,685	16	35	897
13	78	3,788	14	64	2,700	15	50	1,755	16	36	950
13	79	3,889	14	65	2,789	15	51	1,826	16	37	1,006
13	80	3,991	14	66	2,878	15	52	1,898	16	38	1,064
13	81	4,094	14	67	2,969	15	53	1,972	16	39	1,124
13	82	4,196	14	68	3,062	15	54	2,047	16	40	1,185
13	83	4,301	14	69	3,157	15	55	2,125	16	41	1,248
13	84	4,406	14	70	3,253	15	56	2,203	16	42	1,312
13	85	4,512	14	71	3,353	15	57	2,283	16	43	1,377
13	86	4,619	14	72	3,453	15	58	2,366	16	44	1,448
13	87	4,727	14	73	3,555	15	59	2,450	16	45	1,512
13	88	4,837	14	74	3,657	15	60	2,535	16	46	1,581
13	89	4,946	14	75	3,761	15	61	2,622	16	47	1,652
13	90	5,057	14	76	3,866	15	62	2,711	16	48	1,724
13	91	5,168	14	77	3,972	15	63	2,801	16	49	1,797
13	92	5,281	14	78	4,080	15	64	2,893	16	50	1,872
13	93	5,395	14	79	4,188	15	65	2,987	16	51	1,948
13	94	5,508	14	80	4,298	15	66	3,083	16	52	2,025
13	95	5,624	14	81	4,408	15	67	3,181	16	53	2,104
13	96	5,741	14	82	4,519	15	68	3,281	16	54	2,184
14	10	44	14	83	4,631	15	69	3,382	16	55	2,266
14	11	55	14	84	4,745	15	70	3,486	16	56	2,350
14	12	67	14	85	4,859	15	71	3,592	16	57	2,436
14	13	82	14	86	4,974	15	72	3,700	16	58	2,524
14	14	100	14	87	5,091	15	73	3,809	16	59	2,613
14	15	120	14	88	5,209	15	74	3,919	16	60	2,704
14	16	141	14	89	5,327	15	75	4,030	16	61	2,797
14	17	164	14	90	5,446	15	76	4,142	16	62	2,892
14	18	189	14	91	5,566	15	77	4,256	16	63	2,988
14	19	214	14	92	5,687	15	78	4,371	16	64	3,086
14	20	241	14	93	5,810	15	79	4,487	16	65	3,186
14	21	269	14	94	5,932	15	80	4,605	16	66	3,289
14	22	298	14	95	6,057	15	81	4,723	16	67	3,393
14	23	329	14	96	6,183	15	82	4,842	16	68	3,500
14	24	360	15	10	47	15	83	4,962	16	69	3,608

Deering's Business and Professions Code, Div. V, Ch. 4—Units of Weight and Measure—Continued.

Length, feet.	Diameter inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Content, feet.
16	70	3,718	17	56	2,497	18	42	1,476	19	28	676
16	71	3,832	17	57	2,588	18	43	1,549	19	29	726
16	72	3,946	17	58	2,681	18	44	1,629	19	30	779
16	73	4,062	17	59	2,776	18	45	1,701	19	31	832
16	74	4,180	17	60	2,873	18	46	1,779	19	32	888
16	75	4,298	17	61	2,972	18	47	1,858	19	33	945
16	76	4,418	17	62	3,072	18	48	1,939	19	34	1,003
16	77	4,540	17	63	3,174	18	49	2,022	19	35	1,062
16	78	4,663	17	64	3,279	18	50	2,106	19	36	1,125
16	79	4,786	17	65	3,385	18	51	2,191	19	37	1,195
16	80	4,912	17	66	3,494	18	52	2,278	19	38	1,263
16	81	5,038	17	67	3,605	18	53	2,367	19	39	1,334
16	82	5,165	17	68	3,718	18	54	2,457	19	40	1,407
16	83	5,293	17	69	3,833	18	55	2,550	19	41	1,482
16	84	5,423	17	70	3,951	18	56	2,644	19	42	1,558
16	85	5,553	17	71	4,071	18	57	2,740	19	43	1,635
16	86	5,685	17	72	4,193	18	58	2,839	19	44	1,719
16	87	5,818	17	73	4,316	18	59	2,940	19	45	1,795
16	88	5,953	17	74	4,441	18	60	3,042	19	46	1,877
16	89	6,088	17	75	4,567	18	61	3,147	19	47	1,961
16	90	6,224	17	76	4,694	18	62	3,253	19	48	2,047
16	91	6,361	17	77	4,823	18	63	3,361	19	49	2,134
16	92	6,500	17	78	4,954	18	64	3,472	19	50	2,223
16	93	6,640	17	79	5,085	18	65	3,585	19	51	2,313
16	94	6,780	17	80	5,219	18	66	3,700	19	52	2,405
16	95	6,922	17	81	5,353	18	67	3,817	19	53	2,498
16	96	7,066	17	82	5,488	18	68	3,937	19	54	2,593
17	10	53	17	83	5,624	18	69	4,059	19	55	2,691
17	11	67	17	84	5,762	18	70	4,183	19	56	2,791
17	12	82	17	85	5,900	18	71	4,311	19	57	2,892
17	13	100	17	86	6,040	18	72	4,440	19	58	2,997
17	14	121	17	87	6,182	18	73	4,570	19	59	3,103
17	15	145	17	88	6,325	18	74	4,702	19	60	3,211
17	16	171	17	89	6,468	18	75	4,836	19	61	3,321
17	17	199	17	90	6,613	18	76	4,970	19	62	3,434
17	18	229	17	91	6,759	18	77	5,107	19	63	3,548
17	19	260	17	92	6,906	18	78	5,245	19	64	3,665
17	20	293	17	93	7,055	18	79	5,385	19	65	3,784
17	21	327	17	94	7,203	18	80	5,526	19	66	3,906
17	22	362	17	95	7,355	18	81	5,668	19	67	4,029
17	23	399	17	96	7,508	18	82	5,811	19	68	4,156
17	24	437	18	10	57	18	83	5,955	19	69	4,284
17	25	477	18	11	70	18	84	6,101	19	70	4,415
17	26	518	18	12	87	18	85	6,247	19	71	4,550
17	27	561	18	13	106	18	86	6,396	19	72	4,686
17	28	604	18	14	129	18	87	6,546	19	73	4,824
17	29	650	18	15	154	18	88	6,697	19	74	4,964
17	30	697	18	16	181	18	89	6,849	19	75	5,104
17	31	745	18	17	211	18	90	7,002	19	76	5,246
17	32	794	18	18	243	18	91	7,156	19	77	5,391
17	33	845	18	19	276	18	92	7,312	19	78	5,537
17	34	898	18	20	310	18	93	7,470	19	79	5,684
17	35	953	18	21	346	18	94	7,627	19	80	5,833
17	36	1,010	18	22	384	18	95	7,788	19	81	5,983
17	37	1,069	18	23	423	18	96	7,950	19	82	6,133
17	38	1,130	18	24	463	19	10	60	19	83	6,285
17	39	1,194	18	25	505	19	11	74	19	84	6,440
17	40	1,259	18	26	549	19	12	91	19	85	6,594
17	41	1,326	18	27	594	19	13	112	19	86	6,751
17	42	1,394	18	28	640	19	14	136	19	87	6,909
17	43	1,463	18	29	688	19	15	163	19	88	7,069
17	44	1,538	18	30	738	19	16	191	19	89	7,229
17	45	1,606	18	31	789	19	17	223	19	90	7,391
17	46	1,680	18	32	841	19	18	256	19	91	7,554
17	47	1,755	18	33	895	19	19	291	19	92	7,719
17	48	1,831	18	34	951	19	20	327	19	93	7,885
17	49	1,909	18	35	1,009	19	21	365	19	94	8,051
17	50	1,989	18	36	1,069	19	22	405	19	95	8,220
17	51	2,069	18	37	1,132	19	23	446	19	96	8,391
17	52	2,151	18	38	1,197	19	24	489	20	10	63
17	53	2,235	18	39	1,264	19	25	533	20	11	78
17	54	2,320	18	40	1,333	19	26	579	20	12	96
17	55	2,408	18	41	1,404	19	27	627	20	13	118

Length, feet.	Diameter, inches.	Contents, feet.									
20	14	143	20	87	7,273	22	10	69	23	20	396
20	15	171	20	88	7,441	22	11	86	23	21	442
20	16	207	20	89	7,610	22	12	106	23	22	490
20	17	235	20	90	7,780	22	13	130	23	23	540
20	18	270	20	91	7,951	22	14	157	23	24	592
20	19	306	20	92	8,125	22	15	188	23	25	645
20	20	345	20	93	8,300	22	16	221	23	26	701
20	21	385	20	94	8,475	22	17	258	23	27	759
20	22	426	20	95	8,653	22	18	297	23	28	818
20	23	470	20	96	8,833	22	19	337	23	29	879
20	24	515	21	10	66	22	20	379	23	30	943
20	25	561	21	11	82	22	21	423	23	31	1,008
20	26	610	21	12	101	22	22	469	23	32	1,075
20	27	660	21	13	124	22	23	517	23	33	1,144
20	28	711	21	14	150	22	24	566	23	34	1,215
20	29	765	21	15	180	22	25	617	23	35	1,289
20	30	820	21	16	211	22	26	671	23	36	1,366
20	31	876	21	17	246	22	27	726	23	37	1,447
20	32	935	21	18	283	22	28	782	23	38	1,529
20	33	995	21	19	322	22	29	841	23	39	1,615
20	34	1,056	21	20	362	22	30	902	23	40	1,703
20	35	1,121	21	21	404	22	31	964	23	41	1,794
20	36	1,188	21	22	448	22	32	1,028	23	42	1,886
20	37	1,258	21	23	493	22	33	1,094	23	43	1,979
20	38	1,330	21	24	540	22	34	1,162	23	44	2,081
20	39	1,405	21	25	589	22	35	1,233	23	45	2,173
20	40	1,481	21	26	640	22	36	1,307	23	46	2,273
20	41	1,560	21	27	693	22	37	1,384	23	47	2,374
20	42	1,640	21	28	747	22	38	1,463	23	48	2,478
20	43	1,721	21	29	803	22	39	1,545	23	49	2,582
20	44	1,810	21	30	861	22	40	1,629	23	50	2,691
20	45	1,890	21	31	920	22	41	1,716	23	51	2,800
20	46	1,976	21	32	981	22	42	1,804	23	52	2,911
20	47	2,065	21	33	1,044	22	43	1,893	23	53	3,024
20	48	2,155	21	34	1,109	22	44	1,991	23	54	3,139
20	49	2,246	21	35	1,177	22	45	2,079	23	55	3,258
20	50	2,340	21	36	1,247	22	46	2,174	23	56	3,379
20	51	2,435	21	37	1,321	22	47	2,271	23	57	3,501
20	52	2,531	21	38	1,397	22	48	2,370	23	58	3,628
20	53	2,630	21	39	1,475	22	49	2,470	23	59	3,756
20	54	2,730	21	40	1,555	22	50	2,574	23	60	3,887
20	55	2,833	21	41	1,638	22	51	2,678	23	61	4,021
20	56	2,938	21	42	1,722	22	52	2,784	23	62	4,157
20	57	3,045	21	43	1,807	22	53	2,893	23	63	4,295
20	58	3,155	21	44	1,900	22	54	3,003	23	64	4,437
20	59	3,266	21	45	1,984	22	55	3,116	23	65	4,580
20	60	3,380	21	46	2,075	22	56	3,232	23	66	4,728
20	61	3,496	21	47	2,168	22	57	3,349	23	67	4,877
20	62	3,615	21	48	2,262	22	58	3,470	23	68	5,031
20	63	3,735	21	49	2,385	22	59	3,592	23	69	5,186
20	64	3,858	21	50	2,457	22	60	3,718	23	70	5,345
20	65	3,983	21	51	2,556	22	61	3,846	23	71	5,508
20	66	4,111	21	52	2,657	22	62	3,976	23	72	5,673
20	67	4,241	21	53	2,761	22	63	4,108	24	10	76
20	68	4,375	21	54	2,866	22	64	4,244	24	11	94
20	69	4,510	21	55	2,974	22	65	4,381	24	12	116
20	70	4,648	21	56	3,085	22	66	4,522	24	13	142
20	71	4,790	21	57	3,197	22	67	4,665	24	14	172
20	72	4,933	21	58	3,312	22	68	4,812	24	15	206
20	73	5,078	21	59	3,429	22	69	4,961	24	16	242
20	74	5,225	21	60	3,549	22	70	5,113	24	17	282
20	75	5,372	21	61	3,671	22	71	5,269	24	18	324
20	76	5,522	21	62	3,795	22	72	5,426	24	19	368
20	77	5,675	21	63	3,921	23	10	72	24	20	414
20	78	5,829	21	64	4,051	23	11	90	24	21	462
20	79	5,983	21	65	4,182	23	12	111	24	22	512
20	80	6,140	21	66	4,316	23	13	136	24	23	564
20	81	6,298	21	67	4,453	23	14	164	24	24	618
20	82	6,456	21	68	4,593	23	15	197	24	25	674
20	83	6,616	21	69	4,735	23	16	231	24	26	732
20	84	6,778	21	70	4,880	23	17	270	24	27	792
20	85	6,941	21	71	5,029	23	18	310	24	28	854
20	86	7,106	21	72	5,180	23	19	352	24	29	918

Deering's Business and Professions Code, Div. V, Ch. 4—Units of Weight and Measure—Continued.

Length feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.	Length, feet.	Diameter, inches.	Contents, feet.
24	30	984	24	41	1,872	24	52	3,038	24	63	4,482
24	31	1,052	24	42	1,968	24	53	3,156	24	64	4,630
24	32	1,122	24	43	2,066	24	54	3,276	24	65	4,780
24	33	1,194	24	44	2,172	24	55	3,400	24	66	4,934
24	34	1,268	24	45	2,268	24	56	3,526	24	67	5,090
24	35	1,346	24	46	2,372	24	57	3,654	24	68	5,250
24	36	1,426	24	47	2,478	24	58	3,786	24	69	5,412
24	37	1,510	24	48	2,586	24	59	3,920	24	70	5,578
24	38	1,596	24	49	2,696	24	60	4,056	24	71	5,748
24	39	1,686	24	50	2,808	24	61	4,196	24	72	5,920
24	40	1,778	24	51	2,922	24	62	4,338			

[1939]

Sec. 12418. Same: For long logs.

For the measurement of logs of any greater length than indicated in the table set forth in the preceding section, the computation shall be made in accordance with the table. [1939]

Sec. 12419. Same: Where measured.

For the purpose of computation, all logs shall be measured at the small end and inside the bark. [1939]

Sec. 12420. Same: Allowance for rot, etc.

Allowance shall be made for rot, shake, or other defects in logs measured by scale so as to make the survey express the actual quantity of merchantable lumber in each log. [1939]

Deering's Business and Professions Code, Div. V, Ch. 5—Weighing and Measuring Devices.

Sec. 12500. Definitions.

As used in this chapter [Secs. 12500-12515]:

(a) "Weighing instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) "Measuring instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) Weights or measures or weighing, measuring, or counting instruments for sale or use for commercial purposes shall include person weighers and devices which are used at the time of, or for the purposes of, the trading in, exchanging, selling or purchasing of commodities but shall not include such devices when for use or operation solely within a plant or business as a part of the manufacturing, processing or preparing for market of commodities. [1939; last amended 1949.]

Sec. 12500.5. Approval of types; certificates.

The director by rules and regulations shall provide for submission for approval of types or designs of weights, measures, or weighing, measuring, or

counting instruments or devices, used for commercial purposes, and shall issue certificates of approval of such types or designs as he shall find to meet the requirements of this code and the tolerances and specifications thereunder.

It shall be unlawful to sell or use for commercial purposes any weight or measure, or any weighing, measuring, or counting instrument or device, of a type or design which has not first been so approved by the department; provided, however, that any such weight, measure, instrument, or device in use for commercial purposes prior to the effective date of this act may be continued in use unless and until condemned under the provisions of this code. [1949]

Sec. 12501. Pre-sale and pre-use testing and sealing.

Except as provided in the following section, every person who, for commercial purposes, uses or sells weights or measures or weighing instruments or measuring instruments shall, before using or before selling the same, cause such weights or measures or weighing instruments or measuring instruments to be sealed and marked by the sealer of the county in which the same are used or sold. [1939; last amended 1949.]

Sec. 12502. Testing and sealing after assembly.

Any weighing or measuring instrument, which, after being sold and before being used for weighing or measuring, it is necessary to assemble or set up, may be sold without first being tested and sealed but shall be tested and sealed before being used. [1939]

Sec. 12503. Testing upon complaint.

Upon a written request of any resident of a county, there appearing reasonable ground therefor, the sealer shall test or cause to be tested, as soon thereafter as is practicable, the weights, measures, or weighing or measuring instruments used in buying or selling by the person designated in such request. [1939]

Sec. 12504. Testing upon request.

Upon the written request of any person using for a commercial purpose, or having for use or sale

any weight, measure, or weighing or measuring instrument for use or intended to be used commercially in any county, the sealer for such county shall test or cause to be tested, as soon thereafter as is practicable, the weight, measure, or weighing or measuring instrument referred to in the written request.

Such written request shall not relieve the person making it from any violation of the provisions of this division [Secs. 12001-13001] or of the responsibility for using or selling any false or unsealed weight, measure, or weighing or measuring instrument. [1939; last amended 1947.]

Sec. 12505. Marking of approved devices.

Whenever a sealer compares weights and measures or weighing or measuring instruments and finds that they correspond, or causes them to correspond, to the standards in his possession, he shall seal or mark such weight or measure or weighing or measuring instrument with an appropriate device, placed so as readily to be seen, showing that the weight or measure or weighing or measuring instrument is correct and the date of the inspection. If a lead seal is used the date may be shown by the year only. [1939]

Sec. 12506. Condemnation; seizure and rejection.

A sealer shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments which in his best judgment are not susceptible of repair, but any which he finds susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "Out of order". [1939]

Sec. 12507. Time allowed for repairs; seizure for failure to repair.

The owners or users of any weights or measures or weighing or measuring instruments which have been marked "Out of Order," shall have them repaired or corrected within 30 days, but until they have been repaired or corrected and tested the owners or users thereof may neither use nor dispose of them in any way.

In the event that the owner or user of any weights or measures or weighing or measuring instruments marked "Out of Order" shall have refused or neglected to have them repaired or corrected within thirty (30) days they shall be subject to seizure by the sealer. Any weights or measures or weighing or measuring instruments which have been seized by the sealer under the provisions of this section shall be subject to such disposition as shall be ordered by a court of competent jurisdiction upon petition for a disposition order by the sealer. The sealer shall petition the court for such disposition order periodically, but not more often than once in each calendar year.

A notice of such petition shall be given to the

owner or user from whom the equipment was seized in the same manner as a summons in a civil action. [1939; last amended 1941.]

Sec. 12508. Removal of official tags.

Any person who removes or obliterates any tag or device placed upon any weight, measure, or weighing or measuring instrument by a sealer is guilty of a misdemeanor. [1939]

Sec. 12509. Approval of repaired equipment.

When any weight, measure, or weighing or measuring instrument has been repaired and corrected, and has been reinspected and found correct the sealer shall remove the tag or device with the words "Out of order," and shall seal and mark such weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where, upon inspection, it is found correct. [1939]

Sec. 12510. Misdemeanors declared; possession of false weight or measure prima facie evidence of intention to violate law.

Any person, who by himself, or through or for another, does any of the following is guilty of a misdemeanor:

(a) Uses, in the buying or selling of any commodity, or retains in his possession a false weight or measure or weighing or measuring instrument.

(b) Sells any weight or measure or weighing or measuring instrument which has not been sealed within one year, except weighing or measuring instruments required to be assembled prior to use.

(c) Uses any condemned weight or measure or weighing or measuring instrument contrary to law.

(d) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.

(e) So locates or positions a weighing or measuring device used in retail trade, except as used exclusively in preparation of packages put up in advance of sale, that its indications can not be accurately read or the weighing or measuring operation can not be observed by the purchaser under ordinary circumstances.

Possession of a false weight or measure or weighing or measuring instrument or records thereof is prima facie evidence of intention to violate the law. [1939; last amended 1941.]

Sec. 12511. Period for use or sale of tested and correct instruments without further test; inspection during period.

Any weight, measure, or weighing or measuring instrument tested and found correct by any sealer may be used or sold within this State for one year without any further test. If tested and sealed and certified to as correct by the National Bureau of Standards, it may be sold without being first tested and sealed by a sealer. In either case, it shall be subject to inspection and testing notwithstanding that it has been tested and sealed either by a sealer or by the National Bureau of Standards. [1939]

Deering's Business and Professions Code, Div. V, Ch. 5
—Weighing and Measuring Devices—Continued.

Sec. 12512. Taking more than quantity represented.

Any person who, either by himself, or through or for another, buys, offers to buy, takes or offers to take, or who causes or permits to be bought, offered to be bought, or offered to be taken, any commodity, produce, article, or thing in a greater weight, measure, or quantity than he represents it to be or contain when said person as buyer, or potential buyer, furnishes the weight, measure, or weighing or measuring instrument by means of which the amount, weight, measure, or quantity, of the commodity bought or taken, or offered to be bought or taken, is determined, is guilty of a misdemeanor. [1939]

Sec. 12513. Departmental testing authority.

Any sealing or testing of any weight, measure, weighing or measuring instrument by any employee of the department authorized for the purpose shall have the same force and effect as a sealing or testing by a sealer or his deputy. [1939]

Sec. 12514. Sales by sealer unlawful.

No sealer shall sell or be interested directly or indirectly in the sale of any weighing or measuring instrument. [1939]

Sec. 12515. Repair, sale or installation of weighing instrument; failure to notify county sealer.

Any person having made repairs or adjustments for hire to any weighing instrument or to any measuring instrument when not its owner, user or operator nor an employee regularly employed by him, or any person having sold or installed any such instrument, who within 24 hours after such instrument has been sold, installed, repaired or adjusted, fails to notify the sealer of the county in which such instrument has been sold, installed, repaired or adjusted, that such sale, installation, repair or adjustment has been made, is guilty of a misdemeanor. [1945]

Deering's Business and Professions Code, Div. V,
Ch. 6—Containers.

Sec. 12601. Purpose and construction of chapter.

This chapter [Secs. 12601–12615] is designed to protect purchasers of any commodity within its provisions against deception or misrepresentation as to the quantity or amount of the commodity purchased, and as against the seller shall be strictly construed with a view to effect its object. [1939]

Sec. 12602. Application of chapter.

Except as provided in the following section the provisions of this chapter [Secs. 12601–12615] apply to any commodity when sold, offered or exposed for sale in containers. [1939]

Sec. 12603. Exemptions.

The provisions of this chapter [Secs. 12601–12615] do not apply:

(a) To a sale of a commodity when such sale is made from bulk and the quantity is weighed, measured or counted for the immediate purpose of such sale;

(b) To the sale of a commodity in any container of a net weight of one-half ounce or less avoirdupois, or of a net measure of one-half fluid ounce or less;

(c) To a sale of medicine, when prescribed by a licensed physician, veterinarian, or dentist, or to a sale of medicinal or pharmaceutical preparations or mixtures of two or more medicinal substances. [1939]

Sec. 12604. Definition.

As used in this chapter [Secs. 12601–12615] "container" means any receptacle or carton, whether lidded or unlidded, into which a commodity is packed or placed, or any wrappings with or into which any commodity is wrapped or put for sale. [1939; last amended 1947.]

Sec. 12605. False construction or fill; seizure.

No container wherein commodities are packed shall have a false bottom, false side walls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to facilitate the perpetration of deception or fraud.

Any sealer may seize any container which facilitates the perpetration of deception or fraud and the contents of such container. By order of the justice's, municipal or superior court of the township, city, or county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon such conditions as the court may impose to insure against their use in violation of this chapter [Secs. 12601–12615]. The contents of any condemned container shall be returned to the owner thereof if he furnishes proper facilities for such return. [1939; last amended 1941.]

Sec. 12606. General marking requirements and exceptions.

Whenever any commodities are sold in containers, the net quantity of the contents of the container shall be plainly and conspicuously marked, branded, or otherwise indicated on the side or top thereof or on a label or tag attached thereto. The provisions of this section do not apply:

(a) To containers while being used for the delivery of a food which, in accordance with the practice of the trade, is to be processed, labeled, packed or repacked on premises other than where originally placed in such containers.

(b) To transparent wrappings, devoid of any words, letters or numerals, used as a means of protecting the commodity, when the weight or count of the contents, or any portion thereof, is accurately determined at time of, and for the immediate purpose of, sale.

(c) To an unlidded container when the weight of the contents, or any portion thereof, can be accu-

rately determined at the time of, and for the immediate purpose of sale, by the seller at the request of the buyer, on a weighing device installed for the purpose on the premises of the seller and sealed in accordance with the provisions of this division [Secs. 12001–13001].

(d) To an unlidded container when the count of the contents, or any portion thereof, is accurately determined at time of, and for the immediate purpose of, sale. [1939; last amended 1947.]

Sec. 12607. General marking requirements.

The designation of the quantity of the commodity shall be the net amount and shall be expressed in terms of weight, measure or numerical count so that the quantity of the contents so marked shall be the net amount of the commodity in the package or container. No trade-mark, brand number, number or numerals in combination or otherwise, shall be used on the side, top or ends of the container which will facilitate deception or misrepresentation. [1939; last amended 1941.]

Sec. 12608. Marking for solids and fluids.

The statement designating the quantity of the commodity shall be expressed in the terms of weight, measure, numerical count, or combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and shall give accurate information as to the quantity thereof. If no general consumer usage exists which expresses accurate information as to the quantity of such food, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid. The quantity of viscous or semisolid foods, or of a mixture of solids and liquids, may be stated in terms of weight or measure or both. When products are packed in brine or other non-edible preserving fluids, the weight or measure of the brine or non-edible fluid shall not be included in the weight or measure of the edible or other commodity indicated on the container. [1939; last amended 1947.]

Sec. 12609. Marking in terms of avoirdupois weight, liquid measure and dry measure.

A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches, one-half gallon, quart, pint, and fluid ounce, and, with the exception of liquid petroleum products, shall express the volume at 68° Fahrenheit (20° Centigrade). A statement of dry measure shall be in terms of the United States bushel of 2150.42 cubic inches, peck, dry quart, and dry pint. In lieu thereof, the statement of weight or measure may be in terms of the metric system of weight or measure. A statement of numerical count shall be expressed either in English words or Arabic numerals. [1939; last amended 1947.]

Sec. 12610. Units to be used in marking.

If the quantity of the commodity in the container equals or exceeds the smallest unit of weight or measure which is specified in Section 12609, the statement of quantity shall be expressed in the number of the largest of such units contained therein. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units. The stated number of any unit which is smaller than the largest unit specified in Section 12609 shall not equal or exceed the number of such smaller units in the next larger unit so specified. [1939; last amended 1947.]

Sec. 12611. Marking in terms of minimum quantity.

The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation shall approximate the actual quantity and there shall be no tolerance below the stated minimum. [1939]

Sec. 12612. Packing, etc., commodity in container not conforming to chapter.

It is unlawful to pick, ship, or sell any commodity in a container which does not conform to all the specifications of this chapter [Secs. 12601–12615]; or which is not conspicuously marked, branded, or otherwise labeled as required by this chapter; or on which any word, statement or other information required by this chapter is not prominently placed, in such terms and with such conspicuousness, as compared with other words, statements, designs or devices on the label or container, as to render it likely to be read and understood by ordinary persons under customary conditions of purchase and use. [1939; last amended 1947.]

Sec. 12613. Compliance with Federal laws and regulations.

The sale of any commodity in a container complying with any act of Congress or the opinions and regulations issued by the Secretary of Agriculture and appertaining to weight or measure or count does not violate the provisions of this chapter [Secs. 12601–12615]; nor does the sale of alcoholic beverages in containers complying with a rule, regulation or an approval of the United States Treasury Department, Bureau of Internal Revenue, Alcohol Tax Unit or of the State Department of Public Health and pertaining to weight, measure or count constitute a violation of the provisions of this chapter. [1939; last amended 1947.]

Sec. 12614. When discrepancies in marking and actual contents not a violation.

When a commodity in a container is sold and there is a discrepancy between the actual quantity of the commodities in the container and the net quantity of the contents thereof indicated on the container or between the fill of the commodity in

Deering's Business and Professions Code, Div. V, Ch. 6
—Containers—Continued.

the container and the capacity of the container there is no violation of this chapter [Secs. 12601-12615]:

(a) If such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

(b) If the seller purchased the commodity in the container, in good faith, relying upon the indication of the net contents thereof, and sold the commodity in the container without altering the contents thereof or the indication of the contents thereof and the container had the name of a packer, manufacturer, wholesaler, or jobber thereon at the time the seller purchased it. [1939; last amended 1941.]

Sec. 12615. Penalty for violations.

The violation of any provision of this chapter [Secs. 12601-12615] is a misdemeanor punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail for not exceeding six months, or by both. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 7—Public Weighmasters.

Sec. 12700. Definition.

A public weighmaster is:

(a) Any person who weighs, measures or counts any commodity and issues therefor a signed or initialed statement or memorandum of the weight, measure, or count accepted as the accurate weight or measure or count upon which the purchase or sale of the commodity is based.

(b) Any person engaged in the business of public weighing for hire. [1939; last amended 1943.]

Sec. 12700.1. Persons not deemed public weighmasters.

The following shall not be construed to be public weighmasters:

(a) Retailers weighing or measuring commodities for sale by them at retail directly to consumers;

(b) Producers of agricultural commodities or livestock weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, and no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based;

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation;

(d) Weighers licensed under the provisions of Section 676¹ of the Agricultural Code when performing the duties for which they are licensed;

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8² of Division 5 of this code, when performing the duties authorized thereby. [1943]

¹ Sec. 676 provides for the licensing of weighers and samplers of milk.

² See pages 120-122.

Sec. 12700.5. Receipt showing weight of fish, etc.

The issuance of a receipt showing the weight of fish, mollusks, or crustaceans pursuant to Section 1091 of the Fish and Game Code¹ does [not?] constitute the issuance of a weight or measure certificate under this chapter [Secs. 12700-12712]. [1941]

¹ See page 123.

² The word "not?" and brackets inserted by Compiler of Deering's Business and Professions Code.

Sec. 12700.6. Warehouse receipt signed by weighmaster constitutes issuance of state certificate.

A warehouse receipt, of a form approved by the department and issued in accordance with the law, when signed by a licensed public weighmaster or deputy public weighmaster showing the weight, measure or count of any commodity stored in a warehouse, constitutes the issuance of a state certificate of weights and measures under this chapter [Secs. 12700-12712.] [1949]

Sec. 12701. Bond; license fees; issuance and revocation of licenses.

Each public weighmaster shall pay a license fee of ten dollars (\$10) for the fiscal year or any part thereof to the department for the locality of the place of principal business and an additional license fee of two dollars and fifty cents (\$2.50) for each additional locality where service as a public weighmaster is rendered.

An additional license fee of one dollar (\$1) for each fiscal year or part thereof shall be paid for each deputy public weighmaster and for each additional license fee the department shall issue a deputy's certificate.

Persons previously licensed to be public weighmasters shall, between May 1st and July 1st of each year, pay each required license fee for the fiscal year commencing with July 1st of such year, which shall be for all or any part of such year. Failure of a person previously licensed to renew his license on or before July 1st of any one year shall ipso facto forfeit his right to serve as a public weighmaster. No license shall be issued to a person who has so failed to renew his license and forfeited his right to serve as a public weighmaster until written application shall have been made by him to the department and accompanied by a restoration fee in an amount twice that required as the regular license fee or fees.

Before any license is issued to any public weighmaster, the applicant shall execute and deliver to

the director a surety bond in the sum of one thousand dollars (\$1,000) executed by the applicant as principal and by a corporate surety company qualified and authorized to do business in this State as surety. Said bond shall be conditioned upon the faithful and honest compliance with the provisions of this chapter. Said bond shall be to the State in favor of every person availing himself of the services and certifications issued by a public weighmaster.

The department, after a hearing, may refuse to issue or may revoke a public weighmaster license issued to any person who cannot capably or reliably perform the duties of a public weighmaster, or who has not capably or reliably performed the duties of a public weighmaster, and it may, after a hearing, refuse to renew a public weighmaster license to any person who has not capably or reliably performed the duties of a public weighmaster.

The department, after a hearing, may refuse to issue or may revoke, or may refuse to renew a deputy public weighmaster certificate issued to any person who cannot capably or reliably perform the duties of a deputy public weighmaster, or who has not capably or reliably performed the duties of a deputy public weighmaster.

The proceedings of the hearings referred to in this section shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein. [1939; last amended 1949.]

Sec. 12702. Deputies.

Public weighmasters may employ or designate any person to act for them as deputy public weighmaster, and shall be responsible for all acts performed by such person. The public weighmaster shall forward to the department the name and address of persons so appointed. [1939]

Sec. 12703. Seals.

Each public weighmaster shall obtain a public weighmaster seal for applying an impression upon or stamping weight or measure certificates. The public weighmaster seals shall be the property of the State and shall be forfeited and returned to the department upon termination of the performance of the duties as public weighmaster.

Seals which have been returned to the department shall be kept in a safe place for a period of four years, after which time they shall be defaced and destroyed or otherwise disposed of by the department.

The public weighmaster seal shall be of a form and design prescribed by the department and furnished at the expense of the public weighmaster. The public weighmaster seal shall be a recognized authority of accuracy and the stamp or impression thereof shall be applied to all weight or measure

certificates at the time of issuance. [1939; last amended 1945.]

Sec. 12704. Weight certificates.

The department shall prescribe a form of weight and measure certificates to be used by public weighmasters. The certificate used by a public weighmaster shall be known as the "state certificate of weights and measures" and no other form of certificate shall be used by public weighmasters.

The certificate shall state thereon:

- (a) The kind of product or article.
- (b) The number of units of the product or article.
- (c) The date on which the product or article was weighed, measured or counted.
- (d) The owner, agent or consignee.
- (e) Either the gross weight of the product and the vehicle or container thereof, or the tare weight of the unladen vehicle or container, or both such gross and tare weights; or the true net weight, measure, or count of the product.
- (f) The vessel, railroad or other means by which the product was received. If motor vehicle carrier is used, the license number of any vehicle or trailer shall be stated on the certificate.
- (g) Any trade or other mark thereon.
- (h) The name of the city or town where such product or article was weighed, measured or counted.

(i) The complete signature of the weighmaster or deputy weighmaster who weighed, measured or counted the product or article.

(j) Such other information as may be necessary to identify the product or distinguish it from a like kind.

It shall be unlawful for a public weighmaster to use a public weighmaster certificate form purchased by him for use in connection with his service as a public weighmaster until a sample of such form has been inspected and approved in writing by the department. Such approval shall not be required of a public weighmaster when using public weighmaster certificate forms for which approval has been previously received by the printer, stationer or other supplier whose business includes the supplying of such approved forms.

Public weighmaster certificate forms shall be the property of the State and all unused public weighmaster certificate forms shall be forfeited and returned to the department by any person who has served as a public weighmaster upon termination of the performance of his duties as public weighmaster. [1939; last amended 1949.]

Sec. 12705. Records.

All public weighmasters shall keep and preserve, as records, for a period of four years, true copies of all certificates issued upon public weighings, measurements or counts. These records shall at all times

Deering's Business and Professions Code, Div. V, Ch. 7
—Public Weighmasters—Continued.

be open for inspection by the director or by a sealer or his deputy. [1939; last amended 1945.]

Sec. 12706. Issuance of false certificate; misdemeanor; action on violation of section.

State certificates of weights and measures shall contain the accurate and correct weight or measure or count of any and all commodities or products weighed or measured or counted.

Any public weighmaster who issues a State certificate of weights and measures without first weighing, measuring, or counting the article or commodity, or who knowingly issues a state certificate of weights and measures giving thereon a false weight or measure or count of the article or commodity weighed or measured or counted by him, or who alters a state certificate of weights and measures, is guilty of a misdemeanor.

The department may direct and compel the return of the State seal, or declare the bond of any public weighmaster forfeited, or both, where such public weighmaster has been guilty of a violation of this section. [1939; last amended 1949.]

Sec. 12707. Offenses by others than weighmasters.

Any person is guilty of a misdemeanor who does any one of the following acts:

(a) Requests a public weighmaster, or any person employed by him, to weigh or measure any commodity falsely or incorrectly.

(b) Requests a false or incorrect State certificate of weights and measures.

(c) Issues a State certificate of weights and measures when he is not a public weighmaster or deputy public weighmaster.

(d) Possesses unfilled or unused state certificate of weights and measures forms if he is not a public weighmaster or a deputy public weighmaster. This subdivision does not apply to a person engaged in the business of printing state certificate of weights and measures forms nor to his representative. [1939; last amended 1949.]

Sec. 12708. Reweighings upon complaint.

When doubt or differences arise as to the correctness of the net or gross weight or measure of any amount or part of any commodity for which a State certificate of weights and measures has been issued by a public weighmaster, the owner, agent, or consignee may, upon complaint to the department have the amount or part thereof reweighed by the department or a public weighmaster designated by it, upon depositing a sufficient sum of money to defray the actual cost of reweighing with the department.

If, on reweighing, a difference from the original certified weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster

responsible for the issuance of the erroneous certificate. [1939]

Sec. 12709. Identification of commodities weighed.

All amounts, lots, shipments, or consignments of commodities, except fungibles, after having been weighed, shall be piled or stored separately, as near as can be, or in some manner marked in order that they may be distinguished from others of a like kind. [1939; last amended 1943.]

Sec. 12710. Method of weighing; net weight; actual weight; double draft weights.

When any commodity is sold subject to public weighmaster weights, such weights shall be the true net weight. Net weight is the correct or actual weight of the commodity excluding the weight of the container or conveyance. Actual weight shall mean the weight obtained from one draft of vehicle loads. In determining the net weight of any commodity, the entire weight of the vehicle and load must rest on the scale at one time. Until December 31, 1943, double draft (two-spot) weights may be recorded on "State certificate of weights and measures"; provided, the words "two-spot" or "double draft" are stamped thereon, and when so stamped shall not be construed a violation of Section 12706 of this code. [1939; last amended 1941.]

Sec. 12711. Violations as misdemeanors.

Any person who violates any of the provisions of this chapter [Secs. 12700-12712] is guilty of a misdemeanor. [1939]

Sec. 12712. Saving provision for municipal or port district terminal weighing.

Nothing in this chapter [Secs. 12700-12712] except the provisions of Sections 12702 to 12705, inclusive, limits the right of any municipal corporation or port district that is operating wharves, piers or terminal facilities for the handling of goods and cargo in the accommodation and promotion of commerce and navigation, and each of them is hereby empowered in that connection, to act as a public weighmaster and to issue public weighmaster's certificates. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 8—Terminal Weighing.

Sec. 12801. Construction of chapter.

None of the provisions of this chapter [Secs. 12801-12816] shall be construed to conflict with or in any way supplant any of the provisions of Chapter 7 [Secs. 12700-12712] of this division [Secs. 12001-13001]. [1939]

Sec. 12802. Definition of agricultural products.

As used in this chapter [Secs. 12801-12816], "agricultural products" includes corn, wheat, oats, rye, barley, grain sorghums and rice. [1939]

Sec. 12803. Enforcement officer; duties and powers.

The director shall carry out the provisions of this chapter [Secs. 12801-12816].

The director may:

(a) Fix the compensation in accordance with the State Civil Service Law and determine the duties of such employees as shall be necessary to carry out the provisions of this chapter.

(b) Establish weighing stations and weighing districts and change them from time to time as circumstances require.

(c) Promulgate, amend, or repeal rules and regulations for the weighing of agricultural products for the purpose of carrying out the provisions of this chapter.

(d) Fix and determine reasonable charges for the weighing of agricultural products when such service is rendered by an employee of the department.

(e) Provide, upon request of an interested party, and with the consent of the management of the industry where the service is to be performed, regular weighing service at industrial points located within or without a regularly established weighing district.

(f) Provide, upon request of an interested party and with the consent of the management of the industry where the service is to be performed, employees for the weighing of any agricultural product, manufactured product or by-product thereof. [1939]

Sec. 12804. Payment of costs.

The industry requesting regular weighing service shall guarantee payment of costs. [1939]

Sec. 12805. Weighings at other places.

If weighing is to be done at other than a regularly established weighing station the person requesting such service shall pay, in addition to the regular fees, such costs as the director may assess. [1939]

Sec. 12806. Fees.

The fees for weighing agricultural products shall be paid by the party requesting the service or the industrial plant where the weighing is done and shall be a lien upon the products. The director shall so adjust the fees that in his judgment they will meet the expenses necessary to carry out the provisions of this chapter [Secs. 12801-12816 and may prescribe a different scale of fees for different localities.

The director may collect such fees in advance of performing the services, but need not do so if in his opinion the benefits of this service would be lessened by such advance payments. [1939]

Sec. 12807. Bond of weighers; temporary help.

Each employee who weighs agricultural products under this chapter [Secs. 12801-12816] or issues weight certificates thereof shall give a surety bond to the State in such sum as the director determines.

The bond shall be approved by and filed with the director and conditioned upon the faithful discharge of the employee's duties. The cost of the bond shall be paid by the State. The director may employ temporary help for a period not to exceed 10 consecutive working days without requiring the filing of a bond. [1939]

Sec. 12808. Action by aggrieved persons.

Any person aggrieved by any official act or the neglect of duty of any such employee or by reason of neglect or failure of such employee to comply with the provisions of this chapter [Secs. 12801-12816] or of the rules and regulations of the director, may bring an action upon such bond for the recovery of all damages suffered thereby. [1939]

Sec. 12809. Certificate of authority to weigh.

The director shall issue to each employee authorized to weigh agricultural products, a certificate of such authority, and each employee shall, upon demand of any one in authority, produce the certificate when entering any premises for the purpose of carrying out the provisions of this chapter [Secs. 12801-12816]. [1939]

Sec. 12810. Duties of weigher.

The employees of the department, before opening the doors of any car containing agricultural products upon arrival at any weighing station, shall first:

(a) Ascertain the condition of such cars.

(b) Determine whether or not any leakages have occurred in transit.

(c) Determine whether or not the doors are properly secured and sealed.

A record of such facts shall be made in all cases, giving seal numbers.

The employees shall break the seal of all cars of agricultural products subject to State weighing.

Sec. 12811. Personal interest of weighers forbidden.

No employee who weighs agricultural products shall be interested, directly or indirectly, in the purchasing or selling of agricultural products which he is employed to weigh officially. [1939]

Sec. 12812. Weighings outside working hours.

When the director deems it advisable to load or unload cars or cargoes of agricultural products on days or during hours other than usual working days or usual working hours, he shall provide the necessary employees for the weighing of such agricultural products.

The time of service of such employees, whether in the regular employ of the department or hired specially for the occasion, shall not be limited or restricted to eight hours of service during any one calendar day while doing such weighing.

Such employees, whether in the regular employ of the department or hired specially for the occa-

Deering's Business Professions Code, Div. V, Ch. 8—
Terminal Weighing—Continued.

sion, shall be entitled to reasonable compensation for their services, in addition to their compensation for their services performed during usual working days and usual working hours. The compensation shall be fixed by the director and paid by the party requesting such unusual service and shall be in addition to the regular fees for weighing. [1939]

Sec. 12813. Suitable scales to be provided.

All warehouse, dock, mill and elevator operators shall provide suitable and satisfactory scales for the purpose of weighing agricultural products under the provisions of this chapter [Secs. 12801–12816]. [1939]

Sec. 12814. Reweighings; fees; tolerances.

Any interested party may call for reweighing of any specific lot. The regular weighing fees shall be paid by the party requesting such services, unless the variation from the original weight shall be greater than a reasonable tolerance. The director shall establish such tolerance. [1939]

Sec. 12815. Collections, how credited.

All money collected under the provisions of this chapter [Secs. 12801–12816] shall be paid into the State treasury and placed to the credit of the Department of Agriculture fund. [1939]

Sec. 12816. Violations as misdemeanors.

Violation of any provisions of this chapter [Secs. 12801–12816] is a misdemeanor. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 9, Art. 1—Products in Burlap Bags.

Sec. 12900. Tare deduction for bag; exception.

Every person who purchases fruit, peas, or wool in burlap bags owned by the seller and deducts a tare on account of such bag, shall pay to the seller thereof at the time of delivery the salvage value of such bag after using.

This section shall not apply to farm products sold on the basis of gross weight if a specific agreement is made to that effect. [1939]

Sec. 12901. When tare deduction unlawful.

It is unlawful when purchasing grain in its original condition and in burlap bags to deduct a tare on account of the container. The purchaser shall pay a like price for the grain and container based upon the total weight of both. The word "grain" includes wheat, barley, corn, oats, rye, rice, flax and grain sorghums. [1939]

Sec. 12902. Construction of chapter.

The provisions of this chapter [Secs. 12900–12910] supersede all of the other provisions of this division [Secs. 12001–13001] and of any other act,

as they may relate or apply to the sale of grain in burlap bags. [1939]

Sec. 12903. Violation a misdemeanor.

The violation of any of the provisions of this chapter [Secs. 12900–12910] is a misdemeanor. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 9, Art. 2—Tare on Baled Hops.

Sec. 12910. Allowable weight.

There shall be allowed on baled hops a tare at the rate of 2 per cent of the weight of the bale for the cloth or other material used in baling. [1939]

Deering's Business and Professions Code, Div. V,
Ch. 9, Art. 3—Baling Hay.

[ED. NOTE.—Sections 12915 to 12921, inclusive, herein, were added to Division V, Business and Professions Code, by Ch. 131, Stats. 1943, p. 880, and represent codification of the Hay Baling Act, 1919, heretofore found in the General Laws.]

Sec. 12915. "Baler" and "presser" defined.

As used in this article [Secs. 12915–12921], the term "baler" or "presser" refers to a person owning or having possession of or operating a hay press. [1943]

Sec. 12916. Scales to be tested and sealed.

Any person baling hay for compensation shall employ scales that have been tested and sealed by a sealer. [1943]

Sec. 12917. Net weight.

Any record of weight forming the basis in settlement for baling hay shall be the true net weight of the baled hay.

Any record of weight forming the basis of settlement in the sale or purchase of baled hay shall be the true net weight of the baled hay. [1943]

Sec. 12918. Falsely increasing weight.

No baler or presser of hay shall put or conceal in any bale of hay anything whatever for the purpose of increasing the weight of the bale with intent to defraud. [1943]

Sec. 12919. Standard weight.

Hay shall be sold by avoirdupois weight and a ton shall consist of 2,000 pounds net weight.

Hay may be sold by the bale in which case the net weight of bale shall be indicated on a tag securely fastened to the bale. [1943]

Sec. 12920. Broken bales.

When any hay is shipped by a common carrier in bales and the bales become broken, the approximate weight of the broken bales shall be included in the total weight of the hay shipped. [1943]

Sec. 12921. Penalty for violations.

Any person violating any of the provisions of this article [Secs. 12915-12921] is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50) or more than one hundred dollars (\$100). [1943]

Deering's Business and Professions Code, Div. V, Ch. 9, Art. 4—Wool Products.

[ED. NOTE.—This section, based on Stats. 1937, Ch. 465, Sec. 1, was added to Division V, Business and Professions Code, by Ch. 130, Stats. 1943.]

Sec. 12925. Deduction for tags, fribs, crutchings or other off-wools; violation a misdemeanor.

No person purchasing wool from a producer shall make a specific deduction for tags, fribs, crutchings or other off-wools, either on a basis of the percentage of the weight or percentage of the value of the wool. Any provision in a contract to purchase wool from a producer, providing for such a deduction is invalid.

Violation of this section is a misdemeanor. [1943]

Deering's Business and Professions Code, Div. V, Ch. 10—Flour and Meal Containers.

Sec. 13000. Standard weights; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale any of the following commodities except in containers of net avoirdupois weights of five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits.

The provisions of this chapter [Secs. 13000-13001] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred (100) pounds, or for export, or (c) flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than four (4) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 13001. Penalty for violations.

The violation of this chapter [Secs. 13000-13001] is a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each offense. [1945]

Deering's Fish and Game Code, Div. IV, Part 2, Ch. 5, Art. 5—Weight Receipt for Fish.¹

Sec. 1091. Duty to make receipt; form; matters to be shown.

Every person engaged in the business of buying, canning, curing or preserving fish, or manufactur-

ing fish meal, fish oil or fish fertilizer, or dealing in fish, mollusks or crustaceans, shall make a legible record in the form of a receipt in triplicate on forms to be furnished by the commission [fish and game commission]. The receipt must show the weight of each species of fish, mollusks or crustaceans received, the name of the fisherman, the Division of Fish and Game registration number of the boat or the name of the dealer from whom the fish, mollusks or crustaceans were received, the name of the person receiving same, date received, and the price paid to the fisherman. [1933]

¹ See Sec. 12700.5, B & P Code, page 118.

Deering's Business and Professions Code, Div. VII, Part 1, Ch. 4, Art. 6—Itinerant Merchants.

Sec. 16410. Necessity for carrying manifests; weight to be shown.

All itinerant merchants and their agents and employees shall carry on each motor vehicle used by them a manifest on a form prescribed by the commission [Railroad Commission of the State of California] showing a description of the goods in the vehicle, the place where and the person from whom the goods were purchased. If the goods are purchased by weight, the weight and the name and address of the person weighing the goods shall be shown on the manifest. [1941]

Deering's Business and Professions Code, Div. VIII, Ch. 5—Standard Bread Loaf.

[ED. NOTE.—Sections 19800-19808, inclusive, herein (based on Stats. 1921, Ch. 704, as amended by Stats. 1939, Ch. 636, now repealed), were added to Division VIII, Business and Professions Code, by Stats. 1947, Ch. 411, Sec. 1.]

Sec. 19800. Loaves to weigh within limits set out.

All loaves of bread, sliced or unsliced, made or procured for the purpose of sale, sold, offered or exposed for sale in the State of California shall weigh, until 24 hours after baking, within the limits hereinafter set out, for standard loaves and standard large loaves, as herein defined. [1947]

Sec. 19801. Weight of standard loaf.

"Standard loaf" shall weigh not less than 15 ounces, and not more than 17 ounces avoirdupois. [1947]

Sec. 19802. Weight of standard large loaf.

"Standard large loaf" shall weigh not less than 22½ ounces and not over 25½ ounces avoirdupois. [1947]

Sec. 19803. Weight of twin or multiple loaves.

Bread commonly known as "twin loaves" or multiple loaves may be made or procured for the purpose of sale, sold, offered or exposed for sale, providing each unit of such twin or multiple loaf conforms to the standard weights as herein defined for standard loaf and standard large loaf or any multiple of either of such weights. [New, 1947.]

Deering's Business and Professions Code, Div. VIII,
Ch. 5—Standard Bread Loaf—Continued.

Sec. 19804. Marking requirements.

Whenever any bread is sold in any wrappings there shall appear on the body of the wrappings in letters so as to be clear and legible to the buyer or prospective buyer, in a color contrasting with the background, the words "standard loaf" or "standard large loaf" as the case may be, and such label shall also comply in all respects with the provisions of Chapter 6 of Division 5 of the Business and Professions Code of the State of California.¹ [New, 1947.]

¹ See pages 116–118.

Sec. 19805. Exceptions.

The provisions of this chapter [Secs. 19800–19809] shall not apply to crackers, pretzels, biscuits, buns, scones, rolls or loaves of fancy bread weighing less than one-fourth of a pound avoidupois or to what is commonly known as "stale bread," sold as such, provided the seller shall, at the time of sale, expressly state to the buyer that the bread so sold is stale bread. [1947]

Sec. 19806. Unlawful acts; misdemeanor; inspection.

Any person, firm or corporation who shall make or procure for the purpose of sale, sell, offer or expose for sale within the State of California any bread in loaves otherwise than herein provided for or in conflict with the standard weights of bread when baked as herein fixed, shall be guilty of a misdemeanor. All inspection of the weight of bread shall be made on the premises of the maker or manufacturer or on the premises of the retail store from which the bread is sold, or offered for sale or exposed for sale by averaging the weight of not less than ten loaves of bread of any one unit of a specific brand name and such average weight per loaf shall not be less than the minimum or more than the maximum weight herein fixed for the respective loaf for such unit; provided, however, that in the event 10 loaves of bread of any one unit of a specific brand name shall not be available at the time of inspection, the average of weight shall be made upon the basis of such loaves of bread of any one unit of the brand name as may be available. [1947; last amended 1949.]

Sec. 19807. Enforcement.

The enforcement of the provisions of this chapter [Secs. 19800–19809] shall be under the supervision of the Chief of the State Bureau of Weights and Measures. [1947]

Sec. 19808. Violations a misdemeanor.

Any person who violates any provision of this chapter [Secs. 19800–19809] shall be guilty of a misdemeanor.¹ [1947]

¹ See Sec. 19, page 149; punishment for misdemeanor.

Deering's Business and Professions Code, Div. VIII,
Ch. 7—"California Gasoline and Oil Substitution Act" and "California Crude Oil and Gasoline Importation Act."

Secs. 20700–20982.

[ED. NOTE.—The "California Gasoline and Oil Substitution Act," although under the direct enforcement of the Division of Weights and Measures of the Department of Agriculture, has been omitted from this publication because it contains no provisions falling specifically within the "weights and measures" category, to which this publication is limited. The act is noted here, however, because it does deal with commodities measured by devices which are regularly supervised by weights and measures officials and because the act makes reference from time to time to such devices. The title of the act is as follows:

"An act to prevent fraud or misrepresentation in the distribution and sale of gasoline or other motor fuel, distillate, kerosene and lubricating oil; regulating the distribution and sale of such products and the use of brands and trademarks in connection therewith; providing for the licensing of persons, firms, associations or corporations, installing and using motor vehicle fuel pumps; regulating signs, placards, posters, streamers, cards and other advertising media advertising gasoline or other motor vehicle fuel or the price thereof; defining the powers and duties in relation thereto of the Division of Weights and Measures of the Department of Agriculture, and persons authorized by it, scalers of weights and measures, and their deputies and other officers; defining 'gasoline' and prescribing specifications for products sold or offered for sale as 'gasoline;' prescribing penalties for the violation of provisions hereof; and repealing acts and parts of acts inconsistent herewith."

The act itself, along with the "California Crude Oil and Gasoline Importation Act," has been codified as Secs. 20700–20982 by Ch. 86, Stats. 1941, with amendments and additions by Ch. 554, Stats. 1941; Chs. 296, 573, and 574, Stats. 1947; Chs. 760, 1385, and 1386, Stats. 1949.]

Deering's Business and Professions Code, Div. VIII,
Ch. 10—Antifreeze.

Sec. 21700. Definitions: Antifreeze.

"Antifreeze," as used in this chapter [Secs. 21700–21722], means any substance or preparation intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point. [1949]

Sec. 21701. Same: Department.

"Department," as used in this chapter [Secs. 21700–21722], means the Department of Agriculture, acting through the Division of Weights and Measures. [1949]

Sec. 21704. Same: Labeling.

"Labeling," as used in this chapter [Secs. 21700–21722], includes all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container of antifreeze or accompanying any antifreeze. [1949]

Sec. 21712. When deemed misbranded.

An antifreeze is misbranded: (1) If its labeling is false or misleading in any particular; or (2) if

in package form it is not conspicuously labeled on the outside of the package with * * * an accurate statement of the net contents in terms of weight or measure. [1949]

Sec. 21716. Enforcement.

The department, and each county sealer acting under the supervision and direction of the department, shall enforce the provisions of this chapter [Secs. 21700-21722], * * * [1949]

Sec. 21720. Unlawful sales.

It is unlawful to sell or distribute any antifreeze which is adulterated or misbranded, or which is not registered, or without a valid permit as required by this chapter [Secs. 21700-21722]. [1949]

Sec. 21721. Violation a misdemeanor.

Violation of any provision of this chapter [Secs. 21700-21722] is a misdemeanor.¹ [1949]

¹ See Sec. 19, page 149; punishment for misdemeanor.

Deering's General Laws, Vol. 1, Act 1081—"Short-weight Butter Sales Law."

Sec. 1. Grade of offense.

Any person or persons, firm or corporation who offers for sale roll-butter not of full weight to each roll, shall be guilty of a misdemeanor. [1893]

Deering's Health and Safety Code, Div. XXI, Ch. 2—"Pure Drugs Act."

[ED. NOTE.—Stats. 1939, Ch. 730, Sec. 1, which provided for the addition of Secs. 26200-26385, inclusive, to the Health and Safety Code, also provided for the repeal of all former statutes relating to the subjects covered therein, the repealed statutes dating from 1852-1937.]

Sec. 26200. "Drug" defined.

"Drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3). [1939]

Sec. 26201. Articles not regarded as drugs.

"Drug" does not include devices or their components, parts, or accessories. [1939]

Sec. 26202. "Device" defined.

"Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease

in man or other animals; or (2) to affect the structure or any function of the body of man or other animals. [1939]

Sec. 26204. "Label" defined.

"Label" means a display of written, printed or graphic matter upon the immediate container of any article. [1939]

Sec. 26205. When labeling requirements are considered complied with.

A requirement made by or under authority of this chapter [Secs. 26200-26385] that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1939]

Sec. 26207. "Labeling" defined.

"Labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article. [1939]

Sec. 26213. Scope of provisions regulating sales.

The provisions of this chapter [Secs. 26200-26385] regarding the selling of drugs and devices, shall be considered to include the manufacture, production, processing, packing, exhibition, offering, possessing, and holding of any such article for sale; the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any establishment. [1939]

Sec. 26214. "Package" defined.

"Package" includes any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel or any receptacle, vessel or container of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer or dealer, for inclosing or containing any drug. [1939]

Sec. 26215. "Federal act" defined.

"Federal act" means the Federal Food, Drug, and Cosmetic Act. [1939]

Sec. 26240. "Misbranded" defined.

The term "misbranded" shall apply to all drugs or devices, the package or label of which bears any statement, design, or emblem regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any drug or device which is falsely branded or labeled as to the county, city and county, city, town, State, Territory, District of Columbia, or foreign country in which it is manufactured or produced. [1939]

Deering's Health and Safety Code, Div. XXI, Ch. 2—
"Pure Drugs Act"—Continued.

Sec. 26241. Marking requirements; tolerances and exemptions.

A drug or device shall be deemed to be misbranded if in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

Under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board. [1939]

Sec. 26242. Misbranded if not prominently labeled.

A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter [Secs. 26200-26385] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or emblems, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1939]

Sec. 26249. Misleading containers.

A drug shall be deemed to be misbranded (1) if its container is so made, formed, or filled as to be misleading; * * * [1939]

Sec. 26252. Exemptions from labeling requirements.

A drug sold on a written prescription signed by a member of the medical, dental or veterinary profession (except a drug sold in the course of the conduct of a business selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this article [Secs. 26240-26254] if:

(1) Such member of the medical, dental or veterinary profession is licensed by law to administer such drug; and

(2) Such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession. [1939]

Sec. 26280. Manufacture, importation, sale, etc. when misbranded prohibited.

The manufacture, production, preparation, compounding, packing, selling, offering for sale, advertising or keeping for sale within the State of California, or the introduction into this State from any other State, Territory, or the District of Columbia, or from any foreign country, of any drug or device which is adulterated or misbranded is prohibited. [1939; last amended 1943.]

Sec. 26281. Penalty for manufacture, importation, sale, etc. when misbranded.

Any person who imports or receives from any other State or Territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any person, any drug or device which is adulterated or misbranded, or any person who manufactures, produces, prepares, compounds, packs, sells, offers for sale, or keeps for sale, in the State of California any such adulterated or misbranded drug or device shall be guilty of a misdemeanor punishable as provided in section 26295. [1939; last amended 1943.]

Sec. 26282. Exemption of goods intended for export.

No article shall be deemed misbranded or adulterated within the provisions of this chapter [Secs. 26200-26385] when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which the article is intended to be shipped.

If the article is in fact sold or offered for sale for domestic use or consumption, then this section shall not exempt the article from the operation of any of the other provisions of this chapter. [1939; last amended 1943.]

Sec. 26283. Alteration of labeling.

The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a drug or device is unlawful if such act results in such article being misbranded. [1939]

Sec. 26285. Misbranding prohibited.

The adulteration or misbranding of any drug or device is prohibited. [1939]

Sec. 26293. Possession, etc. prima facie evidence of violation.

The possession, sale, or offering for sale of any adulterated, mislabeled or misbranded drugs or devices by any manufacturer, producer, jobber, packer or dealer in drugs or devices, or broker, commission merchant, agent, employee or servant of any such manufacturer, producer, jobber, packer, or dealer shall be prima facie evidence of the violation of this chapter [Secs. 26200-26385.] [1939]

Sec. 26295. Penalty for violations.

Any person who violates any of the provisions of this chapter [Secs. 26200-26385] is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars or more than five hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

If the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than \$1,000, or both such imprisonment and fine. [1939]

Sec. 26296. Guaranty protection.

No dealer shall be prosecuted under the provisions of this chapter [Secs. 26200-26385] if after receipt of an article he has used reasonable care in the use and handling thereof and he can produce a guaranty signed by the wholesaler, jobber, manufacturer, or other party located or residing in the United States from whom he purchased such article, to the effect that the same is not adulterated, or misbranded within the meaning of this chapter; provided, however, that as to drug contained in an original unbroken package, no retailer, who after the receipt of such package has used reasonable care in the use and handling thereof, shall be prosecuted under this chapter for a violation of any provision thereof in connection with any article received by such retailer in the regular channels of trade and as usual first-class merchantable stock and not as seconds, or damaged articles or merchandise or job lots purchased under such conditions as to put the purchaser on notice that such merchandise was not regular first-class merchandise. The guaranty must be dated prior to the date of sale of the article. [1939; last amended 1943.]

Sec. 26297. Kinds of guaranty; when produced.

Such guaranty may be either general or special and must be produced prior to the time of certification of facts to the district attorney for prosecution. [1939]

Sec. 26298. General guaranty.

A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated, mislabeled or misbranded within the meaning of this chapter [Secs. 26200-26385]. [1939]

Sec. 26299. Special guaranty.

A special guaranty shall guarantee in the same manner as a general guaranty the particular articles listed in an invoice of the articles, and shall be attached to or shall fully identify such invoice. [1939]

Sec. 26300. Requirements of guaranty.

To afford protection all guaranties must contain the name and address of the party or parties making the sales of such articles to the person. [1939]

Sec. 26301. Extent of guaranty's protection.

A guaranty shall protect a person only where the article covered by such guaranty remains identical, both as to composition and labeling, with the

article as composed and labeled when received by the person from the guarantor. [1939]

Sec. 26302. When guaranty refers to Federal act.

If the guaranty is to the effect that such article is not adulterated or misbranded within the meaning of the Federal act, it shall be sufficient for all the purposes of this chapter [Secs. 26200-26385] and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere, unless at any time the standard for the article concerned under this chapter is higher than the standard for a like article under the Federal act. [1939; last amended 1943.]

Sec. 26303. Procedure for breach of guaranty by foreign wholesaler, etc.

In case the wholesaler, jobber, manufacturer or other party making such guaranty to the person resides without this State and it appears from the certificate of the Chief of the Bureau [Division] of Laboratories that such article or articles were adulterated or misbranded, within the meaning of this chapter [Secs. 26200-26385] or the Federal act, the district attorney must forthwith notify the Attorney General of the United States of such violation. [1939; last amended 1943.]

Sec. 26321. Rules and regulations.

The authority to promulgate regulations for the efficient enforcement of this chapter [Secs. 26200-26385] is vested in the board [State Board of Public Health]. The board is authorized to make the regulations promulgated under this chapter conform, in so far as practicable, to those promulgated under the Federal act. The violation of a regulation promulgated under this chapter shall be deemed to be a violation of this chapter. [1939]

Sec. 26326. Sheriffs as enforcement officers.

The sheriffs of the respective counties of the State are hereby appointed agents for the enforcement of this chapter [Secs. 26200-26385]. [1939]

Sec. 26327. Right of entry.

Any agent shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated or misbranded drugs and devices exist. [1939; last amended 1943.]

Sec. 26328. Taking of sample.

If a sale is refused upon a tender of the market price of the articles, the agent may take from any person samples of any articles suspected of being adulterated or misbranded, and shall deliver or forward such samples to the State laboratory for examination and analysis. [1939; last amended 1943.]

Sec. 26329. Police powers.

The Chief of the Bureau of Food and Drug Inspections and the agents and inspectors of the

Deering's Health and Safety Code, Div. XXI, Ch. 2—
"Pure Drugs Act"—Continued.

board shall have the powers possessed by peace officers in this State. [1939]

Sec. 26330. Right to inspect factories and vehicles.

The board [State Board of Public Health] or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which drugs or devices are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such drugs and devices, in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter [Secs. 26200-26385] are being violated; and

(2) to secure samples or specimens of any drugs and devices after paying or offering to pay for such sample. [1939]

Sec. 26332. Discretion as to minor violations.

Nothing in this chapter [Secs. 26200-26385] shall be construed as requiring the board [State Board of Public Health] to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever the board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1939]

Sec. 26360. Misbranded articles to be tagged.

Whenever a duly authorized agent of the board [State Board of Public Health] finds, or has probable cause to believe, that any drug or device is adulterated, or so misbranded as to be dangerous or fraudulent, he shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. [1939]

Sec. 26361. Seizure and quarantine when misbranded.

Whenever the findings of the State laboratory or of the Chief of the Bureau of Food and Drug Inspections show after investigation and examination that any drug or device found in the possession of any person is adulterated or misbranded the drug or device may be seized and quarantined. [1939; last amended 1943.]

Sec. 26362. Disposition after seizure and quarantine.

The drug or device shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from the director or the Chief of the Bureau of Food and Drug Inspections. [1939; last amended 1945.]

Sec. 26380. Procedure by sheriff on receipt of verified complaint.

On presentation to him of a verified complaint of the violation of any provisions of this chapter [Secs. 26200-26385], the sheriff of any county of this State shall at once obtain by purchase a sample of the adulterated or misbranded drug or device complained of, and divide the article into three parts. Each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds in weight or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. [1939; last amended 1943.]

Sec. 26381. Distribution of samples by sheriff.

One sample shall be delivered to the party from whom procured or to the party guaranteeing such merchandise, one sample shall be sent to the director of the State Laboratory, and the third sample shall be sent to, and held under seal by, the board [State Board of Public Health]. [1939]

Deering's Health and Safety Code, Div. XXI, Ch. 3—
"Pure Foods Act."

[Ed. NOTE.—Stats. 1939, Ch. 731, Sec. 1, which provided for the addition of Secs. 26450-26624, inclusive, to the Health and Safety Code, also provided for the repeal of all former statutes relating to the subjects covered therein, the repealed statutes dating from 1852-1937.]

Sec. 26450. "Food" defined.

"Food" includes all articles used for food, drink, liquor, confectionery, condiment, or chewing gum by man or other animals, whether such articles are simple, mixed or compound. [1939]

Sec. 26451. "Package" defined.

"Package" includes any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel or any receptacle, vessel or container of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer or dealer, for inclosing or containing any article of food. [1939]

Sec. 26452. "Label" defined.

The term "label" means a display of written, printed or graphic matter upon the immediate container of any article. [1939]

Sec. 26453. Compliance with labeling requirements.

A requirement made by or under authority of this chapter [Secs. 26450-26624] that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1939]

Sec. 26455. "Labeling" defined.

The term "labeling" means all labels and other written, printed or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article. [1939]

Sec. 26459. Scope of provisions regulating sales.

The provisions of this chapter [Secs. 26450-26624] regarding the selling of food, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any food establishment. [1939]

Sec. 26460. "Federal act" defined.

The term "Federal act" means the Federal Food, Drug, and Cosmetic Act. [1939]

Sec. 26461. Construction of provisions in conflict with other laws.

The provisions of this division [Secs. 26200-26624] shall be so construed as to not be in conflict with the provisions of the Agricultural Code, or with the provisions of the Alcoholic Beverage Control Act and the rules and regulations adopted pursuant thereto, and in the event of a conflict, the provisions of the Alcoholic Beverage Control Act or the rules and regulations adopted pursuant thereto shall control. [1939]

Sec. 26462. Application of chapter in respect to beer.

Beer, being subject to the Alcoholic Beverage Control Act in other respects, shall be subject only to the provisions of this chapter [Secs. 26450-26624] which relate to adulteration and misbranding. [1939]

Sec. 26490. Elements of misbranding generally.

A food shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular;

* * * * *

(4) If its container is so made, formed or filled as to be misleading. [1939; last amended 1943.]

Sec. 26491. Marking requirements; tolerances and exemptions.

A food shall be deemed to be misbranded if in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

Under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board [State Board of Public Health]. [1939; last amended 1943.]

Sec. 26492. Misbranded if not prominently labeled.

A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter [Secs. 26450-26624] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or emblems, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1939; last amended 1943.]

Sec. 26494. Misbranded if slack filled.

A food shall be deemed to be misbranded if it purports to be or is represented as:

* * * * *

(2) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by sections 26540 and 26541 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1939]

Sec. 26510. Manufacture, importation, sale, etc. when misbranded prohibited.

The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale or advertising within the State of California, or the introduction into this State from any other State, Territory, or the District of Columbia, or from any foreign country, of any article of food which is adulterated or misbranded is prohibited. [1939; last amended 1943.]

Sec. 26511. Penalty for importation, manufacture, sale, etc. when misbranded.

Any person who imports or receives from any other State or Territory or the District of Columbia or from any foreign country, or who having so received delivers for pay or otherwise or offers to deliver to any other person, any article of food which is adulterated or misbranded, or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale, or advertise in the State of California any such adulterated or misbranded food, shall be guilty of a misdemeanor punishable as provided in section 26519. [1939; last amended 1943.]

Sec. 26512. Exports exempted.

No article of food shall be deemed adulterated or misbranded within the provisions of this chapter [Secs. 26450-26624] when prepared for export beyond the jurisdiction of the United States and prepared or packed according to specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in

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conflict with the laws of the foreign country to which the article is intended to be shipped.

If such foods are in fact sold or kept or offered for sale for domestic uses and consumption, then this section shall not exempt the article from the operation of any provisions of this chapter. [1939; last amended 1943.]

Sec. 26513. Alteration of labeling.

The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food is unlawful if such act results in such article being misbranded. [1939]

Sec. 26515. Misbranding prohibited.

The adulteration or misbranding of any food is hereby prohibited. [1939]

Sec. 26518. Possession, etc. prima facie evidence of violation.

The possession, sale, or offering for sale of any adulterated or misbranded article of food by any manufacturer, producer, jobber, packer, or dealer in food, or broker, commission merchant, agent, employee or servant of any such manufacturer, producer, jobber, packer, or dealer, shall be prima facie evidence of the violation of this chapter [Secs. 26450-26624]. [1939; last amended 1943.]

Sec. 26519. Penalty for violations.

Any person who violates any of the provisions of this chapter [Secs. 26450-26624] is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars or more than five hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

If the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than \$1,000, or both such imprisonment and fine. [1939]

Sec. 26520. Guaranty protection.

No dealer shall be prosecuted under the provisions of this chapter [Secs. 26450-26624] if after receipt of an article he has used reasonable care in the use and handling thereof and he can produce a guarantee signed by the wholesaler, jobber, manufacturer, or other party located or residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this chapter; provided, however, that as to food contained in an original unbroken package, no retailer, who after the receipt of such package has used reasonable care in the use and handling thereof, shall be prosecuted under this chapter for a violation of any

provision thereof in connection with any article received by such retailer in the regular channels of trade and as usual first-class merchantable stock and not as seconds, or damaged articles or merchandise or job lots purchased under such conditions as to put the purchaser on notice that such merchandise was not regular first-class merchandise. [1939; last amended 1943.]

Sec. 26521. Kinds of guaranty; when produced.

Such guaranty may be either general or special and must be produced prior to the time of certification of facts to the district attorney for prosecution. [1939]

Sec. 26522. General guaranty.

A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated or misbranded within the meaning of this chapter [Secs. 26450-26624]. [1939; last amended 1943.]

Sec. 26523. Special guaranty.

A special guaranty shall guarantee in the same manner as a general guaranty the particular articles listed in an invoice of the articles, and shall be attached to or shall fully identify such invoice. [1939]

Sec. 26524. Requirements of guaranty.

To afford protection all guaranties must contain the name and address of the party or parties making the sales of such articles to the person. [1939]

Sec. 26525. Extent of guaranty's protection.

A guaranty shall protect a person only where the article covered by such guaranty remains identical, both as to composition and labeling, with the article as composed and labeled when received by the person from the guarantor. [1939]

Sec. 26526. When guaranty refers to Federal act.

If the guaranty is to the effect that such article is not adulterated or misbranded within the meaning of the Federal act it shall be sufficient for all purposes of this chapter [Secs. 26450-26624] and have the same force and effect as though it referred to this chapter whether given by a person residing in the United States or elsewhere. [1939; last amended 1943.]

Sec. 26527. Procedure for breach of guaranty by foreign wholesaler, etc.

In case the wholesaler, jobber, manufacturer or other party making such guaranty to the person resides without this State and it appears from the certificate of the Chief of the Division of Laboratories that such article or articles were adulterated or misbranded, within the meaning of this chapter [Secs. 26450-26624] or the Federal act, the district attorney must forthwith notify the Attorney Gen-

eral of the United States of such violation. [1939; last amended 1943.]

Sec. 26540. Regulations regarding standard of fill of containers.

Whenever in the judgment of the board [State Board of Public Health] such action will promote honesty and fair dealing in the interest of consumers, the board may promulgate regulations establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container.

No standard of identity or fill of container shall be established for beer as defined in the Alcoholic Beverage Control Act. * * * In prescribing any standard of fill of container, the board shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. * * * [1939]

Sec. 26542. Rules and regulations; exemptions.

The authority to promulgate regulations for the efficient enforcement of this chapter [Secs. 26450-26624] is vested in the board [State Board of Public Health]. The board shall promulgate regulations exempting from the provisions of this chapter food which is in accordance with the normal practice of the trade introduced or offered for introduction into trade and which is being delivered to an establishment where it is to be processed, labeled or packed on condition that such food shall conform with the provisions of this act upon its removal from such processing, labeling or packing establishment. The regulations promulgated and the definitions and standards prescribed pursuant to this chapter shall not require higher standards and shall not be more restrictive than the definitions, standards and regulations which are in force, or promulgated by the Federal Security Agency, Food and Drug Administration, under the provisions of the Federal act or by the Animal Foods Inspection Division of the United States Department of Agriculture, in the event that any such definitions, standards, or regulations are in force thereunder. The violation of a regulation promulgated under this chapter shall be deemed to be a violation of this chapter. [1939; last amended 1941.]

Sec. 26547. Sheriffs as enforcement officers.

The sheriffs of the respective counties of the State are hereby appointed agents for the enforcement of this chapter [Secs. 26450-26624]. [1939]

Sec. 26548. Right of entry.

Any agent shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated or misbranded food exists. [1939; last amended 1943.]

Sec. 26549. Taking of samples.

If a sale is refused upon a tender of the market price of the articles, the agent may take from any person samples of any articles suspected of being adulterated or misbranded, and shall deliver or forward such samples to the State laboratory for examination and analysis. [1939; last amended 1943.]

Sec. 26550. Refusal to sell sample.

Any person who refuses to sell to any agent of the board [State Board of Public Health] any sample of food upon tender of the market price therefore, or who conceals any food from such officer, or who withholds from the officer information respecting the place where such food is kept or stored is guilty of a misdemeanor punishable as provided in section 26519. [1939]

Sec. 26551. Police powers.

The Chief of the Bureau of Food and Drug Inspections and the agents and inspectors of the State Board of Public Health shall have the powers possessed by peace officers in this State. [1939]

Sec. 26553. Right to inspect factories and vehicles.

The board [State Board of Public Health] or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter [Secs. 26450-26624] are being violated; and

(2) to secure samples or specimens of any food after paying or offering to pay for such sample. [1939]

Sec. 26555. Discretion as to minor violations.

Nothing in this chapter [Secs. 26450-26624] shall be construed as requiring the board [State Board of Public Health] to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever the board believes that the public interest will be adequately served in the circumstances by a suitable written notice of warning. [1939]

Sec. 26580. Misbranded articles to be tagged.

Whenever a duly authorized agent of the board [State Board of Public Health] finds, or has probable cause to believe, that any food is adulterated, or so misbranded as to be dangerous or fraudulent, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or

Deering's Health and Safety Code, Div. XXI, Ch. 3—
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is suspected of being, adulterated or misbranded and has been detained or quarantined, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. [1939]

Sec. 26581. Seizure and quarantine when misbranded.

Whenever the findings of the State laboratory or of the Chief of the Bureau of Food and Drug Inspections show after investigation and examination, that any food found in the possession of any person is adulterated or misbranded, the food may be seized and quarantined. [1939; last amended 1943.]

Sec. 26582. Disposition after seizure and quarantine.

The food shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from the board [State Board of Public Health], the director [director of public health], or the Chief of the Bureau of Food and Drug Inspections. [1939; last amended 1945.]

Sec. 26584. Authority to seize and destroy.

Food found to be adulterated or misbranded may, by order of a court or judge, or, in the absence of such an order, with the written consent of the owner thereof, be seized or destroyed. [1939; last amended 1943.]

Sec. 26600. Procedure by sheriff on receipt of verified complaint.

On presentation to him of a verified complaint of the violation of any provisions of this chapter [Secs. 26450-26624], the sheriff of any county of this State shall at once obtain by purchase a sample of the adulterated or misbranded food complained of, and divide the article into three parts. Each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds in weight or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. [1939; last amended 1943.]

Sec. 26601. Distribution of samples by sheriff.

One sample shall be delivered to the party from whom procured or to the party guaranteeing such merchandise, one sample shall be sent to the Chief of the Division of Laboratories, and the third sample shall be sent to, and held under seal by, the board [State Board of Public Health]. [1939]

Sec. 26615. Establishment of local enforcement divisions.

The board [State Board of Public Health] may organize and establish local food inspection and enforcement divisions with headquarters at such points and with jurisdiction over such territory as the board shall by order specify. [1939]

Sec. 26616. "Local food inspection and enforcement division" construed.

For the purposes of this chapter [Secs. 26450-26624], the term "local food inspection and enforcement division" shall be construed to mean the local health department, headed by the duly appointed, qualified and acting health officer of any county, city, or city and county, designated by order of the board [State Board of Public Health] to act as such division within the territory specified in such order. Such territory may include one or more counties, cities, or cities and counties. [1939]

Sec. 26617. Duties of local division.

A local food protection and enforcement division shall make, or cause to be made, examinations and analyses of food which is suspected of being adulterated or misbranded and which is on sale within the territory where such local division has jurisdiction. [1939; last amended 1943.]

Sec. 26618. Police powers of division health officer.

Within the territory over which a local division has jurisdiction, the health officer of any local food protection and enforcement division and his deputies, shall have the same powers as are possessed by peace officers of this State. [1939]

Sec. 26622. Samples to be furnished local health officer by sheriff.

In exercising the powers conferred upon him by section 26547 the sheriff of a county shall furnish samples of all adulterated or misbranded foods seized or purchased by him to the health officer of the local food inspection and enforcement division, if any, having jurisdiction over the territory within which such seizure or purchase is made. In carrying out the duties imposed by section 26600 a sheriff shall purchase an additional sample and forward the same to such health officer. [1939; last amended 1943.]

Sec. 26623. Construction of article.

The provisions of this article [Secs. 26615-26624] shall not be construed as repealing, either directly or by implication, any of the existing sections of this chapter [Secs. 26450-26624], but shall be construed as constituting an alternative method of enforcing the same. [1939]

Deering's Health and Safety Code, Div. XXI, Ch. 9—
Olive Oil.

Sec. 28475. Definition.

"Olive oil," as used in this chapter [Secs. 28475-28488], means the edible oil obtained from the fruit of the olive tree (*olea europea* L.). [1947]

Sec. 28483. Packing and labeling.

All olive oil manufactured or sold in the State shall be packed in drums or sealed containers not

larger in size than five-gallon cans; and shall bear the following information on the label:

(a) Net contents. [1947]

* * * * *

Sec. 28487. Enforcement.

The board [State Board of Public Health] shall enforce the provisions of this chapter [Secs. 28475-28488]. [1947]

Sec. 28488. Violation of chapter: Misdemeanor; punishment.

Any person violating any of the provisions of this chapter [Secs. 28475-28488] is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand (\$1,000), or by imprisonment in the county jail for not exceeding one year, or by both such fine and imprisonment. [1947]

Deering's Agricultural Code, Div. IV, Ch. 8—"Milk and Milk Products Act of 1947."

[ED. NOTE.—Stats. 1947, Ch. 939, which provided for the addition of Secs. 440-750.4, inclusive, to the Agricultural Code, also provided for the repeal of all former statutes relating to the subjects covered therein, the repealed statutes dating from 1919 to 1945.]

Sec. 687. Tolerances in weights, measures, etc.

No tolerance in weights, measures, percentages of milk fat or moisture, or any other measure or standard shall be permitted, except where specific provisions are made therefor. [1947]

Sec. 688. Babcock glassware, weights, and scales; specifications and tolerances.

All measuring glassware, weights or scales used by licensed testers or licensed technicians shall be accurate. All glassware shall be examined by the director [of agriculture] and if found to be accurate, each piece shall have a legible or indelible distinguishing mark placed upon it by the department. All Babcock glassware and scales shall comply with the following specifications:

(a) Milk test bottle. The total percent graduation shall be 8. The graduated portion of the neck shall have a length of not less than 63.5 millimeters and the graduation shall represent whole per cent, five-tenths per cent and tenths per cent. The error in the total graduation or in any part thereof shall not exceed one-tenth of 1 per cent. The neck shall be cylindrical for at least five millimeters below the lowest and above the highest graduation mark.

(b) Fifty per cent nine-gram long-neck cream-test bottle. The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 120 millimeters. The graduation shall represent 5 per cent, 1 per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark.

Each bottle shall bear at the top of the neck above the graduations, in plain legible characters, a mark defining the weight of the charge to be used—nine grams. The error in the total graduation or in any part thereof, shall not exceed twenty-five hundredths of 1 per cent.

(c) Fifty per cent 18-gram long-neck cream-test bottle. The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 120 millimeters. The graduation shall represent 5 per cent, 1 per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least 5 millimeters below the lowest and above the highest graduation mark. Each bottle shall bear at the top of the neck above the graduations, in plain legible characters a mark defining the weight of the charge to be used—18 grams. The error in the total graduation or in any part thereof shall not exceed twenty-five hundredths of 1 per cent.

(d) Seventeen and six-tenths milliliter pipette. The delivery tube shall have a length of 100 to 120 millimeters and an outside diameter between 4.5 and 5.5 millimeters, and a straight nozzle. The pipette shall contain 7.6 millimeters of water at 20 degrees Centigrade when the bottom of the meniscus coincides with the mark on the suction tube. The error in the graduation shall not exceed five one hundredths of a milliliter.

(e) Scales or balance. The scales or balance used in weighing cream samples into the test bottles shall have a sensibility of not more than 30 milligrams. [1947]

[ED. NOTE.—For penalty for rendering inaccurate, incorrect, or false tests, see Sec. 381a, page 149.]

Sec. 689. Fees for glassware examinations.

A fee of two dollars (\$2.00) shall be paid by the owner of said glassware to the department for every dozen pieces of Babcock glassware examined. The department shall charge fees for examining glassware and apparatus used in methods of testing other than the Babcock test, sufficient to cover the actual cost of such examination. All moneys received under this section shall be paid into the Department of Agriculture Fund. [1947; last amended 1948.]

Deering's Agricultural Code, Div. V, Ch. 2—Fruit, Nut and Vegetable Containers.

Sec. 781. Definitions.

As used in this chapter [Secs. 781-831]:

(a) "Container" means any box, crate, lug, chest, basket, carton, barrel, keg, drum, sack, or other receptacle.

(b) "Subcontainer" means any container when being used within another container.

* * * * *

Deering's Agricultural Code, Div. V, Ch. 2—Fruit, Nut and Vegetable Containers—Continued.

(g) "Fruits, nuts, or vegetables" means the food product of any tree, vine or plant.

* * * * *

(l) "Agent" includes broker, commission merchant, auctioneer, solicitor, seller on consignment, and any other person acting upon the actual or implied authority of another.

(m) "Mislabel" means the placing or presence of any false or misleading statement, design, or device, upon any container, or upon the label or lining of any such container, or upon the wrapper of any fresh or dried fruit, nut or vegetable, or upon any fruit, nut or vegetable, or upon any placard used in connection therewith and having reference to such fresh or dried fruits, nuts or vegetables. A statement, design or device is false or misleading, when the fresh or dried fruit, nut or vegetable, or container to which it apparently or actually refers, does not conform in every respect to such statement. [1933; last amended 1941.]

* * * * *

Sec. 782. Enforcement; rules and regulations.

The director of agriculture and the commissioners of each county of the State, their deputies and inspectors, under the supervision and control of the director shall enforce this chapter [Secs. 781-831]. * * *

The director may prescribe methods of selecting samples of lots or containers of fruits, nuts and vegetables on a basis of size or other specific classification, * * *; and make such other rules and regulations as are necessary to secure uniformity in the enforcement of this chapter. [1933; last amended 1941.]

* * * * *

Sec. 783. Right of entry; inspection; prosecutions; seizures.

All enforcing officers may enter and inspect any place or conveyance within the county or district over which they have jurisdiction, where any fresh or dried fruits, nuts or vegetables are produced, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and inspect all such fresh or dried fruits, nuts and vegetables and the containers thereof and equipment found in any such places or conveyances and take for inspection, such representative samples of the produce and such containers, as may be necessary to determine whether or not this chapter [Secs. 781-831] has been violated. * * *

All enforcing officers shall cause the prosecution of any person whom they know or have reason to believe to be guilty of violating any of the provisions of this chapter. Any enforcing officer may, while enforcing the provisions of this chapter, seize and hold as evidence all or any part of any pack,

load, bulk lot, consignment or shipment of fresh or dried fruits, nuts or vegetables packed, delivered for shipment, loaded, shipped, or being transported or sold in violation of this chapter, or any container of such product, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating any of the provisions of this chapter.

Any prosecution for the violation of any provisions of this chapter may be made in any county where any part of the offense occurred. Any evidence taken by any enforcing officer in any county may be admitted in evidence in any prosecution in any other county. [1933; last amended 1939.]

* * * * *

Sec. 784. Unlawful to use non-standard containers.

It is unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, cause to be transported or sell any fruits, nuts or vegetables in bulk or in any container or subcontainer unless such fruits, nuts and vegetables, and their containers, conform to the provisions of this chapter [Secs. 781-831]. [1933; last amended 1939.]

Sec. 784.3. False, deceptive or misleading statement, representation or assertion.

It is unlawful to make any statement, representation or assertion orally, by public outcry or proclamation, or in writing, or by any other manner or means whatever concerning the quality, size, maturity, condition of, or any other matter relating to fruits, nuts or vegetables, which is false, deceptive or misleading in any particular. [1935; last amended 1941.]

Sec. 784.4. Unlawful to move tagged containers.

It is unlawful to move any fruits, nuts or vegetables, or their containers to which any warning tag or notice has been affixed, or to remove such warning tag or notice from the place where it is affixed, except under written permit from an enforcing officer or under his specific direction. [1935; last amended 1939.]

Sec. 784.5. Packing in layers not of approximately same count; tight pack.

Except as otherwise provided, it is unlawful to pack any fruits, nuts, or vegetables in layers in containers having straight sides, unless there is approximately the same numerical count in each layer. All packed fruits, nuts, or vegetables must be so packed that they will not move in the container, provided, however, fruits or vegetables which, after having been in storage or after having been shipped, fail to meet this requirement due to unavoidable natural shrinkage occurring after packing, shall not be construed to be in violation of the requirements of this provision. [1935; last amended 1945.]

Sec. 784.6. Fancy pack: Exposed and unexposed portion to be same.

It is unlawful to pack any mixture of fresh or dried fruits, with or without nuts, glazed fruits, or confections, unless the contents of the lower layers or unexposed portion are of the same kind and quality, and in the same proportion, as to count, volume, and weight, as the contents of the top layer or any unexposed portion. [1935; last amended 1947.]

Sec. 784.7. Unlawful not to submit containers for inspection.

It is unlawful to refuse to submit any container, subcontainer, load, or display of fruits, nuts, or vegetables to the inspection of any enforcing officer, or to refuse to stop any vehicle containing any fruits, nuts, or vegetables, for the purpose of inspection by an enforcing officer. [1935]

Sec. 785. Nonstandard containers declared public nuisances; condemnation and destruction of.

(a) Any fruits, nuts or vegetables, packed, stored, delivered for shipment, loaded, shipped, or being transported or sold in violation of this chapter [Secs. 781-831], together with their containers, are a public nuisance and shall be held by the person in whose possession they may be and shall not be moved from the place where they may be, except upon the written permission or upon the specific direction of an enforcing officer.

(b) The enforcing officer may affix a warning tag or notice to such nuisance, and may give notice of such violation to the packer or owner, or to any person in possession of such fruits, nuts or vegetables. If such person, so notified, refuses or fails within 24 hours to recondition or re-mark the same so as to comply with all requirements of this chapter and legally to dispose of such as do not comply with all requirements of this chapter, all such non-complying lots of fruits, nuts or vegetables, together with their containers, may be seized by any enforcing officer. [1933; last amended 1945.]

* * * * *

Sec. 785.3. Director may enjoin repeated violations.

The director [of agriculture] may bring an action to enjoin the second or other repeated violation or threatened second or other repeated violation of any provision of this chapter [Secs. 781-831] in the superior court in and for the county in which the violation occurred or is about to occur. * * * [1939]

Sec. 785.6. Civil liability of violator.

Any person who violates any provision of this chapter [Secs. 781-831] shall, in addition to any penalty otherwise provided, be liable civilly, in an action brought by the director [of agriculture], for a penalty in an amount equal to the value which the fruits, nuts, or vegetables involved in

the violation would have if they conformed to the requirements of this chapter. The value of such noncomplying fruits, nuts and vegetables shall be the current market value of the lowest priced grade of a marketable commodity of like kind and nature at the time and place of the violation. Any money recovered under this section shall be paid into the Department of Agriculture fund. [1939]

Sec. 790. Standards established.

There are hereby established standards for fruits, nuts and vegetables which shall include apricots, avocados, berries, cherries, citrus fruits, dates, grapes, nectarines, peaches, pears, oriental persimmons, plums, and fresh prunes, "wonderful" pomegranates, quinces, walnuts, artichokes, asparagus, Brussels sprouts, cantaloupes, carrots, cauliflower, celery, green corn, head lettuce, Italian sprouting broccoli, melons, onions, peas, potatoes, sweet potatoes, tomatoes and apples. [1933; last amended 1949.]

Sec. 790.5. Emergency standards.

Whenever, upon petition of persons interested in the growing or handling of fruits, nuts, or vegetables, or upon his own motion the director [of agriculture] finds that any provision of this chapter [Secs. 781-831] relating to standards for any commodity or type of container, or relating to any markings required on any container, or any arrangement of the produce within a container, is difficult or impossible of performance by reason of laws or orders promulgated by authority of the Government of the United States, or because of scarcity of materials, labor, or equipment used in the production or marketing of any commodity regulated by this chapter, or that any such provision of this chapter results in serious waste of useful produce otherwise available for human consumption or in serious waste of other resources, or prevents utilization of new technological developments, to the serious disadvantage of California producers, he may establish emergency standards for any such commodity or container, or for the marking of containers, or for the arrangement of produce within the container; and until expiration as hereinafter provided, such emergency standards shall be in full force and effect, notwithstanding any other provision of this chapter, and all provisions of this chapter applying to standards shall apply to such emergency standards in lieu of the standards set forth in this chapter.

All emergency standards established under the provisions of this section shall be reasonably calculated to effectuate the purposes of the standards which they supersede. * * *, and no emergency standards shall be construed to modify in any respect any provision of this chapter designed to prevent deception or mislabeling * * *. [1947]

Deering's Agricultural Code, Div. V, Ch. 2—Fruit, Nut and Vegetable Containers—Continued.

Sec. 791. Apricots: Containers for.

* * * * *

Apricots, when packed, shall be in standard containers numbers 1, 5, 6, 7, 8, 9, 22a, 22b, 24 or 27.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container." [1933; last amended 1935.]

Sec. 793. Strawberries and other berries: Containers for.

* * * * *

All strawberries shall be in the dry pint basket, containing an interior capacity of approximately thirty-three and six-tenths cubic inches. All other berries shall be in the dry pint basket or in the dry one-half pint basket containing an interior capacity of approximately sixteen and eight-tenths cubic inches. [1933]

Sec. 794. Cherries: Containers for.

* * * * *

Cherries shall be in standard containers numbers 4, 10, 11, 12, 12A, 22C, 25 or 27.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container."

Standard container number 15, the cherry box 3 inches in depth, $9\frac{3}{4}$ inches in width and $18\frac{1}{8}$ inches in length, inside measurements, and the lug 4 inches in depth, $13\frac{1}{2}$ inches in width and $16\frac{1}{8}$ inches in length, inside measurements, shall be considered standard for cherries until January 1, 1942. [1933; last amended 1941.]

Sec. 795.8. Standard citrus field picking box.

Except as otherwise permitted by the tolerance provided in this section, the standard citrus field picking box shall have a cubic content of 3.115 cubic inches and shall not have cleats over one inch high. The volume added to such box by the cleats shall not be considered in computing the cubic content.

Every citrus field picking box that is not standard must be conspicuously marked on an outside end with the word "irregular" and with the cubic content in cubic inches, in letters and figures not less than one inch in height.

All contracts entered into, and all settlements made with growers on the basis of citrus field picking boxes shall be on the basis of the standard box unless such contract or settlement be in writing and expressly provide in type as conspicuous as the balance thereof that the box involved is irregular and state its actual cubic content.

In order to provide for reasonable variation in the cubic content of standard citrus field picking boxes because of atmospheric changes, normal use and normal manufacturing variations, a tolerance of 4 per cent either above or below said standard cubic content shall be permissible. An equal tolerance shall be permissible in the case of irregular citrus field picking boxes above or below the cubic content as marked thereon. [1941]

Sec. 796.1. Markings on containers of citrus fruit.

* * * * *

All containers of packed citrus fruits when packed shall bear upon them in plain sight and in plainly legible letters on one outside end: The name of the packer thereof together with a sufficiently explicit address to permit ready location of such packer; the number * * * of the citrus fruit in the container, except that containers of tangerines, mandarins and limes when not regularly packed, may instead be marked with the cubical capacity of the container; * * * [1941; last amended 1948.]

Sec. 796.3. Count of oranges; number marked on containers; average diameter.

The count of oranges packed in standard containers numbers 53 and 54 and the number marked on the containers as required in Section 796.1 shall be one of the numbers tabulated in Column A, below, and the average diameter marked on the containers shall be the corresponding measurement in Column B, below. The average diameter in inches of the oranges in the container, as determined by inspection of a representative sample, shall be not less than the corresponding measurement tabulated in Column B.

Column A	Column B	Column A	Column B
48 -----	4.370	220 -----	2.625
64 -----	3.970	252 -----	2.500
80 -----	3.680	288 -----	2.375
100 -----	3.420	344 -----	2.250
126 -----	3.170	392 -----	2.150
150 -----	3.000	420 -----	2.070
176 -----	2.840	442 -----	2.050
200 -----	2.720	490 -----	1.980
216 -----	2.640	540 -----	1.920

[1945]

Sec. 796.4. Count of grapefruit; number marked on containers; average diameter.

The count of grapefruit packed in standard containers numbers 53 and 54 and the number marked on the containers as required in Section 796.1 shall be one of the numbers tabulated in Column A, below, and the average diameter marked on the containers shall be the corresponding measurement in Column B, below. The average diameter in inches of the grapefruit in the container as determined by inspection of a representative sample, shall be not less than the corresponding measurement tabulated in Column B.

Column A	Column B	Column A	Column B
18	6.200	54	4.270
24	5.640	64	4.030
28	5.350	70	3.910
32	5.120	80	3.740
36	4.920	100	3.480
40	4.750	126	3.190
44	4.610	150	3.000
46	4.540	176	2.840
48	4.470		

[1945]

Sec. 796.5. Count of lemons; number marked on containers; average diameter.

The count of lemons packed in standard container number 56 and the number marked on the containers as required in Section 796.1 shall be one of the numbers tabulated in Column A, below, and the average diameter marked on the containers shall be the corresponding measurement in Column B, below. The average diameter in inches of the lemons in the container, as determined by inspection of a representative sample, shall be not less than the corresponding measurement tabulated in Column B.

Column A	Column B	Column A	Column B
126	2.925	432	1.940
150	2.775	442	1.920
180	2.625	490	1.850
210	2.475	540	1.800
252	2.345	588	1.750
270	2.270	638	1.685
300	2.190	688	1.640
360	2.065		

[1945]

Sec. 802.6. Grapes: Containers for.

All grapes intended for shipment out of the State of California shall be placed in standard containers numbers 1, 1B, 1C, 2, 5, 6, 7, 8, 9, 9A, 28, 29, 30A, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 38H, 38I, 38J, 49, and 50 subject to the restrictions and additions specified in this chapter [Secs. 781-831]. Except as otherwise designated, all such containers shall be considered as standard for grapes when packed with or without pads.

The depth dimension of containers, exclusive of cleats, designated for grapes in this chapter shall apply only to the depth of the head of each such container.

Containers designated as 37A, 37B, 37C, 37D, 37E, 37F and 37G shall be standard for grapes when used without cleats or with any one of the following defined cleats attached to the top of each end piece; however, no such container shall be less than $4\frac{1}{16}$ nor more than $6\frac{19}{16}$ inches in depth, including the depth of a cleat on each end.

1. Cleat $\frac{3}{8}$ inch depth and $1\frac{1}{16}$ inch width.
2. Cleat $\frac{1}{2}$ inch depth and $1\frac{1}{16}$ inch width.
3. Cleat $\frac{1}{16}$ inch depth and $1\frac{1}{16}$ or $\frac{7}{8}$ or $1\frac{3}{8}$ inch width.
4. Cleat $\frac{3}{4}$ inch depth.

5. Cleat $\frac{7}{8}$ inch depth and $1\frac{1}{16}$ inch width.

Only the depth measurement of these cleats shall be used to increase the depth measurements of the container.

Containers designated as 5, 6, 7, 8, 9, 9A, 30A, 38H, 38I and 38J shall be standard for grapes when used with or without any style of cleat providing the sides of the container are not placed above the container head.

Containers numbers 28, 29, 49 and 50 shall be standard for grapes only when (1) containing grapes packed in sawdust, cork or similar packing material in sufficient amount to completely surround and cover the grapes and (2) used without cleats.

Containers numbers 30A and 38H shall be standard for grapes only when containing bunches which are (1) individually wrapped in paper or other protective wrapping material and (2) packed in excelsior or other similar packing material.

Container number 37G shall also be considered standard for grapes when each head piece is beveled across each bottom corner at an angle of 45 degrees, starting 2 inches from each such corner, and is notched at the center of the base by a triangle with a base of 4 inches and an altitude of 2 inches and bottom slats are attached to each bevel and to each side of the notch, so as to affect the contour of the box.

Containers designated as 37D, 37F and 37G shall also be considered standard for grapes when constructed as display lugs defined herein and subject to the following restrictions. No other container shall be considered standard for grapes when so constructed.

Standard Display Lug: Container 37G when constructed as a "display lug" shall have a $5\frac{3}{4}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{2}$ inches in depth, and shall be used without a cleat or cleats; however, when a pad filler is placed in the bottom of the container a $\frac{3}{8}$ or $1\frac{1}{16}$ inch cleat may be placed on each end of the container on top of the head in such a manner as to add $\frac{3}{8}$ or $1\frac{1}{16}$ of an inch to the height of each end piece.

Special Display Lug: Container 37F when constructed as a "display lug" shall have a $5\frac{1}{2}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $4\frac{1}{4}$ inches in depth, and shall be used without a cleat or cleats.

Special Display Lug: Container 37D when constructed as a "display lug" shall have a $5\frac{1}{8}$ inch head (1) "slotted" $1\frac{1}{4}$ inches or less from the top or (2) consisting of a top piece $1\frac{1}{4}$ inches deep nailed or fastened to a bottom piece $\frac{3}{8}$ inches in depth, with or without a $\frac{3}{8}$ inch cleat making a total depth of $5\frac{1}{8}$ or $5\frac{3}{4}$ inches.

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The term "display lug" shall mean a lug with a two-piece or slotted head (with or without cleats) and sides consisting of two pieces, constructed in such a manner that when packed with grapes and lidded, an entire upper section of the lug, together with the lid, can readily be removed, thereby displaying the grapes. [1941; last amended 1943.]

Sec. 803. Peaches: Containers for.

* * * * *

All containers of fresh peaches shall bear upon them in plain sight and in plain letters on one outside end: * * * the size description, when the peaches are packed in the four-basket crate or the count, when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four-basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four peaches more or less than the number stated shall be allowed. [1933; last amended 1943.]

* * * * *

Sec. 803.5. Nectarines: Standard containers; marking requirements.

* * * * *

All containers of fresh nectarines shall bear upon them in plain sight and in plain letters on one outside end: * * * the size description, when the nectarines are packed in the four-basket crate or the count, when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four-basket crate the numerical description of the pack in the top layer of the basket shall be used to designate size. When the count is used to designate the contents of the container a variation of four nectarines more or less than the number stated shall be allowed.

Nectarines, when packed, shall be in standard containers numbers 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 25, 26, 27 or 27A. Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half inch in height, "irregular container." [1949]

Sec. 804. Pears: Containers for.

* * * * *

All containers of pears shall bear upon them in plain sight and in plain letters on one outside end: * * * the size description when the pears are packed in the four-basket crate or the

count when wrapped and packed throughout, in straight side containers in uniform layers and rows.

In the case of the four-basket crate the numerical description of the pack in the top layer of the baskets shall be used to designate size. When the count is used to designate the contents of the container a variation of four pears more or less than the number stated shall be allowed. [1933; last amended 1947.]

* * * * *

Sec. 806. Plums and fresh prunes: Containers for.

* * * * *

All containers of plums and fresh prunes, shall bear upon them in plain sight and in plain letters on one outside end all of the following information:

* * * * *

(d) A designation indicating the size of the plums or fresh prunes in the container as follows:
 (1) When packed in the four-basket crate, the description of the arrangement of the pack in the top layer of the baskets.

(2) When wrapped and packed throughout in a straight side container, the count.

(3) When packed without wrappers throughout the container or by the "face and fill" method, in any container other than the four-basket crate, the "row count" directly followed by the word "row," "rows" or the letter "R" all in like size type, or the numerical description.

(4) When loose in any closed container, the numerical description. "Row count" shall mean the number of rows of plums or fresh prunes packed laterally across the end of the container.

"Numerical description" shall mean the numerical arrangement which the plums and fresh prunes would pack in the top layer of a basket if packed in the standard four-basket crate * * *.

When the actual count is used to designate the contents of the container, a variation of four plums or fresh prunes more or less than the number stated shall be allowed.

Plums and fresh prunes shall be in standard containers numbers 1, 1A, 5, 6, 7, 8, 9, 12A, 12B, 14, 15, 16, 17, 18A, 22B, 23, 24, 25, 26 or 27.

Container number 23 shall be standard for plums and fresh prunes only when such fruits are wrapped and packed throughout the container.

Container number 25 shall be standard for plums and fresh prunes only when used with a three-eighths inch cleat or an eleven-sixteenths inch cleat regardless of any other provision of Section 828.85.

Container number 25 may be used without a cleat or with any cleat other than those provided for in this section and other size containers than those provided in this section may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such containers, in letters not less than one-half

inch in height, "irregular container." [1933; last amended 1949.]

Sec. 810. Artichokes: Containers for.

Artichokes shall be in standard containers numbers 21, 21A and 22.

In the case of container number 21A, if any marking intended to describe the container is placed upon such container, the designation used shall contain the term "special." [1933; last amended 1949.]

Sec. 810.5. Asparagus: Containers for and markings.

All markings required by this section which are on containers less than one-half the size of standard containers numbers 51 and 52 may be in letters smaller than one-half inch in height; provided, such markings are in plain sight and in plain letters.

Asparagus packed in bunches that weigh not less than two pounds per bunch shall be in standard containers as follows:

(a) Bunches in which the stalks are seven and one-fourth inches or longer in length shall be in standard container number 51. (b) Bunches in which the stalks are less than seven and one-fourth inches in length shall be in standard container number 52.

Other size containers may be used if conspicuously marked on the outside of the end which bears any marks intended to describe the contents of such container, in letters not less than one-half of an inch in height with the words "irregular container." [1933; last amended 1949].

Sec. 811. Cantaloupes: Markings on containers.

All containers of cantaloupes in which the pack does not conform to the standard pack provisions for cantaloupes in section 829 shall be conspicuously marked in letters not less than one-half inch in height "irregular pack." [1933; last amended 1937.]

Sec. 812.3. "Bunched carrots" defined.

"Bunched carrots" means carrots with tops attached tied together in a group and does not include carrots with tops removed. [1939; last amended 1947.]

Sec. 812.4. Same: Containers for.

Bunched carrots when in closed wooden containers shall be packed either in standard container 45C, with a nine inch depth, or in standard containers 45, 45A or 45B. [1939; last amended 1949.]

Sec. 812.5. Same: Number and weight of.

Bunched carrots shall conform to the following requirements:

(b) Regardless of size of the carrots each bunch shall consist of no less than four carrots and shall weigh not less than one pound including tops. [1939; last amended 1947.]

Sec. 812.6. Same: Bunches per container.

Bunched carrots, when packed in closed, wooden standard containers numbers 45, 45A, or 45B, shall consist of not more than six dozen bunches, and when packed in a closed, wooden standard container number 45C with a nine inch depth shall consist of not more than three dozen bunches. [1939; last amended 1947.]

Sec. 812.7. Same: Marking of containers.

All closed containers of bunched carrots shall bear upon them in plain sight and in plain letters and numbers on one outside end the following:

(b) The exact number of dozens of bunches in letters and figures at least one inch in height followed by the term "doz." or "dozen." [1939]

Sec. 814. Head lettuce: Containers for; number of heads per container; marking of containers.

In addition to other packing requirements in this chapter [Secs. 781-831] head lettuce, when packed or placed in layers, shall contain either two dozen, two and one-half dozen, three dozen, three and one-half dozen, four dozen, five dozen, 75 or 90 heads of lettuce per standard container numbers 45A and 45B with a slight bulge of crates when lidded.

All containers of lettuce shall bear upon them in plain sight and in plain letters on one outside end, * * *, and in figures not less than one-half inch in height the exact number of heads contained therein; provided, that in the case of lettuce packed in lidded or closed containers without ice the exact number of heads may be marked on the lid of the container, and provided further, that in the case of 10 per cent of the crates in any lots the contents may vary not more than three heads from the count as marked.

All containers of head lettuce shall be standard containers numbers 45A, 45B, or 45C. [1933; last amended 1947.]

Sec. 819. Sweet potatoes: Containers for.

All sweet potatoes when in containers which are closed must be in standard containers numbers 27, 47, 48A and 50A. The container requirements of this section shall not apply to sweet potatoes in

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sacks and containers which are not closed. [1933; last amended 1941.]

Sec. 822. Apples: Markings on containers.

All containers of apples shall bear upon them in plain sight and in plain letters on one outside end: * * *; the minimum net weight of the apples contained therein, or the cubical contents of the package, and in the case of wrapped packed apples the numerical count. A variation of five apples, more or less, than the number stated, shall be allowed. * * * [1933; last amended 1943.]

Sec. 823. Same: Standard and irregular containers; dimensions; marking.

All wrapped apples shall be in one of the following containers: Standard wooden apple box, depth inside, $10\frac{1}{2}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Standard fireboard apple box, depth inside, $11\frac{3}{4}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions. Half wooden apple box, depth inside, $5\frac{1}{4}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches. Half fireboard apple box, depth inside, $5\frac{11}{16}$ inches; width inside, $11\frac{1}{2}$ inches; length inside, 18 inches, with a tolerance of one-fourth inch in all dimensions. Apples which are not wrapped shall be in one of the standard containers defined in this section, or in one of the standard apple lugs of the following dimensions: (a) Depth inside, $7\frac{1}{2}$ inches; width inside, $13\frac{1}{2}$ inches; length inside, $21\frac{1}{4}$ inches. (b) Depth inside, $7\frac{3}{4}$ inches; width inside, 14 inches; length inside, $22\frac{5}{8}$ inches. (c) Depth inside, $6\frac{1}{2}$ inches; width inside, $13\frac{1}{2}$ inches; length inside, $20\frac{5}{8}$ inches. Containers designated as (a), (b) and (c) shall be considered as standard when used with or without cleats. Apples which are not wrapped may be in other size containers, and wrapped apples may be in containers smaller than the half apple box, if these are conspicuously marked, in letters not less than one-half inch in height, "irregular container." Such marking is not required on open containers of apples which are not place packed or well packed. [1933; last amended 1943.]

Sec. 828. Standard containers established; definitions; marking; method of measurement.

There are hereby established standard containers and standard packs for the fruits, nuts and vegetables mentioned in Section 829, when being packed or placed in any container, or after packing, or when delivered for shipment, loaded, shipped, being transported, or sold in any container. These standard containers are permissive unless otherwise provided in this chapter [Secs. 781-831]. The words "standard" or "standard container" shall not be placed on any container unless such container con-

forms to the requirements specified for the standard containers of such fruit, nut or vegetable. When the fruit, nut or vegetable is packed in a standard container and in conformity to the standard pack established for such product, and then only, may the container be marked with the words "standard pack" or "standard container and pack."

The numbers, names, and dimensions of standard containers are set forth in the following sections. All measurements, unless otherwise specified, are measurements inside in inches, and reading from left to right are measurements of depth, width, and length, respectively. [1933; last amended 1941.]

Sec. 828.1. Standard, berry, and climax baskets.

1. Standard basket, approximately 8 inches square on top, $6\frac{1}{2}$ inches square on bottom and 4 inches deep, inside measurements.

1A. Standard basket, approximately $5\frac{3}{4}$ inches in width, and $11\frac{1}{4}$ inches in length on top; $5\frac{3}{8}$ inches in width, and $10\frac{1}{2}$ inches in length on the bottom; and $3\frac{5}{16}$ inches in depth, all inside measurements.

1B. Standard basket, approximately $5\frac{1}{4}$ inches square on top, $4\frac{1}{4}$ inches square on bottom and $3\frac{3}{4}$ inches deep, inside measurements.

1C. Standard basket, approximately 8 inches square on top, $6\frac{1}{2}$ inches square on bottom and 5 inches deep, inside measurements.

2. Standard four quart climax basket with following dimensions: length of bottom piece, 12 inches; width of bottom piece, $4\frac{1}{2}$ inches; thickness of bottom piece, $\frac{3}{8}$ of an inch; height of basket, $4\frac{11}{16}$ inches, outside measurements; top of basket, length 14 inches, width $6\frac{1}{4}$ inches, outside measurements. Basket to have cover $6\frac{1}{4}$ inches by 14 inches, when cover is used.

3. Standard berry basket: (a) dry pint containing an interior capacity of approximately $33\frac{9}{10}$ cubic inches. (b) Dry one-half pint containing an interior capacity of approximately $16\frac{8}{10}$ cubic inches. [1939; last amended 1941.]

Sec. 828.15. Standard crates.

No.	Name	Depth inside in inches	Width inside in inches	Length inside in inches
4	Standard 12-basket crate -----	$2\frac{7}{8}$	$13\frac{1}{2}$	18
5	Standard crate -----	4	16	$16\frac{1}{2}$
6	Standard crate -----	$4\frac{1}{4}$	16	$16\frac{1}{2}$
7	Standard crate -----	$4\frac{1}{2}$	16	$16\frac{1}{2}$
8	Standard crate -----	$4\frac{3}{4}$	16	$16\frac{1}{2}$
9	Standard crate -----	$5, 5\frac{1}{4}$ or $5\frac{1}{2}$	16	$16\frac{1}{2}$
9A	Standard crate -----	$5\frac{1}{2}$	16	$16\frac{1}{2}$
9B	Special crate -----	$4\frac{3}{4}$	$14\frac{1}{2}$	$14\frac{1}{2}$

[1939; last amended 1949].

Sec. 828.2. Standard boxes and lugs.

10	Standard cherry box -----	$2\frac{1}{4}$	9	$18\frac{1}{2}$
11	Standard cherry lug -----	$3\frac{3}{4}$	$11\frac{1}{2}$	$16\frac{1}{2}$
12	Standard cherry lug -----	$2\frac{7}{8}$	11	$16\frac{1}{2}$
12A	Standard cherry lug -----	$3\frac{3}{4}$	$11\frac{1}{2}$	$14\frac{1}{2}$

[1939; last amended 1941.]

Sec. 828.25. California peach box and fruit boxes.

12B	California peach box	4, 4 1/4, 4 1/2,			
		4 3/4 or 5 1/2	3	11 1/2	16 1/2
13	Standard fruit box		3 1/2	11 1/2	18
14	Standard fruit box		3 1/2	11 1/2	18
15	Standard fruit box		4	11 1/2	18
16	Standard fruit box		4 1/4	11 1/2	18
17	Standard fruit box		4 1/2	11 1/2	18
18	Standard fruit box		4 3/4	11 1/2	18
18A	Standard fruit box		5	11 1/2	18

[1939; last amended 1943.]

Sec. 828.3. Pear boxes.

19	Special pear box	5 1/2	11 1/2	18	
20	Standard pear box	8 1/2	11 1/2	18	

[1939]

Sec. 828.35. Artichoke boxes.

21	Standard artichoke box	9 3/4	11	20 3/4	
21A	Special Artichoke box	7	11	20 3/4	
22	Half artichoke box	4 7/8	11	20 3/4	

[1939; last amended 1949].

Sec. 828.4. Lug boxes.

22A	Special lug box	3 5/8	11	14 5/8	
22B	Special lug box	4 1/4 or 4 5/8	12 1/2	16 1/2	
22C	Standard lug box	3 3/4	13 1/2	16 1/2	
23	Standard lug box	4	13 1/2	16 1/2	
24	Standard lug box	4 1/4	13 1/2	16 1/2	
25	Standard lug box	4 3/4	13 1/2	16 1/2	
26	Standard lug box	5 1/16	13 1/2	16 1/2	
27	Standard lug box	5 3/4	13 1/2	16 1/2	
27A	Bay City lug	7 3/4	13 1/2	16 1/2	

[1939; last amended 1943.]

Sec. 828.45. Special sawdust pack chest and lug; special lug boxes.

28	Special sawdust pack chest	7 3/4	14 5/16	18 5/8	
29	Special sawdust pack lug	7 3/4	13 1/2	16 1/2	
29A	Special lug box	6 1/2	13 1/2	20 3/4	
30	Special lug box	8 1/2	14	22 3/4	
30A	Special lug box	4 7/8	15	22 1/2	

[1939; last amended 1941.]

Sec. 828.5. Persimmon and pomegranate boxes.

32	Standard persimmon box	3 3/4	11 1/2	24 5/8	
34	Standard pomegranate box	6 1/2	11 1/2	24 5/8	

[1939; last amended 1941.]

Sec. 828.53. Standard grape lugs.

37A	Standard grape lug	3 3/4	13 1/2	16 1/2	
37B	Standard grape lug	4 3/8	13 1/2	16 1/2	
37C	Standard grape lug	4 3/4	13 1/2	16 1/2	
37D	Standard grape lug	5 1/8	13 1/2	16 1/2	
37E	Standard grape lug	5 1/4	13 1/2	16 1/2	
37F	Standard grape lug	5 1/2	13 1/2	16 1/2	
37G	Standard grape lug	5 3/4	13 1/2	16 1/2	
38H	Standard grape lug	5 7/8	11 1/2	16 1/2	
38I	Standard grape lug	5 11/16	at top	16 1/2	

to 6 7/16
14 1/2
to
14 7/8
at bottom
10 1/2
to
10 7/8

38J	Standard grape lug	5 3/4	6 3/4	16 1/2	
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[1941]

Sec. 828.55. Cantaloupe crates.

39	Standard cantaloupe crate	12	12	22 1/2	
40	Pony cantaloupe crate	11	11	22 1/2	
41	Jumbo cantaloupe crate	13	13	22 1/2	
42	Standard cantaloupe flat	4	12	22 1/2	
43	Special cantaloupe flat	4 1/2	13 1/2	22 1/2	
44	Special cantaloupe flat	5	14 1/2	22 1/2	

[1939]

Sec. 828.6. Standard and lettuce crates.

45	Standard crate	13	18	21 3/4	
45A	Standard lettuce crate	13 3/4	17 1/2	21 3/4	
45B	Standard lettuce crate	13	17 1/2	21 3/4	
45C	Half lettuce crate	9 or 9 1/2	13	21 3/4	

[1939]

Sec. 828.65. Cauliflower and sweet potato crates.

46	Standard cauliflower crate	8 1/2	18	21 3/4	
47	Standard sweet potato crate	10 1/2	9 3/4	19 1/2	
48	Special sweet potato crate	12	12	16	
48A	Jumbo sweet potato crate	14	11 3/4	19 3/4	

[1939; last amended 1945.]

Sec. 828.7. Lid and container lengths.

Standard containers numbers 45A, 45B and 45C, when lidded, shall have a lid not over twenty-five inches in length. The inside length shown hereinabove for the standard containers numbers 45, 45A, 45B, 45C and 46, shall be a minimum length, with maximum outside length of these containers of twenty-four and one-half inches; and the inside lengths of these containers shall be measured between the end slats, except that if flat end posts wider than one and one-half inches are used, the inside length shall be measured between the posts. [1939]

Sec. 828.75. Grape drums and kegs.

49. Standard grape drum, containing two thousand six hundred forty-two cubic inches, fourteen inches deep, fifteen and one-half inches wide, inside.

50. Standard grape keg containing two thousand six hundred forty-two cubic inches minimum. [1939]

Sec. 828.76. Standard bushel basket.

50A. Standard bushel basket containing 2150.42 cubic inches. [1941]

Sec. 828.8. Pyramid asparagus crates.

51. Standard pyramid asparagus crate, maximum depth inside, eleven inches; length inside, eighteen inches; width at the bottom inside, eleven inches; maximum width at the top inside, ten inches; minimum width at the top inside, nine inches.

52. Standard pyramid asparagus crate, maximum depth inside, ten inches; length inside, eighteen inches; width at the bottom inside, eleven and one-half inches; maximum width at the top inside, ten inches; minimum width at the top inside, nine inches. [1939]

Deering's Agricultural Code, Div. V, Ch. 2—Fruit, Nut and Vegetable Containers—Continued.

Sec. 828.83. Orange, grapefruit and lemon boxes.

No.	Name	Depth inside in inches	Width inside in inches	Length inside in inches
53	Standard two-compartment orange or grapefruit box, each compartment to be -----	11½	11½	12
54	Standard one-compartment orange or grapefruit box -----	11½	11½	24
55	Standard two-compartment half orange or grapefruit box, each compartment to be -----	5¾	11½	12
56	Standard two-compartment lemon box, each compartment to be --	9¾	13	12½
57	Standard two-compartment half lemon box, each compartment to be -----	4½ ⁵ / ₁₆	13	12½

For the purpose of permitting to be used up lemon box shooK manufactured or contracted for to comply with former standards, the following containers numbers 58 and 59 shall be considered as standard for lemons only until December 31, 1942, and after that date containers numbers 56 and 57 shall be the only standard containers for lemons.

58	Standard two-compartment lemon box, each compartment to be --	10	13	12½
59	Standard two-compartment half lemon box, each compartment to be -----	5	13	12½

To allow for reasonable variations in the size of packing containers by reason of manufacturing variations, atmospheric conditions and other factors affecting the size of such containers, the following tolerances from the foregoing dimensions are hereby permitted:

The total inside length of the two compartments of the standard two-compartment orange or grapefruit box, or the standard two-compartment half orange or grapefruit box, shall not be less than 23¾ inches nor more than 24½ inches;

The total inside length of the standard one-compartment orange or grapefruit box shall not be less than 23¾ inches nor more than 24½ inches;

The total inside length of the two compartments of the standard two-compartment lemon box, or the standard two-compartment half lemon box, shall not be less than 24¾ inches nor more than 25½ inches;

If made of wood, tolerance of one-eighth of an inch is hereby permitted in width or depth of any of said standard containers "across the grain" of the wood used in the manufacture thereof, over or under the sizes above specified, and a tolerance of one-thirty-second of an inch over or under such sizes in width or depth "with the grain."

On and after March 1, 1942, lids for the above standard orange or grapefruit boxes shall not exceed 26½ inches in length, and for the above standard lemon boxes shall not exceed 27½ inch in length. [1941]

Sec. 828.85. Lengths of two-compartment containers; sides above heads.

In standard containers numbers 32 and 34 the average inside length of the two compartments, between center and end pieces, shall be not less than 11½¹/₁₆ inches.

Containers designated as standard for apricots, cherries, peaches, pears and plums and fresh prunes in this chapter [Secs. 781-831], shall be considered standard for each such commodity, when used with or without a cleat or cleats, even though the sides of the container are placed above the container head.

These standard containers are hereinafter referred to by their respective numbers. [1939; last amended 1941.]

Sec. 829. Standard containers: Specified.

The standard containers and packs for the following fruits, nuts and vegetables are specified in the following sections.

Any reference in this code to section 829 refers also to sections 829.1. to 829.45, inclusive. [1933; last amended 1939.]

Sec. 829.1. Same: Apricots, berries, cherries, oranges, grapefruit, and lemons.

1. Fresh apricots, numbers 1, 5, 6, 7, 8, 9, 22A, 22B, 24 or 27.

2. Strawberries, number 3a.

3. Red and blackcap raspberries, blackberries, dewberries and loganberries, numbers 3a or 3b.

4. Cherries, numbers 4, 10, 11, 12, 12A, 22C, 25 or 27.

5. Oranges and grapefruit, numbers 53, 54 and 55; lemons, numbers 56, 57, or 58, 59, as provided in Section 828.83. [1939; last amended 1941.]

Sec. 829.15. Same: Grapes.

6. Grapes when packed in sawdust, cork or similar packing material, numbers 28, 29, 49 or 50. Grapes with each bunch individually wrapped in paper or other protective wrapping material and packed in excelsior or other similar packing material, numbers 30A and 38H. All other grapes, numbers 1, 1B, 1C, 2, 5, 6, 7, 8, 9, 9A, 37A, 37B, 37C, 37D, 37E, 37F, 37G, 38I or 38J. [1939; last amended 1941.]

Sec. 829.2. Same: Peaches, pears, persimmons, plums, prunes, and pomegranates.

7. Fresh peaches, numbers 1, 1A, 5, 6, 7, 8, 9, 9A, 9B, 12B, 15, 16, 17, 18, 18A, 25, 26, 27 or 27A.

8. Fresh pears, numbers 1A, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 26, 27 or 29A. Container number 19 shall be standard only when used with three pads or cushions.

9. Oriental persimmons, numbers 6, 7, 8, 13, 14, 15, 16, 17, 18, 27 or 32.

10. Plums or fresh prunes, numbers 1, 1A, 5, 6,

7, 8, 9, 12A, 12B, 14, 15, 16, 17, 18A, 22B, 23, 24, 25, 26, or 27.

11. "Wonderful" pomegranates, number 34. [1939; last amended 1945.]

Sec. 829.25. Same: Artichokes.

12. Globe artichokes, numbers 21, 21A or 22. Globe artichokes when packed as a standard pack in all standard containers shall be tightly packed and when in standard containers numbers 21 or 22 with a bulge; and when in standard container number 21 shall have a minimum net weight of thirty-five pounds. The following sizes may be put up as standard packs in the standard container number 21:

Size 1. Packed with not more than sixty artichokes.

Size 2. More than sixty but not more than seventy-five artichokes.

Size 3. More than seventy-five but not more than ninety-six artichokes.

Size 4. More than ninety-six but not more than one hundred twenty-five artichokes.

Size 5. Shall constitute a standard pack in the standard container number 22 and shall pack not more than one hundred twenty-five artichokes in this container. [1939; last amended 1949.]

Sec. 829.3. Same: Cantaloupes.

13. Cantaloupes, numbers 39, 40, 41, 42, 43 or 44. The following counts of cantaloupes when packed, are hereby established as standard packs for the respective standard containers as follows:

Standard pack counts	Container Number	Standard container name
27, 36, or 45	39	Standard cantaloupe crate.
45 or 54	40	Pony cantaloupe crate.
18, 23, 27, 36, 41 or 45	41	Jumbo cantaloupe crate.
9, 12, or 15	42	Standard cantaloupe flat.
9, 12, or 15	43	Special cantaloupe flat.
8, 9, 11, or 12	44	Special cantaloupe flat.

[1939; last amended 1949.]

Sec. 829.35. Same: Carrots and cauliflower.

14. Carrots, numbers 45, 45A, 45B or 45C.

15. Cauliflower, number 46.

[1939; last amended 1945.]

Sec. 829.4. Same: Lettuce.

16. Lettuce, numbers 45A, 45B and 45C.

[1939; last amended 1941.]

Sec. 829.45. Same: Sweet potatoes, tomatoes and asparagus.

17. Sweet potatoes, Numbers 27, 47, 48, 48A and 50A.

18. Tomatoes, Number 27.

19. Asparagus, Numbers 51 and 52.

[1939; last amended 1941.]

Sec. 829.5. Experimental containers.

Nothing in this chapter [Secs. 781-831] prohibits the preparation, packing, shipment or sale under permit of the director of fruits, nuts or vegetables

in any experimental type of containers not conforming to the standards prescribed in this chapter, if each such container is conspicuously marked in letters not less than one-half inch in height, "Experimental Container."

Application for such permit shall be made to the director at least fifteen days before shipment, stating: (1) the name of the product, (2) the quantity intended to be shipped, (3) the description and inside dimensions of the container, expressed in inches, and (4) the quantity of such product, if any, shipped by the applicant in all types of containers during the preceding year, or if no shipments of such product were made by the applicant during the preceding year, then an estimate of the total quantity which such applicant will ship in all types of containers during the current year.

If the director finds that the container is not deceptive in shape, design, or capacity, he may issue to the applicant a permit for the shipment of a specified quantity of the product in such containers within a specified period, not exceeding one year. If the applicant during the preceding calendar year has shipped products of the kind specified in the application during the preceding year, no permit shall be issued for the shipment in experimental containers of more than 5 percent of the quantity of any such product shipped in all types of containers by such person in the preceding calendar year.

Any type of container for which a permit has been issued, which is uniformly marked as provided in this section, and which is not used for shipping fruits, nuts, and vegetables in excess of the quantities specified in the permit, shall be deemed an experimental type of container within the meaning of this section. [1937; last amended 1949.]

Sec. 829.6. Consumer packages: Requirements; fruits.

Nothing in this chapter [Secs. 781-831] prohibits the preparation, packing, shipment or sale of fresh fruits, including grapes, singly or in combination with dried fruits, nuts, dates, candies, preserves or any other commodity in substantial quantities in any "consumer package" or container not conforming to the container or marking requirements prescribed in this chapter, if such containers of fresh fruit: (1) Are transported, displayed for sale and sold unbroken and not in any part or unit of measurement other than the entire package; (2) when made of similar materials and of similar design or shape, to those used for standard containers, are not of a size within 15 per cent of the cubical content of any standard container defined in this chapter for such commodity; and (3) are clearly and conspicuously marked on one side or end or on the top with the words "direct-to-consumer" or "consumer package" or "gift package" or some similar designation, approved by the director, in letters at least one-half inch in height. This section is in-

Deering's Agricultural Code, Div. V, Ch. 2—Fruit, Nut and Vegetable Containers—Continued.

tended to prevent any deception or evasion of the standard container provisions of this chapter and shall not apply to citrus fruits or berries when the container consists of citrus fruits alone or berries alone. [1947]

Sec. 829.7. Same: Vegetables, melons and tomatoes.

Nothing in this chapter [Secs. 781-831] prohibits the preparation, packing, shipment or sale of vegetables, cantaloupes, melons, or tomatoes in any "consumer package" or container not conforming to requirements of this chapter as to containers, markings or packing requirements provided in the specific commodity section for each such commodity, if each container (1) is clearly and conspicuously marked with the words "consumer package" or some similar designation, approved by the director, in letters at least one-half inch in height; and (2) is not of a size within 15 per cent of the cubical contents of any standard container defined in this chapter for such commodity.

Nothing in this section shall be construed to modify any of the provisions of this chapter relating to deception or mislabeling. [1947]

Sec. 830. Exemption from standards during transportation or delivery.

Fruits, nuts, and vegetables, of the kinds specified in this chapter [Secs. 781-831], if not wrapped or packed, are exempt from the standards established in this chapter when being transported or delivered to the destinations and for the purposes herein set forth, or when prepared, loaded, shipped, or sold under the following conditions:

(a) From a packing plant which has not proper or adequate facilities for processing, grading, packing, or reconditioning, to another packing plant within the State which has such facilities;

(b) To a by-product plant within the State for commercial processing, preserving, or manufacture of by-products for resale; provided, that dates are not exempt from the standards established by Section 798 of this code, except when being transported or delivered (a) to a distillery for the manufacture of brandy or alcohol; or (b) to any person for the production of any product which is not for human consumption;

(c) To a feed yard within the State for livestock feeding purposes;

(d) To a dumping ground or waste disposal plant within the State for disposal;

(e) From the orchard or field where they were produced to a packing plant within the State for first processing, grading, or packing. [1933; last amended 1947.]

Sec. 831. Penalty for violations.

The violation of any of the provisions of this chapter [Secs. 781-831] is a misdemeanor and pun-

ishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both. [1933]

Deering's Agricultural Code, Div. V, Ch. 2a—Honey Standards.

Sec. 840. Definitions.

When used in this chapter [Secs. 840-845.2]:

* * * * *

(f) * * * Any pack shall be considered deceptive which is "slack-filled" unless the container is so marked, even though such containers are marked with the proper net weight of the honey contained therein.

(g) "Slack-filled" means that the contents of any container occupy less than ninety-five per cent of the volume of the closed container.

* * * * *

(k) "Honey" means the nectar of floral exudations of plants gathered and stored in the comb by honey bees (*apis mellifica*). It is a laevo-rotatory, contains not more than twenty (20) per cent of water, not more than twenty-five (25) one-hundredths of one per cent of ash, not more than eight (8) per cent of sucrose, its specific gravity is not less than 1.412, its weight not less than eleven (11) pounds, twelve (12) ounces per standard gallon of 231 cubic inches at sixty-eight (68) degrees Fahrenheit.

(l) "Comb honey" means honey in the comb.

(m) "Adulterated honey" shall mean any honey to which has been added honeydew, glucose, dextrose, molasses, sugar, sugar sirup, invert sugar, or any other similar product or products, other than the nectar of floral exudations of plants gathered and stored in the comb by honey bees.

(n) "Extracted honey" means honey which has been removed from the comb.

* * * * *

[1935; last amended 1937.]

Sec. 841. Enforcement.

The director [director of agriculture] and the commissioners of each county of the State, their deputies and inspectors, under the supervision and control of the director shall enforce this chapter [Secs. 840-845.2]. * * * [1935]

Sec. 842. Shipment, sale, etc. of honey in containers.

It is unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell any honey, adulterated honey or any product marked, labeled or designated as honey, in bulk or in any container or subcontainer, which does not conform to the provisions of this chapter [Secs. 840-845.2]. [1935; last amended 1937.]

Sec. 843. When a public nuisance; seizure and destruction.

Any honey, packed, stored, delivered for shipment, loaded, shipped, or being transported or sold in violation of any of the provisions of this chapter [Secs. 840-845.2] and its containers, is a public nuisance, and shall be held by the person in whose possession such honey may be and shall not be moved from the place where it may be, except under the specific direction of a proper enforcing officer. The enforcing officer may affix a warning tag or notice of such nuisance. If, after notice of such violation is given to the packer or owner of such honey, or to the agent of such packer or owner, such person, so notified, refuses, or fails within twenty-four hours, to recondition or remark the same so as to comply with all requirements of this chapter, such honey and its containers may be seized by the director [of agriculture] or any enforcing officer and by order of the justice's, municipal or superior court of the county, city, or township within which the same may be, shall be condemned and destroyed, or released upon such conditions as the court, in its discretion, may impose to insure that it will not be packed, delivered for shipment, shipped, transported, or sold in violation of this chapter. * * * [1935]

Sec. 843.2. Markings on containers: How made.

When any markings are used or required to be used by this chapter [Secs. 840-845.2], on any container of honey to identify the container or describe the contents thereof, such markings must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded in the English language in letters large enough to be readily discernible, by any person, on the top, front, or side of any container. If the marking is on a placard used in display the placard must be placed or posted in such a position that there is no doubt as to the product it is to identify. [1935]

Sec. 844. Marking of comb honey.

All comb honey shall be conspicuously marked, either on the section or on its individual container, with * * * (2) the net weight of the comb section, stated in terms of whole ounces; * * * [1935; last amended 1937.]

Sec. 844.1. Markings on containers of extracted honey.

All containers or subcontainers of extracted honey shall be conspicuously marked with * * * (2) the net weight of the honey in the container; * * *

As applied to extracted honey:

* * * * *

(d) Any "slack filled" container shall be conspicuously marked "slack filled".

* * * * *

Extracted honey in containers holding five ounces or more, shall be packed, offered for sale and sold in the exact units of weight as set forth in the table of standard weights of honey in containers provided for in Section 845. [1937; last amended 1939.]

Sec. 845. Standard containers.

There are hereby established standard units of net weight of honey in containers.

Containers which hold the following units of weight of honey are referred to as standard containers:

60 pounds	3 pounds	12 ozs. avoirdupois
12 pounds	2½ pounds	8 ozs. avoirdupois
10 pounds	2 pounds	5 ozs. avoirdupois
6 pounds	1½ pounds	
5 pounds	1 pound	

[1935; last amended 1939.]

Sec. 845.1. Exemptions from chapter.

All honey which is not graded, and which is intended to be used in commercial processing, as for clarifying and packing in retail or wholesale containers, or for the manufacture of honey products for resale or which is being delivered to any person for grading, packing, processing, or reconditioning, is exempt from the provisions of this chapter [Secs. 840-845.2]. The containers of such honey must not bear any false or misleading statements, and such honey must not be deceptively packed. [1935; last amended 1937.]

* * * * *

Sec. 845.2. Penalty for violations.

The violation of any of the provisions of this chapter [Secs. 840-845.2] is a misdemeanor and punishable by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both. [1935]

Deering's Agricultural Code, Div. V, Ch. 3—Containers for Canned Fruits and Vegetables.

Sec. 854. Standard size cans for ripe olives.

The standard size of cans for canned ripe olives packed, shipped, delivered for shipment, or sold in the State are:

(a) Buffet can, which is a cylindrical can two and eleven-sixteenths inches in diameter by three and one-quarter inches in altitude.

(b) Six ounce, which is a cylindrical can two and eleven-sixteenths inches in diameter and four inches in altitude.

(c) No. 1 tall, which is a cylindrical can three inches in diameter and four and twenty-one thirty-seconds inches in altitude.

(d) Cylinder pint, which is a cylindrical can two and eleven-sixteenths inches in diameter and six inches in altitude.

(e) Cylinder quart, which is a cylindrical can

Deering's Agricultural Code, Div. V, Ch. 3—Containers for Canned Fruits and Vegetables—Continued.

three and three-eighths inches in diameter and seven and one-quarter inches in altitude.

(f) No. 2½, which is a cylindrical can four inches in diameter and four and eleven sixteenths inches in altitude.

(g) No. 10, which is a cylindrical can six and one-eighth inches in diameter and six and fifteen-sixteenths inches in altitude. [1933]

Sec. 870. False or misleading marks; olive container label.

There shall be no false or misleading marking or designation on any container of canned fruit, vegetable or ripe olives. The label covering the walls of a container of olives, except when packed in clear glass, shall show * * * a statement of the approximate number of olives contained in the can, * * *. [1933; last amended 1935.]

Sec. 871. Federal standards and marking requirements.

The standard of quality, condition, and/or fill of container and requirements for marking of canned fruits and vegetables, including olives, shall be, * * *, that promulgated or to be promulgated by the Secretary of the United States Department of Agriculture. The foregoing markings for canned ripe olives shall be enforced until such time as requirements for markings for canned ripe olives shall be promulgated by the United States Department of Agriculture, at which time the above markings for canned ripe olives shall be changed to comply with the regulations of the United States Department of Agriculture. [1933]

Sec. 872. Enforcement.

The Director of Public Health shall enforce this chapter [Secs. 851-883] and for that purpose may:

(a) Enter and inspect every place within the State where canned fruits and/or vegetables, including olives, are canned, stored, shipped, delivered for shipment, or sold, and to inspect all fruits and/or vegetables, including olives, and containers found in any such place.

(b) Seize and retain possession of any canned olives or canned fruits and/or vegetables packed, shipped, delivered for shipment, or sold in violation of any of the provisions of this chapter, and hold same pending the order of the court. [1933]

* * * * *

Sec. 877. Guaranty protection.

No person shall be convicted of a violation of any provision of this chapter [Secs. 851-883] if he establishes a guaranty, signed by the person residing or lawfully engaged in business in the State, by or for whom the canned fruit, including olives, in question were originally packed, to the effect that the product in question complies in all respects with the provisions of this chapter. Such guaranty,

to afford protection, shall contain the name and address of the party making such guaranty, and such guarantor shall be amenable to all of the prosecutions, fines and penalties provided for by this chapter. [1933]

Sec. 878. Penalty for violations.

Any person, firm, company or corporation violating any of the provisions of this chapter [Secs. 851-883] shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. * * * [1933]

Deering's Agricultural Code, Div. V, Ch. 7, Art 3—Economic Poisons.

Sec. 1061. Definition.

As used in this article [Secs. 1061-1079]:

(a) "Economic poisons" includes any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, bacteria, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the director [of agriculture] may declare to be, a pest, which may infest or be detrimental to vegetation, man, animals or households, or be present in any environment whatsoever. [1933; last amended 1935.]

* * * * *

Sec. 1064. When misbranded.

Economic poison is misbranded when:

* * * * *

(f) In package form, and the contents, if stated in terms of weight or measure, are not plainly and correctly stated on the outside of the package. [1933; last amended 1949.]

* * * * *

Sec. 1066. Sale unlawful when misbranded.

It is unlawful to sell any adulterated or misbranded economic poison. [1933; last amended 1943.]

Sec. 1067. Guaranty protection.

In any prosecution of any agent or dealer under the provisions of section 1066 it is a complete defense to prove that the adulterated or misbranded economic poison which is the basis of said prosecution was guaranteed by the party from whom said agent or dealer purchased the same to be not adulterated or misbranded. [1933]

Sec. 1068. Rules and regulations.

The director [of agriculture] shall make rules and regulations for carrying out the provisions of this article [Secs. 1061-1079]. * * * [1933]

Sec. 1075. Seizure and quarantine.

The director [of agriculture] may seize and quarantine any economic poison which is adulterated, or misbranded within the meaning of this article [Secs. 1061-1079], * * *. It shall be unlawful for any person to transport, destroy or dispose of any quarantined economic poison without securing a permit from the director. [1933; last amended 1939.]

Deering's Agricultural Code, Div. V, Ch. 7a—Commercial Feeding Stuffs.

Sec. 1081. Definition.

"Commercial feeding stuffs" includes all feeding stuffs and concentrates used for feeding live stock and poultry except the following:

- (a) Whole seeds or grains, when unmixed.
- (b) Fresh green roughage, and unprocessed liquid milk in all its forms.
- (c) Whole hays, straws, cottonseed hulls, corn stover and wet citrus waste residue, when unprocessed and unmixed with other materials.
- (d) Wet garbage, and salt except in block or chunk form.
- (e) Preparations which are sold as or represented to be primarily for the cure or mitigation of disease.
- (f) Preparations which are sold for feeding domestic pets; such as, dogs, cats, and birds. [1933; last amended 1941.]

Sec. 1083. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold or distributed within this State except as otherwise provided in this chapter [Secs. 1081-1092] or by specific regulation of the director [of agriculture] declaring the statement not to be applicable to certain products, shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement certifying:

- (a) The net weight of the contents of the lot or parcel. [1933; last amended 1947.]

* * * * *

Sec. 1083.3. Invoices to customers; numbering and particulars; tags and stamps; exempt services.

Any person who manufactures, processes, or mixes any commercial feeding stuffs, for another, shall, when such commercial feeding stuffs (special mixes) are not to be resold, furnish to the person for whom said commercial feeding stuffs are manufactured or mixed, a numbered invoice which shall have written or printed thereon the date of sale and the name and the number of pounds of each ingredient entering into such commercial feeding stuffs. Each package of such commercial feeding stuffs mixture shall have attached thereto a written or printed tag upon which shall be stated: The

product in the package is a special mix; the number and date of the invoice; the name of the mixer or manufacturer; and the net weight of the contents. * * * The provisions of this chapter [Secs. 1081-1092] shall not apply to services classed as "toll milling" or "custom milling." The processing of exempt commodities by the person negotiating the sale of such exempt commodities shall not be classed as "toll milling" or "custom milling." [1935; last amended 1947.]

Sec. 1086. Mislabeling defined.

Commercial feeding stuffs shall be deemed to be mislabeled if in any respect they are not as represented. [1933; last amended 1941.]

Sec. 1089. Violations; penalties.

Any person is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) for each subsequent violation, who:

- (a) sells or distributes in this State, any commercial feeding stuffs without having attached thereto such labels, * * * as are required by this chapter [Secs. 1081-1092];
- (b) obstructs or prevents or attempts to prevent the department [of agriculture] or its authorized agent in the performance of its duty in connection with the provisions of this chapter;

* * * * *

- (i) makes any false or fraudulent claim or representation, relating to any commercial feeding stuffs, on any label or invoice, or in any advertisement, or in any other manner. [1933; last amended 1947.]

* * * * *

Sec. 1091. Enforcement officer; rules and regulations.

The director [of agriculture] shall enforce the provisions of this chapter [Secs. 1081-1092] and prescribe and enforce such rules and regulations relating to the sale of, * * * commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this chapter. [1933; last amended 1947.]

Deering's Agricultural Code, Div. V, Ch. 8, Secs. 1101 to 1108.1—Eggs.

[ED. NOTE.—These sections comprise requirements for the grading of eggs including minimum weights for the different size grades, and are not given in detail because the requirements relate primarily to quality.]

Deering's Agricultural Code, Div. VI, Ch. 5—Agricultural Warehouses.

Sec. 1231. Definitions.

As used in this chapter [Secs. 1231-1258]:

- (a) "Warehouse" means every elevator, building, structure, or other protected enclosure within

Deering's Agricultural Code, Div. VI, Ch. 5—Agricultural Warehouses—Continued.

the State, in which any agricultural product is or may be stored. [1933]

* * * * *

Sec. 1232. Powers of director.

The director [of agriculture] is authorized:

(a) To investigate the storage, warehousing, classifying according to grade and otherwise, weighing and certification of products. [1933]

* * * * *

Sec. 1240. Classifier's license.

The director [of agriculture] may, upon presentation or [of] satisfactory proof of competency, issue to any person a license to classify any product or products, stored or to be stored in a warehouse licensed under this chapter [Secs. 1231-1258], according to grade or otherwise and to certificate the grade or other class thereof, or to weigh the same and certificate the weight thereof, or both to classify and weigh the same and to certificate the grade or other class and the weight thereof, upon condition that such person agrees to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder. [1933]

Sec. 1241. Suspension or revocation of license.

Any license issued to any person to classify or to weigh any product under this chapter [Secs. 1231-1258] may be suspended or revoked by the director [of agriculture] whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to classify or to weigh any agricultural product correctly. [1933; last amended 1945.]

Sec. 1247. Contents of receipts.

Every receipt issued for products stored in a warehouse shall embody within its written or printed terms:

* * * * *

(f) A description of the products received, showing the quantity, or, in case of products customarily put up in bales or packages, the marks, numbers, or other means of identification and the weight of such bales or packages. [1933]

* * * * *

Sec. 1254. Suspension or revocation of license.

The director [of agriculture] may suspend or revoke any license issued under this chapter [Secs. 1231-1258], for any violation of or failure to comply with any provisions of this chapter or of the rules and regulations made hereunder or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the director, whenever he deems necessary, may suspend a license temporarily without hearing. [1933; last amended 1945.]

Deering's Agricultural Code, Div. VI, Ch. 9—Farm Products.

Sec. 1299.18. Definitions.

As used in this chapter [Secs. 1299.18-1300.9i]:

* * * * *

(c) The term "farm products" includes all agricultural, horticultural, viticultural and vegetable products of the soil, honey and bees-wax, flaxseed and cottonseed, but shall not include timber and timber products, milk and milk products.

(d) The term "processor" means any person engaged in the business of processing, or manufacturing farm products, who solicits, buys, contracts to buy, or otherwise takes title to or possession or control of, farm products from the producer thereof for the purpose of processing or manufacturing the same and selling, reselling or redelivering the same in dried, canned, extracted, fermented, distilled, frozen, or other preserved or processed form.

Retail merchants having a fixed or established place of business in this State shall not be included within the term "processor"; provided, however, that such exemption shall apply only to retail merchants who do not also sell at wholesale farm products processed or manufactured by them. [1935; last amended 1947.]

Sec. 1299.19. Weighing by public weighmaster.

In all cases where farm products are sold to and purchased by processors on the basis of weight, such products shall be weighed by a public weighmaster, licensed under the laws of this State, and a certificate as to such weight issued by him to the seller, and settlement for such product shall be made on the weight shown thereby. [1939; last amended 1945.]

Sec. 1300. Exemptions.

This chapter [Secs. 1299.18-1300.9i] does not apply to or include any nonprofit cooperative association organized and operating under and by virtue of the provisions of Chapter 4, Division VI of the Agricultural Code of this State or of similar laws of any other States or the District of Columbia or the United States or the agents of such organizations in the performance of their duties as such except as to that portion of the activities of such organization, or agent, as involves the handling or dealing in the farm products of nonmembers of such organizations. [1935; last amended 1939.]

Sec. 1300.6. Penalty for violations; civil liability.

(1) Any person is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both fine and imprisonment, who under the provisions of this chapter [Secs. 1299.18-1300.9i]:

* * * * *

(e) Who fails to comply in every respect with this chapter.

* * * * *

(4) Any person who violates any provisions of this chapter shall be liable civilly in the sum of five hundred dollars (\$500) for each and every violation, such sum to be recovered in an action by the director [of agriculture] in any court of competent jurisdiction. All sums recovered under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Fund. [1935; last amended 1949.]

Penal Code of 1947—Misdemeanor.

Sec. 19. Punishment of misdemeanor when not otherwise prescribed.

Except in cases where a different punishment is prescribed by any law of this State, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars, or by both. [1933]

Penal Code of 1947, Part 1, Title X—False Tests as to Dairy Products.

Sec. 381a. Penalty for rendering inaccurate, incorrect, or false tests as to dairy products.

Any person, or persons, whether as principals, agents, managers, or otherwise, who buy or sell dairy products, or deal in milk, cream or butter, and who buy or sell the same upon the basis of their richness or weight or the percentage of cream, or butter-fat contained therein, who use any apparatus, test-bottle or other appliance, or who use the "Babcock test" ¹ or machine of like character for testing such dairy products, cream or butter, which is not accurate and correct, or which gives wrong or false percentages, or which is calculated in any way to defraud or injure the person with whom he deals, is guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned in the county jail not more than six (6) months. [1901]

¹ See Sec. 688, Agricultural Code, page 133.

Deering's General Laws, Vol. 2, Act 3796—"Alcoholic Beverage Control Act."

Sec. 34. Packages not conforming to statute.

* * * * *

(b) It shall be unlawful for any rectifier or wholesaler of distilled spirits to deliver to the premises of any on- or off-sale general licensee or for any on- or off-sale general licensee to sell or have in his possession at the licensed premises distilled spirits in package containing more than one gallon and, after December 31, 1937, in packages containing less than one-half pint; except that the provisions of this paragraph shall not apply to

packages of distilled spirits in containers less than one-half pint which are sold and delivered to railroad, sleeping car or steamship companies for use and consumption on trains or boats. [1935; last amended 1945.]

* * * * *

[ED. NOTE.—The State Board of Equalization shall enforce the provisions of Act 3796. See Sec. 38 of said act.]

Sec. 53.6. Containers for beer.

* * * No beer intended for sale in the State of California, except for export, shall be contained in bottles, jugs or cans having a capacity of more than 64 ounces, * * *, provided that nothing in this paragraph shall be construed to prohibit the possession or sale by a qualified licensee of draft or unpasteurized beer from or in metal or wood kegs of a capacity of three and one-half (3½) gallons or more. [1937]

Deering's General Laws, Vol. 2, Act 6386—"Public Utilities Act."

Sec. 46. Gas, electricity, water and heat: Measuring appliances; testing before use; testing upon request; fees.

(a) The commission [railroad commission] shall have power, * * * to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed and followed by all electrical, gas, water and heat corporations; * * * to establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility.

* * * * *

(c) Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission. [1915; last amended 1919.]

Deering's Water Code—Miner's Inch.

Sec. 24. Miner's Inch of Water.

The standard miner's inch of water shall be equivalent to one and one-half cubic feet of water per minute, measured through any aperture or orifice. [1943; based on Stats. 1901, Ch. 222, Sec. 1.]



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1935 Statutes Annotated, Vol. 4, Ch. 175—Weights and Measures.

Sec. 1. Standard of weights and measures.

The weights and measures accepted and used by the government of the United States at the present time, except as hereinafter provided, shall be deemed the lawful standard of weights and measures of the people of this state. [1868]

Sec. 2. Ton.

The ton shall be twenty hundred pounds weight, avoirdupois. [1868]

Sec. 3. Bushel weights; bushel for charcoal; perch of stone; perch of brickwork; foot wall of brick; size of brick; method of measuring inch of water.

Sixty pounds of wheat, fifty-six pounds of rye, fifty-six pounds of Indian corn, seventy pounds of corn in the ear, forty-eight pounds of barley, thirty-two pounds of oats, sixty pounds of potatoes, sixty pounds of beans, sixty pounds of clover seed, forty-five pounds of timothy seed, forty-four pounds of hemp seed, fifty-two pounds of buckwheat, fourteen pounds of blue grass seed, fifty pounds of corn meal, fifty-seven pounds of onions, eighty pounds of salt, eighty pounds of lime, eighty pounds of mineral coal, respectively, shall be the standard weight of a bushel of each of the foregoing articles; and twenty-five hundred cubic inches of charcoal shall be the standard measure of a bushel; and a perch of stone in mason work shall be considered sixteen and one-half cubic feet; and for brick work measure, when laid up in wall, shall be counted twenty-two brick per cubic foot for foot wall, and fifteen brick for what is known as eight-inch wall; a common brick to be eight and one-half inches in length, four and one-quarter inches in width, and two and three-eighths inches in thickness; and water sold by the inch by any individual or cor-

poration shall be measured as follows, to-wit: Every inch shall be considered equal to an inch square orifice under a five-inch pressure, and a five-inch pressure shall be from the top of the orifice of the box put into the banks of the ditch, to the surface of water; said boxes, or any slot or aperture through which such water may be measured, shall in all cases be six inches perpendicular, inside measurement, except boxes delivering less than twelve inches, which may be square, with or without slides; all slides for the same shall move horizontally and not otherwise; and said box put into the banks of ditch shall have a descending grade from the water in ditch of not less than one-eighth of an inch to the foot. [1868; last amended 1874.]

Sec. 4. Treasurer to procure standards.

It shall be the duty of the treasurer of this state to procure as soon as possible from the proper department of the federal government, all necessary weights and measures for the use of the state, and as soon as he shall receive them, to give public notice through two or more newspapers, for thirty days, to each and every board of county commissioners in the state, to obtain copies or duplicates of said weights and measures. [1868]

Sec. 5. Equipment: Comparison with standards; approval; condemnation.

All vendors and traders in goods, wares and merchandise, gold dust and other articles of traffic shall, within ninety days after the reception of the standards by said commissioners, have their balances, weights and measures compared with said standards of their respective counties, and approved and marked by the county inspector, and if the same are found to be correct, to be sealed with the name or initial letters of the county inscribed thereon, or condemned by him if found incorrect. [1868]

Sec. 6. Appointment of inspector; bond.

On the first regular meeting of the board of county commissioners in each county in this state, after the passage of sections 1 to 11 of this chapter [Secs. 1-19], and thereafter annually, on the first regular meeting of every year, said county commissioners may appoint a fit and proper person, who shall be styled "Inspector of weights and measures," and shall give bond to the county for the faithful performance of the duties of his office as said commissioners may direct. [1868; last amended 1935.]

Sec. 7. Fees of inspector.

Each county board may make out a list of fees to be charged, and which fees, when charged, shall be recoverable in any court, as any other debt or account is recovered. Each county board may also establish the salary or compensation of said inspector. [1868; last amended 1935.]

Sec. 8. Inspector's tools.

It shall be the duty of each county board, as aforesaid, to furnish to each inspector all the necessary tools, marks and brands which he may require, to be paid for out of the county funds. [1868]

Sec. 9. Offenses; penalty.

All persons, for the purpose of weighing or measuring goods, wares, merchandise, water or other articles of traffic, actually sold by him, not in accordance with sections 1 to 11 of this chapter [Secs. 1-19], shall be deemed guilty of a misdemeanor, and upon conviction thereof may be imprisoned not exceeding one year, or fined not exceeding one thousand dollars, at the discretion of the court in which the conviction shall be obtained. [1868]

Sec. 10. Inspector's duty.

Whenever it shall come to the knowledge of the inspector that any person within his county has violated any of the provisions of sections 1 to 11 of this chapter [Secs. 1-19], it shall be his duty to enter a complaint against him before some magistrate having jurisdiction of the offense thereof, to the end that the offender may be punished and fined according to this law. [1868]

Sec. 12. Weight certificate for coal or coke.

All persons retailing coal or coke in cities of the first or second class, and incorporated towns, whether existing under special charter or otherwise, shall furnish the consignee or purchaser of coal or coke to the amount of one-quarter ($\frac{1}{4}$) of a ton or more, a certificate of weight signed by the owner or agent of official city or town scales. [1893]

Sec. 13. Same: Contents.

The certificate as aforesaid shall plainly state the net weight of the wagon or cart on which the coal or coke is loaded, the net weight of the coal or coke on the said wagon or cart, the total weight of the

coal or coke, and wagon or cart, the license number and name of the driver delivering the coal or coke, the name of the dealer, the name of the weighmaster, and the street number of the location of the scales where the certificate may be issued. [1893]

Sec. 14. Same: Penalty.

Any dealer or driver of any wagon or cart delivering coal or coke without the official certificate of the owner or agent of an official city or town scales shall, on conviction, be fined not less than twenty (20) dollars and not over one hundred (100) dollars together with the cost of suit, for each and every offense. Any driver of a wagon or cart, who may be found delivering coal or coke of a less weight than the certificate calls for, shall, on conviction, be fined not less than thirty (30) dollars or confined one (1) month in the county jail, or both, at the discretion of the court, together with the costs of the suit, for each and every offense. Any owner or agent of any official city or town scales who may be found giving a false certificate of the weight of any coal or coke to be delivered, shall, on conviction, be fined not less than fifty (50) dollars and not more than one hundred (100) dollars, together with costs of suit, for each and every offense. [1893]

Sec. 17. Standard containers for small fruits and berries; exceptions.

On and after the first day of November, 1915, A. D., it shall be unlawful for any person, firm or corporation to sell or offer for sale baskets or other open containers for small fruits or berries, filled or unfilled, within the state of Colorado, which shall contain when even full less than one dry quart or sixty-seven and two-tenths (67.2) cubic inches, one pint which shall contain when even full less than thirty-three and six-tenths (33.6) cubic inches, one-half pint which shall contain when even full less than sixteen and eight-tenths (16.8) cubic inches, or multiples of the dry quart; provided, that nothing herein contained shall prevent the sale of baskets or other open containers for small fruits or berries, filled or unfilled, of smaller than the above sizes if the basket or container is stamped with letters at least three-fourths ($\frac{3}{4}$) of an inch in height, "short measure" on both ends or both sides, and also stating the cubical contents of such basket or other open container. [1915]

Sec. 18. Same: Penalty.

Any person, firm or corporation who shall violate any provision of the last preceding section shall be guilty of a misdemeanor, and for each offense upon conviction thereof, be fined not to exceed one hundred (100) dollars, or sentenced to the county jail for not more than twelve (12) months, either or both, in the discretion of the court. [1915]

1947 Supplement to 1935 Colorado Statutes Annotated, Vol. 2, Ch. 5, Art. 8—"Insecticide, Fungicide and Rodenticide Act of 1947"—Continued.

Sec. 97(9). Seizures.

(a) Any economic poison or device that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any district court in any county of the state where it may be found and seized for confiscation by process of libel for condemnation:

(1) In the case of an economic poison,

(a) If it is adulterated or misbranded;

(b) If it has not been registered under the provisions of section 97 (4) of this article;

(c) If it fails to bear on its label the information required by this article. [1947]

* * * * *

[ED. NOTE.—Sec. 97 (7) (not included herein) provides for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

1935 Statutes Annotated, Vol. 2, Ch. 49—Milk and Cream.

Sec. 3. Enforcement officer.

The state dairy commissioner¹ shall cause to be enforced the provisions of * * * this chapter [Secs. 1-29] and all other state laws regarding the production, manufacture and sale of dairy products. * * * [1913; last amended 1931.]

¹ Now Chief of the Dairy Section, Department of Agriculture. See Laws 1949, Ch. 100, Sec. 9, Subdiv. (c), page 163.

Sec. 8. Babcock tests; glassware; offenses.

It shall be unlawful for any person, or persons engaged in buying, selling, testing or handling, or engaged in determining the value of milk, cream or other dairy products by the use of the Babcock test, to give by himself or his agent any false reading of the test or to manipulate the test in any way so as to give a higher or lower per cent. of butter fat than the milk, cream, or other dairy products actually contain, or to cause any inaccuracy in reading the per cent. of butter fat by securing from any quantity of milk, cream or other dairy product to be tested, an inaccurate sample for the test. * * *

In the use of the Babcock test, the standard milk measure or pipettes shall have a capacity of 17.6 cubic centimeters, and the standard test tubes or bottles for milk shall have a graduated capacity of two cubic centimeters for each 10 per cent. marked on the necks thereof; cream shall be tested by weight and the standard unit for testing shall be 9 grams or 18 grams, and it shall be unlawful to use any other standards of milk or cream measures in creameries or cheese factories or any other place where milk or cream is purchased by or furnished to a receiver and the value of said milk or cream

is determined by the per cent. of butter fat contained in the same.

It shall be unlawful for any manufacturer, merchant, dealer or agent to offer for sale or to sell a milk pipette or measure, test tube, or bottle which is inaccurate or not correctly marked or graduated as herein described. [1913; last amended 1923.]

* * * * *

Sec. 13. Weight tickets for milk and cream.

An itemized daily weight ticket covering every shipment of milk or cream shall be furnished with each settlement to the producer or his agent. [1933]

Sec. 27. Obstructing officials; penalty.

Whosoever shall refuse to allow the inspection herein provided for or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be punished by a fine not exceeding one hundred (\$100) dollars, or by imprisonment in the county jail not exceeding thirty (30) days. [1913]

Sec. 29. General penalty.

Any person, company, or corporation or any agent or servant of a person, company, or corporation violating any of the provisions of * * * this chapter [Secs. 1-29], for violation of which punishment is not elsewhere herein prescribed, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10) nor more than two hundred dollars (\$200) and not over sixty days in jail for each offense. [1913]

1935 Statutes Annotated, Vol. 3, Ch. 58, Art. 2—Narcotic Drugs.

Sec. 37. Marking requirements.

1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 46. Enforcement officers.

It is hereby made the duty of [the] state board of health, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all district attorneys, to enforce all provisions of sections 28 to 49 of this chapter [Secs. 1-70], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states, relating to narcotic drugs. [1935]

Sec. 47. Penalties.

Any person violating any provision of sections 28 to 49, both inclusive, of this chapter [Secs. 1-70] shall, upon conviction, be punished for the first offense by a fine not exceeding three hundred dol-

lars (\$300), or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment; and for any subsequent offense, by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment in the state penitentiary for not exceeding five years, or by both such fine and imprisonment. [1935; last amended 1947.]

1935 Statutes Annotated, Vol. 3, Ch. 69, Art. 1—**Food.**

Sec. 2. Offenses; penalty.

It shall be unlawful for any person to manufacture, or sell, or expose for sale, or deliver, or give away, or ship, or offer for shipment, within this state, any article of food, or drug, which is adulterated, or misbranded, within the meaning of sections 2 to 11 of this chapter [Secs. 1-124], except as such article may be in the original package and the subject of interstate commerce under the federal jurisdiction; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be punished by a fine of not exceeding five hundred dollars, or by imprisonment of not exceeding one year, or by both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for one year, or by both such fine and imprisonment in the discretion of the court. But no article shall be deemed misbranded or adulterated within the provisions of sections 2 to 11 of this chapter when intended for export to any foreign country and prepared, or packed, according to the specifications or directions of the foreign purchaser, * * *; but if said article shall be in fact sold, or exposed for sale, or delivered, or given away, or shipped or offered for shipment, for use or consumption within this state, then this provision shall not exempt said article from the operation of any of the provisions of sections 2 to 11 of this chapter. [1908; last amended 1921.]

Sec. 3. Rules and regulations.

The state board of health shall make uniform rules and regulations for carrying out the provisions of sections 2 to 11 of this chapter [Secs. 1-124], * * *. But such rules and regulations shall not be more stringent than, nor conflict with, the rules and regulations adopted, or which may hereafter be adopted, for the enforcement of the food and drugs act of the United States, approved June 30, 1906,¹ regulating the misbranding or adulteration, of drug or food products for interstate commerce. [1907]

¹This act has been superseded by the Federal Food, Drug and Cosmetic Act of June 25, 1938, 21 U.S.C. 301 et seq., 52 Sls. at L. 1040 et. seq.

Sec. 6. Definition of food.

* * * The term "food," as used in sections 2 to 11 of this chapter [Secs. 1-124], shall include all articles used for food, drink, confectionery, or condiment, by man or other animals, whether simple, mixed or compound. [1907]

Sec. 8. When food deemed misbranded.

* * * * *
For the purposes of sections 2 to 11 of this chapter [Secs. 1-124] an article shall also be deemed to be misbranded:

* * * * *
In case of food:
* * * * *

Third—if in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. [1907]

* * * * *

Sec. 9. Guaranty protection.

No dealer shall be prosecuted under the provisions of sections 2 to 11 of this chapter [Secs. 1-124] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other person residing in this state, from whom he purchased any article in question, to the effect that the same is not adulterated or misbranded. Such guaranty, to afford protection, shall contain the name and address of the person making the sale of such article to such dealer, and in such case said person shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of sections 2 to 11 of this chapter. [1907]

Sec. 10. Seizure and confiscation.

Any article of food, drug, or liquor, that is adulterated, or misbranded, within the meaning of sections 2 to 11 of this chapter [Secs. 1-124], that is manufactured, or sold, or exposed for sale, or delivered, or given away, or shipped, or offered for shipment, within this state, together with its box, bottle, can, or other container, except as such article may be in the original package and the subject of interstate commerce under the federal jurisdiction, is hereby declared to be a nuisance, and shall be abated upon a complaint, hearing and judgment, or order, of court in a proceeding in the district court, of the district where such article of food, drug or liquor, is found, by seizure and confiscation for destruction or sale. * * * [1907]

1935 Statutes Annotated, Vol. 3, Ch. 69, Art. 9—**Standard Containers for Fruits and Vegetables.**

Sec. 65. Standard packages.

The director [director of markets¹] * * * may provide for standard packages for all fruits and

1935 Statutes Annotated, Vol. 3, Ch. 69, Art. 9—
Standard Container for Fruits and Vegetables—
Continued.

vegetables except potatoes but no standard packages shall be eliminated or changed without two years' notice to the industry involved. [1931]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

Sec. 67. Rules and regulations for marking of containers.

The director [director of markets ¹] is hereby authorized to promulgate such rules and regulations relative to the proper marking of containers, * * * of all fruits and/or vegetables, as provided in section 84 ² of this chapter [Secs. 1-124]. [1931]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

² The fruits and vegetables mentioned in section 84 are as follows: peaches, cantaloupes, honeydew melons, honeyball melons, watermelons, head lettuce, broccoli, cauliflower, green peas, potatoes, onions, cabbage, and spinach.

Sec. 81. Deceptive pack.

It shall be unlawful to prepare, deliver for shipment, load, ship, transport, offer for sale or sell for shipment a deceptive pack, load, arrangement or display of fruits or vegetables within the meaning of this subdivision [Secs. 60-101], or to mis-label any container or display of such fruits or vegetables. A deceptive pack or load is hereby defined as one which is so arranged as to * * * misrepresent the contents. [1931]

Sec. 92. Marking requirements for melons and cantaloupes.

All containers of melons and cantaloupes shall be marked in letters not less than three-eighths inch in height with the number of melons contained therein, or if not so marked shall be marked in letters not less than three-eighths inch in height, "irregular pack."

* * * * *

Standard melon and/or cantaloupe crates shall be of the following sizes: ¹

Jumbo standard crate -----	13	x 13	x 23½
Standard cantaloupe crate -----	12	x 12	x 23½
Jumbo flat cantaloupe crate -----	5	x 14½	x 23½
Standard flat cantaloupe crate -----	4½	x 13	x 23½
Pony flat cantaloupe crate -----	4	x 12	x 23½
Jumbo honeydew crate -----	7½	x 16¼	x 23½
Standard honeydew crate -----	6½	x 16¼	x 23½
Pony honeydew crate -----	5	x 14½	x 23½

[1931]

¹ All sizes are given in inches.

Sec. 101. Violations; penalty.

Any person, firm, corporation or other organization which violates any provisions of this subdivision [Secs. 60-101] or willfully interferes with the director [director of markets ¹], his deputies, inspectors or employees, in the performance or on account of the execution of his or their duties as

provided by this subdivision shall be deemed guilty of a misdemeanor. Any person convicted under this subdivision shall be punished by the revoking of his license by the director and by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment in the discretion of the court. [1931]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

1935 Statutes Annotated, Vol. 3, Ch. 90, Art. 10—
Unit of Measurement of Flowing Water.

Sec. 214. Cubic foot per second.

The state engineer shall use in all his calculations, measurements, records and reports, the cubic foot per second as the unit of measurement of flowing water, and the cubic foot as the unit of measurement of volume. [1889; last amended 1908.]

1947 Supplement to 1935 Statutes Annotated, Vol. 4,
Ch. 106, Art. 3—"The Colorado Agricultural
Marketing Act of 1939."

Sec. 49. Definitions.

"Agricultural commodity," as used in this act [Secs. 46-63] means any and all agricultural, horticultural, floricultural and vegetable products of the soil, bees and honey, produced in this state, but does not include timber or timber products, livestock or livestock products, poultry or poultry products, wheat, rye, oats, barley, sugar beets, corn or hay, or any article or commodity manufactured or processed from any of the aforementioned commodities. [1939]

* * * * *

Sec. 50. Enforcement.

* * * The director of agriculture ¹ shall administer and enforce the provisions of this article [Secs. 46-63] * * *. In order to effectuate the declared purposes of this article, the director of agriculture is hereby authorized to issue, administer and enforce the provisions of marketing orders hereunder regulating the handling of agricultural commodities in intrastate commerce. [1939]

* * * * *

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

Sec. 52. Standard containers.

* * * * *

B. * * * any marketing * * * order issued by the director [of agriculture ¹] pursuant to this article [Secs. 46-63] may contain any or all of the following provisions * * *

(13) Provisions to require the packaging of any agricultural commodity in containers, and to set standards for such containers, in conformity with the regulations or authority contained in any mar-

keting agreement or order issued, adopted or promulgated under authority of this article. [1939; last amended 1941.]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

Sec. 56. Penalty for violations.

* * * * *

B. Every person who violates any provision of this article [Secs. 46-63] or any provision of any marketing order duly issued by the director ¹ hereunder, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than ten days nor more than six months, or by both such fine and imprisonment. Each day during which any of the violations above referred to continue shall constitute a separate offense. [1939]

* * * * *

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

Sec. 62. Exceptions.

The provisions of this article [Secs. 46-63] shall not be applicable to retailers of agricultural commodities except to the extent that any retailer also engages in the processing or distribution of agricultural commodities as defined in this article. [1939]

1935 Statutes Annotated, Vol. 4, Ch. 110, Art. 8—
Weighing of Coal at Mines.

Sec. 101. Scales; testing; weights certified.

It shall be the duty of every corporation, company or person engaged in the business of mining and selling by weight, to procure and constantly keep on hand, at the proper place, the necessary scales and whatever else may be necessary to correctly weigh the coal mined and taken out by the workmen or miners of such corporation, company or person, and it shall be the duty of the inspector of weights and measures of each county, in which the coal is mined and sold, to visit each coal mine operated therein, once each year, unless oftener requested by the owner or the miners, to test the correctness of the scales. If in any county there is no inspector of weights and measures, then the deputy inspector of coal mines of the district in which the mine is located, shall be required to test the correctness of such scales within a reasonable time after application is made by either the owner or the miners. All weights necessary for testing and adjusting scales shall be duly certified and shall be provided by the owner. [1913]

Sec. 102. Manner of weighing coal.

All coal mined on a tonnage basis shall be weighed in the car or other receptacle in which it is removed from the mine before it is screened, or

before it passes over, or is dumped upon any screen or any other device which may let, or be capable of letting a portion of the coal drop through such screen or device, and the miner shall be paid for the mining of such coal according to the weight so ascertained at such price per ton of two thousand pounds as may be agreed upon by and between such owner and miner or miners who mine the same, except that where coal is mined from pitching veins the miners shall be paid upon a yardage basis, except when otherwise agreed to between owner and miner. [1913; last amended 1929.]

Sec. 103. Check weighman: Election; duties.

Hereafter at each coal mine, at the option of the majority of miners working on a tonnage basis therein, there shall be employed from among the employees of said mine one or more check weighmen, whose wages shall be paid by the miners therein employed on a tonnage basis.

* * * * * The duties of such check weighman shall be to see that all coal mined in the mine at which he is employed, is correctly weighed and accredited, and for that purpose every such aforesaid owner shall give to such check weighman access to all scales and weights used for that purpose and to all books wherein the weights of the coal mined by the miners of said mines are recorded. The owner shall provide a convenient and suitable office on the tippie for weighing coal, which said office shall be kept in a comfortable and sanitary condition. [1913; last amended 1929.]

1935 Statutes Annotated, Vol. 4, Ch. 110, Art. 11—
False Weighing of Ore.

Sec. 247. Ore Dealers: False weights and scales; penalty.

Any person, association or corporation, or the agent of any person, association or corporation engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores, as aforesaid, who shall keep or use any false or fraudulent scales or weights for weighing ore, or who shall keep or use any false or fraudulent assay scales or weights for ascertaining the assay value of ore, knowing them to be false, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one thousand (1,000) dollars, nor less than one hundred (100) dollars, or imprisonment not more than one year, or both, at the discretion of the court. [1877]

Sec. 261. Same: Bond.

Each application ¹ shall be accompanied by a bond to be approved by the said secretary of state to the people of the state of Colorado in the penal sum of three thousand dollars (\$3,000.00), with two or more sufficient sureties, and conditioned that the obligor will not violate any law relating to such business. If any person shall be aggrieved by the

1935 Statutes Annotated, Vol. 4, Ch. 110, Art. 11—
False Weighing of Ore—Continued.

misconduct of any such licensee through his violation of any law relating to such business, and shall recover a judgment therefore, such person may, after a return unsatisfied in whole or in part of any execution issued upon said judgment, maintain an action in his own name upon such bond herein required in any court of competent jurisdiction. The secretary of state shall furnish to anyone applying therefor a certified copy of any such bond filed with him, upon the payment of a fee of twenty-five cents, and such certified copy shall be prima facie evidence in any court that such bond was duly executed and delivered by each person whose name appears thereon. * * * [1915]

¹ This refers to an application for a license to engage in the business referred to in section 247, which application is made to the secretary of state as provided in section 260, this section not being included in this publication.

Sec. 266. Same: Penalty for violations.

Any violation of this subdivision [Secs. 259-267] shall be deemed a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not less than thirty days or more than six months or both such fine and imprisonment. * * * [1915]

1947 Supplement to 1935 Statutes Annotated, Vol. 4,
Ch. 118, Art. 1—Fuel Products.

Sec. 1. Definitions.

(a) "Person" as used in this article [Secs. 1-37] means an individual, trust or estate, partnership, association, joint stock company or corporation, and any receiver by law appointed.

(b) "Fuel products" as used in this article means and includes all gasoline, benzine, benzene, naphtha, benzol, kerosene, and other volatile and inflammable liquids, produced, compounded, and offered for sale or used for the purpose of generating heat, light, power in internal combustion engines, cleaning, or for any other similar or like usage. [1931; last amended 1941.]

Sec. 2. Classification.

In furtherance of the purposes of this article [Secs. 1-37] all "fuel products" as defined in section 1 (b) shall be divided into three classifications, as follows:

Class A. Gasoline, benzine, benzene, naphtha, and benzol.

Class B. Kerosene.

Class C. All other "fuel products" as defined in section 1 (b) and not included in either class A or B.

Fuel products included in class C as defined in this article shall be subject to inspection. [1931; last amended 1941.]

Sec. 16. Compartments on tank trucks; capacity measure.

* * * * *

(b) The state inspector of oils shall measure the capacity of each compartment of every transport, tank, truck, or delivery truck to determine the accurate capacity thereof, and said capacity shall be printed or stenciled on each compartment in letters not less than one inch in height. [1931; last amended 1943.]

Sec. 23. Sealing of measuring devices.

No person or agent or employee of any person, shall use any motor [meter] or mechanical device for the measurement of oil or gasoline unless the same has been sealed as correct and the sealing approved by the state inspector of oils or one of his deputies in writing. Any person, or agent or employee of any person, who shall change or in any way tamper with the said seal shall be subject to the penalties hereinafter provided. [1931; last amended 1941.]

Sec. 26. Penalty for violations.

Any person, firm, or corporation or any officer, agent, servant or employee thereof, who shall violate any provision of this article [Secs. 1-37] shall be deemed guilty of a misdemeanor and fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00), or be imprisoned not more than ninety (90) days, or shall suffer both such fine and imprisonment, and each separate sale or attempt to sell in violation of the provisions of this article shall be deemed a separate offense. [1931; last amended 1941.]

1935 Statutes Annotated, Vol. 4, Ch. 128, Art. 3,
Secs. 11 to 16—Eggs.

[ED. NOTE.—These sections comprise requirements for the grading of eggs including minimum weights per dozen for the several grades, and as they relate primarily to quality they are not given in detail in this publication.]

1935 Statutes Annotated, Vol. 4, Ch. 134, Art. 3—
Ton Measure for Coal Mined on Public Lands.

Sec. 84. Ton defined.

Any person, association, copartnership or corporation leasing and operating coal lands under the provisions of this article [Secs. 44-88] shall pay to the deputy register of the state board of land commissioners a minimum price of not less than fifteen (15) cents for each and every ton of coal mined from said lands, * * *. The term ton, as herein used, means twenty-seven (27) cubic feet of coal, measured in solid, and shall be ascertained by the measurements of the space from which the coal is mined, deducting therefrom all spaces occupied by slate or other impurities, such measurements shall be made by the mineral department, according to the provisions of this article; provided, however, that when possible and when the state board of land

commissioners shall so order, the coal tonnage may be determined by the coal miners' pay roll check numbers or railroad shipment, * * * [1919; last amended 1925.]

1935 Statutes Annotated, Vol. 4, Ch. 137—"Public Utilities Law."

Sec. 2. "Commission" defined.

(a) The term "commission" when used in this chapter [Secs. 1-68] means the public utilities commission of the state of Colorado. [1913; last amended 1915.]

* * * * *

Sec. 32. Standards for electricity, gas and water; testing of meters.

(a) The commission shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas, and water public utilities; * * * to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement and weighing; and to provide for the examination and testing of any and all appliances used for the measurement or weighing of any product, commodity or service of any such public utility.

* * * * *

(c) Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission. [1913]

1935 Statutes Annotated, Vol. 4, Ch. 160, Art 14—Commercial Feeding Stuffs.

Sec. 213. Definition.

For the purposes of this Act the term "commercial feeds" shall mean and include all materials used for feeding animals or birds, except for the following:

- (a) Unmixed whole seeds or grains, as defined by U. S. grain standards;
- (b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and other seeds or grains;
- (c) Feeds that are ground and mixed for or by a

feeder according to his specific direction and delivered directly to him for his sole use and not for distribution;

(d) Whole hays, straws, sugar beet by-products, ensilage, and cane molasses when unmixed with other materials. [1929; last amended 1949.]

Sec. 214. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state, shall have printed on the container in a conspicuous place on the outside thereof, or on a tag attached thereto, a legible statement in the English language clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1929]

* * * * *

Sec. 223. Violations; penalty; seizure.

Any manufacturer, importer, jobber, firm, association, corporation, or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said director [director of markets¹] or his authorized agent in the performance of his duty in connection with the provisions of this article [Secs. 213-225], or who shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs as defined in section 213 of this chapter [Secs. 1-225] without complying with the requirements of the provisions of this article, * * * shall be deemed guilty of a violation of the provisions of this article and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00), for the first violation and not less than one hundred dollars (\$100.00), for each subsequent violation, and in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure and condemnation and sale as the court may direct; the proceeds from such sale and all penalties recovered under this article shall be paid to the director. The court may in its discretion release the feeding stuffs so seized when the requirements of the provisions of this article have been complied with, and upon payment of all costs and expenses incurred by the state in any proceedings connected with such seizure. [1929]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

Sec. 225. Enforcement officer; rules and regulations.

The said director [director of markets¹] is hereby empowered to enforce the provisions of this article [Secs. 213-225], and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the lawful intent and meaning of this article. [1929]

¹ Now Commissioner of Agriculture. See Laws 1949, Ch. 100, Sec. 9, page 162.

1935 Statutes Annotated, Vol. 4, Ch. 166—Transient Dealers.

Sec. 1. Transient dealer defined.

The term "transient dealer," for the purpose of this chapter [Secs. 1-13], shall mean and include any person, either principal or agent, who engages in the business of traveling about carrying or conveying with him for sale and selling manufactured goods, manufactured wares or manufactured merchandise, so carried or conveyed with him for sale, and it shall also include peddlers and hawkers of manufactured goods, manufactured wares and manufactured merchandise. [1911]

Sec. 11. Short weight or measure; penalty.

* * * no "transient dealer" shall commit any fraud in the transaction of his business as a "transient dealer," sell any manufactured goods, wares or merchandise by any false or short weight or measure. * * *. And every person who shall be convicted of a violation of any provision of this section shall be punished by a fine of not less than ten (10) dollars, and not more than one hundred (100) dollars, or by imprisonment in the county jail for not less than ten (10) days, and not more than one (1) year, or by both such fine and imprisonment. [1911]

Laws 1949, Ch. 100—"State Department of Agriculture Act of 1949."

Sec. 2. Definitions.

* * * * *
(a) "Department" means the State Department of Agriculture.

* * * * *
(d) "Commission" means the State Agricultural Commission.

(e) "Commissioner" means the Commissioner of Agriculture. [1949]

* * * * *

Sec. 3. State Department of Agriculture: Creation.

There is hereby created, as an administrative department in the executive branch of the state government, a State Department of Agriculture, hereinafter referred to as the department. [1949]

Sec. 4. Same: Powers and duties.

The Department shall have and exercise the following functions, powers and duties.

* * * * *

(6) To foster and encourage the standardizing, grading, inspection, labeling, handling, storage and marketing of agricultural products. And, after investigation and public hearings thereon, acting in

cooperation with the United State Department of Agriculture, to establish and promulgate standard grades and other standard classifications of and for agricultural products, except milk or milk products for fluid consumption.

* * * * *

(13) To determine for the protection of owners, buyers, creditors or other interested parties the validity of warehouse receipts for any such products by verifying quantities, grade and classification thereof.

(14) To enforce the state laws or regulations relating to fruit and vegetable inspection and grading; * * * the registration, inspection and analysis of commercial feeding stuffs; * * * the inspection of warehouses * * *; the inspection of commercial fertilizers: * * *

(17) To promulgate rules and regulations for * * * the governing of milk or cream weighing and testing operations; to enforce such rules and regulations, * * * [1949]

Sec. 7. Commissioner of Agriculture.

(1) The administrative and executive head of the State Department of Agriculture shall be the Commissioner, which office is hereby created. The Commissioner shall be appointed by the Governor, subject to the constitution and laws of the state, on recommendation of the commission [State Agricultural Commission]. * * *

(2) The office of director of agriculture is hereby abolished and all powers and duties of said director of agriculture are hereby transferred to the Department of Agriculture to be exercised by the Commissioner. [1949]

Sec. 9. Transfer of functions.

(a) The Director of Agriculture and the Director of Markets. Wherever in the statutes the words and phrases "director" or "director of markets" or "director of agriculture" are used, the same shall mean Commissioner of Agriculture or his duly authorized representative, and all powers and duties vested in said director, or director of markets or director of agriculture, are hereby transferred to the Department of Agriculture, to be exercised by the Commissioner or his duly authorized representative. Specifically, the foregoing transfers shall be made effective in the following chapters and subdivision:

* * * * *

Chapter 66, Session Laws of Colorado, 1939, cited as the Colorado Agricultural Marketing Act of 1939, and Chapter 4, Session Laws of Colorado, 1941.

Sections 60 to 124, Chapter 69, 1935 Colorado Statutes Annotated, Chapters 131, 132 and 133, Session Laws of Colorado, 1941, Ch. 100, Session Laws of Colorado, 1943, and Chapter 128, Session Laws of

Colorado, 1945, relating to fruit and vegetables, inspection and grading. * * *

Sections 213 to 225, Chapter 160, 1935 Colorado Statutes Annotated, relating to commercial feeding stuffs. * * *

The office of director of markets is hereby abolished and all powers and duties vested in said office shall be transferred to the Department of Agriculture to be administered as the Commissioner may direct.

* * * * *

(c) The State Dairy Commissioner. All rights, powers, and duties now vested in the dairy commissioner by the provisions of Chapter 49, 1935 Colorado Statutes Annotated, are hereby transferred to the Department of Agriculture, to be administered as the Commissioner of Agriculture may direct. The office of State Dairy Commissioner is hereby abolished. Wherever in the law, the term dairy commissioner is used, it shall mean Chief of the Dairy Section. [1949]

* * * * *

Laws 1949, Ch. 107—"Commercial Fertilizer Law of 1949."

Sec. 2. Enforcement.

This Act [Secs. 1-22] shall be administered by the Commissioner of Agriculture, hereinafter referred to as the "commissioner", or by his duly authorized representatives. [1949]

Sec. 3. Definitions.

(a) The term fertilizer material means any substance containing water-soluble Nitrogen, available Phosphoric Acid, or water-soluble Potash used primarily as a plant nutrient and for compounding mixed fertilizer except unmanipulated animal and vegetable manures.

(b) The term mixed fertilizer means only water-soluble Nitrogen, available Phosphoric Acid or water-soluble Potash in a combination of mixture.

(c) The term commercial fertilizer includes mixed fertilizers only of Nitrogen, Phosphoric Acid and Potash quality, either singly or in combination.

* * * * *

(e) The term soil amendment means any material applied to the soil for purposes of changing soil alkalinity or acidity, or exchangeable base percentages or to increase trace element potentials. The purposes for which intended must be stated on the package or bag, together with the printed phrase not sold as a fertilizer. * * * [1949]

Sec. 5. Marking requirements.

(a) Any commercial fertilizer or soil amendment offered for sale or distributed in this State in bags, barrels, or other containers shall have placed on or

affixed to the container in written or printed form the net weight, * * * either on tags affixed to the end of the package or directly on the package.

(b) If distributed in bulk, a written or printed statement of the net weight * * * shall accompany delivery and be supplied to the purchaser. [1949]

* * * * *

Sec. 10. What constitutes misbranding.

A commercial fertilizer or soil amendment is misbranded if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter associated with the commercial fertilizer or soil amendment. [1949]

Sec. 13. Short weight; penalty.

If any commercial fertilizer or soil amendment in the possession of the consumer is found by the commissioner to be short in weight, the registrant of said commercial fertilizer or soil amendment shall, within thirty days after notice from the commissioner, pay to the consumer a penalty equal to four times the value of the actual shortage. [1949]

Sec. 15. Stop sale orders.

The commissioner may issue and enforce a written or printed "Stop Sale, Use, or Removal" order to the owner or custodian of any lot of commercial fertilizer or soil amendment, and to hold at a designated place, when the commissioner finds said commercial fertilizer or soil amendment is being offered or exposed for sale in violation of any of the provisions of this Act [Secs. 1-22]. The commissioner shall release the commercial fertilizer, so withdrawn, when the requirements of the provisions of this Act have been complied with, and all costs and expenses incurred in connection with the withdrawal have been paid. [1949]

Sec. 16. Seizure.

Any lot of commercial fertilizer, or soil amendment, not in compliance with the provisions of this Act [Secs. 1-22] shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the district in which said commercial fertilizer or soil amendment is located. * * * [1949]

Sec. 17. Penalties for violations.

Any person, firm or corporation who shall violate any of the provisions of this Act [Secs. 1-22] or the rules and regulations issued thereunder shall be deemed guilty of a violation of the provisions of this Act and upon conviction thereof shall be fined not less than one hundred (\$100) dollars for the first violation and not less than one hundred (\$100)

Laws 1949, Ch. 107—"Commercial Fertilizer Law of 1949"—Continued.
dollars or more than five hundred (\$500) dollars for each subsequent violation. [1949]

Laws 1949, Ch. 111—"Colorado Anti-Freeze Act."

Sec. 1. Definition.

* * * * *

(a) "Anti-freeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; * * * [1949]

Sec. 4. When deemed misbranded.

Anti-freeze shall be deemed to be misbranded:

(a) If its labeling is false or mis-leading in any particular; or

(b) If in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1949]

Sec. 5. Enforcement.

The State Inspector of Oils shall enforce the provisions of this Act [Secs. 1-14] by inspections, chemical analysis, or any other appropriate methods. * * * [1949]

Sec. 11. Penalties for violations.

If any person, partnership, corporation, or association shall violate the provisions of this Act [Secs. 1-14], or fail to comply with any of the provisions of this Act, such person, partnership, corporation or association shall be deemed guilty of a misdemeanor and, upon conviction shall be fined any sum not less than \$50.00, and not exceeding \$300.00 for each offense. [1949]

Laws 1949, Ch. 240—Livestock Sales Rings.

Sec. 2. Definitions.

* * * * *

(a) The term "livestock" shall mean and include horses, mules, cattle, burros, swine, sheep, goats and poultry.

(b) The term "Livestock Sales Ring" when used in this Act [Secs. 1-21] shall mean any place, establishment or facility commonly known as a "livestock sales ring" conducted or operated for compensation or profit as a livestock sales ring, consisting of pens, or other enclosures and their appurtenances, in which live horses, mules, cattle, burros, swine, sheep, goats and poultry are received, held or assembled for either public or private sale. The person, partnership or corporation owning or controlling premises defined as a "Livestock Sales Ring" shall be compensated for the use of the premises and the services performed in handling the livestock in connection with the sale. [1949]

Sec. 10. Scales.

All scales used in the operation of livestock sales rings shall come under and be controlled by Colorado's weights and measures laws. [1949]

1935 Statutes Annotated, Vol. 2, Ch. 48—False Weights and Measures.

Sec. 314. False weights and scales: Penalty.

If any person shall knowingly have, keep or use any false or fraudulent scales or weights for weighing gold or gold dust or any other article or commodity, every such person so offending shall, on conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months. [1868]

Sec. 315. False grain measures: Penalty.

If any person shall knowingly sell by false weights or measures, or shall knowingly use false measures at any mill, in taking toll for grinding corn, wheat, rye or other grain, he shall be deemed a common cheat, and on conviction shall be fined not less than two hundred dollars and be imprisoned in the county jail not exceeding three months. [1868]

1935 Statutes Annotated, Vol. 2, Ch. 48—False Advertising.

Sec. 317. Unlawful acts.

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading, shall be guilty of a misdemeanor. [1915]

Sec. 318. Same: Penalty.

On conviction of each and every offense, as herein above set forth, the violator shall be punished by a fine of not less than ten dollars, nor more than three hundred dollars, or by imprisonment in the county jail for a term not exceeding thirty days, or by both such fine and imprisonment. [1915]

CONNECTICUT

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Sec. 6747. State commissioner of weights and measures; inspectors; duties; powers.

The commissioner of food and drugs shall be state commissioner of weights and measures. The commissioner may appoint inspectors of weights and measures, with all the powers incident to that office, when directed so to act by the commissioner. Said commissioner shall take charge of the standards adopted under the provisions of section 6773, as the standards of the state, and cause them to be kept in a fireproof building belonging to the state, or in a suitable place in his office, 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, at least once in two years, test by the state standards all standard weights, measures and other apparatus which belong to any county, city or borough and shall seal such apparatus as is found to be accurate, by stamping thereon, with seals kept for that purpose, the letter "C" and the last two figures of the year of certification. He shall have general supervision of the weights, measures and weighing and measuring devices sold, offered for sale or used in the state. He, or the inspectors by his direction, shall, at least once in each year, test all scales, weights and measures used in checking the receipt or disbursement of supplies in each institution for the maintenance of which moneys are appropriated by the general assembly, 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, he shall appoint, in writing, one or more employees, in the service of each institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. He shall keep a complete record of the standards, balances and other apparatus belonging to the state, and take a receipt for the same from his successor in office. He, or the inspectors at his direction, shall, at least once in two years, inspect the work of the local sealers throughout the state and shall have power to inspect and ascertain the correctness of all

weights, scales, beams, measures, instruments or mechanical devices for measuring, and tools, appliances or accessories connected with any such instruments or measures kept, offered or exposed for sale, sold, used or employed by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, offered or submitted by such person or persons for sale, hire or reward; and shall, from time to time, weigh or measure packages or amounts of commodities of any kind kept for the purpose of sale, offered 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 accordance with law. They may, in the performance of their official duties, enter, without warrant, into or upon any stand, place, building or other premises, or stop any vendor, peddler, junk dealer or driver of any vehicle transporting or containing coal, coke, ice or other commodity, or any dealer, and require him to proceed to some place which they may specify, for the purpose of making tests. Said commissioner or the inspectors may seal any such weighing or measuring instrument or apparatus which is found to be correct and may seize and destroy any incorrect weight, measure or weighing or measuring instrument. The commissioner shall issue, from time to time, regulations for the guidance of county, city and borough sealers, and such regulations shall govern the procedure to be followed by such officers in the discharge of their duties. [1911; last amended 1947.]

Sec. 6748. County and city standards.

The county commissioners of each county and the common council of each city required to appoint a sealer under the provisions of this chapter [Secs. 6747-6752] shall procure, at the expense of the county or city, and shall keep, at all times, a complete set of weights and measures and other apparatus, of such materials and construction as the commissioner of weights and measures may direct. All such weights, measures and other apparatus, having been tried and accurately proven by him, shall be sealed and certified to by him and shall then be deposited with and preserved by the county or city sealer as public standards for such county or city. Whenever the county commissioners of any county or the common council of any such city

shall neglect, for six months, so to do, the treasurer of the county, or the city clerk or comptroller of such city, as the case may be, on notification and request by the 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. [1846]

Sec. 6749. County sealer of weights and measures.

The county commissioners of each county shall, on November 1, 1951, and quadrennially thereafter, appoint a county sealer of weights and measures, who shall hold office for four years from said date and until his successor is appointed and has qualified. Said county sealer shall keep a complete record of all of his official acts and shall make an annual report to the county commissioners, and, on or before November first in each year, shall make a report, duly sworn to, to the state commissioner of weights and measures, on blanks to be furnished by the commissioner. He shall be paid such compensation as shall be fixed by the senators and representatives resident in the same county at their biennial meeting, and no fee shall be charged by him, or by the county, for the inspection, testing or sealing of weights, measures or weighing or measuring devices. Unless otherwise provided by law, the county sealer shall have power, within his county, to inspect, test, try and ascertain the correctness of all weights, scales, beams, measures, instruments or mechanical devices for measuring, and tools, appliances or accessories connected with any such instruments or measures kept, offered or exposed for sale, sold or used or employed within the county by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, offered or submitted by such person or persons for sale, hire or reward; and he shall have power to, and shall, from time to time, weigh or measure packages or amounts of commodities of any kind kept for the purpose of sale, offered for sale or sold or in the process of delivery, in order to determine whether the same contain the amounts represented and whether they are offered for sale or sold in accordance with law. He shall, at least twice each year, and as much oftener as he may deem necessary, see that the weights, measures, and all apparatus used in the county, including those under the care of city and town sealers of weights and measures, are correct. He may, in the performance of his official duties, enter, without warrant, into or upon any stand, place, building or other premises, or stop any vendor, peddler, junk dealer or driver of any vehicle transporting coal, coke, ice or any similar commodity, or any dealer and require him to proceed to some place which such sealer may specify, for the purpose of making tests. The county sealer of weights and measures shall cause any person vio-

lating any of the provisions of this chapter [Secs. 6747-6752] relating to weights and measures to be prosecuted. Whenever such sealer shall compare weights, measures or weighing or measuring instruments, and find that they correspond, or shall cause them to correspond, with the standards in his possession, he shall seal or mark such weights, measures or weighing or measuring instruments with appropriate devices, to be approved by the commissioner of weights and measures. He shall condemn and seize, and may destroy, incorrect weights, measures or weighing or measuring instruments which, in his judgment, are not susceptible of satisfactory repair; but he shall mark or tag such as are incorrect and yet may be repaired, as "condemned for repairs," in a manner prescribed by the commissioner. The owner or user of any weights, measures or weighing or measuring instruments which are so marked shall have the same repaired or corrected within ten days and, until so repaired or corrected, such owner or user shall neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. Any apparatus which has been so condemned for repairs and has not been repaired as hereinbefore required shall be confiscated by the sealer.

The county sealer of weights and measures shall, forthwith upon his appointment, give a bond in the penal sum of one thousand dollars, with sureties to be approved by the county treasurer, for the faithful performance of the duties of his office. Nothing in the foregoing provisions shall be construed to prevent two or more counties from combining the whole or any part of their respective counties, as may be agreed upon by the county commissioners, with one set of standards and one sealer, upon the written consent of the commissioner of weights and measures. A county sealer appointed in pursuance of an agreement of 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. The salary of the county sealer of weights and measures shall be paid by the county treasurer on order drawn by the county commissioners. [1911; last amended 1937.]

Sec. 6750. City sealers of weights and measures.

There shall be a city sealer of weights and measures in each city of not less than twenty five thousand population, according to the last preceding official state or United States census, to be appointed by the mayor, subject to the approval of the common council. He shall, in such city, perform the same duties and have the same powers as the county sealer in the county. In those cities in which no sealer is required by this section, the county sealer of the county shall perform the same duties and have the same powers as in the county.

General Statutes, Revision of 1949, Vol. III, Title 50, Ch. 321—Commissioner of Weights and Measures, Sealers and Inspectors—Continued.

Nothing in the foregoing provisions shall be so construed as to prevent any county and any of the cities situated therein from combining the whole or any part of their respective territories, as may be agreed upon, with one sealer, subject to the written approval of the commissioner of weights and measures. A sealer appointed in pursuance of any agreement for such combination shall, subject to the terms of his appointment, have the same jurisdiction and duties as if he had been appointed by each of the authorities who are parties to the agreement. [1911]

Sec. 6751. Police powers.

The commissioner of weights and measures, his inspectors and the county and city sealers of weights and measures shall each have power to arrest, without warrant, any violator of the laws relating to weights and measures, and to seize, without warrant, for use as evidence, any false or unsealed weight, measure or weighing or measuring device, or package or amount of any commodity, found to be used, retained, offered or exposed for sale or sold in violation of the law. [1911]

Sec. 6752. Town standards; inspectors.

The selectmen of each town shall provide standard weights and measures of various kinds, as may be recommended and approved by the commissioner of weights and measures, and cause them to be tried and compared with the state standards. The board of selectmen in any town may appoint an inspector of weights and measures and fix his salary to be paid by the town. The inspector of weights and measures in each town shall have the custody of its weights and measures. He shall annually try, by the town standards, the weights and measures used in trade in such town, destroy such as he shall be unable to make correspond with the standards and stamp such as shall be found or made true, with the capital initial letter or letters of the name of the town, and the year of such inspection. [1846; last amended 1911.]

General Statutes, Revision of 1949, Vol. III, Title 50, Ch. 322—Licensing of Public Weighers.

Sec. 6753. License required; fees; revocation of license.

Any person who is in possession of suitable scales or is employed by a person, firm or corporation in possession of suitable scales may be licensed as a public weigher by the commissioner of weights and measures, provided said commissioner is satisfied that such person is of good reputation and competent to perform the duties of such office and that the scales to be used by such person are of suitable design, in good repair and sealed by a sealer of weights and measures or by a state inspector of

weights and measures. Each such licensee shall be qualified to perform the duties of a public weigher as prescribed in section 6763, and upon payment of the sum of three dollars shall receive a license to serve as a public weigher. All licenses issued to public weighers under the provisions of this section shall be for the period ending on the first day of July, 1949, and thereafter such licenses shall be issued for the period ending on the first day of July in each successive three-year period. Each person licensed under this section shall be given a numbered license certificate which shall be kept at the place where the public weigher is engaged in weighing and such certificate shall be available for inspection at all times. A license may be revoked by the commissioner after a hearing, on due notice to the licensee, for dishonesty, incompetency, inaccuracy, refusal to weigh as required by law, or for any violation of the provisions of the statutes relating to weights and measures. All fees collected by the commissioner of weights and measures under this section and section 6764 shall be added to the appropriation for the commissioner of weights and measures, and said commissioner shall pay from said appropriation all expenses incurred in carrying out the provisions of this chapter [Secs. 6753-6756]. [1937; last amended 1943.]

Sec. 6754. Duties.

Each public weigher shall weigh all articles brought to him for weighing, provided such articles are customarily sold by weight, and provided such public weigher is equipped with the particular kind of scales customarily used for weighing such articles. [1943]

Sec. 6755. Fees.

A licensed public weigher shall be entitled to charge a fee in such amount as is approved by the commissioner of weights and measures and upon the payment of such fee shall issue a certificate of the weight of such articles. [1943]

Sec. 6756. Penalties.

Any public weigher who violates any provision of the statutes relating to weights and measures shall, upon a first conviction, be fined not less than twenty dollars nor more than two hundred dollars or imprisoned not more than three months or be both fined and imprisoned. Upon any subsequent conviction any such person shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned in the county jail not more than one year, or be both fined and imprisoned. [1943]

General Statutes, Revision of 1949, Vol. III, Title 50, Ch. 323—Weight and Measurement of Specific Articles.

Sec. 6757. Pound; hundred weight; ton; barrel; gallon.

The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundred

weight shall contain one hundred avoirdupois pounds; and the ton, twenty hundred weight. The barrel for liquids shall contain thirty-one and one-half gallons, except the barrel for beer, ale and porter which shall contain thirty-one gallons; and the hoghead, two barrels. The liquid gallon shall contain two hundred and thirty-one cubic inches. [1827; last amended 1935.]

Sec. 6758. Bushel; charcoal; flour; potatoes; flour and potato barrel.

The bushel in struck measure shall contain twenty-one hundred and fifty and forty-two hundredths cubic inches, and in heap measure twenty-five hundred and sixty-four cubic inches, except that each bushel of charcoal shall contain twenty-seven hundred and forty-eight cubic inches. When sold by weight, the bushel of charcoal shall weigh twenty pounds when commercially dry; the barrel of flour, one hundred and ninety-six pounds and the barrel of potatoes, one hundred and fifty pounds. [1827; last amended 1935.]

Sec. 6759. Bushel weights;¹ penalty.

	<i>Pounds per bushel</i>
Apples	48
Apples, dried	25
Barley	48
Beans, dried	60
Beans, Lima, in pod	28
Beans, String	24
Beets, table size	50
Beet Greens	12
Bran	20
Buckwheat	48
Carrots	50
Clover Seed	60
Coal, hard	80
Corn, Indian	56
Corn Meal	50
Cotton Seed, sea island	44
Cotton Seed, upland	30
Cranberries	32
Dandelions	12
Flaxseed	55
Grass Seed, timothy or herdsgrass	45
Herdsgrass Seed	45
Hickory Nuts	50
Horseradish	50
Kale, commercially dry	12
Lime	70
Mangelwurzel	60
Oats	32
Onions	52
Parsley	8
Parsnips	45
Peaches	52
Peaches, dried	33
Pears	52
Peas, dried	60
Peas, in pod	26
Peppers	24
Plums	48
Potatoes	60
Potatoes, Sweet	54
Quinces	48
Redtop Seed	14
Rough Rice	45
Rye	56
Rye Meal	50
Salt, fine	70

	<i>Pounds per bushel</i>
Salt, coarse	70
Shorts	20
Spinach, commercially dry	12
Timothy Seed	45
Tomatoes	56
Turnips, Summer	50
Turnips, Rutabaga	55
Wheat	60

Any person who, [by] himself, or by his servant or agent, or as the servant or agent of another, shall sell or offer for sale any of the above-mentioned commodities at a less weight per bushel than herein specified shall be fined or imprisoned or both as provided in section 6775. [1857]

¹ A slight change in arrangement has been made for convenience of reference.

Sec. 6760. Weight of sand and gravel.

A cubic yard of sand shall contain twenty-six hundred pounds, and a cubic yard of gravel, twenty-eight hundred pounds. [1917]

Sec. 6761. International log rule.

The international log rule is adopted as the standard log rule for determining the board foot content of saw logs and all contracts entered into after October 1, 1943, for the purchase and sale of saw logs shall be made on the basis of such standard rule, unless some other method of measurement is specifically agreed upon. [1943]

Sec. 6762. Cotton thread; marking requirements; penalty.

Each manufacturer of cotton sewing thread, and each person engaged in putting up such thread on spools or in packages of one pound weight or less, intended for sale, shall, before the same shall be offered for sale, affix to or impress upon each spool or package, a label or stamp designating its weight or length in yards. Any such manufacturer, or person engaged as aforesaid, who shall neglect to affix to or impress upon each spool or package such a label or stamp, or shall, with intent to deceive, affix to or impress upon or suffer to be affixed to or impressed upon any such spool or package a label or stamp specifying that it contains a greater number of yards, or a greater quantity of thread by five per cent than it does contain, shall be fined five dollars for each of such spools or packages; and any trader who shall offer for sale such thread, knowing or having reason to believe that it is falsely labeled or stamped in regard to length or quality, shall be subject to the same fine. [1869]

Sec. 6763. Sale of coal and coke by weight.

All coal and coke sold, except in accordance with a written agreement with the purchaser otherwise, or offered for sale, in this state, shall be sold or offered for sale by weight. No person, firm or corporation shall deliver any coal or coke without first having such coal or coke weighed by a public weigher on stationary scales suitable for the weighing of coal or coke, which have been tested and

General Statutes, Revision of 1949, Vol. III, Title 50,
Ch. 323—Weight and Measurement of Specific Arti-
cles—Continued.

sealed by an authorized sealer or inspector of weights and measures. Such coal or coke shall be accompanied while in transit by a delivery ticket and a duplicate original thereof, on which shall be distinctly expressed in ink, or other indelible substance, in pounds, the weight of the coal or coke contained in the vehicle or other receptacle, together with the name and address of the seller, the name and address of the purchaser, the signature and license number of the public weigher and the date of the weighing, together with the number of bags or sacks of such commodity, when the bags or sacks shall be representative of the quantity contained in the vehicle used for transporting such coal or coke, provided coal or coke sold or offered for sale in this state in quantities of fifty pounds or less, in paper bags, sacks or similar containers, when the name and address of the dealer and the net contents of avoirdupois weight shall be distinctly and indelibly marked in ink or otherwise on such paper bags, sacks or similar containers, shall be exempt from the provisions of this section requiring delivery tickets and duplicates thereof. One of such duplicate delivery tickets shall be surrendered, upon demand, to any sealer or inspector of weights and measures for his inspection, and such ticket, or, when the sealer shall desire to retain one of the duplicate tickets, a weight slip, issued by the seller and signed and dated by the sealer or inspector, shall be delivered to the purchaser or his agent or representative, at the time of the delivery of such coal or coke, and the other duplicate ticket shall be retained by the seller for a period of one year, subject to inspection by any sealer or inspector of weights and measures. If the purchaser or his agent shall take such coal or coke from the seller's place of business, a delivery ticket in the form required by this section and signed by a public weigher shall be given to the purchaser or his agent at the time of delivery. No person shall sell or deliver, or attempt to sell or deliver, or offer to sell or deliver less than the amount of coal or coke represented in the delivery tickets therefor, provided a tolerance at the rate of five pounds to the ton shall be allowed for unavoidable wastage and variation in scales. No public weigher shall weigh coal or coke loaded on a vehicle for transportation thereon and sign a delivery ticket therefor, unless he shall have first weighed the vehicle empty on the same day and on the same scales, in order to determine the true net weight of such load of coal or coke. Any person who violates any provision of this subsection shall be fined not more than two hundred dollars or imprisoned not more than six months or both. [1911; last amended 1939.]

Sec. 6764. Same: Location of scales; fee for testing scales outside the state.

All scales tested and approved by the commissioner shall be located within this state or within an

additional adjoining area extending at least five miles, but not more than ten miles, from the state boundaries; the outside boundary of such additional adjoining area beyond the five mile minimum to be fixed by the commissioner of weights and measures, and to be based upon the commissioner's facilities for testing and inspecting scales located outside the state and for maintaining reasonable supervision of weighing at such scales. The commissioner shall charge a fee of ten dollars for testing and approving any scales located outside the state. [1937; last amended 1939.]

Sec. 6765. Same: Not to apply to foreign or interstate commerce.

No provision of sections 6763 and 6764 shall apply or be construed to apply to foreign or interstate commerce, except to the extent that such application may be effective under the constitution of the United States and under the laws of the United States enacted pursuant thereto. [1937; last amended 1939.]

Sec. 6766. Bottles for milk and cream.

Typical glass milk bottles conforming to the requirements of this section may be used and re-used as liquid measures in dispensing milk, skimmed milk, buttermilk or cream. Containers made of paper composition or similar substance may be used in dispensing such commodities, but shall not be used more than once. Bottles may be made in the following capacities: One quart, one pint, ten fluid ounces, one-half pint and one gill. All such bottles shall be so made as to hold their rated capacity when filled to a well defined mark, and, when in use, shall be so filled. Each milk bottle shall be clearly and permanently marked with its capacity, with the word "Sealed" and, for purposes of identification, with the name, initials, or trademark of the manufacturer and the manufacturers' mold designation which identifies the pattern or design of the bottle. The capacity designation and the word "Sealed" shall not be on the bottom of the bottle. Each manufacturer of bottles selling marked bottles in this state shall register with the commissioner of weights and measures his name and address and the mark, designated by said commissioner, by which his bottles may be clearly distinguished from the bottles of other manufacturers. Said commissioner shall prepare a table of tolerances to be allowed in excess or deficiency on individual bottles and on the average capacity of bottles in any one lot, a copy of which table of tolerances shall be furnished to all sealers of weights and measures and to other interested persons. Any person receiving, in this state, a shipment of new milk bottles in a quantity equal to one gross or more shall immediately notify the city or county sealer of weights and measures having jurisdiction, and such sealer, being so notified, shall immediately proceed to examine a reasonable number of such bottles and shall ascertain as to whether the bottles are accurate

in capacity within the tolerances to be allowed in excess or deficiency on individual bottles, and on the average capacity of bottles, as prepared by said commissioner. If such bottles are found to be accurate within the specified tolerances, the sealer shall notify the owner of his findings and permit the use of such bottles in this state. When he finds that the bottles are inaccurate beyond the limits of the tolerances in excess or deficiency as to individual bottles, or inaccurate beyond the prescribed tolerance for the average bottle, he shall immediately impound such bottles and hold them in his possession for a period of not less than ten days. On making such seizure, he shall immediately notify both the purchaser and the manufacturer of such bottles and, at the end of thirty days from seizure, he may destroy such bottles. Any person who, by himself or by his agent or as the servant or agent of another, violates the provisions of this section, shall be subject to the penalties provided in section 6775. [1937; reenacted 1949.]

Sec. 6767. Testing machines used in weighing milk or cream.

The state commissioner of weights and measures, or his deputy or inspectors, at his direction, shall, at least once in each year, and oftener if in his judgment it shall be necessary, inspect and ascertain the correctness of all weights, scales, beams, instruments or mechanical devices used by any person, firm or corporation engaged in the business of purchasing milk or cream by weight. They may, for such purpose, and in the general performance of their official duties, enter, without warrant, into any place, building or premises. Said commissioner, or his deputy or inspectors, shall seal any such weighing instrument or instruments, or apparatus found to be correct, and may seize and destroy any such instrument or apparatus found to be incorrect. [1933]

Sec. 6768. Sale of preheated petroleum products to be by weight.

The quantity of all preheated petroleum products sold, offered for sale or delivered at retail shall be determined by weight, such weighing to be done by a public weigher licensed by the state of Connecticut, who shall weigh such products in the containers or vehicles in which they are to be delivered and on scales that have been tested and sealed by an authorized sealer or inspector of weights and measures. [1945]

Sec. 6769: Same: Delivery tickets; requirements.

Each vehicle or container of such petroleum products while in transit for delivery shall be accompanied by a delivery ticket and a duplicate original thereof, on which shall be distinctly expressed in ink or other indelible substance (a) in pounds, the gross and tare weights of the vehicle or container; (b) the net weight of such petroleum products contained in such vehicle or container and its

specific gravity or the gravity determined by accepted standard practice of using the formula of the American Petroleum Institute at sixty degrees Fahrenheit; (c) the quantity of petroleum products so transported expressed in gallons or in barrels computed at forty-two gallons per barrel, the method of determining such gallonage or barrelage to be by accepted standard practice on the basis of the products being at a temperature of sixty degrees Fahrenheit; (d) the name and address of the seller; (e) the name and address of the purchaser; (f) the signature and license number of the public weigher; and (g) the date of the weighing. One of such duplicate delivery tickets shall be surrendered upon demand to any sealer or inspector of weights and measures for his inspection, and such ticket, or, when such sealer desires to retain one of the duplicate tickets, a weight slip issued and signed and dated by the sealer or inspector shall be delivered to the purchaser or his agent or representative at the time of delivery of such petroleum products, and the other duplicate ticket shall be retained by the seller for a period of one year, during which time it shall be subject to inspection by a sealer or inspector of weights and measures. If the purchaser takes such petroleum products from the vendor's place of business, a delivery ticket in the form required by this section, signed by a licensed public weigher, shall be given to the purchaser or his agent at the time of delivery. No person shall sell or deliver, attempt to sell or deliver or offer to sell or deliver less than the amount of such petroleum products represented by the delivery tickets therefor, provided a tolerance at the rate of five pounds to the ton shall be allowed. [1945]

Sec. 6770. Same: Public weighers to secure tare weight.

No public weigher shall weigh such petroleum products loaded on a vehicle or in a container for transportation and sign a delivery ticket therefor unless he has secured the tare weight of the vehicle or the container in which such petroleum products are loaded for the purpose of delivery. [1945]

Sec. 6771. Same: Exemptions.

The provisions of sections 6768 to 6772, inclusive, shall not apply to barge, railroad track car or drum deliveries. [1945]

Sec. 6772. Same: Penalty for violations.

Any person who, by himself, his employee or agent, or as the employee or agent of another, violates any one of the provisions of sections 6768 to 6771, inclusive, shall, upon a first conviction, be fined not less than twenty dollars nor more than two hundred dollars or imprisoned not more than three months or be both fined and imprisoned. Upon any subsequent conviction any such person shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned in the

General Statutes, Revision of 1949, Vol. III, Title 50, Ch. 323—Weight and Measurement of Specific Articles—Continued.

county jail not more than one year or be both fined and imprisoned. [1945]

General Statutes, Revision of 1949, Vol. III, Title 50, Ch. 324—General Provisions Relating to Weights and Measures.

Sec. 6773. Standards of weights and measures.

The weights and measures received from the United States under a resolution of Congress approved June 14, 1836, and 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 such as shall be supplied by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards, by which all county and municipal standards of weights and measures shall be tried, proved and sealed. [1846]

Sec. 6774. Seals and tags: Definitions.

The word "seal", when used in statutory provisions relating to weights and measures, shall mean a mark of identification which may, in the form of a stamped impression, paster, wafer or certificate, be attached to, or made a part of, any weighing or measuring instrument or device, by a sealer of weights and measures, as visible evidence that the device or instrument bearing such mark of identification has been legally tested, found correct and sealed by such sealer. The word "tag", when so used, with respect to weighing or measuring instruments or devices, shall mean a mark, label, tag or certificate indicating that the instrument or device to which it is attached is defective and illegal for use. [1937]

Sec. 6775. Penalties.

Any person, who, by himself or by his servant or agent or as the servant or agent of another, shall offer or expose for sale, sell or use in the buying or selling of any commodity or thing or for hire or reward or shall 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 shall not have been sealed by the sealer of weights and measures within one year; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to the provisions of the statutes; or shall tamper with, mark, deface, remove, forge or counterfeit any seal or tag attached to a weighing or measuring instrument or device by a sealer of weights and measures; or who shall sell or offer or expose for sale less than the quantity he shall represent; or who shall buy and receive any commodity the weight or measure of which is determined by weights or measures of the purchaser and shall give credit or pay for a

quantity of such commodity less than that received by him; or who shall sell or offer or expose for sale any commodity in a manner contrary to the provisions of the statutes; or who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall, upon a first conviction, be fined not less than twenty dollars nor more than two hundred dollars or imprisoned not more than three months or be both fined and imprisoned. Upon any subsequent conviction any such person shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned in the county jail not more than one year or be both fined and imprisoned. Any person who shall hinder or obstruct the commissioner of weights and measures or any inspector or any county or city sealer in the performance of his official duties shall be fined not less than two dollars nor more than two hundred dollars or imprisoned not more than ninety days or be both fined and imprisoned. Any person who shall impersonate the commissioner of weights and measures or any inspector or any county or city sealer, by use of his seal or a counterfeit of his seal, or otherwise, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not more than one year or be both fined and imprisoned. [1930; last amended 1937.]

General Statutes, Revision of 1949, Vol. I, Title 6, Ch. 27—Public Weighers and Measurers.

Sec. 609. Duties of public weighers.

Each public weigher, upon payment of his lawful fees, shall accurately weigh any heavy or bulky article of merchandise brought to him for that purpose, and sign and give a certificate of its weight to the person bringing the same. [1842]

Sec. 610. Scales and fees.

Towns in which public weighers are appointed shall make such regulations relative to the scales and other apparatus to be used by such weighers as they may deem necessary for the public protection and convenience, and prescribe the fees, not exceeding twenty cents for each weighing, to be paid to such weighers, half by the seller and half by the purchaser, or may delegate to the selectmen the powers and duties specified in this section; and the rate of fees so established shall be recorded in the town records and shall not be changed during the time for which such weighers are appointed. [1842]

Sec. 611. Penalties.

Any public weigher who wilfully neglects to weigh any article legally brought to him for that purpose and to give a certificate of the weight thereof according to law, except in a matter in which he has an interest, or who gives a certificate of the weight of any article in which he has an

interest, and any person selling any heavy or bulky article of merchandise, usually sold by weight, who, upon the request of any purchaser thereof who shall offer to pay for the weighing of same, refuses to have the same weighed by a public weigher in the town where such purchaser resides, shall be fined five dollars. [1842]

Sec. 612. Duties of measurers of wood.

The selectmen of each town may appoint annually, and oftener if necessary, two or more of its inhabitants to be measurers of wood offered for sale within the town, who shall be duly sworn, and receive such compensation for their services as the town may prescribe; and any of them, on request of the owner of any wood so offered for sale, shall, without delay, measure it and sign and give him a certificate of its quantity. [1834]

General Statutes, Revision of 1949, Vol. I, Title 17, Ch. 113—Sale of Gasoline and Motor Oils.

Sec. 2546. Standard gallon; sealing of vehicle tanks and meters; delivery tickets; exceptions; penalty.

(a) The standard gallon shall be the unit of measurement for all sales of gasoline, kerosene, fuel oils or similar substances sold or offered for sale for the purpose of creating power or heat, and each retail delivery of gasoline in a quantity of fifty gallons or more and each retail delivery of kerosene, fuel oil or similar substance in a quantity of five gallons or more shall be the complete contents of a vehicle tank or it shall be through a meter. Each such tank or meter shall be sealed by a sealer of weights and measures before being used. The term "vehicle tank," as used herein, shall mean a container, which may or may not be subdivided into two or more compartments, mounted upon a wagon or motor truck and used for the delivery of such fluids. The term "compartment" shall mean the entire tank whenever the tank shall not be subdivided; otherwise it shall mean any one of those subdivided portions of the tank which are designed to hold such fluids. Each delivery shall be accompanied by a delivery ticket and a duplicate thereof, on which shall be distinctly expressed in ink or other indelible substance, in gallons, the quantity of such fluid so delivered, with the name of the seller and the name of the purchaser of such fluid. One of such tickets shall be surrendered, upon demand, to the sealer of weights and measures, for his inspection, and such ticket or, when the sealer desires to retain the original ticket, a measure slip issued by the seller or his agent, shall be delivered to the purchaser or his agent or representative at the time of the delivery of such fluid, and the other ticket shall be retained by the seller. If the purchaser or his agent take such fluid from the place of purchase, a delivery ticket showing the actual number of gallons delivered shall be given to the purchaser or his agent, at the time of deliv-

ery. The method of determining the number of gallons of any such fluid delivered shall be by measuring the same in measures that have been tested and sealed by a sealer of weights and measures.

(b) The provisions of this section shall not apply to barge, railroad tank car or drum delivery. (c) Any person who, by himself or by his agent or employee, or as the employee or agent of another, violates any provision of this section, shall be subject to the penalties provided in section 6775¹. [1935; last amended 1937.]

¹ Sec. 6775, see page 172.

General Statutes, Revision of 1949, Vol. II, Title 21, Ch. 138—Standard Packages for Farm Products.

Sec. 3065. Establishment of standards.

The commissioner of farms and markets is authorized to * * * establish and maintain standard packages * * * for farm and horticultural crops, including poultry and poultry products, such standards, as far as possible, to be identical with similar standards established under authority of the congress of the United States. * * * [1921; last amended 1945.]

Sec. 3070. Rules and regulations.

The commissioner [of farms and markets] may prescribe rules and regulations for carrying out the provisions of sections 3065 * * *. [1927]

General Statutes, Revision of 1949, Vol. II, Title 21, Ch. 140—Containers for Apples.

Sec. 3086. Definitions.

The word "person," as used in this chapter [Secs. 3086—3093], shall include persons, firms, corporations, societies and associations, and the acts of agents and employees shall be construed to be the acts of their principals and employers as well as of the agents and employees. The words "closed package" shall mean a barrel, box or other container the contents of which cannot be sufficiently seen for the purposes of inspection without opening the container. Apples packed in closed or open packages shall be deemed to be misbranded if their measure, quality or grade shall not conform in every particular to the brand or mark upon or affixed to the package or if the faced or shown surface shall give a false representation of the contents of the package. [1919]

Sec. 3087. Enforcement.

The commissioner of farms and markets shall have authority to enforce the provisions of this chapter [Secs. 3086—3093]. * * * [1921]

Sec. 3088. Standard barrels; standard bushel; other containers.

The standard barrel of apples shall be of the following dimensions when measured without distention of its parts: Length of stave, twenty-eight and one-half inches; diameter of head, seventeen

General Statutes, Revision of 1949, Vol. II, Title 21, Ch. 140—Containers for Apples—Continued.

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 any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard bushel for apples shall be a container having a capacity of not less than one United States standard bushel or twenty-one hundred fifty and forty-two hundredths cubic inches. Containers for apples other than the standard barrel or bushel shall be marked in terms of capacity or count. [1919]

Sec. 3092. Penalty for violations.

Any person who shall misbrand or pack, repack, sell, distribute or offer or expose for sale or distribution apples in violation of any provision of this chapter [Secs. 3086-3093], or who shall wilfully alter, efface or remove or cause to be altered, effaced or removed, wholly or partly, any brands or marks required to be put upon a closed package under the provisions of this chapter, shall be fined not more than fifty dollars for the first offense and not more than two hundred dollars for each subsequent offense. [1919]

Sec. 3093. Guaranty protection.

No person who shall sell or distribute or offer or expose for sale or distribution misbranded apples shall be deemed to have violated any of the provisions of this chapter [Secs. 3086-3093] if it shall appear that he acted in good faith solely as a distributor, or if he shall furnish a guaranty signed by the person from whom he received the apples, with the address of such person, that the apples are not misbranded. In any such case, the person from whom the distributor received the apples shall be liable for the acts of the distributor who relied upon his guaranty to the same extent as the distributor would have been liable under the provisions of this chapter. [1919]

General Statutes, Revision of 1949, Vol. II, Title 21, Ch. 144—Testing and Weighing of Milk and Cream.

Sec. 3179. Babcock test: Fraudulent manipulation; penalty.

No person, firm or corporation, or agent or servant thereof, engaged in the business of buying milk or cream on the basis of the percentage of butter-fat contained therein, shall under-read, over-read or otherwise fraudulently manipulate the samples or the test commonly known as the "Babcock test" used for determining the percentage of such fat in such milk or cream, or falsify the record thereof, * * * or use for such test any other pipette than the standard 17.6 milliliters pipette in the case of milk. In all tests of cream, the cream shall

be weighed and not measured into the test bottle, using nine grams or eighteen grams. Any person, firm or corporation, or agent or employee thereof, violating any provision of this section shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned not more than twelve months or be both fined and imprisoned. [1927; reenacted 1949.]

Sec. 3182. Weighing.

Each person, firm or corporation engaged in the business of buying milk or cream by weight shall have such milk or cream weighed by a licensed weigher. Each licensed weigher shall post his license in plain view in the room where the weighing is done. The commissioner [of farms and markets] may revoke such license for failure to post it as above mentioned or for any other just cause. Each such license which shall have been revoked shall be returned to the commissioner. [1927; last amended 1945.]

Sec. 3187. Examination of apparatus.

The commissioner [of farms and markets] and his agents are authorized to enter the premises and to examine the test and weight records and testing apparatus of any person, firm or corporation for the purpose of carrying out the provisions of sections 3177 to 3190, inclusive. [1927; last amended 1945.]

Sec. 3191. Babcock milk-test bottles; penalty.

No person or corporation buying milk or cream and making payments therefor based on the results of the Babcock test shall use any bottle or pipette for the purpose of determining the relative or proportional amount of butter-fat of any milk or cream, unless such bottle or pipette shall have been tested and stamped as accurate by the Connecticut Agricultural Experiment Station at New Haven. Any person who violates any provision of this section shall be fined not less than seven dollars nor more than two hundred dollars or imprisoned not more than six months or be both fined and imprisoned. [1901]

Sec. 3200. Measurement of milk or cream; penalty.

All sales of milk or cream shall be made by wine measure. * * * Any person who violates any provision of this section shall be fined seven dollars for each offense. [1907]

Sec. 3208. Rules and regulations relating to milk.

The milk regulation board may, after public hearing, make, amend, repeal or suspend rules and regulations, concerning the production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products, * * *. For the purposes of this section, "milk" shall mean cow's milk or goat's milk * * *. [1935; last amended 1939.]

General Statutes, Revision of 1949, Vol. II, Title 30,
Ch. 185—Butter and Bread.

Sec. 3892. Print butter: Marking requirements.

No person shall, by himself, his servant or agent, sell or offer or expose for sale, or have in his possession with intent to sell, any print butter unless the package or wrapper containing the same shall have conspicuously printed thereon, in letters or figures not less than one-half inch in height, in plain Gothic type, the net weight of the butter contained therein. Any person who shall violate any provision of this section shall be fined not more than twenty-five dollars. [1909]

Sec. 3893. Bread weights and marking requirements.

The word "bakery" is defined, for the purpose of this section and of chapter 192, as follows: A building or part of a building wherein is carried on the production of bread, cakes, doughnuts, crackers, pies, cookies, crackers, spaghetti, macaroni, or other food products made either wholly or in part of flour or meal, and including all frozen or canned baked goods. All restaurants, hotels, private institutions, home bakeries, establishments operating doughnut frying equipment and other similar places, offering their products for sale, shall be included. Standard loaves of bread, produced in any bakery and procured or kept for the purpose of sale, offered or exposed for sale or sold, shall be of the following standard avoirdupois weight: One pound or additional fraction of one pound up to a maximum of four pounds. The provisions of this section shall not apply to biscuits, buns, crackers, rolls or loaves weighing less than one-quarter pound per unit, or to what is commonly known as "stale" bread, and sold as such, provided the seller at the time of sale shall expressly state to the buyer that the bread so sold is stale bread. Loaves of bread produced in any bakery which shall weigh less than the standard minimum weight of one pound herein provided for, which shall be procured or kept for the purpose of retail sale, offered or exposed for sale or sold, shall have their weight plainly and conspicuously stated in one of the following ways: The weight marks on such wrappers or labels shall be printed in plain, heavy, gothic, capital letters and figures not less than five thirty-seconds of an inch in height and shall not be affixed to the loaf in a manner or with a gum or paste which is unwholesome or insanitary. Bread when wrapped in the bakery for the purpose of retail sale shall bear labeling showing an accurate determination of weight in the same manner as heretofore provided. No loaf of bread shall be produced in any bakery which shall, within twelve hours after baking, vary more than one ounce per pound below the standard or marked weight. The weight of twelve loaves of bread selected at random shall not be less than the total of the standard of

marked weight of such loaves. Any person who, by himself or his agent or servant, violates any provision of this section * * * shall, upon the first conviction, be fined not more than two hundred dollars and, upon a subsequent conviction, be fined not more than five hundred dollars or imprisoned not more than six months or both. [1923; reenacted 1949.]

General Statutes, Revision of 1949, Vol. II, Title 30,
Ch. 186—"Connecticut Food, Drug and Cosmetic Act."

Sec. 3930. Definitions.

* * * * *

(d) "commissioner" shall mean the commissioner of food and drugs and "director" shall mean the director of the agricultural experiment station;

* * * * *

(f) "food" shall mean (1) articles used for food or drink for man or other animals and (2) chewing gum, and (3) articles used for components of any such article;

(g) "drug" shall mean (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or any other animal; and (4) articles intended for use as a component of any article specified in this subsection; but shall not include devices or their components, parts or accessories;

* * * * *

(i) "cosmetic" shall mean (1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance and (2) articles intended for use as a component of any such articles; except that such term shall not include soap;

* * * * *

(k) "label" shall mean a display of written, printed or graphic matter upon the immediate container of any article, provided a requirement made by or under authority of this chapter [Secs. 3929-3956] that any information or other word or statement appear on the label shall not be considered to be complied with unless such information or other word or statement also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper;

(l) "immediate container" shall not include package liners;

General Statutes, Revision of 1949, Vol. II, Title 30, Ch. 186—"Connecticut Food, Drug and Cosmetic Act"—Continued.

(m) "Labeling" shall mean all labels and other written, printed or graphic matter (1) upon any article or any of its containers or wrappers or (2) accompanying such article, provided, if an article be alleged to be misbranded because the labeling is misleading, or if an advertisement be alleged to be false because it is misleading, then, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations * * * [1939; last amended 1941.]

Sec. 3931. Prohibited acts.

The following acts and the causing thereof shall be prohibited: (a) the sale in intrastate commerce of any food, drug, device or cosmetic that is adulterated or misbranded; (b) the adulteration or misbranding of any food, drug, device or cosmetic in intrastate commerce; (c) the receipt in intrastate commerce of any food, drug, device or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise; * * * (g) the refusal to permit entry or inspection as authorized by section 3954; (h) the giving of a guaranty or undertaking in intrastate commerce, referred to in subsection (c) of section 3933, that is false; * * * [1939]

Sec. 3932. Injunction.

In addition to the remedies hereinafter provided, the commissioner [of food and drugs] is authorized to apply to the superior court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of section 3931, irrespective of whether or not there exists an adequate remedy at law. [1939]

Sec. 3933. Penalties; guaranty protection.

(a) Any person who violates any provision of section 3931 shall, on conviction thereof, be imprisoned not more than six months or fined not more than five hundred dollars or both; but, if the violation be committed after a conviction of such person under this subsection has become final, such person shall be imprisoned not more than one year or fined not more than one thousand dollars or both. (b) Notwithstanding the provisions of subsection (a) of this section, any person who violates any provision of section 3931, with intent to defraud or mislead, shall be imprisoned not more than one year or fined not more than one thousand dollars or both. (c) No person shall be subject to

the penalties of subsection (a) of this section for having violated subsection (a) or (c) of section 3931 if he shall establish a guaranty or undertaking signed by and containing the name and address of the person residing in this state from whom he received the article in good faith, to the effect that such article is not adulterated or misbranded within the meaning of this chapter [Secs. 3929-3956]. In such guaranty this chapter shall be designated by title. * * * [1939]

Sec. 3934. Seizure.

(a) Whenever the commissioner [of food and drugs] or his duly authorized agent shall find, or have probable cause to believe, that any food, drug, device or cosmetic is offered or exposed for sale, or held in possession with intent to distribute or sell, or is intended for distribution or sale in violation of any provision of this chapter [Secs. 3929-3956], whether it is in the custody of a common carrier or any other person, he may affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, in violation of this chapter and has been embargoed. Within twelve days after an embargo has been placed upon any article, the embargo shall be removed by the commissioner or a summary proceeding for the confiscation of the article shall be instituted by the commissioner. * * * [1939; last amended 1947.]

Sec. 3936. Minor violations.

Nothing in this chapter [Secs. 3929-3956] shall be construed as requiring the commissioner [of food and drugs] to report, for the institution of proceedings under this chapter, minor violations of this chapter, whenever he shall believe that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1939]

Sec. 3938. Standards of fill of container.

Whenever the commissioner [of food and drugs] and director [of the agricultural experiment station] shall agree that such action will promote honesty and fair dealing in the interest of consumers, they, acting jointly, shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity or a reasonable standard of quality or reasonable standards of fill of container, or any two or all of such definitions or standards. * * * [1939]

Sec. 3940. Food: When deemed misbranded.

A food shall be deemed to be misbranded: (a) If its labeling shall be false or misleading in any particular; * * * (d) if its container shall be so made, formed or filled as to be misleading; (e) if in package form, unless it shall bear a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight,

measure or numerical count; provided, under subdivision (2) of this subsection, reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations promulgated by the commissioner [of food and drugs] and director [of the agricultural experiment station], acting jointly; (f) if any information or other word or statement, required by or under authority of this chapter [Secs. 3929-3956] to appear on the label or labeling, shall not be prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices, in the labeling, and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. * * * (h) if it shall purport to be or is represented as * * * (2) a food for which a standard or standards of fill or container have been prescribed by regulations as provided by section 3938, and it shall fall below the standard of fill of container applicable thereto, unless its label shall bear, in such manner and form as such regulations specify, a statement that it falls below such standard; * * * [1939]

Sec. 3944. Drugs and devices: When deemed misbranded.

A drug or device shall be deemed to be misbranded: (a) if its labeling shall be false or misleading in any particular; (b) if in package form, unless it shall bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, under subdivision (2) of this subsection, reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the commissioner [of food and drugs] and director [of the agricultural experiment station], acting jointly; (c) if any information or other word or statement, required by or under authority of this chapter [Secs. 3929-3956] to appear on the label or labeling, shall not be prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; * * * (i) (1) if it shall be a drug and its container shall be so made, formed or filled as to be misleading * * *. [1939; last amended 1947.]

Sec. 3948. Cosmetics: When deemed misbranded.

A cosmetic shall be deemed to be misbranded: (a) if its labeling shall be false or misleading in any particular; (b) if in package form, unless it shall bear a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; provided, under subdivision (2) of this subsection, reasonable variations shall be permitted, and ex-

emptions as to small packages shall be established, by regulations prescribed by the commissioner [of food and drugs] and director [of the agricultural experiment station], acting jointly; (c) if any information or other word or statement, required by or under authority of this chapter [Secs. 3929-3956] to appear on the label or labeling, shall not be prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or (d) if its container shall be so made, formed or filled as to be misleading. [1939]

Sec. 3954. Right of entry.

For the purpose of enforcing the provisions of this chapter [Secs. 3929-3956], the commissioner, or his authorized representative, is authorized (1) to enter, at reasonable times, any factory, warehouse or establishment subject to this chapter, or to enter any vehicle being used to transport or hold food, drugs, devices or cosmetics in intrastate commerce and (2) to inspect, at reasonable times, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling and advertisements therein. [1939]

General Statutes, Revision of 1949, Vol. II, Title 30, Ch. 187—"Retail Drug Control Act."

Sec. 3958. Illegal advertising.

(a) No drug retailer shall use advertising, whether printed, radio or display or of any other nature, which is intentionally inaccurate in any material particular or misrepresents merchandise, in respect to its * * * quantity * * *; and no drug retailer shall use advertising or selling methods which tend to deceive or mislead the customer. * * * [1935].

Sec. 3960. Penalty for violation.

Any person responsible for a wilful violation of the provisions of this chapter [Secs. 3957-3960] shall be fined not more than five hundred dollars. [1935]

General Statutes, Revision of 1949, Vol. II, Title 30, Ch. 188—"Uniform State Narcotic Drug Act."

Sec. 3969. Marking requirements.

(1) When a manufacturer shall sell or dispense a narcotic drug and when a wholesaler shall sell and dispense a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1935]

General Statutes, Revision of 1949, Vol. II, Title 30, Ch. 188—"Uniform State Narcotic Drug Act"—Continued.

Sec. 3980. Enforcement officers.

The state department of health, the commissioners of pharmacy, the authorized agents of such officials and the police authorities and police officers in their respective jurisdictions and all state's attorneys, shall enforce all provisions of this chapter [Secs. 3961-3982], except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states, relating to narcotic laws [drugs]. [1935; last amended 1939.]

Sec. 3981. Penalty for violations.

Any person who violates any provision of this chapter [Secs. 3961-3982] shall be fined not more than two thousand dollars or be imprisoned not more than five years or both. [1935]

General Statutes, Revision of 1949, Vol. II, Title 31, Ch. 204—"Liquor Control Act."

Sec. 4228. Enforcement.

The commission [liquor control commission] shall have power to enforce the provisions of this chapter [Secs. 4222-4323], and may make all necessary rules and regulations for that purpose and for carrying out, enforcing and preventing violation of, all or any of the provisions of this chapter, * * * and for protecting the public against fraud or overcharge; * * * [1933; last amended 1945.]

Sec. 4305. Penalties.

Any person convicted of a violation of any provision of this chapter [Secs. 4222-4323], for which a specified penalty is not imposed, shall, for each offense, be fined not more than one thousand dollars or imprisoned not more than one year or both. [1935]

Sec. 4320. Bottling and marking requirements.

* * * and there shall be no advertising, labeling, bottling or canning of alcoholic liquor which shall, in any way, deceive or tend to deceive a purchaser or consumer of such alcoholic liquor as to the nature, quality or quantity of such liquor, and all advertising, labeling, bottling or canning of alcoholic liquors shall be subject to such rules and regulations as the liquor control commission shall prescribe. [1939; last amended 1945.]

Sec. 4321. Capacity of beer containers.

No beer except such as shall be imported from a foreign country shall be sold by any retail permittee for consumption off the premises, in bottles, cans or other containers having a capacity of other than

twelve, sixteen or thirty-two fluid ounces. The provisions of this section shall not apply to beer sold in wooden or metal barrels. [1941]

General Statutes, Revision of 1949, Vol. II, Title 40, Ch. 264—Gas, Electricity, and Water.

Sec. 5670. Commission to fix standard measure for sale of gas by meter.

The commission [public utilities commission] shall have power to fix the standard measure for the sale of illuminating gas by meter * * * [1917]

Sec. 5671. Inspection of meters.

Upon petition of any person and the payment of a fee of one dollar for each meter, the [public utilities] commission shall cause to be inspected any meter used in measuring electricity, gas or water supplied to such petitioner. Said commission may prescribe such limits of variation from accurate registration by such meters as it may determine to be reasonable. The company supplying electricity, gas or water through any such meter shall reimburse the petitioner for such inspection fee if such meter be found not to register accurately within the limit of variations so prescribed, and shall not again use such meter until corrected and approved by the commission. [1911; last amended 1935.]

Sec. 5672. Water meters.

Any water company supplying water to the inhabitants of any city, town, village or borough, for domestic, manufacturing or fire protection purposes, may refuse to furnish water except by metered measurement at established rates, to the owner or occupant of any premises upon which water is allowed to be wasted, by reason of defective fixtures or otherwise, after notification to such owner or occupant, and reasonable time given to him to make necessary repairs. [1921]

General Statutes, Revision of 1949, Vol. III, Title 49, Ch. 319—Commercial Fertilizer.

Sec. 6733. Definition.

The term "commercial fertilizers," as used in this chapter [Secs. 6733-6739], shall be construed to mean any substance imported, manufactured, prepared or sold for fertilizing or manuring or soil amendment purposes, except barnyard manure and stable manure which have not been artificially treated or manipulated, marl and lime. Cottonseed meal, rapeseed meal, castor pomace and all other vegetable products used as fertilizers, including the ashes of cotton hulls and wood ashes, shall be included as fertilizers within the meaning of this chapter * * *. [1919]

Sec. 6738. Right of entry.

* * * The director [of the agricultural experiment station] and his authorized deputies shall

have power to enter any car, warehouse, store, building, boat, vessel or place supposed to contain fertilizers, for the purpose of inspecting * * * [1919]

Sec. 6739. Penalties.

* * * Any person who shall violate any provision of this chapter [Secs. 6733-6739] for which no penalty is specifically provided shall be fined not less than five nor more than one hundred dollars. [1919]

1949 Supplement to the General Statutes, Title XLIX, Ch. 319—Commercial Fertilizer.

Sec. 581a. Marking requirements.

Any person, company, manufacturer, dealer or agent, before selling or offering for sale in this state any commercial fertilizer or fertilizer materials except stable manure in its original condition, shall brand or attach to each bag, barrel or package the following items, preferably in the following order: (1) Weight of each package, in pounds; * * * [1949]

General Statutes, Revision of 1949, Vol. III, Title 49, Ch. 320—Commercial Feeding Stuffs.

Sec. 6740. Definition.

The term "concentrated commercial feeding stuffs," within the meaning of this chapter [Secs. 6740-6746], shall include linseed meals, cottonseed meals, pea meals, bean meals, coconut meals, gluten meals, gluten feeds, dried brewers' grains, dried distillers' grains, malt sprouts, dried beet pulp, hominy feeds, cerealine feeds, rice meals, alfalfa meals, oat feeds, corn and oat chop, corn and oat feeds, scratch feeds, digester tankage, ground meat scraps, ground fish scraps, mixed feeds, provenders, bran, middlings and mixed feeds made wholly or in part from wheat, rye or buckwheat, and all materials of a similar nature intended for the feeding of domestic animals, including poultry; but shall not include hays, straws, corn stover, ensilage, whole grains or the unmixed meals made directly from the whole grains of wheat, rye, barley, oats, Indian corn, broom corn, rice, buckwheat and flaxseed, or feed ground from whole grain and sold directly from the manufacturer to the consumer. * * * [1925]

Sec. 6741. Marking requirements.

Each lot or parcel of concentrated commercial

feeding stuffs sold or offered or exposed for sale shall have conspicuously affixed thereto a plainly printed statement certifying (1) the number of net pounds of feeding stuff contained therein, * * * provided such statement shall not be affixed by wire or other metallic device, and provided, in the case of cottonseed meal which shall be sold for fertilizer or in the case of any concentrated feeding stuff sold in bulk, the dealer may issue, in lieu of the printed statement herein described, a certificate which shall contain the information required by this section. [1925]

Sec. 6744. Enforcement.

The commissioner of food and drugs shall enforce the provisions of this chapter [Secs. 6740-6746] and, when evidence is submitted by the Connecticut Agricultural Experiment Station that any provision of sections 6741 and 6742 have been violated, he shall make complaint to the prosecuting officer having jurisdiction. [1925]

Sec. 6745. Penalty for violations.

Any manufacturer, importer, agent or other person selling or offering or exposing for sale any concentrated commercial feeding stuff in relation to which all the provisions of sections 6741 and 6742 shall not have been complied with, shall be fined not more than one hundred dollars for the first offense and not more than two hundred dollars for each subsequent offense. [1925]

General Statutes, Revision of 1949, Vol. III, Title 64, Ch. 426—False Advertising.

Sec. 8703. Unlawful acts; penalty.

Any person, firm, corporation or association, or any agent or employee thereof, who, with intent to sell or dispose of merchandise, real estate, securities or service or to induce the public to enter into any obligations relating thereto, shall make, publish, circulate or place before the public, in a newspaper, magazine or other publication or in form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, any advertisement or statement regarding merchandise, real estate, securities or service, which advertisement or statement shall contain anything untrue, deceptive or misleading, shall be fined not more than one thousand dollars. [1923]

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Revised Code 1935, Ch. 82—Weights and Measures.
3419. Sec. 1. Custody of standards.

The State Chemist is made the custodian of the standard weights and measures of the United States,

belonging to this State, together with balances for adjusting duplicate standards.

The State Chemist is required to keep the same in good order, and shall, upon demand, try and

Revised Code 1935, Ch. 82—Weights and Measures
—Continued.

prove the duplicate standards of weights and measures belonging to the several Counties, by and with the originals in his custody, and shall cause them to be made uniform and correct. [1909]

3420. Sec. 2. Standards of weights and measures.

The standard weights and measures of the United States, now deposited in the custody and office of the State Chemist, are the true and legal standards for this State; and the duplicate thereof, deposited with the several Prothonotaries,¹ are true duplicate standards by which all weights and measures, used within this State, shall be tried and regulated. [1852]

¹ See Sec. 4304, page 190.

3421. Sec. 3. County regulators of weights and measures.

A Regulator of weights and measures for each county shall be appointed by the Governor, to serve at his pleasure.

The said Regulator shall be sworn, or affirmed, to perform the duties of his office faithfully and impartially.

He shall, within thirty days from his appointment, give bond to the State, with sufficient surety, to be approved by the Governor, in the sum of one thousand dollars, conditioned for the faithful performance of the duties of his office; and if such bond be not filed in the secretary's office within the time aforesaid, his commission shall be void; the Regulators shall devote their full time towards carrying out the duties of their office and shall be paid for their services annually one thousand eight hundred dollars in New Castle County and twelve hundred dollars in Kent and Sussex Counties, said salaries to be paid by the State Treasurer as other salaries of State employees are paid. The Regulators shall be reimbursed for their reasonable expenses after the same have been duly certified by the Governor or such person as may hereafter be designated by him; said expenses shall not be allowed for a sum exceeding fifty dollars for any one month for each Regulator. [1852]

3422. Sec. 4. Same: Duties of, in Kent and Sussex Counties.

In Kent and Sussex Counties the Regulator of Weights and Measures shall visit at least once during the year, every incorporated town in his county, for the purpose of regulating, by and with the duplicate standards aforesaid, without charge, any weights and measures, scales, balances, or other weighing apparatus, that may be in use; and shall stamp the same plainly with the letter "S," and the initial of his county should the same be correct.

Whenever he shall see fit so to do, or whenever he shall be so requested, the Regulator of Weights and Measures in Kent or Sussex County shall weigh any quantity of coal or ice on its way to or in

process of delivery and the expense of weighing same shall be paid to him by the Levy Court of the County upon presentation of a receipted bill therefor, showing the payment thereof by him. [1915; last amended 1919.]

3423. Sec. 5. Same: General duties and powers.

The Regulator shall, in like manner, in his County, at all other times, regulate such weights and measures, scales, or balances, as may be brought to him, or of which he may have knowledge. And he shall diligently inquire for all unstamped weights and measures, scales and balances, which are used within his county for buying or selling.

Each regulator shall have power, within his respective jurisdiction, to test all instruments and devices used in weighing or measuring anything sold or to be sold. Such test shall include all appliances connected or used with such instruments or devices. For the purpose of making such test, each regulator, at any reasonable time and without formal warrant, may enter upon any premises; and may, on any public highway, stop any vendor or dealer, or the agent or servant of such vendor or dealer, or stop any vehicle used in delivering any commodity which is weighed or measured as delivered. He may condemn and mark as condemned, or may seize, any false or illegal instrument or device used, or intended to be used, in weighing or measuring. If he shall seize any such instrument or device, he shall retain possession thereof until it shall have been used as evidence in any prosecution under the laws of this Commonwealth relating to weights and measures. After the determination of such prosecution the false or illegal instrument or device shall be destroyed, unless otherwise ordered by the proper Court.

Each Regulator shall have the power within his respective jurisdiction to make arrests for all violations of Chapter 82 of the Revised Code of Delaware, 1935, as amended. The Deputies of the respective Regulators shall have the same power. [1915; last amended 1943.]

3424. Sec. 6. Same: Monthly Reports.

Each Regulator shall make a complete report each and every month to the Governor, or such State official or employee as may be designated by him to receive such report, covering all official acts on his part and furnishing a complete itemized statement of all expenses incidental to the performance of his duties. [1931]

3425. Sec. 7. Offenses and penalties for Kent and Sussex Counties.

If any person in Kent or Sussex County, shall buy, sell, or barter, by any weight or measure, scale, balance, or other weighing apparatus, that has not been duly regulated and stamped, or if any person shall make, or use, a false stamp, or brand, for stamping weights, or measures, he or she shall be

fined Twenty-five Dollars and pay in addition thereto the costs in the case. One-half of said fine when recovered shall be paid to the informer. [1915]

3426. Sec. 8. New Castle County: Duties and powers of regulator.

The Regulator of Weights and Measures for New Castle County shall, as often as he may deem necessary, go to all stores, offices, booths, stalls or other places of business in his County where any beams, scales, weights and measures are used for the purpose of buying or selling any goods, chattels or other things, and test and adjust or cause to be tested and adjusted (if possible) all such beams, scales, weights and measures, and stamp the same plainly with the letter "S" and the initial of his County and the current year. He shall also in like manner, at all other times, test and adjust such beams, scales, weights and measures as may be brought to him for that purpose. The said regulator shall have the same powers prescribed in Section 5 [Sec. 3423] of this Chapter. [1915]

3427. Sec. 9. Same: Seizure of false equipment; application of law.

The said Regulator of Weights and Measures for New Castle County is required to immediately seize and deliver to the Attorney General all false beams, scales, weights and measures that he may find within the County, which he is unable to adjust, together with a written report giving such information in regard thereto as may be required of him by the Attorney General; and all the provisions of this Chapter [Secs. 3419. Sec. 1-3443. Sec. 25] relating to the inspection of beams, scales, weights and measures in New Castle County used for the purpose of buying or selling shall also extend to all such beams, scales, weights and measures as are or may be used in said county for ascertaining weights and measures for the purpose of charging for freight, tonnage, transportation, commission and all other charges, when such charges are regulated by weight or measure. [1909]

3428. Sec. 10. Same: Offenses and penalties.

In case any user or owner of such beams, scales, weights and measures within the County of New Castle, in this State, shall refuse or neglect to comply with any of the requisitions which the said regulator is by this Chapter [Secs. 3419 Sec. 1-3443. Sec. 25] authorized or directed to make or shall knowingly sell or buy any false beams, scale, weight, or measure; or shall purposely alter any beam, scale, weight, or measure, so that the capacity is diminished or increased after the same shall have been adjusted and stamped; or shall, in buying or selling, knowingly use any beam, scale, weight, or measure, so altered, or shall purposely alter any beam, scale, weight, or measure so as to impair the adjustment thereof after the same shall have been

adjusted and stamped; or shall knowingly have in his possession any beam, scale, weight, or measure so altered as aforesaid; or shall knowingly buy, sell, use, or barter by any beam, scale, weight, or measure, or other weighing or measuring apparatus that has not been duly adjusted and stamped as aforesaid; or shall knowingly make, use, or have in possession any false stamp or brand for stamping any beams, scales, weights, or measures, he or they shall be guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be fined not less than ten or more than twenty dollars or imprisoned for a term not exceeding ten days, and, for every subsequent offense, be imprisoned for a term not exceeding thirty days. One-half of all fines recovered for violations of any of the provisions of Sections 8 to 12 [Secs. 3426-3430], inclusive, of this Chapter [Secs. 3419. Sec. 1-3443. Sec. 25], shall be paid by the officer receiving the same to the informer and the other half to the Treasurer of New Castle County.

Any person, partnership or corporation fraudulently misrepresenting the amount of a commodity contained in a package, bag, box or any other kind of container displayed for sale, exhibited for sale, or offered for sale, or sold by said person, partnership or corporation and which said package, bag, box or other container shall contain less than the amount of the quantity of the commodity so represented shall be guilty of a misdemeanor and shall be fined for the first offense not less than ten dollars or more than twenty dollars or imprisoned for a term not exceeding ten days and for every subsequent offense be imprisoned for a term not exceeding ten days. [1883; last amended 1943.]

3429. Sec. 11. Same: Weights and measures in public markets.

All beams, scales, weights and measures tested, adjusted and stamped under the provisions of Sections 8 to 12 [Secs. 3426-3430], inclusive, of this Chapter [Secs. 3419. Sec. 1-3443. Sec. 25], which shall be used in the public markets and market houses of any city or incorporated town in said County, shall be liable to be tested and adjusted by the Regulator of Weights and Measures of such city or town, but no fee shall be charged therefor; provided, however, that if, upon such testing and adjustment, such beams, scales, weights, or measures shall be found to be false, the person or persons in whose possession the same shall be found shall pay to the Regulator of Weights and Measures of such city or town the fees allowed to such regulator for like services under the ordinances and regulations of said city or town. [1883]

3430. Sec. 12. Same: Oaths relative to commercial equipment.

The said Regulator of Weights and Measures for New Castle County is authorized and empowered to administer an oath or affirmation to any or all

Revised Code 1935, Ch. 82—Weights and Measures
—Continued.

proprietors or owners of any beams, scales, weights or measures, named in Sections 8 to 11 [Secs. 3426–3429], inclusive, of this Chapter [Secs. 3419. Sec. 1—3443. Sec. 25], to ascertain whether they are used for the purpose of buying or selling, as is contemplated by said Sections. [1885]

3431. Sec. 13. Duplicate standards.

The Levy Courts of the three Counties shall cause to be made available to the Regulators of the respective counties, as named under this Chapter [Secs. 3419. Sec. 1—3443. Sec. 25], who shall preserve and keep the same in good order, the duplicate standards and balances and other equipment now used by the said Regulators in the performance of their duties; that thereafter all equipment shall be furnished by the State.

The said Regulators shall attend, with duplicate standards, at the office of the State Chemist, when required by him in writing so to do, for the purpose of having them regulated by the originals. [1931]

3433. Sec. 15. Standard measure for milk and cream; penalty.

It shall be unlawful for any person, firm or corporation to sell or offer for sale, or to demand from any person, firm or corporation offering for sale, either wholesale or retail, any milk, skim milk or cream according to any other standard of measurement than that known as the liquid or wine measure containing two hundred and thirty-one cubic inches to the gallon. Provided, that nothing in this Section will prevent the sale of milk, skim milk or cream by weight or percentage of butterfat.

Every person, firm or corporation and every officer, agent, servant or employee of such person, firm or corporation, who shall violate any of the provisions of this Section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars, or shall be imprisoned for a term of not less than ten or more than thirty days, or both, at the discretion of the Court. [1909]

3434. Sec. 16. Charcoal, bushel for.

The Standard Measure of Charcoal in this State shall be two thousand seven hundred and forty-eight cubic inches for each and every bushel thereof, and when sold by weight, a bushel shall be twenty pounds, commercially dry. [1885]

3435. Sec. 17. Mason work, rules for measurement of.

The following shall be the rules for the measurement of mason work in this State:

The units of measurement shall be as follows:

1. For excavation, the cubic yard.

For concrete foundation, the cubic yard.

For concrete floors, the superficial foot.

For dimension stone footings, the superficial foot.

For dimension stone bridge masonry, the cubic foot.

For dimension stone surface dressing, the superficial foot, extra price.

For rubble work, the perch of twenty-four and three-quarters cubic feet.

For rubble work surface dressing, the superficial foot, extra price.

For brick work, the thousand brick.

For plastering plain surfaces, the superficial yard.

For plastering cornices, the running and superficial foot.

2. A perch of stone shall contain, when measured in the wall, twenty-four and three-quarters cubic feet; when measured in square piles on the ground, twenty-seven cubic feet.

When measured in boats, thirty cubic feet.

When measured in cars, thirty-one and one-half cubic feet.

All stone to be measured in the wall when practicable.

Any mason work contracted for, in which the contractor agrees to furnish both materials and labor at a stated sum per perch, shall be measured and computed according to the following rules governing the measurement of mason work, i. e., mason measure shall be the basis of settlement.

3. Excavation:

All excavation to be measured and computed by the actual amount of material displaced. No allowance for rehandling. Walls to be measured by the lineal foot in depth.

4. Concrete:

Foundation, measure actual contents. Floor, measure actual surface laid, except that no deduction be made for open tile drains.

5. Dimension stone:

Footings to be measured each course separately. No deductions for drain or other openings under walls two feet, or less, in width.

Bridge masonry, compute actual cubic contents.

Surface dressing of all kinds extra.

6. Rubble work:

Footings to be measured by actual cubic contents.

Footings are all such foundation courses not exceeding sixteen inches in height as are wider than the body of wall above.

7. Walls:

Compute actual contents and for each angle or corner of ninety degrees in a vertical wall, add two cubic feet for each foot in height of the wall, if the wall is battered add two and one-half cubic feet for each foot in height.

For each angle of more or less than ninety degrees in any wall, add two feet in length of wall.

8. Partition walls:

Intersections of walls, measure actual contents of the walls and add one cubic foot for each foot in

height for each angle made by the faces of the intersecting walls.

9. Circular walls:

For round walls, for length of walls, take one and one-fourth times the girt measure.

10. Pilasters and projections:

All projections, such as chimney breasts, piers connected with walls and pilasters, to be measured actual cubic contents and add thereto one cubic foot for each intersection of the sides of such projection with the wall, and two cubic feet for each outer corner for each foot in height. If such projections are battered on the outer face, add two and one-half cubic feet instead of two cubic feet for each outer corner for each foot in height.

11. Piers:

Square or polygon piers, to be measured actual cubic contents; if vertical, two cubic feet to be added for each corner for each foot in height. If battered, add instead two and one-half cubic feet for each corner for each foot in height.

12. Round piers, add three feet to the measured diameter of the pier, and compute the contents, with this sum used as the diameter, the height to be taken as measured.

13. Stepped piers or piers with vertical off-sets.

Stepped piers or piers diminishing from the bottom by off-sets shall be computed by the above rule No. 10. And also add the sum of the areas of the level surface of the several steps (excepting the top of the pier) multiply by one foot in height.

Provided, however, That all such parts of independent piers as are six inches or more below the surface of the ground are to be computed actual contents, and one cubic foot added for each foot in height or depth.

14. Recesses and slots:

All recesses and slots to be measured solid, and in addition thereto allow one cubic foot for each foot in height.

15. Arches:

Stone arches are classed as cut stone work.

16. Openings:

Deduct contents of windows, doors and other openings, measuring from top of sill to spring of arch, and add three cubic feet for each jamb for each foot in height of opening. No deduction to be made for cut stone trimmings and lintels.

17. Jambs:

For any jamb, caused by differences in heights in parts of the same wall, or in adjacent walls, except in junctions of partition walls, add two cubic feet for each foot in height.

18. Change in height of walls after having been leveled:

Compute the additional amount of masonry and add thereto one foot in height of wall.

19. Gables:

Gables to be computed one and one-half times the actual contents.

20. Beam filling:

For beam filling, on level walls, add one foot in height of wall; on gable add one foot in height of wall by the extreme width of gable at its base.

21. Minimum height and thickness of wall:

No wall to be computed at less than eighteen inches in thickness, nor one foot in height.

22. Brickwork:

Compute the actual number of bricks laid.

When in the wall and practicable, the number of bricks to be estimated by actual count; when not practicable to so count them the following rule to be taken as a basis for estimating the number, viz:

Every superficial foot of one-half brick (four and one-half inches) wall to be estimated at six and one-half bricks; of one brick (nine inches) wall at thirteen bricks, etc. Increase the number of bricks by six and one-half bricks for every additional half brick in thickness of wall.

23. Measurement of party walls:

Party walls to be measured according to the above rules, and joist holes to be charged at the rate of fifteen cents each.

24. Plastering and lathing:

To be measured by the superficial yard from floor to ceiling for walls, and from wall to wall of ceiling.

25. Corners, beads, etc:

All corners, angles, beads, quinks, rule joints and mouldings to be measured by the lineal foot on their longest extension.

Add one foot for each stop or mitre.

26. Cornices:

Length of cornices to be measured on walls. Plain cornices, of two feet girt, or less, to be measured on walls by the lineal foot.

Plain cornices exceeding two feet girt to be measured by the superficial foot.

Add one lineal foot by girt for each stop or mitre.

Enriched cornices (cast work) by the lineal foot for each enrichment.

27. Arches, corbels, etc:

Arches, corbels, brackets, rings, centre pieces, pilasters, capitals, vases, resettes, basses, pendants, and niches, by the piece.

28. Openings:

Openings in plastering to be measured between grounds. No deduction to be made for opening of nine feet or less.

For openings of more than nine feet square, deduct contents of openings. [1893]

3436. Sec. 18. Minimum bread weight; offenses; penalty.

All loaves of bread manufactured from wheat flour in whole or in part, sold or offered for sale in this State by the baker or manufacturers thereof or by any other person whether wholesale or retail, shall weigh at least one pound avoirdupois weight.

If any baker or manufacturer of bread into loaves from wheat flour in whole or in part, or any other

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person shall in this State sell or offer to sell to any person any such loaf of said bread that shall weigh less than one pound avoirdupois weight he, she or they, or it shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the County wherein such sale or offer to sell is made, a fine of not less than five dollars, and not more than twenty-five dollars, and upon default of the payment of said fine shall be imprisoned in the County Jail not exceeding thirty days. [1898]

3437. Sec. 19. Standard containers for fruits and vegetables.

The Standard pint basket or cup for fruit and berries in this State shall contain a full pint.

The Standard quart basket or cup for fruit and berries in this State shall contain a full quart.

The Standard hamper in this State shall hold a full bushel.

The Standard barrel for fruit and produce shall hold eleven pecks.

The Standard peach basket shall hold one-half of a bushel.

For the Summer Apple the Standard basket shall hold one bushel.

The standard basket for all Potatoes, Tomatoes, Turnips, Onions and Cabbage shall hold five-eighths of a bushel.

In measuring all forms of fruit and produce dry measure shall be used.

Every person or corporation in this State handling, shipping or selling fruit or produce in cups or baskets, hampers, barrels, peach baskets, summer apple baskets, and all Potato, Tomato, Turnip, Onion and Cabbage baskets shall use the Standard cup or basket, hamper, barrel, peach basket, summer apple basket, or Potato, Tomato, Turnip, Onion or Cabbage basket, or if he or it shall use a different size from that herein designated as Standard for any of these fruits or produce, he shall clearly mark upon the outside of such cup or basket, hamper, barrel, peach basket, Summer apple basket or Potato, Tomato, Turnip, Onion or Cabbage basket, in figures not less than one inch in height the exact amount which such cup or basket, hamper, barrel, peach basket, Summer apple basket or Potato, Tomato, Turnip, Onion or Cabbage basket, does hold.

Whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than Ten Dollars for each offense. [1913]

3438. Sec. 20. Coal: Standard ton; penalty.

The legal standard ton for coal in this State shall be two thousand pounds avoirdupois weight; any coal dealer or other person selling or sending out into the highways, lanes, or streets of this State, or any city or town of this State, or otherwise dis-

posing of a load of coal containing less than two thousand pounds avoirdupois for a ton, except when delivering fractions of a ton, or, if delivering a fraction of a ton and said fraction of a ton contains less relatively than the legal standard of two thousand pounds avoirdupois, the dealer or other person so acting shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be compelled to pay a fine of fifty dollars. [1939; last amended 1942.]

3439. Sec. 21. Kent and Sussex Counties: Coal and ice; offenses; penalty.

Every person, firm or corporation delivering or attempting to deliver in the way of sale in Kent or Sussex County of this State any quantity of coal or ice purporting to be of a greater net weight than the same shall actually be at the time of delivery shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of one hundred dollars for the first offense, which fine shall be doubled for any second offense and doubled progressively for each subsequent offense thereafter, which penalty shall in Kent and Sussex Counties be in lieu of the penalty prescribed by Section 20 [Sec. 3438] of this Chapter [Secs. 3419, Sec. 1—3443, Sec. 25]. [1919]

3440. Sec. 22. Solid Fuels: Definitions; sale by weight; enforcement officers; tolerance.

(1) Wherever used in this Act [Secs. 3438, 3440, and 3441], "Solid Fuel" shall mean and include anthracite, semi-anthracite, bituminous or semi-bituminous coal, lignite coal, briquettes, charcoal, boulets, coke, gas house coke, petroleum coke, petroleum carbon or any other manufactured or patented fuel not sold by liquid or metered measure.

"Person" shall mean and include an individual, partnership, association of individuals, corporations, or other form of business enterprise.

(2) Solid fuel shall be sold by weight. No person shall sell or deliver or attempt or offer to sell or deliver, or cause to permit to be sold or delivered, any solid fuels less than two thousand pounds by weight to the ton of solid fuel, or a proper proportion thereof, in quantities of less than a ton.

(3) It shall be the duty of the Regulator of Weights and Measures for each County to inspect at least once in every three months the scales used by every dealer in solid fuels maintaining a place of business in the County, and to make periodical inspections and tests of the weights of deliveries of solid fuel of each dealer therein delivering solid fuels, to a purchaser or purchasers within the County, provided, however, that the said Regulator of Weights and Measures, in testing a load of or other quantity of solid fuel shall not compel such dealer or the dealer's agent or employee to go an unreasonable distance to a testing scale but shall

use the nearest platform scales that are available and equipped for that purpose.

In all tests or inspections of the weight of solid fuels, a tolerance of two per centum of the weight thereof shall be permitted to allow for variations in scales and conditions not within the control of the dealer, provided, however, that such tolerance shall in no case exceed one hundred and seventy-five pounds for any load of solid fuels. [1929; last amended 1939.]

3441. Sec. 23. Same: Unlawful to sell except by weight; delivery ticket; exceptions; licensed weighmaster; fees; certificate of origin; place of weighing and reweighing; violations; penalty.

* * * All solid fuels shall be sold by weight and shall be weighed by a licensed Weighmaster appointed by the Regulator of Weights and Measures of the County. No person shall sell or deliver, or cause or permit to be sold or delivered, any solid fuels without each such sale or delivery being accompanied by a delivery ticket of a licensed Weighmaster, said delivery ticket to be given to the purchaser or purchaser's representative, or to an agent of the person receiving such solid fuels, and in all cases an exact copy or duplicate of the ticket delivered to the purchaser shall be retained by the person making such sale or delivery. On said delivery ticket there shall be distinctly and indelibly stated the quantity or quantities in pounds of the solid fuel contained in the cart, wagon, truck, or other vehicle or container used in making delivery, the date of weighing, the date of sale, the name and address of the seller, the name and address of the purchaser, together with an impression of the official seal or stamp of the Weighmaster who performed the weighing. The tare and gross weights of the vehicle transporting solid fuel and the net weight of each delivery must be determined by the licensed weighmaster on the same scale, and in no case shall a licensed Weighmaster certify to the net weight of any solid fuel on any weight or delivery ticket, if, between the time of the taking of the tare weight, or weight of the vehicle without the load, and the time of taking of the gross weight or weight of the vehicle with the load, said vehicle shall have left the place or premises where such scale is located. Any Regulator of Weights and Measures of the several Counties, deputies, or other law enforcing officers of the State, or of any County, city, or other incorporated town, who finds any quantity of solid fuel ready for or in the process of delivery, may direct the person in charge of the vehicle carrying said solid fuel to convey the same to an available stationary scale suitable for weighing the vehicle transporting the solid fuel, located in the State of Delaware, and operated by a licensed Weighmaster, for the purpose of weighing and determining the net weight of the solid fuel, in accordance with the provisions of this Section and the next preceding

section. It shall be unlawful for any seller or driver or other person in charge of the vehicle containing such solid fuel, or from which such solid fuel has been unloaded, upon the request and direction of any Regulator of Weights and Measures, or his deputies, or other law enforcing officers of the State, County, city or other incorporated town, to refuse and fail to take the said vehicle and solid fuel to a scale operated by a licensed Weighmaster to permit the said solid fuel and vehicle to be weighed.

The provisions of this section and the next preceding section shall not apply to solid fuel sold for delivery to one destination by the entire railroad car or cargo direct from the vessel or railroad car containing the same and accepted by the purchaser on the original bill of lading, railroad freight bill or invoice, as proof of weight; nor shall the provisions of this section and the next preceding section apply to sales of solid fuel in quantities of fifty pounds or less in paper bags, sacks, or packages; provided, such bags, sacks, or packages in which the solid fuel is sold or delivered are plainly and conspicuously marked with the correct weight of the contents.

The Regulators of Weights and Measures in their respective counties shall have the authority to compel the driver or operator of any vehicle transporting solid fuels to convey the same to an available stationary scale suitable for weighing the said vehicle, located in the State of Delaware, and said scale being operated by a licensed Weighmaster, for the purpose of weighing and determining the tare weight of said vehicle. The Regulator of Weights and Measures shall also have the authority to take any vehicle transporting solid fuels to any suitable scale and he, himself, may operate the said scale and determine the tare weight of any vehicle transporting solid fuels.

(2) The Regulator of Weights and Measures of each County shall appoint as a licensed Weighmaster in and for the County, any person who shall possess the qualifications hereinafter provided and shall make application for such appointment, assigning to each licensee an official number. Any person shall be appointed a Weighmaster who shall be a person of good character, capable of and experienced in the operation of a stationary scale, and shall have been a resident of this State for not less than six months prior to his appointment. Licenses shall be issued to individuals only and not to firms or corporations, but any firm or corporation may have as many of their members or employees licensed as they may desire. The term of appointment of each Weighmaster shall be three years, but any Weighmaster may have his license revoked by the Regulator of Weights and Measures by whom he was appointed, for misconduct in office, dishonesty, incompetency, violation of a pro-

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vision of this Act, or in case any such Weighmaster shall cease to possess the qualifications specified for his original appointment. For each appointment so made, the Regulator of Weights and Measures shall receive from the licensee a fee of \$5.00 for the use of the State. All fees so received shall be paid over to the State not later than the tenth of the month following the month when received. Each Weighmaster shall provide himself at his own expense, with a seal or stamp containing on the outer margin, his name, the name of the County in which he is licensed, followed by the word "Delaware," and shall also contain the word "Weighmaster" and his official number, together with a date indicator to show the date the seal or stamp was used by the Weighmaster on each weight or delivery ticket. No Weighmaster shall delegate his authority to another person.

No Weighmaster shall receive any salary or other compensation from the State for the performance of his duties, but each Weighmaster may charge and retain for the owner of the scale used for weighing, a fee not exceeding twenty-five cents for each weighing performed for any person other than the owner of the scale, said fee to be paid by the dealer, trucker or seller of the solid fuels so weighed. A separate fee may be charged by a Weighmaster for each delivery of solid fuel requiring a separate weight ticket. A licensed Weighmaster shall keep a permanent record of all vehicles weighed by him other than the vehicles owned and operated by the owner of the scale, showing the date, the name and address of the seller, the State registration number of the vehicle, and the tare and gross weight of the delivery, such records to be available at all times during business hours for the inspection of the Regulator of Weights and Measures of the County wherein the scale is located. All persons engaged in the sale and delivery of solid fuel and duly licensed to transact such business in the State of Delaware, equipped with a stationary scale and employing a licensed Weighmaster, shall, during business hours, permit the use of such scale for the purpose of weighing vehicles transporting solid fuels, in addition to those vehicles operated in his own business, in order to provide weighing facilities for carrying out the provisions of this section and the next preceding section. Said person shall also furnish, without charge, the necessary space within his yard to unload and reload the solid fuel from and to the vehicle containing such solid fuel to be weighed, provided, however, that he shall not be required to supply any labor in connection with either the unloading or reloading of the solid fuel so weighed. All vehicles used in the transportation of solid fuel shall be conspicuously marked with permanent letters on the exterior of the right and left sides thereof in plain view and

easily discernible, the name and address of the registered owner. The letters shall be at least three inches in height and not less than one-half inch in width.

(3) The word "Certificate of Origin" when used in this section means a signed certificate containing the following:

a. Name and location of, and the name of the owner or operator of the breaker, colliery, or other place of production where the solid fuel to which it refers is produced or if the solid fuel to which it refers comes from a yard, pocket or other place of storage where solid fuel is commingled and stored outside the State other than a colliery, breaker or other place of production, then the name of the owner or operator of the yard, pocket or other place of storage.

b. The kinds, size and weight of the solid fuel.

c. The name and address of the person claiming ownership of said solid fuel.

d. The name and address of the driver of the truck hauling said solid fuel and the State Registration number of the truck.

e. The name and address of the person or persons to whom said solid fuel is to be delivered, or in the event that said solid fuel is not intended for delivery to any particular person or persons, the name and address of the owner and yard to which it is to be taken.

The Certificate shall be filled in and prepared by typewriter, ink, or indelible pencil, and shall be signed in ink or indelible pencil by the person who is operating the truck, and by the person or his duly appointed agent who is the owner of the breaker, colliery, place of production, yard, pocket or other place of storage, as the case may be, where the solid fuel to which the Certificate of Origin refers, is loaded on the truck outside the State of Delaware.

It shall be unlawful for any person to haul, transport, purchase, sell or deliver in the State of Delaware, any solid fuel brought into the State from outside the State by motor truck except in accordance with the provisions of this section. Such solid fuel shall be accompanied at all times until delivered, by a Certificate of Origin and a duplicate original of such Certificate of Origin shall be filed as hereinafter provided.

Every driver of a motor truck or other vehicle bringing solid fuel into the State of Delaware from outside the State, for sale and delivery within the State, shall, upon entering the State, proceed forthwith before delivery of the load of solid fuel, to the nearest available stationary scale, suitable for weighing the tare and gross weight of the vehicle, to the place or places or each delivery, to have the solid fuel weighed by a duly licensed Weighmaster in accordance with the requirements of this Section and the next preceding section, and shall then and there file with said licensed Weighmaster a

duplicate original of the required Certificate of Origin. No licensed Weighmaster shall weigh up any such load of solid fuel and sign a weight ticket therefor unless and until a duplicate original of the Certificate of Origin for such solid fuel shall be filed with and retained by the Weighmaster in the form required by this section. Such Weighmaster upon signing or using his official stamp on such weight ticket shall make a notation thereon of the number and the date of the Certificate of Origin, and shall also sign or officially stamp and date the Certificate of Origin accompanying the load of solid fuel. Nothing herein contained shall be construed to require the weighing in the State of Delaware of any load of solid fuel which is merely being transported through the State, but the driver of any truck transporting such load of solid fuel shall, in any event, file a duplicate original of the required Certificate of Origin with a duly licensed Weighmaster at the nearest available scale after entering the State. Where the solid fuel transported by motor truck from outside the State of Delaware is delivered to a coal yard in the State and unloaded for storage, the driver of said motor truck shall forthwith file with the owner of said yard, or his representative, the duplicate original Certificate of Origin required for each delivery made and the said owner or his representative shall forward weekly to the Regulator of Weights and Measures for his respective County the Certificates of Origin covering all receipts of solid fuel delivered to said yard for storage during the preceding week.

The Certificate of Origin as herein provided shall be issued only on forms to be supplied upon application therefor to the Secretary of the State of Delaware. The Certificates shall be serially numbered and issued in duplicate, consecutively. A nominal charge to cover the cost of supplying such forms may be made by the Secretary of State. Said Certificates shall be non-transferrable and any person who has in his possession, or who files with a licensed Weighmaster, a false Certificate of Origin, shall be deemed guilty of a violation of this Act [Secs. 3438, 3440, and 3441]. The Secretary of the State of Delaware shall issue such blank Certificates of Origin to any person who is the owner or operator of a colliery, breaker, place of production, or who is the owner or operator of a yard, pocket or other place of storage outside the State of Delaware upon application therefor, but such person shall show the necessity for the issuance of said Certificate and shall furnish proof to the Secretary of State that all solid fuel produced or stored is not stolen and is legally acquired at its source. The Secretary of State shall monthly send a revised list of all Certificates of Origin issued by him to the Regulator of Weights and Measures of each County, who shall, in turn, send similar lists to all licensed

Weighmasters appointed by him. All licensed Weighmasters shall keep a written record of all Certificates of Origin received by him at the time of weighing any solid fuel brought into the State. Said Weighmasters shall weekly forward to the Regulator of Weights and Measures of his respective County the Certificates of Origin filed with him for the weighing of solid fuel during the preceding week. The Regulator of Weights and Measures of each County shall retain for his official record said Certificates of Origin. Any person directly interested in the sale, distribution, hauling or transportation of solid fuel in the State of Delaware, and any association composed of persons who are so interested, shall be entitled to sue for and to have injunctive relief in any Court of the State of Delaware having jurisdiction over the parties against actual or threatened violations of this section or the next preceding section. The Regulator of Weights and Measures shall have power to adopt regulations, not inconsistent with this Chapter [Secs. 3419, Sec. 1—3443, Sec. 25], to make effective the provisions of this section and the next preceding section of this Chapter.

For the purpose of carrying out the provisions of this section and the next preceding section pertaining to the sale of solid fuels, the Regulator of Weights and Measures of the several Counties may appoint a deputy or deputies, who shall have full power and authority to perform the duties of his office in so far as those duties pertain to the sale of solid fuels and the enforcement of the provisions set forth in this section and the next preceding section pertaining thereto. The appointment of a deputy shall be recorded in the office of the Recorder of Deeds in and for the county in which the Regulator of Weights and Measures and the deputy are appointed. Said deputy shall be sworn, or affirmed, to perform the duties of his office faithfully and impartially. He shall, within thirty days from his appointment, give bond to the State, with sufficient surety, to be approved by the Governor, in the sum of One Thousand Dollars, conditioned for the faithful performance of the duties of his office. Any deputy appointed under this section shall not receive compensation from the State of Delaware for his services in this capacity. All such deputies shall be under the control of the Regulator of Weights and Measures by whom appointed, which Regulator shall have the right to revoke the appointment at any time without cause.

Any person, firm, or corporation who shall violate any provisions of this and the next preceding section shall forfeit and pay a fine of not less than Fifty Dollars nor more than One Hundred Dollars, or be imprisoned for a term not exceeding thirty days, or both, in the discretion of the Court, for the first offense, and forfeit and pay a fine of not

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less than One Hundred Dollars nor more than Two Hundred and Fifty Dollars, or be imprisoned for a term not exceeding three months, or both, in the discretion of the Court, for each subsequent offense.

* * * * *

No provision of this section shall apply or be construed to apply to foreign or interstate commerce except in so far as the same may be effective pursuant to the United States Constitution and to the laws of the United States enacted pursuant thereto. [1933; last amended 1945.]

3442. Sec. 24. Oysters in shell, measure for.

The measure for oysters sold in the shell by the bushel, shall be as provided in Section 165 [2966] of Chapter 74.¹ [1915]

¹ See next following section.

Revised Code 1935, Ch. 74, Art. 3—Measure for
Oysters Sold in Shell.

2966. Sec. 165. Measure; violations; penalty.

All oysters sold in the shell by the bushel measure in this State, shall be measured in a circular bushel tub with straight sides and straight solid bottom, and said tub shall have the following dimensions, viz: fifteen inches in diameter across the top from inside to inside, and thirteen inches and three-quarters across the bottom from inside to inside, and twenty inches diagonal from inside chime to top. Any person or persons engaged in buying or selling oysters in this State and measuring the same in any measure contrary to the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined ten dollars and costs. The person or persons upon failure to pay said fine shall be imprisoned for a term of not less than twenty days nor more than thirty days in the County Jail. The proceeds to go one-half to the informer and one-half to be paid over to the Collector of Oyster Revenue, for the use of the State. Any Justice of the Peace in any County of this State shall have jurisdiction to hear and determine all violations of this Section with the power to enforce its provisions. [1899]

Revised Code 1935, Ch. 113—Custody of Duplicate
Standards of Weights and Measures by Prothonotaries.

4304. Sec. 19. Custody of duplicate standards of weights and measures by prothonotaries.

The Prothonotary shall preserve and keep in good order the duplicate standards of weights and measures deposited in his office; but he shall allow the regulator of weights and measures of his County free access to, and use of, the said duplicates, and the occasional custody of them, as may be required for the discharge of his duties. [1852]

Laws 1941, Vol. 43, Ch. 204—Deputy Regulators of
Weights and Measures.

Sec. 1. Appointment.

The Governor of the State of Delaware shall appoint not more than five persons resident in New Castle County, not more than five persons resident in Kent County, and not more than fifteen persons resident in Sussex County, who shall be known as Deputy Regulators of Weights and Measures, and who shall serve for the same terms as the Regulator of Weights and Measures of the respective counties in which they are appointed. [1941]

Sec. 2. Oath of office.

All persons appointed under the provisions of Section 1 hereof shall be of good moral character and shall before entering upon the execution of their respective duties subscribe to the same oath or affirmation as is required of the Regulator of Weights and Measures in the respective counties. [1941]

Sec. 3. Duties.

The persons so appointed as Deputies shall be under the control and direction of the Regulator of Weights and Measures of the respective counties of which the Deputies are resident.

Whenever any person, firm or corporation having any poultry, produce or other farm products to be weighed and certified, such person, firm or corporation may make application upon the Regulator of Weights and Measures for the county where such commodity to be weighed is located for the assignment of a Deputy to weigh the same, and thereupon the Regulator of Weights and Measures to whom such application shall be made shall designate one or more Deputies under his supervision and direction to proceed accurately and honestly to weigh the commodities whose weight it is desired to be determined or certified, keep accurate account of the said weighing so that accurate totals may be turned over to the person, firm or corporation applying for the services of said Regulator of Weights and Measures, and the totals shall be certified to and signed by the Deputy or Deputies who shall have weighed such articles or commodities. [1941]

Sec. 4. Fees for services.

For the services rendered, the applicant making the request for such weighing shall pay the sum of two and one-half cents per coop for Poultry; and two and one-half cents per one hundred pounds gross weight for all other articles or commodities, but in no case shall any Deputy receive less than Five Dollars for his services for each place visited. The fees herein provided for shall be for the sole use of the Deputy or Deputies who shall weigh and certify their findings upon the request of the applicant. [1941]

Sec. 5. Standards to be provided.

The Levy Courts of the respective counties shall furnish to the Regulator of Weights and Measures in and for the respective counties such standard weights and supplies as shall be necessary to furnish an accurate check upon the scales used in any weighing operation carried on hereunder. [1941]

Revised Code 1935, Ch. 83—Sale and Inspection of Bread Stuffs.

3444. Sec. 1. Bushel weights of wheat, Indian corn and Indian meal.

When wheat or Indian corn is sold by the bushel, and there is no special agreement as to the measurement or weight thereof, the bushel shall consist of sixty pounds of wheat, fifty-six pounds of shelled corn and sixty-eight pounds of corn on the cob, provided, however, that if corn on the cob is sold prior to December 15th next after it has matured, the bushel shall consist of seventy-two pounds. Whenever Indian corn meal shall be sold by the bushel, and no special agreement as to the measurement or weight thereof shall be made by the parties, the bushel, if sifted, shall consist of forty-four pounds, and if unsifted the bushel shall consist of forty-eight pounds. [1866; last amended 1945.]

3445. Sec. 2. Containers for exportation of breadstuffs, flour, and meal: Sizes; exceptions; penalty.

All casks for the exportation of breadstuffs shall be made of good seasoned materials, well hooped and nailed, and shall be of the following sizes, viz: No. 1, 27 inches long, 16½ inches diameter at the head, and to contain 196 pounds; No. 2, 22¾ inches long, 12½ inches diameter, and to contain 98 pounds; and if any person shall export from New Castle County to any foreign port, or place, beyond the United States, or shall sell for such exportation, any wheat flour, rye flour, or middlings of wheat, packed in casks made of unseasoned materials, or of other dimensions, or of less weight per cask, than these respectively, he shall forfeit and pay to the flour inspector forty cents per cask, and shall have remedy over for damages against the miller, or cooper, who furnished the same.

Indian corn meal, made from corn sufficiently kiln-dried, shall be packed for exportation from New Castle County, or from Middleford, or Seaford, in Sussex County, to any foreign port, or any port in the United States where there are no inspection laws, in strong tight hogsheds, made of good seasoned white, or red oak, well hooped and secured, the staves forty-one inches long, twenty-seven inches diameter at the head, and to contain eight hundred pounds net, or in casks twenty-six inches long, sixteen and one-half inches diameter, and to contain one hundred and ninety-six pounds,

or in half barrels twenty-two inches long, twelve and one-half inches diameter, and to contain ninety-eight pounds, under the same penalty herein provided for flour; except that wheat flour, or kiln-dried Indian corn meal, may be exported in sacks, or packages, if inspected and passed, and the same fees paid for inspection as in proportion for barrels. [1852]

3446. Sec. 3. Breadstuffs: Marking requirements; penalty.

Each miller shall brand, or mark, with his own name, or some name by which it may be distinguished as his, every cask, or hoghead, or breadstuffs manufactured by him for exportation, and mark the kind and quality, and weight, tare and net, under penalty of twenty cents for each cask, or hoghead, not branded, to anyone who will sue for the same; and if any person shall mark a false weight, or wrong tare, to the disadvantage of the purchaser, he shall forfeit and pay to the inspector one dollar for each cask, or hoghead, so falsely branded. [1852]

3448. Sec. 5. Flour and Meal: Marking requirements; penalty.

Each and every bag, package, parcel or box of flour or grain meal of any kind, exposed or offered for sale to consumers in this State, shall have marked or printed prominently, distinctly and conspicuously thereon the correct and exact weight in avoirdupois of the flour or other grain meal contained in such bag, package, parcel or box.

It shall be unlawful for any person or persons, firm or firms, corporation or corporations to offer or expose for sale, any bag, package, parcel or box of flour or any kind of grain meal, unless the same has printed or marked thereon as aforesaid the exact and correct weight as aforesaid. Every person or firm or firms violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine of twenty-five dollars, besides the costs of suit.

If any person or persons, firm or firms, corporation or corporations shall print or mark the weight of flour or other grain meal on any such bag, package, parcel or box as aforesaid falsely or incorrectly, or in any way to deceive the public, such person or persons, firm or firms, corporation or corporations, shall upon conviction thereof, forfeit and pay a fine of twenty-five dollars besides the costs of suit. [1899]

3449. Sec. 6. Enforcement officers.

The Governor shall appoint a flour inspector, who shall reside in the City of Wilmington, and another who shall reside in or near Middleford, or Seaford, who shall appoint the necessary deputies. Each inspector, or deputy, shall be duly sworn, or affirmed, and shall hold his office for four years. [1852]

Revised Code 1935, Ch. 83—Sale and Inspection of Bread Stuffs—Continued.

3450. Sec. 7. Exportation from New Castle County without inspection unlawful.

No person shall ship, or load, for exportation from New Castle County to any foreign port, or to any port in the United States where there are no inspection laws, any superfine, or common flour, or middlings, or any rye flour, or Indian corn meal, before the same is duly inspected. [1852]

3451. Sec. 8. Inspection; penalty.

The Inspector shall try the packing and quality, by boring and piercing; or, if necessary, by unpacking. If, on unpacking, the quantity be found insufficient, the miller shall pay all charges of unpacking and repacking, besides the penalty provided in section 2 [Sec. 3445] of this chapter [Secs. 3444. Sec. 1—3456. Sec. 13]; * * * [1852]

Revised Code 1935, Ch. 21, Art. 5—Commercial Feeding Stuffs.

625. Sec. 58. Definition; marking requirements; special tags for violations; penalties; enforcement.

(1) The term "Commercial Feeds" shall be held to include all materials used for feeding animals or birds, except the following:

(a) Unmixed whole seeds or grains; as defined by the U. S. grain standards.

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo, and other seeds or grains.

(c) Whole hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials.

(2) All manufacturers, importers, jobbers, firms, associations, corporations or persons shall before selling, offering or exposing for sale or distributing in this state any brand of commercial feed have printed on, or attached to each bag, package, carton, or can delivered with each bulk lot a plainly printed statement, hereafter referred to as the label, in a conspicuous place on the outside, containing a legible and clearly printed statement in the English language clearly and truly stating:

(a) The net weight of the contents of the package, bag, carton, can or bulk lot;

* * * * *

(9) If it shall appear from the examination of any sample of feed or other evidence that any of the provisions of this Act [625. Sec. 58] have been violated, the State Board of Agriculture or its duly authorized deputy may affix or cause to be affixed to each package of commercial feed appearing to be in violation of any of the provisions of this Act a special tag setting forth that the commercial feed to which the tag is affixed is in apparent violation of the commercial feed law of the State of Delaware and must not be distributed, transported, sold or otherwise disposed of nor may the special tag be

removed, defaced or destroyed without written permission of the State Board of Agriculture, and the State Board of Agriculture shall cause notice of such apparent violation to be given to the manufacturer and the dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the State Board of Agriculture. After such hearing, if it appears that any of the provisions of this Act have been violated, the State Board of Agriculture may certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the results of the analysis or other examination of such sample, duly authenticated by the analyst or other agent or officer making the examination, under the oath of such analyst, agent or officer.

(10) Any manufacturer, importer, jobber, firm, association, corporation or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent the said State Board of Agriculture or any authorized agent of the said State Board of Agriculture in the performance of his duty in connection with the provisions of this Act [625. Sec. 58], or who shall sell, offer or expose for sale or distribute in this State any commercial feeds as defined in Paragraph 1, without complying with the requirements of the provisions of this Act, * * * or shall sell, offer, or expose for sale or distribute in this State any commercial feed which carries any false or misleading statements upon or attached to the package, * * * or if the number of net pounds set forth upon the package is not correct, * * * or who shall violate any other provision of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00) for the first violation and not less than fifty dollars (\$50.00) for each subsequent violation. * * *

(11) The State Board of Agriculture is hereby empowered to enforce the provisions of this Act [625. Sec. 58] and to prescribe and enforce administrative rules, regulations, definitions and standards which shall be in harmony with the provisions of this Act and the official pronouncements of the Association of American Feed Control Officials, Incorporated, and such administrative rules, regulations, definitions and standards when so prescribed shall have all the effect and authority of the remainder of this Act. [1921; last amended 1943.]

Revised Code 1935, Ch. 21, Art. 8—Testing of Milk and Cream.

635. Sec. 68. Testing; Offenses.

It shall be unlawful for any person, association, co-partnership, or corporation, their agents or servants engaged in the business of buying milk or cream on the basis of or in any manner with reference to the amount or percentage of butterfat

contained therein, to take, collect or use for testing purposes an unfair or an inaccurate sample, to underread, overread or erroneously manipulate the test commonly known as the "Babcock test" used for determining the percentage of such fat in said milk or cream, * * * or to use for such test quantities other than seventeen and six-tenths (17.6) cubic centimeters in the case of milk and nine grams or eighteen grams in the case of cream. In all tests of cream, the cream shall be weighed and not measured into the test bottle. [1909]

636. Sec. 69. Test equipment to be inspected.

No person, association, copartnership, or corporation, purchasing milk or cream and paying for the same on the basis of the percentage of butterfat contained therein shall, if the percentage of butterfat is ascertained by the said "Babcock test", use any test glassware except standard Babcock test glassware and weights which have been previously inspected and approved by the State Board of Agriculture. If the proportion of butterfat is determined by any method other than the "Babcock test" no utensil or instrument shall be used in such determination until the same has been inspected and approved by the State Board of Agriculture. [1909]

642. Sec. 75. Enforcement; rules and regulations.

The State Board of Agriculture shall be charged with the enforcement of the provisions of this Article [Secs. 634. Sec. 67—654. Sec. 87] and the said Board shall have authority to make such rules and regulations as are necessary for the proper enforcement of this Article. Nothing contained in this Section shall be construed to prevent any individual from prosecuting anyone violating any of the provisions of this Article.

For violation of any of the provisions of this Article proceedings may be instituted against the owner or manager who is responsible for the business transacted, together with the certified tester or the person weighing and sampling either or all, to be held equally responsible. [1909]

643. Sec. 76. Penalty for violations.

Any person or persons violating any of the provisions of this Article [Secs. 634. Sec. 67—654. Sec. 87], except Section 68, shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than ten dollars or more than fifty dollars, or imprisonment in the county jail for not less than ten days or more than thirty days, or both, at the discretion of the court. Any person or persons found guilty of violation of Section 68 of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars or more than one thousand dollars, or im-

prisonment in the county jail for not more than nine months. [1909]

645. Sec. 78. Inspection of Babcock test equipment; offenses.

Every person, firm, company, association, corporation, or agent thereof, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount of percentage of butterfat contained therein, as determined by the "Babcock test," shall use standard "Babcock" bottles, pipettes, and weights, as defined in Section 79 of this Article [Secs. 634. Sec. 67—654. Sec. 87]. All such Babcock test bottles, pipettes, and weights, so used, shall have been inspected for accuracy by the State Board of Agriculture, or its proper officer or agent, and shall be legibly and indelibly marked by the said State Board of Agriculture, or its inspectors of weights and measures, with the letters "S. G. D." (Standard Glassware Delaware), and no Babcock bottle, pipette, or weight, shall be used for such test unless so examined and marked by the said inspectors of weights and measures. It shall be unlawful for any person, persons, firm or company, association, corporation, or any agents, to use any other than standard test bottles, pipettes, and weights, which have been examined and marked as provided in this Section, to determine the amount of fat in milk or cream bought on the butterfat basis as determined by the Babcock test. [1921]

646. Sec. 79. Specifications for Babcock test equipment.

The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard Milk Test Bottles.

GRADUATION. The total per centum graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent whole per centum, five-tenths per centum, and tenths per centum. The tenths per centum graduation shall not be less than three millimeters in length; the five-tenths per centum graduations shall be one millimeter longer than the tenths per centum graduation, projecting one millimeter to the left; the whole per centum graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per centum graduations. Each per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per centum.

NECK. The neck shall be cylindrical, and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Revised Code 1935, Ch. 21, Art. 8—Testing of Milk and Cream—Continued.

BULB. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be eighteen grams.

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches).

(b) Standard Cream Test Bottles.

Three types of bottles shall be accepted as standard cream test bottles: a fifty per centum, nine gram, short-neck bottle; a fifty per centum, nine gram, long-neck bottle; and a fifty per centum, eighteen gram, long-neck bottle.

Fifty per centum, nine gram, short-neck bottles:

GRADUATION. The total per centum graduation shall be fifty. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent five per centum, one per centum, and five-tenths per centum. The five per centum graduations shall extend at least half way around the neck to the right. The five-tenths per centum graduation shall be at least three millimeters in length, and the one per centum graduation shall have a length intermediate between the five per centum and the five-tenths per centum graduations. Each five per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per centum.

NECK. The neck shall be cylindrical, and the cylindrical shape shall extend at least nine millimeters below the lowest, and nine millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

BULB. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical, with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams. All bottles shall bear on top of the neck, above the graduations, in plainly legible characters, a mark

defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches), same as standard milk test bottles.

Fifty per centum, nine grams, long-neck bottles:

The same specifications in every detail as specified for the fifty per centum, nine grams, short-neck bottle, shall apply for the long-neck bottle, with the exception, however, the total height of this bottle shall be between two hundred and ten and two hundred and thirty-five millimeters (eight and one-fourth and eight and seven-eighths inches), and that the total length of the graduation shall not be less than one hundred and twenty millimeters.

Fifty per centum, eighteen grams, long-neck bottles:

The same specifications in every detail as specified for the fifty per centum, nine grams, long-neck bottles, except that the charge of the bottle shall be eighteen grams. All bottles shall bear, on the top of the neck, above the graduation, in plainly legible characters, a mark defining the weight of the charge to be used (eighteen grams).

(c) The Standard Babcock Pipette.

Total length of pipette, not more than three hundred and thirty millimeters (thirteen and one-fourth inches). Outside diameter of suction tube, six to eight millimeters.

Length of suction tube, one hundred and thirty millimeters. Outside diameter of delivery tube, four and five-tenths to five and five-tenths millimeters. Length of delivery tube, one hundred to one hundred and twenty millimeters. Distance of graduation mark above bulb, thirty to sixty millimeters. Nozzle, straight. Delivery, seventeen and six-tenths cubic centimeters of water at twenty degrees Centigrade in five to eight seconds.

(d) Standard Weights.

(1) The standard weights shall be of nine (9) grams and eighteen (18) grams denominations.

(2) Any person violating any of the provisions of Sections 67 to 79, inclusive, of this Article [Secs. 634. Sec. 67—654. Sec. 87], shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) and pay the costs of prosecution.

(3) The State Board of Agriculture of the State of Delaware, through its inspectors of weights and measures, shall be charged with the enforcement of the provisions of Sections 78 and 79 of this Article. [1921]

Revised Code 1935, Ch. 21, Art. 10—Liming Materials.

667. Sec. 100. Marking requirements.

Any person, manufacturer, corporation, dealer, agent or importer that shall sell, offer or expose for

sale any liming material to be used in agriculture in this State shall affix or cause to be affixed to every package or sample or lot of such liming material in a conspicuous place on the outside thereof a tag, label, stencil or certificate, which shall be accepted as a guarantee of the person, importer, manufacturer, corporation or agent, and which shall have plainly printed thereon in the English language the following information:

1. The net weight of the package or sample, excluding goods shipped in bulk. [1923]

* * * *

674. Sec. 105. Rules and regulations.

The State Board of Agriculture or its authorized agent or agents are hereby empowered to issue such licenses and to prescribe and enforce such rules and regulations relating to the inspection and sale of liming materials as may be deemed necessary to carry into full effect the intent and meaning of this Article [Secs. 666. Sec. 99—674. Sec. 107] * * * [1923]

674. Sec. 107. Penalty for violations; enforcement.

Any person or persons selling, offering, or exposing for sale, * * * [liming materials], unless accompanied by the statement required by Section 100 [Sec. 667] of this Article [Secs. 666. Sec. 99—674. Sec. 107] or when so accompanied, if the said statements shall be false in any particular, or without having complied with all the foregoing provisions of this Article, shall be guilty of a misdemeanor; and on conviction shall be sentenced to pay a fine of not less than ten, nor more than fifty dollars for the first offense, and not less than one hundred dollars for each subsequent offense. It shall be the duty of the State Board of Agriculture to enforce the provisions of this Article; * * * [1923]

Revised Code 1935, Ch. 22—Commercial Fertilizer.

689. Sec. 2. Marking requirements.

Every company, firm, corporation or person who shall sell, offer or expose for sale, or have in his possession with intent to sell, in this State, any commercial fertilizer, shall affix conspicuously to every package thereof a plainly printed statement, clearly and truly certifying the number of net pounds of fertilizer in the package, * * *. Any manufacturer or dealer who shall fail to affix conspicuously such statement to every package of commercial fertilizer that he may have for sale, offer, or expose for sale, * * * shall be guilty of a misdemeanor, and upon conviction thereof shall be fined Two Hundred Dollars for the first offense and Three Hundred Dollars for each subsequent offense; * * * [1935]

690. Sec. 3. Registration.

Before any commercial fertilizer is sold, offered or exposed for sale in this State, the manufacturer,

importer or party who causes it to be sold, exposed or offered for sale, shall file with the Secretary of State Board of Agriculture, under oath the statement required to be affixed under Section 2 of this Chapter [Secs. 688. Sec. 1—708. Sec. 21]. [1927]

699. Sec. 12. Definition.

The term "Commercial Fertilizer," as used in this Chapter [Secs. 688. Sec. 1—708. Sec. 21], shall be construed to mean any and every substance imported, manufactured, prepared, or sold for fertilizing or manuring purposes, except barnyard and stable manure, marl, lime and wood ashes. [1917]

701. Sec. 14. General penalty.

Any manufacturer or vendor of any commercial fertilizer who shall sell or offer or expose for sale any commercial fertilizer without having previously complied with the provisions of this Chapter [Secs. 688. Sec. 1—708. Sec. 21], as hereinbefore set forth, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars nor more than Five Hundred Dollars. [1927]

702. Sec. 15. Penalty for removing or defacing label, or selling without label.

Any company, firm, corporation or person, who shall wilfully remove from or deface or change any label or tag or brand affixed to any package of commercial fertilizer under the provisions of this Chapter [Secs. 688. Sec. 1—708. Sec. 21], before such commercial fertilizer has been used for manurial purposes, or who shall sell such commercial fertilizer without a label or tag being affixed thereto at the time of sale, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Ten, nor more than Fifty Dollars for each offense. [1927]

704. Sec. 17. General penalty.

Any company, firm, corporation, or person violating any of the provisions of this Chapter [Secs. 688. Sec. 1—708. Sec. 21], or who fails to comply with any of the requirements of this Chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, when no other penalty is prescribed, be fined not less than Ten nor more than One Hundred Dollars for each offense. But this Chapter shall not be construed to apply to any one who manufactures fertilizer for his own use and not for sale. [1917]

705. Sec. 18. Enforcement.

The Secretary of the State Board of Agriculture shall report to the Attorney General all violations of the provisions of this Chapter [Secs. 688. Sec. 1—708. Sec. 21]. [1917]

Revised Code 1935, Ch. 22—Commercial Fertilizer
—Continued.

706. Sec. 19. Rules and regulations; penalty.

The State Board of Agriculture shall have power to adopt such means and to make rules and regulations as they may deem necessary to carry into effect the true intent and meaning of this Chapter [Secs. 688. Sec. 1—708. Sec. 21], and a violation of these rules and regulations shall be deemed a misdemeanor, and shall be punishable by a fine not to exceed One Hundred Dollars at the discretion of the Court. [1917]

Revised Code 1935, Ch. 100, Art. 3—Wood-corder for Towns.

3902. Sec. 7. Duties; sale without corder's measurement; penalty; fee; length of wood.

The Town Commissioners may appoint a wood-corder for the town, who shall by himself, or a deputy, attend, when called on, to measure wood, under penalty of one dollar and fifty cents to anyone who will sue.

If any person shall buy or sell wood, without measurement, in a town where there is a corder, he shall forfeit and pay to such corder one dollar and fifty cents.

The corder's fee for putting up and measuring wood, shall be ten cents per cord, to be paid equally by the buyer and seller.

All such wood shall be of the length of eight, or four feet from the extremity at one end, to the beginning of the carf at the other. [1852]

Revised Code 1935, Ch. 100, Art. 27—Food.

3993. Sec. 98. Unlawful to sell, etc. misbranded article.

It shall be unlawful for any person to manufacture, sell or trade in, within the State of Delaware, any article of food * * * which is * * * misbranded, * * * within the meaning of this Article [Secs. 3993. Sec. 98—4009. Sec. 114.] [1921]

3994. Sec. 99. Definitions.

The term "food," as used in this Article, shall include all articles used for food, drink, confectionery or condiment by man or other animal, whether simple, mixed or compound; * * * [1921]

3997. Sec. 102. When deemed misbranded.

* * * * *

For the purposes of this Article [Secs. 3993. Sec. 98—4009. Sec. 114], an article shall also be deemed to be misbranded:

* * * * *

In the case of food:

* * * * *

2. If it be labeled or branded so as to deceive or mislead the purchaser, * * *

3. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count. [1921]

* * * * *

3998. Sec. 103. Guaranty protection.

No dealer shall be prosecuted under the provisions of this Article [Secs. 3993. Sec. 98—4009. Sec. 114] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this Article, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this Article. [1921]

3999. Sec. 104. Penalty.

Any person who shall violate any of the provisions of Sections 98 to 104, inclusive, of this Article [Secs. 3993. Sec. 98—4009. Sec. 114] shall be deemed guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars, or shall be sentenced to not more than one year's imprisonment, or both such fine and imprisonment in the discretion of the Court, and for each subsequent offense and upon conviction thereof shall be fined not more than one thousand dollars, or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the Court. [1921]

* * * * *

4000. Sec. 105. Exceptions.

The provisions of this Article [Secs. 3993. Sec. 98—4009. Sec. 114], shall not apply to articles of food, or to mixtures or compounds of foods, offered for sale in this State, when prepared, labeled, branded, or inspected, in compliance with the Federal Laws and department regulations established thereunder. [1921]

4002. Sec. 107. Enforcement; rules and regulations.

It shall be the duty of the State Board of Health of the State of Delaware to enforce all the provisions of this Article [Secs. 3993. Sec. 98—4009. Sec. 114], and to promulgate rules and regulations to carry out the same so far as they relate to foods; * * *. The rules and regulations officially prescribed for the enforcement of the Act of Congress,

approved June 30, 1906,¹ entitled "An Act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines and liquors, and for regulating traffic therein and for other purposes", and Acts amendatory thereof, so far as applicable, shall be adopted by the said officials for the enforcement of said Article. [1921]

¹ Superseded by the Federal Food and Drug Act of June 25, 1938, U. S. C., Title 21, Secs. 301 et seq.; 52 Stat. at Large 1040 et seq.

Revised Code 1935, Ch. 100, Art. 42—Narcotic Drugs.

4094. Sec. 199. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

4104. Sec. 209. Enforcement; penalty for violations.

* * * * *

It is hereby made the duty of the State Board of Health, its officers, agents, inspectors and representatives, and of all peace officers within the State, and of the Attorney General, to enforce all provisions of this Article [Secs. 4087. Sec. 192—4104. Sec. 209], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs.

Any person who violates or fails to comply with any of the provisions or requirements of this Article shall upon conviction be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than Three Thousand Dollars (\$3,000.00) or by imprisonment for not more than ten years, or both, in the discretion of the Court. The Municipal Court of the City of Wilmington shall have concurrent jurisdiction of all violations of the provisions and requirements of this Article occurring

within the corporate limits of the City of Wilmington. [1935]

* * * * *

Laws 1943, Vol. 44, Ch. 67—Purchase and Sale of Lima Beans, Peas, etc. for Canning or Processing.

Sec. 1. Weight or measure determined according to standard weights and measures.

Whenever any lima beans, peas or other leguminous vegetables are purchased and sold in this State for canning or processing or any other kindred purpose whatever, either within or without this State, and one of the factors determining the purchase price to be paid therefor is the weight or measure thereof, after being severed and/or hulled from the vines, then in all such instances the weight or measure thereof, as the case may be, shall be determined according to standard weights and measures established by the appropriate Laws of this State with reference thereto. Such weight or measure, as the case may be, shall, in all such instances, be determined openly and, should he so require, in the presence of the seller or the seller's representative. Such weight or measure, as the case may be, shall, in all such instances, be determined at the place or Viner Station [at] which such lima beans, peas or other leguminous vegetables, as aforesaid, are vined and/or hulled. [1943]

Sec. 3. Penalty for violations.

Any person, firm or corporation, and any employee, servant or agent of any person, firm or corporation, who shall violate any of the provisions of this Act [Secs. 1-3] shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) or by imprisonment of not more than ten (10) days or by both fine and imprisonment in the discretion of the Court and for the second and each subsequent offense to be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00), or by imprisonment for not more than two (2) months, or by both fine and imprisonment in the discretion of the Court. [1943]

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[ED. NOTE.—This compilation of weights and measures laws for the District of Columbia includes only those acts, general and permanent in their nature, enacted specifically for the District of Columbia. It should be noted that the Federal Food, Drug, and Cosmetic Act (pp. 26-34) specifically defines "interstate commerce" as, among other things, "commerce within the District of Columbia," and the terms of that act are therefore applicable to transactions within the District of Columbia.]

Code, 1940 Edition, Title 10, Ch. 1—Weights, Measures, and Markets.

Sec. 10-101. Department of Weights and Measures established; custody of standards.

There is hereby created an executive department in the government of the District of Columbia which shall be known as the Department of Weights, Measures, and Markets. Such department shall be in charge of a Superintendent¹ of Weights, Measures, and Markets, who shall be appointed by and be under the direction and control of the Commissioners of the District of Columbia. He shall have the custody and control of such standard weights and measures of the United States as are now or

shall hereafter be provided by the District of Columbia, which shall be the only standards for weights and measures in said District.

The commissioners are also authorized to appoint, on the recommendation of the superintendent, such assistants, inspectors, and other employees for which Congress may, from time to time, provide. [1921; last amended 1923.]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-101a. Title of Superintendent of Weights, Measures, and Markets changed to Director.

After April 11, 1946, the Superintendent of Weights, Measures, and Markets shall be known as the Director of Weights, Measures, and Markets. [1946]

Sec. 10-102. Bond of superintendent.

The superintendent¹ shall, before entering upon the performance of his duties, give bond to the District of Columbia in the penal sum of \$5,000, signed by two sureties or by a bonding company,

Code, 1940 Edition, Title 10, Ch. 1—Weights, Measures, and Markets—Continued.

to be approved by the Commissioners, conditioned on the faithful discharge of the duties of his office, and shall take and subscribe an oath or affirmation before the commissioners that he will faithfully and impartially discharge the duties of his office, which bond and oath shall be deposited with the Commissioners. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-103. Powers and duties of superintendent.

The Superintendent¹ and, under his direction, his assistants and inspectors, shall have exclusive power to perform all the duties provided in sections 10-101 to 10-120, 10-122 to 10-134, * * *. They shall, at least every six months, and oftener when the Superintendent thinks proper, inspect, test, try, and ascertain whether or not they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing or measuring, and all tools, appliances, or accessories connected with any or all such instruments or mechanical devices for weighing or measuring used or employed in the District of Columbia by any owner, agent, lessee, or employee in determining the weight, size, quantity, extent, area, or measurement of quantities, things, produce, or articles of any kind offered for transportation, sale, barter, exchange, hire, or award, or the weight of persons for a charge or compensation, and shall approve and seal, stamp, or mark, in the manner prescribed by the Commissioners, such devices or appliances as conform to the standards kept in the office of the Superintendent, and shall seize and destroy or mark, stamp, or tag with the word "condemned" such as do not conform to the standards, and shall also mark the date of such condemnation upon the same. Any weight, scale, beam, measure, weighing or measuring device of any kind which shall be found to be unsuitable for the purpose for which it is intended to be used or of defective construction or material shall be condemned. No person shall use or, having the same under his control, shall permit to be used for any of the purposes enumerated in said sections any weight, scale, beam, measure, weighing or measuring device whatsoever unless the same has been approved in accordance with the provisions of said sections within six months prior to such use, or that does not conform to the standards kept in the office of the Superintendent of Weights, Measures, and Markets, or that does not bear the approval seal, stamp, or mark prescribed by the Commissioners, or which, having been condemned, has not thereafter been approved as provided in said sections.

Any person who shall acquire or have in his possession after the passage of sections 10-101 to 10-120, 10-122 to 10-134, * * * any scale, weighing

instrument, or nonportable measure or measuring device, subject to inspection or test under the provisions of said sections, which has not been approved in accordance with the provisions of said sections within six months prior to acquisition or possession and which does not bear the approval seal, stamp, or mark prescribed by the Commissioners, shall notify the Superintendent in writing at his office, giving a general description thereof, and the street and number or other location where same may be found, and it shall be the duty of the Superintendent to cause the same to be inspected and tested within a reasonable time after receipt of such notice. Any person who shall acquire or have in his possession after the passage of said sections any portable measure or measuring device, subject to inspection or test under the provisions of said sections, which has not been approved in accordance with the provisions of said sections within six months prior to acquisition or possession and which does not bear the approval seal, stamp, or mark prescribed by the Commissioners shall cause the same to be taken to the office of the Superintendent for inspection and test.

Every peddler, hawker, huckster, transient merchant, or other person with no fixed or established place of business shall, before using any weight, scale, measure, weighing or measuring device for any of the purposes enumerated in sections 10-101 to 10-120, 10-122 to 10-134, * * * cause the same to be taken to the office of the Superintendent for inspection and test semi-annually, and shall not use for the purposes herein mentioned any weight, scale, measure, weighing or measuring device which has not been approved within six months prior to the time of such use, and does not bear the approval seal, stamp, or mark prescribed by the Commissioners. [1921; last amended 1945.]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-103a. Advancement of moneys for investigational work.

The Disbursing Officer of the District of Columbia is authorized to advance to the Director of the Department of Weights and Measures, and Markets, upon requisition previously approved by the Auditor of the District of Columbia, sums of money, not exceeding \$200 at any one time, to be used exclusively in connection with investigations and detection of short weights and measures. [1948]

Sec. 10-104. Approval of altered or repaired equipment.

No person shall use or, having the same under his control, permit to be used, any weight, scale, measure, weighing or measuring device, or any attachment or part thereof after the same has been altered or repaired without the same having been inspected and approved as provided in sections 10-101 to 10-120, 10-122 to 10-134, * * * after such alterations or repairs have been made,

and no persons shall alter, obliterate, detach, obscure, or conceal any condemnation seal, stamp, mark, tag, or label, attached or impressed by the superintendent¹ or any of his assistants or inspectors, without written permission of the superintendent. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-105. Refusal to allow tests.

No person shall neglect, fail, or refuse to exhibit any weight, scale, beam, measure, weighing or measuring device, subject to inspection or test under the provisions of sections 10-101 to 10-120, 10-122 to 10-134, * * * to the superintendent¹ or any of his assistants or inspectors for the purpose of inspection and test, and no person shall in any manner obstruct, hinder, or molest the superintendent or any of his assistants, inspectors, or other employees in the performance of their duties. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-106. Records.

The superintendent¹ shall keep in his office a record of weighing and measuring devices inspected, which record shall show the type of device, the name and address of the owner, the date of inspection, and whether the same was approved or condemned. Such record shall be open to the public during regular office hours. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-107. False weight, measure, or count prohibited.

No person shall sell, offer for sale, keep, or expose for sale anywhere in the District of Columbia any commodity of any kind as a weight, measure, or numerical count greater than the actual or true weight, measure, or numerical count thereof, and no person shall take or attempt to take more than the actual and true weight, measure, or numerical count of any commodity, when, as buyer, he is permitted by the seller to determine the weight, measure, or numerical count thereof. No person shall charge or collect for any commodity or commodities a sum greater than the price or prices indicated or quoted at the time of sale. No person shall charge, collect, or accept any money for any commodity which he shall not have delivered or which he shall not have agreed to deliver. When a whole number or fraction, or both, are used in representing the price or quantity of any commodity, thing, or service offered or exposed for sale, such number or combination of numbers shall be of such size as to indicate clearly the price or quantity of such commodity, thing or service. [1921; last amended 1945.]

Sec. 10-108. Sales by net weight; ton defined.

When any commodity is sold by weight it shall be net weight. When any commodity is sold by the ton, it shall be understood to mean two thousand pounds avoirdupois. [1921; last amended 1945.]

Sec. 10-109. Coin-in-the-slot machines.

No person, firm, or corporation shall erect, operate, or maintain, or cause to be erected, operated, or maintained within the District of Columbia any coin-in-the-slot machine or automatic vending device without placing in charge thereof some responsible person. No such machine shall be maintained for use when the same is not in perfect working order, and the person in charge as well as the owner of such machine or device shall be held responsible for operating or maintaining any such machine or device which is not in perfect working order. A sign or placard shall be placed on every such machine or device in a conspicuous place and shall contain the name and business address of the owner and of the person in charge of such machine or device, and shall state that the person in charge of such machine or device will refund to any person money deposited by him for which the commodity or service promised expressly or impliedly has not been received, and such person shall so refund such money. [1921]

Sec. 10-110. Sales tickets: Furnished on request; contents.

Every person, firm, or corporation shall, when a sales ticket is given with a purchase, cause such sales ticket to show the correct name and address of such person, firm, or corporation and the weight, measure, or numerical count, as the case may be, of each commodity sold to the purchaser, and every such person, firm, or corporation is hereby required to deliver such sales ticket to such purchaser when requested to do so by such purchaser at the time of the sale. [1921]

Sec. 10-111. Coal, charcoal, and coke: Sale of; delivery ticket; exceptions.

It shall be unlawful to sell or offer for sale in the District of Columbia any coal, charcoal, or coke in any manner other than by weight. No person shall sell or deliver or attempt to deliver to any purchaser within the District of Columbia any coal, charcoal, or coke unless the quantity so sold or delivered or attempted to be delivered to each purchaser shall have been weighed separately. No person shall deliver to any purchaser within the District of Columbia any coal, charcoal, or coke unless the same shall have been kept separated from any other coal, charcoal, coke, or other commodity after same has been weighed as aforesaid until final delivery thereof.

No person shall deliver or attempt to deliver any coal, charcoal, or coke in a quantity of one-fourth of a ton or more without accompanying the same by

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a delivery ticket and a duplicate thereof, the original of which shall be in ink or indelible substance, on each of which shall be clearly and distinctly expressed the following information:

(a) The gross weight of the load, the tare weight of the delivery vehicle, and the net weight of the coal, charcoal, or coke expressed in pounds avoirdupois;

(b) The name of the owner and location of the scale on which the coal, charcoal, or coke shall have been weighed;

(c) Name and address of the seller and of the purchaser; and

(d) The name of the person who weighed said coal, charcoal, or coke.

Upon demand of the Superintendent¹ or any of his assistants or inspectors upon the person in charge of the vehicle of delivery, the original of these tickets shall be surrendered to the official making such demand. The duplicate ticket shall be delivered to the purchaser of said coal, charcoal, or coke, or to his agent or representative, at the time of delivery of such coal, charcoal, or coke. Upon demand of the Superintendent or any of his assistants or inspectors, or of the purchaser or intended purchaser, his agent, or representative, the person delivering such coal, charcoal, or coke shall convey the same forthwith to a public scale, owned and operated as hereinafter provided, or to any legally approved private scale in the District of Columbia, the owner of which may consent to its use, and shall permit the verifying of the weight, and after the delivery of such coal, charcoal, or coke shall return forthwith with the wagon, truck, or other vehicle used to the same scale and permit to be verified the weight of the wagon, truck or other vehicle.

When coal, charcoal, or coke is sold in quantities of one-fourth ton or more, it shall be sold in quantities of one-fourth ton, one-half ton, one ton, or in multiples of a ton. When coal, charcoal, or coke is sold in quantities of less than one-fourth ton, it shall be weighed at the time of delivery or sold in packages containing one hundred pounds, fifty pounds, twenty-five pounds, fifteen pounds, or ten pounds. No package of coal, charcoal, or coke shall be made for sale, kept for sale, offered for sale, exposed for sale, or sold unless it shall have distinctly and conspicuously printed on the outside thereof in plain bold-face type, not smaller than thirty-six point, the name of the commodity, the quantity of contents in pounds, and the name and address of the maker of said package. When coal, charcoal, or coke is sold and delivered in packages, no delivery ticket shall be required.

No coal, charcoal, or coke shall be sold which contains at the time the weight is taken more water

or other liquid substance than is due to the natural condition of the coal, charcoal, or coke.

Every vendor of coal, charcoal, or coke shall cause his name and address to be distinctly and conspicuously displayed in letters and figures at least four inches high on both sides of every vehicle used by or for him for the sale or delivery of coal, charcoal, or coke. In case of an estate, the trustee, administrator, or executor, or other person in charge of the affairs of such estate shall be deemed to be the vendor. [1921; last amended 1945.]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-112. Ice: Sale by weight; scale graduations.

It shall be unlawful to sell, within the District of Columbia, any ice in any manner other than by weight, such weight to be ascertained at the time of delivery of such ice, and every person, or in case of a firm, copartnership, or corporation, the person in charge of its business in the District of Columbia, engaged in the sale of ice shall keep on each of his or its wagons or other vehicles used in the sale or delivery of ice, while in use, a scale suitable for weighing ice which has been tested and approved in accordance with the provisions of sections 10-101 to 10-120, 10-122 to 10-131, * * *. Every scale used for weighing ice in making sales in quantities of one hundred pounds or less shall have graduations of one pound or less. Scales used for weighing ice in making sales in quantities of more than one hundred pounds may have graduations of five pounds or less. [1921]

Sec. 10-113. Bread: Standard loaf; marking requirements; tolerances.

The standard loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall weigh one pound avoirdupois, but bread may also be manufactured for sale, sold, offered, or exposed for sale in loaves of one-half pound, one pound and a half, or multiples of one pound, but shall not be manufactured for sale, sold, offered, or exposed for sale in other than the aforesaid weights. Every loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall have affixed thereon in a conspicuous place, a label at least one inch square, or, if round, at least one inch in diameter, upon which label there shall be printed in plain bold-face Gothic type, not smaller than twelve point, the weight of the loaf in pound, pounds, or fractions of a pound, as the case may be, whether the loaf be a standard loaf or not, the letters and figures of which shall be printed in black ink upon white paper. The business name and address of the maker, baker, or manufacturer of the loaf shall also be plainly printed on each such label. Every seller of bread in the District of Columbia shall keep a suitable scale which shall have been inspected and

approved in accordance with the provisions of sections 10-101 to 10-120, 10-122 to 10-134, * * * in a conspicuous place in his bakery, bakeshop, or store, or other place where he is engaged in the sale of bread, and shall, whenever requested by the buyer, and in the presence of the buyer, weigh the loaf or loaves of bread sold or offered for sale. Nothing herein shall apply to crackers, pretzels, buns, rolls, scones, or to loaves of fancy bread weighing less than one-fourth of one pound avoirdupois, or to what is commonly known as stale bread, provided the seller shall, at the time the sale is made, expressly state to the buyer that the bread so sold is stale bread: *Provided*, That any loaf of bread weighing within 10 per centum in excess or within 4 per centum less than standard weight shall be deemed of legal weight. [1921]

Sec. 10-114. Bottles for milk and cream.

Bottles or jars used for the sale of milk or cream shall be of the capacity of one gallon, half gallon, three pints, one quart, one pint, half pint, or one gill. Such bottles or jars shall have clearly blown or otherwise permanently marked in the side of each such bottle or jar or printed on the cap or stopple the name and address of the person, firm, or corporation who or which shall have bottled such milk or cream. Any person who uses, for the purpose of selling milk or cream, bottles or jars which do not comply with the requirements of this section shall be deemed guilty of using false measure. [1921; last amended 1945.]

Sec. 10-115. Standard containers for fruits, vegetables, and other dry commodities; offenses.

Standard containers for the sale of fruits, vegetables, and other dry commodities in the District of Columbia shall be as follows:

(a) 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 stave, 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 head, 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 to sell, offer, or expose for sale in the District of Columbia a barrel containing fruits or vegetables or any other dry com-

modity of less capacity than the standard barrels defined in this section, or subdivisions thereof known as the third, half, and three-quarter barrel.

(b) Standards for climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively.

The standard two-quart climax basket shall be of the following dimensions: length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used.

The standard four-quart climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches; width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

The standard twelve-quart climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used.

(c) The six-basket carrier crate for fruits and vegetables shall contain six four-quart baskets, each basket having a capacity of two hundred and sixty-eight and eight-tenths cubic inches.

(d) The four-basket flat crate for fruits and vegetables shall contain four three-quart baskets, each basket having a capacity of two hundred and one and six-tenths cubic inches.

(e) The standard box, basket, or other container for berries, cherries, shelled peas, shelled beans, and other fruits and vegetables of similar size shall be of the following capacities standard dry measure: One-half pint, pint, and quart. The one-half pint shall contain sixteen and eight-tenths cubic inches; the pint shall contain thirty-three and six-tenths cubic inches; the quart shall contain sixty-seven and two-tenths cubic inches.

(f) Standard lug boxes for fruits and vegetables shall be the one-half bushel box and the one-bushel box.

The one-half bushel lug box shall be of the following inside dimensions: Length, seventeen inches; width, ten and five-tenths inches; depth, six inches.

The one-bushel lug box shall be of the following inside dimensions: Length, twenty and three-fourths

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inches; width, thirteen inches; depth, eight inches; and no lug box of other than the foregoing dimensions shall be used in the District of Columbia.

(g) The standard hampers for fruits and vegetables shall be the one-peck hamper, one-half bushel hamper, one-bushel hamper, and one and one-half bushel hamper.

The one-peck hamper shall contain five hundred and thirty-seven and six-tenths cubic inches; the one-half bushel hamper shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches. The one-bushel hamper shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches, and the one and one-half bushel hamper shall contain three thousand two hundred and twenty-five and sixty three one-hundredths cubic inches.

(h) The standard round-stave baskets for fruits and vegetables shall be the one-half-bushel basket, one-bushel basket, one and one-half-bushel basket, and two-bushel basket.

The one-half bushel basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches. The one-bushel basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches. The one-and-one-half-bushel basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches, and the two-bushel basket shall contain four thousand three hundred and eighty-four one-hundredths cubic inches.

(i) The standard apple box shall contain two thousand one hundred and seventy-three and five-tenths cubic inches and be of the following inside dimensions: Length, eighteen inches; width, eleven and one-half inches; depth, ten and one-half inches.

(j) The standard pear box shall be of the following inside dimensions: Length, eighteen inches; width, eleven and one-half inches; depth, eight and one-half inches.

(k) The standard onion crate shall be of the following inside dimensions: Length, nineteen and five-eighths inches; width, eleven and three-sixteenths inches; depth, nine and thirteen-sixteenths inches.

(l) No person shall sell, offer, or expose for sale in the District of Columbia any fruits, vegetables, grain, or similar commodities in any manner except in the standard containers herein prescribed or by weight or numerical count; and no person shall sell, offer, or expose for sale, except by weight or numerical count, in the District of Columbia any commodity in any container herein prescribed which does not contain, at the time of such offer, exposure, or sale, the full capacity of such commodity compactly filled: *Provided*, That fresh beets, onions, turnips, rhubarb, and other similar vegetables, usually and customarily sold by the bunch, may be sold by the bunch.

All kale, spinach, and other similar leaf vegetables shall be sold at retail by net weight. [1921]

Sec. 10-116. Substitution of containers for dry measure.

Nothing in sections 10-101 to 10-120, 10-122 to 10-134, * * * contained shall be construed as permitting the use as a dry measure or substituting for a dry measure any of the following containers: Barrels, boxes, lug boxes, crates, hampers, baskets, or climax baskets; and the use of any such container as a measure is hereby expressly prohibited, and the user shall be fined or imprisoned as herein provided for other violations of said section. [1921]

Sec. 10-117. Marking requirements for food packages.

No person shall sell, offer, or expose for sale in the District of Columbia any food in package form unless the quantity of contents is plainly and conspicuously marked on the outside of each package in terms of weight, measure, or numerical count. The commissioners are authorized to establish and allow reasonable variation, tolerances, and exemptions as to small packages. [1921]

Sec. 10-118. Wood: Cord; standard loads.

A cord of wood shall contain one hundred and twenty-eight cubic feet. Wood more than eight inches in length shall be sold by the cord or fractional part thereof, and when delivered shall contain one hundred and twenty-eight cubic feet per cord when evenly and compactly stacked. Split wood, eight inches or less in length, may be sold by such standard loads as shall be fixed by the commissioners. [1921]

Sec. 10-119. Standard liquid gallon, quart, pint, half pint, gill, and fluid ounce; automatic pumps; measure for ice cream, sherbet, and similar frozen food products.

The standard liquid gallon shall contain two hundred and thirty-one cubic inches; the half gallon, one hundred and fifteen and five-tenths cubic inches; the quart, fifty-seven and seventy-five hundredths cubic inches; the pint, twenty-eight and eight hundred and seventy-five thousandths cubic inches; the half pint, fourteen and four hundred and thirty-seven thousandths cubic inches; the gill, seven and two hundred and eighteen thousandths cubic inches; the fluid ounce, one and eight-tenths cubic inches; and no liquid measure of other than the foregoing capacities, except multiples of the gallon, shall be deemed legal liquid measure in the District of Columbia: *Provided*, That any automatic pump for the measurement of gasoline shall have graduations of fractional parts of a gallon in terms of either decimal or binary-submultiple subdivisions.

The standard measure for ice cream, sherbet, and similar frozen food products shall be of the following capacities: One-half pint, pint, quart, half gallon, gallon, two gallons, two and one-half gallons,

and multiples of the gallon; and no person shall use in determining the quantity of ice cream kept for sale, offered for sale, or sold in the District of Columbia any measure of other than the foregoing capacities. [1921; last amended 1946.]

Sec. 10-120. Shucked oysters, fish, meat, poultry, etc.: How sold.

Shucked oysters shall be sold only by liquid measure or numerical count, and whenever there is included in the sale by measure of shucked oysters more than 10 per centum of oyster liquid or other liquid substance, the vendor shall be deemed guilty of selling short measure. All fish, meat, poultry, meat products, lard, lard substitutes, butter, butter substitutes, and cheese shall be sold by avoirdupois weight. [1921; last amended 1945.]

Sec. 10-121. Corn: Barrel for.

Three hundred and fifty pounds of corn on the cob shall constitute a barrel and two hundred and eighty pounds of shelled corn shall constitute a barrel; *Provided*, That nothing in this section shall be held to prohibit the sale of corn on the cob by the barrel. [1899]

[**Ed. NOTE.**—The act of 1898 (30 Stat., Ch. 30, p. 765) relating to flour and flour inspection, among other provisions, set up the 196 pound barrel as the barrel for flour in the District of Columbia. Although this act has not been repealed the Code Committee have declared it "obsolete" and therefore it has not been included in the Code of 1940 or in this publication. Its full text may be found in the 1929 Code, Title 20, Part 13, and the specific section relating to the weight of the flour barrel is Section 425 at page 228.]

Sec. 10-122. Automatic measuring pumps: "Out of use" sign; inspection.

Every user of an automatic measuring pump or similar device, shall, when the supply of the commodity which he is measuring for sale with such pump or similar device, is insufficient to deliver correct measure of such commodity by the usual or customary method of operating such pump or device or when, for any cause whatever, such pump or device does not, by the usual or customary method of operating same, deliver correct measure, place a sign with the words, "Out of use" in a conspicuous place on such pump or device where it may readily be seen, and shall forthwith cease to use the same until his supply of such commodity is replenished or until such pump or device is repaired, adjusted, or otherwise put in condition to deliver correct measure. All automatic measuring pumps or other similar measuring devices in use shall be subject to inspection, and approval or condemnation, whether used for measuring or not. [1921]

Sec. 10-123. Stated price for stated quantity; pro rata for smaller quantities.

Whenever any commodity is offered for sale at a stated price for a stated quantity, a smaller quantity

shall be sold at a pro rata price unless the purchaser is informed to the contrary at the time of sale. [1921]

Sec. 10-124. Additional duties of superintendent.

The superintendent,¹ or under his direction, his assistants and inspectors, shall from time to time weigh or measure and inspect packages or amounts of commodities of whatever kind kept for sale, offered or exposed for sale, sold, or in the process of delivery, in order to determine whether or not the same are kept for sale, offered for sale, or sold in accordance with the provisions of sections 10-101 to 10-120, 10-122 to 10-134, * * * and no person shall refuse to permit such weighing, measuring, or inspection whenever demanded by the superintendent or any of his assistants or inspectors. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-124a. Investigation and detection of misrepresentation and false advertising in connection with food sales.

The Superintendent¹ of Weights, Measures, and Markets is further authorized to make purchases of food in connection with the investigation and detection of sales of food by misrepresentation or false advertising in violation of sections 22-1411 to 22-1413²; and there are authorized to be appropriated annually such sums as may be necessary for carrying out the purposes of this section. [1921; last amended 1945.]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

² See page 208.

Sec. 10-125. Superintendent not to deal in appliances.

It shall be unlawful for the superintendent¹ or any employee of his office to vend any weights, measures, weighing or measuring device, or to offer or expose the same for sale, or to be interested, directly or indirectly, in the sale of same. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-126. Police powers; right of entry.

There is hereby conferred upon the superintendent¹, his assistants and inspectors, police power, and in the exercise of their duties they shall, upon demand, exhibit their badges to any person questioning their authority; and they are authorized and empowered to make arrests of any person violating any of the provisions of sections 10-101 to 10-120, 10-122 to 10-134, * * *. The superintendent, his assistants, and inspectors may, for the purpose of carrying out and enforcing the provisions of this chapter [Secs. 10-101—10-137] and in the performance of their official duties, with or without formal warrant, enter or go into or upon any stand, place, building, or premises, except a private residence, and may stop any vendor, ped-

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dler, dealer, vehicle, or person in charge thereof for the purpose of making inspections or tests. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-127. Specifications and tolerances.

The Commissioners are hereby authorized and empowered to establish tolerances and specifications for scales, weights, measures, weighing or measuring instruments or devices, and containers used in the District of Columbia. The Commissioners shall prescribe and allow for barrels, containers, and packages, provided for in sections 10-101 to 10-120, 10-122 to 10-134, * * * the same specifications, variations, or tolerances that have been prescribed or established, or that may hereafter be prescribed or established for like barrels, containers, or packages by any officer of the United States in accordance with any requirement of an act of Congress. [1921]

Sec. 10-128. Public weighmasters.

The Commissioners are authorized to appoint public weighmasters and grant licenses for the location of public scales in the District of Columbia under such regulations as they may prescribe, and authorize such weighmasters to charge such fees as the Commissioners may approve and fix in advance, and they may grant permits, revocable on thirty days' notice, for the location of such public scales on public space under their control. No person other than a duly appointed and qualified public weighmaster shall do public weighing or make any charge or accept any compensation therefor. [1921]

Sec. 10-129. Powers and duties of superintendent conferred on assistants and inspectors.

The powers and duties granted to and imposed on the superintendent¹ by sections 10-101 to 10-120, 10-122 to 10-134, * * * are also hereby granted to and imposed on his assistants and inspectors when acting under his instructions. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-130. Enactment and enforcement of rules and regulations; supervision of produce and other markets; investigations and reports.

The Commissioners are authorized and empowered to make such regulations as may be necessary for the control, regulation, and supervision of all markets owned by the District of Columbia and that the Superintendent¹, under the direction of the Commissioners, shall have supervision of all produce and other markets owned by the District of Columbia, shall enforce such regulations regarding the operation of the same as the Commissioners may make, shall make such investigations regarding

the sale, distribution, or prices of commodities in the District of Columbia as the Commissioners may direct, and shall make reports and recommendations in connection therewith. [1921; last amended 1945.]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-131. Definitions.

Wherever the word "Commissioners" is used in sections 10-101 to 10-120, 10-122 to 10-134, * * * it shall be construed to mean the Commissioners of the District of Columbia. Whenever the word "superintendent"¹ is used in said sections, it shall be construed to mean the superintendent of weight, measures, and markets. [1921]

¹ Title of Superintendent of Weights, Measures, and Markets changed to Director; see Sec. 10-101a.

Sec. 10-132. Same.

The word "person," as used in sections 10-101 to 10-120, 10-122 to 10-134, * * * shall be construed to include copartnerships, companies, corporations, societies, and associations. Wherever any word in said sections is used in the singular, it shall be construed to mean either singular or plural, and wherever any word in said sections is used in the plural, it shall be construed to mean either plural or singular, as the circumstances demand. [1921]

Sec. 10-133. Saving clause.

Sections 10-101 to 10-133, and every provision of each section, is hereby declared to be an independent section or provision, and the holding of any section or provision of any section to be void, ineffective, or unconstitutional for any cause whatever shall not be deemed to affect any other section or provision thereof. [1921]

Sec. 10-134. Penalties; prosecutions.

Any person violating any of the provisions of sections 10-101 to 10-133 shall be punished by a fine not to exceed \$500, or by both such fine and imprisonment not to exceed six months. All prosecutions under sections 10-101 to 10-120, 10-122 to 10-134, * * * shall be instituted by the corporation counsel or one of his assistants in the police court of the District of Columbia. [1921]

Code, 1940 Edition, Title 43, Ch. 3—Public Utilities, Testing of Meters.

Sec. 43-320. Rules and regulations of commission.

The commission [public utilities commission] * * * shall establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [1913]

Sec. 43-321. Test and examination; fees.

The commission [public utilities commission] shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility. Any consumer or user may have any such appliance tested upon payment of the fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance be found defective or incorrect to the disadvantage of the consumer or user. [1913]

Code, 1940 Edition, Title 43, Ch. 6—Public Utilities, Inspectors of Gas and Electric Meters.

Sec. 43-603. Appointment of inspectors; duties; inspecting meters upon request.

The commission [public utilities commission] shall appoint inspectors of gas meters, whose duty it shall be, when required by the commission, to inspect, examine, prove, and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat, or power furnished by any person or corporation to or for the use of any person or corporation, and when found to be or made to be correct, the inspector shall seal all such meters and each of them with some suitable device, which device shall be recorded in the office of the commission.

No corporation or person shall furnish, set, or put in use any gas meter which shall not have been inspected, proved, and sealed by an inspector of the commission.

The commission shall appoint inspectors of electric meters, whose duty it shall be, when required by the commission, to inspect, examine, and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat, or power by any person or corporation to or for the use of any person or corporation, and to inspect, examine, and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters; and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the commission. No corporation or person shall furnish, set, or put in use any electric meter the type of which shall not have been approved by the commission or any meter not approved by an inspector of the commission.

Every gas corporation and electrical corporation shall provide, repair, and maintain such suitable premises and apparatus and facilities as may be

required and approved by the commission for testing and proving the accuracy of gas and electric meters furnished for use by it, and by which apparatus every meter may be tested.

If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same, on being so tested, shall be found to be more than two per centum defective or incorrect to the prejudice of the consumer, the inspector shall order the gas or electrical corporation forthwith to remove the same and to place instead a correct meter, and the expense of such inspection and test shall be borne by the corporation; if the same, on being so tested, shall be found to be correct, the expense of such inspection and test shall be borne by the consumer.

The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. [1913; last amended 1939.]

Code, 1940 Edition, Title 43, Ch. 9—Public Utilities, Penal Provision.

Sec. 43-906. Penalty for violations.

If any public utility shall violate any provision of chapters 1-10 [Secs. 43-101—43-1007] * * * or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided, or shall fail, neglect, or refuse to obey any lawful requirement or order made by the commission [public utilities commission], or any judgment or decree made by any court upon its application for every such violation, failure, or refusal, such public utility shall forfeit and pay to the District of Columbia the sum of two hundred dollars for each such offense. * * * [1913]

Code, 1940 Edition, Title 33, Ch. 4—Narcotic Drugs.

Sec. 33-412. Marking requirements.

(a) Whenever a manufacturer sells or disposes a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1938]

Sec. 33-422. Enforcement.

It is hereby made the duty of the major and superintendent of police of the District of Columbia to enforce all provisions of this chapter [Secs. 33-401—33-425], except those specifically delegated, and to cooperate with all agencies charged with the

Code, 1940 Edition, Title 33, Ch. 4—Narcotic Drugs
—Continued.

enforcement of the laws of the United States relating to narcotic drugs. [1938]

* * * * *

Sec. 33-423. Penalties for violations.

Any person violating any provision of this chapter [Secs. 33-401—33-425], or of any regulation made by the Board of Pharmacy under authority of said sections, shall upon conviction be punished, for the first offense, by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment. [1938]

Code, 1940 Edition, Title 22, Ch. 14—False Advertising.

Sec. 22-1411. Unlawful acts.

It shall be unlawful in the District of Columbia for any person, firm, association, corporation, or advertising agency, either directly or indirectly, to

display or exhibit to the public in any manner whatever, whether by handbill, placard, poster, picture film, or otherwise; or to insert or cause to be inserted in any newspaper, magazine, or other publication printed in the District of Columbia; or to issue, exhibit, or in any way distribute or disseminate to the public; or to deliver, exhibit, mail, or send to any person, firm, association, or corporation any false, untrue, or misleading statement, representation, or advertisement with intent to sell, barter, or exchange any goods, wares, or merchandise or anything of value * * *. [1916]

Sec. 22-1413. Same: Penalty.

Any person, firm, or association violating any of the provisions of section 22-1411 shall upon conviction thereof, be punished by a fine of not more than five hundred dollars or by imprisonment of not more than sixty days, or by both fine and imprisonment, in the discretion of the court. A corporation convicted of an offense under the provisions of section 22-1411 shall be fined not more than five hundred dollars, and its president or such other officials as may be responsible for the conduct and management thereof shall be imprisoned not more than sixty days, in the discretion of the court. [1916]

FLORIDA

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Sec. 531.01. Liquid gallon; bushel weights.

The following standards of weights and measures shall be the standard of weights and measures throughout the State of Florida:

One standard liquid gallon shall contain two hundred thirty-one solid inches.

The weights and measures shall be as follows:¹

*Pounds avoirdupois
per bushel*

Wheat	60
Corn, shelled	56
Corn, on cob with shuck	70
Sorghum seed	56
Barley seed	48
Oats	32
Bran	20
Corn meal	48
Beans, shelled	60
Beans, velvet, in hulls	78
Beans, castor, shelled	48
Millet seed	50
Peggar weed seed	62
Irish potatoes	60
Sweet potatoes	56
Turnips	54
Onions	56
Salt	60
Peanuts	22
Chufas	54
Rye	56
Apples, dried	24
Apples, green	48
Quinces	48

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	<i>Pounds avoirdupois per bushel</i>
Peaches, dried	24
Peaches, green	52
Cotton seed	34
Cotton seed, Sea Island	44
Plums	40
Pears	55
Guavas	54

[1901; last amended 1917.]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 531.02. Contracts governed by standards.

All contracts made within this state for work to be done or anything to be sold or delivered by weight or measure shall be taken and construed according to the standard of weights and measures adopted as the standard of this state. [1901]

Sec. 531.03. Marking requirements for packaged commodities.

All merchants, commission merchants, grocers, provision dealers, storekeepers and other persons, before selling or offering for sale any grain, flour, meal, grits, corn, wheat, rye, oats, bran, beans, irish potatoes, sweet potatoes or peanuts, already put up, packed or placed in any sack, bag or barrel, in original packages, shall have marked or stamped or stenciled upon such sack, bag or barrel, so sold or offered for sale, with its contents in figures, at least one inch in length, the exact weight in pounds avoirdupois of such bag, sack or barrel, with its contents. If the bag, sack or barrel is of a dark or

black color such figures shall be marked, stamped or stenciled in light colored ink or pencil; if the bag, sack or barrel is of a light color, then the marking, stamping or stenciling shall be in black or dark pencil, but in all cases the stamping, marking or stenciling shall be plain, legible, and placed conspicuously on such bag, sack or barrel. [1901]

Sec. 531.04. Standard crate for tomatoes.

The legal and standard crate for tomatoes shall measure ten inches in depth, eleven inches in width, and twenty-four inches in length, on the outside. [1917]

Sec. 531.05. Standard basket for tomatoes.

The legal and standard basket for use in tomato crates shall measure nine and one-half inches long in the bottom, five inches wide in the bottom and four and one-half inches deep, all of the last aforementioned measurements being inside measurements. The length of the inside of the top hoop of each basket shall be thirty-two and one-half inches. [1917]

Sec. 531.06. Only standard containers lawful for tomatoes.

No crate or basket intended for the sale, shipment or delivery for sale or shipment of tomatoes, except of the standard measure herein specified, shall be manufactured or sold. [1917]

Sec. 531.07. Penalty: For selling by false weight or measure.

Whoever knowingly sells by false weight or measure, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one thousand dollars. [1832]

Sec. 531.08. Same: For failing to have weights and measures tested.

Whoever refuses to have his weights and measures tested, or refuses to pay the fees for the same, or whoever, after his weights and measures have been tested, fails to make them conform to the standard, and keep them conformed, shall be punished by imprisonment not exceeding sixty days, or by fine not exceeding one hundred dollars. [1892]

Sec. 531.09. Same: For merchant offering to sell grain, etc., without marking sack.

Any merchant, commission merchant, grocer, provision dealer, storekeeper or other person, or any officer, agent, clerk or employee of any merchant, commission merchant, grocer, provision dealer or storekeeper who shall offer for sale, attempt to sell or sell any of the articles mentioned in Section 531.03, already put up, placed or packed in any sack, bag or barrel, in original packages, without having such sack, bag or barrel marked, stamped or stenciled as in the manner therein prescribed before offering for sale, attempting to sell or selling the same, shall be punished by fine not exceeding two hundred

dollars for each offense, or by imprisonment for not more than three months. [1901]

Sec. 531.10. Same: For merchant selling by short weight.

Any merchant, commission merchant, grocer, provision dealer, storekeeper, or other person, or any officer, agent, clerk or employee of any merchant, commission merchant, grocer, provision dealer, or storekeeper, who shall sell or dispose of any sack, bag or barrel with its contents, containing any of the articles mentioned in Section 531.03 upon which the weight in avoirdupois of such sack, bag or barrel with its contents has been marked, stamped or stenciled as provided, and the weights so stamped, marked or stenciled shall not be the true and correct weight of such sack, bag or barrel with its contents, but the weight so marked, stamped or stenciled shall be a greater weight than the true and the correct weight of such sack, bag or barrel with its contents, shall be punished for each offense by a fine not exceeding two hundred dollars or by imprisonment for not more than three months. [1901]

Sec. 531.11. Same: For selling tomatoes in crates other than standard measure.

Every crate or basket used for the sale or delivery of tomatoes shall be of the Florida standard measure as provided by this chapter [Secs. 531.01—531.34], and no person shall use any crate or basket for such sale, shipment or delivery, unless the same be of such standard measure. This shall not apply to local persons, dealers in or growers of tomatoes, or shipments within the state. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days. [1917]

Sec. 531.12. Unlawful to sell certain commodities except by pound.

It is unlawful for any dealer to sell, offer for sale, barter, exchange, or otherwise dispose of, any of the different commodities named in Section 531.01, except by the pound. Any person violating this section shall be guilty of a misdemeanor. [1917]

Sec. 531.16. State standards of weights and measures.

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 have been certified by the national bureau of standards, be the state standards of weights and measures. [1945]

Statutes Annotated, Vol. 16, Title 31, Ch. 531—
Weights, Measures and Standards—Continued.

Sec. 531.17. Office standards; verification; certification of state standards.

(1) In addition to the state standards of weights and measures provided for in Section 531.16, there shall be supplied by the state at least one complete set of copies thereof to be kept at all times in the offices of the 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 law [Secs. 531.16—531.33], to be known as working standards. Such weights, measures and apparatus shall be verified by the commissioner or his 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 and 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 letters "Fl." and, in the case of working standards, the last two figures of the year, with seals which the 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 commissioner and the state standards shall be used only in verifying the office standards and for scientific purposes.

(2) The commissioner 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. [1945]

Sec. 531.18. Enforcement.

The duty of administering this law [Secs. 531.16—531.33] and enforcing its provisions and requirements shall be and is hereby vested in the commissioner of agriculture of the State of Florida who is hereby authorized to employ such agents and persons as in his judgment shall be necessary therefor to act as inspectors in carrying out the provisions of this law and whose salaries shall be fixed by the commissioner. In the administration and enforcement of this law the commission may act by and through such persons as he shall designate and/or employ to act as his inspectors for that purpose. [1945]

Sec. 531.19. Regulations.

The commissioner shall issue from time to time regulations for the enforcement of the provisions of this law [Secs. 531.16—531.33]. 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 531.20. For the purposes of this law, apparatus shall be deemed to be correct when it con-

forms to all applicable requirements promulgated as specified in this section; other apparatus shall be deemed to be incorrect. [1945]

Sec. 531.20. Inspecting, trying, approving, etc., weights and measures.

When not otherwise provided by law the commissioner shall have the power and is hereby authorized 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 as often as he deems necessary and practicable see that all weights, measures and weighing or measuring devices used are correct. He may for that purpose 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, delivery vehicle, or any person whatsoever and require him, if necessary, to proceed to some place which the commissioner may specify for the purpose of making the proper tests. Whenever the commissioner finds a violation of the statutes relating to weights and measures, he may cause the violator to be prosecuted. [1945]

Sec. 531.21. Approval of weights, measures, etc.

Whenever the commissioner compares weights, measures of [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 identification. [1945]

Sec. 531.22. Condemnation of illegal weights and measures.

(1) The 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."

(2) 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 time as may be specified by the commissioner and they may neither use nor dispose of the same in any way but shall hold the same at the disposal of the 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 commissioner. [1945]

Sec. 531.23. Inspectors: Powers, duties, etc.

The powers and duties given to and imposed upon the commissioner by Secs. 531.20-531.22 are hereby given to and imposed upon his inspectors also, when acting under his instructions and at his direction. [1945]

Sec. 531.24. Seizure of illegal weights and measures for evidence.

The commissioner and his inspectors are hereby specifically authorized and empowered 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. [1945]

Sec. 531.25. Obstruction of commissioner, inspectors, etc., prohibited.

It shall be unlawful for any person to in any way hinder or obstruct the commissioner or his inspectors in the performance of his or their official duties under this law [Secs. 531.16-531.33], or to fail or refuse to obey any lawful order of the commissioner or his inspectors given under authority of this law. It shall also be unlawful for any person to in any way impersonate the commissioner or his inspectors by the use or counterfeit of his or their seal or otherwise. [1945]

Sec. 531.26. Packages, containers, etc., to be marked.

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 commissioner. 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 law [Secs. 531.16-531.33]. [1945]

Sec. 531.27. Definitions.

(1) The words "in package form" as used in this law [Secs. 531.16-531.33] shall be construed to in-

clude 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 out of the presence of the purchaser 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.

(2) 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.

(3) 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 one-sixty-fourth parts.

(4) 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.

(5) 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.

(6) The term "ton" shall be understood to mean a unit of 2,000 pounds avoirdupois weight.

(7) The term "cord" when used in connection with wood 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 of the kerf of the wood is included.

(8) All contracts concerning the sale of goods shall be construed in accordance with the provisions of this section.

(9) The word "person" as used in this law 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 word "commissioner" wherever used in this law means the commissioner of agriculture of the State of Florida.

(10) The words "weight, measures, or (and) weighing or (and) measuring devices" as used in this law 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.

(11) The words "sell" or "sale" as used in this law shall be construed to include barter and exchange. [1945]

Statutes Annotated, Vol. 16, Title 31, Ch. 531—
Weights, Measures and Standards—Continued.

Sec. 531.28. Misleading packages, containers, etc.; standards of fill.

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 commissioner is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill of container. [1945]

Sec. 531.29. Textiles: Marking weight or measure on tag or label.

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, except when put up in the presence of the purchaser. [1945]

Sec. 531.30. Net weights to apply.

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 law [Secs. 531.16-531.33] it shall be understood and construed to mean the net weight of the commodity. [1945]

Sec. 531.31. Penalties for violations.

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 who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law, or remove any tag placed thereon by the commissioner or his 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 law [Secs. 531.16-531.33], 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 more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment. [1945]

Sec. 531.32. Injunctions against violations; jurisdiction.

In addition to the remedies provided in this law [Secs. 531.16-531.33], and notwithstanding the existence of any adequate remedy at law, the commissioner is hereby authorized to apply by a bill in equity to a circuit court or circuit judge and such circuit court or circuit judge shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this law or for failing or refusing to comply with the requirements of this law or any rule or regulation duly promulgated as in this law authorized, such injunction to be issued without bond. [1945]

Sec. 531.34. Flour: Standard weight containers; definition of "wheat flour"; marking requirements; exceptions; penalties for violations.

(1) Hereafter the standard measures of wheat flour shall be containers of net avoirdupois weights of two, five, ten, twenty-five, fifty and one hundred pounds.

(2) The term "wheat flour" as used herein means: Plain wheat flour, self-rising wheat flour, phosphated wheat flour, bromated wheat flour, enriched wheat flour, enriched self-rising wheat flour and enriched phosphated wheat flour as defined in the standards of identity promulgated by the federal security agency under date of May 26, 1941 (volume 6, federal register, pages 2574 to 2582, inclusive), or as they may be amended.

(3) Each container shall have its net weight, and the name and address of the actual manufacturer or distributor printed or plainly marked on it in letters and figures clearly legible.

(4) No person shall pack for sale, sell or offer for sale in Florida any wheat flour except in containers of the standard net weights and in accordance with the labeling provisions.

(5) The provisions of this section do not apply to the retailing of flour direct from the manufacturer to the consumer, nor to the sale of flour to the bakery trade, nor to the exchanging of wheat for flour, nor to flour packed in cartons, the net contents of which are five pounds or less.

(6) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment.

(7) This section shall take effect six months after the expiration of the national emergency which was declared to exist by the proclamation of the President of the United States on May 27, 1941. [1945]

Statutes Annotated, Vol. 14, Title 26, Ch. 375—
Standard Measure for Oysters and Clams.

Sec. 375.19. Standard measures; stamps; fees.

As a standard measure, a half barrel of oysters shall consist of a tub or other round vessel of the following dimensions, or the cubical equivalent thereof, to-wit: It shall measure eighteen and one-half inches inside at the top, and seventeen inches from bottom to top, and twenty-five and one-half inches diagonal, the unit of such tub or measure may be in the shape of an inverted frustrum of a cone. Two of these measures, filled, rounded and banked shall make one barrel, and all oysters or clams bought and sold in this state in the shell shall be measured in a measure of this equivalent, or measure holding a fraction or multiple thereof; and it shall be unlawful for any person to have in his possession any measure for oysters or clams in the shell which differs in equivalent size from the measure herein provided for; or demand or require a cargo of less or greater measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters or clams until it has been measured and stamped by the supervisor of conservation, or some conservation agent, with a metal tag or stamp, showing the quantity of oysters or clams such measure will hold.

The state board of conservation shall make, or have made, to be paid out of any funds to the credit of the state conservation fund, such measures, to be sold at actual cost, and to have the supervisor of conservation or some conservation agent visit, for the purpose of measuring all vessels used in buying or selling of oysters or clams, each place where oysters or clams are bought or sold, and the state board of conservation shall keep a book in which

shall be recorded the dimensions of all measures so measured. For each stamp or tag the said board shall charge the sum of twenty-five cents from the person to whom it is issued, and such moneys shall be deposited in the state conservation fund.

The state board of conservation shall keep a book, to be known as the oyster and clam measure record, in which shall be registered the name of each person to whom such stamp or tag was issued, and the date of issuance and its number, and said record shall be open for the inspection of the public. [1913; last amended 1921.]

Sec. 375.33. Penalty for violations.

Any person willfully violating any of the provisions of this chapter [Secs. 375.01—375.33] unless otherwise provided, shall, upon conviction, be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months. [1913]

Florida Statutes Annotated, Vol. 9, Title 12, Ch. 168—Cities and Towns.

Sec. 168.06. Powers of city and town council.

The city or town council may * * * establish and regulate the weight and assize of bread, * * * the gauging of liquors, the measurement and weighing of any produce or merchandise * * *. [1877]

Statutes Annotated, Vol. 14, Title 27, Ch. 398—
"Uniform Narcotic Drug Act."

Sec. 398.11. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1933]

Sec. 398.21. Enforcement.

The State board of health, its agents, inspectors, officers and representatives, and all peace officers of the state, and all prosecuting attorneys, shall enforce all provisions of this chapter [Secs. 398.01—398.23], except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, this state, and all other states relating to narcotic drugs. * * * [1933; last amended 1935.]

Sec. 398.22. Penalty for violations.

Any person violating any provisions of this chapter [Secs. 398.01—398.23], shall be deemed guilty of a felony and upon conviction be punished, for the first offense, by a fine not exceeding five thousand dollars, or by imprisonment in the state prison for not exceeding five years; and for any subsequent offense, by a fine not exceeding ten thousand dol-

Statutes Annotated, Vol. 14, Title 27, Ch. 398—
"Uniform Narcotic Drug Act"—Continued.

lars, or by imprisonment in the state prison for not exceeding ten years. [1933; last amended 1935.]

Statutes Annotated, Vol. 1, Title 4, Ch. 19—Bureau of Inspection.

Sec. 19.47. Bureau of Inspection: Created.

There is created in the department of the commissioner of agriculture of the State of Florida the bureau of inspection. The bureau of inspection created by this law shall be under the control and supervision of the commissioner of agriculture of the State of Florida. * * * [1925; last amended 1931.]

Sec. 19.48. Same: Appointment of inspectors; duties.

The governor may appoint inspectors for the bureau of inspection as provided by law as the same may be recommended in writing by the commissioner of agriculture. * * * Each of the inspectors appointed under the provisions of this section, when directed by the commissioner of agriculture so to do, shall perform any or all of those duties which have heretofore been performed by oil inspectors, by food, drug and fertilizer inspectors for the chemical division of the department of agriculture, and by citrus fruit inspectors, and each of said inspectors appointed under the provisions of this section, is vested with all power and authority and with each and every obligation and restriction heretofore applied to or vested in oil inspectors, food, drug and fertilizer inspectors for the chemical division of the department of agriculture and citrus fruit inspectors. [1925; last amended 1927.]

Statutes Annotated, Vol. 16, Title 31, Ch. 500—
"Florida Food, Drug and Cosmetic Law."

Sec. 500.03. Definitions.

For the purpose of this chapter [Secs. 500.01—500.32]—

(1) The term "Commissioner" means the commissioner of agriculture of the State of Florida.

(2) The term "person" includes individual, partnership, corporation and association.

(3) The term "food" means (a) articles used for food or drink for man or other animals, (b) chewing gum, and (c) articles used for components of any such article.

(4) The term "drug" means (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (c) articles, (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) articles intended

for use as a component of any article specified in clauses (a), (b), or (c) but does not include devices or their components, parts or accessories.

(5) The term "device" (except when used in subsection 11 and in sections 500.04 (10), 500.11 (6), 500.15 (3) and 500.18 (3) means instruments, apparatus and contrivances including their components, parts and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (b) to affect the structure or any function of the body of man or other animals.

(6) The term "cosmetic" means (a) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (b) articles intended for use as a component of any such articles, except that such term shall not include soap.

* * * * *

(8) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(9) The term "immediate container" does not include package liners.

(10) The term "labeling" means all labels and other written, printed, or graphic matters (a) upon an article or any of its containers or wrappers, or (b) accompanying such article.

(11) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations * * *.

(12) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

* * * * *

(16) The provisions of this chapter regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production,

processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any food, drug or cosmetic establishment. [1939]

Sec. 500.04. Prohibitions.

The following acts and the causing thereof within the State of Florida are prohibited:

(1) The manufacture, sale or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic.

(3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

(5) The dissemination of any false advertisement.

(6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section 500.21.

(7) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Florida from whom he received in good faith the food, drug, device or cosmetic. [1939]

* * * * *

Sec. 500.05. Injunction.

In addition to the remedies hereinafter provided the commissioner may apply to a circuit court for, and such court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction restraining any person from violating any provision of section 500.04; irrespective of whether or not there exists an adequate remedy at law. [1939]

Sec. 500.06. Seizure.

(1) When a duly authorized agent of the commissioner finds, or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter [Secs. 500.01-500.32], he shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

(2) When an article detained or embargoed under subsection (1) has been found by such agent to be adulterated, or misbranded, he shall forthwith and without delay, and in no event later than fifteen days after the affixing of such notice, petition the judge of the municipal court, county court, criminal court of record, or circuit court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(3) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent; and all court costs and fees and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling of the article and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, the court may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the commissioner that the article is no longer in violation of this chapter, and that the expenses of such supervision have been paid. [1939]

* * * * *

Sec. 500.09. Standards of fill of container.

When in the judgment of the commissioner such action will promote honesty and fair dealing in the interest of consumers, the commissioner of agriculture with the advice and consent of the state chemist shall promulgate regulations fixing and establishing for any food or class of food under its common or usual name so far as practicable a reasonable definition and standard of identity, or reasonable standard of quality or fill of container * * *. [1939]

Sec. 500.11. When food deemed misbranded.

A food shall be deemed to be misbranded—

(1) If its labeling is false or misleading in any particular.

* * * * *

(4) If its container is so made, formed, or filled as to be misleading.

(5) In package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; (b) an accurate statement of the quantity of the contents

Statutes Annotated, Vol. 16, Title 31, Ch. 500—"Federal Food, Drug and Cosmetic Law"—Continued.

in terms of weight, measure or numerical count; provided, that under clause (b) of this subsection reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the commissioner.

(6) If any word, statement, or other information required by or under authority of this chapter [Secs. 500.01-500.32] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(8) If it purports to be or is represented as—

* * * * *

(b) A food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 500.09 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1939]

* * * * *

Sec. 500.12. Exemptions.

* * * * *

(4) The commissioner shall promulgate regulations exempting from any labeling requirement of this chapter [Secs. 500.01-500.32] (a) small open containers of fresh fruits and fresh vegetables and (b) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment. [1939]

Sec. 500.15. When drugs and devices deemed misbranded.

A drug or device is deemed misbranded:

(1) If its labeling is false or misleading in any particular.

(2) If in package form unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (b) of this subsection, reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the commissioner with the advice and consent of the state chemist.

(3) If any word, statement, or other information

required by or under authority of this chapter [Secs. 500.01-500.32] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(9) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1939; last amended 1949.]

Sec. 500.18. When cosmetics deemed misbranded.

A cosmetic shall be deemed to be misbranded—

(1) If its labeling is false or misleading in any particular.

(2) If in package form unless it bears a label containing * * * (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (b) of this subsection reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the commissioner with the advice and consent of the state chemist.

(3) If any word, statement, or other information required by or under authority of this chapter [Secs. 500.01-500.32] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(4) If its container is so made, formed, or filled as to be misleading. [1939]

Sec. 500.19. When advertisement misleading.

(1) An advertisement of a food, drug, device, or cosmetic is deemed to be false if it is false or misleading in any particular. [1939]

* * * * *

Sec. 500.20. Regulations.

(1) The authority to promulgate regulations for the efficient enforcement of this chapter [Secs. 500.01-500.32] is vested in the commissioner. The commissioner may make the regulations promulgated under this chapter conform in so far as practicable with those promulgated under the federal act [Title 21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq.] [1939]

* * * * *

Sec. 500.21. Right of entry.

The commissioner or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices or cosmetics are manufactured, processed, packed, or held for introduction into com-

merce, or to enter any vehicle being used to transport or hold such foods, drugs, devices or cosmetics in commerce, for the purpose: (1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter [Secs. 500.01-500.32], or any regulation promulgated under its authority, are being violated, and (2) to secure samples or specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample, * * *

The commissioner may appoint inspectors for making such inspections and taking such samples as are necessary for the proper enforcement of this chapter. * * * [1939]

Sec. 500.22. Publicity.

(1) The commissioner may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter [Secs. 500.01-500.32], including the nature of the charge and the disposition thereof.

(2) The commissioner may also cause to be disseminated such information regarding foods, drugs, devices, and cosmetics as the commissioner deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the commissioner from collecting, reporting and illustrating the results of these investigations. [1939]

Sec. 500.24. Penalty for violations; guaranty protection.

(1) Any person who violates any of the provisions of section 500.04 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than six months or a fine of not more than five hundred dollars; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars.

(2) No person shall be subject to the penalties of subsection (1) of this section, for having violated section 500.04 (1) or (3), if he establishes a guaranty or undertaking signed by, and containing the name and address of the person residing in the State of Florida or the manufacturer from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this chapter [Secs. 500.01-500.32], designating this chapter. [1939]

* * * * *

Statutes Annotated, Vol. 16, Title 31, Ch. 502—
Imitation Butter and Filled Cheese.

Sec. 502.01. Definitions.

* * * * *

"Filled cheese" is defined to be cheese made from

skimmed milk or partly skimmed milk with the addition of some vegetable or animal fat.

* * * * *

"Imitation butter" is defined to be any product containing any fat other than that derived from milk or cream and made in the appearance of butter or designed to be used for any of the purposes for which butter is used. [1931]

Sec. 502.09. Marking requirements.

Imitation butter and filled cheese in package or wrapped form which are required by this chapter [Secs. 502.01-502.34] to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight point heavy Gothic type on the principal label with the following items:

* * * * *

(2) The quantity of the contents in terms of weight, measure or numerical count. Under this requirement, reasonable variations shall be permitted, and small packages shall be excepted in accordance with the rules of the commissioner of agriculture.

* * * * *

The above items shall be printed in such a way that there shall be a distinct contrast between the color of the letters and that of the background upon which they are printed. [1931]

Sec. 502.20. Enforcement.

The commissioner of agriculture shall enforce the provisions of this chapter [Secs. 502.01-502.34] * * *. [1931]

Sec. 502.25. Power of inspectors.

The several officers and inspectors of the commissioner of agriculture, and of the several municipalities or counties of the State of Florida may enforce and carry out the provisions of this chapter [Secs. 502.01-502.34] in all particulars, and to that end they are vested with full power and authority to do all such things as may be necessary to be done in that regard. [1931; last amended 1947.]

Sec. 502.26. Injunction to restrain violation.

In addition to the other remedies provided for by this chapter [Secs. 502.01-502.34], the commissioner of agriculture may proceed in any of the courts of this state by injunction to restrain any threatened continued violation of this chapter * * *. [1931; last amended 1947.]

Sec. 502.27. Penalty for violations.

Any person who shall violate any of the provisions of this chapter [Secs. 502.01-502.34], or shall do or commit any act declared to be unlawful, or shall violate any reasonable rule or regulation made or promulgated by the commissioner of agriculture

Statutes Annotated, Vol. 16, Title 31, Ch. 502—Imitation Butter and Filled Cheese—Continued.

by virtue of the authority given shall be punished by a fine of not more than five thousand dollars, or by imprisonment of not more than twelve months in the county jail. [1931]

Statutes Annotated, Vol. 16, Title 31, Ch. 523—Turpentine and Rosin.

Sec. 523.01. Definition.

When used in this chapter [Secs. 523.01–523.21]: (1) "Naval stores" means spirits of turpentine and rosin. [1941]

* * * * *

Sec. 523.08. Appointment of inspectors.

The governor may appoint a supervising inspector of naval stores, one or more inspectors of naval stores at large, and may appoint in each port in this state to which naval stores are, or may be consigned for sale or shipment, a sufficient number of competent inspectors for the business at such port. The supervising inspector, inspector of naval stores at large and inspectors of naval stores, shall be subject to removal by the governor at any time for cause; * * * [1941]

Sec. 523.15. Duties of inspector.

It shall be the duty of any inspector, upon notice given by any producer or agent of any producer, to attend at such time and place at or near the port for which he is appointed, or elsewhere if he be an inspector at large, as he may be required, for the purpose of inspecting spirits of turpentine and grading and weighing rosin, and to ascertain the true amount and quality thereof, and to mark the same by branding, or in some other durable manner, on each barrel, receptacle or package, and to issue at once in triplicate, sworn certificates of inspection, the original to be furnished to the producer or shipper; and the duplicate and triplicate to the buyer or factor and the supervising inspector of naval stores respectively; and the person for whom such inspection is made shall be at liberty to appeal to the supervising inspector to establish the incorrectness of such inspection. * * * [1941]

Sec. 523.16. Unlicensed persons not to make inspections.

It shall be unlawful for a person other than a licensed state inspector, or an inspector appointed by the department of agriculture of the United States, to measure and inspect or grade, mark or brand, for a fee, or fees, any naval stores in this state. * * * [1941]

Sec. 523.17. Methods of inspection.

Insofar as any method, standard, type or grade shall have been or may be established by or under the authority of the department of agriculture of

the United States, the inspection and grading of the quality of rosin and spirits of turpentine, or measuring the quantities thereof, shall conform with such method, standard, type or grade. [1941]

Sec. 523.18. Fees.

An inspector of naval stores shall receive for his services in inspecting rosin, including weighing, inspection and cooperage, six cents per barrel of approximately five hundred pounds, and for inspecting turpentine, including measuring of contents, inspection, bunging and cooperage, nine cents per barrel of approximately fifty gallons, and no more, to be paid by the owner or party for whom the inspection is made. When any such rosin or turpentine shall be in any receptacle or package other than a barrel, the inspector for inspecting same shall receive for his services, per barrel or fraction thereof, the contents of such receptacle or package, the same fee or amount of compensation hereinbefore allowed for inspecting each barrel. An inspector shall not be obliged to inspect any article or quantity until the fee thereof shall have first been paid. [1941]

Sec. 523.20. False marking; penalty.

If any inspector, or inspector of naval stores at large, shall knowingly and wilfully place on any barrel, receptacle, or package of spirits of turpentine or rosin, any mark or brand falsely indicating the quality or quantity of the contents thereof, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment at the discretion of the court. [1941]

Statutes Annotated, Vol. 16, Title 31, Ch. 525—Gasoline and Oil Inspection.

Sec. 525.07. Duties and powers of inspector; penalties.

The commissioner of agriculture shall inspect, or cause to be inspected, from time to time by his duly authorized agents or inspectors, all measuring devices used in selling or distributing gasoline or kerosene, both wholesale and retail. The commissioner of agriculture shall define and fix the tolerances to be allowed, in excess or deficiency on all such measuring devices; that on all such devices found to be giving accurate measure within the tolerances fixed by the commissioner of agriculture shall be placed a lead and wire seal in such a way that the metering adjustment cannot be changed without breaking the seal. Any device that is found to be giving measure in excess of the tolerances fixed by the commissioner of agriculture shall be considered inaccurate and the commissioner of agriculture or his agents at their discretion shall either give the operator or owner of measuring device a reasonable time in writing to fix such device or the

commissioner or his agents may condemn or prohibit the further use of said device and by the use of a lead and wire seal obstruct the mechanism in such a way that it cannot be operated without breaking such seal and such device shall not again be operated in this state without the written consent of the commissioner of agriculture. Any person, company, firm or corporation who shall operate any pump without the written consent of the commissioner of agriculture, that has been condemned by a duly authorized inspector or agent of the commissioner because of giving short measure in excess of the tolerances fixed by the commissioner shall, upon conviction thereof, be punished as hereinafter provided. Any person, company, firm or corporation who shall install or operate a gasoline or kerosene measuring device in this state which by mechanical means is designed or used for the purpose of giving short measure shall be punished as hereinafter provided. It shall be unlawful for any person, company, firm or corporation, to break out, or remove¹ any seal applied by the commissioner of agriculture, or his duly authorized inspectors or agents, to a gasoline or kerosene measuring device and anyone convicted of breaking such seal shall be punished as hereinafter provided. Any person who violates any of the provisions of this section, or any regulation or tolerance issued pursuant thereto, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or sixty days in county jail, or by both such fine or imprisonment. [1919; last amended 1943.]

¹ Words "break out or remove" probably should read "break, cut, or remove."

Sec. 525.08. Right of entry.

In the performance of their duties, the commissioner of agriculture or any of his duly authorized agents shall have free access at all reasonable hours to any store, warehouse, factory, storage house, or railway depot, where oils are kept or otherwise stored, for the purpose of examination or inspection * * *. The refusal to admit an inspector to any of the above mentioned premises during reasonable hours, shall be construed as prima facie evidence of a violation of this chapter [Secs. 525.01-525.17]. [1919]

Sec. 525.14. Rules and regulations.

The commissioner of agriculture shall promulgate such rules and regulations not inconsistent with the provisions of this chapter [Secs. 525.01-525.17] as in his judgment may be necessary to the proper enforcement of this chapter; * * * [1919]

Sec. 525.17. Penalty for violations.

Any person who shall knowingly violate any of the provisions of this chapter [Secs. 525.01-525.17] or any rule or regulation promulgated by the commissioner of agriculture, shall, upon conviction

thereof, unless otherwise provided, be punished by a fine of not more than one thousand dollars, or by imprisonment in the state prison for not more than twelve months. [1919]

Statutes Annotated, Vol. 16,—Title 31, Ch. 526— Liquid Fuels.

Sec. 526.01. Fraud and deception in sale of.

No person shall store, sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other similar products in any manner whatsoever, which may deceive, tend to deceive or has the effect of deceiving the purchaser of said products, as to the nature, quality or quantity of the products so sold, exposed or offered for sale. [1933]

Sec. 526.08. Participation of officer, etc. of corporation in violations.

If any firm, copartnership, association or corporation violates any of the provisions of this chapter [Secs. 526.01-526.11], every director, officer, agent, employee or member participating in, aiding or authorizing the act or acts constituting a violation of this chapter, shall be guilty of violating this chapter, and shall be subject to the punishment herein provided. [1933]

Sec. 562.09. Enforcement officer.

The commissioner of agriculture shall enforce the provisions of this chapter [Secs. 526.01-526.11]. [1933]

Sec. 526.11. Penalty for violations.

Any person who shall violate any of the provisions of this chapter [Secs. 526.01-526.11] shall be guilty of a misdemeanor, and upon conviction for a first offense, shall be punishable by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, and for a second or subsequent offense, by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for not more than one year. [1933]

Statutes Annotated, Vol. 16, Title 31, Ch. 536— Timber and Lumber Inspectors.

Sec. 536.01. Appointment.

The governor shall appoint a sufficient number of timber and lumber inspectors in each county of the state, who shall hold their offices for four years, subject to removal by the governor for good cause shown. The inspectors shall receive the compensation and be subject to the rules prescribed by law. [1877]

Sec. 536.03. Duties.

When any person desires the attendance and service of any inspectors of lumber, he shall give notice and inform all interested parties of his intention of calling for the aid of such inspector, at least three days previous to the time when he shall

Statutes Annotated, Vol. 16, Title 31, Ch. 536—Timber and Lumber Inspectors—Continued.

require said inspector to inspect and measure the lumber in question. The inspector, when summoned, shall attend at the place and the day to which he may be called, and faithfully measure all lumber he may be required to do, and any report and return he may make concerning thereof shall be received as the correct measurement of the same; provided, nevertheless, that the several interested parties may, at all times, be at liberty to establish the incorrectness of such return and report, in any suit regularly commenced in any court of this state having jurisdiction of the same. [1828]

Sec. 536.04. Standard of measurement.

Doyle's rule and log book for the measurement of saw logs is adopted as the standard rule for the measurement of saw logs, whether round or square, which are required to be scaled or measured within the limits of this state. [1889]

Sec. 536.05. Fees.

The inspectors shall receive the following fees for their services, to wit: Two dollars for every twenty miles they may travel in going to and from the place at which they may be required to attend, and twelve and a half cents for every thousand superficial feet of ranging lumber, and twenty-five cents for every hundred cubic feet of live oak or cedar timber or lumber, and fifty cents for every thousand staves they may inspect and count; which fees may be recovered in any court having jurisdiction thereof, from the several parties interested in the measuring and inspecting the lumber measured and inspected, who are made jointly and severally liable therefor. [1849; last amended 1861.]

Sec. 536.06. Penalty for transporting unmeasured lumber.

If any person transports from any county of this state any lumber or staves without complying with the provisions of section 536.03, after he has been notified by any person interested in said lumber of his wish and intention to have the same so measured, he shall forfeit to the state a sum not exceeding two hundred dollars. [1828]

Sec. 536.20. Penalty for using non-standard measure; exception.

Any person buying or selling logs or square timber by any other measure or scale than Doyle's rule and log book, or any timber inspector willfully making return of any inspection scale or measurement of timber except according to said book, shall be punished by fine of not exceeding two hundred dollars for each offense, or by imprisonment for not exceeding six months; provided, when it is mutually agreed between the buyer and the seller, a measure or scale other than Doyle's rule book may be adopted and a survey can be

made by a party other than a commissioned inspector. [1889]

Statutes Annotated, Vol. 17, Title 32, Chs. 562, 569—Alcoholic Beverages.

Sec. 562.08. Container limit.

No distributor or vendor shall sell spirituous beverages in containers having a capacity of more than forty ounces. [1935; last amended 1941.]

Sec. 569.06. Limitation of size of individual wine containers; penalty.

It is unlawful for any person to sell within this state any wine in individual containers holding more than one gallon of such wine. Provided, that qualified distributors and manufacturers may sell to other qualified distributors or manufacturers such wine in any size containers. Any person convicted of a violation of this section shall be guilty of a misdemeanor and shall be punished accordingly. [1939; last amended 1941.]

[Ed. NOTE.—The governor and the director of the state beverage department enforce the provisions of the beverage law.]

Statutes Annotated, Vol. 17, Title 33, Ch. 576—Commercial Fertilizers.

Sec. 576.01. Definitions.

* * * * *

(1) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(2) The words "mixed fertilizer" shall be construed to mean the combination or mixture of two or more fertilizer materials.

(3) The term "commercial fertilizer" includes mixed fertilizer of fertilizer materials. [1901; last amended 1949.]

* * * * *

Sec. 576.04. Marking requirements.

(1) Every package of commercial fertilizer manufactured, imported, transported, distributed, stored, kept or offered for sale or sold in or into the State of Florida, shall have securely attached a tag on which shall be plainly and legibly printed * * * the net contents of the package in pounds * * *

(3) * * * When commercial fertilizer is shipped in bulk by rail there shall be fastened on the inside wall of the car near the door a tag of the same kind as is used in the case of package shipments bearing the same information as required or permitted in the case of package shipments. * * * When commercial fertilizer is shipped in bulk by truck, wagon, or other vehicle, the tags required in this section, bearing proper labels or

stamps and cancelled with the date of their use shall be attached to the copy of the invoice and shall be delivered to the receiver. [1901; last amended 1949.]

Sec. 576.09. Enforcement; rules and regulations.

This chapter [Secs. 576.01-576.11] shall be administered and its provisions and all rules and regulations adopted and promulgated hereunder shall be enforced by the Commissioner of Agriculture of the State of Florida. [1949]

* * * * *

Sec. 576.10. Penalties for violations.

(1) Whoever violates any of the provisions of this chapter [Secs. 576.01-576.11] by doing anything herein prohibited or by failing or refusing to do anything herein required to be done shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months or by both such fine and imprisonment.

(2) All rules and regulations heretofore made and promulgated under existing commercial fertilizer laws which are consistent with the provisions of Chapter 576, Florida Statutes, as herein amended, shall remain in force and effect until superseded, modified, or repealed as in this chapter provided. [1901; last amended 1949.]

Statutes Annotated, Vol. 17, Title 33, Ch. 577—Insecticides and Fungicides.

Sec. 577.01. Definitions.

In construing this chapter [Secs. 577.01-577.20], where the context permits, the word, phrase or term:

* * * * *

(12) "Agricultural insecticide or fungicide" shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects, fungi, or other plant pests, collectively or individually, which may infest or be detrimental to vegetation.

(13) "Label" includes any legend, design or device printed, stenciled, stamped, seared, impressed upon or attached to the article or its container.

(14) "Package" means the individual container into which agricultural insecticide or fungicide is placed for sale or sold. [1937]

* * * * *

Sec. 577.02. Misbranding.

(1) It is unlawful for any person to manufacture, deliver, sell, or offer for sale in this state, any agricultural insecticide or fungicide which is misbranded within the meaning of this chapter [Secs. 577.01-577.20].

(2) For the purposes of this chapter an agricultural insecticide or fungicide shall be deemed to be misbranded if:

(a) The package or label thereon bears any false or misleading statement, design or device regarding such articles or the ingredients or substances contained therein.

(b) It is labeled or branded so as to deceive or mislead the purchaser. [1937]

* * * * *

Sec. 577.03. Marking requirements.

All persons, before selling or offering for sale any agricultural insecticide or fungicide for use within this state shall brand or attach to each separate package in which it is sold a plainly printed label showing * * * the net weight or volume content of the package, * * *. [1937]

Sec. 577.14. Enforcement; rules and regulations.

The commissioner of agriculture shall administer and enforce the provisions of this chapter [Secs. 577.01-577.20], * * * and shall promulgate rules and regulations for carrying out the provisions of this chapter * * * [1937]

Sec. 577.17. Withholding from sale when misbranded.

The commissioner of agriculture shall withhold from sale any agricultural insecticide or fungicide which is misbranded, not branded, or irregular in any way until such lot of agricultural insecticide or fungicide shall comply with the terms and provisions of this chapter [Secs. 577.01-577.20]. [1937]

Sec. 577.18. Exceptions.

No section or provision of this chapter [Secs. 577.01-577.20] shall be construed as referring or applying to agricultural insecticides or fungicides stored by manufacturers or importers for use in manufacturing, nor shall it be construed as applying to sales of such insecticides or fungicides by one manufacturer or importer to another; provided that manufacturers or importers are not required to attach labels to agricultural insecticides or fungicides until they are offered for sale. [1937]

Sec. 577.20. Penalty for violations.

Anyone failing to comply with the provisions of this chapter [Secs. 577.01-577.20], or violating any of such provisions, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not exceeding fifty dollars for the first offense and not exceeding two hundred dollars for any subsequent offense. [1937]

Statutes Annotated, Vol. 17, Title 33, Ch. 578—
"Florida Seed Law."

Sec. 578.09. Marking requirements.

Each container of agricultural or vegetable seed sold, offered for sale, exposed for sale or distributed within this state for sowing or planting purposes shall bear thereon or have attached thereto, in a

Statutes Annotated, Vol. 17, Title 33, Ch. 578—
"Florida Seed Law"—Continued.

conspicuous place, a label or tag plainly written or printed in the English language, giving the following information:

(1) For agricultural seeds.—

* * * * *

(c) Net weight.

* * * * *

(2) For vegetable seeds in containers of more than one pound.—

* * * * *

(b) Net weight.

* * * * *

(3) For vegetable seeds in containers of eight ounces to one pound.—

* * * * *

(b) Net weight. [1945]

* * * * *

Sec. 578.10. Exemptions.

(1) The provisions of Section 578.13 shall not apply to any common carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier. Provided, that such carrier is not engaged in processing or merchandising seed subject to the provisions of this law [Secs. 578.01-1, 578.08-578.14, 578.18-1, 578.22-578.25].

(2) The provisions of Sections 578.09 and 578.13 do not apply:

(a) To seed or grain not intended for sowing or planting purposes.

(b) To seed in storage in, consigned to or being transported to seed cleaning or processing establishments for cleaning or processing only. Provided, that any labeling or other representation which may be made with respect to the unclean seed shall be subject to this law.

(3) No person shall be subject to the criminal penalties of this law for having sold, offered or exposed for sale in this state any agricultural or vegetable seeds which were incorrectly labeled or represented as to kind and variety or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind and variety and origin.

(4) When grown, sold and delivered by the producer on his own premises; provided, that the growing of such seed is merely incidental to his business of farming. If, however, said seed be advertised for sale through any medium or if said seed is delivered by a common carrier (except when transported for the purpose of being recleaned as hereinbefore provided), said seed must be labeled in accordance with the provisions of this law. Provided, that in no case shall such farmer be allowed

to sell over one thousand pounds of agricultural seed during any one year without registering as a seed dealer.

(5) When seeds are sold from a duly labeled container and taken therefrom in the presence of the purchaser, the container in which such seeds are delivered to the purchaser will not be required to have a label or tag unless so requested by the purchaser. This however, shall not relieve or exempt any seed dealer from any liability imposed by the Florida seed law. [1945]

Sec. 578.11. Enforcement.

(1) The duty of administering this law [Secs. 578.01-1, 578.08-578.14, 578.18-1, 578.22-578.25] and enforcing its provisions and requirements shall be vested in the commissioner [of agriculture] * * * [1945]

Sec. 578.13. Prohibitions.

(1) It shall be unlawful for any person to sell, offer for sale, expose for sale, transport or distribute any agricultural or vegetable seed within this state:

* * * * *

(b) Not labeled in accordance with the provisions of this law, or having false or misleading labeling.

(c) Pertaining to which there has been a false or misleading advertisement. [1945]

* * * * *

Sec. 578.18-1. Violation a misdemeanor.

Every violation of any of the provisions of Sections 578.01-1, 578.08-578.14, 578.22-578.25 shall be deemed a misdemeanor and punishable as such. [1945]

Statutes Annotated, Vol. 17, Title 33, Ch. 580—Commercial Feeds.

Sec. 580.01. Definitions.

The term "commercial feeds" shall be held to include all materials used for feeding domestic animals or birds, except the following:

(1) Unmixed whole seeds or grain, as defined by U. S. grain standards.

(2) Whole hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials. Provided, however, hays, straws, stover, silage, or similar materials, when ground, either mixed or unmixed, and cottonseed hulls when ground and unmixed, shall constitute commercial feeds and be registered and tagged accordingly. * * * [1939; last amended 1941.]

Sec. 580.03. Marking requirements.

All manufacturers, importers, jobbers, firms, associations, corporations or persons, before selling or offering for sale or transporting in this state any brand of commercial feed, shall have attached to each bag, package, carton, or have delivered with each bulk lot, a statement, hereafter referred to as

the label or tag, clearly and legibly printed in the English language which fully and truly gives the following:

(1) The net weight of the contents of the package, bag, carton or bulk lot. [1939; last amended 1941.]

* * * * *

Sec. 580.08. Enforcement; rules and regulations.

The commissioner of agriculture is empowered to enforce the provisions of this chapter [Secs. 580.01-580.22], and to prescribe and enforce administrative rules, regulations and standards, which shall be in harmony with the provisions of this chapter. [1939]

Sec. 580.22. Penalties for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, * * * in this state, * * * any commercial feed which carries any false or misleading statements upon or attached to the package, * * * or if the number of net pounds set forth upon the package is not correct, or who shall violate any other provision of this chapter [Secs. 580.01-580.22], shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars for the first violation and not less than fifty dollars nor more than two hundred and fifty dollars for each subsequent violation. * * * [1939; last amended 1941.]

Statutes Annotated, Vol. 17, Title 33, Ch. 601—"The Florida Citrus Code of 1949."

Sec. 601.03. Definitions.

In construing this chapter [Secs. 601.01-601.112] where the context permits the word, phrase or term:

* * * * *

(7) "Citrus fruit" means any fruit of the citrus family and includes grapefruit, oranges, tangerines, and limes;

* * * * *

(13) "Commission" means the Florida citrus commission * * *

(14) "Commissioner" means the commissioner of agriculture of the State of Florida;

* * * * *

(18) "Citrus fruit dealer" means any consignor, commission merchant, consignment shipper, cash buyer, broker, agent, association, cooperative association, express shipper, or dealer as herein defined; but the term shall not include retail establishments exclusively which sell direct to consumers.

* * * * *

(35) "Standard packed box" means one and three-fifths bushels of citrus fruit, whether in bulk or in containers; [1949]

* * * * *

Sec. 601.10. Powers of citrus commission.

The commission shall have and shall exercise such general and specific powers as are delegated to it by this chapter and other statutes of the State of Florida, which such powers shall include, but not be confined to, the following:

* * * * *

(2) To act as the general supervisory authority over the administration and enforcement of this chapter and to exercise such other powers and perform such other duties as may be imposed upon it by other laws of the State of Florida.

* * * * *

(5) To investigate violations of the provisions of this chapter * * *, and to report its findings or recommendations in connection therewith to the commissioner [of agriculture.]

* * * * *

(7) To adopt, promulgate, alter, rescind, modify, amend and enforce rules and regulations not inconsistent with existing laws, to regulate and control methods and practices followed or used in the harvesting, grading, packing, canning, concentrating, or otherwise processing citrus fruits for human consumption, * * *. [1949]

Sec. 601.11. Standard containers for citrus fruits.

The commission shall have full and plenary power to and shall establish state grades for citrus fruits and canned and concentrated products thereof, and for containers therefor, and shall prescribe rules or regulations governing the marking, branding, labeling, tagging, or stamping of citrus fruit, or the canned or concentrated products thereof, and upon containers therefor for the purpose of showing the name and address of the person marketing such citrus fruit or the canned or concentrated products thereof, * * *, the amount of the canned or concentrated products thereof, and the quality, type, size, dimensions, and shape of container therefor, * * *; provided, however, that no standard, regulation, rule, or order under this section which is repugnant to any requirement made mandatory under federal law or regulations shall apply to citrus fruit, or the canned or concentrated products thereof, or to containers therefor, which are being shipped from this state in interstate commerce. All citrus fruit and the canned and concentrated products thereof sold, or offered for sale, or offered for shipment within or without the State of Florida shall be graded and marked as required by this section and the regulations, rules, and orders adopted and made under authority of this section, which regulations, rules and orders shall, when not inconsistent with state or federal law, have the force and effect of law. [1949]

Statutes Annotated, Vol. 17, Title 33, Ch. 601—
 "The Florida Citrus Code of 1949"—Continued.

Sec. 601.15. Excise tax: Number of pounds equivalent to standard packed box.

* * * * *

(3) (a) There is hereby levied and imposed the following excise taxes upon each standard-packed box of the following citrus fruits grown in this state, to-wit: grapefruit, three cents per box; oranges, two cents per box; tangerines, five cents per box; and limes, four cents per box.

(b) When grapefruit are purchased, acquired, or handled on a weight basis rather than under the standard-packed-box basis, eighty-five pounds thereof shall be considered equal to or the equivalent of one standard-packed box for tax purposes under this section.

(c) When oranges are purchased, acquired, or handled on a weight basis rather than under the standard-packed-box basis, ninety pounds thereof shall be considered equal to or the equivalent of one standard-packed box for tax purposes under this section.

(d) When tangerines are purchased, acquired, or handled on a weight basis rather than under the standard-packed-box basis, ninety-five pounds thereof shall be considered equal to or the equivalent of one standard-packed box for tax purposes under this section.

(e) When limes are purchased, acquired, or handled on a weight basis rather than under the standard-packed-box basis, ninety pounds thereof shall be considered equal to or the equivalent of one standard-packed box for tax purposes under this section. [1949]

* * * * *

Sec. 601.27. Commissioner of agriculture: Powers.

The inspection in the State of Florida of all citrus fruit and the canned and concentrated products, thereof, and the certifying as to grades and qualifications thereof, and the enforcement of all provisions of this chapter [Secs. 601.1-601.112] and/or all rules, regulations and/or orders made pursuant to and under authority of this chapter, shall be under the direction, supervision, and control of the commissioner [of agriculture]; * * * [1949]

Sec. 601.29. Same.

The powers of the commissioner shall include, but not be limited to, the following:

(1) To make such rules, regulations, and orders as may be necessary to carry out such of the provisions of this chapter [Secs. 601.1-601.112] as impose duties and powers on the commissioner [of agriculture] or his authorized inspectors, employees, or agents which said rules, regulations, and orders shall have the effect and force of law when consistent therewith.

* * * * *

(3) Personally or through his authorized inspector, employee, or agent, to forbid and prohibit the shipment or sale of any citrus fruit or the canned or concentrated products thereof found to be in violation of any of the provisions of this Act [Chapter], or in violation of any rule, regulation, or order made or adopted under authority of this chapter.

* * * * *

(5) To cause prosecution to be instituted for violation of any of the citrus laws or for violation of any rule, regulation, or order promulgated by the Commission [Florida Citrus Commission] or by the Commissioner [of agriculture.] [1949]

* * * * *

Sec. 601.64. Citrus fruit dealers: Misrepresentation as to quantity.

It is unlawful in, or in connection with any transaction relative to the purchase, handling, sale, and accounting of sales of citrus fruit:

* * * * *

(4) For any citrus fruit dealer to make, for a fraudulent purpose, any false or misleading statement concerning the condition, quality, quantity, or disposition of * * *, any citrus fruit which is received by such citrus fruit dealer or bought or sold or contracted to be bought or sold by such citrus fruit dealer; * * * [1949]

Sec. 601.65. Same: Liability for violations.

If any citrus fruit dealer violates any provisions of this law he shall be liable to the person injured thereby for the full amount of damages sustained in consequence of such violation. Such liability may be enforced either (1) by complaint to the commissioner [of agriculture], * * * or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and these provisions are in addition to such remedies. [1949]

Sec. 601.85. Standard shipping box for fresh fruit.

The specifications for the standard legal shipping box, crate, or container to be used in shipping fresh citrus fruits shall be as established by the commission [Florida Citrus Commission]; but provided that the unit of a standard-packed box, commonly called one and three-fifths bushels, shall contain an inside cubical measurement of three thousand four hundred and fifty-six cubic inches. [1949]

Sec. 601.86. Standard field boxes for fresh citrus fruit.

All field boxes used in the purchase, sale or handling of citrus fruit from or for the grower by a citrus fruit dealer in the State of Florida shall be of the uniform standard size of thirty-one and one-half inches long, thirteen inches high, and twelve inches wide, inside measurements, and shall be divided into two compartments by a center partition of at least three-fourths-inch thickness; and each of

these compartments thus created shall have a cubical capacity of not to exceed twenty-four hundred cubic inches. [1949]

Sec. 601.87. Same: Use of cleats on boxes.

The height of the end heads and the center partition of field boxes shall in no case be increased more than one and one-fourth inches by the addition of cleats or any similar addition to the height so that the total height of said boxes from the inside bottom to the top of said cleats shall not exceed fourteen and one-fourth inches. It is unlawful to place cleats or any other device or thing on the bottom or top, other than herein provided, of any standard citrus field box whereby the space between the field boxes when stacked will be greater than the space that exists between such standard field boxes as herein defined. [1949]

Sec. 601.88. Same: Oversized boxes to be stamped.

It is unlawful to use any field box that exceeds the total capacity of forty-nine hundred cubic inches in the purchase, sale, or handling of oranges, grapefruit, tangerines, or limes by a citrus fruit dealer from or for a grower, unless all field boxes exceeding this dimension shall have plainly stamped on both ends of the box in letters of the dimension of one inch in height and width the words "over size." [1949]

Sec. 601.111. Penalties for violations.

Any person violating any provision of this chapter [Secs. 601.1-601.112], or of the rules or regulations of the commission [Florida Citrus Commission], or of the commissioner [of agriculture] shall be guilty of a misdemeanor and be punished by fine of not exceeding one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment in the discretion of the court. [1949]

Sec. 601.112. Exemption.

The provisions of this chapter [Secs. 601.1-601.112] shall not apply to any citrus products heretofore processed or which may be processed prior

to August 1, 1949, from the 1948-49 citrus crop. [1949]

Statutes Annotated, Vol. 22, Title 44, Ch. 865—
False Packing.

Sec. 865.04. Penalty.

Whoever fraudulently puts into barrel, bale of cotton, cask or other package of sugar, rice or pork, or any other article of provisions, any dirt, rubbish or other thing, shall be punished by fine not exceeding one thousand dollars. [1832]

Statutes Annotated, Vol. 22, Title 44, Ch. 817—
False Advertising.

Sec. 817.06. Unlawful acts.

No person shall with intent to sell or in any wise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof, or with intent to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, knowingly or intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding such merchandise, securities, service or anything so offered to the public which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading. [1927]

Sec. 817.07. Same: Penalty.

Any person found guilty of a violation of Sec. 817.06 shall be deemed guilty of a misdemeanor and shall be punished by fine not exceeding two hundred dollars or imprisonment not exceeding ninety days. [1927]

GEORGIA

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Code Annotated, Book 30, Title 112, Ch. 112-1—Weights and Measures.

Sec. 112-101.¹ Bushel weights; cord of tan bark.

The legal weight of the following articles or commodities per bushel shall be as follows:

	Pounds per bushel
Apples, dried	24
Barley	47
Beans, white	60
Buckwheat	52
Coal, stone	80
Corn, in the ear	70
Corn, shelled	56
Corn meal, bolted or unbolted	48
Cotton seed	30
Lime, unslacked	80
Oats	32
Onions	57
Peaches, dried (peeled)	38
Peaches, dried (unpeeled)	33
Peas	60
Peas, ground	25
Plastering hair	8
Potatoes, Irish	60
Potatoes, Sweet	55
Rice, rough	43
Rye	56
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	Pounds per bushel
Seed, Clover	60
Seed, Flax	56
Seed, Hemp	44
Seed, Timothy	45
Turnips	55
Wheat	60
Wheat bran	20

	Pounds per Cord
Tan bark	2,250

[1880; last amended 1906.]

¹ See Sec. 112-111, page 231; sale of dry commodities by weight or count.

Sec. 112-102. Seal.

For the purpose of marking all weights and measures, the ordinaries shall procure for their respective counties a marking instrument, seal or stamp, which conforms to the standards established by the Congress of the United States, which shall be the standards of this State. [1803; last amended 1839.]

Sec. 112-103.¹ Seller to have weights and measures sealed; penalty.

All persons engaged in selling by weights and measures shall apply to the ordinaries of their respective counties and have their weights and meas-

ures so marked, and in default thereof shall not collect more than three-fourths of any account, note, or other writing, the consideration of which is any commodity sold by their weights and measures: Provided, that this section shall not apply to any person selling by weights and measures who has applied to the ordinary of his county and found that the county has not been supplied with the necessary standards for testing weights and measures. [1893]

¹ See Sec. 5-511, page 236; no deduction for turn of scales.

Sec. 112-104.¹ Procedure upon complaint for deficient weights and measures.

Any citizen may complain to the ordinary of the deficiency of any weights and measures, whether marked or not, and upon such complaint it shall be the duty of said ordinary to notify the person complained of, and give him the name of the complainant, and specify a day, not more than ten days distant, when he shall submit his weights and measures to the test of the ordinary; and if the complaint is found to be true within the seller's knowledge, he shall be deemed a person selling by false weights and measures, and shall be presented by the grand jury as such, if no person shall appear and prosecute. [1893]

¹ See Sec. 112-9901, page 232; punishment for use of false weights or measures.

Sec. 112-105. County standards.

The Governor shall procure standards of weights and measures for each county which does not have them, and they, together with the marks provided by the ordinary, shall be kept in his office for the inspection of the citizens. [1839]

Sec. 112-106. Same: Notice of procurement.

When such standards are obtained, it is the duty of such ordinary to give sixty days' written notice thereof at the door of the courthouse, and in the public newspaper where the sheriff of the county advertises his sales. [1839]

Sec. 112-107. Standards of weights and measures.

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. [1941]

Sec. 112-108. Rules and regulations.

The State Commissioner of Agriculture shall have and keep a general supervision of the weights and measures, and weighing or measuring devices of-

ferred for sale, sold, or in use in the State. He shall also have authority to promulgate rules and regulations for enforcement of this law [Secs. 112-107—112-115], such rules and regulations may include specifications and tolerances for weighing and measuring devices and for package goods put up prior to time of sale. [1941]

Sec. 112-109. Powers and duties of enforcement officers.

When not otherwise provided by law the State Commissioner of Agriculture, his deputies or inspectors at his directions, 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 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 Commissioner of Agriculture, his deputies or inspectors at his directions, may specify, for the purpose of making the proper tests. Whenever the Commissioner of Agriculture, his deputies or inspectors at his directions, find a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1941]

Sec. 112-110. Exception regarding prosecutions.

There shall be no prosecution under this law [Secs. 112-107—112-115] for any discrepancy between actual weight or volume at the time of sale and the weight marked on the container, if such discrepancy is due to unavoidable leakage, shrinkage, evaporation or waste, or to causes beyond the control of the seller acting in good faith. [1941]

Sec. 112-111. Sale of commodities; "original package" defined.

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

Code Annotated, Book 30, Title 112, Ch. 112-1—
Weights and Measures—Continued.

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; or of berries and small fruits in standard boxes; 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, and must be plainly marked as to the net content. Provided that a box or carton used for shipping purposes containing a number of packages which are individually marked as hereinbefore provided shall not be required to bear the weight of their contents. [1941]

Sec. 112-112. Approval, condemnation, seizure and destruction of weights and measures.

In the event the Commissioner of Agriculture, his assistants or inspectors, finds weights, measures and weighing and measuring devices accurate and otherwise in proper condition, or after he causes the same to be made accurate and otherwise in proper condition [] to place his seal or tag of approval upon such weighing or measuring devices. In the event he find [finds] any of the said weights, measures or weighing and measuring devices to be inaccurate or otherwise not in proper condition, and yet in his best judgment such devices or device may be repaired, [] to place his seal or tag showing that the same has been condemned because of their inaccuracy or faulty mechanical condition, upon said device or devices and serve written notice why said device or devices have been condemned upon the person, firm or corporation, or their agent, using, operating, and having possession of such devices, which said notice shall be served upon the person in charge of the place of business where such device or devices are located, and said notice shall contain a demand upon the person, firm or corporation to discontinue the use thereof, and not to dispose of such device until the repairment or regulation of such device or devices have been approved by the Commissioner of Agriculture, his assistants or inspectors. Unless such inaccurate or improper weighing or measuring devices are repaired and made correct within a reasonable time after the service of such notice as herein provided, said in-

spector shall seize and destroy the same in the name and under the authority of the State of Georgia. [1941]

[ED. NOTE.—In the Georgia Code Annotated, following the foregoing section, it is stated: "This section is set out as it appears in both the published Act and in the Act filed in the Secretary of State's office. Apparently, the words 'it shall be his duty,' or their equivalent, have been omitted at the points indicated by brackets."]

Sec. 112-113. Removal of tag unlawful.

It shall be unlawful for anyone to deface or remove any seal, tag or [of] approval or condemnation placed on any device by any weights and measures official. [1941]

Sec. 112-114. Powers and duties of deputies and inspectors.

The powers and duties given to and imposed upon the State Commissioner of Agriculture of weights and measures are hereby given to and imposed upon his deputy and inspectors also, when acting under his instructions and at his direction. [1941]

Sec. 112-115.¹ Public Utility Corporations exempted.

The provisions of this law [Secs. 112-107—112-115] shall not apply to public utility corporations under the jurisdiction of the Georgia Public Service Commission. [1941]

¹ See Sec. 112-9902, page 232; penalty for violation of Secs. 112-107—112-115.

Code Annotated, Book 30, Title 112, Ch. 112-99—
Penalties for Violations of Weights and Measures Law.

Sec. 112-9901. Selling by false weights and measures.

If any person shall knowingly buy or sell by false weights or measures, he shall be deemed a common cheat, and shall be punished as for a misdemeanor. [1851-2]

Sec. 112-9902. Penalty for violation of Secs. 112-107 to 112-115.

Any person who, by himself or by his servant or agent, or as the servant or agent of another person, firm, corporation or association, shall violate any provisions of sections 112-107 to 112-115 or who shall violate any regulation promulgated by authority in such sections, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined not less than \$25 or not more than \$200 or by imprisonment for not more than three months, or by both such fine and imprisonment, upon first conviction and upon a second or subsequent conviction, shall be fined not less than \$100 or more than \$500 or by imprisonment of not less than three months, or by both such fine and imprisonment. [1941]

Laws 1949, No. 284—Certified Public Weighers.

Sec. 1. Who may be licensed.

Any person who shall weigh, measure, or record the indications or readings of weighing or measur-

ing and declare the weight, measure, reading or recording to be the true weight, measure, reading or recording of any commodity, article or product, may be licensed under the provisions of this Act [Secs. 1-13] and shall be known as a Certified Public Weigher of Georgia. [1949]

Sec. 2. Enforcement; rules and regulations.

The provisions of this Act [Secs. 1-13] shall be administered by the Commissioner of Agriculture of Georgia, and he is hereby empowered to make and promulgate rules and regulations necessary for the enforcement of this Act. [1949]

Sec. 3. Application for license permit.

Any person who desires to be a certified public weigher in this State shall apply for and obtain a license permit from the Commissioner of Agriculture by filing a formal application as follows:

"I, _____, a citizen of the United States, residing at _____ County of _____, have familiarized myself with the law relative to licensing of certified public weighers, do hereby make application for license permit as a certified public weigher.

"I certify that I am morally and physically fit to perform the duties imposed upon a certified public weigher, and that I will, if licensed, faithfully and accurately make true recordings, and will comply with the law and rules and regulations relating to certified public weighers to the best of my knowledge and ability.

Name

Address

"We, the undersigned, being citizens of Georgia, do hereby certify that the applicant herein is a person of good moral character and that the statements made in the foregoing application are true to the best of our knowledge and belief and that our endorsement is without fear of embarrassment.

Name

Address

Name

Address

Name

Address

Upon his appointment as a certified public weigher, a license permit shall be issued to him authorizing the applicant to weigh, measure and record any/all commodities. [1949]

Sec. 4. Duties.

It shall be the duty of certified public weighers licensed under this Act [Secs. 1-13] to issue a certificate of weight, measure, count or recording on forms to be approved by the State Director of Weights and Measures, and to comply with the provisions of this Act and rules and regulations relating thereto. [1949]

Sec. 5. Bond.

Any such persons, firms, or corporations who shall have their employees or agents designated as certified public weighers shall post a surety bond in the

sum of \$1,000.00 (one thousand dollars) payable to the Commissioner of Agriculture for the benefit of persons, firms, or corporations issuing a certified public weigher's certification of any weight or measure of any commodity or thing conditioned as follows:

If the principal shall faithfully comply with the rules and regulations governing a certified public weigher, as prescribed by the Commissioner of Agriculture, in writing, from the period beginning _____ and ending December 31, 194____, and shall indemnify the Commissioner of Agriculture, for the use and benefit of persons, who suffer injury or damage as a result of the negligence, incompetence, or misconduct of principal in performing the aforesaid duties of a certified public weigher, then this obligation to be void; otherwise of full force and virtue. [1949]

Sec. 6. Official seal.

It shall be the duty of every certified public weigher so licensed under this law [Secs. 1-13] to obtain through the State Department of Agriculture an official seal, which seal [shall] have inscribed thereon the following words: "Georgia Certified Public Weigher" or such other design or legend as the State Director of Weights and Measures may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, count, reading or recording certificate issued by such certified public weigher, and when so applied the certificate shall be recognized and accepted as a declaration of the official, true and accurate weight, measure, count, reading or recording of the commodity, product or article weighed, measured or counted with the tolerance allowed by the "Weights and Measures Act" of this State. [1949]

Sec. 7. Violations by weigher; penalty.

Any certified public weigher who shall issue a certificate giving a false weight, measure, count or reading, or who shall misrepresent the weight, measure, count or reading of any commodity, produce or article, or who shall otherwise violate any of the provisions of this Act [Secs. 1-13] or violate any of the rules promulgated by authority of this Act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred (\$500.00) dollars, or by imprisonment for not more than six months in the discretion of the court, and, in addition thereto, his license as a certified public weigher shall be revoked and he shall forfeit his seal which, when so forfeited shall be turned over to the Commissioner of Agriculture. [1949]

Sec. 8. Other violations; penalty.

Any person, firm, or corporation who shall request a certified public weigher to weigh, measure,

Laws 1949, No. 284—Certified Public Weighers—
Continued.

count, read or record any commodity, product or article falsely or incorrectly, or who shall request a false or inaccurate certificate of weight, measure, count, reading or recording; or any person issuing a certificate of weight, measure, count, recording within the meaning of this Act [Secs. 1-13], who is not licensed as a certified public weigher in accordance with this Act, or any person who shall in any way impersonate by acting as, or for, a certified public weigher, or any person who shall erase, change or alter any certificate issued by a certified public weigher, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as is prescribed under the laws of Georgia.

Sec. 9. Weights and measures to be used.

It shall be unlawful for any certified public weigher to use any weights, measures, reading or recording device, which has not been tested and approved by the State Director of Weights and Measures, or his assistant, deputy or inspector, in accordance with the "Weights and Measure Act."¹ [1949]

¹ See Secs. 112-101-112-9902, pages 230-232.

Sec. 10. License fees.

Certified public weighers shall be licensed for a period of one year beginning on the first day of July and ending on the thirtieth day of June, next, and a fee of [five] (\$5.00) dollars shall be paid to the Commissioner of Agriculture by each person so licensed at the time application is filed. A fee of two (\$2.00) dollars shall be required of all renewals of license as a certified public weigher. In addition thereto the applicant shall pay the actual cost of seals required under this Act [Secs. 1-13]. [1949]

Sec. 11. Surrender of seal.

In the interest of public welfare, the seal herein provided for a certified public weigher shall be the property of the State of Georgia and shall be returned to the Commissioner of Agriculture upon termination of the duties as a certified public weigher. Failure or refusal of a person licensed as a certified public weigher under this Act [Secs. 1-13] to surrender the official seal to the Commission [Commissioner] of Agriculture upon termination of his license or for malfeasance in office, shall be a misdemeanor and any person convicted thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment for not more than three months, in the discretion of the court. [1949]

Sec. 12. Revocation of license permit.

Any license permit as a certified public weigher may be revoked by the Commissioner of Agriculture for malfeasance in office or for the violation of

any provision of this Act [Secs. 1-13] or for violation of any rule or regulation promulgated under the terms hereof, after reasonable notice and opportunity for a hearing before the Commissioner of Agriculture. [1949]

Code Annotated, Book 2, Title 5, Part I, Ch. 5-3—
State Warehouse Department.

Sec. 5-301. State Warehouse Commissioner.

The Director of the State Bureau of Markets shall be the State Warehouse Commissioner. [1918; last amended 1920.]

[ED. NOTE.—Sec. 5-204, Ga. Code Ann., provides that "The Director [of Markets] shall be the chief executive officer of the Bureau of Markets * * * and he shall—

(a) Investigate methods and practices in connection with the * * * weighing, packing, transportation, storage, inspection and sale of agricultural products of all kinds within this State * * *."]]

Sec. 5-303. Lint Cotton: Appointment of officers; rules and regulations.

The Commissioner shall have the power to appoint graders, officers, clerks and all necessary employees to carry out the provisions of this Chapter [Secs. 5-301-5-320] * * *. He shall also prescribe rules and regulations not inconsistent with the intent and spirit of this Chapter, to carry the same into effect. [1918; last amended 1920.]

Sec. 5-310. Same: Storage; marking requirements.

The Commissioner [State Warehouse Commissioner] may receive for storage lint cotton, properly baled, with an inspection tag showing that it had been legally weighed, and that a Federal or State grader, as hereafter may be provided, has graded said cotton. There shall be receipts issued for such cotton under the seal in the name of the said Commissioner, stating location of warehouse, identification mark on each bale, its weight and grade, and whether long or short staple, so as to be able to deliver on surrender of receipts the identical cotton for which it was given; * * * [1918; last amended 1920.]

Sec. 5-311. Same: Bales to be tagged.

The grades, weights and identification marks provided for by this Chapter [Secs. 5-301-5-320] shall be evidenced by tags affixed to the bale of cotton, and the receipts issued must be duplicate of the identification upon the said tags. [1918]

Code Annotated, Book 2, Title 5, Part II, Ch. 5-5—
Weighing of Cotton, Rice, Etc.

Sec. 5-501.¹ Cotton weighers: Oath.

It shall not be lawful for any scalesman, salesman, or other person, in any of the cities, towns, or villages, to weigh any bale, bag, or package of cotton, tierce or half-tierce of rice, or any other article of produce disposed of by weight, without first taking and subscribing an oath, before some person authorized by law to administer it, that he will justly,

impartially, and without deduction, weigh all such cotton and all other articles of produce disposed of by weight that may be shown to him for that purpose, and tender a true account thereof to the party or parties concerned, if so required. This section shall apply only to parties weighing said articles for sale, and not to persons weighing their own produce. [1875; last amended 1889.]

¹ Penalty for violation of Sec. 5-501, see Sec. 5-9907, page 238. Punishment for putting rubbish in cotton or rice, see Sec. 26-7405, page 239.

Sec. 5-502. Same: Oath to be recorded.

Such oath, when taken, must be filed in the office of the ordinary of the county, and a minute made thereof. [1875]

Sec. 5-503. Same: Deductions by weigher.

The weigher may make such deduction for wet, or other cause, as may be reasonable, when the seller or his agent shall thereto consent: Provided, that if the weigher, with the consent of the seller or his agent, makes a deduction from the gross weight of any bale, bag, or package of cotton because of the bagging and fastenings on said bale, bag, or package, the deduction shall be not more than 24 pounds if it is covered with jute bagging, and not more than 16 pounds if it is covered with cotton bagging, except in the case of any bale, bag, or package of cotton not fastened with iron ties nor with ropes, in which case the deduction shall be not more than ten pounds if it is covered with jute bagging, and not more than five pounds if it is covered with cotton bagging. In every case in which a deduction is made from the gross weight of any bale, bag, or package of cotton because of the bagging and fastenings on said bale, bag, or package, the weigher, in tendering a true account thereof to the party or parties concerned, shall state the gross weight of each bale, bag, or package, and also the number of pounds deducted for bagging and fastenings, and the net weight. [1876; last amended 1889.]

Sec. 5-504.¹ Deduction for bagging and ties from weight of cotton.

It shall be unlawful for any person, firm or corporation engaged in the business of buying cotton, as principal or agent, to deduct any sum for bagging and ties from the weight or price of any bale of cotton when the weight of the bagging and ties does not exceed six per cent. of the gross weight of such bale of cotton. In the event that the weight of the bagging and ties exceeds six per cent. of the gross weight of such bale of cotton, only the excess over the said six per cent. may be deducted. [1911]

¹ Penalty for violation of Sec. 5-504, see Sec. 5-9908, page 238. Illegal charge for weighing cotton, see Sec. 5-9910, page 238.

Sec. 5-505. Same: Appointment of public weigher.

Upon the application or petition of at least 50 citizens or producers of cotton in any county, made

to the county commissioners of a county when they administer the affairs of a county, or to the ordinary of the county when he administers the affairs of the county, he or they shall appoint one competent and discreet person who shall be known as the public weigher and grader of cotton in such county. Upon his appointment by them, they shall issue to him a commission authorizing him to weigh and grade all cotton that may be brought to him for such purpose by the citizens of said county: Provided, he shall first take an oath to faithfully perform the duties of such weigher and grader, and give bond conditioned upon the accurate and faithful performance of his duty subject to be enforced by any person that shall be damaged on account of a failure in the performance of his duty, said recovery to be had in any court having jurisdiction of the parties and subject-matter. [1912]

Sec. 5-506. Same: Appointment of deputies.

Said weigher and grader shall be authorized, when it becomes necessary, to appoint a deputy or deputies to act within said county to assist him in weighing and grading of cotton. In the appointment of such deputies he shall not appoint any one who is not of good character and competent to perform such duties. [1912]

Sec. 5-507. Same: Fees for weighing; duties; scales to be tested.

As compensation for the weighing, grading, issuing certificates, as to weights and grades, and stamping same upon the bale of cotton, such weigher and grader shall have for such service, and be allowed to charge the party desiring to have said cotton weighed and graded the sum of 20 cents per bale. It shall be the duty of the weigher and grader or his deputy, upon their appointment, to provide a platform and scales with ample facilities for handling cotton with speed and at a minimum cost, at which platform or platforms, all cotton sold in said market or shipped may first be weighed, graded and stamped, if so desired by the seller, producer, or buyer, and upon the application by the parties, it shall be the weigher's duty to immediately weigh, grade and stamp upon the cotton weights and grade, and issue to the applicant a certificate showing the same and enter the same in a book to be kept by him. The appointed public weigher and grader shall be responsible, on his bond, for the official act of his deputy, and each weigher or deputy shall have his scales tested at least once every thirty days by the standard weights in the office of the ordinary as provided by law. [1912]

Sec. 5-508. Same: Removal from office.

The county commissioners or ordinary, whichever has the appointing power, upon good and sufficient cause shown, after 10 days' notice, in writing, personally served upon the public weigher and grader, shall inquire into his conduct and if they find suf-

Code Annotated, Book 2, Title 5, Part II, Ch. 5—
5—Weighing of Cotton, Rice, Etc.—Continued.

ficient reason, remove any such officer from office, and appoint another in his stead, and in the same manner may remove any deputy by such public weigher appointed. [1912]

Sec. 5-509. Tare on rice.

The tare to be allowed on rice shall be the actual tare, as nearly as can be determined, except in cases of the sale of a single tierce, half tierce, or barrel, where a tare of 10 per centum shall be allowed, unless otherwise agreed on between the buyer and seller. [1863]

Sec. 5-510. Tare on other articles.

In other cases where tare is usually allowed, the actual tare, as nearly as the same can be ascertained, shall be allowed, except where the seller and purchaser may expressly agree upon a different rule. [1863]

Sec. 5-511.¹ No deduction for turn of scales, etc.

It shall not be lawful for any purchaser or weigher to make any deduction from the weight of any article for or on account of the draft or turn of the scales or steelyard, under a penalty, for every such offense, of \$500, to be recovered in any court having jurisdiction, one-half to go to the informer by whom the suit may be brought, and the other half to the use of the county where the offense may be committed. [1863]

¹ See Sec. 112-103, page 230; penalty for selling by unmarked weights.

Sec. 5-512. Regulations by city, town and county authorities.

The corporate authorities of all cities and towns may make such further regulations for the weighing of produce of all descriptions, including fees for weighing, as in their judgment may tend to effect the objects of the foregoing provisions, and the ordinaries of the respective counties shall have the same power, to be exercised outside the jurisdiction of said incorporated cities or towns; but, until altered by such authorities or ordinaries, fees for weighing shall be such as are now fixed by law. [1863]

Code Annotated, Book 2, Title 5, Part III, Ch. 5-8—
Apples, Closed Packages.

Sec. 5-801. Rules and regulations.

The Commissioner of Agriculture is hereby directed to establish and promulgate, from time to time, official standard grades for all closed packages of apples, by which the quantity, quality, and size may be determined, and prescribe and promulgate rules and regulations governing the marking which shall be required upon packages of apples for the purpose of showing the name and address of the producer or packer, the variety, quantity, quality, and size of the product, or any of them: * * * [1927; last amended 1933.]

Sec. 5-802. Marking requirements.

Whenever such standard for the grade or other classifications of apples under this Chapter [Secs. 5-801—5-806] becomes effective, every closed package containing apples grown and packed for sale or transported for sale by any person, firm, company, or organization shall bear conspicuously upon the outside thereof, in plain words and figures, such markings as are prescribed by the Commissioner of Agriculture under the provisions of this Chapter. * * * [1927; last amended 1933.]

Sec. 5-803. Enforcement; right of entry; deputies; right to halt shipments.

The Commissioner of Agriculture shall be charged with the enforcement of the provisions of this Chapter [Secs. 5-801—5-806], and for that purpose shall have the power: (a) To enter and to inspect, personally or through any authorized agent, every place where apples are produced, packed, or stored for sale, shipped, delivered for shipment, offered for sale, or sold, and to inspect such places and all apples and containers and equipment found in any such place. (b) To appoint, superintend, control, and discharge such inspectors and subordinate inspectors as in his discretion may be deemed necessary, for the special purpose of enforcing the terms of this Chapter, to prescribe their duties and fix their compensation. (c) Personally, or through any authorized agent or any such inspector, to forbid the movement of any closed package or packages of apples found to be in violation of any of the provisions of this Chapter, which have not been actually accepted by a common carrier for shipment in interstate traffic, and to require the same to be repacked or remarked. A carload of apples shall not be considered as actually accepted by a common carrier for shipment until the loading is finished, the car sealed, and the bill of lading issued. (d) To cause prosecutions to be instituted for violations of this Chapter. [1927; last amended 1933.]

Sec. 5-804. Prima facie evidence.

When apples in closed packages are delivered to a railroad station or a common carrier for shipment, or delivered to a storage house for storage, such delivery shall be prima facie evidence that the apples are offered or exposed for sale. [1927; last amended 1933.]

Sec. 5-805. Dealers protected by inspection.

No person, firm, or corporation shall be prosecuted under the provisions of this Chapter [Secs. 5-801—5-806] when he or it can establish that the apples offered for sale have passed inspection by an authorized inspector of this State, and bear the official State inspection stamp, or by an inspection of the United States Department of Agriculture, and found to be packed and marked in accordance with the requirements of the Commissioner of Agriculture of Georgia. [1927; last amended 1933.]

Sec. 5-806.¹ Restriction of sales.

* * * and no apples shall be offered for sale which do not bear on the packages the marks and grades prescribed in section 5-802. [1927; last amended 1933.]

¹ Penalty for violation of Chap. 5-8, see Sec. 5-9928, page 239.

Code Annotated, Book 2, Title 5, Part IV, Ch. 5-11—
Fertilizers and Fertilizer Materials.

Sec. 5-1105. Marking requirements.

Every bag or package of commercial fertilizer sold within the State shall have printed on bag or package, or affixed thereto, a tag containing a legible and plainly printed statement in the English language, the following:

1. Net weight of each bag or package in pounds. [1924; last amended 1929.]

* * * * *

Sec. 5-1123.¹ Seizure.

All fertilizer or fertilizer material sold or offered for sale in violation of law shall be condemned and seized by the Commissioner of Agriculture or his agents, * * *. [1937-38]

¹ Penalty for violation of Ch. 5-11, see Sec. 5-9931, page 239. The Commissioner of Agriculture is charged with the enforcement of Ch. 5-11, see Sec. 5-1001, Ga. Code Ann.

Code Annotated, Book 2, Title 5, Part V, Ch. 5-15—
Insecticides and Fungicides.

Sec. 5-1502. Marking requirements.

It shall be the duty of all manufacturers, jobbers, dealers and agents in advance of offering calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops, and fruits, for sale, to brand on each package, containing the same, the words, "Calcium Arsenate," "Lead Arsenate," and "Dust Mixtures containing Sulphur, Lead Arsenate and Lime," and the weight of the package in full, * * * [1920]

Sec. 5-1507. Rules and regulations.

The State Entomologist is hereby authorized and required * * * to make such rules and regulations as, in his judgment, shall be necessary for the protection of the people, and make thoroughly effective the provisions of this Chapter [Secs. 5-1501—5-1509], and such regulations shall have the force of law. [1920; last amended 1931.]

Sec. 5-1508.¹ Enforcement.

It shall be the duty of the Commissioner of Agriculture to prosecute each and every violator of any of the provisions of this Chapter [Sec. 5-1501—5-1509]. [1920]

¹ Penalty for violation of Chap. 5-15, see Sec. 5-9937, page 239.

Code Annotated, Book 2, Title 5, Part VI, Ch. 5-16—
Naval Stores and Lumber.

Sec. 5-1601.¹ Appointment, oath and bond of inspectors; method of measurement; specifications; cord of firewood.

Inspectors may be appointed, their duties prescribed, their fees fixed, and inspection and marking regulations adopted, by the corporate authorities of any city, for the inspection of pitch, tar, turpentine, rosin, staves, shingles, timber, wood, and lumber, for measuring and gauging the said articles, or any of them, within the limits of said cities; and the same power may be exercised by the ordinary of every county, outside the limits of such town, and within the limits of such county: Provided, such regulations be not inconsistent with the following provisions:

1. No person shall be permitted to inspect, measure, or gauge, except such as may be regularly appointed, under a penalty of \$500 for every offense, one-half to go to the informer, and the other half to the corporation or court having the appointment of inspectors. Every person so appointed shall be required to take an oath or affirmation faithfully to perform the duties of the office to the best of his skill and ability, and shall moreover give bond and security for the faithful discharge of the duties thereof. All vacancies may be filled by the appointing power. [1794; last amended 1823.]

2. In all seaport towns where timber or lumber is brought for exportation, or otherwise, the same shall be inspected and measured, and bills for such measurement shall be made out in superficial measurement. [1799]

3. All square timber shall be measured as follows: The length shall be counted from pinhole and the size from the middle of the stick, taking the smallest side and the face, throwing off fractions, and allowing one-half of the wane-edge on the side and face; and other flatted timber, usually known as saw or mill logs, shall be measured one-half from the smallest end. [1863]

4. All sticks which are rotten, hollow, split, or broken shall be declared refuse by the inspector, and the seller shall only be allowed one-half the measurement; but if the defect be at or near the end, only so much as is defective shall be declared refuse. [1863]

5. The hook to the dip-rod shall not be less than 1¾ inches long. [1863]

6. Ranging timber, scantlings, and boards shall be deemed merchantable only when they have square edges, and are sound and without decay; nevertheless, if any scantling or board to be measured and inspected shall be split, decayed, or fractured more than two feet, and less than six feet from the end thereof, such split, decayed, or fractured part shall be left out and not counted in the measurement. [1794]

Code Annotated, Book 2, Title 5, Part VI, Ch. 5-16—Naval Stores and Lumber—Continued.

7. Heading shall be $2\frac{1}{2}$ feet long, six inches broad, one inch thick on one edge, and not less than three-quarters of an inch on the other edge, round and free from decay, worm or knot holes; shingles to be 22 inches long, not less than $3\frac{1}{2}$ inches wide, a half-inch thick at the thick end, not decayed, and free from worm or knot holes. [1794]

8. Pipe, hoghead, and barrel staves shall be considered merchantable only when conditioned as follows: Pipe staves to be at least 54 inches in length, three inches in breadth, and one inch thick on the thin edge, sound and free from worm or knot holes; hoghead staves to be 43 inches long, three inches broad, and not less than three-quarters of an inch thick on the edges, sound and free from worm or knot holes; barrel staves to be $2\frac{1}{2}$ feet long, three inches wide, and not less than three-quarters of an inch on their edges, sound and free from worm or knot holes. [1816]

9. Every cord of firewood shall measure eight feet in length, four in breadth, and four in height. Any person to whom such wood is offered for sale, who may suspect any deficiency, shall have the right to have the same measured and corded by any sworn inspector or measurer of the place; and in case of any deficiency appearing, the seller shall, besides paying the fees of the inspector, make good the deficiency without delay, or forfeit, before any court having jurisdiction, the sum of \$2 for every cord so deficient; in case of no deficiency appearing, the fees of the inspector or measurer shall be paid by the buyer. The corporate authorities of any town or city may make such further regulations on this subject as to them shall appear proper to insure the objects of this section. [1766]

¹ Penalty for violation of timber or lumber law, see Sec. 5-9949, page 239.

Sec. 5-1603. Specifications for turpentine barrels.

Every barrel of soft turpentine shall be formed of good and sufficient staves, three-quarters of an inch thick, not exceeding five inches wide, not less than 30 nor more than 32 inches long; the head not less than one nor more than $1\frac{1}{2}$ inches thick, and the barrel secured with 12 good hoops. [1863]

Sec. 5-1605. Powers of corporate authorities of seaport towns.

The corporate authorities of any seaport town may make such further regulations for the inspection of rosin, pitch, tar, and turpentine, and for the discovery of fraud in making and vending said articles, as to said authorities respectively shall seem proper. [1863]

Code Annotated, Book 2, Title 5, Part XXX, Ch. 5-99—Penalties For Violations of Title 5.

Sec. 5-9907. Weighing cotton or other produce without oath.

Any person who shall violate the provisions of section 5-501, making it unlawful to weigh cotton and other produce without first taking the oath therein prescribed, and the factor or person employ-

ing him, shall be guilty of a misdemeanor. [1875; last amended 1876.]

Sec. 5-9908. Unauthorized deduction for bagging and ties from weight of cotton.

For each and every violation of section 5-504 the offender shall be guilty of a misdemeanor and shall be fined in the sum of not less than \$25 nor more than \$50, or imprisonment not less than 15 days, nor more than 30 days: Provided, this law shall not apply to what is known in the trade as round bales, and bales of cotton which weigh less than 300 pounds. [1911]

Sec. 5-9910. Illegal charge for weighing cotton; scope of section.

If any scalesman, salesman, or other person engaged in the business of weighing cotton bales shall charge or receive more than 10 cents per bale for weighing the same, or charge or receive, for reweighing any bale of cotton which has once been taxed 10 cents for weighing, more than five cents for such reweighing, he shall be guilty of a misdemeanor. This section shall embrace a merchant, factor or other person in whose employment the offender may be at the time of the violation, if the illegal charge is made with the consent or knowledge of the employer. [1880-1; last amended 1895.]

Sec. 5-9913. Marking requirement for bales of cottonseed hulls.

Any person, firm or corporation who shall sell cottonseed hulls in bales or packages, without having the weight thereof plainly stamped or branded on each bale or package, shall be guilty of a misdemeanor. [1901]

Sec. 5-9928. Violation of Chapter 5-8 relating to closed packages of apples.

Any person, firm, company, organization, or corporation, who shall violate any of the provisions of Chapter 5-8 [Secs. 5-801—5-806] relating to grading, marking, shipping, etc., of apples shall be punishable by a fine of not more than \$500 or imprisonment for a period not to exceed 90 days, either or both, for each offense. [1927]

Sec. 5-9931.¹ Violating fertilizer laws.

Every manufacturer, mixer, jobber or dealer violating any of the fertilizer laws of this State, shall be guilty of a misdemeanor. [1929]

¹ See Chap. 5-11, page 237.

Sec. 5-9937. Violation of Chapter 5-15, relating to insecticides and fungicides.

Any person who shall violate any of the provisions of Chapter 5-15 [Secs. 5-1501—5-1509], relating to insecticides and fungicides, shall be deemed guilty of a misdemeanor. • • • [1920]

Sec. 5-9941. Fraudulent brands on naval stores.

If an inspector shall fraudulently place * * * any other than the exact number of gallons upon a barrel of spirits of turpentine, he shall be guilty of a misdemeanor. [1887; last amended 1895.]

Sec. 5-9949. Violations of timber or lumber law.

Any inspector or other person who shall violate any of the provisions of Chapter 5-16 [Secs. 5-1601—5-1623] so far as the same relates to the inspection and measurement of timber or lumber, shall forfeit his office, and be punished as for a misdemeanor. [1873; last amended 1895.]

Code Annotated, Book 6, Title 18, Ch. 18-3—Railroad Scales.

Sec. 18-320. Weighing facilities to be furnished by carrier; overweightings and false billing; penalty.

Every railroad or transportation company in this State shall furnish suitable and adequate facilities for correctly weighing all freight offered for shipment in carload lots in this State at points where the volume of business offered is sufficient to warrant the expense; and if any officer or agent of a railroad or transportation company, or person acting for or employed by such railroad or transportation company, shall, by reason of overweightings or false billing, cause such railroad or transportation company to charge on any shipment for more than the actual weight of such shipment, the said railroad or transportation company shall be liable to the owner of such shipment in damages for an amount equal to twice the charges on the excess weight so charged. [1889]

[Ed. NOTE.—Jurisdiction over railroads is vested in the Public Service Commission. Ga. Code Ann., Title 93, Sec. 93-307.]

Sec. 18-321.¹ Weigher's oath.

Whenever any railroad company in this State shall weigh any cars loaded with freight to be shipped and charged for by the carload, such weighing shall be done by a sworn weigher, as provided for the weighing of cotton, rice, and other produce. [1882-3]

¹ See section 5-501, page 234; scalesman to be sworn.

Sec. 18-322. Method of weighing cars.

When such cars are weighed singly they shall be uncoupled at both ends and weighed one at a time. When any railroad company shall transport timber, lumber, or other like articles of freight, which, from length, laps over from one car to another, such company may cause as many as two or three such cars so loaded to be weighed together, after uncoupling them at both ends from other cars, and in all such instances the aggregate weight of the freight upon said two or three cars

shall be averaged so that each of the cars shall be charged with an equal amount of the total weight, and the shipper be made to pay freight as if each of the cars so weighed together did actually contain an equal portion of the whole load; Provided, that in such cases the shipper shall not pay less than the amount of freight due on full carloads. [1882-3]

Sec. 18-323. Penalty for non-compliance with two preceding sections.

Any railroad company failing, refusing, or neglecting to comply with any of the provisions of the two preceding sections shall be held liable in an action for damages, to be brought in the county where such weighing is done, at the instance of any person aggrieved, and the recovery shall be in a sum not less than \$100 nor more than \$200 for each offense. [1882-3]

Code Annotated, Book 10, Title 26, Part XII, Ch. 26-74—Cheats.

Sec. 26-7403. Sale of bread under assize.

Any baker or other person selling bread under the assize established by the corporation of any city, town, or village, or the rules laid down by law, shall be deemed a cheat, and shall be punished as for a misdemeanor. [1865-6]

Sec. 26-7405.¹ Falsely increasing weight of commodities; penalty.

Any person who shall put or cause to be put into any bale of cotton, vessel of sugar, rice, pork, beef, or other provisions, wool, or other article, prepared for market, any dirt, rubbish, or other thing, for the purpose of adding to and increasing the weight or bulk of said cotton, sugar, rice, beef, pork, or other provisions or things, shall be deemed a common cheat, and shall be punished by a fine equal to the value of the thing thus fraudulently packed or put up, and imprisonment and labor in the penitentiary for not less than one year nor more than five years. The bare possession or ownership of such commodities, so fraudulently packed or put up, shall not of itself authorize a conviction, where sufficient evidence of knowledge or privity on the part of the owner, or the person in possession is not produced on the trial. [1874]

¹ Weighing of cotton, rice, etc., see Sec. 5-501, page 234, and Sec. 5-9907, page 238.

Sec. 26-7410. Defrauding and cheating by other means.

Any person using any deceitful means or artful practice, other than those which are mentioned in Part XII [Secs. 26-7401—26-7410] of this Title, by which an individual, or a firm, or a corporation, or the public is defrauded and cheated, shall be punished as for a misdemeanor. [1865-6; last amended 1902.]

Code Annotated, Book 14, Title 42, Ch. 42-1—Food.

Sec. 42-101. Chief food inspector: Appointment; duties.

The Commissioner of Agriculture is hereby authorized to appoint, by and with the advice of the State Chemist, a chief food inspector, * * *. He shall be chargeable with all the duties and shall exercise all the powers as prescribed in this Title [Secs. 42-101—42-9921] except such as appertain to the adulteration, misbranding and imitation of drugs and medicines. * * * [1906; last amended 1919.]

Sec. 42-106. Rules and regulations for enforcement.

The Commissioner of Agriculture, with the advice of the Attorney General, may establish such rules and regulations as shall not be inconsistent with the provisions of this Title [Secs. 42-101—42-9921], and as in his judgment will best carry out the requirements thereof. [1906]

Sec. 42-107. Definition of food.

* * * The term "food" as used herein shall include all articles used for food, drink, confectionery, or condiment by man or other animals whether simple, mixed, or compounded. [1906]

Sec. 42-110. When deemed misbranded.

* * * * *
For the purposes of this Title [Secs. 42-101—42-9921] an article shall also be deemed to be misbranded—

* * * * *
In case of food:
* * * * *

2. If it shall be labeled or branded so as to deceive or mislead the purchaser, * * *

3. If in package form, the quantity of the contents shall not be plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 42-303.

4. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients of the substances contained therein, which statement, design, or device shall be false or misleading in any particular: * * * [1906; last amended 1913.]

Sec. 42-114. Seizure and condemnation.

Any article of food, * * * or liquor that is adulterated or misbranded within the meaning of this Title [Secs. 42-101—42-9921] shall be liable to be proceeded against in any court within the county where the same is found, and seized for confiscation by a process of libel for condemnation. And if such article shall be condemned as being

adulterated or misbranded, or of a poisonous or deleterious character, within the meaning of this Title, the same shall be disposed of by destruction or sale, as the court may direct, * * *. [1906]

Sec. 42-115.¹ Guaranty protection.

No dealer shall be prosecuted under the provisions of this Title [Secs. 42-101—42-9921] when he shall establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in this State, from whom he purchases such articles, to the effect that the same are not adulterated or misbranded within the meaning of this Title, designating them [it]. Said guaranty, to afford protection, shall contain the name and address of the party, making the sale of such articles to such dealer, and in such case the said party shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this law. [1906]

¹ Penalty for selling, etc. misbranded foods, see Sec. 42-9901, page 242.

Code Annotated, Book 14, Title 42, Ch. 42-2—Concentrated Commercial Feeding Stuffs.

Sec. 42-201. Definition.

The term "concentrated commercial feeding stuff," as used herein, shall include cottonseed meal, linseed meal, corn and cob meal, cocoanut meal, gluten feeds, gluten meal, germ feeds, corn feeds, starch feeds, sugar feeds, dry brewer's grains, malt sprouts, dried distiller's grain, dried beet refuse, hominy feed, cerealine feeds, rice meals, rice brans, rice polish, peanut meal, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts, ground beef or fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, peavine meal, cottonseed meal feeds, whole seeds and grains and meals, mixed or unmixed, made from such seeds or grains, and all other materials of a similar nature. [1906]

Sec. 42-202. Marking requirements; standard packages.

Every lot or parcel of concentrated commercial feeding stuff and condiment feed used for feeding domestic animals or poultry, sold, or offered or exposed for sale, shall * * * have affixed thereto, or printed on the bag or other package, in a conspicuous place on the outside thereof, a legible and plainly printed statement, clearly and truly certifying the number of net pounds of feeding stuff contained therein: Provided, that all concentrated commercial feeding stuffs shall be in standard-weight bags or packages of 50, 75, 100, 125, 150, 175 or 200 pounds each; * * * [1906]

Sec. 42-210.¹ Seizure.

If it appears from any examination of [or] analysis of an official sample of any commercial feeding stuff that any of the provisions of this Chapter [Secs. 42-201—42-212] have been violated,

the Commissioner of Agriculture or his deputy or agents shall have the power to seize such feeding stuffs, * * * [1937]

¹ Penalty for violation of Ch. 42-2, see Sec. 42-9922, page 242.

Code Annotated, Book 14, Title 42, Ch. 42-3—Flour, Grits, and Corn Meal.

Sec. 42-301. How packed and marked.

All flour, grits, and corn meal packed in barrels or half-barrels made of any material, or any package made of wood or metal in which flour, grits, or corn meal are or may be offered for sale, shall be well made and of good material; shall have the net weight of flour, grits, or meal plainly marked on the head, top, or side of the barrel or package with a stencil, or paper label or pencil, with letters and figures not less than one inch in length, and shall have the tare marked on the reverse end or side of the barrel or package in like manner. [1906]

Sec. 42-302. Standard weight packages.

Every miller, bolter, blender, or mixer, or other person who manufactures or who buys flour, grits and corn meal, for the purpose of repacking shall sack the same in containers of net avoirdupois weights when packed of two, five, 10, 25, 50, and 100 pounds and multiples of 100 pounds. These provisions shall apply to wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: Provided, however, that the provisions of this section shall not apply to (a) the retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds, or (c) for export or (d) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five pounds, provided the number of pounds net weight shall be clearly designated on the outside of the container, or (e) the exchange by mills grinding for toll. [1906; last amended 1945.]

Sec. 42-303.¹ Same; Tolerances.

From the weights above specified variations for inaccuracies will be allowed as follows: On all packages weighing 90 pounds or over, an allowance of one-fourth of one per cent., and on all packages smaller than 90 pounds an allowance of one-half of one per cent., less than the weight specified in the preceding section. [1906]

¹ Penalty for violation of Ch. 42-3, see Sec. 42-9904, page 242.

Code Annotated, Book 14, Title 42, Ch. 42-5—Testing of Milk and Cream.

Sec. 42-501. Enforcement.

The Commissioner of Agriculture, by himself or his deputies, shall be charged with the enforcement

of this Chapter [Secs. 42-501—42-562]. [1929; last amended 1935.]

Sec. 42-504. Method of test; scales; glassware.

* * * * *

None other than the Babcock method, or such method of testing as may be approved by the Commissioner of Agriculture, may be employed when testing milk or cream, the test of which is to be used as a basis for making payment for the milk or cream thus tested. None other than the Torsion balance scales, or such scales as may be approved by the Commissioner of Agriculture, may be used when weighing cream for testing, when such tests are to be used as a basis for making payment for such cream. It shall be unlawful to use adjustable scale weights in determining the weight of cream used in the Babcock test. * * * Specifications for apparatus and chemicals and directions for testing milk and cream must conform to those adopted by the American Dairy Science Association, with such additions as shall be deemed advisable by the Commissioner of Agriculture, to make them conform to the provisions of this Chapter [Secs. 42-501—42-562]. All test tubes, bottles, pipettes, burettes or instruments used in connection with testing or determining the value of milk, cream, or other dairy products by the use of the Babcock test, must be United States Government standard and shall be approved by the Commissioner of Agriculture. * * * [1929; last amended 1935.]

Sec. 42-507.¹ Bottles and pipettes; How marked; tests of.

All bottles and pipettes used in measuring milk or milk products for determining the percentage of fat in said milk or milk products shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed," and in the side of the pipette or the side or bottom of the bottle, the initials or trade-mark of the manufacturer and his designating number, which number shall be furnished by the Commissioner of Agriculture upon application by the manufacturer and the filing of a bond in the sum of \$1,000 with surties to be approved by the Commissioner, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating numbers, and to whom furnished, shall be kept in the office of the Department of Agriculture. Any manufacturer who sells Babcock, or other milk, cream, or butter test bottles or milk pipettes, to be used in this State, that do not comply with the provisions of this section, shall suffer a penalty of \$500, to be recovered by the Attorney General in an action in the name of the State, under the bond of such manufacturer. The Commissioner of Agriculture shall prescribe specifications with which the glassware mentioned in this section shall comply. The unit of graduation for all Babcock or other glassware shall be the true cubic centimeter,

Code Annotated, Book 14, Title 42, Ch. 42-5—
Testing of Milk and Cream—Continued.

or the weight of one gram of distilled water at four degrees centigrade. The Commissioner of Agriculture shall from time to time make tests of individual bottles and pipettes in use, in order to ascertain whether the above provisions are being complied with, and shall report any violations to the Attorney General. [1929; last amended 1935.]

1 Penalty for violation of Sec. 42-507, see Sec. 42-9912, page 242.

Code Annotated, Book 14, Title 42, Ch. 42-8—"Uniform Narcotic Drug Act."

Sec. 42-811. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 42-820.¹ Enforcement officer.

It is hereby made the duty of the Commissioner of Agriculture, his officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all prosecuting attorneys, to enforce all provisions of this Chapter [Secs. 42-801—42-822], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs. [1935]

1 Penalty for violating Ch. 42-8, see Sec. 42-9917, page 242.

Code Annotated, Book 14, Title 42, Ch. 42-9, Secs. 42-901 to 42-919—Eggs.

[ED. NOTE.—These sections comprise requirements for the grading of eggs including minimum weights for the different size grades, and are not given in detail because the requirements relate primarily to quality.]

Code Annotated, Book 14, Title 42, Ch. 42-99—
Penalties for Violations of Title 42.

Sec. 42-9901. Misbranded food; penalty.

It shall be unlawful for any person to manufacture, sell or offer for sale, any article of food, * * * or liquors, which is adulterated or misbranded, * * * within the meaning of Chapter 42-1 [Secs. 42-101—42-118]. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed \$500, or shall be sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court; and for each subsequent offense, and on conviction thereof shall be fined not exceeding \$1,000, or sentenced to one

year's imprisonment, or both such fine and imprisonment, in the discretion of the court: * * * [1906]

Sec. 42-9902. Failure to stamp weights on sacks of flour and meal.

If any miller or manufacturer of flour or corn meal, or any merchant or dealer offering said articles for sale, shall fail to stamp or have printed on each sack in which either of said articles is packed, in plain figures, not less than one and one-half inches in length, the exact weight of the contents thereof, he shall be guilty of a misdemeanor: Provided, that this section shall not apply to grit ground for toll, nor to millers, merchants, or dealers, selling flour or meal in quantities less than a full sack, or in any quantities when sold by weight. [1889; last amended 1890-1]

Sec. 42-9904. Violation of sections relating to packing, etc. of flour, etc.

Any person who shall violate sections 42-301, 42-302, and 42-303, relating to packing, marking, and weighing flour, grits, and corn meal, shall be guilty of misdemeanor. [1906]

Sec. 42-9912. Punishment of dealer in milk products for using unlawful bottles and pipettes.

Any dealer who uses, for the purpose of determining the per cent. of milk fat in milk or milk products, any bottles or pipettes that do not comply with the provisions of section 42-507, relating to such articles, shall be guilty of a misdemeanor. [1929]

Sec. 42-9917. Violation of Uniform Narcotic Drug Act.

Any person violating any provision of Chapter 42-8 [Secs. 42-801—42-822] shall be guilty of a felony, and shall, upon conviction, be punished by imprisonment in the penitentiary at hard labor for not less than one nor more than 10 years: Provided, that the jury on the trial may recommend that the defendant be punished as for a misdemeanor, and if the trial judge shall approve the recommendation the defendant shall be so punished. [1935]

Sec. 42-9922. Violation of Chapter 42-2 relating to commercial feeding stuff.

Any manufacturer, mixer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this State, any commercial feeding stuffs without having attached thereto, or furnished therewith, such * * * labels as required by the provisions of Chapter 42-2 [Secs. 42-201—42-212], * * *, or shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said Commissioner of Agriculture or his authorized agent in the performance of his duty in connection with the provisions of said Chapter, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section 42-201, without com-

plying with the provisions of said Chapter, * * * or violate any other provision of said Chapter, or official rules and regulations relative thereto, shall be deemed guilty of a violation of said Chapter, and upon conviction thereof shall be fined not more than \$100 for the first violation, and not less than \$100 for each subsequent violation, or upon failure to pay same shall be punished as for a misdemeanor. [1937]

Code Annotated, Book 14, Title 45, Ch. 45-8—Oysters.

Sec. 45-812. Marking of oyster containers.

* * * Each package containing oysters canned in this State, or raw shucked oysters, or oysters in the shell, gathered in this State, shall be stamped by the canner, dealer, or distributor, with the quantity of oysters contained in each can, barrel or other package in which the same are offered for sale within the State or shipped therefrom. * * * [1924]

Sec. 45-817. Oyster measures; specifications; destruction; penalty.

All oysters sold in the shell in tidewater Georgia shall be measured in circular tubs, with straight sides, straight and solid bottoms, with holes in the bottom not more than one-half inch in diameter. A bushel tub shall measure 18 inches from the inside across the bottom, and 21 inches from the bottom to the top or chine. All measures used for buying or selling oysters shall have a brand, to be adopted by the Commissioner of Game and Fish, stamped thereon by the Commissioner or his lawful inspectors or patrolmen. All measures found in the possession of any person not meeting the requirements of this section shall be destroyed by the Commissioner of Game and Fish. Any person or persons violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10 nor more than \$50 or imprisoned for not less than 10 days nor more than 30 days in the discretion of the court. [1924; last amended 1931.]

Code Annotated, Book 22, Title 73, Ch. 73-1—Paint.

Sec. 73-101. Enforcement officer; rules and regulations.

The chief drug inspector is hereby charged with the proper enforcement of all the provisions of this Chapter [Secs. 73-101—73-106], and is empowered to formulate and promulgate such rules and regulations as may be necessary in carrying out the purposes of this Chapter. * * * [1920; last amended 1939.]

Sec. 73-102. Definition.

The term "paint," as used in this Chapter [Secs. 73-101—73-106], shall include white lead basic, carbonate of sublimate, in any kind of oil, or any

compound intended for the same use, paste or semipaste, and liquid or mixed paint ready for use. [1920]

Sec. 73-103. Marking requirements.

The labels on containers of paints shall clearly and distinctly state * * * the quantity contained in the package; this, in the case of liquid or mixed paints, to be designated in United States standard gallons or fraction thereof, and in the case of paste or semipaste paints, such as are commonly sold by weight, to be shown by weight avoirdupois. Said labels shall be printed in the English language in plain, legible type. [1920]

Sec. 73-106.1 Same: Prima facie evidence.

Having in possession by any person or persons, firm or corporation, or agent or employee of any person or persons, firm or corporation dealing in said articles, of any article hereinbefore described and not properly labeled, shall be considered prima facie evidence that the same is kept by such person, firm or corporation, in violation of the provisions of this Chapter [Secs. 73-101—73-106] and punishable under it. [1920]

¹ Penalty for violation of Secs. 73-101—73-106, see Sec. 73-9901, page 244.

Code Annotated, Book 22, Title 73, Ch. 73-2—Gasoline and Oils.

Sec. 73-201.1 Appointment of State Oil Chemist.

The Comptroller General is hereby required to appoint a chemist * * * to be designated as the State Oil Chemist, * * * [1927]

¹ Penalty for violation of Secs. 73-201—73-227, see Sec. 73-9902, page 244.

Sec. 73-202. Appointment of oil inspectors.

* * * it shall be the duty of the Comptroller General to appoint six oil inspectors, * * * [1927; last amended 1937.]

Sec. 73-220.1 Inspection of self-measuring pumps; condemnation.

It shall be the duty of the inspectors herein provided for to familiarize themselves with the accuracy and adjusting devices on the various makes of self-measuring pumps in use, and they shall carefully inspect all of such pumps located in the territory assigned to them at least once every 90 days. When such pumps shall be found to be giving [accurate measure with a variation of not exceeding four ounces from the]² actual measure on a measurement of five gallons, the inspector shall place a lead and wire seal, to be provided by the Comptroller General, on the adjusting device or devices in such way that the adjustment cannot be altered without breaking the seal. If any pump shall be found to be giving inaccurate measure in excess of four ounces, the inspector shall then and there notify

Code Annotated, Book 22, Title 73, Ch. 73-2—
Gasoline and Oils—Continued.

the operator of the pump, whether owner or lessee, to make the necessary adjustments, the inspector to lend his assistance with the standard measure provided for testing such pumps; after the adjustments shall have been made, the adjusting devices shall be sealed in the manner provided for those pumps found originally accurate. The inspector shall notify the operator (whether owner or lessee) of every pump that apparently has been altered for the purpose of giving short measure in excess of eight ounces on a measure of five gallons, or that cannot be adjusted within a range of eight ounces, either over or under, on a measure of five gallons, that it must immediately be adjusted, the inspector to lend his assistance with the standard measure for testing such pumps. Should the operator fail or refuse to then and there make such adjustments as shall be necessary to bring the measure within the allowed variation, the same shall be condemned and dismantled immediately by the inspector examining the same, and such pump shall not again be operated without the written consent of the Comptroller General. Inspectors shall be required to report to the Comptroller General immediately the name and number of all pumps condemned and dismantled. When any pump shall be condemned under the provisions of this Chapter [Secs. 73-201—73-227] by any inspector, it shall be the duty of the inspector to immediately make affidavit, before the ordinary of the county in which the pump is located, that the said pump is being operated by the person who shall be named in the affidavit, contrary to law; and thereupon the ordinary shall issue an order to the person named in the affidavit to show cause before him on the day named in the order, not more than 10 days nor less than three days from the issuance of the order, why the said pump should not be confiscated and dismantled. On the day named in the order, it shall be the duty of the said ordinary to hear the respective parties and to determine whether or not the pump has been operated contrary to the provisions of this Chapter, and if the said ordinary shall find that the said pump has been so operated, then he shall forthwith issue an order adjudging the pump to be forfeited and confiscated to the State, and direct the sheriff of the county to dismantle the said pump and take same into his possession, and, after 10 days' notice by posting or publication, as the court may direct, to sell the pump to the highest bidder for cash; the proceeds of said sale, or as much thereof as may be necessary, shall be used by the sheriff, first, to pay the cost, which shall be the same as in cases of attachment, and the sheriff shall thereupon pay over and deliver the residue, if any, to the person from whose possession the pump shall have been taken. It shall be unlawful to install or operate any self-measuring pump, which can be secretly

manipulated in such manner as to give short measure. Such inaccurate self-measuring pump shall be condemned as heretofore provided in this section, and thereafter it shall be unlawful for any person to sell any kerosene or gasoline from such pump until such pump shall have been made or altered so as to comply with the provisions of this Chapter and shall have been inspected and approved for service by the inspector. It shall be unlawful for anyone to break a seal applied by an inspector to a pump, without first securing consent of the Comptroller General, which consent may be given through one of the duly authorized inspectors. [1927]

¹ Penalty for operating condemned pump, see Sec. 73-9905, page 244. Punishment for operating short-measure pump, see Sec. 73-9906, page 245.

² The material in brackets is not included in the code section but may be found in the original act (Acts 1927, pp. 286, 288).

Sec. 73-222.¹ Short measure.

No person shall store, sell, expose or offer for sale any liquid fuels, lubricating oils, greases, and/or other similar products:

* * * * *

3. in any manner whatsoever which may deceive, or have the effect of deceiving the purchaser of such products as to the nature, quality or quantity of the products so stored, sold, exposed or offered for sale. [1937]

¹ Penalty for violation of Sec. 73-222, see Sec. 73-9907, page 245.

Code Annotated, Book 22, Title 73, Ch. 73-99—
Penalties for Violations of Title 73.

Sec. 73-9901. Selling deceptively labeled paint.

Whoever shall sell, or offer or expose for sale, any paint which shall be labeled or marked in such manner as to tend to deceive the purchaser as to its nature or composition, or which shall not be accurately labeled, as required in Chapter 73-1 [Secs. 73-101—73-106], shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be punished by a fine of not less than \$25 and not more than \$100, or by imprisonment in the county jail not exceeding 60 days. [1920]

Sec. 73-9902. Violation of petroleum products law.

Any person or association of persons, firm, or corporation, who shall violate any of the provisions of Chapter 73-2 [Secs. 73-201—73-227], relating to inspection, labeling, sale, etc., of gasoline, kerosene, and other petroleum products, or any rule or regulation promulgated by the Comptroller General for the enforcement of said Chapter, shall, upon conviction thereof, be punished as for a misdemeanor. [1927]

Sec. 73-9905. Operating condemned self-measuring gasoline pumps.

Any person, company, firm, or corporation who shall reinstall and operate any pump, without the

written consent of the Comptroller General, which has been condemned by a duly authorized inspector as provided for in Chapter 73-2 [Secs. 73-201—73-227] because of giving short measure in excess of eight ounces to the measurement of five gallons, shall be deemed guilty of a misdemeanor. [1927]

Sec. 73-9906. Operating short-measure gasoline pumps.

Any person, company, firm, or corporation who shall install or operate a self-measuring pump which has a device or other mechanical means used for the purpose of giving short measure, shall, upon conviction thereof, be punished as for a misdemeanor. [1927]

Sec. 73-9907. Misbranding of petroleum products.

Any person or association of persons, firm or corporation who shall violate any of the provisions of sections 73-222 * * *, inclusive, for pre-

venting deception, substitution and misbranding of liquid fuels, oils, grease, and similar products, shall upon conviction thereof be punished as for a misdemeanor. [1937]

Code Annotated, Book 10, Title 27, Part VI, Ch. 27-25—Misdemeanors.

Sec. 27-2506. Penalty for misdemeanors.

Except where otherwise provided, every crime declared to be a misdemeanor shall be punishable by a fine not to exceed \$1,000, imprisonment not to exceed six months, to work in the chain gang on the public roads, or on such other public works as the county or State authorities may employ the chain gang, not to exceed 12 months, any one or more of these punishments in the discretion of the judge: * * * [1865-6; last amended 1908.]

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Sec. 7471. Definitions.

Whenever used in this chapter [Secs. 7471-7483]: “enforcing officer” shall mean the chiefs of police of the counties of Hawaii, Kauai and Maui and their duly authorized subordinates and the sheriff of the city and county of Honolulu; and “scales,” “weights,” “beams,” “weighing machines,” “devices,” “appliances,” “measures” or “instruments” shall include all mechanical means for the weighing or measuring of any article or commodity whatsoever. [1921; last amended 1943.]

Sec. 7472. Standards; tests.

It shall be the duty of the enforcing officer to procure and keep a standard set of scales, beams, weights and measures; and he shall, semi-annually, or oftener in his discretion, cause all scales, beams, weighing machines, measures-liquid or dry, -devices and appliances used in the ascertainment of weight

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or of measure, used by any person, in the buying or selling or the transportation, or the receiving for shipment, or in the ascertainment of weight or measure, of goods, wares, merchandise, liquids, fruits, vegetables or any other commodity, to be tested by such standard scales, beams, weights and measures, and whenever such scales, beams, weighing machines, measures, devices or appliances shall be found to correspond to such standard scales, beams, weights and measures in his possession, he shall cause to be sealed or marked, under his name, each scale, beam, weighing machine, measure, device or appliance with an appropriate device showing that such scale, beam, weighing machine, measure, device or appliance is correct, and the date of the inspection, which device shall be placed so as to be easily seen. [1921; last amended 1929.]

Sec. 7473. Sealing; record of sales.

All weighing appliances and measures as mentioned and included in section 7472 shall be so

Revised Laws 1945, Part C, Title 19, Ch. 142—
Weights and Measures—Continued.

sealed within two days of the date of purchase and of the acceptance and delivery of such appliance or measure, and notice thereof, by both the buyer and the seller shall, within such two days, be given to the enforcing officer upon forms as he may provide and which shall be recorded by him. [1921]

Sec. 7474. Incorrect weights and measures.

The enforcing officer shall condemn and seize, and may destroy any incorrect scale, beam, weighing machine, measure, device or appliance which in his best judgment is not susceptible of repair; but any scale, beam, weighing machine, measure, device or appliance which shall be found to be incorrect, but which in his best judgment is susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "out of order." The owner or user of any scale, beam, weighing machine, measure, device or appliance, which has been marked "out of order" as herein provided, may have the same repaired or corrected within thirty days, but until the same has been repaired or corrected and tested as herein provided, the owner or user thereof may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the enforcing officer.

When the same has been repaired or corrected, the owner or user thereof shall notify the enforcing officer who shall again cause such scale, beam, weighing machine, measure, device or appliance, which had been found incorrect and marked as herein provided, to be tested, and until such scale, beam, weighing machine, measure, device or appliance has been retested as hereinbefore provided and found correct, the same shall not be used or in any way disposed of by the owner or user. When any such scale, beam, weighing machine, measure, device or appliance has been repaired or corrected and has been retested and found correct, the enforcing officer shall cause the tag or device with the words "out of order" to be removed therefrom, and shall seal or mark such scale, beam, weighing machine, measure, device or appliance in the manner provided for the marking of the same where, upon inspection, it is found correct. [1921; last amended 1929.]

Sec. 7475. Identification of owner.

Any person presenting any weighing appliance or measure to the enforcing officer for verification and testing shall give his full name, address, and description of occupation and business and the purpose for which such weighing appliance or measure is to be used; such information shall be recorded by the enforcing officer. [1921]

Sec. 7476. Tolerance or error permissible in excess or deficiency.

The following shall be tolerance or permissible error, either in excess or deficiency:

EVEN BALANCE OR EQUAL ARM SCALES:

Load (pounds)	Tolerance on parts requiring employment of removable weights	Tolerance on beam or reading face	Sensibility reciprocal
	Ounces	Ounces	Ounces
1	$\frac{1}{16}$	$\frac{1}{16}$	$\frac{1}{8}$
2	$\frac{1}{16}$	$\frac{1}{8}$	$\frac{1}{8}$
4 to 6	$\frac{3}{8}$	$\frac{3}{16}$	$\frac{1}{4}$
8 to 12	$\frac{1}{4}$	$\frac{3}{8}$	$\frac{1}{2}$
15 to 20	$\frac{5}{16}$	$\frac{1}{2}$	$\frac{3}{4}$
24 to 30	$\frac{3}{8}$	$\frac{5}{8}$	1
40	$\frac{7}{16}$	$\frac{5}{8}$	$1\frac{1}{4}$
50	$\frac{1}{2}$	$\frac{3}{4}$	$1\frac{1}{2}$

The manufacturers' tolerance on new scales shall not be greater than one-half the values given.

The term "sensibility reciprocal" shall mean the weight required on the pan, plate or platform to cause it to move from its position of equilibrium when the scale is in balance, to a position of equilibrium at the limit of its motion.

UNEQUAL ARM OR MULTIPLE LEVER
COUNTER SCALES USING RATIO WEIGHTS:

The tolerance on beam or reading face shall be the same as for equal arm scales.

Pounds	On ratio	Pounds	On ratio
50	$\frac{1}{2}$ ounce	400 .....	.4 ounces
100	1 "	500 .....	.5 "
200	2 ounces	600 .....	.6 "
300	3 "		

The sensibility reciprocal shall not exceed that of equal arm scales.

SPRING SCALES:

The term "spring scale" shall mean a scale in which the weight indications depend on the change of shape or of dimensions of an elastic body or system of bodies; *provided*, however, that scales in which metallic bands or strips are employed for the primary purpose of fulfilling the functions of knife edges and bearings shall not be considered within the meaning of this definition.

Tolerances. The tolerance allowable on all spring scales shall not be greater than one-fourth of one minimum graduation on the reading face or dial; *provided*, that the manufacturers' tolerance on new scales shall not be greater than one-half of the values given.

COMPUTING SCALES:

The tolerance on all computing scales shall be no greater than one-fourth of one minimum graduation at any point on the dial or reading face; *provided*, that the manufacturers' tolerance on new

computing scales shall not be greater than one-eighth of such minimum graduation.

AUTOMATIC OR DIAL SCALES OTHER THAN SPRING SCALES OR COMPUTING SCALES:

The tolerance on automatic or dial scales, other than spring scales or computing scales, shall be one-fourth of one minimum graduation up to the first half of the capacity of the dial and one-half of one graduation thereafter and to the full capacity of the scale.

All liquid or dry measures shall be in accordance with standard.

PLATFORM SCALES:

Class A shall include all portable platform scales and dormant type scales where installed inside of a building having side walls and roof.

Class B shall include wagon scales, motor truck scales, railroad scales and also dormant type scales not inside of building.

Tolerances. Manufacturers' tolerance on new scales shall not be greater than one-half the following:

Load (pounds)	Tolerance, on ratio	Class A on beam	Tolerance, on ratio	Class B on beam
	Ounces	Ounces	Ounces	Pounds
50	1/2	1		
100	1	2		
200	2	4		
300	3	6		
400	4	8		
500	5	10	10	1 1/4
600	6	12	12	1 1/2
		Pounds	Pounds	Pounds
800	8	1	1	2
1,000	8	1	1	2
	Pounds			
2,000	1	2	2	4
4,000			4	8
10,000			10	20
20,000			20	40
30,000			30	60

The sensibility reciprocal on all platform scales, except counter scales, shall not be greater than two minimum graduations on the beam, and on new scales not greater than one-half that amount. [1921; last amended 1929.]

Sec. 7477. Method of testing scales.

The method of testing scales shall be as follows: All counter scales, spring scales and computing scales shall be tested to their full capacity, and at half capacity at each point of the platform bearing. Portable scales of five hundred to a thousand pound capacity must be tested to one-fourth their capacity and at each point of bearing of the platform. Larger portable and dormant type scales must be tested to five hundred pounds and at each point of

bearing of the platform. Wagon and motor truck scales must be tested with one thousand pounds, and, where possible, with a load approximating one-fourth the scale capacity as a dead load and a thousand pound test thereafter. The thousand pound test must be applied at the point of each bearing of the platform. Test for railroad track scales of fifty tons capacity or over, shall be not less than ten thousand pounds or not greater than their rated sectional capacity, and shall be applied at each point of bearing of the platform. [1929]

Sec. 7478. Inspectors.

Any of the designated chiefs of police or the sheriff of the city and county may deputize any one of the employes in his department to aid him in the performance of his duties under this chapter [Secs. 7471-7483]. [1921]

Sec. 7479. Standards.

The standards of weights and measures shall be those adopted, and now used, or that may be adopted and used by the United States. [1921]

Sec. 7480. Bushel.

Whenever any wheat, rye, Indian corn, barley or oats shall be sold by the bushel, and no special agreement as to the measurement shall be made by the parties, the bushel shall consist of sixty pounds of wheat, and fifty pounds of rye, of fifty-six pounds of Indian corn, or forty-eight pounds of barley and of thirty-two pounds of oats. [1921]

Sec. 7481. Fees.

The charges for testing and certification shall be as follows:

For scales:

From one to thirty pounds weight capacity	.....	\$ .50
Over thirty pounds to three hundred pounds weight capacity	.....	1.25
Over three hundred pounds to one thousand pounds weight capacity	.....	2.00
Over one thousand pounds to six thousand pounds weight capacity	.....	2.50
Over six thousand pounds to sixteen thousand pounds weight capacity	.....	3.50
Over sixteen thousand pounds to thirty thousand pounds weight capacity	.....	5.00
Over thirty thousand pounds to sixty thousand pounds weight capacity	.....	7.50
Over sixty thousand pounds weight capacity	.....	10.00
For measures of extension	.....	.50
For pump or pumping measure or appliance	.....	.50
For any other instrument used for weighing or measuring and not specifically mentioned herein	.....	.50

No charge shall be made for more than two inspections in any one year.

All fees collected under the provisions of this chapter [Secs. 7471-7483] shall be paid into the treasury of the county for which the inspection, testing and sealing is made, as a municipal realization. [1921; last amended 1941.]

Revised Laws 1945, Part C, Title 19, Ch. 142—
Weights and Measures—Continued.

Sec. 7482.¹ Unlawful use of weights and measures; penalty.

If any person shall, for any of the purposes mentioned in section 7472, use or cause to be used any weighing or measuring machine or appliance as mentioned in or necessarily included within the meaning of this chapter [Secs. 7471-7483], and which weighing or measuring machine or appliance has not been duly sealed or marked, or which weighing or measuring machine or appliance has been marked "out of order" and has not been retested and found correct, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars, and the court may order the confiscation and destruction of such weighing or measuring machine or appliance.

Any person who shall be injured or defrauded by the use of any such weighing or measuring machine or appliance may maintain an action for damages against the offender, and, if judgment be rendered in his favor, he shall recover double damages and costs of the action. [1921; last amended 1929.]

¹ See Sec. 11362, false weights or measures, page 252.

Sec. 7483. Unlawful changing; removal of marks; penalty.

Any person who shall wilfully or fraudulently change any weighing or measuring machine or appliance as mentioned in or necessarily included within the meaning of this chapter [Secs. 7471-7483], after the same has been inspected, tested and sealed or marked by the enforcing officer, or who shall change, remove or destroy any tag, seal or mark which may have been placed in or thereon by the enforcing officer for the purposes of this chapter, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars. [1921; last amended 1929.]

Revised Laws 1945, Part A, Title 6, Ch. 41, Part I—
"Hawaii Food, Drug and Cosmetic Act."

Sec. 2205. "Selling" includes what.

The provisions of part I [Secs. 2201-2231] regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such article in the conduct of any food, drug or cosmetic establishment. [1941]

Sec. 2206. Prohibited acts.

The following acts and the causing thereof within the Territory by any person are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections * * * 2224-2228.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the territory from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of sections 2226-2228.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1941]

* * * * *

Sec. 2207. Injunction.

In addition to the remedies hereinafter provided the commissioner [food commissioner] is hereby authorized to apply to a circuit judge sitting in equity for, and such judge shall have jurisdiction upon hearing and for cause shown, to grant, a temporary or permanent injunction restraining any person from violating any provision of section 2206; irrespective of whether or not there exists an adequate remedy at law. [1941]

Sec. 2208. Regulations for standards of fill of containers.

Whenever in the judgment of the board [board of health] such action will promote honesty and fair dealing in the interest of consumers, the board shall prescribe regulations fixing and establishing for any food or class of food a * * * reasonable standard of * * * fill of container. * * * [1941]

Sec. 2210. When food deemed misbranded.

A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight,

measure, or numerical count; *provided*, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(f) If any word, statement, or other information required by or under authority of part I [Secs. 2201-2231] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(h) If it purports to be or is represented as:
* * * (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 2208, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1941]

* * * * *

Sec. 2215. When drugs or devices deemed misbranded.

A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; *provided*, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this part I [Secs. 2201-2231] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(i) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1941]

Sec. 2218. When cosmetics deemed misbranded.

A cosmetic shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight,

measure, or numerical count; *provided*, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this part I [Secs. 2201-2231] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading. [1941]

Sec. 2220. Enforcement; rules and regulations.

(a) The board [board of health] shall have the power, with the approval of the governor, to adopt, prescribe and enforce such rules or regulations as it may deem necessary for the efficient enforcement of this part I [Secs. 2201-2231]. The board is hereby authorized to make the rules or regulations prescribed under this part I conform in so far as practicable with those promulgated under the federal Act.¹ [1941]

* * * * *

¹ Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.

Sec. 2221. Appointment of food commissioner and deputies.

In order to assist in carrying out the provisions of this part I [Secs. 2201-2231], the board [of health] shall appoint a duly qualified food commissioner or analyst, * * *. The board may also appoint deputy commissioners or analysts. [1941]

Sec. 2226. Right of entry; seizure.

The [food] commissioner or any of his deputies shall have the power in the performance of their duties to enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, storage-room, drug store or lavatory, or any place where they have probable cause to believe that food, drugs, devices, or cosmetics are made, prepared, sold, or kept, exhibited or offered for sale, and to open any cask, tub, bottle, case or package containing or supposed to contain any such food, drug, device, or cosmetic, and examine or cause to be examined the contents thereof. In case any food, drug, device, or cosmetic is found to be adulterated or misbranded within the meaning of this part I [Secs. 2201-2231] and the owner or person in charge thereof refuses to comply with the instructions of the commissioner or any of his deputies for the proper disposal thereof, such food, drug, device, or cosmetic shall be liable to seizure. The commissioner or any of his deputies shall affix to such article or articles

Revised Laws 1945, Part A, Title 6, Ch. 41, Part I—
"Hawaii Food, Drug and Cosmetic Act"—Continued.

a tag or other appropriate marking, giving notice that such article is, or is suspected of being adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the commissioner or any of his deputies or by the court or judge having jurisdiction over such matters. Upon the request of the commissioner or any of his deputies, made to such court, the court shall order and direct that such food, drug, device, or cosmetic be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine as to whether or not it is adulterated or misbranded. [1941]

Sec. 2231. Penalty for violations; exceptions.

(a) Any person who violates any of the provisions of section 2206 shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding two hundred, nor less than ten dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 2206 (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Territory from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this part I [Secs. 2201-2231], designating this part I.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the board to furnish the board the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the Territory who caused him to disseminate such advertisement. [1941]

Revised Laws 1945, Part A, Title 6, Ch. 49—"Uniform Narcotic Drug Act."

Sec. 2610. Marking requirements.

Whenever a producer, manufacturer or wholesaler of habit-forming drugs, or an apothecary, sells or dispenses any such drug to a producer, manufacturer or wholesaler thereof, or to an apothecary, physician, dentist, veterinarian or practitioner, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor or dispenser

and the amount, quantity, kind and form of narcotic drug contained therein. * * * [1931]

Sec. 2620. Enforcement.

This chapter [Secs. 2601-2622] shall be enforced by the board of health of the Territory. [1931]

Sec. 2621. Penalties.

Any person violating any provision of this chapter [Secs. 2601-2622], upon conviction (unless some other specific penalty is provided by this chapter for the offense of which he is convicted), shall be punished, for the first offense, by a fine not exceeding one thousand dollars, or by imprisonment for a period not exceeding one year, or by both fine and imprisonment, and for any subsequent offense, by a fine not exceeding two thousand dollars, or by imprisonment for a period not exceeding one year, or by both fine and imprisonment. [1931]

Revised Laws 1945, Part C, Title 19, Ch. 137—Intoxicating Liquors.

Sec. 7262. Labels on containers.

All persons manufacturing any liquor for sale under the provisions of this chapter [Secs. 7221-7295] shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture. Every container containing liquor for sale by any person holding a wholesale or retail license shall have securely and permanently attached to it a label setting forth the kind and quantity of liquor contained therein and by whom manufactured. In addition to the foregoing requirements, all such labels shall conform in all respects to the then existing federal laws and regulations regarding such labels. [1933-4; last amended 1937.]

Sec. 7283. Penalty for violations.

If any person shall violate any provisions of this chapter [Secs. 7221-7295] or any rule or regulation in effect by authority of this chapter, whether in connection therewith a penalty is referred to or not, for which violation no penalty is specifically prescribed, or if any minor shall purchase any intoxicating liquor, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding six months or by both fine and imprisonment. [1933-4; last amended 1941.]

[ED. NOTE.—The county liquor commissions, appointed in each county, are responsible for the enforcement of Chap. 137. See Secs. 7223-7231, Revised Laws of Hawaii 1945.]

Revised Laws 1945, Part D, Title 30, Ch. 263—False Weights and Measures.

Sec. 11362. Gross cheat.

Whoever, in the sale or purchase or any merchandise or other property, shall use any false weight or

measure; or cheat another by the fraudulent use of any legal weight or measure; as for example, by dexterously sliding a yard stick, or by putting some other thing into a measure partly to fill the same, even though the vendee and vendor be present, is guilty of a gross cheat. [1869]

Sec. 11365. Same: Penalty.

Whoever is convicted of * * * gross cheat [under Sec. 11362] shall be punished by imprisonment of not more than one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. [1896; last amended 1941.]

Revised Laws 1945, Part D, Title 30, Ch. 263—False Advertising.

Sec. 11373. Unlawful acts; penalty.

Any person, who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor; *provided*, that the provisions of this section shall not apply to any owner, publisher, agent or employee of a newspaper for the publication of such an advertisement published in good faith and without knowledge of the falsity thereof; *provided*, further, that any advertisement shall be deemed untrue, deceptive, or misleading within the meaning of this section which uses, with or without the use of the word "value" or the word "worth" or other synonymous terms, any word or words, figure or figures, which falsely or fraudulently convey or which by reasonable intentment falsely or fraudulently convey to a reader the meaning that the merchandise, securities, service, or other things so advertised are of a greater value or worth more than or were previously sold or offered for sale at a price higher than the price quoted in said advertisement. For the purpose of this section the words "worth" or "value" shall be taken to be the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein said

advertisement is published. Whoever is convicted of the violation of the provisions of this section shall be punished by fine not exceeding five hundred dollars, or by imprisonment for not more than thirty days. [1925; last amended 1941.]

Revised Laws 1945, Part D, Title 30, Ch. 289—Weight of Bread.

Sec. 11791. Weight of loaf; penalty for selling underweight.

A loaf of bread for sale shall be one pound in weight. Bread, unless chiefly composed of rye or maize, shall not be manufactured for sale or sold except in the following net weights twelve hours after baking: three-quarters pound; one pound; one and a half pounds; two pounds or other pound weights.

Variations at the rate of one ounce per pound over and one ounce per pound under the above specified weights are permitted in individual loaves, but the average weight of not less than twenty-five loaves of any one unit of any one kind shall be not less than the weight prescribed by this chapter [Sec. 11791].

Twin or multiple loaves may be sold, *provided* they conform to the above weight requirements.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and punished by a fine of not more than twenty-five dollars for each offense. [1919]

Session Laws 1945, Series A-24: Act 60. [Chapter 18A]—Economic Poisons.

[Sec. 1180.01.] Sec. 1. Definitions.

As used in this Act [Secs. 1-10]:

(b) The term "economic poison" means and includes any substance used for the prevention, destruction or repulsion of insects, fungi, bacteria, weeds, rodents or any other form of plant or animal life which may be a pest or detrimental to vegetation, man, animals or households.

(c) "Board" means the board of commissioners of agriculture and forestry.

(d) "Director" means the director of the division of marketing of the board of commissioners of agriculture and forestry.

(e) The term "label" means and includes any written, printed or graphic matter upon or affixed to any can, sack or other container of economic poisons. [1945]

[Sec. 1180.02.] Sec. 2. Rules and regulations.

The board shall have power to make such rules and regulations regarding the sale, registration and labeling of economic poisons as it may deem necessary to carry into effect the full intent and meaning of this Act [Secs. 1-10]. It may register or refuse the registration of any economic poison which may

Session Laws 1945, Series A-24: Acts 60. [Chapter 18A]—Economic Poisons—Continued.

be sold or offered or exposed for sale or distribution within the territory, which does not comply with all provisions of this Act or other regulations which may be hereafter made by the board. * * * [1945]

[Sec. 1180.05.] Sec. 5. Sales prohibited.

No person shall solicit or receive orders for the purchase of, sell, or offer for sale, within the territory, or import or cause to be imported into the territory, any type or brand of economic poisons which type or brand has not been registered and labeled in the manner provided in this Act [Secs. 1-10]. [1945]

[Sec. 1180.06.] Sec. 6. Removal from sale.

Any economic poisons offered for sale in violation of the provisions of this Act [Secs. 1-10] must, in accordance with rules and regulations of the board, be removed from sale by the vender thereof upon his receiving notice from the board of such violation. The vender must withhold such economic poisons from sale until such violation has been corrected. [1945]

[Sec. 1180.07.] Sec. 7. Marking requirements.

(a) There shall be stamped on or printed on each parcel, lot or container of economic poison or on the tag or label affixed thereto in a conspicuous place, a plainly written statement in the English language which shows the following facts with respect to each such parcel, lot or container:

1. The net weight of the parcel, lot or container. [1945]

* * * * *

[Sec. 1180.09.] Sec. 9. Penalty for violations.

Every person who violates any provision of this Act [Secs. 1-10] or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars for the first offense and a fine of not less than one hundred dollars nor more than one thousand dollars for each offense thereafter. [1945]

Session Laws 1945, Series A-29: Act 252. [Chapter 20]—Standard Containers for Agricultural Commodities.

[Sec. 1311.01.] Sec. 1. Definitions.

As used in this Act [Secs. 1-12], the term:

(a) "Board" means the board of commissioners of agriculture and forestry;

(b) "Director" means director of the division of marketing of the board of commissioners of agriculture and forestry;

* * * * *

(d) "Agricultural commodity" means fresh fruits

and fresh vegetables of every kind and character, whether or not frozen or packed in ice, which have been produced within the Territory of Hawaii; [1945]

* * * * *

[Sec. 1311.02.] Sec. 2. Enforcement; civil liability; injunction; penalty for violations.

It shall be the duty of the director to administer and enforce the provisions of this Act [Secs. 1-12] and any rules or regulations made by the board pursuant thereto.

The following penalties, remedies, procedures and actions shall apply in instances of violations and complaints of violations of the provisions of this Act, or of the rules and regulations issued by the board under the authority of this Act:

(a) Any person who violates any provisions of this Act or any rule or regulation issued thereunder shall be liable civilly in an action brought by the director for a penalty in an amount not to exceed a sum of five hundred dollars for each and every violation. Any money recovered by the director under this provision shall be deposited in the marketing inspection and agriculture control fund;

(b) Violation of this Act or of any regulation issued thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit by the director and/or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this Act or of any regulation effective thereunder;

(c) Every person who violates any provision of this Act or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars. Each day during which any of the above violations referred to continue shall constitute a separate offense; [1945]

* * * * *

[Sec. 1311.04.] Sec. 4. Rules and regulations.

The board shall have power to make rules and regulations as follows:

Defining * * * standard containers for packing of particular agricultural commodities and prohibiting the sale, offering for sale, or transportation of agricultural commodities unless packed in standard containers * * * [1945]

[Sec. 1311.05.] Sec. 5. Prohibition of deceptive packing.

No person shall sell, expose or offer for sale, or transport for sale in open or closed packages agricultural commodities packed in such manner that the face or shown surface is so superior to the unexposed portion as to quality, size, condition or in any other respect as to materially misrepresent the contents. [1945]

Session Laws 1947, Series A-36: Act 84. [Chapter 20A.]—Mixed Feeding Stuffs.

[Sec. 1320.01.] Sec. 1. Definitions.

As used in this Act [Secs. 1-11]:

* * * * *

(b) The term "mixed feeding stuffs" means and includes any feeding stuff which is a mixture or blend of more than one feed ingredient designed to be used for the purpose of feeding livestock, poultry and rabbits, but does not include wet garbage or mixed feeds for dogs, cats, or other domestic pets.

(c) "Board" means the board of commissioners of agriculture and forestry.

(d) "Director" means the director of the division of marketing of the board of commissioners of agriculture and forestry.

(e) The term "label" means and includes any written, printed or graphic matter upon or affixed to any can, sack or other container of mixed feeding stuffs. [1947]

[Sec. 1320.02.] Sec. 2. Enforcement.

The board shall have power to make such rules and regulations regarding the sale, registration and labeling of mixed feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this Act [Secs. 1-11]. [1947]

* * * * *

[Sec. 1320.05.] Sec. 5. Sales prohibited.

No person shall solicit or receive orders for the purchase of, sell, or offer for sale, within the Territory, or import or cause to be imported into the

Territory, any type or brand of mixed feeding stuffs, which type or brand has not been registered and labeled in the manner provided in this Act [Secs. 1-11]. [1947]

[Sec. 1320.06.] Sec. 6. Removal from sale.

Any mixed feeding stuffs offered for sale in violation of the provisions of this Act [Secs. 1-11] must, in accordance with rules and regulations of the board, be removed from sale by the vender thereof upon his receiving notice from the board of such violation. The vender must withhold such mixed feeding stuffs from sale until such violation has been corrected. [1947]

[Sec. 1320.07.] Sec. 7. Marking requirements.

There shall be stamped on or printed on each parcel, lot, or container of mixed feeding stuff weighing fifty pounds or more, or on a tag or label affixed thereto in a conspicuous place, a plainly written statement in the English language which shows the following facts with respect to each such parcel, lot or container:

1. The net weight of the parcel, lot, or container. [1947]

* * * * *

[Sec. 1320.10.] Sec. 10. Penalties.

Every person who violates any provision of this Act [Secs. 1-11] or of any rule or regulation issued thereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00 for the first offense and a fine of not less than \$100 for each offense thereafter. [1947]

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Department of Agriculture.

Sec. 67-2601. Powers and duties.

The department of agriculture shall have power:

* * * * *

9. To exercise the rights, powers and duties vested by law in the state sealer of weights and measures and his deputies and assistants.

* * * * *

15. To establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products.

16. To prescribe and promulgate rules and regu-

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lations governing the marks, brands and labels which may be required upon receptacles for farm products.

* * * * *

22. To investigate the practices and methods of factors, commission merchants and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, dairy products, eggs, livestock, vegetables, or other farm products, to the end that the distribution of such commodities through such factors, commission merchants and others shall be efficiently and economically accomplished without hardship, waste or fraud.

* * * * *

36. To establish standards of weights and measures and enforce compliance therewith. [1919]

* * * * *

Code Annotated (1947), Vol. 11, Title 71, Ch. 1—Weights and Measures, Powers and Duties of Department of Agriculture.

Sec. 71-101. Custody of standards; enforcement of laws.

The department of agriculture shall have the care and custody of the authorized public standards of weights and measures and of balances and other apparatus of all kinds owned by the state. It shall maintain the state standards in good order and submit them at least once in every ten years to the national bureau of standards for verification. It shall compare and adjust by the state standards all county, municipal and other official standard weights, measures, balances and measuring devices which may be sent or brought to it for that purpose, and shall seal the same when found or made to conform to the state standards, by stamping upon each the letter "I" and the last two figures of the year in which the said comparison and adjustment have been made, with seals which it will have and keep for that purpose; provided, that it may refuse to compare and seal any weights, measures, balances or measuring devices as standards for any county, municipality or public offices which do not conform to the type approved by the national bureau of standards for such use. It shall enforce all laws now existing or which may hereafter be enacted in any manner whatever relating to weights and measures and false weights. [1905; last amended 1913.]

[Ed. NOTE.—In the Idaho Code Annotated 1947, following the foregoing section, it is stated: "Legislation on the subject of weights and measures may be found as follows: R. S., Secs. 1250, 1251; 1890-1891, p. 204; 1889, p. 142; 1903, p. 87. An act of 1905, p. 364, am. 1907, p. 340, formed the basis of R. C., Secs. 1541-1545. An act of 1909, p. 231, H. B. 172, abolished the office of dairy, food and oil commissioner, the then ex officio inspector and sealer of weights and measures, and transferred his duties to the dairy, food and sanitary inspector. An act of 1913, ch. 84, p. 241, was a more detailed law and superseded most of the former law. Its repealing clause being general, however, Compiled Laws retained some of the provisions of R. C., Secs. 1541, 1543 and all of Sec. 1545. The law was reenacted as C. L., ch. 109. It provided for a state sealer of weights and measures.

"Session Laws 1919, ch. 8, Sec. 51, p. 69, repealed C. L. 109; 1; Sec. 38 of the same act (Sec. 67-3401 herein) abolished the offices of the state sealer and his deputies, and Sec. 26 (Sec. 67-2601 herein) vested their powers and duties in the department of agriculture. The substitutions of offices and officials authorized by that act have been made accordingly, the text of pre-existing law not being changed except in so far as necessary in making such substitutions.]"

Sec. 71-102. Inspection of weights and measures on request; seal.

The department of agriculture may try and prove weights, measures, balances and other measuring devices on request, for any person, corporation or institution, and when the same are found or made

to conform to the state standards, and otherwise fulfill such reasonable requirements as it shall make, the department may seal the same with a seal which it shall have and keep for that purpose. [1913]

Sec. 71-103. Records; annual report; regulations.

The department of agriculture shall keep a record of all of the weights, measures, balances or other measuring devices, sealed or condemned by it, and shall make an annual report to the governor on or before January 1, of each year, a copy of which shall be filed with the national bureau of standards. It shall issue, from time to time, regulations for the guidance of county, municipal and all other inspectors or sealers of weights and measures, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1913]

Sec. 71-104. Additional records and reports.

The department of agriculture shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by it, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed or condemned, and shall make a biennial report of the same to the governor on or before the first day of December, giving in addition to the above, an inventory of the standards and apparatus in its possession, and such other information as the department may deem important. [1913]

Sec. 71-105. Testing, sealing, condemning and tagging of weights and measures; fees for testing.

The department of agriculture shall try and prove all weights, measures, balances and measuring devices used in the State of Idaho, and when the same are found or made to conform to the authorized standards, it shall seal and mark such weights, measures, balances and measuring devices with a seal to be kept by it for that purpose, and issue its certificate showing that such weights, measures, balances and measuring devices have been inspected and do conform to the authorized standards. The department of agriculture shall have power to collect from all persons, firms and corporations who are using weights, measures, balances, and measuring and weighing devices in the state of Idaho an annual inspection fee, with the exception that such fee shall be waived on devices owned by the state of Idaho. The annual fee for such inspection shall be as follows: For each portable scale one dollar; for each counter scale fifty cents; for each stationary warehouse scale two dollars; for each wagon, motor truck or stock scale five dollars; for each retail gasoline measuring device, fifty cents; for each vehicle tank under five hundred gallon capacity, seven dollars and fifty cents; for each vehicle tank over five

Code Annotated (1947), Vol. 11, Title 71, Ch. 1—Weights and Measures, Powers and Duties of Department of Agriculture—Continued.

hundred gallon capacity a fee of one and one-half cents per gallon. The commissioner of agriculture shall have the authority to fix a reasonable fee on all weighing and measuring devices not included in this section. Such fees shall be paid to said department at the time of the first inspection after January first of each year. A receipt shall be issued by the inspector for such payment. All fees collected under the provisions of this act shall be deposited in the said treasury into a special fund to be known as "Weights and Measures Inspection Fund," and in addition thereto the said fund shall consist of any appropriations made by the legislature of said fund; that said fund is hereby perpetually appropriated, and declared to be a continuing fund to be used by the department of agriculture in its department of weights and measures for the purpose of making such inspections as herein provided for the purchase of necessary equipment, supplies, and for the employment of such extra help as is necessary, and for the payment of such other and additional expenses as are necessarily incurred; provided, that no obligation shall be incurred under this title [Secs. 71-101—71-411] in excess of the amount available in said fund. The department of agriculture shall have the authority to inspect any measuring or weighing device as often as the department deems necessary, but only an annual fee shall be collected for such service. Where any weight, measure, balance or measuring device is found to be false or untrue, or which does not conform to the standards and yet may be repaired, it shall be marked or tagged as "condemned for repairs," and the owners or users shall have the same repaired within such time as the department may require, and any weight or measure or weighing or measuring device that has not been repaired within the required time and any weight or measure or weighing or measuring device that is, in the judgment of the department, not susceptible to satisfactory adjustment or repair, may be confiscated and may be taken into possession by the inspector of the department. Whoever shall remove any mark or tag placed on any weighing or measuring device by the department of agriculture, without its approval or consent, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than twenty dollars nor more than \$200.00, or imprisonment in the county jail for a period not to exceed sixty days. [1913; last amended 1947.]

Sec. 71-106. Right of entry.

The department of agriculture through its officers, shall have full power to enter any premises in or on which any weights, measures, balances or measuring devices may be located or used for the purpose of trade, for the purpose of inspecting, ad-

justing and sealing or condemning the same. [1913]

Code Annotated (1947), Vol. 11, Title 71, Ch. 2—Weights and Measures, Standards.

Sec. 71-201. Standards of weights and measures.

Such standard weights and measures as have been furnished to this state by the government of the United States, in accordance with a joint resolution of congress, approved June 17, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances and measuring devices, in addition thereto or in renewal thereof, shall be the authorized standards of the state of Idaho. [1905; last amended 1913.]

Sec. 71-202. Standard units of measure: Yard; rod; pole; perch; mile; chain; acre.

The units of standard measures of length and surface from which all other measures of extension, whether linear, superficial or solid, shall be derived and ascertained, are the standard of length designated in this title [Secs. 71-101—71-411]. The yard is divided into three equal parts called feet, and each foot into twelve equal parts called inches. For measures of cloth and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths and sixteenths. The rod, pole or perch contains five and one-half yards; the mile, 1760 yards; the chain for measuring land is twenty-two yards long and is divided into 100 equal parts called links. The acre of land measure shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten rods in breadth; 640 acres being contained in a square mile. [1913]

Sec. 71-203. Standard units of weight: Hundredweight; ton; pound.

The units of standards of weight, from which all other weights shall be derived and ascertained, shall be the standard weights designated in this title [Secs. 71-101—71-411]. The hundredweight consists of 100 avoirdupois pounds, and a ton contains twenty hundredweight. Whenever, hereafter in this title, the word "pound" is used, it shall mean the avoirdupois pound, unless otherwise distinctly specified. [1913]

Sec. 71-204. Standard units of measure: Peck; half-peck; quarter-peck; quart; pint; half-pint.

The units of standards of measure of capacity for commodities, not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designated in this title [Secs. 71-101—71-411]. The peck, half-peck, quarter-peck, quart, pint and half-pint measures for measuring commodities which are not liquids shall be derived from the half-bushel by successively dividing that measure by two. [1913]

Sec. 71-205. Same: Half-gallon; quart; pint; half-pint; gill.

The units of standards of measures of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measures designated in this title [Secs. 71-101—71-411]. The liquid gallon shall be divided by continual division by the number 2 so as to make half-gallons, quarts, pints, half-pints and gills. [1913]

Sec. 71-206. Same: Electrical measure.

The standard of electrical measures recognized by the national bureau of standards, when procured by the state, shall be the standard of electrical measures in the state of Idaho. [1913]

Sec. 71-207. Metric system legal.

The weights and measures of the metric system shall be legal weights and measures in the state of Idaho. [1913]

Sec. 71-208. Barrel, bushel sack, and bushel weights.

Whenever any of the following articles shall be contracted for, or sold, or delivered, and no special contract or agreement shall be made to the contrary, such sale and all computations for payment or settlement therefor shall be by weight.

The net weight per barrel or bushel, or divisible merchantable quantities of a barrel or bushel, shall be as follows:

Wheat flour, per barrel, one hundred ninety-six pounds; per half-barrel, ninety-eight pounds; per quarter-barrel sack, forty-nine pounds; per one-eighth barrel sack, twenty-four pounds; per one-sixteenth barrel sack, twelve pounds.

Corn meal, per bushel sack, forty-eight pounds; per half-bushel sack, twenty-four pounds; per quarter-bushel sack, twelve pounds.

Of the following articles per bushel:¹

	<i>Pounds per Bushel</i>
Alfalfa seed	60
Apples, dried	24
Apples, green	48
Barley	48
Beans	60
Beets	56
Bran	20
Buckwheat	50
Carrots	50
Castor beans	46
Clover Seed	60
Corn, shelled	56
English blue-grass seed	22
Flaxseed	56
Hemp Seed	44
Hungarian and millet seed	50
Indian corn, in the ear	70
Kaffir Corn	56
Lime, unslacked	80
Malt	32
Native blue-grass seed	14
Oats	32
Onions	57
Parsnips	50
Peaches	48
Peaches, dried	33

	<i>Pounds per bushel</i>
Peas, shelled dried	60
Plastering hair, unwashed	8
Plastering hair, washed	4
Potatoes	60
Rice Corn	56
Rye	56
Salt	80
Sorghum Seed	50
Sweet potatoes	50
Timothy Seed	45
Tomatoes	56
Turnips	55
Wheat	60

[1913; last amended 1921.]

¹ A slight rearrangement has been made for convenience of reference.

Sec. 71-209. Standard of measurement for stone masonry.

The perch is the standard of measurement of stone masonry and contains sixteen and one-half solid feet. [1883]

Sec. 71-210. Cord of wood.

Unless otherwise especially agreed upon, a cord of wood shall contain one hundred twenty-eight cubic feet, eight feet long, four feet high and four feet wide. [1913]

Sec. 71-211. Construction of contracts.

All contracts, sales or purchases hereafter made for work to be done, or for anything to be sold or delivered or done, by weight or measure, within this state, shall be taken and construed in terms of, and according to, the standards of weights and measures adopted by this title [Secs. 71-101—71-411], except where parties have agreed upon any other calculations or measurements; and all statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. [1913]

Sec. 71-212. Sale of dry commodities.

All dry commodities, not otherwise specified in this title [Secs. 71-101—71-411], shall be sold only by standard and dry measure, standard weight, or numerical count, except where parties otherwise agree. [1913]

Sec. 71-213. Apple boxes.

A box or packet of apples shall contain 2150.42 cubic inches. [1905]

Sec. 71-214. Standard berry boxes; marking requirements.

Berries and small fruits, whenever sold in boxes, shall be sold in boxes containing a standard dry quart or dry pint, and if said boxes contain less than this amount, the information must be given to the purchaser, and such packages must be labeled with a statement of the net contents. [1913]

Code Annotated (1947), Vol 11, Title 71, Ch. 2—
Weights and Measures, Standards—Continued.

Sec. 71-215. Bottles for milk and cream; sale of other liquid commodities.

All milk or cream that shall be sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. [1913]

Sec. 71-216. Lard containers: Marking requirements.

Each pail or bucket of lard, lard-compound or lard substitute offered or exposed for sale in the state of Idaho, shall have the net weight plainly stamped upon the label in letters not less than a quarter-inch high. [1913]

Sec. 71-217. Bread: Minimum weight; sale of; marking requirements.

Bread, unless composed in chief parts of rye or maize, shall be sold only in a loaf weighing not less than sixteen ounces, or a loaf weighing in multiples of eight ounces if the weight exceeds one pound, weighed not less than twelve hours after baking. Provided that a variation at the rate of one ounce per pound over and one ounce per pound under the above specified unit weight is permitted in individual loaves, but the average weight of not less than twelve loaves of any one unit weight shall not be less than the weight prescribed for such loaf. Bread, when sold, shall, upon the request of the buyer, be weighed in his presence, and if found deficient in weight, additional bread shall be delivered to make up the legal weight, except that this section shall not apply to rolls or to fancy bread weighing less than one-quarter of a pound. [1913; last amended 1949.]

Sec. 71-218.¹ Sale of butter; marking requirements.

A print or package of butter shall contain sixteen ounces avoirdupois, and when a print or package of butter containing less than sixteen ounces avoirdupois shall be sold, its net weight shall be disclosed by the seller to the buyer and a statement of the net weight be distinctly printed on the wrapper thereof. [1913]

¹ See also section 37-333, page 270.

Sec. 71-219. Prima facie evidence of correct quantity; tolerances.

The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation or waste that may take place from the time the package is filled by the vendor until the selling of the same; a slight variation from the stated weight, measure or quantity for individual packages is per-

missible, provided this variation is as often above as below the weight, measure or quantity stated or represented, except that this section shall not apply to meats packed in sacks, crates or boxes. [1913]

Sec. 71-220. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, cooperative society, association or other organization, to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred pounds; wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: provided however, that the provisions of this act [Secs. 71-220—71-221] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy and hominy grits packed in cartons, bags or packages, the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945; last amended 1947.]

Sec. 71-221. Same: Penalty for violations.

Any violation of this act [Secs. 71-220—71-221] shall constitute a misdemeanor, and upon conviction the offender shall be fined not to exceed three hundred dollars (\$300.00) for each offense, or imprisoned in the county jail not exceeding ninety days. [1945]

Code Annotated (1947), Vol. 11, Title 71, Ch. 3—
Weights and Measures, Penalties.

Sec. 71-301. Penalty for interference.

Whoever hinders, obstructs or in any way interferes with any sealer or other person authorized to inspect weights and measures, while in the performance of said inspection, or whoever fails to produce, upon demand by such authorized sealer or inspector, all weights and measuring devices in or upon his place of business or in his possession for use in manufacture or trade, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than five dollars nor more than \$100.00. [1913]

Sec. 71-302.¹ Penalty for using false weights and measures.

Any person, persons, firm or corporation, who shall use any false scales, beam, weight or measure, or who shall mark or stamp false weight or measure on any container, package or cask, or who shall sell, offer for sale, or have in his possession for sale, any article which does not conform to the United States

standards or the standards designated in this title [Secs. 71-101—71-411], or neglects, fails to conform with, or violates any of the provisions of this title, shall be guilty of a misdemeanor, and upon conviction, shall be fined not to exceed \$300.00 for each offense, or imprisoned in the county jail not exceeding ninety days. [1905; last amended 1913.]

1 For additional penalties for false weights and measures, see Secs. 18-7201—18-7207, page 274.

**Code Annotated (1947), Vol. 11, Title 71, Ch. 4—
“Weighmaster’s Licensing Act.”**

Sec. 71-402. Licensing of weighmasters.

Any person may make application to the commissioner of agriculture for a weighmaster’s license. Application for a weighmaster’s license shall be in writing on a form prescribed by the commissioner of agriculture. Each applicant shall furnish satisfactory evidence of good moral character, ability to weigh accurately and to make correct weight tickets. Upon receipt of the application with satisfactory evidence of qualifications, on or before July 1, 1949, and annually thereafter, and a license fee of \$2.50, the commissioner shall issue an annual weighmaster’s license. No weighmaster’s license shall be issued to any applicant for such license who is under the age of eighteen or who has been convicted of any felony within five years or has paid any fine or completed any sentence of confinement for any felony within five years, or to any person whose license issued under this act [Secs. 71-401—71-411] has been revoked. [1949]

Sec. 71-403. Bond.

Each application shall be accompanied by a bond in the penal sum of \$1,000.00, executed by the applicant as principal and a solvent surety company authorized to do business in this state as a surety. Said bond shall be for a period of one year and conditioned on the faithful performance of the duties of such weighmaster. All bonds given under the provisions of this chapter [Secs. 71-401—71-411], after their approval, shall be filed in the office of the commissioner of agriculture. Any person who may suffer loss or damage from any wrongful acts of the weighmaster in his capacity as such, shall in addition to other legal remedies, have a right of action in his own name on such bond for all damages not exceeding \$1,000.00, suffered by such person by reason of said loss or damage of said weighmaster; provided, however, that the aggregate liability of the surety to all such persons shall, in no event, exceed the sum of such bond. [1949]

Sec. 71-404. Posting of license.

All weighmasters licensed under the provisions of this act [Secs. 71-401—71-411] shall post the original or certified copy of the weighmaster’s license in a conspicuous place on the premises where the weighmaster is engaged in weighing. [1949]

Sec. 71-405. Certified copies of license.

A certified copy of a weighmaster’s license may be procured by the holder of the original upon payment of a fee of \$1.00 for each copy of each license. [1949]

Sec. 71-406. Signature of licensed weighmaster.

No person shall sign the name of a weighmaster licensed under the provisions of this act [Secs. 71-401—71-411] except the person to whom the weighmaster’s license is issued, or his representative. [1949]

Sec. 71-407. False weight tickets; penalty.

Any person who shall mark, stamp, or write any false weight ticket, scale ticket, or weight certificate, knowing it to be false, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not to exceed \$300.00 for each offense, or imprisoned in the county jail for not more than six months, or both. [1949]

Sec. 71-408. Enforcement of act; rules and regulations.

The commissioner of agriculture may adopt and publish rules and regulations necessary for the administration of this act [Secs. 71-401—71-411]. [1949]

Sec. 71-410. Revocation of license.

A license issued under the provisions of this act [Secs. 71-401—71-411] may be revoked by the commissioner of agriculture, or the renewal thereof, may be refused by the commissioner of agriculture, for dishonesty, incompetency, inaccuracy, for any false statement made in any part of the application for a weighmaster’s license, and for any violation of any of the provisions of this act. If the commissioner shall refuse to grant any license provided for herein or shall refuse to grant a renewal thereof to any applicant, or shall revoke any license previously granted by him, he shall give such applicant, or licensee, fifteen days’ notice of his intended action in writing by registered mail, giving reasons therefor, and upon the request of the applicant or licensee, shall afford him an opportunity for hearing as early as practicable within not to exceed twenty days after receipt of such request. Upon such hearing, the commissioner or his duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing, the department shall either rescind, its order of revocation or, good cause appearing therefor, may revoke such license. [1949]

Sec. 71-411. Standard weight and tare ticket.

All commodities weighed on public platform scales, having a capacity of five tons or over, shall be recorded on standard weight and tare ticket prepared in triplicate, stating:

Code Annotated (1947), Vol. 11, Title 71, Ch. 4—
"Weighmaster's Licensing Act"—Continued.

- (a) Name and address of licensed weighing agency,
 (b) Serial number,
 (c) Date,
 (d) Owner of commodity weighed,
 (e) Kind of commodity being weighed,
 (f) Gross weight of load,
 (g) Tare,
 (h) Net weight,
 (i) Full signature of weigher. [1949]

Code Annotated (1947), Vol. 9, Title 50, Ch. 11—
Municipal Corporations, General Powers.

Sec. 50-1101. Powers.

* * * any municipal corporation may, by ordinance or by-laws, exercise the powers prescribed in the following sections, 50-1102 to 50-1138, inclusive. [1915]

Sec. 50-1119. Regulation of weights and measures.

Establish standard weights and measures, and regulate the weights and measures to be used in the municipality, and to regulate the weighing and measuring of every commodity sold in the municipality, in all cases not otherwise provided by law. [1893]

Sec. 50-1120. Inspection of hay, grain, and fuel.

Provide for the inspection of hay, grain and coal, and the measuring of wood and fuel to be used in the municipality, and to determine the place or places of the same, and to regulate and prescribe the place or places of exposing for sale, hay, coal and wood; to fix the fees and duties of persons authorized to perform the duties named in this section. [1893]

Code Annotated (1947), Vol. 9, Title 50, Ch. 14—
Municipal Corporations, Regulation of Weights and Measures.

Sec. 50-1401. Establishment of weights and measures department; verification of standards.

Any municipality in the state may establish a department of public inspection of weights and measures, and shall have power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances not in conflict with the state laws as may be deemed necessary; and if a city or municipality shall establish such a department it shall provide the sealer with suitable quarters, a set of standards to be specified by the department of agriculture, and all other equipment for the proper performance of his duties. All municipal standards shall be tried, proved, and sealed under the direction of the department of agriculture, and shall be returned to him [it] for verification at least once every five years. They shall make reports to the department of agriculture on blanks to be furnished

by it on or before the first day of September of each year. [1913]

Sec. 50-1402. Municipal wagon scales.

The city council of any city or the board of trustees of any village of the state of Idaho are authorized and empowered to buy, establish and maintain public wagon scales in such municipality, and the said city council or board of trustees are authorized and empowered to buy and maintain scales already in use in the said municipality, the same to be used and maintained as a public wagon scale in such municipality for the public use therein. [1917]

Sec. 50-1403. Same: Maintenance; rules and regulations; weighmaster; weight certificate.

The city council of any city or the board of trustees of any village or any such municipality wherein such public wagon scales are maintained shall have control of such scales and shall make such rules or regulations in regard to the maintenance and use of the same as they shall deem proper, and the said city council or board of trustees shall biennially appoint a public weighmaster, whose duty it shall be to have charge of such scales and properly weigh all articles and commodities thereon as hereafter provided and give a statement to such person applying to have such articles weighed, and such statement shall be prima facie evidence of the correct weight of such articles or commodities; and the city council or board of trustees shall fix the compensation of said weighmaster, which compensation shall be paid out of the treasury of such municipality, and shall, from time to time, fix the price to be charged for weighing any article or commodity thereon, and the weighmaster shall collect such charge at the time of weighing such articles or commodities and shall, at the end of each month, pay all moneys collected by him for such charge into the treasury of the municipality and file with the clerk of such municipality a statement of the amount of all such moneys collected. [1917]

Sec. 50-1404. Same: Bond of weighmaster.

Such public weighmaster, as may be appointed within such municipality, shall give a bond to the state of Idaho in the amount to be fixed by the said city council or board of trustees, and in no case shall such bond be for less than \$200.00 [1917]

Code Annotated (1947), Vol. 5, Title 22, Ch. 6—
Commercial Fertilizers.

Sec. 22-602. Definition.

The term "commercial fertilizer" shall be held to include allumite, gypsum, lime, phosphate in its natural form, and any other commercial fertilizer, imported, manufactured, prepared or sold for fertilizing, manuring, soil enriching or soil corrective purposes; providing, however, that this act [Secs.

22-601—22-612] shall not apply to any stocks of commercial fertilizers that may be in the hands of dealers in the state of Idaho at the time this act goes into effect, nor shall it apply to animal manure which has not been artificially treated, or to materials sold to manufacturers or importers. [1931]

Sec. 22-603. Marking requirements.

Every lot or parcel of mixed commercial fertilizer sold, offered or exposed for sale, or distributed within this state shall have on each bag or container, in a conspicuous place on the outside, a legible and plainly printed statement in the English language, clearly and truly certifying:

a. The net weight of the contents of the package, lot or parcel; [1931]

* * *

Sec. 22-607. Examinations to determine net weight.

The commissioner of agriculture of the state of Idaho shall, at least once a year, direct a qualified chemist, or his agent, to obtain in open market at least one sample of each brand of commercial fertilizer offered for sale in this state, and to make proper analyses and tests to determine (1) the net weight of the contents of each package examined; * * * [1931; last amended 1947.]

Sec. 22-612. Penalty for violations.

Any corporation, co-partnership or person who shall sell, or offer for sale, any commercial fertilizer in this state without first having complied with the provisions of this act [Secs. 22-601—22-612], * * * shall be guilty of a misdemeanor, and shall upon conviction thereof be fined not less than twenty-five dollars, nor more than \$300.00 for each offense, * * *, provided, however, that for any deficit less than five per cent in weight * * * the manufacturer or seller shall not be liable to any penalty, or for damages hereunder. [1931]

Code Annotated (1947), Vol. 5, Title 22, Ch. 7—
Containers for Farm Products.

Sec. 22-701. Farm products defined.

* * * The term "farm products" within the meaning of this section shall be deemed to mean all products, except livestock, grown in garden, on farm, ranch, or orchard, including poultry and poultry products, butter, cream, cheese and all other dairy products. [1917; last amended 1923.]

Sec. 22-702. Standards.

After investigation and public hearing the department of agriculture may, from time to time, as far as practicable, establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products, by which their quantity, quality or value may be determined, and prescribe and promulgate rules and regulations governing the

marks, brands and labels which may be required upon receptacles for farm products for the purpose of showing the name and address of the producer or packer, the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto; provided, that any standard for any farm product or receptacle therefor or any requirement for making receptacles for farm products now or hereafter established under authority of the congress of the United States, shall forthwith, as far as applicable and practicable, be established or prescribed and promulgated by the department as the official standard or requirement in this state: provided further, that no standard established or requirement for marking prescribed under this chapter [Secs. 22-701—22-707] shall become effective until the expiration of six months after it shall have been promulgated. [1917]

Sec. 22-707. Penalty for violations.

Any person, firm, corporation or other organization who violates any provision of this chapter [Secs. 22-701—22-707] or of the rules and regulations made under this chapter for carrying out the provisions of this section, fails or refuses to comply with any requirement of this chapter or who willfully interferes with the department, its agents or employees in the execution or on account of the execution of its or their duties under this chapter, shall be guilty of a misdemeanor.¹ [1917]

¹ Punishment, see Sec. 18-113, page 274.

Code Annotated (1947), Vol. 5, Title 22, Ch. 8—
Apple, Pear, and Peach Boxes.

Sec. 22-801. Marking requirements.

It shall be the duty of every person growing or packing and selling, offering for sale (or) shipping in boxes or packages, any fruit grown in this state, or imported into this state, to plainly mark the same on the outside of the box or package with * * * in case of apples, pears or peaches, the net weight or the number contained in the package, * * * [1919; last amended 1937.]

Sec. 22-804. Penalty for violations.

Any person who violates any provision of this chapter [Secs. 22-801—22-804] shall, upon conviction thereof, be adjudged guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than \$200.00, or shall be imprisoned in the county jail not less than ten days nor more than six months, or shall be punished by both fine and imprisonment. [1919]

Code Annotated (1947), Vol. 5, Title 22, Ch. 9—
Potato Containers.

Sec. 22-911. Marking requirements.

When potatoes are shipped during the months of July, August, and September, they may be packed

Code Annotated (1947), Vol. 5, Title 22, Ch. 9—
Potato Containers—Continued.

in branded containers in conformity with the foregoing requirements [grade requirements], or they may be packed in bags bearing the private brand of the shipper, the shipper's name and address, and an accurate statement of the quantity of the contents of the container, without the grade designation being placed on the bag, provided that the contents of said container shall meet the requirements of the Idaho Utility Grade, as hereinbefore defined. [1941]

Sec. 22-912. Penalty for violations.

Any person violating any of the provisions of this act [Secs. 22-901—22-914] shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. [1941]

Sec. 22-913. Injunction; commissioner of agriculture may institute proceedings.

In addition to the remedy prescribed in the foregoing section for the violation of the provisions of this act [Secs. 22-901—22-914], any person, firm or corporation violating, or threatening to violate, any of the provisions of this act may be enjoined from violating the same; such injunction proceedings may be instituted by the commissioner of agriculture * * *. [1941]

Code Annotated (1947), Vol. 5, Title 22, Ch. 13—
Dealers in Farm Produce.

Sec. 22-1309. Examinations of scales, measures, etc.

The commissioner [of agriculture] on his own motion may, or upon the verified complaint of any interested party, shall investigate, examine or inspect any transaction involving solicitation, receipt, sale, or attempted sale of farm products by any person or persons acting or assuming to act as a commission merchant, dealer, broker or agent; * * * or investigate, examine or inspect any and all other injurious transactions, and in furtherance of any such investigation, examination or inspection, the commissioner or any authorized representative, may examine that portion of the ledgers, books, accounts, memoranda and other documents, farm products, scales, measures, and other articles and things used in connection with the business of such person relating to the transactions involved. [1935]

* * * * *

Code Annotated (1947), Vol. 5, Title 22, Ch. 17—
Prevention of Fraud in Sacked Products.

Sec. 22-1701. Sale by net weight.

The buyer of grains, vegetables or other farm products sold by weight in sacks shall have the right to deduct the net weight of the sacks from the total weight before settling for the same; provided, that

when the weight of the said sacks are [is] so deducted said sacks shall belong to the seller, and the buyer shall so mark the said sacks as to identify them properly and return them to the seller within sixty days thereafter upon the seller paying the return freight charges on the same from the point of un-sacking; provided further, that this law shall not apply where no deduction is made for the weight of the sacks. [1917]

Sec. 22-1702. Civil liability.

Any buyer, as mentioned in the preceding section, who violates the provisions thereof shall pay to the seller named therein the retail price of all sacks not returned within the sixty days, as provided, and if suit shall be started to recover the same he shall pay ten per cent in addition as liquidated damages and also a reasonable attorney's fee and costs. [1917]

Code Annotated (1947), Vol. 5, Title 23, Ch. 2—
"Idaho Liquor Act."

Sec. 23-201. Alcoholic liquors: State liquor dispensary.

There shall be a state liquor dispensary (in this act referred to as the "dispensary"), which shall be conducted by the superintendent of the state liquor dispensary. * * * [1939; last amended 1941.]

Sec. 23-207. Rules and regulations regarding containers.

Without attempting or intending to limit the general powers of the superintendent of the dispensary * * *, such powers shall extend to and include the following:

* * * * *

(f) To determine the nature, form, and capacity of packages containing liquor kept or sold.

(g) To prescribe the kinds and character of official seals or labels to be attached to packages of liquor sold. [1939; last amended 1941.]

* * * * *

Code Annotated (1947), Vol. 5, Title 23, Ch. 10—
Beer.

Sec. 23-1013. Standard containers.

* * * * *

(6) No dealer or wholesaler shall purchase, receive or resell any beer, except in the original container as prepared for the market by the brewer at the place of manufacture. No brewer, dealer or wholesaler shall, without permission of the commissioner, [tax commissioner] adopt or use any container for beer, differing in size from the following:

11 oz. of beer	whole barrels
12 oz. of beer	half-barrels
22 oz. of beer	quarter-barrels
24 oz. of beer	eighth-barrels
32 oz. of beer	
64 oz. of beer	

[1935; last amended 1947]

* * * * *

Sec. 23—1020. Penalty for violations.

Any person who violates any of the provisions of this act [Secs. 23—1001—23—1022] shall be guilty of a misdemeanor.¹

¹ Punishment, see Sec. 18—113, page 274.

Code Annotated (1947), Vol. 5, Title 25, Ch. 17—
Livestock Sales Ring.

Sec. 25—1701. Definitions.

When used in this act [Secs. 25—1701—25—1717]: (a) the term "live stock" shall mean and include horses, mules, cattle, swine; (b) the term "live stock sales ring" shall mean any place where a person, partnership, association or corporation shall assemble live stock for either public or private sale. [1947]

Sec. 25—1702. License.

Any person, partnership, association or corporation upon making to the commissioner of agriculture a written statement satisfactory to the commissioner of said department, showing financial responsibility and ownership or control of adequate facilities for selling, weighing, the care, sorting, feeding, loading, unloading and shipment of livestock for the operation of a live stock sales ring, and tendering the fee prescribed herein may procure a license from said commissioner to establish and operate within the state of Idaho for one year a live stock sales ring as hereinbefore defined; and the operation of a live stock sales ring in this state, without a license, is a penal offense punishable as hereinafter provided. [1947]

Sec. 25—1703. Exceptions.

The provisions of this act [Secs. 25—1701—25—1717] shall not apply to sales conducted by live stock breeders associations, or by 4-H Clubs, or by exposition societies, where there is maintained either state or federal inspection, or to farm sales, or collective farm sales or pool sales conducted by county agents. [1947]

Sec. 25—1706. Weighmaster's license.

No license or renewal license to establish or operate any live stock sales ring within the State of Idaho shall be issued nor shall any duly licensed live stock sales ring within this state continue to operate unless the live stock handled by said live stock sales ring shall be weighed by a licensed weighmaster. [1947; last amended 1949.]

Sec. 25—1708. Enforcement; rules and regulations.

The commissioner of agriculture may adopt and publish rules and regulations necessary for the administration of this act [Secs. 25—1701—25—1717]. [1947]

Sec. 25—1713. Regulation of scales.

All scales used in the operation of live stock sales rings must conform with the rules and regulations of the commissioner of agriculture. [1947]

Sec. 25—1715. Certain sales rings excepted.

Whenever the commissioner of agriculture finds that live stock sales rings located at stockyards which are now posted as stockyards by the secretary of agriculture of the United States under and pursuant to the terms and provisions of the Packers and Stockyards Act, 1921 (42 U. S. Statutes at Large, P. 159) and laws amendatory thereof, are already rendering and performing services required under the various sections of this act [Secs. 25—1701—25—1717] in order to avoid duplication regarding these matters, the commissioner of agriculture need not enforce said sections of the act, but this section shall in no way or manner authorize cancellation of licenses or fees or the bond of the weighmaster as provided in this act. [1947]

Sec. 25—1716. Penalty for violations.

Any person, association, partnership or corporation, their agents, servants or employees, who shall violate any provision or requirement of this act [Secs. 25—1701—25—1717], or any rule or regulation adopted by the commissioner of agriculture pursuant to this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both. [1947]

Code Annotated (1947), Vol. 5, Title 25, Ch. 27—
Commercial Feeding Stuffs.

Sec. 25—2701. Definition.

The term "commercial feeding stuffs" shall be held to include all materials, single or mixed, intended for use in feeding or mixing for livestock, poultry and fur bearing animals or represented by any seller or distributor of such material as suitable for such purpose, except whole seeds or grains, the unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, grain sorghums, peas and beans; whole hays, straws, cotton seed hulls, corn stover and ground or whole mill screenings when unmixed with other materials. [1929; last amended 1947.]

Sec. 25—2702. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label in a conspicuous place on the outside thereof containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1929; last amended 1947.]

* * * * *

Sec. 25—2704. Bulk sales.

Whenever any commercial feeding stuffs as defined in section 25—2701 are offered or exposed for

Code Annotated (1947), Vol. 5, Title 25, Ch. 27—
Commercial Feeding Stuffs—Continued.

sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards, tags or labels upon which shall be printed the statement required by the provisions of section 25-2702, and when such feeding stuffs are sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall display at the point of sale the card, tag or label upon which appears the statement required by the provisions of section 25-2702. [1929; last amended 1947.]

Sec. 25-2709. Penalty for violations.

A manufacturer, importer, jobber, firm, association, corporation or persons who shall sell, offer or expose for sale or distribute in this state, any commercial feeding stuffs without having attached thereto or furnished therewith such labels, or tags, as are required by the provisions of this chapter [Secs. 25-2701—25-2714], * * * or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said commissioner of agriculture or his authorized agent in the performance of his duty in connection with the provisions of this chapter or who shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs as defined in section 25-2701, without complying with the requirements of the provisions of this chapter, * * * shall be deemed guilty of a violation of the provisions of this chapter and upon conviction thereof shall be fined not more than \$100.00 for the first violation and not less than \$100.00 and not more than \$300.00 for each subsequent violation. * * * [1929; last amended 1947.]

Sec. 25-2710. Enforcement; rules and regulations.

The commissioner of agriculture is hereby empowered to enforce the provisions of this chapter [Secs. 25-2701—25-2714] and to prescribe the form of tags, stamps or labels to be used and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this chapter, * * *. [1929]

Code Annotated (1947), Vol. 6, Title 31, Ch. 11—
County Public Wagon Scales.

Sec. 31-1101. Establishment by county.

The county commissioners of any county outside of any incorporated city or village may, upon petition of ten freeholders in any county within the state of Idaho, establish and maintain public wagon scales at such point within such county as may be designated in said petition: provided, that the persons signing the petition shall certify that the peti-

tioners regularly deliver their produce to the point designated in said petition. [1917]

Sec. 31-1102. Rules and regulations; appointment and duties of weighmaster.

The county commissioners of such county wherein such public scales are maintained shall have control of such scales and shall make such rules and regulations in regard to the maintenance and use of the same as they shall deem proper, and the said county commissioners shall appoint as many public weighmasters as they may deem necessary and fix their compensation. Such weighmasters shall have charge of such scales and properly weigh all articles and commodities thereon and give a statement to such persons applying to have such article or commodity weighed, and such statement shall be prima facie evidence of the correct weight of such articles or commodities. They shall collect such charge at the time of weighing such article or commodity as shall be fixed by the board of county commissioners, and at the end of each month make a written report of all moneys collected by them for such charge and pay to the treasurer of such county all of such funds; provided, however, such weighmaster shall retain as his compensation such portions of the above moneys which he has collected as may have been fixed by the board of county commissioners. [1917]

Sec. 31-1103. Establishment by individuals; county control.

If the aforesaid petitioners or a less number desire to establish a public wagon scale and dedicate the same to the public use, they may do so at their own expense, and such public scale shall be subject to the same rules and regulations and all of the provisions of this chapter [Secs. 31-1101—31-1105] as though originally established by and at the expense of the board of county commissioners, or the board of county commissioners may contribute any parts of the expense of erecting such public wagon scale, and the persons desiring the same shall pay the balance of such purchase-price: provided, that in case either method hereinbefore mentioned is adopted in establishing the wagon scale, the said scale shall become the property of the county in which it is situated and be subject to the rules and regulations of the boards of county commissioners and all of the provisions of this chapter relating to county public wagon scales. [1917]

Sec. 31-1104. Payment of expenses; receipts.

Any expense incurred under the provisions of this chapter [Secs. 31-1101—31-1105] relating to county public wagon scales, except compensation to weighmasters, which, in all cases, shall be paid as provided in section 31-1102, shall be paid out of the current expense fund of the said county, and all moneys received from weighing charges as herein provided shall be credited to the current expense fund of the county in which such scale is situated. [1917]

Sec. 31-1105. Weight certificate.

All statements issued by any weighmaster under the provisions of this chapter [Secs. 31-1101—31-1105] shall be made in triplicate, one copy of which shall be retained by the weighmaster, one copy shall accompany the report to the county commissioners, and the original statement shall be given to the person for whom such weighing was done. * * * [1917]

Code Annotated (1947), Vol. 7, Title 37, Ch. 2—
Misbranding of Food.

Sec. 37-201. Manufacture of misbranded articles prohibited; penalty.

It shall be unlawful for any person to manufacture within the state of Idaho any article of food * * * or liquor which is * * * misbranded * * * within the meaning of this chapter [Secs. 37-201—37-222]; and any person who shall violate any of the provisions of this section or shall fail to comply with the same, shall be guilty of a misdemeanor, and for such offense shall, upon conviction thereof, be fined in a sum not to exceed \$500.00 or be imprisoned in the county jail for a term not to exceed six months, or be punished by both such fine and imprisonment. [1911]

Sec. 37-202. Sale prohibited when misbranded; penalty.

It shall be unlawful for any person to sell, keep for sale, or offer for sale within the state of Idaho any article of food * * * or liquor which is * * * misbranded within the meaning of this chapter [Secs. 37-201—37-222], and any person who shall sell, keep for sale, or offer for sale any article of food * * * or liquor which is * * * misbranded within the meaning of this chapter, shall be guilty of a misdemeanor and shall be punished therefor as provided for in section 37-201. [1911]

Sec. 37-203. Rules and regulations.

The department of public health is authorized and directed to make and publish uniform rules and regulations not in conflict with this chapter [Secs. 37-201—37-222] or other laws of the state of Idaho, which rules and regulations shall be in harmony with those adopted and promulgated by the United States department of agriculture¹, in so far as they are applicable to and not in conflict with the provisions of this chapter or any other law of the state of Idaho, * * *. [1911]

¹ Now Federal Security Administration.

Sec. 37-204. Food defined.

* * * The term "food" as herein used shall include all articles used for food, drink, confectionery or condiment by man or other animals, or in the preparation of food, drink, confectionery or

condiment, whether dispensed, mixed or compounded. [1911]

Sec. 37-208. Misbranded defined.

The term "misbranded," as used herein, shall apply to all * * * liquors or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, * * *. [1911]

Sec. 37-210. When food deemed misbranded.

For the purpose of this chapter [Secs. 37-201—37-222] food shall be deemed misbranded:

1. * * * *
2. * * *; if it be labeled or branded so as to deceive or mislead the purchaser, * * *
3. If in package form, and the contents are stated in terms of weight or measure, the net weight or measure is not plainly or correctly stated on the outside of the package.
4. If the package containing it or its labeling shall bear any statement, design or device regarding the ingredients or the substance contained therein, which statement, design or device shall be false or misleading in any particular * * *. [1911]

Sec. 37-211. Guaranty protection.

No dealer shall be prosecuted under the provisions of this chapter [Secs. 37-201—37-222] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles to the effect that the same is not adulterated or misbranded, within the meaning of this chapter designating it. Said guaranty, to afford protection, shall contain the name and addresses of the party or parties making the sale of such articles to the dealer, and the date sold, and in such case, said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this chapter: provided, that this exemption shall not apply when such dealer knew or ought to have known that such * * * liquors or foods so sold, offered or kept for sale were adulterated or misbranded within the meaning of this chapter. [1911]

Sec. 37-214. Right of entry and inspection.

For obtaining information regarding the suspected violations of law, the department of public health, or its duly appointed assistants, shall have access to all places where any article of food or other article, the manufacture or sale of which is restricted, regulated or prohibited by this chapter [Secs. 37-201—37-222], is stored or prepared for sale, or may be manufactured, kept for sale, or sold, * * * and they may inspect any packages,

Code Annotated (1947), Vol. 7, Title 37, Ch. 2—
Misbranding of Food—Continued.

articles or receptacle found therein apparently containing any article of food or ingredient thereof, or any article, the manufacture or sale of which is restricted, regulated or forbidden by this chapter, * * *. Any person obstructing such entry or inspection, or failing, upon request, to assist therein, shall be guilty of a misdemeanor, and shall be punished as provided in section 37-201. [1911]

Code Annotated (1947), Vol. 7, Title 37, Ch. 3—
Milk and Butter.

Sec. 37-323. Milk: Weight of.

A pint of milk shall weigh one pound strong and a quart of milk shall weigh two pounds strong and shall not be sold otherwise. [1911]

Sec. 37-324. Same: Penalties.

Any person, or persons, corporation or corporations violating, or who shall fail to comply with the preceding sections, numbered * * * 37-323 * * * or any part, provision or section thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than ten dollars and not exceeding \$300.00, or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment. [1911]

Sec. 37-325. Milk cans: Marking requirements.

* * * Every person or corporation who shall engage in the business of purchasing or dealing in milk shall attach in a permanent manner to each can furnished by him or the producer, a tag containing in plain figures a correct statement of the capacity thereof. * * * [1905; last amended 1909.]

Sec. 37-333.¹ Butter: Marking requirements; weight.

Each package of butter offered or exposed for sale shall have stamped upon the wrapper or package, the actual number of ounces contained in said package. Each square or roll of butter kept, exposed or offered for sale in the state of Idaho, which is represented to contain one pound in weight, shall contain full sixteen ounces; and each square or roll of butter kept or offered for sale in the State of Idaho, which shall be represented to contain two pounds in weight, shall contain full thirty-two ounces. [1905]

¹ See also section 71-218, page 262.

Sec. 37-335. Penalty for violating Sec. 37-333.

Any person, firm or corporation, violating the provisions of [Sec. 37-333] * * * or any part or provision of any of said sections, shall be guilty of a misdemeanor and punishable by a fine not exceeding \$200.00 or imprisonment in the county jail not exceeding six months or by both such fine and imprisonment. [1921; last amended 1937.]

Code Annotated (1947), Vol. 7, Title 37, Ch. 5—
Testing of Milk and Cream.

Sec. 37-506. Babcock test to be used.

All milk and cream sold in the state of Idaho at a purchase price based upon or determined by the milk fat or butterfat content thereof, shall be tested for butter fat by the following prescribed method: the Babcock test shall be employed, and samples used in testing shall be weighed on a suitable scale or balance, and where 18 grams are used as a sample the same shall be tested in a nine-inch bottle graduated to at least one-half of one per cent, or where nine grams are used as a sample the same shall be tested in a six-inch bottle graduated to at least one-half of one per cent, also graduated to give full reading of the test, * * *. [1913; last amended 1947.]

Sec. 37-508. Glassware to be marked correctly.

Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a milk pipette or measure, test tube or bottle which is not correctly marked or graduated, as herein provided, shall be guilty of a misdemeanor. [1913]

Sec. 37-509. Penalties for violations.

Whoever shall violate any of the provisions of sections 37-506 to 37-508, inclusive, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than \$200.00, for each and every offense, or be imprisoned in the county jail not less than thirty days nor more than sixty days, or both such fine and imprisonment. [1913]

Sec. 37-511. Standard glassware furnished.

* * * The department [of agriculture] shall furnish at cost to each licensee [licensed tester] one standard test bottle and one standard pipette adapted to the use of the testing machine approved for the licensee. Said bottle and pipette shall be certified to by the department as a standard and shall bear the official stamp of the department. Any person not a licensee may secure test bottles and pipettes from the department at cost. * * * [1925; last amended 1947.]

Code Annotated (1947), Vol. 7, Title 37, Ch. 6—
Standardization of Glassware for Babcock Tests.

Sec. 37-601. Standard glassware to be used; inspection.

Every person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles and pipettes, as defined in section 37-603, and all Babcock test bottles and pipettes shall have been inspected for accuracy by the department of dairy husbandry of the university of Idaho, at Moscow, Idaho, or its agent, and shall be legibly and

indelibly marked by the department of dairy husbandry or its agent with the letters S. G. I., meaning "Standard Glassware Idaho." It shall be unlawful for any firm or corporation or any of their agents to use other than standard test bottles and pipettes which have been examined and marked as provided by this section, to determine the amount of fat in milk or cream received or purchased on the butterfat basis. [1927]

Sec. 37-602. Fees for testing glassware.

For all testing of glassware by the said department of dairy husbandry or its agent, a fee of three cents shall be paid by the owner of said glassware so examined, and said fee shall be used by the department of dairy husbandry to defray the cost of testing such glassware. [1927]

Sec. 37-603. Specifications for standard glassware.

The term "Standard Babcock testing glassware" shall apply to glassware complying with the following specifications:

a. Standard Milk Test Bottles.

Graduation for Milk Test Bottles. The total per cent graduation shall be eight. The graduated portion of the neck shall have a length of no less than sixty-three and five-tenths millimeters (two and one-half inches), the graduations shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenths per cent graduations shall not be less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenths per cent, graduations projecting one millimeter to the left; the whole per cent graduation shall extend at least one-half way around the neck to the right and project two millimeters to the left of the tenths per cent graduation. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters. The charge of the bottle shall be 18 grams. The total height of the bottle shall be between one hundred [fifty] and one hundred sixty-five millimeters, (five and seven-eighths inches and six and one-half inches).

b. Standard Cream Test Bottles.

Three types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine-gram short-neck bottle, a fifty per cent nine-gram long-neck bottle, and a fifty per cent eighteen-gram long-neck bottle.

Fifty Per Cent Nine-gram Short-neck Bottle-Graduation. The total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent five per cent, one per cent and five-tenths per cent. The five per cent graduation shall extend at least half-way around the neck to the right.

The five-tenths per cent graduations shall be at least three millimeters in length, and one per cent graduations shall have a length intermediate between the five per cent and five-tenths per cent graduations. Each five per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per cent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend at least nine millimeters below the lowest and nine millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters. If conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams.

All bottles shall bear on the top of the neck above the graduations in plainly legible characters, a mark, defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be between one hundred fifty and one hundred sixty-five millimeters (five and seven-eighths inches and six and one-half inches), same as standard milk test bottles.

Fifty Per cent, Nine-gram, Long-neck Bottle. The same specifications in every detail as specified for the fifty per cent nine-gram, short-neck bottle shall apply for the long-neck bottle, with the exception, however, that the total height of this bottle shall be between two hundred ten and two hundred thirty-four millimeters (eight and one-fourth inches and eight and seven-eighths inches) and that the total length of the graduation shall be not less than one hundred twenty millimeters.

Fifty Per Cent, Eighteen-gram, Long-neck Bottle. The same specifications in every detail as specified

Code Annotated (1947), Vol. 7, Title 37, Ch. 6—
Standardization of Glassware for Babcock Test—
Continued.

for the fifty per cent nine-gram, long-neck bottle shall apply, with the exception that the charge of the bottle shall be eighteen grams, and the mark defining the weight of the charge placed at the top of the neck shall be eighteen.

The total length of the standard Babcock pipette shall be not more than three hundred thirty millimeters, (thirteen and one-fourth inches). Outside diameter of suction tube six to eight millimeters. Length of suction tube one hundred thirty millimeters. Outside diameter of delivery tube four and five-tenths to five and five-tenths millimeters. The length of delivery tube one hundred to one hundred twenty millimeters. Distance of graduation mark above bulb thirty to sixty millimeters. Nozzle straight. Delivery seventeen and six-tenths cubic centimeters of water at twenty degrees Centigrade in five to eight seconds. [1927]

Sec. 37-604. Violation a misdemeanor.

A violation of any of the provisions of this chapter [Secs. 37-601—37-606] shall constitute a misdemeanor.¹ [1927]

¹ For punishment, see Sec. 18-113, page 274.

Code Annotated (1947), Vol. 7, Title 37, Ch. 23—
Narcotic Drugs.

Sec. 37-2310. Marking requirements.

(a) Whenever a manufacturer sells or dispenses a narcotic drug in a package prepared by him he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1937]

Sec. 37-2319. Enforcement officer.

It is hereby made the duty of the department of law enforcement, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this act [Secs. 37-2301—37-2323], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1937]

Sec. 37-2320. Penalties for violations.

Any person violating any provision of this act [Secs. 37-2301—37-2323] shall upon conviction be punished, for the first offense, by a fine not exceeding three hundred (300) dollars, or by imprisonment in the county jail for not exceeding six (6) months or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding one thousand (1,000) dollars, or by imprisonment in the state prison for not less than one or more than

fourteen years, or by both such fine and imprisonment. [1937]

Sec. 37-2322. Same.

Any violation of the provisions of this act [Secs. 37-2301—37-2323], the penalty for which is not herein specifically provided shall be deemed a misdemeanor¹ and punishable as such. [1937]

¹ See Sec. 18-113, page 274.

Code Annotated (1947), Vol. 7, Title 38, Ch. 9—
Measuring Lumber.

Sec. 38-907. Certificate of measurement; prima facie evidence.

Each lumber inspector shall, in person or by deputy, at the request of any owner of logs, timber or lumber, after a scalement or measurement thereof, make a bill stating therein the number of logs, the number of feet, board measure, contained in such logs and lumber, and the number of feet, cubic running or board measure, contained in said timber, and at whose request the same was scaled or measured, and to whom scaled or measured, a copy of which he shall enter upon the books of his office, to be provided by him and kept for that purpose, with the marks as they occurred upon the logs. A correct bill of the same shall be given to such owner, with a certificate thereto attached that it is a true and correct bill, which bill so certified shall be presumptive evidence of the facts therein contained, and of the correctness of such scalement or measurement, in all courts, except in favor of the inspector who made the same. [1903]

Sec. 38-908. Method of measurement; allowance for imperfections; reports.

Each lumber inspector and his deputies shall, in surveying or measuring logs, make such allowance for hollow, rotten or crooked logs as would make them equal to good, sound, straight, merchantable logs; and all logs that are straight and sound are to be measured at their full size, inside the bark at the small end. Each lumber inspector shall require of each of his deputies, at the end of each month, a correct account of all the logs, lumber or timber measured by him during the month next preceding, and he shall immediately enter such account upon the books of his office. [1903]

Sec. 38-909. Standard of log measurement.

Unless otherwise agreed upon, the Scribner Decimal C rule shall be the standard rule for scaling or measuring logs in the said districts; but in all cases the bill of the inspector shall state by what rule the logs were scaled or measured. [1903; last amended 1919.]

Code Annotated (1947), Vol. 8, Title 42, Ch. 1—
Standard Water Measure.

Sec. 42-102. Standard water measure.

A cubic foot of water per second of time shall be the legal standard for the measurement of water in

this state, and it shall be the duty of the department of reclamation to devise a simple, uniform system for the measurement and distribution of water. [1899]

Code Annotated (1947), Vol. 10, Title 61, Ch. 5—
Public Utilities, Meters.

Sec. 61-520. Standards of measurement; rules and regulations; testing of meters.

The commission [public utilities commission] shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations; * * * to prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility. [1913]

Sec. 61-521. Right of entry.

The commissioners [public utility commissioners] and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act [Secs. 61-101—61-714], and to set up and use on such premises any apparatus and appliances necessary therefor. The agent and employees of such public utility shall have the right to be present at the making of such examination and tests. [1913]

Sec. 61-522. Testing meters at request of consumers.

Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission [public utilities commission]. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user under such rules and regulations as may be prescribed by the commission. [1913]

Code Annotated (1947), Vol. 11, Title 69, Ch. 2—
“Bonded Warehouse Law.”

Sec. 69-202. Definitions.

The term “agricultural product” wherever used

in this chapter [Secs. 69-201—69-235] shall be deemed to mean grains, dry peas, dry beans, leguminous seeds, hay, potatoes, fruit, honey, eggs, dried, canned or preserved fruit, canned vegetables, canned fish, meat, poultry, dairy products, wool and feeds (not including minerals) or any of them. [1919; last amended 1933.]

* * * * *

Sec. 69-205. Inspection and weighing.

* * * the department of agriculture is authorized with or without application, to wit:

To inspect any warehouse licensed under this chapter [Secs. 69-201—69-235]; to investigate the storage, warehousing, classifying according to grade, and otherwise weighing and certification of agricultural products therein conducted; * * *. [1919]

Sec. 69-214. Inspectors.

The department of agriculture may employ such inspectors, samplers and weighers as it may deem necessary. [1919]

Sec. 69-215. License to weigh.

Every warehouse licensed under this chapter [Secs. 69-201—69-235] shall have a weighmaster licensed pursuant to the provisions of the weighmaster's licensing act.¹ [1919; last amended 1949.]

¹ See Secs. 71-402—71-411, page 263.

Sec. 69-216. Suspension or revocation of licenses.

Any license issued to any person to classify or to weigh any agricultural product or products under this chapter [Secs. 69-201—69-235] may be suspended or revoked by the department of agriculture whenever it is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to classify or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter, or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he had used his license or allowed it to be used for any improper purpose whatsoever. Pending investigation, the department of agriculture, whenever it deems necessary, may suspend a license temporarily without hearing. [1919]

Sec. 69-217. Inspection fees.

The department shall fix the fees for the inspection and weighing of agricultural products, such fees to be a lien upon such products. [1919]

Sec. 69-223. Receipts.

Every receipt issued for agricultural products stored in a warehouse licensed under this chapter [Secs. 69-201—69-235] shall embody within its written or printed terms:

* * * * *

Code Annotated (1947), Vol. 11, Title 69, Ch. 2—
"Bonded Warehouse Law"—Continued.

2. A description of the agricultural products received, showing the quantity thereof or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages. [1919; last amended 1947.]

* * * * *

Sec. 69—231. Rules and regulations.

The department of agriculture shall from time to time make such rules and regulations as it may deem necessary for the efficient execution of the provisions of this chapter [Secs. 69—201—69—235]. [1919]

Sec. 69—233. Penalty for violations.

Every person * * * who shall alter, forge, simulate, counterfeit, violate or fail to comply with section 69—223, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$50.00 nor more than \$300.00, or imprisoned not more than six months, or both fine and imprisonment in the discretion of the court. [1919; last amended 1933.]

Code Annotated (1947), Vol. 4, Title 18, Ch. 1—
Misdemeanors.

Sec. 18—113. Penalty when not otherwise prescribed.

Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding \$300 or by both. [1887]

Code Annotated (1947), Vol. 4, Title 18, Ch. 72—
False Weights and Measures.

Sec. 18—7201. False weight or measure defined.

A false weight or measure is one which does not conform to the standard established by the laws of the United States of America. [1887]

Sec. 18—7202. Use of false weights or measures.

Every person who knowingly sells any goods, wares or merchandise, or any valuable thing, by false weight or measure, or knowingly uses false measures at any mill in taking toll for grinding corn, wheat, rye or other grain, is guilty of a misdemeanor.¹ [1864]

¹ For punishment, see Sec. 18—113, page 274.

Sec. 18—7203. Same.

Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, is guilty of a misdemeanor.¹ [1864]

¹ For punishment, see Sec. 18—113, page 274.

Sec. 18—7204. False marking.

Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.¹ [1864]

¹ For punishment, see Sec. 18—113, page 274.

Sec. 18—7205. Sales by ton and pound.

In all sales of coal, hay and other commodities, usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, at the rate of 2000 pounds to the ton; and in all sales of articles which are sold in commerce by avoirdupois weight the seller must give to the purchaser full weight, at the rate of sixteen ounces to the pound. Any person violating this section is guilty of a misdemeanor.¹ [1887]

¹ For punishment, see Sec. 18—113, page 274.

Sec. 18—7206. Fraudulent ore scales; penalty.

Every person, association or corporation, or the agent of any person, association or corporation, engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores, who keeps or uses any false or fraudulent scales or weights for weighing ores, who keeps or uses any false or fraudulent assay scales or weights for ascertaining the assay value of ore, knowing them to be false, is guilty of a misdemeanor, and is punishable by a fine in any sum not exceeding \$1000, or by imprisonment in the county jail for a term of not more than one year nor less than one month, or by both such fine and imprisonment. [1885]

Sec. 18—7207. Alteration of ore values; penalty.

Every person, corporation or association, or the agent of any person, corporation or association, engaged in milling sampling, concentrating, reducing, shipping or purchasing ores in this state, who in any manner knowingly alters or changes the true value of any ores delivered to him or them, so as to deprive the seller of the result of the correct value of the same, or who issues any bill of sale or certificate of purchase that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding or agreement with another, issues a bill of sale or certificate of purchase that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding or agreement with another, issues a bill of sale or certificate of purchase that does not truthfully and correctly set forth the weight, assay value and total amount paid for any lot or lots of ore purchased by him, is guilty of a misdemeanor, and shall be punished as provided in the preceding section. [1885]

Code Annotated (1947), Vol. 4, Title 18, Ch. 31—
False Advertising.

Sec. 18-3112. Unlawful acts; penalty.

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, entertainment or amusement or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof or to increase the attendance at places of amusement or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, cir-

culates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, entertainment or amusement or anything so offered to the public, which advertisement contains any assertion, representation or statement of facts which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25.00 and not to exceed \$300.00. [1915]

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Smith-Hurd Annotated Statutes, Ch. 127—Department of Agriculture.

Sec. 40. Powers and duties.

The Department of Agriculture shall have power:

* * * * *

5. To exercise the rights, powers and duties vested by law in the State food commissioner, food standard commission, and the other officers and employees of the State food department;

* * * * *

7. To execute and administer the Act to prevent fraud in the manufacture and sale of commercial fertilizers;

* * * * *

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21. To exercise the rights, powers and duties vested by law in the chief inspector of grain, deputy grain inspectors, deputy chief grain inspector, the warehouse registrar, the assistant warehouse registrars, State weighmasters, assistant State weighmasters and other officers and employees of the grain inspection service and the rights, powers and duties vested by law in the Department of Trade and Commerce as the successor of such officers and employees;

22. To execute and administer all laws and regulations, now or hereafter enacted, relating to weights and measures; [1917; last amended 1943.]

* * * * *

Smith-Hurd Annotated Statutes, Ch. 147—Weights and Measures.

Sec. 1. State standard of weights and measures.

The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836, and July 27, 1866, and 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 such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards of weights and measures. [1921; last amended 1945.]

Sec. 2. Office standards: Use; verification.

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 Director of Agriculture, 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 [Secs. 1-42], to be known as working standards. Such weights, measures and apparatus shall be verified by the Director of Agriculture upon their initial receipt, and at least once in each year thereafter the office standards shall be verified by direct comparison with the State standards, and 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 letters "ILL" and the last two figures of the year with seals which the Director of Agriculture shall keep for that purpose. The office standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the Director of Agriculture, and the State standards shall be used only in verifying the office standards and for scientific purposes. [1921; last amended 1943.]

Sec. 3. Safekeeping of standards.

The Director of Agriculture shall take charge of the standards adopted by this Act [Secs. 1-42] as the standards of the State, and cause them to be kept in a fireproof building belonging to the State, from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safekeeping. 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 shall take a receipt for the same from his successor in office. [1921; last amended 1945.]

Sec. 3a. Person defined.

The word "person" as used in this Act [Secs. 1-42] shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations. [1945]

Sec. 3b. Weights and measures defined.

The words "weights, measures, or weighing or measuring devices", as used in this Act [Secs. 1-42], shall be construed to include all weights, scales, beams, measures of every kind, liquid meters, instruments and mechanical devices for weighing or measuring, and any appliances and accessories, connected with any or all such instruments. [1945]

Sec. 3c. Sell or sale defined.

The words "sell" or "sale" as used in this Act [Secs. 1-42], shall be construed to include barter and exchange. [1945]

Sec. 3d. Liquid measuring device defined.

For the purposes of this Act [Secs. 1-42] a mechanically operated liquid measuring device, hereinafter referred to as a "liquid measuring device," is a mechanism or machine adapted to measure and deliver by volume. [1945]

Sec. 3e. Retail device defined.

A liquid measuring device of the retail type, hereinafter referred to as a "retail device," is a liquid measuring device which, on account of its design and the character of its primary indicating elements, is obviously intended for retail deliveries to individual consumers. [1945]

Sec. 3f. Wholesale device defined.

A liquid measuring device of the wholesale type, hereinafter referred to as a "wholesale device," is a liquid measuring device which, on account of the character of its primary indicating elements, is obviously designed for single deliveries of 50 gallons or more. [1945]

Sec. 3g. Vehicle tank and compartment defined.

For the purpose of this Act [Secs. 1-42] a vehicle tank is an assembly used for the delivery of liquids, comprising a tank, which may or may not be subdivided into two or more compartments, mounted on a wagon, automobile truck, or trailer, together with its accessory piping, valves, etc. The term "compartment" means the entire tank when it is not subdivided; otherwise it means one of those subdivided portions of the tank which is designed to hold liquid. [1945]

Sec. 3h. Type defined.

The word "Type," as used in this act [Secs. 1-42], is defined as a class the individual objects of which are similar one to another in design, construction, size, and material. [1945]

Smith-Hurd Annotated Statutes, Ch. 147—Weights and Measures—Continued.

Sec. 3i. Standard weights and measures defined.

The term "standard weights and measures," as used in this act [Secs. 1-42], is to be construed to include the standards of weights and measures adopted by the United States and the State of Illinois, in accordance with those furnished by the Federal Government under joint resolutions of Congress, approved June fourteenth, eighteen hundred and thirty-six and July twenty-seventh, eighteen hundred and sixty-six, and now recognized and in use throughout the United States, and the units and standards prescribed by the National Bureau of Standards. [1945]

Sec. 3j. Use in trade or commerce defined.

The term "use in trade or commerce," as used in this act [Secs. 1-42], shall be construed to include use in buying or selling goods, wares, commodities, or merchandise. [1945]

Sec. 3k. Acts or omissions within scope of employment or office.

When construing or enforcing the provisions of this act [Secs. 1-42], the act, omission, or failure of any officer, agent, or other person, or association, within the scope of his employment or office, shall in every case be deemed to be the act, omission, or failure of such corporation, partnership, company, society, or association, as well as that of the person. [1945]

Sec. 4. Weights and measures of cities to be inspected.

All cities which shall appoint inspectors as provided for herein, at least once in five years, shall forward to the office of Standards at Springfield, Illinois, all standard weights, measures, and apparatus which belong to the cities, for the purpose of having the same tried and proved by the office standards of this State, and upon receipt of same, the Director of Agriculture shall try and prove the apparatus as herein required, and seal the weights, measures and apparatus when found to be accurate by stamping on them the letters "ILL" and the last two figures of the year with seals which he shall have and keep for that purpose.

The Director of Agriculture shall inspect all standard weights, measures, and other apparatus used by such cities, at least once in two years, and shall keep a record of the same. He shall, at least once in two years, visit the cities to inspect the work of the city inspectors, and in the performance of such duties he may inspect the weights, measures, balances, or any other weighing or measuring devices of any person, firm or corporation and shall have the same power as the city inspectors of weights and measures. [1921; last amended 1945.]

Sec. 5. Supervision over weights, etc., sold; state institution tests.

The Director of Agriculture 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 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 Director having jurisdiction over the institution whose measuring devices are tested, and at the request of such director, the Director of Agriculture 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. [1921; last amended 1945.]

Sec. 6. Who to pay inspection fees.

No person shall be required to pay more than two inspection fees for any one measuring or weighing device in any one year when found to be accurate. Whenever such inspection shall be made upon the complaint of any person, other than the owner of the scale, and upon examination the weighing or measuring device is found by the inspector to be accurate for weighing, the inspection fee for such inspection shall be paid by the person making complaint. Whenever a special request is made for an inspection of a weighing or measuring device, the actual expenses of the same shall be paid by the owner of said weighing or measuring device, or by the person making the complaint as herein provided. [1921; last amended 1945.]

Sec. 7. Duties of director of agriculture to inspect.

When not otherwise provided by law, the Director of Agriculture shall in those parts of the State in which a city sealer is not permitted to be appointed by this Act [Secs. 1-42], inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices, and scales used for determining services charged, kept, offered, or exposed for sale, sold, or used or employed by any proprietor, agent, lessee, or employee in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted by such person or persons for sale, hire, or award; and he shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind 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 are offered for sale or sold in a manner in accordance with law. He shall, at least once 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 Director of Agriculture may specify, for the purpose of making the proper tests. Whenever the Director of Agriculture finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1921; last amended 1945.]

Sec. 8. Sealing and marking measures.

Whenever the Director of Agriculture 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 an appropriate seal. [1921; last amended 1945.]

Sec. 9. Inspection upon complaint.

Whenever complaint is made to the Director of Agriculture that any false or incorrect scales, weights or measures are being made use of by any person, firm, corporation or society in the purchase or sale of merchandise or other commodities or in weighing any article or commodity, the piece price paid for producing which is determined by weight or measure, he shall cause the same to be inspected as soon as the duties of his office will permit, and make such other inspection of weights and measures as in his judgment is necessary or proper to be made. [1921; last amended 1945.]

Sec. 10. Seizure and destruction of incorrect weights.

The Director of Agriculture 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 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 ten days; and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the Director of Agriculture. 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 Director of Agriculture. [1921; last amended 1943.]

Sec. 11. Superintendent of standards; powers and duties.

The powers and duties given to and imposed upon the Director of Agriculture herein are hereby also given to and imposed upon the superintendent of standards and assistants, when acting under his instructions and at his direction. [1921; last amended 1943.]

Sec. 12. City inspectors of weights and measures.

There may be an inspector of weights and measures in each city of this State having a population of 25,000 or more inhabitants, according to the last official Federal census, who shall be appointed by the council of said city in the manner in which other city officers or employees are appointed; and power is hereby conferred upon such council to pass such ordinance relative thereto and the duties to be performed by such inspector as it may deem proper, the provisions of which ordinance shall not be in conflict with the provisions in this Act [Secs. 1-42]: Provided that no such city inspector of weights and measures shall enforce the provisions of Sections 38b of this Act, the enforcement of which are specifically reserved to the Department of Agriculture. Such inspector of Weights and Measures so appointed by said council shall present himself at the office of the Superintendent of Standards for instruction in standard practice in testing and sealing. [1921; last amended 1945.]

Sec. 13. City councils to procure set of weights and measures.

The council of each city permitted hereunder to appoint an inspector of weights and measures shall procure, at the expense of the 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 Director of Agriculture may from time to time direct. All such weights, measures, and other apparatus, having been tried and accurately proved by the Director of Agriculture, shall be sealed and certified to by him as hereinbefore provided, and shall then be deposited with and preserved by the city inspector of weights and measures as public standards for such city. Whenever the council of such city shall neglect to procure such standards for six months, the city clerk of said city, on notification and request by the Director of Agriculture, shall provide such standards and cause the same to be tried, sealed and deposited at the expense of the city. [1921; last amended 1945.]

Sec. 14. Powers and duties of city inspector.

Where not otherwise provided by law, the city inspector of weights and measures shall have the powers and perform the duties within his city as are granted to and imposed upon the Director of Agriculture by Sections 7, 8, 9 and 10 of this Act [Secs. 1-42]. [1921; last amended 1943.]

Sec. 15. Record and annual report of city inspector.

The city inspector of weights and measures shall keep a complete record of all of his official acts and shall make an annual report to the council of the city, and an annual report, duly sworn to, on the first day of July, to the Director of Agriculture, on blanks furnished by him, and also any special reports that the Director of Agriculture may request. [1921; last amended 1943.]

Smith-Hurd Annotated Statutes, Ch. 147—Weights and Measures—Continued.

Sec. 16. Power to arrest and seize property; destruction of faulty scale or measure.

The Director of Agriculture, his representatives, and the city inspectors of weights and measures are made special policemen and authorized to arrest without warrant, any violator of this Act [Secs. 1-42] and to seize and hold for use as evidence in any action brought under this Act or under any ordinances of a municipality, any short measure or faulty and incorrect weight, scale or other instrument used for weighing or measuring, or any commodity or article of merchandise sold, offered or exposed for sale which is of less weight or measure than it is represented to be by the vendor, his agent, or employee. Such short measure, faulty or incorrect weight, scale or other instrument used for weighing or measuring, or such commodity or article of merchandise (except perishable commodities or articles which shall have become of no value) shall be released and returned to the owner thereof if no suit is commenced against such owner within fifteen days of the date of such seizure.

Any person herein authorized, who makes any such seizure, is not liable to the owner of the property seized for damages caused by such seizure in any case where in fact any such measure seized is short, or reasonable grounds exist for believing it so to be; or any weight, scale or other instrument used for weighing is faulty or incorrect, or reasonable grounds exist for believing it so to be; or any such scale, weight or measure, or any commodity or article of merchandise is of less weight or measure than it is represented, or reasonable grounds exist for believing it so to be.

Upon conviction the court shall cause any scale, weight or measure, in respect whereof the defendant stands convicted, and which remains in the possession or under the control of the prosecutor or other person duly authorized, to be destroyed. [1921; last amended 1945.]

Sec. 17. Obstructing performance of duty; non-payment of legal fee; penalty.

Any person who hinders or obstructs in any way the Director of Agriculture, or any State or city inspector of weights and measures, in the performance of his official duties or refuses to pay the legal fee established for testing or sealing, weighing and measuring devices in commercial use is guilty of a misdemeanor, and shall be fined not less than \$20.00 nor more than \$200.00, or imprisoned in the county jail for not more than three months, or both. [1921; last amended 1945.]

Sec. 18. Impersonating an official by use of seal, etc.; penalty.

Any person who impersonates the Director of Agriculture, or any city inspector of weights and measures, by the use of his seal or counterfeit of his seal, or otherwise, or copies or imitates any seal,

stencil or marking of the Department of Agriculture, is guilty of a misdemeanor, and shall be fined not less than \$100 nor more than \$500, or by imprisonment for not more than one year, or both. [1921; last amended 1945.]

Sec. 19. Unlawful to sell commodities unless by weight or measure; meaning of terms.

It is 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, unless otherwise agreed in writing by the mutual consent of the buyer and seller: 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 26; or of berries and small fruits in boxes as provided for in section 27; 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, nor to proprietary or package medicines which are not sold or offered for sale as of any specific quantity of the commodity.

The legal bushel basket, crate or box used for the sale of apples, pears, plums, peaches and other fruit and vegetables not secondarily contained in quart or other boxes shall have an interior capacity of not less than 2150.42 cubic inches.

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 purpose of this section immediate consumption on the premises means eat, drink or devour on the premises where sold.

For the purpose 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 measures of capacity, or by numerical count, or which are susceptible of sale in any of these ways. [1921; last amended 1945.]

Sec. 20. Coal, etc. to be sold by weight; delivery tickets; failure of ice dealer to provide scale for each vehicle; penalty.

It is unlawful to sell or offer to sell any coal, coke, or charcoal in any other manner than by weight or to deliver any coal, coke, or charcoal unless such delivery is accompanied by a delivery ticket, and a

duplicate thereof, on each of which shall be, in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, coke, or charcoal, contained in the vehicle used in such deliveries, with the name and address of the purchaser thereof, the name and address of the dealer from whom purchased. One of these tickets shall be surrendered to the Director of Agriculture, or any city inspector 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 purchaser of the coal, coke, or charcoal, or his agent or representative at the time of the delivery and the other ticket shall be retained by the seller.

A dealer in ice who refuses or neglects to provide a suitable scale for each vehicle used by him for the retail delivery of ice, shall upon conviction in any court of competent jurisdiction, be punished by a fine of not less than five dollars nor more than fifty dollars. [1921; last amended 1945.]

Sec. 21. Packaged commodities: Marking requirements; tolerances; definitions.

It is unlawful to keep for the purposes of sale, or to offer or expose for sale, or sell, any commodity in package form unless the net quantity of the contents is 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 exemptions shall be established by rules and regulations made and promulgated by the Director of Agriculture: 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 other sections of this Act [Secs. 1-42].

The words in "package form" as used in this section 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. "Package" as used in this section, does not include any container in which are packed or contained packages of a smaller size of a commodity, but this section applies only to the container, directly enclosing the commodity. [1921; last amended 1943.]

Sec. 21a. Misleading container or wrapper.

It is 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, or formed, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents. [1945]

Sec. 21b. Discrepancies due to unavoidable causes.

There shall be no violation under this Act [Secs. 1-42], for any discrepancy between actual weight or volume at the time of sale to the consumer, and the weight marked on the container, or between the fill of container and the capacity of the container, if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or to causes beyond the control of the seller acting in good faith. [1945]

Sec. 22. Net amount of cotton or other textile commodities on label; definitions.

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. [1921]

Sec. 23. Butter, etc., to be sold by weight; sizes of print; statement of weight on label or wrapper.

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 pro-

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ducer; or, when put up prior to the order of the commodity, by the vendor. [1921]

Sec. 24. Bread to be sold by weight.

All bread kept for the purpose of sale, offered or exposed for sale, or sold, shall be sold by weight, and cities required by this Act [Secs. 1-42] to appoint inspectors of weights and measures may enact and enforce ordinances regulating the same. [1921]

Sec. 25. Milk bottles: Capacity; variations permissible; designating number; bond; penalty.

Bottles used for the sale of milk or cream shall be of the following capacities only; one gill, one-half pint, one-third quart, one pint, one quart, three pints, one-half gallon, one gallon, and full multiples of a gallon when filled to the bottom of the cap, ring or stopple. The following variations on individual bottles may be allowed to wit: 1 gill, 2 drams; $\frac{1}{2}$ pint, 2 drams; $\frac{1}{3}$ quart, $2\frac{1}{2}$ drams; 1 pint, 3 drams; 1 quart, 4 drams; 3 pints, 5 drams; $\frac{1}{2}$ gallon, 6 drams; 1 gallon, 10 drams; exact multiples of a gallon. 8 drams for each additional gallon over 1 gallon, above variation to be in excess or in deficiency. 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 Director of Agriculture 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 Director of Agriculture, conditioned upon their 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 Director of Agriculture.

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 bondsman to be brought in the name of the People of the State. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles purchased after this amendatory act takes effect that do not comply with the requirements of this section as to markings and capacity, is guilty of using a false or insufficient measure. [1921; last amended 1945.]

Sec. 26. Standard barrel for fruits, vegetables and dry commodities; exceptions.

The standard barrel for fruits, vegetables and 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 barrel 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 country to which the same is intended to be shipped. [1921]

Sec. 27. Containers holding one quart or less.

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. [1921]

Sec. 28. Net weight of commodity to be basis of sales.

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 [Secs. 1-42], it shall

be understood and construed to mean the net weight of the commodity. [1921]

Sec. 29. Standard of length and surface.

The unit or standard of length and surface, from which all the other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, is the standard yard designated in this Act [Secs. 1-42], which is divided into three equal parts called feet, and each foot into twelve equal parts called inches. For measures of cloth and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths and sixteenths. The rod, pole, or perch contains five and one-half yards; the mile one thousand seven hundred and sixty yards. The chain for measuring land is twenty-two yards long and is divided into one hundred equal parts called links. The acre for land measurement shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten in breadth, six hundred and forty acres being contained in a square mile. [1921]

Sec. 33. Contracts within state to be construed according to standard.

Contracts hereafter to be executed, made within this State, for any work to be done, or for anything to be sold, delivered, done or agreed for, by weight or measure, shall be taken and construed to be made according to the standard weight and measure ascertained as hereinbefore provided unless there is an express provision to the contrary. [1921]

Sec. 34. Weight per bushel or barrel.

Whenever any of the following articles are contracted for, or sold, or delivered, and when no special contract or agreement is made to the contrary, the weight per bushel or barrel or divisible merchantable quantities of a bushel or barrel shall be as follows:¹

	<i>Pounds per Bushel</i>
Alfalfa, seed	60
Apples, dried	24
Barley	48
Beans, green or string	24
Beans, wax	24
Beans, white	60
Beans, soy	60
Beans, castor	46
Beets	60
Blue Grass seed	14
Bran	20
Buckwheat	52
Carrots	50
Charcoal	20
Clover seed	60
Coal	80
Coke	40
Corn seed, broom	48
Corn meal, unbolled	48
Corn, in the ear	70
Corn kaffir	56
Corn, shelled	56
Cotton seed	32
Cranberries	33

	<i>Pounds per Bushel</i>
Cucumbers	48
Emmer	40
Flax seed	56
Gooseberries	40
Hair, plastering, unwashed	8
Hair, plastering, washed	4
Hemp seed	44
Hickory nuts	50
Hungarian grass seed	50
Indian corn or maize	56
Lime	80
Malt	38
Millet	50
Millet, Japanese barnyard	35
Oats	32
Onions	57
Onion sets, top	30
Onion sets, bottom	32
Orchard grass seed	14
Osage orange seed	33
Parsnips	50
Peaches, dried	33
Peanuts, green	22
Peanuts, roasted	20
Pears	58
Peas, dried	60
Peas, green in pod	32
Popcorn, in the ear	70
Popcorn, shelled	56
Potatoes, Irish	60
Potatoes, sweet	50
Quinces	48
Rape seed	50
Red top seed	14
Rough rice	45
Rutabagas	50
Rye meal	50
Rye	56
Salt, coarse	55
Salt, fine	50
Shorts	20
Sorghum seed	50
Spelt	40
Spinach	12
Sweet clover seed, unhulled	33
Timothy seed	45
Tomatoes	56
Turnips	55
Walnuts	50
Wheat	60

Whenever apples or peaches are sold in bulk or in quantities, the legal weight per bushel is 47 pounds for apples and 48 pounds for peaches.

Whenever any of the following named articles are sold by the cubic yard and the same are weighed, the following weights shall govern:
 Crushed stone, 2,500 pounds, 1 cubic yard
 Bank sand, 2,500 pounds, 1 cubic yard
 Torpedo sand, 3,000 pounds, 1 cubic yard
 Gravel, 3,000 pounds, 1 cubic yard
 [1921; last amended 1945.]

¹ A slight change in arrangement has been made for convenience of reference.

Sec. 35. Same: Offenses; penalties.

Whoever, in buying any of the articles of property mentioned in the preceding section, shall take any greater number of pounds thereof to the bushel, barrel, or cubic yard or divisible merchantable

Smith-Hurd Annotated Statutes, Ch. 147—Weights and Measures—Continued.

quantity of a bushel, barrel or cubic yard, or in selling any of said articles, shall give any less number of pounds thereof to the bushel, barrel or cubic yard or divisible merchantable quantity of a bushel, barrel or cubic yard than is allowed by said section, with intent to gain an advantage thereby, except expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount of the property so wrongfully taken or not given and ten dollars in addition thereto, to be recovered in any form of action in any court of competent jurisdiction. [1921]

Sec. 36. Firewood; cord; penalty.

Whenever any firewood shall be contracted for or sold or delivered, and when no special contract or agreement shall be made to the contrary, one hundred and twenty-eight cubic feet shall constitute a cord.

Whoever, in buying same, shall take any greater number of cubic feet thereof to the cord, or divisible merchantable quantity of a cord, or in selling same, shall give any less number of cubic feet to the cord or divisible merchantable quantity of a cord; with intent to gain an advantage thereby, except expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in the same manner as is provided in Section 35 hereof. [1921]

Sec. 36a. Types of weights, measures or devices; department to pass upon.

The Department of Agriculture shall pass upon each type of weight and measure and weighing and measuring device manufactured, offered or exposed for sale or sold or given away, for the use in trade or commerce, or used in trade and commerce, in the State of Illinois, and approve or disapprove of said type. The said Department shall approve each type of weight and measure and weighing and measuring device submitted to it for approval by any person if such type is so designed and constructed that it conforms to, or gives correct results in terms of standard weights and measures or in terms of values derived therefrom, and is reasonably permanent in its indication and adjustment, and does not facilitate the perpetration of fraud, otherwise the Department shall disapprove the same. [1945]

Sec. 36b. Manner of submission of type.

The submission of a type may be by sample or by specifications if, in the judgment of the Department, such specifications are adequate, or in such other manner as may be prescribed by the rules and regulations. [1945]

Sec. 36c. Certificate of approval; notice of disapproval; review of decision.

When a type of weight or measure or weighing or measuring device is approved, the said Depart-

ment shall issue a certificate to this effect to the person submitting such type. When a type is disapproved, the said Department shall notify the person submitting the same of its decision, setting out the reason therefor, together with such information and references as may be useful in judging the propriety of the disapproval, and shall give such person an opportunity to be heard in support of his application for approval. If the person is dissatisfied with the decision of the Director of Agriculture, he may appeal to the Circuit court of the county of which he is a resident: Provided, that after December 31, 1945, no proceeding to review judicially a decision of the Director hereunder shall be instituted except only under and in accordance with the provisions of the "Administrative Review Act," approved May 8, 1945,¹ and amendments and modifications thereof, and the rules adopted pursuant thereto. [1945]

¹ Chapter 110, Secs. 264-279, Smith-Hurd Annotated Statutes.

Sec. 36d. Manufacture, sale or use of unapproved type of weights, measures or devices.

From and after one year after this amendatory act¹ takes effect, it is unlawful for any person to manufacture, offer or expose for sale, or sell or give away for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device of a type not approved in accordance with the provisions of this act; Provided, however, in case of weights and measures and weighing and measuring devices manufactured and ready for sale or in use in the State of Illinois at the time this section takes effect, no approval of type is necessary, and it is lawful for any person to offer or expose for sale or sell, for use in trade or commerce, or to use in trade or commerce, such weights and measures and weighing and measuring devices, unless they do not conform to or give correct results in terms of standard weights or measures or in terms of values derived therefrom: And provided further, if the type of a weight or measure or weighing or measuring device is intended for shipment outside the State of Illinois no approval of type is necessary, but if said weight or measure or weighing or measuring device is in fact sold or offered for sale, for use in trade or commerce, or used in trade or commerce, in the State of Illinois, then this proviso shall not exempt such weight or measure or weighing or measuring device from the operation of any of the provisions of this act. [1945]

¹ Laws 1945, p. 1765, approved July 18, 1945; amends secs. 1, 3, 4, 5, 6, 7, 8, 9, 12, 13, 16, 17, 18, 19, 20, 25, 34, 37, 38, 39, 42, and adds secs. 3a-3k, 21a-21b, 36a-36l, and 38a-38c to Act of 1921.

Sec. 36e. Guaranty by seller or manufacturer as defense.

No person shall be prosecuted under the provisions of this act [Secs. 1-42] if he can establish a

guaranty, signed by the person from whom the weight or measure or weighing or measuring device was purchased, or otherwise obtained, or from the manufacturers thereof, to the effect that the type of the same has been approved, if such approval is required by the provisions of this act, and, if such approval is not required, setting out this fact, or if he can establish, that the weight or measure or weighing or measuring device has been sealed by the local sealer of weights and measures. The said guaranty, to afford protection, shall contain the name and address of the guarantor, and, in such case, said guarantor shall be amenable to the prosecution, fines, or other penalties which would attach to such person under the provisions of this Act. But in any case where any such person has actual notice that the type of such weight or measure or weighing or measuring device has not in fact been approved, when such approval is required by the provisions of this act, it is unlawful for such person thereafter to offer or expose such weight or measure or weighing or measuring device for sale, or to sell it, for use in trade or commerce, or to use it in trade or commerce. [1945]

Sec. 36f. Registration of approved types; issuance of descriptions.

The Department of Agriculture shall register and give a serial number to each type of weight or measure or weighing or measuring device submitted and approved as provided in this act, and shall issue, from time to time, descriptions of such approved types, giving serial number of each type, copies of which shall be furnished to all weights and measures officials. [1945]

Sec. 36g. Marking devices with manufacturer's name and serial number.

From and after one year after this amendatory act [Secs. 1-42] takes effect, it is unlawful to manufacture, offer or expose for sale or sell or give away, for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device which does not have cast, stamped, etched, or otherwise marked thereon, the name of the manufacturer and the serial number of the approved type to which it belongs: Provided, however, whenever it appears to the satisfaction of the Department of Agriculture that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, the said Department shall furnish a certificate to that effect to any manufacturer applying for the same, and such weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section. [1945]

Sec. 36h. Simulation of serial number; penalty.

It is unlawful to cast, stamp, etch, or otherwise mark, upon any weight or measure or weighing or measuring device, the type of which has not been

approved as required by the provisions of this act [Secs. 1-42], any design or device simulating a serial number required by the provisions of section seven [Sec. 36g] of this act.

Any person who violates any of the provisions of this section is guilty of a misdemeanor, and, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or by both. [1945]

Sec. 36i. Separate approval and serialization of part of device.

In case any person desires to have the type of a part of a weight or measure or weighing or measuring device separately approved and serialized, and applies therefor, and the Department of Agriculture decides that the part is such that this may properly be done, then such part may be approved and serialized or disapproved as to type, under the same provisions and restrictions as are applied to the approval and serialization or the disapproval of a type of weight or measure or measuring device by the provision of this act [Secs. 1-42]. [1945]

Sec. 36j. Presumption that device intended for use in trade; marking devices not so intended.

It is presumed that a weight or measure or weighing or measuring device is intended for use in trade or commerce if it is manufactured, offered or exposed for sale, or sold, for use in the State of Illinois, or is used therein, unless it bears a plain, legible, conspicuous, and permanent statement to this effect "Not legal for trade." It is unlawful to use in trade or commerce any weights or measure or weighing or measuring device which is marked as described above: Provided, however, that whenever it appears to the satisfaction of the Department of Agriculture that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, or is of such design and construction that it is obviously not intended for use in trade or commerce, the said Department shall furnish the same, and such types of weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section. [1945]

Sec. 36k. Sealing of weights, measures and devices; approval of type not evidence of correctness of individual device.

Inspectors of weights and measures of the State of Illinois may seal, for use in trade or commerce, all weights and measures and weighing and measuring devices, the type of which has been approved as required by the provisions of this act [Secs. 1-42], or specifically exempted from the necessity of approval by the provisions of this act, when they find that the same are within the tolerance prescribed under the rules and regulations: Provided, however, that this shall not be construed as meaning that the approval of a type shall be taken as evidence of the correctness of any individual weight or measure or weighing or measuring device of that type, or pre-

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vent any such inspector of weights and measures from prohibiting the use of any individual weight or measure or weighing or measuring device which is found to be inaccurate or otherwise defective or unlawfully used and enforcing any penalty provided by this act. [1915]

Sec. 36l. Proceedings for enforcement of penalties.

The Director of Agriculture and his deputies and the inspectors of weights and measures of the cities who find satisfactory evidence of any violation of the provisions of this act [Secs. 1-42] shall cause appropriate proceedings to be commenced and prosecuted, without delay, for the enforcement of the penalties as in such case herein provided: Provided, however, that no action or prosecution shall be brought against any person for any violation of this act unless the same is commenced within one year after the offense is committed. [1915]

Sec. 37. Fees.

The Director of Agriculture and each city inspector of weights and measures shall receive and collect fees for the use of the State or city as the case may be for service at the following rates, which shall be due and payable at the time of such inspection:

For testing scales of the capacity of 23,500 pounds and upwards, except hopper scales	\$5.00
For testing scales of the capacity of 5,000 to 23,500 pounds, except hopper scales	2.50
For testing scales of the capacity of 2,000 to 5,000 pounds, except hopper scales	1.00
For testing scales of the capacity of 240 to 2,000 pounds, except hopper scales	.50
For testing scales of less capacity than 240 pounds	.30
For testing every automatic weighing machine, on every instrument or device of a capacity or less than three tons used for weighing or measuring any person or animal, for hire or reward, each	.75
For testing liquid measures of the capacity of one gallon and upwards, each	.15
For testing any other liquid measure not used for compounding and manufacturing purposes, each	.10
For testing yard measures, each	.10
For testing any linear measure, for each three feet	.10
For testing any tape line exceeding 50 feet in length, each	.75
For testing any automatic machine used for linear measuring, each	.75
For testing any automatic device used for measuring or dispensing liquids at retail, except vehicle tanks	1.00
For testing any automatic device used for measuring or dispensing liquids on vehicle tanks or at bulk stations, size 1½ inch	2.50
For testing any automatic device used for measuring or dispensing liquids on vehicle tanks or at bulk stations, size 1½ and 2 inches	3.00
For testing any automatic device used for measuring or dispensing liquids on vehicle tanks or at bulk stations, size 2½ and 3 inches	5.00
For testing any automatic device used for measuring or dispensing liquids on vehicle tanks or at bulk stations, size 4 inches	15.00
For testing any automatic device used for measuring or dispensing liquids on vehicle tanks or at bulk stations, size 6 inches	25.00
For calibrating for capacity any vehicle tank, each \$2.50 for each 1,000 gallons or fraction thereof.	

They shall also receive, for the use of the State or city, as the case may be, a reasonable compensation for making such weights and measures conform to the standards established by this Act [Secs. 1-42]; Provided, however, that no charge shall be made by the Department of Agriculture for inspecting and sealing of weights, measures, scales or beams which belong to any city and which are sent or brought to the Department of Agriculture for that purpose by the inspector of weights and measures of such city. [1921; last amended 1945.]

Sec. 38. Measure used in sale of gasoline, etc.

It is unlawful to sell or offer for sale any gasoline, naphtha, kerosene, wood alcohol or other oils or liquids used in producing light or heat, or generating gas or power by any measure other than that provided in Section 1 of this Act [Secs. 1-42]. [1921; last amended 1945.]

Sec. 38a. Calibration and sealing of devices for sale of petroleum and products; rate of flow.

No liquid measuring device shall be used for the delivery or sale, either retail or wholesale, of petroleum or any liquid petroleum products thereof, unless the same has been calibrated for accuracy of delivery and sealed by the Department of Agriculture.

The installation of a wholesale device shall be such that the rate of flow through the device will not exceed the rated capacity of the device. If necessary to accomplish this result, effective automatic means for flow regulation shall be installed. [1945]

Sec. 38b. Vehicle tanks; measuring devices; calibration; marking.

It is unlawful for any person, firm, partnership or corporation to operate upon the public highways of Illinois any vehicle tank not equipped or furnished with a meter or other device for measuring deliveries therefrom unless said vehicle tank shall have been calibrated for capacity and sealed by the Department of Agriculture and the said Department shall reserve to itself enforcement of the provisions of this Act [Secs. 1-42] which apply to the delivery or sale of petroleum or any liquid products thereof in all cities, towns or villages in Illinois having a population of less than 200,000.

All vehicle tanks and all devices designed to be attached thereto and used in connection therewith shall be of such design and construction that they do not facilitate the perpetration of fraud.

When a vehicle tank has been calibrated for capacity and sealed by the Department of Agriculture, the Director of Agriculture shall issue to the owner or operator, a certificate of calibration showing the calibrated capacity of each compartment and a duplicate copy of such certificate shall accompany said vehicle tank at all times.

Each vehicle tank operated upon the public highways shall have printed in letters and figures not

less than one inch in height in a conspicuous place on each compartment of each tank the calibrated capacity of each compartment and the date on which the vehicle tank was calibrated. [1945]

Sec. 38c. Exemption of vehicle tanks and devices not used in transactions with others.

Nothing in this Act [Secs. 1-42] shall apply to vehicle tanks or measuring or weighing devices used solely by the owner thereof for his own purposes and not used in determining or proving the quantity or weight of goods purchased or sold nor in weighing or measuring for others. [1915]

Sec. 39. Offenses; penalties.

Any person who, by himself or by his servant or agent, or as the servant or agent of another person, offers or exposes for sale, sells, or uses in the buying or selling of any commodity or thing, or uses 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 retains 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 Director of Agriculture 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 Director of Agriculture; or who sells or offers or exposes for sale less than the quantity he represents of any commodity, thing, or service, or takes or attempts to take more than the quantity he represents of any commodity, thing, or service, 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 keeps for the purpose of sale, offers or exposes for sale, or sells any commodity in a manner contrary to law; or who violates any provision of this Act [Secs. 1-42] for which a specific penalty has not been provided; or who sells or offers for sale, or uses or has 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 fined not less than \$20 nor more than \$200, or be imprisoned for not more than three months, or both upon a first conviction, and upon a second or subsequent conviction he shall be fined not less than \$50 nor more than \$500, or be imprisoned in the county jail for not more than one year, or both. [1921; last amended 1945.]

Sec. 41. Inspectors not to be interested in sale of weights.

No person authorized by this Act [Secs. 1-42] to inspect weights, measures, scales, beams or other measuring devices shall vend any weights, measures, scales, weighing or measuring devices of any kind

whatsoever to be used for weighing or measuring, or offer or expose the same for sale, or be interested, directly or indirectly, in the sale of same. [1921]

Sec. 42. Rules and regulations.

Reasonable rules and regulations for carrying out and enforcing this act [Secs. 1-42] shall be adopted by the Department of Agriculture. They shall include reasonable variations or tolerance which may be allowed on weights and measures and weighing and measuring devices and specifications for such weights and measures and weighing and measuring devices, the manner of casting, stamping, etching, or otherwise marking the name of the manufacturer and serial number on them for the guidance of manufacturers in the design and construction of such weight and measures and weighing and measuring devices; reasonable variations or tolerances in excess only or in excess and deficiency, which may be allowed in relation to the weight of loaves of bread; reasonable variations or tolerances and exemptions in regard to the net quantity of commodities sold in package form; the procedure to be followed by the State and city inspectors and tables of specifications and tolerances for their guidance in discharge of their duties; and prescribe the manner in which a type of weight or measure or weighing or measuring device may be submitted to the Department of Agriculture for approval.

Such rules and regulations shall be in substantial conformity with those approved by the National Bureau of Standards and those promulgated under the Federal Food, Drug and Cosmetic Act¹ and shall have the force and effect of law. [1921; last amended 1945.]

¹ 21 U. S. C. A. Secs. 301 et seq.; 52 Stat. 1040, et. seq.

Sec. 45. "Cotton duck": Definition.

That for the purpose of this act [Secs. 45-51] cotton duck or canvas shall be deemed to include all cotton duck or canvas, whether single filling, double filling, army, roll or wide duck. [1917]

Sec. 46. Same: "Yard," "ounce," defined.

That for the purpose of this act [Secs. 45-51] the equivalent of thirty-six (36) inches in length by twenty-nine (29) inches in width, or seven and one-fourth (7¼) square feet of cotton duck or canvas shall constitute a yard, and an ounce shall be one-sixteenth part of a pound avoirdupois. [1917]

Sec. 47. Same: Marking requirements.

Any person, firm or corporation who shall manufacture for sale or who may offer or expose for sale any cotton duck or canvas or any article other than clothing and wearing apparel composed or made in whole or in part of cotton duck or canvas, shall distinctly and durably stamp, brand or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a descrip-

Smith-Hurd Annotated Statutes, Ch. 147—Weights and Measures—Continued.

tion by name of any filler or other preparations placed in or on said cotton duck or canvas since its manufacture. [1917]

Sec. 48. Same: Sale without brand or misrepresenting weight prohibited.

It shall be unlawful for any person, firm or corporation either individually or in any representative capacity, to carry for sale, sell or endeavor to sell any cotton duck or canvas as herein defined, or any articles other than clothing and wearing apparel composed or made in whole or in part of any cotton duck or canvas without having marked thereon the true and correct weight of said canvas, or cotton duck by ounces per yard, together with a description by name of any filler or other preparations placed in or on said cotton duck or canvas since its manufacture, or to misstate, misrepresent or conceal the true weight of said canvas or cotton duck by ounces per yard, or to misstate [,] misrepresent or conceal the existence of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture. [1917]

Sec. 49. Awnings, etc.: Misrepresenting dimensions prohibited.

It shall be unlawful for any person, firm or corporation either individually or in representative capacity selling, carrying for sale or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof. [1917]

Sec. 50. Effacing mark prohibited.

It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel or remove any mark provided for by this act [Secs. 45-51], or cause or permit the same to be done with intent to mislead, deceive or to violate any of the provisions of this act. [1917]

Sec. 51. Penalty for violations.

Any person, firm or corporation violating any of the provisions of this act [Secs. 45-51] shall be deemed guilty of a misdemeanor and on conviction thereof shall for the first offense be punished by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) and for each subsequent offense by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100). [1917]

Sec. 52. Standard weight containers for flour, corn meal, hominy and hominy grits; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this State any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty

(50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, self-rising flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this Act [Secs. 52-53] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred (100) pounds, or for export, or (c) flours, meals, hominy and hominy grits packed in containers the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 53. Same: Penalty for violations.

Any violation of this Act [Secs. 52-53] shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. [1945]

Smith-Hurd Annotated Statutes, Ch. 24, Art 23—Municipal Corporations.

Sec. 23-1. Grant of powers.

The corporate authorities of a municipality shall have the powers enumerated in sections 23-2 to 23-110, inclusive. [1941; last amended 1949.]

Sec. 23-62. Same: Establish and regulate markets.

To establish and regulate markets and market-houses. [1941]

Sec. 23-63. Same: Regulate sale of beverages and food; loaf-weight of bread.

To regulate the sale of all beverages and food for human consumption; to locate and regulate the places where and the manner in which any beverage or food for human consumption is sold; and also to prescribe the loaf-weight and quality of bread. [1941]

Sec. 23-65. Same: Inspection and weighing of merchandise.

To provide for and regulate the inspection, weighing, and measuring of brick, lumber, firewood, coal, hay, and any article of merchandise of the same kind. [1941]

Sec. 23-66. Same: Inspection of weights and measures.

To provide for the inspection and sealing of weights and measures. [1941]

Sec. 23-67. Same: Require use of weights and measures.

To require the keeping and use of proper weights and measures by vendors. [1941]

Sec. 23-68. Same: Require sales by weight.

To require all grain, flour, meal, hay, feed, seeds, fruits, nuts, vegetables and non-liquid vegetable products, meats and non-liquid animal products,

fish, butter, cheese and other similar dairy products, dry groceries and all other similar articles of merchandise, or any particular class or classes of the specified merchandise, in the absence of a contract or agreement in writing to the contrary, to be sold by standard avoirdupois weight or by numerical count. [1941]

Sec. 23-91. Same: Tax and regulate public scales.

To license, tax, and regulate * * * public scales, * * *. [1941]

Smith-Hurd Annotated Statutes, Ch. 5—Commercial Fertilizers.

Sec. 47. Definition.

The term "Commercial fertilizer", as used in this Act [Secs. 47-52], shall mean any substance, including any combination or mixture, designed and offered for sale for use in inducing increased crop yield when applied to the soil; provided that the following natural products, agricultural limestone, marl and unprocessed animal manure, which have not been manipulated so as to alter or change them chemically, and burnt or hydrated lime shall not be subject to the provisions of this Act. [1927; last amended 1945.]

Sec. 48. Registration; marking requirements.

Before any commercial fertilizer is sold, offered for sale or exposed for sale in this State, the manufacturer, dealer, importer, agent or party who causes it to be sold or offered for sale for use or consumption in the State of Illinois shall register with the Department of Agriculture, on forms to be supplied by it, a statement giving * * *:

1. Weight of each package in pounds;

* * * * *

(B) The vendor shall brand or attach to each bag, barrel or package, or in the case of bulk shipments, shall attach to the invoice, a copy of the statement set forth above, * * *. [1927; last amended 1947.]

Sec. 51. False representation as to net weight.

It shall be a violation of the provisions of this act [Secs. 47-52] if the statements required shall be false in regard to the net weight of the contents of the package sold, * * *. [1927; last amended 1945.]

Sec. 52. Penalty for violations.

Any person selling or offering for sale any fertilizer or fertilizer material without first having complied with the provisions of this Act [Secs. 47-52], or who violates any of the provisions of this Act, or who offers for sale, exposes for sale or sells any commercial fertilizer which has not been registered or who shall fail to pay the license fee herein provided as the same becomes due, shall be deemed to be

guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). All fines imposed and collected under this Act shall be paid within thirty days after such collection to the Department of Agriculture and by it paid into the State treasury. [1927; last amended 1947.]

Smith-Hurd Annotated Statutes, Ch. 5—Standard Containers for Agricultural Products.

Sec. 92. Definitions.

As used in this Act [Secs. 92-105], the word "Director" means the Director of the Department of Agriculture, and the term "agricultural products" includes all farm, dairy, bee, viticultural and horticultural products. [1923; last amended 1929.]

Sec. 93. Director may fix standards; rules and regulations; tolerances.

In order to promote, protect, further and develop the agricultural interests of this State, the director is hereby authorized, after investigation and public hearing, * * * to fix and promulgate official standards for containers of farm products, and to change any of them from time to time. The director shall promulgate regulations prescribing such tolerances as may be deemed necessary permitting such variations from the standards fixed under this Act [Secs. 92-105], as are reasonably incident to the proper grading of agricultural products, or to the manufacture of containers for such products. [1923]

Sec. 94. Notice of standards.

In promulgating the standards or any alterations or modifications of such standards, the director shall specify the date or dates when the same shall become effective, and shall give public notice not less than thirty days in advance of the date when the standard for any agricultural product shall become effective and one year in advance of the date when a standard for any container shall become effective by such means as he deems proper, and he is hereby authorized to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. [1923]

Sec. 95. Cooperation with U. S. Government.

The director is authorized to fix and promulgate as the official standard for this State for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this Act [Secs. 92-105] the director is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein. [1923]

Smith-Hurd Annotated Statutes, Ch. 5—Standard Containers for Agricultural Products—Continued.

Sec. 99. Regulations.

The director is hereby authorized to promulgate regulations for carrying out the purposes and provisions of this Act [Secs. 92-105]. * * * [1923; last amended 1931.]

Sec. 102. Closed packages: Marking requirements; definitions; offenses; penalty.

* * * * *

Every closed package containing fresh fruits and vegetables sold, offered or exposed for sale, * * * shall have stamped, stenciled or labeled upon the outside * * * the minimum size or numerical count, or net weight of the contents of the package. * * * The letters or figures used in marking or branding closed packages of fresh fruits and vegetables under this Act [Secs. 92-105] shall be of a size of not less than one-half inch high.

"Closed package" shall be construed to mean a barrel, box, basket, sack, carrier or crate, of which all of the contents cannot readily be seen or inspected when such package is prepared for market. Fresh fruits or vegetables in baskets or boxes, packed in closed or open crates, and packages covered with burlap, tarlatan or slat covers shall come within the meaning of the term "closed package".

* * * * *

No person shall pack for sale, ship for sale, offer or consign for sale, or sell, in closed packages, fresh fruits or vegetables grown in this State which are not graded, packed and marked or branded in accordance with the provisions of this Act.

* * * * *

No person shall falsely brand, mark, stencil or label, any package or container required by this Act to be branded, marked, stenciled or labeled, nor shall remove, alter, deface, mutilate, obliterate, imitate, or counterfeit any brand, mark, stencil or label so required under this Act.

When any closed package is used for the repackaging of fresh fruits or vegetables, all names, brands or marks, relating to any former packing must be removed or obliterated.

Whenever any standard for a container for an agricultural product becomes effective under this Act, no person thereafter shall manufacture for commerce within the jurisdiction of this State, or sell, ship, or offer for sale in such commerce any container, either filled or unfilled, to which the standard is applicable, which does not comply with such standard subject to such tolerance as may be permitted under this Act.

Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than two hundred dollars (\$200.00). [1923; last amended 1935.]

Smith-Hurd Annotated Statutes, Ch. 38, Div. I—Paris Green.

Sec. 187. Marking requirements.

That every lot or parcel of Paris green sold, or offered or exposed for sale, within the state shall have affixed thereto in a conspicuous place a printed label bearing the words, "High grade, for insecticide purposes," or the words, "Not for insecticide purposes," and every package labeled as of high grade for insecticide purposes shall have affixed thereto a plainly printed statement clearly and truly certifying * * * the net weight of the package, * * *. If the Paris green is sold in bulk for insecticide purposes, or if it is put up in packages and sold at retail to the purchaser, the agent or dealer shall furnish the purchaser with the label and statement described in this section. * * *. [1907]

Sec. 188. Selling without label; penalty.

Any manufacturer, importer, agent or other person selling, offering, or exposing for sale, any Paris green without the label required by section one [Section 187] of this act [Secs. 187-189], or selling, offering, or exposing for sale as of high grade for insecticide purposes, any Paris green without the printed statement required by section one [Section 187] of this act, * * * shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each offense. [1907]

Smith-Hurd Annotated Statutes, Ch. 38, Div. I— "Uniform Narcotic Drug Act."

Sec. 192.10. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English * * * the quantity, * * * of narcotic drug contained therein. * * * [1935]

Sec. 192.22. Enforcement and cooperation.

It is hereby made the duty of the Department [of Registration and Education], its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all states attorneys, to enforce all provisions of this act [Secs. 192.1-192.28], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs. [1935]

Sec. 192.23. Penalties for violations.

Whoever violates this Act [Secs. 192.1-192.28] shall be punished, for the first offense, by a fine not exceeding \$1,000.00, or by imprisonment in the

county jail for no longer than one year, or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding \$5,000.00, or by imprisonment in the penitentiary for no longer than five years, or by both such fine and imprisonment. [1935; last amended 1949.]

Smith-Hurd Annotated Statutes, Ch. 561/2—Foods.

Sec. 1. Enforcement of food laws.

The Department of Agriculture shall enforce all laws that now exist or that hereafter may be enacted in this state regarding the production, manufacture, sale and labeling of food as herein defined, and shall prosecute or cause to be prosecuted any person, firm or corporation, or agent thereof, engaged in the manufacture or sale of any article manufactured or sold in violation of the provisions of any such law or laws. [1907; last amended 1943.]

* * * * *

Sec. 5. Manufacturing misbranded food misdemeanor; exceptions.

It shall be unlawful for any person to manufacture for sale within the State of Illinois any article of food or drink which is adulterated and misbranded within the meaning of this act [Secs. 1-46].

* * * Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished according to the provisions of this act: Provided, that no article of food shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country or purchaser, and prepared or packed according to the specifications or directions of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not except said article from the operations of any of the other provisions of this act. [1907; last amended 1915.]

Sec. 6. Possession of misbranded food prohibited.

The having in possession or control of any food which violates any of the provisions of this act [Secs. 1-46] with intent to sell the same or to use the same in violation of this act is hereby prohibited; and whoever shall have in his possession or control with intent to sell or offer for sale any food which violates any of the provisions of this act or with intent to use any such food in violation of the provisions of this act shall be guilty of a misdemeanor and punished as herein provided. The possession or control of any food which violates any of the provisions of this act shall [be] held to be prima facie evidence that such possession or control is or was with intent to sell or use such food in violation of this act. [1907; last amended 1915.]

* * * * *

Sec. 7. Definition of food.

The term "food," as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound, and any substance used as a constituent in the manufacture thereof. [1907]

Sec. 9. When food deemed misbranded.

The term "misbranded," as used herein, shall apply to all articles of food or drink or articles which enter into composition of food or drink, the packages or labels of which bear any statement, design or device regarding such article, or the ingredients or substance contained therein which shall be false or misleading in any particular; * * *. That for the purpose of this act [Secs. 1-46] an article shall also be deemed to be misbranded—

In case of food:

• • • • •

Third—If in package form, the true quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, that reasonable variation shall be permitted and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of Section 38¹ of this act.

* * * * *

Fifth—* * * an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in following cases:

1st—In case of mixture or compounds which may be now or from time to time hereafter known as articles of food under their own distinctive name, and which mixture or compound is not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with the name and address of the packer or dealer, and the net measure of the contents. [1907; last amended 1927.]

* * * * *

1 Sec. 39, see page 294.

Sec. 15. Mutilating label prohibited.

Whoever shall deface, change, erase or remove any mark, label or brand provided for by this act [Secs. 1-46] with intent to mislead, deceive or to violate any of the provisions of this act, shall be held liable to the penalties of this act. [1907]

Sec. 20. Milk and cream: Standard glassware; offenses.

The state standard milk measure or pipettes shall have for milk a capacity of seventeen and six-tenth cubic centimeters, and the state standard test tube or bottles for milk shall have a capacity of two cubic centimeters at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale

Smith-Hurd Annotated Statutes, Ch. 56½—Foods—
Continued.

marked on the necks thereof. For cream nine or eighteen grams shall be used, and the standard test tubes or bottles for cream shall have a capacity of three or six cubic centimeters respectively at a temperature of sixty degrees Fahrenheit between "zero" and thirty on the graduated scale marked on the necks thereof, and it is hereby made a misdemeanor to use any other measure, pipette, test tube or bottle to determine the percent of butter fat where milk or cream is purchased by, or furnished to creameries or cheese factories, and where the value of said milk is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer, or agent in this state who shall offer for sale or sell a cream or milk pipette or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this act [Secs. 1-46]. [1907; last amended 1911.]

Sec. 21a. Same: Babcock test for cream.

Cream for buttermaking purposes shall be purchased only on a butterfat basis, determined by accurate weights and use of the Babcock test, and according to the following grades: [1941]

* * * * *

Sec. 22. Same: Standard glassware only to be used.

In milk-receiving or manufacturing plants and other places using the Babcock test or any volumetric method for determining the fat content of milk or cream, where the result of such determination is to be used wholly or in part as a basis for payment or settlement for such milk or cream, or where the proceeds of cooperative creameries or such milk-receiving or manufacturing plants are allotted on the basis of the determination of milk fat, or where the result of such test is used for the purpose of official inspection, no bottle or pipette shall be used in such determination unless such bottle or pipette conforms to Section 20 of this act [Secs. 1-46].

* * * * *

Any person or persons using other than the proper bottles or pipettes, * * * shall be deemed to have violated the provisions of this Act. [1907; last amended 1947.]

Sec. 30. Seizure of misbranded food.

Whenever the Department of Agriculture shall have ground for suspicion that any article of food, found in possession of any person, firm or corporation, is adulterated or misbranded within the meaning of this act [Secs. 1-46], it may seize such article of food and make an inventory thereof, and shall leave a copy of such inventory with the party holding such suspected goods and tag the same "suspected"; and the Department shall notify in writing the person, firm or corporation in whose possession

it may be found, not to offer it for sale or sell or otherwise dispose of it until further notice in writing from the Department. * * * Such seizure may be had without a warrant and the Department, and all inspectors and agents appointed by it are given full power and authority of "policemen." * * * [1907; last amended 1943.]

Sec. 32. Guaranty protection.

* * * no person shall be prosecuted under this act [Secs. 1-46] for selling or offering for sale any article of food or drugs as defined herein, when it is found to be adulterated or misbranded within the meaning of this act, in the original unbroken package in which it was received by said person when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the state, from whom he purchased such article, to the effect that it is not adulterated or misbranded in the original unbroken package in which said article was received by the dealer, within the meaning of this act, designating it. The guaranty to afford protection, shall contain the name and address of the party or parties making the sale to the dealer, and in such case the party or parties shall be subject to the penalties provided in this act: Provided, that no such guaranty shall operate as a defense to prosecutions for the violation of this act: First—If the dealer continues to sell after notice by the Department of Agriculture that such article is adulterated or misbranded. Second—If the dealer fails to preserve for the manufacturer or guarantor and deliver to him upon demand the sample left with him by the Department. [1907; last amended 1943.]

Sec. 39. Rules and regulations.

The Department of Agriculture shall make rules and regulations for carrying out this act [Secs. 1-46], * * *. [1907; last amended 1943.]

Sec. 39a. Packaged cheese.

* * * * *

Each packaged cheese, including packages of cheese made from comminuted, blended, or cut cheeses, shall have a label which conforms with Section 9, of this Act [Secs. 1-46] * * *. [1925; last amended 1945.]

Sec. 41. Sale of misbranded food unlawful; penalty.

The sale of food which is adulterated or misbranded or which violates any of the provisions of this act [Secs. 1-46] is hereby prohibited; and whoever offers for sale, exposes for sale or sells any food which is adulterated or misbranded or that violates any of the provisions of this act shall be guilty of a misdemeanor and punished as herein provided. [1907; last amended 1927.]

Sec. 44. Penalty for violations.

Any person convicted of violating any of the provisions of this act [Secs. 1-46] shall, for the first

offense, be fined not less than fifteen (15) dollars, and not more than one hundred (100) dollars, or imprisonment not exceeding thirty days, or both, in the discretion of the court, and for the second and each subsequent offense, be fined not less than twenty-five (25) dollars and not more than two hundred (200) dollars, or imprisoned not exceeding one year, or both, in the discretion of the court. The fine may be sued for and recovered before any justice of the peace or any other court of competent jurisdiction in the county where the offense is committed, at the instance of the Department of Agriculture or any other person in the name of the People of the State of Illinois, as plaintiff, and shall be recovered in an action of debt. [1907; last amended 1943.]

Smith-Hurd Annotated Statutes, Ch. 56½—Commercial Feeding Stuffs.

Sec. 56. Marking requirements.

Every lot or parcel of concentrated commercial feeding stuffs, as defined in section 2, [Section 57] of this Act [Secs. 56-66], sold, offered or exposed for sale within this state, shall have affixed thereto, in a conspicuous place on the outside thereof, a plainly printed statement in the English language clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1905; last amended 1945.]

* * * * *

Sec. 57. Definition.

The term "concentrated commercial feeding stuffs," as used in this act [Secs. 56-66], shall be held to include all materials used for feeding animals or birds, except the following:

(a) Unmixed whole seeds or grains, as defined by United States grain standards.

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo and other seeds or grains.

(c) Whole hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials.

For the purpose of this act, concentrated commercial feeding stuffs shall be held to be different brands, if said concentrated commercial feeding stuffs shall differ one from the other in one or more ingredients, or if being of similar composition said commercial feeding stuffs are sold, offered for sale or exposed for sale under different names or brands. [1905; last amended 1945.]

Sec. 59. Selling without label; penalty.

Any manufacturer, importer, agent or other person or persons who shall offer for sale, expose for sale, or sell * * * any concentrated commercial feeding stuffs included in Section 2 [Sec. 57] without the printed statement required by Section

1 [Sec. 56], * * * shall be guilty of a misdemeanor and shall be fined fifty dollars (\$50) for the first offense and one hundred dollars (\$100) for each subsequent offense. [1905; last amended 1945.]

Sec. 62. Department of agriculture to prosecute.

The Department of Agriculture shall prosecute violations of this Act [Secs. 56-66], * * *. [1905; last amended 1945.]

Sec. 64. Exemptions.

This act [Secs. 56-66] shall not affect persons manufacturing, importing or purchasing feeding stuffs for their own use and not to sell in this state. Whoever offers or exposes for sale or distribution in this state commercial feeding stuffs to be used for mixing purposes only, is exempt from payment of tonnage tax if the feed is labeled or tagged with the information required in Section 1 [Sec. 56] and a declaration that such feed is to be used for mixing purposes in registered brands only. [1905; last amended 1945.]

Smith-Hurd Annotated Statutes, Ch. 93—Mine Scales.

Sec. 1. Administration of act.

(a) The provisions of this Act [Secs. 1-30] shall be administered by the mining board, as provided for in the Civil Administrative Code of Illinois.¹

(b) Said board shall be authorized, empowered and required to make formal inquiry into and pass upon the practical and technological qualifications and personal fitness of men seeking appointment as State inspectors of mines, * * *. Said board shall have such other powers and duties as may be prescribed by the provisions of this Act, or any other Act relating to coal mining. Said board also shall control and direct the State mine inspectors hereinafter provided for, in the discharge of their duties, and shall have the power and shall in person and through the State mine inspectors, see that all the provisions of the State mining laws are enforced. * * * [1911; last amended 1943.]

¹ Chapter 127, Secs. 1-63, Smith-Hurd Annotated Statutes.

Sec. 5. Sealer of weights; test weights.

(a) From the names appearing on the list on file in the office of the Mining Board, the Mining Board shall select and appoint one inspector for each of the inspection districts provided for in this Act [Secs. 1-30], and two additional inspectors for the state at large, all such appointees to be selected in the order of their appearance on the list. * * *

(b) The board of supervisors in counties under township organization or commissioners in counties not under township organization, of any county in which coal is produced, upon the written request of the state inspector of mines for the district in

Smith-Hurd Annotated Statutes, Ch. 93—Mine Scales
—Continued.

which said county is located, shall appoint, as assistant to such state inspector, a county inspector of mines who shall work under the direction of such state inspector; * * *

(j) State inspectors are hereby made ex-officio sealers of weights and measures in their respective districts, and as such are empowered to test all scales used to weigh coal at coal mines. Upon the written request of any mine owner or operator, or of ten coal miners employed at any one mine, it shall be the duty of the inspector to test any scale or scales at such mine against which complaint is directed, and if he shall find that they or any of them do not weigh correctly, he shall call the attention of the mine owner or operator to the fact, and direct that said scale or scales be at once overhauled and readjusted so as to indicate only true and exact weights, and he shall forbid the further operation of such mine until such scales are adjusted. In the event that such tests shall conflict with any test made by any county sealer of weights, or under and by virtue of any municipal ordinance or regulation, then the test by such mine inspector shall prevail.

(k) For the purpose of carrying out the provisions of this Act, each state inspector shall be furnished by the state with a complete set of standard weights suitable for testing the accuracy of track scales and of all smaller scales at mines, said test weights to be paid for on itemized vouchers certified by the Secretary of State and approved by the Governor. Such test weights shall remain in the custody of the inspector for use at any point within his district, and for any amounts expended by him for the storage, transportation or handling of the same, he shall be fully reimbursed upon making entry of the proper items in his expense voucher. [1911; last amended 1917.]

* * * * *

Sec. 26. Scales; records; weighman; check weighman.

(a) The operator of every coal mine where miners are paid by the weight of their output, shall provide at such mine suitable and accurate scales for the weighing of such coal, and a correct record shall be kept of all coal so weighed and said record shall be open at all reasonable hours to the inspection of miners and others interested in the product of said mine. The operator shall provide at such mine not less than one thousand (1,000) pounds of United States standard weights.

(b) The person authorized to weigh the coal and keep the record as aforesaid shall be a citizen of the United States, and shall, before entering upon his duties, make and subscribe to an oath before some person duly authorized to administer oaths, that he will accurately weigh and carefully keep a true record of all coal weighed, and such affidavit

shall be kept conspicuously posted at the place of weighing.

(c) The miners at work in any coal mine may employ a check weighman at their option and at their own expense, whose duty it shall be to balance the scales and see that the coal is properly weighed, and that a correct account of the same is kept, and for this purpose he shall have access at all times to the beam box of said scales, and be afforded every facility for verifying the weights while the weighing is being done. The check weighman so employed by the miners shall be a citizen of the United States, and, before entering upon his duties, shall make and subscribe to an oath before some person duly authorized to administer oaths, that he will faithfully discharge his duties as check weighman, and such oath shall be kept conspicuously posted at the place of weighing. [1911; last amended 1943.]

Sec. 28. Penalty for violations.

(a) Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this act [Secs. 1-30], on the part of the person or persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector or person in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector or person given by authority of this Act shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court: * * * [1911; last amended 1947.]

Smith-Hurd Annotated Statutes, Ch. 111½, Art. 4—
Public Utilities.

Sec. 52. Weighing of cars and freight; testing railroad weights and scales.

* * * * *

The Commission [Illinois Commerce Commission] shall have power to enforce reasonable regulations for the weighing of cars, and of freight offered for shipment over any line of railroad, and to test the weights made by any railroad and scales used in weighing freight on cars. [1921]

Sec. 54. Electricity, gas and water: Standards of service; accuracy of meters; examinations; tests.

The Commission [Illinois Commerce Commission] shall have power to ascertain, determine and fix for each kind of public utility¹ suitable and convenient standard commercial units of service, product or commodity, * * * and to prescribe reasonable regulations for examining, measuring and testing such service, product or commodity, and to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all

meters and appliances for examining, measuring, or testing such service, product or commodity. The Commission may purchase such materials, apparatus and standard measuring instruments as it deems necessary to carry out the provisions of this section.

The Commission shall provide for the inspection of the manner in which every public utility conforms to the reasonable regulations prescribed by the Commission for examining, measuring and testing its service, product or commodity, and the Commission may supplement such inspections by examining, measuring and testing the service, product or commodity of any public utility. Any consumer or user may have tested any appliance for examining, measuring or testing any such service, product or commodity upon payment of the fees fixed by the Commission. The Commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the measuring appliance be found unreasonably defective or incorrect to the disadvantage of the consumer or user.

The Commission, its officers, agents, experts or inspectors and employees shall have power to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in this Act, and to set up and use on such premises, any apparatus and appliances and occupy reasonable space therefor. [1921]

¹ Those engaged in the production, storage, transmission, sale, delivery or furnishing of heat, cold, light, power, electricity or water, etc.

Sec. 55. Same: Meter reader to leave card at consumer's written request.

The Commission [Illinois Commerce Commission] shall require that every public utility furnishing natural or artificial gas, electricity or water to the public, where the individual consumption is measured by meter, shall, upon written request of any consumer, cause the meter reader at the time of reading such consumer's meter to leave at such meter a card showing the present reading of the meter, the last previous reading, and the dates of such two readings. [1921]

Smith-Hurd Annotated Statutes, Ch. 114—Weighing of Grain.

Sec. 111. Weighing of grain by railroads: Weight receipt; no deduction for shrinkage; damages; evidence; shortage.

That every railroad corporation, chartered by or organized under the laws of this state or doing business within the limits of the same, when desired by any person wishing to ship any grain over its road, shall receive and transport such grain in bulk, * * *

And at the time such grain is received by it for transportation, such corporation shall carefully and correctly weigh the same, and issue to the shipper thereof a receipt or bill of lading for such grain, in which shall be stated the true and correct weight.

And such corporation shall weigh out and deliver to such shipper, his consignee or other person entitled to receive the same, at the place of delivery, the full amount of such grain, without any deduction for leakage, shrinkage or other loss in the quantity of the same.

In default of such delivery, the corporation so failing to deliver the full amount of such grain shall pay to the person entitled thereto the full market value of any such grain not delivered at the time and place when and where the same should have been delivered.

If any such corporation shall, upon the receipt by it of any grain for transportation, neglect or refuse to weigh and receipt for the same, as aforesaid, the sworn statement of the shipper, or his agent having personal knowledge of the amount of grain so shipped, shall be taken as true, as to the amount so shipped; and in case of the neglect or refusal of any such corporation, upon the delivery by them of any grain, to weigh the same, as aforesaid, the sworn statement of the person to whom the same was delivered, or his agent having personal knowledge of the weight thereof, shall be taken as true, as to the amount delivered. And if, by such statements, it shall appear that such corporation has failed to deliver the amount so shown to be shipped, such corporation shall be liable for the shortage, and shall pay to the person entitled thereto the full market value of such shortage, at the time and place when and where the same should have been delivered. [1871]

Sec. 205. Examination of grain and scales in warehouses; incorrect scales.

All persons owning property, or who may be interested in the same, in any public warehouse, and all duly authorized inspectors of such property, shall at all times, during ordinary business hours, be at full liberty to examine any and all property stored in any public warehouse in this state, * * *. And all scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly authorized inspector or sealer of weights and measures, at any time when required by any person or persons, agent or agents, whose property has been or is to be weighed on such scales—the expense of such test by an inspector or sealer to be paid by the warehouse proprietor if the scales are found incorrect, but not otherwise. Any warehouseman who may be guilty of continuing to use scales found to be in an imperfect or incorrect condition by such examination and test, until the same shall have been pro-

Smith-Hurd Annotated Statutes, Ch. 114—Weighing of Grain—Continued.

nounced correct and properly sealed, shall be liable to be proceeded against as hereinafter provided. [1871]

Sec. 224. Department of agriculture to control weighing.

The Department of Agriculture shall, * * * supervise and have exclusive control of the weighing of grain and other property which may be subject to inspection, and the inspection of scales and the action and certificate of such Department in the discharge of its duties shall be conclusive upon all parties in interest. [1883; last amended 1943.]

Sec. 225. Fees for weighing.

The Illinois Commerce Commission shall fix the fees to be paid for the weighing of grain or other property. Such fees shall be paid equally by all parties interested in the purchase and sale of the property weighed, or scales inspected and tested. [1883; last amended 1943.]

Sec. 227. Rules and regulations.

The Illinois Commerce Commission shall adopt such rules and regulations for the weighing of grain and other property as it deems proper. [1883; last amended 1943.]

Sec. 228. Penalty for refusing access to scales.

In case any person, warehouseman or railroad corporation or any of their agents or employees, refuses or prevents the Department of Agriculture from having access to their scales, in the regular performance of its duties in supervising the weighing of any grain or other property in accordance with this act [Secs. 224—228] they shall be fined the sum of one hundred dollars (\$100) for each offense, to be recovered, together with costs of prosecution in a civil action, before any justice of the peace in the name of the People of the State of Illinois. Such fine shall be paid to the county in which the suit is brought. [1883; last amended 1943.]

Sec. 229. Weighing of grain in bulk; transfer at railroad transfer points.

That in all counties of the third class, and in all cities having not less than 50,000 inhabitants, when bulk grain, millstuffs or seeds are delivered by any railroad transporting the same from initial points to another road for transportation to other points, such road or roads receiving the same for transportation to said points or other connections leading thereto, shall provide suitable appliances for unloading, weighing and transferring such property from one car to another without mixing or in any way changing the identity of the property so transferred, and such property shall be accurately weighed in suitably covered hopper scales, which will determine the actual net weight of the entire contents of any carload of grain, millstuffs or seeds at a single draft, without gross or tare, and which

weights shall always be given in the receipts or bills of lading and used as the basis of any freight contracts affecting such shipments between such railroad companies and the owners, agents or shippers of such grain, millstuffs or seeds so transported and transferred. [1887]

Sec. 230. Same: Weighing and transferring in transit.

The practice of loading grain, millstuffs or seeds into foreign or connecting-line cars at the initial point from which the grain, millstuffs or seeds are originally shipped, or the running of the original car through without transfer, shall not relieve the railroad making the contract to transport the same to its destination or connection leading thereto, from weighing and transferring such property in the manner aforesaid, unless the shipper, owner or agent of such grain, millstuffs or seeds shall otherwise order or direct. [1887]

Sec. 231. Same: Proceedings to compel enforcement of law; civil actions.

Any railroad company neglecting or refusing to comply promptly with any and all of the requirements of either sections 1 or 2 [Secs. 229 or 230] of this act [Secs. 229—232], shall be liable in damages to the party interested, to be recovered by the party damaged in a civil action, and such party may proceed by mandamus against any railroad company so refusing or neglecting to comply with the requirements of this act; and if the shipper, owner or agent of any such grain, millstuffs or seeds shall fail or neglect to proceed by mandamus, it shall then be the duty of the Illinois Commerce Commission of this state, upon complaint of the party or parties interested, to proceed against the railroad failing or refusing to comply with the provisions of this act; and all the powers heretofore conferred by law upon the Illinois Commerce Commission of this state, shall be applicable in the conduct of any legal proceedings commenced by such Commission under this act. [1887; last amended 1937.]

Sec. 232. Same: Penalty for violating Secs. 229 and 230.

Any railroad company so refusing or neglecting as aforesaid, shall be liable to a penalty of not less than \$100 nor more than \$500 for each neglect or refusal as aforesaid, to be recovered in a civil action in the name of the People of the State of Illinois for the use of the county in which such act or acts of neglect or refusal shall occur, and it shall be the duty of the Illinois Commerce Commission to cause prosecutions for such penalties to be instituted and prosecuted. [1887; last amended 1937.]

Smith-Hurd Annotated Statutes, Ch. 121 $\frac{1}{2}$ —Paint.

Sec. 81. Labeling required.

That every person, firm or corporation who shall expose for sale, or sell, within this state, any white lead or paint, shall accurately label the same as hereinafter required. [1917]

Sec. 82. Definition.

The term "paint", as used in this Act [Secs. 81-95], shall include white lead in oil or any compound intended for the same use, paste or semi-paste, and liquid or mixed paint of any kind ready for use, or any compound intended for the same use. [1917]

Sec. 83. Marking requirements.

Labels required by this act [Secs. 81-95] shall clearly and distinctly state * * *, in case of liquid paints, and other compounds, on packages holding one quart or more, the net measure of contents of each can, package or container. In case of white lead and other paints and compounds, the label shall show on packages weighing four pounds or more the net weight of each can, package or container. [1917]

Smith-Hurd Annotated Statutes, Ch. 121½—Community Sales.

Sec. 208. Definitions.

When used in this Act [Secs. 208-219] "person" means any person, firm or corporation.

"Department" means the Department of Agriculture of the State of Illinois.

"Livestock" means cattle, swine, sheep, goats, horses, mules and poultry.

"Community Sale" means any sale or exchange of livestock or other personal property held by any person at an established place of business or premises where the livestock or personal property is assembled for sale or exchange and is sold or exchanged at auction or upon a commission basis at regular or irregular intervals but more frequently than three times a year. [1941]

* * * * *

Sec. 213. Refusal of, suspension or revocation of license.

The Department may decline to grant or to renew a license or may suspend or revoke a license already granted if the Department, after due notice and hearing, finds:

(a) That the licensee has violated any provision of this Act [Secs. 208-219] or any rule, order or regulation issued hereunder;

* * * * *

(f) That the licensee, in the case of property weighed on the licensee's scales and sold by weight, has knowingly quoted incorrect weights or has failed to have his scales regularly inspected and tested. [1941; last amended 1945.]

* * * * *

Sec. 215. Scales to be inspected and tested.

* * * * *

In case any community sale shall sell livestock or other property by weight, the scales upon which

such property is weighed shall be regularly inspected and tested. [1941; last amended 1947.]

Sec. 217. Exemptions.

The provisions of this Act [Secs. 208-219] shall not apply to the business of buying or assembling livestock for the purpose of prompt shipment to or slaughter in any livestock market or packing house subject to the Act of Congress known as the Packers and Stockyards Act¹ or any place where veterinary inspection is regularly maintained under the Bureau of Animal Industry of the Department of Agriculture of the United States. [1941]

¹ U. S. C. A. Sec. 181 et seq.

Sec. 218. Rules and regulations for enforcement; right of entry.

The Department may make reasonable rules and regulations for carrying out the provisions of this Act [Secs. 208-219].

For the purpose of carrying out the provisions of this Act and making inspections hereunder, the Department or any duly authorized representative thereof, shall have the right to enter the establishment or premises where any community sale is held and to inspect the records thereof at all reasonable times. [1941]

Sec. 219. Penalty for violations.

Any person who shall operate a community sale without a license, as herein required, or who shall violate any of the provisions of this Act [Secs. 208-219] or of any rules or regulations lawfully issued hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$300. Each day upon which property is sold or exchanged at any community sale shall constitute a separate offense. [1941]

Smith-Hurd Annotated Statutes, Ch. 38, Div. I—False Advertising.

Sec. 249a. Unlawful acts; misdemeanor.

Any person, firm, corporation or association or agent or employee thereof, who, with intent to sell, purchase, or in any wise dispose of, or to contract with reference to merchandise, securities, real estate, service, employment, money, credit or anything offered by such person, firm, corporation or association, or agent or employee thereof, directly or indirectly, to the public for sale, purchase, loan, distribution, or the hire of personal services, or with intent to increase the consumption of or to contract with reference to any merchandise, real estate, securities, money, credit, loan, service, or employment, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, or to make any loan, makes, publishes, disseminates, circulates, or places before the public, or causes, di-

Smith-Hurd Annotated Statutes, Ch. 38, Div. I—
False Advertising—Continued.

rectly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper, magazine, or other publication, or in the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, letter, placard, card, label, or over any radio station, or in any other way similar or dissimilar to the foregoing, an advertisement, announcement, or statement of any sort regarding merchandise, securities, real estate, money, credit, service, employment, or anything so offered for use, purchase, loan or sale, or the interest, terms or conditions upon which such loan will be made to the public, which advertisement contains any assertion, representation or statement of fact

which is untrue, misleading or deceptive, shall be guilty of a misdemeanor.¹ [1935; last amended 1945.]

¹ See Sec. 586, below, punishment for misdemeanor.

Smith-Hurd Annotated Statutes, Ch. 38, Div. II—
Misdemeanor.

Sec. 586. Punishment when not otherwise prescribed.

* * * Where the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the doing of such act is a misdemeanor, and may be punished by fine not exceeding \$100, or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court. [1874]

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Sec. 69-101. County standards.

Each board of county commissioners shall procure a set of the following measures and weights: One [1] measure of one [1] foot, or twelve [12] inches, English measure, so-called; also one [1] measure of three [3] feet, or thirty-six [36] inches,

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as aforesaid; also one half-bushel measure (which shall contain one thousand and seventy-five and one-fifth [1,075 1/5] solid inches), and one gallon measure (which shall contain two hundred and thirty-one [231] solid inches), which measures are to be of wood or of any metal the court may think proper; also one [1] set of weights commonly called avoirdupois weights; which weights and measures shall be sealed with the name or initial letters of

the county, and shall be kept by the county auditor, for the purpose of trying and sealing the weights and measures used in his county. [1852]

Sec. 69-102. State standards.

The standard weights and measures furnished by the government of the United States in accordance with the joint resolution of congress, approved June 14, 1836, and any additions thereto and renewals thereof certified to by the United States Bureau of Standards, and such weights, measures, balances and apparatus as may be added by the state commissioner of weights and measures and verified by the United States Bureau of Standards, shall be the standards by which all state, county and city standards shall be tried, proved and sealed. [1925]

Sec. 69-103. Director of weights and measures: Duties; tolerances; regulations.

The state food and drug commissioner shall be the state commissioner of weights and measures. The state commissioner of weights and measures shall take charge of the standards adopted by this act [Secs. 69-102-69-117] as the standards of the state; cause them to be kept in a fireproof building belonging to the state, from which they shall not be removed except for repairs or for certification, and take all other necessary precautions for their safe-keeping. He shall maintain the state standards in good order and shall submit them once in ten [10] years to the national bureau of standards for certification. He, or his deputies or inspectors by his direction, shall correct the standards of the several cities and counties, and as often as once in two [2] years compare the same with those in his possession, and where not otherwise provided by law he shall have the general supervision of the weights, measures and measuring and weighing devices of the state, and in use in the state. The state commissioner of weights and measures is also authorized to adopt rules, specifications and tolerances necessary for the enforcement of the provisions of this act, and the violation of such rules, specifications and tolerances shall be punished, upon conviction, as set forth in section fifteen [Sec. 69-116] of this act. He, or his deputies shall, upon the written request of any citizen, firm, corporation or institution of the state, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in this state. He, or his deputies or inspectors by his direction, shall at least once annually test all scales, weights and measures and devices used in checking the receipt or disbursement of supplies in every institution under the jurisdiction of the state board of charities and he shall report in writing his findings to the executive officer of the institution concerned. The state commissioner of weights and measures shall keep a complete record of the standards, balances and other apparatus belonging to the state and take a receipt for the same

from his successor in office; he shall, annually, on or before the first day of December, make to the governor a report of the work done by his office; he, or his deputies or inspectors at his direction, shall at least once in two [2] years visit the various cities and counties of the state which have appointed sealers of weights and measures in order to inspect the work of the local sealers, and in the performance of such duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any person, firm or corporation. The state commissioner of weights and measures shall issue from time to time regulations for the guidance of state, county and city sealers or inspectors and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1925]

[Ed. NOTE.—By Chapter 37, Acts 1947, the office of commissioner of weights and measures created by Chapter 86, Acts 1925 was abolished, and the division of weights and measures in the State board of health was created. All rights, powers, and duties provided for, granted, or imposed by said Chapter 86 were transferred to said division created by said Chapter 37.

By Sec. 2100 of Chapter 157, Acts 1949, the division of weights and measures of the State board of health created by Chapter 37, Acts 1947, was preserved and continued, and all the rights, powers, and duties provided for, granted, or imposed upon the State food and drug commissioner, the commissioner of weights and measures or the State board of health by each of the following acts are imposed upon said division of weights and measures of the State board of health: Chapter 153 of the Acts of 1917 (Burns 69-305); Chapter 231 of the Acts of 1921 (Burns 10-4806-10-4808); Chapter 44 of the Acts of 1923 (Burns 69-201-69-215); Chapter 86 of the Acts of 1925 (Burns 69-102-69-117); Chapter 171 of the Acts of 1925 (Burns 46-401, and 46-711); Chapter 177 of the Acts of 1931 (Burns 46-1201-46-1207); Chapter 62 of the Acts of 1933 (Burns 35-1109); Chapter 65 of the Acts of 1935 (Burns 69-401-69-424); and Chapter 98 of the Acts of 1935 (Burns 67-601-67-627).]

Sec. 69-104. County inspectors of weights and measures: Appointment; removal; salary; inspection districts.

The board of commissioners of every county of thirty thousand [30,000] population or more shall, and the board of commissioners of any county of less than thirty thousand [30,000] population may appoint a county inspector of weights and measures. No person shall be appointed as a county inspector of weights and measures in any county unless such person shall have been approved by the state commissioner of weights and measures,¹ and no county inspector of weights and measures in any county shall be removed by the board of commissioners without the approval and consent of the state commissioner of weights and measures. The compensation of a county inspector of weights and measures in counties of thirty thousand [30,000] population or more shall be not less than twelve hundred dollars [\$1,200] per year, and in counties having a population of less than thirty thousand [30,000], the compensation of the county inspector of weights and measures shall be not to exceed five dollars [\$5.00]

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 1—Weights and Measures, Supervision—Continued.

per day, to be determined by the board and to be paid out of the county treasury: Provided, however, That it shall not be obligatory upon the board of county commissioners of such counties containing a city or cities of the first, second or third class which are already provided with an inspector of weights and measures or city sealers, to make such appointments. The board shall provide the necessary apparatus and supplies for the said inspector of weights and measures and the county councils of such counties shall appropriate such sums of money as are necessary for the salary and maintenance of the office. Two [2] or more adjoining counties, by appropriate action of the boards of commissioners of such counties, may form an inspection district, and provide by mutual agreement, for the appointment of a district inspector of weights and measures. The compensation of such inspector shall not exceed five dollars [\$5.00] per day and expenses, and the salary and expenses so paid and incurred shall be apportioned among the counties forming the district in proportion to the population thereof. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-105. City inspector of weights and measures: Appointment; removal; salary.

The common council of every city of the first, second and third class shall provide for the appointment by the commissioners of the public safety, commonly known as the Board of Public Safety, of an inspector of weights and measures and provide for his compensation and for the necessary apparatus and expenses to be paid out of the city treasury. The said inspector of weights and measures shall serve continuously during good behavior under the provisions of section one hundred sixty [Sec. 48-6105] of an act concerning municipal corporations, approved March 6, 1905, governing the fire and police force, and said inspector of weights and measures shall not be removed for any political reason and only for good and sufficient cause after an opportunity for hearing is given by the said commissioner of public safety: Provided, however, That such provision shall not affect the power of the state commissioner of weights and measures¹ to discharge county or city inspectors of weights and measures as set forth in section six [Sec. 69-107] of this act [Secs. 69-102-69-117]. No person shall be appointed as a city inspector of weights and measures in any city unless such person shall have been approved by the state commissioner of weights and measures and no such city inspector of weights and measures shall be removed without the approval and consent of the state commissioner of weights and measures. If deemed desirable or advantageous, the same person may be employed as a city and

county inspector of weights and measures, and if the same person be so employed the compensation and expenses of such inspector shall be divided between the city and the county, as agreed upon. The compensation of such an inspector of weights and measures shall not be less than fifteen hundred dollars [\$1,500] per annum in the case of cities of the first class, and not less than twelve hundred dollars [\$1,200] per annum in case of cities of the second and third class. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-106. County and city inspectors: Duties; bond.

The county or city inspector of weights and measures when appointed shall be a deputy inspector under the direction of the state commissioner of weights and measures. He shall take charge of and safely keep the county or city standards. When not otherwise provided by law, the county or city inspector of weights and measures shall have the power within his county or city to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement and the tools, appliances or accessories, connected with any or all such instruments or measurements used or employed within the county or city by any proprietor, agent, lessee or employee in determining the size, quantity, extent or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, for hire or award. He shall at least once in each year and as much oftener as he may deem necessary see that the weights, measures and all apparatus used in the county or city are correct. The county or city inspector of weights and measures shall keep a complete record of the work done by him and shall make a monthly and annual report to the state commissioner and his board of county commissioners or to the mayor; the annual report shall be duly sworn and submitted to the state commissioner of weights and measures,¹ not later than the fifteenth of October. The county or city inspector of weights and measures shall forthwith on his appointment give a bond with sureties to be approved by the appointing power for the faithful performance of the duties of his office for the safety of the local standards and such appliances for verification as are committed to his charge and for the surrender thereof immediately to his successor in office or to the person appointed by the proper authority to receive them. The county inspector of weights and measures shall have jurisdiction over the whole county except as to incorporated cities which have provided for a city inspector of weights and measures under the provisions of this act [Secs. 69-102-69-117]. This act shall apply to the sealers or inspectors of weights and measures heretofore appointed under any state law or city ordinance, and such sealer or inspector shall be

continued in office as inspector of weights and measures under the provisions of this act for the respective county, counties, city or cities. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-107. Same: Qualifications; removal; appeal.

Only those persons shall be eligible to appointment to the position of county or city inspectors of weights and measures who at the time of the passage of this act [Secs. 69-102-69-117] are county or city sealers or inspectors of weights and measures or who have passed an examination which shall be given by the state commissioner of weights and measures¹ to test the ability of the person so examined to perform satisfactorily the duties of a county or city inspector of weights and measures. If it is evident to the state commissioner of weights and measures that any county or city inspector of weights and measures is not properly and faithfully performing the duties of his office, the state commissioner of weights and measures shall have power to discharge such county or city inspector of weights and measures. Such removal, however, shall not be made until five [5] days' notice of the charge or charges shall have been mailed to him by said commissioner, naming a time and place for a hearing, not less than two [2] weeks later than the time of mailing such notice to said county or city inspector of weights and measures: Provided, however, That any county or city inspector of weights and measures so removed by the state commissioner of weights and measures, shall have the right to appeal from the action of said commissioner to the circuit or superior court of the county in which such county or city inspector of weights and measures resides, and during the pendency of such appeal, such county or city inspector of weights and measures may serve in his official capacity. Any county or city inspector of weights and measures discharged as herein provided, shall be ineligible to hold the position of county or city inspector of weights and measures for four [4] years, and the vacancy shall be filled by the proper authorities, as provided in this act [Secs. 69-102-69-117]. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-108. Approval or condemnation of equipment.

Whenever the inspector of the city or county or the state commissioner¹ or his deputies or inspectors tests and compares scales, weights, measures or weighing or measuring devices and finds that they correspond with the standards in his possession he shall seal and mark such scales, weights, measures or weighing and measuring devices by stamping upon them the letters "Ind. S.," meaning Indiana Standard, and the last two [2] figures of the year in which the same is done; if any scales, weights, measures, or weighing or measuring devices, or parts thereof, be found not to conform to the legal standard the

same may be tagged by the inspector "condemned until repaired" which tag shall not be removed until said apparatus is properly repaired; if said scales, weights, measures, or weighing or measuring devices, or parts thereof are found to be false and fraudulent, or cannot be made to conform to the legal standard, the same shall be condemned and confiscated by said inspector. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-109. Police powers; seizure.

The commissioner of weights and measures,¹ his deputies and inspectors, and the county and city inspectors of weights and measures, are hereby made special policemen and are authorized and empowered to arrest without formal warrant for any violation of the statutes in relation to scales, weights and measures, and to seize and use for evidence and without formal warrant any false weight, scales, measure, or weighing or measuring device, or packages or amounts of commodities found to be used, retained or offered or exposed for sale or sold in violation of law. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-110. Right of entry; prosecution; interference with inspectors; penalties.

The state commissioner of weights and measures,¹ his agents, deputies or inspectors, and the county and city inspectors of weights and measures may for the purpose of enforcing this act [Secs. 69-102-69-117], and in the general performance of their official duties, enter or go into or upon without formal warrant, any stand, place, building or premises, or may stop any vender, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the purpose of making the proper test and for the purpose of ascertaining the proper weights and measures of all commodities found therein or thereon. Whenever the state commissioner of weights and measures, his agents, deputies or inspectors, or the county and city inspectors of weights and measures find a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

Any person who shall molest, hinder or obstruct in any way the state commissioner of weights and measures, his agents, deputies or inspectors, or any county or city inspector of weights and measures in the performance of his official duties hereunder, shall be guilty of a misdemeanor, and shall be punished upon conviction thereof in any court of competent jurisdiction by a fine of not less than ten dollars [\$10.00] nor more than two hundred dollars [\$200] to which may be added imprisonment in the county jail for not more than ninety [90] days. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 1.—Weights and Measures, Supervision—Continued.

Sec. 69-111. Sale by weight or measure; packaged commodities; marking requirements; ton.

All commodities shall be sold by standard weight or measure except as otherwise provided in this act [Secs. 69-102—69-117]: Provided, however, That the provisions of this section shall not apply to commodities which are usually and customarily sold by numerical count, or in gross, or are sold in packages prepared and put up for sale: Provided, That all commodities packed in such packages shall be so marked as to plainly indicate the net contents in terms of weight, measure or numerical count: Provided, also, That two thousand [2,000] pounds net avoirdupois shall constitute a ton. [1925]

Sec. 69-112. False scales and measuring devices.

No person, firm or corporation shall use or retain in his possession any false scales, weights, or measures or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or in calculating or measuring service, or dispose of any condemned scales, weights, measures or weighing or measuring device, except in accordance with such rules, specifications and tolerances as may be adopted by the state commissioner of weights and measures,¹ as provided in section two [Sec. 69-103] of this act [Secs. 69-102—69-117], or remove any tag, stamp or mark placed thereon by the inspector; and no person, firm or corporation shall sell or offer or expose for sale or deliver less than the quantity he represent[s]; or sell, offer for sale or have in his possession for the purpose of selling any false scales, weight or measure or any device or instrument to be used or calculated to falsify any weight or measure. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-113. Sale by weight or numerical count; exceptions; containers for small fruits; definitions.

All commodities shall be offered for sale or sold upon the basis of avoirdupois net weight or by numerical count only, and it shall be unlawful for any one to use or employ any dry capacity measure, basket, barrel or container of any kind as a means of determining the amounts or quantities of any commodities offered for sale, or sold: Provided, however, That the provisions of this act [Secs. 69-102—69-117] shall not be construed to apply to fruits and vegetables sold in the original standard container, nor to vegetables which by common custom are offered for sale, or sold by the bunch; nor shall the provisions of this act be construed to apply to fresh berries and to other small fruits which are customarily offered for sale, and sold by the box, basket or other receptacle, except, however, when such fresh berries or such other small fruits are

offered for sale, or sold in bulk, in which case the provisions of this act shall apply to the extent that such fresh berries and such other small fruits shall be offered for sale, and sold by avoirdupois net weight only: Provided, further, however, That all fresh berries and such other small fruits when offered for sale or sold shall be so offered or sold in boxes, baskets or receptacles of uniform size to hold one [1] quart or one [1] pint dry measure only, which said boxes, baskets or other receptacles shall be uniformly and evenly filled throughout.

The term "commodities" as used in this section shall be construed to mean commodities or articles other than liquids, which are capable of being measured by dry capacity measure.

The term "original standard container" as used in this section shall be construed to mean and include only barrels, boxes, baskets, hampers, or similar containers the dimensions or capacity of which is established by law of this state or by act of congress, the contents of which have not been removed or repacked, and upon which is plainly and conspicuously marked the net quantity of contents thereof in terms of weight, measure or numerical count. [1925]

Sec. 69-114. Weighmasters: Appointment; duties; penalty.

The state commissioner of weights and measures¹ upon application of any county, city, town, corporation, individual, firm, association or institution may designate one [1] or more employees or some other suitable person or persons, to act as weighmaster for such county, city, town, corporation, individual, firm, association or institution. Such weighmaster shall be appointed for a specified term and shall, before entering upon his duties, make oath faithfully to execute his trust as weighmaster. Said commissioner of weights and measures shall issue and keep record of a certificate of appointment which shall designate the location of said scale or scales or measuring devices to be operated by said weighmaster. The rights and duties of weighmasters shall be prescribed by said state commissioner and such weighmasters shall not receive compensation from the state for duties so performed. Any weighmaster who misrepresents the quantity of commodities weighed or measured by him, or otherwise misconducts himself in the execution of his duties of weighmaster shall be guilty of a misdemeanor and upon conviction, shall be punished as set forth in section fifteen [Sec. 69-116] of this act [Secs. 69-102—69-117] and shall forfeit his certificate as weighmaster. [1925]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-115. Definitions.

The word "person" as used in this act [Secs. 69-102—69-117] shall be considered to include also firm[s], copartnerships, or corporations. The term "device" or "devices" as used in this act shall be

construed to include all weights, scales, beams, mechanical devices or other instruments. The word "sell," "sale" or "buy" as used in this act shall be construed to include barter and exchange. [1925]

Sec. 69-116. Penalties.

Except where a specific penalty is otherwise provided, any person, firm, copartnership or corporation who shall violate any of the provisions of this act [Secs. 69-102-69-117] shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for a first offense, be fined in any sum not less than ten dollars [\$10.00] and not more than one hundred dollars [\$100], to which may be added imprisonment for a term of not to exceed three [3] months, and for a second or other subsequent offense shall be punished by a fine of not less than twenty dollars [\$20.00] and not more than five hundred dollars [\$500], to which may be added imprisonment for a term of not more than six [6] months. [1925]

Sec. 69-117. Constitutionality.

If any clause, sentence, paragraph, or part of this act [Secs. 69-102-69-117] shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered. [1925]

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 2-Weights and Measures, Containers for Fruits and Vegetables.

Sec. 69-201. Standard hampers.

The standard hamper for fruits and vegetables shall be the one [1] peck hamper, one-half [$\frac{1}{2}$] bushel hamper, five-eighths [$\frac{5}{8}$] bushel hamper, one [1] bushel hamper, and one and one-half [$1\frac{1}{2}$] bushel hamper, which respectively shall be of the capacity and conform to the specifications set forth in this section.

(a) The standard one [1] peck hamper shall contain five hundred and thirty-seven and six-tenths [$537\frac{6}{10}$] cubic inches, and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be ten and three-eighths [$10\frac{3}{8}$] inches; the inside diameter of the bottom shall be six and one-half [$6\frac{1}{2}$] inches; the inside length of the staves, shall be nine and five-eighths [$9\frac{5}{8}$] inches; the inside hoop shall be one-tenth [$\frac{1}{10}$] of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-tenth [$\frac{1}{10}$] of an inch thick and ten and one-eighth [$10\frac{1}{8}$] inches long; and the bottom piece shall be one-half [$\frac{1}{2}$] of an inch thick.

(b) The standard one-half [$\frac{1}{2}$] bushel hamper shall contain one thousand and seventy-five and

twenty-one hundredths [$1,075\frac{21}{100}$] cubic inches, and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be thirteen [13] inches; the inside diameter of the bottom shall be eight and one-half [$8\frac{1}{2}$] inches; the inside length of the staves shall be twelve [12] inches; the inside top hoop shall be one-ninth [$\frac{1}{9}$] of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-tenth [$\frac{1}{10}$] of an inch thick and twelve and five-eighths [$12\frac{5}{8}$] inches long; and the bottom piece shall be five-eighths [$\frac{5}{8}$] of an inch thick.

(c) The standard five-eighths [$\frac{5}{8}$] bushel hamper shall contain one thousand, three hundred forty-four [$1,344$] cubic inches and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be fourteen and one-fourth [$14\frac{1}{4}$] inches; the inside diameter of the bottom shall be nine [9] inches; the inside length of the staves shall be twelve and seven-eighths [$12\frac{7}{8}$] inches; the inside top hoop shall be one-eighth [$\frac{1}{8}$] of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-ninth [$\frac{1}{9}$] of an inch thick and thirteen and one-half [$13\frac{1}{2}$] inches long; and the bottom piece shall be five-eighths [$\frac{5}{8}$] of an inch thick.

(d) The standard one [1] bushel hamper shall contain two thousand one hundred and fifty and forty-two one-hundredths [$2,150\frac{42}{100}$] cubic inches, and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be fifteen and one-eighth [$15\frac{1}{8}$] inches; the inside diameter of the bottom shall be nine inches [9]; the inside length of the staves to the upper edge of the top inside hoop shall be nineteen [19] inches; the inside hoop shall be one-eighth [$\frac{1}{8}$] of an inch thick and set with its upper edge three eighths [$\frac{3}{8}$] of an inch below the upper ends of the staves; each stave shall be not less than one-eighth [$\frac{1}{8}$] of an inch thick and twenty [20] inches long; and the bottom piece shall be five-eighths [$\frac{5}{8}$] of an inch thick.

(e) The standard one and one-half [$1\frac{1}{2}$] bushel hamper shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths [$3,225\frac{63}{100}$] cubic inches, and conform to either of the following specifications:

(1) The inside diameter between staves at the upper edge of the top inside hoop shall be sixteen and one-fourth [$16\frac{1}{4}$] inches; the inside diameter of the bottom shall be nine [9] inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-six [26] inches; the inside top hoop shall be one-eighth [$\frac{1}{8}$] of an inch thick and set with its upper edge three-eighths [$\frac{3}{8}$] of an inch below the upper ends of the staves; each stave shall be not less than one-sixth [$\frac{1}{6}$] of an inch thick and twenty-seven [27] inches long, and

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2—Weights and Measures, Containers for Fruits and Vegetables—Continued.

the bottom piece shall be five-eighths [$\frac{5}{8}$] of an inch thick.

(2) The inside diameter between staves at the upper edge of the top inside hoop shall be sixteen and three-fourths [$16\frac{3}{4}$] inches; the inside diameter of the bottom shall be ten [10] inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-three [23] inches; the inside top hoop shall be one-eighth [$\frac{1}{8}$] of an inch thick and set with its upper edge three-eighths [$\frac{3}{8}$] of an inch below the upper ends of the staves, each stave shall be not less than one-eighth [$\frac{1}{8}$] of an inch thick and twenty-four [24] inches long; and the bottom piece shall be five-eighths [$\frac{5}{8}$] of an inch thick. [1923]

Sec. 69–202. Standard round-stave baskets.

The standard round stave basket for fruits and vegetables shall be the one-fourth [$\frac{1}{4}$] bushel basket, one-half [$\frac{1}{2}$] bushel basket, five-eighths [$\frac{5}{8}$] bushel basket, one [1] bushel basket, one and one-half [$1\frac{1}{2}$] bushel basket, and two [2] bushel basket, which, respectively shall be of the capacity and conform to the specifications set forth in this section.

(a) The one-fourth [$\frac{1}{4}$] bushel round stave basket shall contain five hundred thirty-seven and six-tenths [$537\frac{6}{10}$] cubic inches, and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be ten and seven-eighths [$10\frac{7}{8}$] inches; the average inside depth shall be not less than six and three-fourths [$6\frac{3}{4}$] inches; the web shall consist of twenty [20] intersecting staves of such length that they will form the side and bottom of a basket which shall contain eight [8] quarts standard dry measure.

(b) The one-half [$\frac{1}{2}$] bushel round stave basket shall contain one thousand and seventy-five and twenty-one one hundredths [$1,075\frac{21}{100}$] cubic inches, and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be thirteen and one-half [$13\frac{1}{2}$] inches; the average inside depth shall be not less than eight and one-half [$8\frac{1}{2}$] inches; the web shall consist of twenty [20] intersecting staves, each not less than one-eighth [$\frac{1}{8}$] of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixteen [16] quarts, standard dry measure.

(c) The five-eighths [$\frac{5}{8}$] bushel round-stave basket shall contain one thousand and three hundred and forty-four [$1,344$] cubic inches, and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be thirteen and one-half [$13\frac{1}{2}$] inches; the average inside depth shall be not less than ten and one-fourth [$10\frac{1}{4}$] inches; the web shall consist of twenty

[20] intersecting staves, each not less than one-eighth [$\frac{1}{8}$] of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain twenty [20] quarts, standard dry measure.

(d) The one-bushel round-stave basket shall contain two thousand one hundred and fifty and forty-two one-hundredths [$2,150\frac{42}{100}$] cubic inches, and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be seventeen [17] inches; the average inside depth shall be not less than ten and three-fourths [$10\frac{3}{4}$] inches; the web shall consist of twenty [20] intersecting staves, each not less than one-eighth [$\frac{1}{8}$] of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain thirty-two [32] quarts, standard dry measure.

(e) The one and one-half [$1\frac{1}{2}$] bushel round-stave basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths [$3,225\frac{63}{100}$] cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be nineteen and three-eighths [$19\frac{3}{8}$] inches; the average inside depths shall be not less than twelve and three-fourths [$12\frac{3}{4}$] inches; the web shall consist of twenty-four [24] intersecting staves, each not less than one-sixteenth [$\frac{1}{16}$] of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain forty-eight [48] quarts, standard dry measure.

(f) The two [2] bushel round stave basket shall contain four thousand three hundred and eighty-four one hundredths [$4,300\frac{84}{100}$] cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top hoop shall be twenty-one [21] inches; the average inside depth shall be not less than fourteen [14] inches; the web shall consist of twenty-four [24] intersecting staves, each not less than one-sixteenth [$\frac{1}{16}$] of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixty-four [64] quarts, standard dry measure. [1923]

Sec. 69–203. Standard splint baskets.

The standard splint basket for fruits and vegetables shall be the four [4] quart basket, eight [8] quart basket, twelve [12] quart basket, sixteen [16] quart basket, and twenty-four [24] quart basket, standard dry measure.

(a) The four [4] quart splint basket shall contain two hundred and sixty-eight and eight-tenths [$268\frac{8}{10}$] cubic inches and conform to the specifications in one of the two following numbered subdivisions:

(1) The approximate inside dimensions of the top across the center shall be seven [7] inches by twelve [12] inches. The approximate inside dimensions of the bottom at the corners shall be five and

three-fourths [$5\frac{3}{4}$] inches by ten and one-half [$10\frac{1}{2}$] inches. The inside depth at the corners shall be four [4] inches.

(2) The inside dimensions of the square-cornered splint basket at the top shall be six [6] inches by twelve [12] inches. The inside dimensions of the bottom shall be five and one-half [$5\frac{1}{2}$] inches by eleven and one-half [$11\frac{1}{2}$] inches. The inside depth at the corners shall be four [4] inches.

(b) The eight [8] quart splint basket shall contain five hundred and thirty-seven and six-tenths [$537\frac{6}{10}$] cubic inches and conform to the specifications in one of the three following numbered subdivisions:

(1) The approximate inside dimensions of the top across the center shall be eight [8] inches by fourteen [14] inches. The approximate inside dimensions of the bottom at the corners shall be seven [7] inches by twelve [12] inches. The inside depth at the corners shall be five [5] inches.

(2) The approximate inside dimensions of the top across the center shall be nine and one-half [$9\frac{1}{2}$] inches by sixteen and one-half [$16\frac{1}{2}$] inches. The approximate inside dimensions of the bottom at the corners shall be seven and one-half [$7\frac{1}{2}$] inches by fourteen and one-half [$14\frac{1}{2}$] inches. The inside depth at the corners shall be four [4] inches.

(3) The inside dimensions of the square-cornered splint basket at the top shall be seven and three-eighths [$7\frac{3}{8}$] inches by fifteen and one-half [$15\frac{1}{2}$] inches. The inside dimensions of the bottom shall be seven [7] inches by fourteen and one-half [$14\frac{1}{2}$] inches. The inside depth at the corners shall be five [5] inches.

(c) The twelve [12] quart splint basket shall contain eight hundred and six and four-tenths [$806\frac{4}{10}$] cubic inches and conform to the specifications in one of the three following numbered subdivisions:

(1) The approximate inside dimensions of the top across the center shall be nine and one-half [$9\frac{1}{2}$] inches by sixteen inches. The approximate inside dimensions of the bottom at the corners shall be eight and one-half [$8\frac{1}{2}$] inches by fourteen [14] inches. The inside depth at the corners shall be five and one-half [$5\frac{1}{2}$] inches.

(2) The approximate inside dimensions of the top across the center shall be eleven and one-half [$11\frac{1}{2}$] inches by seventeen and one-half [$17\frac{1}{2}$] inches. The approximate inside dimensions of the bottom at the corners shall be eight and one-half [$8\frac{1}{2}$] inches by fourteen and one-half [$14\frac{1}{2}$] inches. The inside depth of the basket at the corners shall be five [5] inches.

(3) The inside dimensions of the square-corner[ed] splint basket at the top shall be eight and five-eighths [$8\frac{5}{8}$] inches by seventeen and one-half [$17\frac{1}{2}$] inches. The inside dimensions of the bottom shall be eight [8] inches by sixteen and three-eighths [$16\frac{3}{8}$] inches. The inside depth at the

corners shall be five and three-fourths [$5\frac{3}{4}$] inches.

(d) The sixteen [16] quart splint basket shall contain one thousand and seventy-five and twenty-one one hundredths [$1,075\frac{21}{100}$] cubic inches, and conform to the specifications in one of the three following numbered subdivisions:

(1) The approximate inside dimensions of the top across the center shall be ten and one-half [$10\frac{1}{2}$] inches by eighteen and one-half [$18\frac{1}{2}$] inches. The approximate inside dimensions of the bottom at the corners shall be eight and one-half [$8\frac{1}{2}$] inches by sixteen [16] inches. The inside depth at the corners shall be six and one-half [$6\frac{1}{2}$] inches.

(2) The approximate inside dimensions of the top across the center shall be eleven and one-half [$11\frac{1}{2}$] inches by nineteen and one-half [$19\frac{1}{2}$] inches. The approximate inside dimensions of the bottom at the corners shall be eight and one-half [$8\frac{1}{2}$] inches by sixteen and one-half [$16\frac{1}{2}$] inches. The inside depth at the corners shall be six [6] inches.

(3) The inside dimensions of the square-cornered splint basket at the top shall be nine [9] inches by nineteen [19] inches. The inside dimensions of the bottom shall be eight and one-half [$8\frac{1}{2}$] by eighteen [18] inches. The inside depth at the corners shall be six and five-eighths [$6\frac{5}{8}$] inches.

(e) The twenty-four [24] quart splint basket shall contain one thousand six hundred and twelve and eight-tenths [$1,612\frac{8}{10}$] cubic inches, and conform to the specifications in one of the three following numbered subdivisions:

(1) The approximate inside dimensions of the top across the center shall be twelve [12] inches by twenty [20] inches. The approximate inside dimensions of the bottom at the corners shall be ten [10] inches by seventeen and one-half [$17\frac{1}{2}$] inches. The inside depth of the basket at the corners shall be seven and one-half [$7\frac{1}{2}$] inches.

(2) The approximate inside dimensions of the top across the center shall be twelve [12] inches by twenty-three [23] inches. The approximate inside dimensions of the bottom at the corners shall be nine [9] inches by nineteen [19] inches. The inside depth of the basket at the corners shall be seven [7] inches.

(3) The inside dimensions of the square-cornered splint basket at the top shall be ten and five-eighths [$10\frac{5}{8}$] inches by twenty-two and one-fourth [$22\frac{1}{4}$] inches. The inside dimensions of the bottom shall be nine and five-eighths [$9\frac{5}{8}$] inches by twenty and one-half [$20\frac{1}{2}$] inches. The inside depth of the basket at the corners shall be seven and one-half [$7\frac{1}{2}$] inches. [1923]

Sec. 69-204. Standard climax baskets.

Standards for climax baskets for grapes and other fruits and vegetables shall be the two [2] quart

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 2—Weights and Measures, Containers for Fruits and Vegetables—Continued.

basket, four [4] quart basket and twelve [12] quart basket respectively:

(a) The standard two [2] quart climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half [$9\frac{1}{2}$] inches; width of bottom piece, three and one-half [$3\frac{1}{2}$] inches; thickness of bottom piece, three-eighths [$\frac{3}{8}$] of an inch; height of basket, three and seven-eighths [$3\frac{7}{8}$] inches, outside measurement; top of basket, length eleven [11] inches and width five [5] inches outside measurement. Basket to have a cover of five [5] by eleven [11] inches, when a cover is used.

(b) The standard four [4] quart climax basket shall be of the following dimensions: Length of bottom piece, twelve [12] inches; width of bottom piece, four and one-half [$4\frac{1}{2}$] inches; thickness of bottom piece, three-eighths [$\frac{3}{8}$] of an inch; height of basket, four and eleven-sixteenths [$4\frac{11}{16}$] inches outside measurement; top of basket, length fourteen [14] inches, width six and one-fourth [$6\frac{1}{4}$] inches, outside measurement. Basket to have cover six and one-fourth [$6\frac{1}{4}$] inches by fourteen [14] inches, when cover is used.

(c) The standard twelve [12] quart climax basket shall be of the following dimensions: Length of bottom piece, sixteen [16] inches; width of bottom piece, six and one-half [$6\frac{1}{2}$] inches; thickness of bottom piece, seven-sixteenths [$\frac{7}{16}$] of an inch; height of basket, seven and one-sixteenth [$7\frac{1}{16}$] inches, outside measurement; top of basket, length nineteen [19] inches, width nine [9] inches, outside measurement. Basket to have cover nine [9] inches by nineteen [19] inches, when cover is used. [1923]

Sec. 69-205. Standard containers for small fruits.

Standard basket or other container for berries and other small fruits and vegetables shall be of the following capacities: namely, dry one-half [$\frac{1}{2}$] pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half pint shall contain sixteen and eight-tenths [$16\frac{8}{10}$] cubic inches.

(b) The dry pint shall contain thirty-three and six-tenths [$33\frac{6}{10}$] cubic inches.

(c) The dry quart shall contain sixty-seven and two-tenths [$67\frac{2}{10}$] cubic inches.

Provided that the provisions of this section shall not be construed to permit the manufacture, sale or use of hampers, round stave baskets, climax baskets or splint baskets in any other multiples of a quart than those enumerated in sections one, two, three, and four [Secs. 69-201-69-204] hereof. [1933]

Sec. 69-206. Tolerances and regulations.

The state food and drug commissioner¹ shall, in his regulations² under this act [Secs. 69-201-

69-215] prescribe such tolerances as he may find necessary to allow in the capacities and specifications for hampers, round stave baskets, splint baskets, climax baskets and baskets or other containers for berries and other small fruits and vegetables, and parts thereof, set forth in sections one, two, Three, four and five [Secs. 69-201-69-205] of this act, in order to provide for reasonable variations occurring in the course of manufacture and handling, and shall also prescribe such tolerances as he may find necessary to allow for the purposes of section eight [Sec. 69-208] of this act in the quantities of fruits or vegetables in hampers, round stave baskets, splint baskets, climax baskets and baskets and other containers for berries and other small fruits and vegetables, in order to provide for the natural shrinkage of such contents after packing. If a cover be used upon any hamper or basket or other container mentioned in this act, it shall be securely fastened or attached in such a manner, subject to the regulations of the state food and drug commissioner, as not to reduce the capacity of such hamper, basket or other container below that prescribed therefor. The provisions in sections one, two, three, four and five [Secs. 69-201-69-205] of this act, covering specifications and dimensions, shall apply only to hampers and baskets made of wood or of which wood is the principal material; but hampers and baskets which are not made of wood, or of which wood is not the principal material, shall not depart from the respective capacities therein prescribed.

All regulations and tolerances established by the state food and drug commissioner shall be in conformity with those, from time to time, promulgated by the United States Department of Agriculture. [1923]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

² See Secs. 60-1501-60-1506, page 326; method of promulgation of rules and regulations of departments, boards and commissions.

Sec. 69-207. Specifications may be changed by regulations.

In order to provide for the more economical use of space in packing or transportation, or for the greater conservation of material or labor in manufacture, or handling (or) of the contents in course of shipment, of hampers, round stave baskets, splint baskets and climax baskets for fruits or vegetables, or parts thereof, the state food and drug commissioner¹, whenever he finds it necessary, may in his regulations, prescribe specifications with respect to the material used, or the dimensions thereof, for such hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables, or parts thereof, in addition to, differing from, or superseding those set forth in sections one, two, three, four and five [Secs. 69-201-69-205] of this act [Secs. 69-201-69-215], but not departing from the respective capacities therein prescribed. Such speci-

fications shall not supersede any specifications set forth in this act until a period of at least six [6] months shall have elapsed after public notice shall have been given following an opportunity afforded the interested public for a hearing. [1923]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-208. Penalty for violations of act; guaranty protection.

It shall be unlawful to manufacture for sale or shipment, sell, offer for sale, ship, offer for shipment, in the state of Indiana, hampers, round stave baskets, climax baskets, splint baskets for fruits or vegetables, or baskets or other containers for berries or other small fruits and vegetables, either filled or unfilled, or parts of such hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables that do not comply with this act [Secs. 69-201—69-215], and it shall be unlawful to sell, offer for sale, ship, or offer for shipment, fruits or vegetables, not sold or offered for sale by standard net weight or by numerical count, in hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables that, at the time of such sale or offer for sale, shipment or offer for shipment, are not filled to the full capacity thereof, stricken measure, subject to such tolerances as may be prescribed in the regulations under this act. Any individual, partnership, association or corporation that willfully violates this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars [\$100] or imprisonment not exceeding sixty [60] days, or both: Provided, That no person shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within this state from whom hampers, round stave baskets, climax baskets, splint baskets or other baskets or containers, as defined in this act, were purchased, to the effect that said hampers, round stave baskets, climax baskets, splint baskets or other baskets or containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of hampers, round stave baskets, climax baskets, splint baskets or other baskets or containers to such person, and, in such case, such party or parties making such sale shall be amenable to prosecution, fines, and other penalties which would attach in due course to any person under the provisions of this act. [1923]

Sec. 69-209. Seizure and confiscation.

Any hamper, round stave basket, climax basket or splint basket for fruits or vegetables, or other basket or container for berries or other small fruits

and vegetables, whether filled or unfilled, or parts of such hampers, round stave baskets, climax baskets, splint baskets, or other basket or container for berries or other small fruits and vegetables, not complying with this act [Secs. 69-201—69-215], which shall be manufactured for sale or shipment, offered for sale, sold or shipped, may be proceeded against in any court of competent jurisdiction of this state and within the county where the same shall be found and may be seized for confiscation by a process of libel for condemnation. Upon request, the person entitled shall be permitted to retain or take possession of the contents of such hampers, baskets or containers, but, in the absence of such request, or when the perishable nature of such contents makes such action immediately necessary, the same shall be disposed of by destruction or sale as the court or a judge thereof may direct. If such hampers, round stave baskets, splint baskets, climax baskets, or other basket or container for berries or other small fruits and vegetables, or parts thereof, be found, in such proceeding, to be contrary to this act, the same shall be disposed of by destruction, except that the court may, by order, direct that such hampers, baskets or containers, or parts be returned to the owner thereof or sold, upon the payment of the costs of such proceeding and the execution and delivery of a good and sufficient bond, to the effect that such hampers, baskets or containers, or parts thereof, shall not be sold or otherwise disposed of or used contrary to law. The proceeds of any sale under this section, less legal costs and charges, shall be paid over to the person entitled thereto. [1923]

Sec. 69-210. Shipment to other states.

This act shall not prohibit the manufacture for sale or shipment, offer for sale, or shipment, of hampers, round stave baskets, splint baskets, climax baskets, or baskets or containers for berries or other small fruits and vegetables, or parts thereof, to any other state or foreign country in accordance with the specifications of a consignee or customer not contrary to the law of such state or foreign country; nor shall this act [Secs. 69-201—69-215] prevent the manufacture or use of banana hampers of the shape and character now in commercial use as shipping containers for bananas. [1923]

Sec. 69-211. Prosecutions.

It shall be the duty of each prosecuting attorney to whom satisfactory evidence of any violation of this act [Secs. 69-201—69-215] is presented to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the state of Indiana, in his circuit, for the enforcement of the provisions of this act. [1923]

Sec. 69-212. Enforcement; right of entry.

It shall be the duty of the state food and drug commissioner¹ to enforce all the provisions of this

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 2—Weights and Measures, Containers for Fruits and Vegetables—Continued.

act [Secs. 69-201—69-215], and he shall prescribe such regulations² as he may find necessary for carrying into effect the provisions of this act, and shall cause such examinations and tests to be made as may be necessary in order to determine whether hampers, round stave baskets, splint baskets, climax baskets and baskets or containers for berries or other small fruits and vegetables, or parts thereof, subject to this act, meet its requirements. For said purpose, the authorized officers and agents of the food and drug department may visit factories, stock rooms, and other places of business where such hampers, baskets, and containers, or parts thereof, are manufactured or held for sale or shipment, or offered for sale, and may enter cars, vessels, other vehicles, and places under the control of carriers engaged in the transportation of such hampers, baskets and containers, or parts thereof, and may take samples of such hampers, baskets and boxes or parts thereof or, upon written request from the state food and drug commissioner or his authorized agents, any manufacturers, shippers, carriers or holders of such hampers, baskets and containers or parts thereof shall furnish samples of such hampers, baskets and containers, or parts thereof, as are required, for the purpose of inspection as in this act provided. [1923]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

² See Secs. 60-1501—60-1506, page 326; method of promulgation of rules and regulations of departments, boards and commissions.

Sec. 69-213. Cooperation with local authorities.

For carrying out the purpose of this act [Secs. 69-201—69-215], the food and drug commissioner¹ is authorized to cooperate with state, county and municipal authorities, manufacturers, dealers and shippers. [1923]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-214. Application of act to wooden containers; exceptions.

The provisions of this act [Secs. 69-201—69-215] establishing dimensions and specifications for the several baskets, hampers and containers named shall apply only to baskets, hampers and containers made of wood for fruits and vegetables, but the standard sizes established and the cubical contents thereof shall apply to all baskets, hampers and other containers for fruits and vegetables of whatever material made. [1923]

Sec. 69-215. Construction of act.

Nothing in this act [Secs. 69-201—69-215] shall be construed to permit of sales by standard hampers, baskets or containers without regard to weight or

numerical count now required by law to be sold by weight or numerical count. [1923]

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 3—Weights and Measures, Standards for Commodities.

Sec. 69-305. Barrel, gallon, ton and bushel weights.

The avoirdupois weight of beef or pork in each barrel shall be two hundred [200] pounds; and of flour in each barrel, one hundred and ninety-six [196] pounds; of sorghum molasses, eleven [11] pounds per gallon; of maple molasses, eleven [11] pounds per gallon; of hay, straw, ice, coal or coke, two thousand [2,000] pounds shall be given and taken for a ton. (A bushel of the respective articles hereinafter mentioned shall mean the amount of weight, avoirdupois, in this section specified, as follows:

	<i>Pounds per Bushel</i>
Alfalfa seed	60
Apples	48
Apples, dried	25
Barley	48
Beans	60
Beans, soy soja	60
Beets	60
Blue grass seed	14
Bran	20
Buckwheat	50
Carrots	50
Charcoal	20
Clover seed	60
Coal, mineral	80
Coarse salt	50
Coke	40
Corn, in the ear	until December 1
Corn, in the ear	after December 1
Corn, kafir	68
Corn, shelled	56
Corn meal	56
Cow peas	50
Cranberries	60
Cucumbers	48
Dried apples	25
Dried peaches	33
Fine salt	55
Flax seed	56
Gooseberries	40
Hemp seed	44
Herds grass seed	45
Hickory nuts	50
Kafir corn	56
Malt rye	35
Middlings, coarse	30
Millet [seed]	50
Oats	32
Onions	49
Orchard grass seed	14
Parsnips	55
Peaches	48
Peaches, dried	33
Pears	50
Peas, cow	60
Popcorn	56
Potatoes	60
Potatoes, sweet	50
Quinces	48
Rape seed	50
Red top grass seed	14
Ricc. rough	45

	<i>Pounds per Bushel</i>
Rough rice	45
Rye	56
Salt, coarse	50
Salt, fine	55
Seed, alfalfa	60
Seed, blue grass	14
Seed, clover	60
Seed, flax	56
Seed, hemp	44
Seed, herds-grass	45
Seed, millet	50
Seed, orchard grass	14
Seed, rape	50
Seed, red top	14
Seed, sorghum	50
Seed, timothy	45
Shelled corn	56
Sorghum seed	50
Soy soja beans	60
Sweet potatoes	50
Timothy seed	45
Tomatoes	60
Turnips	55
Walnuts	50
Wheat	60)

Any person, firm or corporation who buys or sells any of the articles or commodities enumerated in this section, at a measure or fraction thereof differing in the weight from the standard herein prescribed shall be guilty of a misdemeanor and shall, on conviction, for the first offense, be punished by fine of not less than ten dollars [\$10.00] nor more than thirty [\$30.00] dollars; for the second offense, by a fine of not less than twenty-five dollars [\$25.00] nor more than one hundred dollars [\$100.00], and for the third and subsequent offense, by a fine of one hundred dollars [\$100.00] and imprisonment in the county jail for not less than thirty [30] days nor more than ninety [90] days. [1905; last amended 1917.]

[ED. NOTE.—The parenthetical part of the above section has been superseded by Sec. 69-113 making it unlawful to use any dry capacity measure in the sale of dry commodities and providing that such commodities shall be sold only by weight or count, with certain exceptions. See p. 306.]

Sec. 69-307. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities, except in containers of net avoirdupois weights of five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: Provided, however, That the provisions of this act [Secs. 69-307—69-308] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred pounds, or (c) the sale of flours and meals for export, or (d)

flours, meals, hominy and hominy grits packed in containers the net contents of which are less than three pounds, or (e) the exchange of wheat for flour by mills grinding for toll. [1945; last amended 1947.]

Sec. 69-308. Same: Penalty for violations.

Any violation of this act [Secs. 69-307—69-308] shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five dollars [\$25.00] nor more than five hundred dollars [\$500] for each offense. [1945]

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch. 4—Weights and Measures, Marking of Fresh Fruits and Vegetables.

Sec. 69-408. "Package" defined.

The term "package" as used in this act [Secs. 69-408—69-419] shall be construed to mean any container which is used for the transportation of or sale of fruits and vegetables within the state. [1935]

Sec. 69-409. Marking requirements.

Every person, firm or corporation who, by himself, or by his agent or employee, packs or repacks fresh fruits or vegetables, in containers, intended for sale, either privately or on the open market, shall cause the same to be marked in a plain and indelible manner, as follows:

First. With his full name and address, including the name of the state where such fresh fruits and vegetables are grown or packed.

Second. The net contents, by weight, if not in a standard container built in accordance with the specifications of the federal or state standard container act, in which case, the cubical contents shall be sufficient.

* * * * *

All markings shall be in letters not less than one-half of an inch in height. [1935]

Sec. 69-410. Sale in unmarked container prohibited.

No person shall sell, offer for sale, expose or have in his possession for sale, either privately or on the open market, any fresh fruits or vegetables, packed in containers, and intended for sale, unless such containers are marked in accordance with the provisions of this act [Secs. 69-408—69-419]. [1935]

Sec. 69-416. Enforcement.¹

The state board of health, its food and drug commissioner, commissioner of weights and measures, food inspectors, sealers of weights and measures and agents are hereby charged with the enforcement of the provisions of this act [Secs. 69-408—69-419]. It shall be the duty of every prosecuting attorney, to whom the state board of health or any of its agents shall report any violation of the provisions of this act, to cause proceedings to be commenced against the person or persons so violating

Burns Statutes Annotated 1933, Vol. 11, Title 69, Ch.

4—Weights and Measures, Marking of Fresh Fruits and Vegetables—Continued.

the provisions of this act and to prosecute the same to final termination. [1935]

¹ Enforcement now by Director. State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 69-417. Exception.

This act [Secs. 69-408—69-419] shall not apply to products in transit from point of origin to place of processing, or further grading or conditioning. [1935]

Sec. 69-418. Penalties for violations.

Every person who, by himself, his agent, or employee, violates any of the provisions of this act [Secs. 69-408—69-419], shall, for each offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding twenty-five dollars [\$25.00], or less than fifteen dollars [\$15.00] for the first offense, not exceeding fifty dollars [\$50.00] or less than forty dollars [\$40.00] for the second offense, not exceeding one hundred dollars [\$100] or less than ninety dollars [\$90.00] for the third or any subsequent offense, or by imprisonment in the county jail for a period not exceeding thirty [30] days, or by both such fine and imprisonment, in the discretion of the court. [1935]

Burns Statutes Annotated 1933, Vol. 9, Title 48, Ch. 14—Cities.

Sec. 48-1407. Powers of common council.

The common council of every city shall have power to enact ordinances for the following purposes:

* * * * *

Twenty-second. To regulate the selling, weighing and measuring of hay, wood, coal, coke and all other articles sold by weight or measure; to require dealers to keep honest weights and measures and to provide for inspection of such weights and measures. [1905]

* * * * *

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 24—Gas Meters.

Sec. 10-2401. False meter; penalty.

Whoever knowingly constructs, or uses, or furnishes to gas consumers to be used, any false meter provided for measuring and registering the quantity of gas consumed by any person under a contract with any gas company, shall, on conviction, be fined not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100]. [1905]

Sec. 10-2410. Correct and readable meters to be furnished patrons.

Every person, company or corporation now engaged or hereafter engaging in the business of

furnishing natural or artificial gas for heating, illuminating or other purposes, to be used and paid for by patrons by meter measure, shall furnish to each and every patron a meter properly tested and in good order, and shall arrange such meters so that the patron can, at any time, see the meter dial and ascertain how much gas he is consuming, and how much he is liable to pay for. [1901]

Sec. 10-2411. Excess charges.

It shall be unlawful for any person, company or corporation engaged in furnishing gas to consumers, to be paid for by meter measure, to charge or receive, from any patron or consumer, pay for more gas than the meter furnished by such person, company or corporation shall indicate has been used by such consumer at the time to which payment is made and received. [1901]

Sec. 10-2412. Penalty for violations.

Any person, company or corporation violating any of the provisions of this act [Secs. 10-2410—10-2412] shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than ten dollars [\$10.00] and not more than one hundred dollars [\$100] for each offense. [1901]

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 45—Electric, Gas and Water Meters.

Sec. 10-4524. False meters; penalty.

* * * any person who is the owner, operator or manager of any public utility furnishing electric current, gas or water through a meter to its customers who shall knowingly or intentionally install or maintain, or permit to be installed or maintained, for any customer a meter that registers more than the actual quantity of gas, water or electric current that passes through such meter, is guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars [\$25.00] nor more than two hundred and fifty dollars [\$250], or be imprisoned in the county jail not less than ten [10] days nor more than three [3] months, or, in the discretion of the court or jury before whom the trial is had, shall be both so fined and imprisoned. [1935]

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 35—"Uniform Narcotic Drug Act."

Sec. 10-3528. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 10-3537. Enforcement.

It is hereby made the duty of the state board of pharmacy, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all prosecuting attorneys, to enforce all provisions of this act [Secs. 10-3519—10-3552], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1935]

Sec. 10-3538. Penalties.

Any person violating any provision of this act [Secs. 10-3519—10-3552] shall be guilty of a misdemeanor and shall upon conviction be punished, for the first offense, by a fine not exceeding one hundred [\$100] dollars, or by imprisonment for not exceeding six [6] months, or by both such fine and imprisonment, and for any subsequent offense, such person shall be guilty of a felony and shall be punished by a fine not exceeding one thousand dollars [\$1,000], or by imprisonment for not exceeding two [2] years, or by both such fine and imprisonment. [1935]

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 48—False Weights and Measures.

Sec. 10-4801. Altering inspector's marks: penalty.

Whoever alters or erases any brand or mark of any inspector, appointed by proper authority, placed on any barrel of salt¹, flour, beef, pork, or hogshead of tobacco, or other article authorized by law to be inspected and branded, shall, on conviction, be fined not less than five dollars [\$5.00] nor more than one hundred dollars [\$100]. [1905]

¹ See Sec. 35-1903, page 322.

Sec. 10-4802. Selling by short weight.

Whoever knowingly sells, or directs or permits any person in his employ to sell, any property, and makes or gives any false or short weight or measure of such property, and any person owning, or having charge of scales, measures or steelyards, for the purpose of weighing or measuring any property, who knowingly reports any false or untrue weight or measure, whereby any person may be defrauded or injured, shall, on conviction, be fined not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100]. [1905]

Sec. 10-4803. Selling coal by false weight; penalty.

Whoever knowingly sells and delivers any coal except at the weight and measure prescribed by law, shall, on conviction, be fined not less than five dollars [\$5.00] nor more than one hundred dollars [\$100]. [1905]

Sec. 10-4804. Short-weight packages of certain commodities; penalty.

Whoever packs, brands or sells, or causes to be packed, branded or sold, any salt, beef, pork, flour,

tobacco or hay in barrels or packages as full barrels or packages, when such barrels or packages do not contain the weight which by law they are required to contain, shall, on conviction, be fined not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100]. [1905]

Sec. 10-4805. Wheat: Standard measure; exception; penalty.

It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company, firm or association, either by himself, itself, officer, agent or employee, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employee, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat, any measure other than the standard half-bushel measure furnished this state by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. It shall likewise be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure, for the purpose of testing the weight, grade, milling or market value of wheat: Provided, That the provisions of this section shall not apply to wheat or grain that is inspected or graded by the car-load under the regulations of any board of trade. Any person violating any of the provisions of this section, shall, on conviction, be fined not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100], to which may be added imprisonment in the county jail not exceeding six [6] months. [1905]

Sec. 10-4806. Use of false scales, weights, and measuring devices; penalty.

Any person, firm or corporation engaged in the business of buying grain, live stock, feed, junk or other commodity who shall have in his or their possession for use in such business, or shall use, any false scales, weights or measuring devices or weighing device, or any person, firm or corporation who, by himself or themselves, or by his agent or their agent, shall buy or offer to buy or accept any live stock, grain, feed, junk or other commodity weighed or measured by such false weighing or measuring device, or any grain, live stock, feed, junk or other commodity which has been made subject to any false representation or manipulation of its true weight or measure, shall be guilty of a misdemeanor, and, upon conviction in any court of competent jurisdiction, shall be punished by a fine of not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100], to which may be added imprisonment in the county jail for not more than three [3] months, upon first conviction; and, upon second or subsequent conviction, shall be punished by a fine of not less than twenty dollars [\$20.00] nor more than five hundred dollars [\$500], to

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 48—False Weights and Measures—Continued.

which may be added imprisonment in the county jail for not more than six [6] months. [1921]

Sec. 10—4807. Same: Enforcement.

It shall be the duty of the state commissioner of weights and measures,¹ his deputies, state, city and county sealers, and inspectors of weights and measures to enforce the provisions of this act [Secs. 10—4806—10—4808]; and said commissioner, his deputies, state, city and county sealers and inspectors of weights and measures are hereby authorized to exercise all police powers already conferred upon them by existing state laws pertaining to weights and measures for the purpose of such enforcement. [1921]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69—103, page 303.

Sec. 10—4808. Same: Act supplements existing laws.

This act [Secs. 10—4806—10—4808] shall be construed to supplement existing laws pertaining to and governing weights and measures in the state of Indiana and shall not be construed as repealing any such laws. [1921]

Sec. 10—4809. Falsely increasing weight of rags and paper.

Any person, firm, copartnership or corporation engaged in the packing or shipping of rags and paper stock for use in felt making and paper mills, in bales, bundles, boxes or other containers, in this state, who shall knowingly and wilfully pack or ship, or who, in the conduct of such business, shall knowingly and wilfully cause to be packed or shipped with the rags in such bales, bundles, boxes or other containers any dead animals, stone, wood, metal, minerals, bone, glass, leather, rubber or manufactured articles in which are used and attached any of the foregoing substances, water or earth, shall be guilty of a misdemeanor. [1915]

Sec. 10—4810. Same: Penalty.

Any person, firm, copartnership or corporation guilty of violating any of the provisions of this act [Secs. 10—4809—10—4810] shall be punished by a fine of not less than ten dollars [\$10.00] for each offense, or by imprisonment in the county jail for not more than two [2] months, or by both such fine and imprisonment. [1915]

Sec. 10—4811. Watermelons: Count and weight; statements.

It shall be the duty of every person or persons, firm or corporation loading watermelons into cars for transportation, before loading such watermelons, to count and weigh the same, and, upon such loading being completed, to make out and sign two [2] statements of the weight of such watermelons and the number thereof contained in said car. One copy of such statement shall be securely attached to said car and the other copy thereof shall be

attached to the bill of lading for said car, and delivered to the consignee or purchaser thereof, at his request. [1915]

Sec. 10—4812. Same: Unlawful not to make statements.

It shall be unlawful for any person, persons, firm or corporation to ship, sell, or offer for sale, any carload of watermelons without the statements set out in the last section having been made out, and one [1] copy thereof being delivered to the purchaser or consignee of such watermelons, if he shall request it. [1915]

Sec. 10—4813. Same: Penalty.

Any person, persons, firm or corporation who shall fail to comply with any provision of this act [Secs. 10—4811—10—4813], or who shall make out any false statement in reference to the contents of said car, or the weight thereof, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars [\$25.00] nor more than one hundred dollars [\$100], to which may be added imprisonment in the county jail for not less than thirty [30] days nor more than ninety [90] days. [1915]

Burns Statutes Annotated 1933, Vol. 5, Title 16, Ch. 10—Commercial Feeding Stuff.

Sec. 16—1002. Marking requirements.

Any person, company, corporation or agent that shall sell or offer, or expose for sale, any concentrated commercial feeding stuff in this state, shall affix, or cause to be affixed, to every package or sample of such concentrated commercial feeding stuff, in a conspicuous place on the outside thereof, a tag or label, which shall be accepted as a guarantee of the manufacturer, importer, dealer or agent, and which shall have plainly printed thereon, in the English language, the number of net pounds of concentrated commercial feeding stuff in the package, * * *. When concentrated commercial feeding stuff is sold in bulk, a tag, as hereinbefore described * * * shall be delivered to the consumer with each one hundred [100] pounds, or fraction thereof, in excess of five [5] pounds; * * * [1907; last amended 1933.]

Sec. 16—1006. Penalties for violations; exceptions.

Any person, company, corporation or agent that shall offer for sale, sell or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuff * * * which does not have affixed to it a tag and stamp required by section 2 [16—1002] of this act [Secs. 16—1001—16—1011] * * * shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of fifty dollars [\$50.00] for the first offense, and in the sum of one hundred dollars [\$100] for each subsequent offense. * * * Provided, That nothing in this act shall be construed to restrict or prohibit the sale of concentrated com-

mercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, * * * [1907]

Sec. 16-1009. Rules and regulations.

The state chemist is hereby empowered to prescribe and enforce such rules and regulations relating to concentrated commercial feeding stuff as he may deem necessary to carry into effect the full intent and meaning of this act [Secs. 16-1001—16-1011], * * * [1907]

Sec. 16-1011. Definition.

The term "concentrated commercial feeding stuff," as used in this act [Secs. 16-1001—16-1011], shall include linseed meals, coconut meals, gluten feeds, gluten meals, germ feeds, corn feeds, maize feeds, dairy feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts and other mill by-products not excluded in this section, ground beef or fish scraps, dried blood, blood meals, bone meals, tankage, meat meals, slaughter-house waste products, mixed feeds, clover meals, alfalfa meals and feeds, peavine meal, cotton seed meal, velvet meal, sucrose, mixed feeds, and mixed meals made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds; but it shall not include straw, whole seeds, unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn, nor wheat flours or other flours. [1907]

Burns Statutes Annotated 1933, Vol. 7, Title 35, Ch. 11—Statutes for Loaves of Bread.

Sec. 35-1109. Standard weights; tolerances; marking requirements; enforcement.

Loaves of bread offered for sale or sold within this state, shall be of the following standard weights and no other, namely: A loaf weighing three-quarters of a pound, a loaf weighing one [1] pound, a loaf weighing one and one-quarter [$1\frac{1}{4}$] pounds, a loaf weighing one and one-half [$1\frac{1}{2}$] pounds and loaves weighing two [2] pounds, or some whole multiple of one [1] pound. These shall be the standard weights for loaves of bread offered for sale or sold by the loaf, and such bread shall not be offered for sale or sold of other weights. Allowable tolerances and variations shall not exceed one [1] ounce per pound over or one [1] ounce per pound

under the standard unit weight. Each and every loaf of bread offered for sale or sold shall have affixed thereon, in a conspicuous place, a label upon which shall be plainly and distinctly printed the weight of the loaf stated in pounds or fractions of pounds, or both, as the case may be, together with the business name of the baker or manufacturer. In case of wrapped bread, such information shall be stated upon the wrapper of each loaf in a conspicuous position unobscured by the folds of the wrapper; in the case of unwrapped bread said information shall be stated upon a label no larger than one by one and one-half [$1\frac{1}{2}$] inches in size and not smaller than one inch by three-quarters [$1\frac{3}{4}$] of an inch and such label affixed to an unwrapped loaf shall not be affixed in any manner or with any gums or paste which are unsanitary or unwholesome. The weight declaration of the loaf shall be printed on a clear, plain background of a distinctly contrasting color in uncondensed Gothic capital letters of not less than ten [10] point size. It shall be the duty of the commissioner of weights and measures¹ and of the sealers of weights and measures of any city, town or county, or any agent thereof responsible for the enforcement of weights and measures laws and ordinances under regulations prescribed by the commissioner of weights and measures, to enforce the provisions of this section. [1919; last amended 1933.]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 35-1110. Penalty for violations.

Any person, firm or corporation who shall violate any of the provisions of this act [Secs. 35-1101—35-1112] shall be subject to a fine of not less than ten dollars [\$10.00], nor more than one hundred dollars [\$100], and each day's continuance of any practice, act or condition prohibited herein shall constitute a separate offense within the meaning of this act. [1919]

Sec. 35-1111. City ordinances.

Except as in this act [Secs. 35-1101—35-1112] provided, no city or town, or any board or officer thereof, shall have power to enact or make any ordinance, law, resolution, rule or order affecting the matters covered by this act. [1919]

Acts of 1949, Ch. 157, Art. 5—"Uniform Indiana Food, Drug, and Cosmetic Act."

Sec. 1902. Definitions.

As used in this article, unless the context otherwise requires:

(a) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) and amendments thereto. Whenever in this article a department or agency of the Federal Government is referred to it shall mean and include any department or agency

Acts of 1949, Ch. 157, Art. 5—"Uniform Indiana Food, Drug and Cosmetic Act"—Continued.

of the Federal Government to which the duties, powers or functions may be hereafter transferred or given.

(b) The term "intrastate commerce" means any and all commerce within the State of Indiana and subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

(c) The term "sale" means any and every sale and includes (1) manufacture, processing, transporting, handling, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possession; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using.

(d) The term "food" means (1) articles used for food, drink, confectionery or condiment for man; (2) chewing gum, and (3) articles for components of any such article.

(e) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(f) The term "device" (except when used in paragraph "I" of this section and in sections 1903 (h), 1958, 1980, and 2007), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(g) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(h) The term "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(i) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by

or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(j) The term "immediate container" does not include package liners.

(k) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(l) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. [1949]

* * * * *

Sec. 1903. Prohibited acts.

The following acts and the causing thereof are hereby prohibited:

(a) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(c) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

* * * * *

(j) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

* * * * *

(l) The removal or disposal of a quarantined article in violation of sections 1921 to and including 1934.

(m) The giving of a guaranty or undertaking in intrastate commerce, referred to in section 1918 that is false. [1949]

Sec. 1907. Rules and regulations.

The purpose of this article being to promote uniformity with the Federal Act, in safeguarding the public health and in promoting public welfare, the state board [of health] is hereby authorized to adopt, insofar as applicable, the regulations from time to time promulgated by the Federal Security Administrator under the Federal Act. [1949]

Sec. 1908. Enforcement.

The state board [of health] shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this article. * * * [1949]

Sec. 1916. Penalties for violations.

Any person who violates any of the provisions of section 1903 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than six months or a fine of not less than \$10.00 nor more than \$1,000.00, or both such imprisonment and fine; and for the second or subsequent offense shall be subject to imprisonment for not more than two years, or a fine of not less than \$50.00 nor more than \$2,000.00, or both such imprisonment and fine. [1949]

Sec. 1917. Violation with intent to defraud; penalty.

Notwithstanding the provisions of section 1916, in case of a violation of any provisions of section 1903 with intent to defraud or mislead, the penalty shall be imprisonment for not more than two years, or a fine of not less than \$50.00 nor more than \$2,000.00, or both such imprisonment and fine. [1949]

Sec. 1918. Guaranty protection.

No person shall be subject to the penalties of section 1916 of this article, for having violated section 1903 (a) or 1903 (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article or the Federal Act. [1949]

Sec. 1921. Embargo.

Whenever a duly authorized agent of the state board finds, or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall affix to such merchandise a tag or other appropriate marking, giving notice that such merchandise is, or is suspected of being, adulterated or misbranded and has been detained or embargoed for a period of five days in the case of food and for a period of ten days in the case of drugs and cosmetics, and warning all persons not to remove or dispose of such merchan-

dise by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed merchandise by sale or otherwise without such permission. The claimant shall be authorized to destroy the merchandise so detained if such merchandise is destroyed under the supervision of an agent of the state board. When any such agent has found that merchandise so detained or embargoed is not adulterated or misbranded he shall remove the tag or other marking. [1949]

Sec. 1922. Same.

When any merchandise detained or embargoed under section 1921 has been found by such agent to be adulterated or misbranded, he shall within five days thereafter cause to be filed a petition in any circuit or superior court or before the judge thereof in vacation in whose jurisdiction the merchandise is detained or embargoed for a libel for condemnation of such merchandise as herein provided. * * * [1949]

Sec. 1938. Minor violations.

Nothing in this article shall be construed as requiring the secretary [of the state board of health] or his authorized agent to report for the institution of proceedings under this article, minor violations of this article, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1949]

Sec. 1950. Food: Standard of fill of container.

Whenever any definitions or standard of identity, quality or fill of container for any food or class of food are promulgated under authority of the Federal Act or the Federal Meat Inspection Act of 1907, as amended, the state board shall promptly promulgate said definitions and standards for Indiana. Whenever, with regard to any other food or class of food, the state board shall find that such action will promote honesty and fair dealing in the interest of consumers, the state board shall promulgate regulations fixing and establishing for any such food or class of food a reasonable definition and standard of identity, and a reasonable standard of quality and fill of container. * * * [1949]

Sec. 1956. When food deemed misbranded.

A food shall be deemed to be misbranded: (1) if its labeling is false or misleading in any particular; * * * (4) if its container is so made, formed, or filled as to be misleading. [1949]

Sec. 1957. Same.

A food shall be deemed to be misbranded, if in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or

Acts of 1949, Ch. 157, Art. 5—"Uniform Indiana Food, Drug, and Cosmetic Act"—Continued.

numerical count: Provided, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the state board [of health]. [1949]

Sec. 1958. Same.

A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1949]

Sec. 1960. Same.

A food shall be deemed to be misbranded if it purports to be or is represented as * * * (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 1950 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1949]

Sec. 1965. Exempt food.

Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this article, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this article. [1949]

Sec. 1979. When drug or device deemed misbranded.

A drug or device shall be deemed to be misbranded: (a) if its labeling is false or misleading in any particular, or (b) if in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this section reasonable variation shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the state board [of health]. [1949]

Sec. 1980. Same.

A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prom-

inently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1949]

Sec. 1986. Same.

A drug or device shall be deemed to be misbranded (1) if it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1949]

Sec. 1988. Exempt drugs or devices.

A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this article, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this article. [1949]

Sec. 2005. When cosmetics deemed misbranded.

A cosmetic shall be deemed to be misbranded if its labeling is false or misleading in any particular. [1949]

Sec. 2006. Same.

A cosmetic shall be deemed to be misbranded if in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the state board [of health]. [1949]

Sec. 2007. Same.

A cosmetic shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1949]

Sec. 2008. Same.

A cosmetic shall be deemed to be misbranded if its container is so made, formed, or filled as to be misleading. [1949]

Sec. 2009. Exempt cosmetics.

A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or

repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this article, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this article. [1949]

Burns Statutes Annotated 1933, Vol. 7, Title 35, Ch. 13—Milk and Cream.

Sec. 35-1301. Fraudulent manipulation of weights, etc.

It shall be unlawful for any hauler of milk or cream, or other person, or creamery, or other milk plant or agent, receiving milk or cream by weight or test or by weight and test, to fraudulently manipulate the weights of milk or cream of any patron or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler shall weigh the milk or cream of each patron accurately and correctly to the factory. * * * When the weighing or sampling of the milk or cream of each patron is done at the creamery, shipping station or other factory, firm, corporation or individual buying and paying for milk or cream on the basis of the butter fat contained therein, the same rule shall apply. [1913]

Sec. 35-1302. Standard glassware and accurate scales required; inspection; markings.

Every person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test shall use standard Babcock test bottles, pipettes and weights and accurate scales, as defined in section thirteen [35-1312] of this act [Secs. 35-1301-35-1312], and all Babcock test bottles, pipettes and weights shall have been inspected for accuracy by the Purdue University agricultural experiment station, or its deputy, and shall be legibly and indelibly marked by the said Purdue University agricultural experiment station, or its deputy, with the letters "S. G. P." (Standard Glassware Purdue). No bottle, pipette or weight shall be used for such test unless so examined and marked by the said Purdue University agricultural experiment station. It shall be unlawful for any person, firm, company, association, corporation, or any of their agents, to use any other than standard test bottles, pipettes and weights which have been examined and marked as provided in this section, to determine the amount of fat in milk or cream, bought and paid for on the butter fat basis. [1913]

Sec. 35-1303. Unlawful tests.

It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent or employee of any person, firm or corporation,

buying and paying for milk or cream on the basis of the amount of fat contained therein * * * to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths [17.6] cubic centimeters for milk and nine [9] grams for cream. This section further provides that in all tests the cream shall be weighed into the test bottles. [1913]

Sec. 35-1307. Fees for testing glassware.

* * * For all testing glassware inspected by the said Purdue University agricultural experiment station, or its deputy, a fee of three cents [3¢] shall be paid by the owner of said testing glassware to the said Purdue University agricultural experiment station for every piece of glassware so examined. [1913; last amended 1945.]

Sec. 35-1310. Penalties for violations.

Any employee of a firm, company, association, corporation or person, buying and paying for milk or cream on the basis of the amount of butter fat it contains, violating any of the provisions of this act [Secs. 35-1301-35-1312], shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars [\$10.00], nor more than one hundred [\$100] dollars, or be imprisoned in the county jail for not less than sixty [60] days nor more than twelve [12] months or both. Any firm, company, association, corporation or person, buying or paying for milk or cream on the basis of the amount of butter fat contained therein, violating any of the provisions of this act, shall be guilty of misdemeanor, and upon conviction thereof shall be fined in the sum of twenty-five dollars [\$25.00] for the first offense and in the sum of not less than one hundred dollars [\$100], nor more than one thousand dollars [\$1,000] for each subsequent offense. [1913; last amended 1945.]

Sec. 35-1312. Specifications for standard Babcock glassware and weights.

The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard Milk Test Bottles.—

Graduation: The total per cent graduation shall be eight [8]. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths [63.5] mm. (two and one-half [2½] inches). The graduation shall represent whole per cent, five tenths per cent, and tenths per cent. The tenths per cent graduations shall not be less than three [3] mm. in length; the five-tenths per cent graduations shall be one [1] mm. longer than the tenths per cent graduations, projecting one [1] mm. to the left; the whole per cent graduation shall extend one-half way around the neck to the right and projecting two [2] mm. to the left of the tenths per cent graduations. Each per cent graduation

Burns Statutes Annotated 1933, Vol. 7, Title 35, Ch. 13—Milk and Cream—Continued.

shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

Neck: The neck shall be cylindrical and the cylindrical shape shall extend for at least nine [9] millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten [10] millimeters.

Bulb: The capacity of the bulb up to the junction of the neck shall not be less than forty-five [45] cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four [34] and thirty-six [36] mm.; if conical, the outside diameter of the base shall be between thirty-one [31] and thirty-three [33] mm., and the maximum diameter between thirty-five and thirty-seven [35 and 37] mm.

The charge of the bottle shall be eighteen [18] grams.

The total height of the bottle shall be between one hundred fifty and one hundred sixty-five [150 and 165] mm. (five and seven-eighths and six and one-half [$5\frac{7}{8}$ and $6\frac{1}{2}$] inches).

(b) Standard Cream Test Bottles.—

Two [2] types of bottles shall be accepted as standard cream test bottles, a fifty [50] per cent nine [9] gram, short-necked bottle and a fifty [50] per cent nine [9] gram long-neck bottle.

Fifty [50] per cent nine [9] gram short-neck bottles:—Graduation: The total per cent graduation shall be fifty [50]. The graduated portion of the neck shall have a length of not less than sixty-three [63] mm. (two and one-half [$2\frac{1}{2}$] inches). The graduation shall represent five [5] per cent, one [1] per cent and five-tenths [.5] per cent. The five [5] per cent graduations shall extend at least half-way around the neck (to the right). The five-tenths [.5] per cent graduations shall be at least three [3] mm. in length, and the one [1] per cent graduations shall have a length intermediate between the five [5] per cent and the five-tenths [.5] per cent graduations. Each five [5] per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths [.5] per cent.

Neck: The neck shall be cylindrical and the cylindrical shape shall extend at least nine [9] mm. below the lowest and nine [9] mm. above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten [10] mm.

Bulb: The capacity of the bulb up to the junction of the neck shall not be less than forty-five [45] cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest

diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six [34 and 36] mm.; if conical, the outside diameter of the base shall be between thirty-one and thirty-three [31 and 33] mm. and the maximum diameter between thirty-five and thirty-seven [35 and 37] mm.

The charge of the bottle shall be nine [9] grams. All bottles shall bear on top of the neck above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (nine [9] grams).

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five [150 and 165] mm. (five and seven-eighths and six and one-half [$5\frac{7}{8}$ and $6\frac{1}{2}$] inches), same as standard test bottles.

Fifty [50] per cent nine [9] gram long-neck bottles.—The same specifications in every detail as specified for the fifty [50] per cent nine [9] gram short-neck bottle shall apply for the long-neck, with the exception, however, that the total height of this bottle shall be between two hundred ten and two hundred thirty-five [210 and 235] mm. (eight and one-fourth and eight and seven-eighths [$8\frac{1}{4}$ and $8\frac{7}{8}$] inches).

Total length of pipette not more than thirty-three [33] mm. (thirteen and one-quarter [$13\frac{1}{4}$] inches). Outside diameter of suction tube six to eight [6 to 8] mm. Length of suction tube one hundred thirty [130] mm. Outside diameter of delivery tube four and five-tenths to five and five-tenths [4.5 to 5.5] mm. Length of delivery tube one hundred to one hundred twenty [100 to 120] mm. Distance of graduation mark above bulb thirty to sixty [30 to 60] mm. Nozzle straight. Delivery seventeen and six-tenths [17.6] cc. of water at twenty [20] degrees C in five to eight [5 to 8] seconds.

The standard weight shall be nine [9] grams. [1913]

Burns Statutes Annotated 1933, Vol. 7, Title 35, Ch. 19—Inspection of Salt, Flour, Beef, Pork, and Hay.

Sec. 35—1901. Appointment of inspectors.

The board of county commissioners in any county may appoint inspectors, to serve during four [4] years, unless sooner removed by such board, to inspect within the said county, when required, the following articles: Salt, beef, pork, flour and hay. [1852]

Sec. 35—1902. Inspector's brand.

All barrels, hogsheds and bales inspected shall be branded with the name and residence of the inspector. [1852]

Sec. 35—1903. Brand on salt barrels.

An inspector of salt shall brand on one end of the barrel the quality, whether first, second or

third rate, also the weight, specifying gross, tare and net.¹ [1852]

¹ See also Sec. 10-4801, page 315.

Sec. 35-1904. Flour barrel.

The weight of flour in each barrel shall be one hundred and ninety-six [196] pounds. * * * [1852]

Sec. 35-1905. Beef and pork barrels.

The weight of beef or pork in each barrel shall be two hundred [200] pounds. * * * [1852]

Sec. 35-1907. Marking of hay.

The weight, in pounds, and the quality, determined according to the usages of trade, shall be branded on each bale of hay. [1852]

Sec. 35-1908. Purchase of hay scales.

Such boards may authorize inspectors of hay to procure, at the expense of the county, suitable hay-scales. [1852]

Sec. 35-1909. Inspector's oath and bond.

Inspectors, before entering on the duties of office, shall give bond to the satisfaction of such board, conditioned for the faithful discharge of their duties, and shall file the same in the county clerks office; and shall also take an oath of office. [1852]

Sec. 35-1914. Regulations by county board.

The board of county commissioners may make such further regulations in regard to inspectors as to them may seem necessary. [1852]

Burns Statutes Annotated 1933, Vol. 7, Title 35, Ch. 23, Sec. 35-2314—Eggs.

[ED. NOTE.—This section gives the State egg board the power to formulate and determine standards of quality and weights of eggs sold or offered for sale as fresh eggs and to formulate standards of quality and weights of eggs sold or offered for sale by wholesalers and retailers as eggs fit for human consumption. The section is not included herein as its provisions relate primarily to quality.]

Burns Statutes Annotated 1933, Vol. 8, Title 42, Ch. 9—Live Stock Buyers.

Sec. 42-911. Definitions.

Except when the context hereof clearly indicates a different meaning, when used in this act [Secs. 42-910—42-924]:

(a) The words "administrative officer" whenever used in this act, shall be construed to mean the commissioner of agriculture of the state of Indiana.

(b) The word "stock-yards" whenever used in this act, shall be construed to mean a place where live stock is assembled and which is posted as a stock-yards by the secretary of agriculture of the United States of America, under and pursuant to the terms and provisions of the Packers and Stock-

yards Acts of 1921 (42 U. S. Statutes at Large, page 159) and laws amendatory thereof.

(c) The words "concentration point" whenever used in this act, shall be construed to mean any stockyards, community sale, auction, place, establishment or facility, where any series of sales, exchanges or purchases of any live stock, is made at regular or irregular intervals in this state, by any person directly or indirectly, for the producer or consignor thereof, except that this term shall not apply to sales, purchases or exchanges, at a stock-yards which is posted as a stockyards by the secretary of agriculture of the United States of America, as defined herein.

(d) The word "buyer" whenever used in this act, shall be construed to mean any person, or his employees, agents and/or representatives, who operates or maintains a concentration point as herein defined.

* * * * *

(f) The word "live stock" whenever used in this act, shall be construed to mean cattle, sheep, swine, horses, mules or goats, intended for slaughter. [1935; last amended 1943.]

Sec. 42-912. Exceptions.

No provision of this act [Secs. 42-910—42-924] shall be construed to apply to a "market agency or dealer," when doing business at or on a "stock-yards," nor to any transaction at or on a "stock-yards," nor to the purchase or sale of "live-stock" by or for a serum plant or business, nor to shipping or cooperative associations in the business of assembling livestock, solely for the purpose of shipment to a "concentration point" or "stockyards" as defined in this act. [1935; last amended 1937.]

Sec. 42-915. Bond.

Every buyer of live stock as defined in this act [Secs. 42-910—42-924], before engaging or continuing in the business of buying live stock, in addition to the license as required herein, shall execute and maintain a bond payable to the state of Indiana, to secure the performance of his obligation incurred as such buyer. The form of such bond shall be prescribed by the administrative officer [commissioner of agriculture] and shall be conditioned upon a compliance with the terms of this act; * * * [1935]

Sec. 42-917. Testing of scales; condemnation; penalty; revocation of license.

(a) All weighing facilities furnished or used by any buyer licensed under this act [Secs. 42-910—42-924] shall be maintained and operated in accordance with rules and regulations promulgated by the administrative officer [commissioner of agriculture]. Such weighing facilities shall be inspected and tested by the administrative officer or his duly authorized representative, and to that end the ad-

Burns Statutes Annotated 1933, Vol. 8, Title 42, Ch.
9—Live Stock Buyers—Continued.

administrative officer shall have available approved standard testing weights for the use of the testing officer.

(b) In event, after proper inspection and/or testing, a weighing facility is found to be defective, the testing officer shall have the right and power to condemn and/or seal said weighing facility and to prevent its further use until repairs or renewals have been made to the full satisfaction of the testing officer.

(c) In event a person or his agent or a buyer as defined in this act allows a weighing facility to be used in the purchase and sale of live stock after same has been condemned and/or sealed and before it has been repaired to the full satisfaction of the testing officer, a penalty of fifty dollars [\$50.00] per day payable to the state of Indiana, shall be assessed and collected for each day said weighing facility is used after the date of sealing and condemnation, * * *.

(d) Any buyer, after a hearing has been had before the administrative officer or his representative, who is found guilty of fraudulent, deceptive or dishonest practices in the weighing of live stock shall have his license revoked. [1935; last amended 1943.]

Sec. 42-919. Right of entry.

(a) Each buyer shall during ordinary business hours permit any authorized representative of the administrative officer [commissioner of agriculture] to enter the place of business and inspect any or all property in the possession or control and all records pertaining to the business of the buyer as such. Any necessary facilities for such inspection shall be extended to the administrative officer's duly authorized agent by the buyer, his agents or employees. [1935]

* * * * *

Sec. 42-920. Penalty for violations.

Any person or his employees, agents and/or representatives violating any of the provisions of this act [Secs. 42-910—42-924] shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine in any amount not exceeding two hundred dollars [\$200] for each day the violation continues, and for a second offense, there may be added in the discretion of the court, imprisonment not exceeding six [6] months. [1935]

Burns Statutes Annotated 1933, Vol. 8, Title 46, Ch.
4—Mine Scales, Inspection.

Sec. 46-401. Inspection by director; testing by sealed weights; adjustment.

* * * * *

(c) It shall be the duty of the state commissioner of weights and measures,¹ or his deputy, in addition to his other duties, to examine all scales used at any

time for the purpose of weighing coal taken out of said [any] mine. The scales shall be tested by sealed weights; the same shall be furnished to said state commissioner of weights and measures, or his deputy, by the auditor of state on requisition, the cost of which shall be audited by the auditor of state, and paid out of any money in the state treasury not otherwise appropriated. And on inspection, if the scales are found incorrect, and after written notice by the state commissioner of weights and measures, or his deputy, it shall be unlawful for any operator to use or suffer the same to be used, until the scales are adjusted to weigh correctly. [1923; last amended 1943.]

* * * * *

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Burns Statutes Annotated 1933, Vol. 8, Title 46, Ch.
7—Mine Scales, Weighmen.

Sec. 46-711. Scales to be provided; duties of weighman and check-weighman; right of entry.

(a) The operator of every mine at which the miners are paid by weight shall provide suitable and accurate scales of standard manufacture for the weighing of coal which may be procured from such mine; such operator shall be required to keep United States standard weights to test said scales.

(b) At every mine where the coal mined is paid for by weight it shall be the duty of the weighman and the check-weighman to examine and balance the scales each morning, and in no case shall any coal be weighed until such scales are tested by the United States standard weights and found to be correct. Said weighman shall accurately weigh, and he shall, together with the check-weighman, record the weight of each miner's car of coal delivered, which record shall be kept open at all reasonable hours for inspection of all miners or other persons peculiarly interested in the product of such mine: Provided, That if the weighman and the check-weighman shall disagree, work may continue until the state commissioner of weights and measures¹ or his deputy can be present, and any erroneous weights made during such time shall be rectified. When difference shall arise between the weighman and check-weighman, or operator, of any mine as to the correctness of the scales, the same shall be referred to the state commissioner of weights and measures or his deputy, whose duty it shall be to see and regulate the same at once.

(c) The state commissioner of weights and measures or his deputy and miners employed in the mine, the owner of the land and others personally interested in the royalty or rental of such mine, shall at all proper times have full right of access to make examination of scales or apparatus used for weighing coal in or about said mine, including the records in which the weights of coal are kept, to deter-

mine the amount of coal mined, for the purpose of attesting the accuracy thereof. [1923; last amended 1925.]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 46-712. Checkweighman.

(a) Whenever the mining of coal is paid for by weight, the miners employed in mining the same shall have the right of selecting and keeping in the weigh-office, or at the place of weighing the coal, a check-weighman, who shall be vested with the same rights as described in section eight [Sec. 46-711] of this act [Secs. 46-701-46-1110], said check-weighman to be paid by said miners. [1923]

Burns Statutes Annotated 1933, Vol. 8, Title 46, Ch. 4—Mine Scales, Penalties for Violation of Act.

Sec. 46-1107. Penalties.

(a) Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this act [Secs. 46-701-46-1110], on the part of the person or persons herein required to do them, or any violation of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector of mines in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector of mines by authority of this act, shall be deemed a misdemeanor, punishable by a fine not exceeding five hundred [\$500] or by imprisonment in the county jail for a period not exceeding six [6] months, or both, at the discretion of the court: Provided, That the foregoing shall not apply to sections in this act which have special penalties provided for them. [1923]

Burns Statutes Annotated 1933, Vol. 8, Title 46, Ch. 12—Coal and Coke.

Sec. 46-1201. Delivery tickets.

It shall be unlawful for any person, firm or corporation, by himself or itself, or by his or its servants or as the servant or agent of another, to sell or offer for sale or delivery at retail any coal or coke, which is sold by weight, unless each such delivery is accompanied by a delivery ticket and a duplicate thereof, upon each of which tickets and duplicates thereof shall be written, or otherwise indicated, (a) The name and address of the person, firm, corporation or association, selling and delivering or attempting to sell or deliver such commodity, (b) The gross weight of the load, the tare weight of the delivering vehicle, and the net amount in weight, of the commodity being delivered in such vehicle, (c) The name or identifying initials of the party who weighed it, (d) The state in which the coal was mined, the name of the coal, brand or trade-name, if any; the

number of the vein or seam from which the coal was taken; and the size and grade thereof, which size of all grades must be designated according to the openings in the screens over and through which each such size of coal is made at the place of production. One [1] of such delivery tickets or the duplicate thereof shall be delivered and surrendered by the person or persons in charge of the delivery of such load of commodities to the purchaser thereof or to his agent or representative; and the other ticket or duplicate shall be retained by the person, firm or corporation making such sale for a period of not less than twelve [12] months from date of sale. All coal or coke so sold or delivered shall consist of the kind, quality and weight in all respects as described and indicated in such delivery ticket and duplicate thereof and it shall constitute a violation of this act [Secs. 46-1201-46-1207] to sell or deliver or substitute any other kind and quality or weight of coal or coke than that so described and indicated, and proof of the sale, delivery or substitution of any coal or coke which is not of the kind, quality and weight so described and indicated shall constitute prima facie evidence and proof of intent to violate this section of this act. [1931; last amended 1935.]

Sec. 46-1203. Signs on delivery vehicles.

Upon both sides of delivery vehicles shall be displayed a sign with letters not less than three [3] inches in height, showing name of person, firm or corporation delivering or attempting to deliver commodities as prescribed in section one [46-1201] [1931]

Sec. 46-1204. Examination of delivery tickets; reweighings.

Upon the demand of the state commissioner of weights and measures,¹ his deputy, inspector, or any peace officer, the person or persons in charge of any such load of commodities shall deliver to such officer all delivery tickets in his possession, and shall proceed, at the direction of said officer to a suitable tested scale for the purpose of re-weighing such load of commodities to verify the correctness of the delivery ticket. [1931; last amended 1935.]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 46-1205. Penalties.

Any person, firm or corporation who shall violate any of the provisions of this act [Secs. 46-1201-46-1207] shall be deemed guilty of a misdemeanor and shall, on conviction, for the first offense, be punished by a fine of not less than ten dollars [\$10.00] nor more than fifty dollars [\$50.00]; and for the second or any subsequent offense, by a fine of not less than twenty-five dollars [\$25.00] nor more than one hundred dollars [\$100], to which may be added imprisonment in the county jail or penal farm for not less than thirty [30] days nor

Burns Statutes Annotated 1933, Vol. 8, Title 46, Ch. 12—Coal and Coke—Continued.

more than ninety [90] days. [1931; last amended 1935.]

Sec. 46-1206. Construction of act.

Nothing in this act [Secs. 46-1201—46-1207] shall prohibit any city from regulating by ordinance the retail or wholesale delivery of coal. [1931]

Burns Statutes Annotated 1933, Vol. 10, Title 54, Ch. 3—"Public Service Commission Act."

Sec. 54-308. Rules and regulations for testing.

The commission [public service commission] shall * * * prescribe reasonable regulations for examinations and testing of such product or service and for the measurement thereof [heat, light, water or power, etc.] [1913]

Sec. 54-309. Securing accuracy of meters.

The commission [public service commission] shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. Nothing contained in this section shall limit in any manner any powers or authority vested in municipal corporations as provided in section one hundred ten [54-614]. [1913]

Sec. 54-310. Testing of appliances; fees.

The commission shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility. Any consumer or user may have any such appliance tested upon payment of the fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance or rate be found unreasonably defective or incorrect to the disadvantage of the consumer or user. [1913]

Burns Statutes Annotated 1933, Vol. 10, Title 55, Ch. 14—Common Carriers, Freight Weights.

Sec. 55-1404. Determination of freight weights in case of disputes.

In all cases wherein there is a dispute or failure of agreement between any common carrier and any consignor, consignee, or the assigns of either, concerning the actual weight of any shipment over the line of such carrier, or over the line of such carrier and any other carrier or carriers, or concerning the means or method used or to be used to determine such actual weight, the same may be referred by any party to the railroad commission¹ of Indiana for settlement, and disposed of under the ordinary

rules governing notice and procedure by the commission as in other cases, and the determination by the commission shall be prima facie evidence of such actual weight in all courts and proceedings in Indiana. [1913]

¹ Railroad Commission superseded by Public Service Commission. Acts 1913, Ch. 76, Sec. 4 [Burns 54-107].

Burns Statutes Annotated 1933, Vol. 11, Title 60, Ch. 15—Rules and Regulations of Departments, Boards and Commissions.

Sec. 60-1501. State agencies; promulgation of rules; intent not to give additional authority.

It is the intent to establish a uniform method of making, promulgating, filing and publishing rules by all agencies of this state, to permit public participation therein and provide a method of making rules readily accessible to the public. It is not intended to give to any agency any additional rule-making power or authority and no additional or new power or authority to make or adopt rules is given to any agency by this act [Secs. 60-1501—60-1511]. [1945]

Sec. 60-1504. Publication; hearing.

Before any rule is adopted by any agency it shall cause a notice to be published in a newspaper of general circulation printed and published in Marion County, Indiana, at least ten [10] days prior to the date set for a hearing: * * * [1945]

Sec. 60-1505. Duty to submit rules to attorney-general and governor for approval; filing with secretary of state and legislative bureau; rules not effective until act complied with.

It shall be the duty of every agency which may have been or hereafter may be clothed with or given any power or authority to make, adopt, promulgate or enforce rules to submit the same to the attorney-general for approval as to legality and when so approved to submit the same to the governor for approval. When approved by the governor such agency shall file the original approved copy and one [1] duplicate thereof with the secretary of state who shall note the date and hour of such filing thereon and said agency shall also file a duplicate approved copy with the legislative bureau. No such rule shall be effective until after compliance with the provisions of this act [Secs. 60-1501—60-1511] and until they have been so approved and filed and shall be effective as of the date and time filed with the secretary of state; Provided, however, that any rule adopted by any agency after the effective date of this act and prior to the first day of January, 1946, when approved and filed in accordance with the provisions of this act, shall be effective as of the date of its adoption by such agency. [1945]

Sec. 60-1506. Procedure for repeal or amendment of rules.

In case any agency desires to repeal, rescind or amend any rule the same procedure shall be fol-

lowed as provided in this act [Secs. 60-1501-60-1511] for the adoption of a rule. [1945]

Burns Statutes Annotated 1933, Vol. 11, Title 67, Ch. 3—Tobacco Warehouses.

Sec. 67-302. Scales; weighing.

The proprietor of each warehouse [tobacco warehouse] shall provide, and continually keep in the same and in good order, scales of sufficient size and strength to weigh at least one [1] ton weight, which shall be tested once in every year, and oftener if necessary, by the standard weights and measures; * * *. The said warehouse proprietors shall superintend the weighing of each hogshhead of tobacco, and see that the empty cask is properly weighed, and that the proper number and weights, gross, tare, and net are marked on one [1] of the heads of the same. * * * [1857]

Sec. 67-303. Records.

The proprietor shall keep a well-bound book of proper size, in which shall be entered the marks, numbers, gross, tare and net weights of each hogshhead inspected and sold, together with the owner's name, the price sold for per one hundred [100] pounds and the amount each hogshhead sold for; and, when requested to do so, shall collect and pay to the planters or sellers of tobacco the sum due them. He shall make account of sales for the planters or sellers, stating the number of hogshheads, gross, tare and net weights, and the price per [100] hundred pounds, and the sum each hogshhead amounts to. [1857]

Sec. 67-305. Bond; penalty.

The proprietor of each warehouse shall enter into bond, with good security, to be approved by the judge of the circuit court of the county, and kept on file in that court (provided the approval of the clerk of said court in vacation is authorized until the next session of that court), payable to the state of Indiana, in the sum of five thousand dollars [\$5,000], conditioned well and truly to perform all the duties required of him by and to conform to all the provisions of this act [Secs. 67-301-67-314]. The party injured by any violation of said bond may sue thereon by civil suit, and recover, for his own benefit as in other cases, for any injury received. Any such proprietor who shall violate any condition of such bond or any provision of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding one thousand dollars [\$1,000]. [1857]

Sec. 67-309. Marking of hogshheads.

Hogshheads of tobacco * * * shall be branded with the gross, tare and net weight, * * * [1852]

Burns Statutes Annotated 1933, Vol. 11, Title 67, Ch. 6—Grain Warehousing.

Sec. 67-602. Definitions.

As used in this act [Secs. 67-601-67-627], unless the context clearly evidences a contrary intention, the following terms shall be construed respectively:

(a) Commissioner. The state commissioner of weights and measures,¹ division of public health, department of commerce and industry, state of Indiana.

(b) Board. Any local supervisory board of individual producers appointed by the commissioner of weights and measures under the provisions of this act.

(c) Sealer. Any person whose duty it shall be, under the provisions of this act, to inspect, measure and seal any granary, crib, bin or other receptacle for the storage of grain.

(d) Certificate. Any certificate or receipt evidencing the storage of grain under the provisions of this act and any rules or regulations promulgated thereunder shall be considered to be used herein in the same connection as the word "receipt" is used in the Uniform Warehouse Receipts Act.

(e) Owner. Any person or persons (whether individuals, partners or copartners) who shall have title to and possession of any grain stored under the provisions of this act, and shall be construed to have been used herein in the same connection as the word "warehouseman" is used in the Uniform Warehouse Receipts Act. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-603. Enforcement; rules and regulations.

The commissioner of weights and measures¹ is hereby authorized and it is hereby declared to be his duty to carry out the provisions of this act, [Secs. 67-601-67-627] and to that end he is hereby authorized to:

(a) Make and promulgate such rules and regulations, not inconsistent herewith, as shall be necessary or desirable effectually to carry out the provisions hereof.

(b) Make such reasonable regulations with respect to the construction and maintenance of granaries, cribs, bins or other receptacles as may be necessary to protect the grain stored therein under the provisions of this act. [1935]

* * * * *

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-606. Appointment of sealers.

The commissioner¹ may, upon the recommendation of any board appointed by him hereunder, or upon the request in writing of ten [10] or more producers of grain, appoint a local sealer or sealers for any county or counties or part thereof, and every

Burns Statutes Annotated 1933, Vol. 11, Title 67, Ch. 6—Grain Warehousing—Continued.

such sealer so appointed shall have the same authority with respect to the provisions of this act [Secs. 67-601—67-627] and the rules and regulations promulgated thereunder and the enforcement thereof as any officer of the peace. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-607. Bond and oath of sealers.

Each sealer shall furnish bond for the faithful performance of his duties in such amount as shall be determined by the commissioner,¹ but in no event shall such bond be in an amount less than one thousand dollars [\$1,000]. The bonds and sureties thereon shall, in every class, be subject to approval of the commissioner and be deposited with him, and in case it is not a personal bond the premium thereon shall be paid by the commissioner out of the funds collected under this act [Secs. 67-601—67-627]. He shall also qualify by taking oath similar to that required of public officials. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-608. Sealer's duties.

It shall be the duty of the sealer, under the direction of the commissioner,¹ to:

- (a) Supervise the storage of grain;
- (b) Ascertain the amount stored by each owner who shall desire to avail himself of the privileges of this act;
- (c) Determine so far as possible upon the basis prescribed in the rules and regulations issued hereunder the exact grade and quantity thereof;
- (d) Ascertain, prior to the issuance of any certificate, that the bin, crib, granary or other receptacle in which the grain is stored is satisfactory for the storage of such grain and that such receptacle conforms to the regulations applicable thereto promulgated by the commissioner.

He shall before delivering a certificate to the owner, ascertain that there are no other certificates outstanding upon the grain and shall seal the granary, crib, bin or other receptacle in which the grain is stored in the manner hereinafter provided, and thereafter to make periodic inspections of the granaries, cribs, bins or other receptacles so sealed at such times and in such manner as the commissioner may determine, but in no event less frequently than ninety [90] day intervals, rendering to the commissioner, with reference to each such subsequent inspection, and to the owner, when requested, a report or affidavit in such form as may be required in regard to the amount and condition of the grain under seal and the condition of the structure within which it is stored. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-611. Certificates.

Certificates shall be upon forms to be prepared and furnished by the commissioner¹ and every certificate must embody within its written or printed terms:

- (a) The date and consecutive number thereof;
- (b) A particular description of the granary, crib, bin or other receptacle in which the grain is stored and of the premises on which it is located;
- (c) Such description of the grain as may be required by the regulations issued hereunder;
- (d) The name of the owner or owners, whether ownership is sole, joint, or in trust, and in case of tenants, the date of the expiration of the lease; [1935]

* * * * *

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-614. Issuance of certificates.

All certificates issued hereunder shall be issued in triplicate, two [2] copies of which shall be marked "Duplicate—No Value." The original and one [1] duplicate copy shall be delivered to the owner and the other duplicate copy shall be filed with the commissioner of weights and measures¹ or the local supervisory warehouse board for the county in which the grain is stored if any such board has been established hereunder. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-616. Indexing by recorder.

When a duplicate is filed in the office of the recorder, he shall index the same in the chattel mortgage index or other suitable index book showing date of the certificate, the number thereof, to whom issued, kind, quantity, and location of the grain. * * * The filing and indexing of such certificate shall impart the same notice as the filing and indexing of a chattel mortgage. [1935]

Sec. 67-621. Supervision fund.

For the purpose of defraying the expenses of supervision, the owner shall pay to the commissioner¹ of [or] the local supervisory board of the county in which the grain is stored, if any, at the time of sealing, an amount determined by the rules and regulations issued hereunder, but in no event to exceed one cent [1¢] per bushel for grain inspected and sealed by the sealer. Out of the funds thus created, the compensation of the sealer as fixed by the commissioner shall be paid by him or by the board of the county in which the grain is stored, subject to his approval. [1935]

¹ Now Director, State Division of Weights and Measures; see Ed. note following Sec. 69-103, page 303.

Sec. 67-622. Sealer's fees.

In the exercise of his powers and functions as an officer of the peace in connection with the provi-

sions of this act [Secs. 67-601—67-627], the sealer shall be entitled to the same fees as are provided by law for the performance of similar duties by county sheriffs. [1935]

Sec. 67-624. False certificate; penalty.

An owner, the agent or servant of an owner, or any member of any board, or any sealer, who fraudulently issues or aids in fraudulently issuing a certificate for grain, knowing that it contains any false statement, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for each offense by imprisonment not exceeding one [1] year, or by a fine not exceeding one thousand dollars [\$1,000], or by both. [1935]

Burns Statutes Annotated 1933, Vol. 4, Title 10, Ch. 21—False Advertising.

Sec. 10-2110. Unlawful acts; penalty.

Any person, firm, corporation or association who, with intent to sell or in any manner dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or dis-

tribution thereof, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or, in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall be liable to a fine of not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100] for each offense: Provided, however, That the provisions of this act shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular who, in good faith, and, without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of, such advertisement. [1917]

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Code 1946, Vol. I, Title X, Ch. 210—Standard Weights and Measures.

Sec. 210.1. Standards established.

The weights and measures which have been presented by the department [of agriculture] to the federal bureau of standards and approved, standardized, and certified by said bureau in accordance with the laws of the congress of the United States shall be the standard weights and measures throughout the state. [1851]

Sec. 210.2. Yard; rod; pole; perch; mile.

The unit or standard measure of length and surface from which all other measures of extension shall

be derived and ascertained, whether they be lineal, superficial, or solid, shall be the standard yard secured in accordance with the provisions of section 210.1. It shall be divided into three equal parts called feet, and each foot into twelve equal parts called inches, and for the measure of cloth and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths, and sixteenths. The rod, pole, or perch shall contain five and one-half such yards, and the mile, one thousand seven hundred sixty such yards. [1851]

Sec. 210.3. Acre; square mile; chain.

The acre for land measure shall be measured horizontally and contain ten square chains and be equiv-

alent in area to a rectangle sixteen rods in length and ten rods in breadth, six hundred and forty such acres being contained in a square mile. The chain for measuring land shall be twenty-two yards long, and be divided into one hundred equal parts, called links. [1873]

Sec. 210.4. Pound; avoirdupois ounce; hundredweight; ton; troy ounce.

The units or standards of weight from which all other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights secured in accordance with the provisions of section 210.1. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred sixty, shall be divided into sixteen equal parts called ounces; the hundredweight shall consist of one hundred avoirdupois pounds, and twenty hundredweight shall constitute a ton. The troy ounce shall be equal to the twelfth part of a troy pound. [1851]

Sec. 210.5. Standard gallon and subdivisions; barrel; hogshead.

The unit or standard measure of capacity for liquids from which all other measures of liquids shall be derived and ascertained shall be the standard gallon secured in accordance with the provisions of section 210.1. The gallon shall be divided by continual division by the number two so as to make half-gallons, quarts, pints, half-pints, and gills. The barrel shall consist of thirty-one and one-half gallons, and two barrels shall constitute a hogshead. [1873]

Sec. 210.6. Standard half-bushel and subdivisions.

The unit or standard measure of capacity for substances not liquids from which all other measures of such substances shall be derived and ascertained shall be the standard half-bushel secured in accordance with the provisions of section 210.1. The peck, half-peck, quarter-peck, quart, pint, and half-pint measures for measuring commodities which are not liquids, shall be derived from the half-bushel by successively dividing the cubic inch capacity of that measure by two. [1873]

Sec. 210.7. Bottomless measures.

Bottomless dry measures shall not be used unless they conform in shape to the United States standard dry measures. [1915]

Sec. 210.8. Dry commodities to be sold by weight or numerical count.

All dry commodities unless bought or sold in package or wrapped form shall be bought or sold only by the standard weight or measure herein established, or by numerical count, unless the parties otherwise agree in writing, except as provided in sections 210.9 to 210.12, inclusive. [1915]

Sec. 210.9. Sale of drugs and section comb honey.

The requirements of section 210.8 shall not apply to drugs or section comb honey. [1915]

Sec. 210.10. Bushel weights.

When any of the commodities enumerated in this section shall be sold by the bushel or fractional part thereof, except when sold in a United States standard container or as provided in sections 210.11 and 210.12, the measure shall be determined by avoirdupois weight and shall be computed as follows:¹

Alfalfa seed	60
Apples	48
Apples, dried	24
Barley	48
Beans, castor, shelled	50
Beans, green, unshelled	56
Beans, dried	60
Beans, lima	56
Beets	56
Blue grass seed	14
Bran	20
Bromus inermis	14
Broom corn seed	50
Buckwheat	48
Carrots	50
Castor beans, shelled	50
Charcoal	20
Cherries	40
Clover seed	60
Coal	80
Coke	40
Corn on the cob (field)	70
Corn in the ear, unhusked (field)	75
Corn, kafir	56
Corn, shelled (field)	56
Corn, sweet	50
Corn meal	48
Cucumbers	48
Emmer	40
Flaxseed	56
Grapefruit	48
Grapes, with stems	40
Hempseed	44
Hickory nuts, hulled	50
Hungarian grass seed	50
Kafir corn	56
Lemons	48
Lima beans	56
Lime	80
Millet seed	50
Oats	32
Onions	52
Onion top sets	28
Onion bottom sets	32
Oranges	48
Orchard grass seed	14
Osage orange seed	32
Parsnips	45
Peaches	48
Peaches, dried	33
Peanuts	22
Pears	45
Peas, green, unshelled	50
Peas, dried	60
Plums	48
Popcorn, on the cob	70
Popcorn, shelled	56
Potatoes	60
Potatoes, sweet	50

Code 1946, Vol. I, Title X, Ch. 210—Standard Weights and Measures—Continued.

Quinces	48
Rape seed	50
Redtop seed	14
Rutabagas	60
Rye	56
Salt	80
Sand	130
Seed, alfalfa	60
Seed, blue grass	14
Seed, broom corn	50
Seed, clover	60
Seed, flax	56
Seed, hemp	44
Seed, Hungarian grass	50
Seed, millet	50
Seed, orchard grass	14
Seed, Osage orange	32
Seed, rape	50
Seed, redtop	14
Seed, sorghum saccharatum	50
Seed, timothy	45
Shorts	20
Sorghum saccharatum seed	50
Spelt	40
Sweet corn	50
Sweet potatoes	50
Timothy seed	45
Tomatoes	50
Turnips	55
Walnuts, hulled	50
Wheat	60
All root crops not specified above	50
Soy beans	60

[1851; last amended 1949]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 210.11. Sale of certain fruits and vegetables by dry measure.

Blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in quantities of one peck or less, may be sold by the quart, pint, or half-pint, dry measure. [1915]

Sec. 210.12. Sale of fruits and vegetables in climax baskets.

Grapes, other fruits, and vegetables may be sold in climax baskets; but when said commodities are sold in such manner and the containers are labeled with the net weight of the contents in accordance with the provisions of section 189.9,¹ all the provisions of the chapter [Secs. 210.1-210.25] relative to labeling foods shall be deemed to have been complied with. [1924]

¹ See page 339.

Sec. 210.13. Specifications for berry boxes and climax baskets.

Berry boxes sold, used, or offered or exposed for sale shall have an interior capacity of one quart, pint, or half-pint dry measure. Climax baskets sold, used, or offered or exposed for sale shall be of the standard size fixed below:

1. Two-quart basket: length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and

seven-eighths inches, outside measurement; top of basket, length eleven inches, and width five inches, outside measurement; basket to have a cover five by eleven inches, when a cover is used.

2. Four-quart basket: length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement; basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

3. Twelve quart basket: length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch, outside measurement; top of basket, length nineteen inches, height of basket, seven and one-sixteenth inches, width nine inches, outside measurement; basket to have cover nine inches by nineteen inches, when cover is used. [1915]

Sec. 210.14. Specifications for hop boxes.

The standard box used in packing hops shall be thirty-six inches long, eighteen inches wide, and twenty-three and one-fourth inches deep, inside measurement. [1873]

Sec. 210.15. Milk bottles.

The standard bottle used for the sale of milk and cream shall be of a capacity of one-half gallon, three pints, one quart, one pint, one half-pint, one gill, filled full to the bottom of the lip. [1913]

Sec. 210.16. Standard weight of flour when sold in package form.

The standard weights of flour when sold in package form shall be as follows: two (2), five (5), ten (10), twenty-five (25), fifty (50), or one hundred (100) pounds. [1949]

Sec. 210.17. Perch.

The perch of mason work or stone shall consist of twenty-five feet, cubic measure. [1851]

Sec. 210.18. Method of sale of commodities; packaged commodities.

All commodities bought or sold by weight or measure shall be bought or sold only by the standards established by this chapter [Secs. 210.1-210.25], unless the vendor and vendee otherwise agree. Sales by weight shall be by avoirdupois weight unless troy weight is agreed upon by the vendor and vendee.

All commodities bought or sold in package form shall be labeled in compliance with the general provisions for labeling provided for in sections 189.9 to 189.16,¹ inclusive, of the Code unless otherwise provided for in this Chapter [Secs. 210.1-210.25]. [1915; last amended 1949.]

¹ See pages 339 and 340.

Sec. 210.19. Bread: Standard weights.

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: three-quarters pound, one pound, one and one-quarter pound, one and one-half pound, or multiples of one pound, avoirdupois weight; 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. In case of twin or multiple loaves, the weights specified in this section shall apply to the combined weight of the two units. [1927]

Sec. 210.20. Same: Marking requirements.

There shall be printed upon the wrapper of each loaf of bread in plain conspicuous type, the name and address of the manufacturer and the weight of the loaf in terms of one of the standard weights herein specified. [1927]

Sec. 210.21. Same: Penalty.

It shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which are not of one of the weights specified in section 210.19, or violate the rules of the secretary of agriculture pertaining thereto. Any person who, by himself or by his servant, or agent, or as the servant or agent of another, shall violate any of the provisions of sections 210.19 to 210.25, inclusive, shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars upon conviction in any court of competent jurisdiction, or by imprisonment for not more than thirty days, in the discretion of the court. [1927]

Sec. 210.22. Same: Person defined.

The word "person" as used in section 210.21 shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. [1927]

Sec. 210.23. Same: Exemption.

Any woman engaged in home baking is exempt from the provisions of sections 210.19 to 210.22, inclusive. [1927]

Sec. 210.24. Same: Enforcement; rules and regulations.

The secretary of agriculture shall enforce the provisions of sections 210.19 to 210.25, inclusive. He shall make rules and regulations for the enforcement of the provisions of said sections not inconsistent therewith, and such rules and regulations

shall include reasonable variations and tolerances. [1927]

Sec. 210.25. Same: Inspection by weighing.

Bread when weighed for inspection shall be weighed in the manufacturer's plant when said bread is wrapped ready for delivery, and bread coming into the state from an adjoining state when weighed for inspection shall be weighed in the packages, containers, vehicles or trucks of the manufacturer at the time when said bread crosses the state line, or at the first point of stop for sale or delivery of said bread after crossing the Iowa state line, and the weight shall be determined by averaging the weight of not less than fifteen loaves picked at random from any given lot. [1935]

Code 1946, Vol. I, Title X, Ch. 212—Sales of Certain Commodities From Bulk.

Sec. 212.1. Sale of coal, charcoal, and coke.

No person shall sell, offer or expose for sale any coal, charcoal, or coke in any other manner than by weight, or represent any of said commodities as being the product of any county, state, or territory, except that in which mined or produced, or represent that said commodities contain more British thermal units than are present therein. [1913]

Sec. 212.2. Same: Delivery tickets.

No person shall deliver any bulk commodities, other than liquids, by vehicle, unless otherwise provided for without each such delivery being accompanied by duplicate delivery tickets, on each of which shall be written in ink or other indelible substance the actual weight distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the net amount in weight of the commodity, with the names of the purchaser and the dealer from whom purchased. [1949]

Sec. 212.3. Same: Disposition of delivery tickets.

One of said duplicate tickets shall be delivered to the vendee and the other one shall be returned to the vendor. Upon demand of the department [of agriculture] the person in charge of the load shall surrender one of said duplicate tickets to the person making such demand. If said ticket is retained an official weight slip shall be delivered by said department to the vendee or his agent. [1913]

Sec. 212.4. Same: Sales without delivery.

When the vendee carries away the commodity purchased, a delivery ticket, showing the actual number of pounds received by him, shall be issued to him by the vendor. [1913]

Sec. 212.5. Sale of baled hay or straw.

No person shall sell, offer or expose for sale any bales of hay or straw without first attaching thereto a plain and conspicuous statement of the minimum net weight contained in such bales; but nothing in

Code 1946, Vol. I, Title X, Ch. 212—Sales of Certain Commodities From Bulk—Continued.

this section shall be construed to require a statement of weight on each bale where hay or straw is sold by the ton and a ticket showing the gross, tare, and net weight accompanies the delivery. [1924]

Sec. 212.6. Weighing of loaded vehicles.

The department [of agriculture] may stop any wagon, auto truck, or other vehicle loaded with any commodity being bought, offered or exposed for sale, or sold, and compel the person having charge of the same to bring the load to a scale designated by said department and weighed for the purpose of determining the true net weight of the commodity. [1913]

Code 1946, Vol. I, Title X, Ch. 213—State and City Sealers.

Sec. 213.1. State sealer.

The department [of agriculture] shall designate one of its assistants to act as State sealer of weights and measures. All weights and measures sealed by him shall be impressed with the word "Iowa". [1873]

Sec. 213.2. Custody and certification of standards.

The department [of agriculture] shall maintain the state standards in good order, shall take all necessary precautions for their safekeeping, and shall submit them once in ten years to the national bureau of standards for certification. [1873]

Sec. 213.3. Testing of weights and measures upon request.

Upon written request of any citizen, firm, or corporation, city, town, or county, or educational institution of the state made to the department [of agriculture], a test or calibration of any weights, measures, weighing or measuring devices, and instruments or apparatus to be used as standards shall be made. [1913]

Sec. 213.4. Inspection of milk bottles.

The state sealer shall not be required to seal bottles for milk or cream, but they shall be inspected from time to time in order to ascertain whether they are standard. [1913]

Sec. 213.5. Appointment of city or town sealers.

A sealer of weights and measures may be appointed in any city or town by the council, who shall hold his office during its pleasure, and may obtain from the department [of agriculture] such standard weights and measures as the council may deem necessary. [1873]

Sec. 213.6. Duties of city or town sealers.

Each sealer in cities and towns shall take charge of and provide for the safekeeping of the town or city standards, and see that the weights, measures, and all apparatus used for determining the quantity of commodities used throughout the town or

city, agree with the standards in his possession. [1873]

Sec. 213.7. Expenses regarding standards.

All expenses directly incurred in furnishing the several cities and towns with standards, or in comparing those that may be in their possession, shall be borne by said cities and towns. [1873]

Code 1946, Vol. I, Title X, Ch. 214—Public Scales and Gasoline Pumps.

Sec. 214.1. Definitions.

For the purpose of this chapter [Secs. 214.1–214.8]:

1. "Public scale" shall mean any scale or weighing device for the use of which a charge is made or compensation is derived.

2. "Gasoline pump" shall mean any pump, meter, or similar measuring device used for measuring gasoline. [1873]

Sec. 214.2. Licenses.

Every person who shall use or display for use any public scale, pump or meter used in measuring the quantity of gasoline or fuel oil sold to consumer customers shall secure a license for said scale, pump, or meter from the department. [1915; last amended 1949.]

Sec. 214.3. License fees.

The license for a public scale shall expire on December thirty-first (31st) of each year, and for a gasoline pump or meter on June thirtieth (30th) of each year.

A fee for each said license shall be three dollars (\$3.00) per annum provided, however, that the fee for gasoline pumps and meters shall be one dollar and fifty cents (1.50) per annum if paid within one (1) month from the date said license is due.

A license fee on every gasoline pump and meter is due the day any such pump or meter is placed in operation. [1915; last amended 1949.]

Sec. 214.4. Form of license.

The license shall be in the form of a label bearing the words "Licensed by the State of Iowa, No." Each label shall be numbered consecutively and bear the year for which the license is granted. [1915; last amended 1943.]

Sec. 214.5. Display of license; removal.

The license plate shall be displayed prominently on the front of the scale or pump, and the defacing or wrongful removal of such plate shall be punished as provided in chapter 189.¹ Absence of license plate shall be prima facie evidence that the weighing or measuring device is being operated contrary to law. [1915]

¹ See Sec. 189.19, page 340.

Sec. 214.6. Oath of weighmasters.

All persons keeping public scales, before entering upon their duties as weighmasters, shall be sworn

before some person having authority to administer oaths, to keep their scales correctly balanced, to make true weights, and to render a correct account to the person having weighing done. [1873]

Sec. 214.7. Weighmaster's records; certificates of weight.

Weighmasters are required to make true weights and keep a correct register of all weighing done by them, giving the amount of each weight, date thereof, and the name of the person or persons for whom done, and give, upon demand, to any person having weighing done, a certificate showing the weight, date, and for whom weighed. [1873]

Sec. 214.8. Penalty for violating sections 214.6 and 214.7.

Any weighmaster violating any of the provisions of sections 214.6 and 214.7, shall be guilty of a misdemeanor, and punished as provided in chapter 189¹ and be liable to the person injured for all damages sustained. [1924]

¹ See Sec. 189.19, page 340.

Code 1946, Vol. I, Title X, Ch. 215—Inspection of Weights and Measures.

Sec. 215.1. Duty to inspect.

The department [of agriculture] shall make an inspection of all weights and measures wherever the same are kept for use in connection with the sale of any commodity sold by weight or measurement, or where the price to be paid for producing any commodity is based upon the weight or measurement thereof; and when complaint is made to the department that any false or incorrect weights or measures are being made under said conditions, said department shall have the same inspected. [1913]

Sec. 215.2. Fees.

An inspection fee shall be charged the person owning or operating the scale so inspected in accordance with the following schedule:

Railroad track scales, ten dollars each.

All hopper and automatic scales, three dollars each.

Platform scales,

500 to 1,000 pounds beam capacity, one dollar each;

1,001 to 30,000 pounds capacity, three dollars each;

30,001 to 50,000 pounds capacity, five dollars each;

50,001 pounds capacity and up, seven dollars each.

[1915; last amended 1943.]

Sec. 215.3. When fee shall be paid by complainant.

When such inspection shall be made upon the complaint of any person other than the owner of the scale, and upon examination the scale is found by the department to be accurate for weighing, the inspection fee for such inspection shall be paid by the person making complaint. [1915]

Sec. 215.4. No more than two fees per year; exception.

No person shall be required to pay more than two inspection fees for any one scale in any one year

unless additional inspections are made at the request of the owner of said scale. [1915]

Sec. 215.5. Confiscation and condemnation.

The department [of agriculture] may seize without warrant and confiscate any incorrect scales, weights, or measures, or any weighing apparatus or part thereof which do not conform to the state standards or upon which the license fee has not been paid. If any weighing or measuring apparatus or part thereof be found out of order the same may be tagged by the department "Condemned until repaired," which tag shall not be altered or removed until said apparatus is properly repaired. [1913]

Sec. 215.6. Possession of false weights or measures; penalty.

If any person engaged in the purchase or sale of any commodity by weight or measurement, or in the employment of labor where the price thereof is to be determined by weight or measurement of the articles upon which such labor is bestowed, has in his possession any inaccurate scales, weights, or measures, or other apparatus for determining the quantity of any commodity, which do not conform to the standard weights and measures, he shall be punished as provided in chapter 189.¹ [1915]

¹ See Sec. 189.19, page 340.

Sec. 215.7. Transactions by false weights or measures; penalty.

Any person shall be deemed to have violated the provisions of this chapter [Secs. 215.1–215.9] and shall be punished as provided in chapter 189:¹

1. If such person sell, trade, deliver, charge for or claim to have delivered to a purchaser an amount of any commodity which is less in weight or measure than that which is asked for, agreed upon, claimed to have been delivered, or noted on the delivery ticket.

2. If such person make settlement for or enter credit, based upon any false weight or measurement, for any commodity purchased.

3. If such person make settlement for or enter credit, based upon any false weight or measurement, for any labor where the price of producing or mining is determined by weight or measure.

4. If such person record a false weight or measurement upon the weight ticket or book. [1915]

¹ See Sec. 189.19, page 340.

Sec. 215.8. Tolerances; exemptions as to small packages.

In enforcing the provisions of section 215.7 reasonable variations shall be permitted and exemptions as to small packages shall be established by rules of the department [of agriculture]. [1915]

Sec. 215.9. Limitation on powers of cities and towns.

Commodities weighed upon any scale bearing the inspection card, issued by the department [of agriculture], shall not be required to be reweighed by any ordinance of any city or town or city under spe-

Code 1946, Vol. I, Title X, Ch. 215—Inspection of Weights and Measures—Continued.

gical charter or under the commission form of government, nor shall their sale, at the weights so ascertained, and because thereof, be, by such ordinance, prohibited or restricted. [1915]

Laws 1949, Ch. 93—Weighing and Measuring Devices and Repairmen.

Sec. 4. Livestock, vehicle, and hopper scales: visibility of indications of retail scales; bonding of and equipment for scale repairmen; fees for sealing test weights and calibrating tanks; specifications and tolerances.

In shall be unlawful to install a livestock or truck scale or a hopperscale, used for commercial purposes in this state, unless said scale is so installed that the same is easily accessible for inspection and testing by equipment of the state department of agriculture and with due regard to size and capacity thereof. Every scale manufacturer or dealer shall, upon selling a scale of the above types in Iowa, submit to the department of agriculture upon forms provided by said department, the make, capacity of the scale, the date of sale, and the date and location of its installation.

The weight indicating dial or beams on counter scales used to weigh articles sold at retail shall be so located that the reading dial indicating the weight shall at all times be visible to the public.

Any person, firm, or corporation engaging in any scale repair work for hire in this state shall first file with the department of agriculture a bond of the form required by chapter sixty-four (64), Code 1946, in the sum of one thousand dollars conditioned to guarantee the workmanship and faithful performance of the assumed task and providing for liquidated damages for failure to perform such conditions. Such person, firm, or corporation, on depositing with the department of agriculture a bond in the amount of one thousand dollars shall be furnished a certificate authorizing them to do what is known as scale repair work, or installation of new scales in the state of Iowa. This certificate shall be valid until revoked by the secretary of agriculture.

All new weigh beams or dials on what is known as livestock scales used for determining the weight in buying or selling livestock shall be in not over five (5) pound graduations.

No scale known in the commercial field as a truck or livestock scale shall be installed in the State of Iowa without first being approved by the state department of agriculture. Said approval being based upon the recommendations of the U. S. Bureau of Standards. All motor truck scales, livestock scales, and grain dump scales, hereafter installed and regardless of capacity shall have a clearance of not less than four (4) feet from the finished floor line of scale pit to the bottom of the "I" beam of the scale bridge.

Scale pit shall have proper room for inspector or service man to repair or inspect scale. Scale pit shall

remain dry at all times and adequate drainage shall be provided for the purpose of inspecting and cleaning.

It shall be unlawful for any person, firm, or corporation to use such a scale for weighing commodities the gross weight of which is greater than the factory rated scale capacity. The capacity of the scale shall be stamped by the manufacturer on each weigh beam or dial. The capacity of the scale shall be posted so as to be visible to the public.

Any person, firm, or corporation engaged in scale repair work for hire shall use only test weights sealed by the state department of agriculture in determining the effectiveness of his repair work and said test weights shall be sealed as to their accuracy once each year. Provided, however, that it shall be unlawful for such person to hold himself out as an official scale inspector or to use said test weights except to determine the accuracy of scale repair work done by him and he shall be entitled to no fee for their use. A fee shall be charged and collected at time of inspection for the inspection of such weights as follows:

All weights up to and including 25 pounds	\$.75 each
All weights up to and including 50 pounds	1.50 each
Over 50 pounds capacity, up to and including 100 pounds	2.00 each
Over 100 pounds capacity, up to and including 500 pounds	3.00 each
Over 500 pounds capacity, up to and including 1000 pounds	5.00 each

The fee for all tank calibrations shall be as follows:

100 gallons up to and including 300 gallons	--- \$ 3.00
301 " " " " " 500 "	--- 5.00
501 " " " " " 1000 "	--- 7.50
1001 " " " " " 2000 "	--- 10.00
2001 " " " " " 3000 "	--- 12.00
3001 " " " " " 4000 "	--- 14.00
4001 " " " " " 5000 "	--- 16.00
5001 " " " " " 6000 "	--- 18.00
6001 " " " " " 7000 "	--- 20.00
7001 " and up	--- 25.00

No calibration will be required of any tank which is not used for the purpose of measuring, or which is equipped with a meter, nor shall vehicle tanks loaded from meters and carrying a printed ticket showing gallonage be required to be calibrated.

The secretary of agriculture may after consultation and with the advice of U. S. bureau of standards establish specifications and tolerances for weights and measures and weighing and measuring devices, and said specifications and tolerances shall be legal specifications and tolerances in this state, and shall be observed in all inspections and tests. [1949]

Code 1946, Vol. I, Title XV, Ch. 368—Cities and Towns.

Sec. 368.35. Powers of cities and towns.

They [cities and towns] shall have power to establish and regulate markets and scales, to build market houses, and establish and regulate the

same; to provide for the measuring or weighing of merchandise offered for sale * * * ; to authorize the immediate arrest of any person violating its regulations, and the seizure and removal from the market of any article of produce in his possession. [1860]

* * * * *

Code 1946, Vol. I, Title X, Ch. 189—General Provisions Relating to the Regulation and Inspection of Food and Other Articles.

Sec. 189.1. Definitions.

For the purpose of this title [Secs. 189.1–216.2]:

1. "Article" shall include food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil, in the sense in which they are defined in the various provisions of this title.

2. "Department" shall mean the department of agriculture, and, wherever said department is required or authorized to do an act, it shall be construed as authorizing performance by a regular assistant or a duly authorized agent of said department.

3. "Secretary" shall mean the secretary of agriculture.

4. "Package" or "container," unless otherwise defined, shall include wrapper, box, carton, case, basket, hamper, can, bottle, jar, tube, cask, vessel, tub, firkin, keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and wherever the expression "offered or exposed for sale or sold in package or wrapped form" is used it shall mean the offering or exposing for sale, or selling of an article which is contained in a package or container as herein defined.

5. "Person" shall include a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in said capacity shall also be liable for violations of this title.

6. "Rules" shall include regulations and orders by the department of agriculture. [1913]

* * * * *

Sec. 189.2. Duties of department of agriculture.

The department of agriculture shall:

* * * * *

2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of this title [Secs. 189.1–216.2]. [1897]

* * * * *

Sec. 189.3. Procuring samples.

The department [of agriculture] shall, for the purpose of examination or analysis, procure from

time to time, or whenever said department has occasion to believe any of the provisions of this title [Secs. 189.1–216.2] are being violated, samples of the articles dealt with in this title which have been shipped into this state, offered or exposed for sale, or sold in the state. [1897]

Sec. 189.4. Right of entry.

The department [of agriculture] shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this title [Secs. 189.1–216.2]. [1897]

Sec. 189.5. Dealer to furnish samples.

Upon request and tender of the selling price by the department [of agriculture] any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this title [Secs. 189.1–216.2] shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department. [1913]

Sec. 189.6. Taking samples without owner's consent.

The department [of agriculture] may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of this title [Secs. 189.1–216.2], in order to secure a sample for analysis or examination, and said sample and damage to container shall be paid for at the current market price out of the contingent fund of the department. [1897]

Sec. 189.7. Procedure in taking of samples.

After the sample is taken it shall be carefully sealed with the seal of the department [of agriculture] and labeled with the name or brand of the article, the name of the party from whose stock it was taken, and the date and place of taking such sample. Upon request a duplicate sample, sealed and labeled in the same manner, shall be delivered to the person from whose stock the sample was taken. The label and duplicate shall be signed by the person taking the same. The method of taking samples of particular articles may be prescribed by the rules of the department. [1897]

Sec. 189.9. Marking requirements.

All articles in package or wrapped form which are required by this title [Secs. 189.1–216.2] to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight-point heavy

Code 1946, Vol. I, Title X, Ch. 189—General Provisions Relating to the Regulation and Inspection of Food and Other Articles—Continued.

gothic caps on the principal label with the following items:

* * * * *

2. The quantity of the contents in terms of weight, measure, or numerical count. Under this requirement reasonable variations shall be permitted, and small packages shall be excepted in accordance with the rules of the department [of agriculture].

* * * * *

The above items shall be printed in such a way that there shall be a distinct contrast between the color of the letters and the background upon which printed. [1873]

Sec. 189.10. Same: Exceptions.

In case the size of the package or container will not permit the use of the type specified in section 189.9, the same may be reduced in size proportionately in accordance with the rules of the department [of agriculture]. [1913]

Sec. 189.13. Misbranding prohibited.

No person shall use any label required by this title [Secs. 189.1–216.2] which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this title. [1873]

Sec. 189.14. Dealing in misbranded articles.

No person shall knowingly introduce into this state, solicit orders for, deliver, transport, or have in his possession with intent to sell, any article which is labeled in any other manner than that prescribed by this title [Secs. 189.1–216.2] for the label of said article when offered or exposed for sale, or sold in package or wrapped form in this state. [1873]

Sec. 189.16. Possession prima facie evidence.

Any person having in his possession or under his control any article which is adulterated or which is improperly labeled according to the provisions of this title [Secs. 189.1–216.2] shall be presumed to know its true character and name, and such possession shall be prima facie evidence of having the same in possession with intent to violate the provisions of this title. [1897]

Sec. 189.19. Penalties.

Unless otherwise provided, any person violating any provision of this title [Secs. 189.1–216.2], or any rule made by the department [of agriculture] and promulgated under the authority of said department, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail not to

exceed thirty days, and on a third conviction for the same offense may be restrained by injunction from operating such place of business. [1873]

Sec. 189.21. Same: Exception.

None of the penalties provided in this title [Secs. 189.1–216.2] shall be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this title when the same was received by said carrier for transportation in the ordinary course of its business and without actual knowledge of its true character. [1897]

Sec. 189.26. Goods for sale in other states.

Any person may keep articles specifically set apart in his stock for sale in other states which do not comply with the provisions of this title [Secs. 189.1–216.2] as to standards, purity, or labeling. [1913]

Code 1946, Vol. I, Title X, Ch. 191—Labeling Foods.

Sec. 191.1. Marking requirements.

All food offered or exposed for sale, or sold in package or wrapped form, shall be labeled on the package or container as prescribed in section 189.9¹ * * * [and 189.10]¹ * * *. [1897]

¹ See pages 339 and 340.

Code 1946, Vol. I, Title X, Ch. 192—Milk and Cream.

Sec. 192.14. Testing; license.

Every person testing cream or milk to determine the percent of milk fat as a basis for fixing the purchase price shall secure a milk tester's license from the department [of agriculture] and shall make tests only by such process as has been approved by said department. [1915]

Sec. 192.16. Same: Department to furnish glassware.

The department [of agriculture] shall furnish each licensee one standard test bottle and one standard pipette adapted to the use of the testing machine approved for the licensee. Said bottle and pipette shall be certified to by the department as standard and shall bear the official stamp of the department. Any person not a licensee may secure test bottles and pipettes from the department at the legal price. [1897]

Sec. 192.17. Same: Fees.

The fee for each license shall be two dollars and fifty cents, and standard test bottles and pipettes shall be furnished at actual cost. [1897]

Sec. 192.18. Same: Testing of glassware.

The standard bottle and pipette received from the department [of agriculture] shall be used by the licensee in verifying test tubes and pipettes used by him in making tests; and the same shall be subject to inspection by the owner or vendor of the cream or milk which is the subject of the test. [1897]

Sec. 192.34. Marking of milk bottles.

Bottles or jars used for the sale of milk shall have clearly blown or permanently marked in the side of the bottle, the capacity of the bottle, and on the bottom of the bottle the name, initials, or trademark of the manufacturer. The designating number shall be furnished by the department [of agriculture] on request. [1913]

Code 1946, Vol. I, Title X, Ch. 196, Sec. 196.13—Eggs.

[ED. NOTE.—This section relates to the different grades of eggs and specifies minimum weights per dozen for each grade, but as its provisions are primarily "quality" provisions they have not been included in this publication.]

Code 1946, Vol. I, Title X, Ch. 198—Commercial Feeds.

Sec. 198.1. Definitions.

For the purpose of this chapter [Secs. 198.1—198.14]:

1. "Commercial feed" shall mean "food" as defined in the chapter [Ch. 190] relative to the adulteration of foods, except that it shall only include food in concentrated form, and mineral mixtures, intended for feeding domestic animals, and it shall not include hay, straw, whole seeds, unmixed meals made from entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, or broom corn; nor shall it include wheat flour or other flours fit for human consumption.

2. "Stock tonic" shall mean a class of commercial feed such as medicated stock or poultry foods, including such preparations as are composed wholly of drugs which contain any substance claimed to possess medicinal, condimental, or nutritive properties. [1913]

Sec. 198.2. Marking requirements.

All manufacturers, importers, jobbers, firms, associations, corporations, or persons, before selling, offering or exposing for sale or distributing in this state any brand of commercial feed, shall have printed on, or attached to each bag, package, and/or carton, in a conspicuous place, or delivered with each bulk lot, a label which shall contain a legible statement, printed in the English language, clearly and truly setting out:

1. The net weight of the contents of the package, bag, carton, or bulk lot; [1913]

* * * * *

Sec. 198.3. Shells.

Poultry shells or poultry limestone shall be classified as commercial feed, * * *. [1931]

Sec. 198.5. Marking requirements for stock tonic.

In the case of stock tonic, in addition to the requirements of section 198.2, the label shall state * * *. [1913]

Sec. 198.6. Labels may be written.

Labels on packages or containers of commercial feeds may be written instead of being printed; but when written, the writing must be plain and legible. [1913]

Code 1946, Vol. I, Title X, Ch. 200—"Iowa Fertilizer Law of 1941."

Sec. 200.2. Enforcement.

This chapter [Secs. 200.1—200.15] shall be administered by the secretary of agriculture of the state, hereinafter referred to as the "secretary." [1941]

Sec. 200.3. Definitions.

As used in this chapter [Secs. 200.1—200.15]:

* * * * *

The term "commercial fertilizer" means any substance, including any combination or mixture of substance, designed and fit for use in inducing increased crop yields or plant growth when applied to the soil, except unmanipulated animal and vegetable manures, liming materials, and gypsum.

The term "fertilizer material" means any substance which is or may be used with another substance in the compounding of mixed fertilizers, or for direct application to the soil, principally as a source of plant food, except untreated animal and vegetable manure, liming materials, and gypsum. [1941]

* * * * *

Sec. 200.4. Registration.

It shall be unlawful for any person, acting for himself, or as agent, to sell or offer for sale within the State any commercial fertilizer or fertilizer material that has not been registered as required by this section.

Any person who may desire to sell or offer for sale, either by himself or through another person, commercial fertilizer or fertilizer material in this State shall first file with the Secretary, on registration forms supplied by him, a signed statement, giving the name and address of the applicant, the name of his brand or trade mark, and shall furnish the following information and guarantee for each package, bag, or bulk material to be sold within the state:

(1) Weight of each package in pounds; [1913; last amended 1941.]

* * * * *

Sec. 200.7. Inspections.

It shall be the duty of the secretary, personally or by agents duly authorized in writing, to make such inspection of commercial fertilizer or fertilizer material in the state, to have such samples taken, and to have such chemical analysis made as in his judgment may be necessary to ascertain whether or not persons offering, selling, or distributing commercial fertilizer or fertilizer material are complying with

Code 1946, Vol. I, Title X, Ch. 200—"Iowa Fertilizer Law of 1941"—Continued.

the provisions of this chapter [Secs. 200.1—200.15]. [1941]

Sec. 200.11. Offenses.

It shall be unlawful for any person to make any false and misleading representation in regard to any commercial fertilizer or fertilizer material shipped, sold or offered for sale by him in this state, or to use any misleading or deceptive trade-mark or brand name in connection therewith. The secretary is hereby authorized to refuse registration for any commercial fertilizer or fertilizer material with respect to which this section is violated. [1941]

Sec. 200.12. Bulk sales.

Nothing in this chapter [Secs. 200.1—200.15] shall abridge the right of a consumer of commercial fertilizer to buy bulk materials from any manufacturer or dealer for his own use, provided the registration fee and tonnage tax have been paid thereon if subject thereto, and that the provisions of this chapter otherwise in respect to such materials have been complied with. [1941]

Sec. 200.13. Regulations.

For the enforcement of this chapter [Secs. 200.1—200.15] the secretary is authorized to prepare and issue such regulations not inconsistent with this chapter as may be necessary, and to cooperate with any department or agency of the government of the state as he may elect in their enforcement. [1941]

Sec. 200.14. Penalties.

Unless otherwise provided, any person violating any provision of this title [Secs. 189.1—216.2] or any rule made by the department [of agriculture] and promulgated under the authority of said department, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail not to exceed thirty (30) days. [1941]

Code 1946, Vol. I, Title X, Ch. 201—Agricultural Lime.

Sec. 201.4. Definitions.

The term "agricultural lime" or "limestone" as herein used, shall include all calcium and magnesium products sold for agricultural purposes in the oxide, hydrate, or carbonate form; such form being designated as quicklime, hydrated lime, carbonate of lime, and ground limestone. [1945]

Sec. 201.5. Marking requirements.

Any person who shall sell, offer or expose for sale any agricultural lime in this state shall affix, or cause to be affixed, to every package or sample of such agricultural lime in a conspicuous place on the outside thereof a tag, label, or waybill which shall be accepted as a guarantee of the manufacturer, importer, dealer, agent or person, and which

shall have plainly printed thereon in the English language the number of net pounds of agricultural lime in the package or lot, * * *. When agricultural lime is sold in bulk, a tag or waybill as hereinbefore described shall be delivered to the consumer. In case of agricultural lime sold at factory or shipped in bulk, or delivered in wagon or truck loads or other conveyances, it shall be accompanied by at least one such statement as above required. * * * [1927; last amended 1945.]

Sec. 201.6. Penalty for violations.

Whoever sells, offers for sale or exposes for sale or distribution any package or sample or any quantity of agricultural lime or limestone without complying with the provisions of this chapter [Secs. 201.1—201.13] * * * shall be deemed guilty of a misdemeanor. On conviction thereof he shall be fined not less than fifty dollars nor more than one hundred dollars, and the secretary of agriculture may revoke his license. * * * [1927; last amended 1945.]

Sec. 201.10. Rules and regulations.

The secretary of agriculture is hereby empowered to prescribe and enforce such rules and regulations relating to agricultural lime as may be deemed necessary to carry into effect the full intent and meaning of this chapter [Secs. 201.1—201.13], and to refuse the registration of any agricultural lime under a name or claim which would be misleading. [1945]

Sec. 201.13. Penalty for obstructing officers.

Any person who shall obstruct the secretary of agriculture or his agents or representatives when in the discharge of any duty or duties prescribed by this chapter [Secs. 201.1—201.13], shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and for each subsequent offense by a fine of not less than fifty dollars nor more than thirty days in jail, or by both such fine and imprisonment. [1945]

Code 1946, Vol. I, Title X, Ch. 204—"Uniform Narcotic Drug Act."

Sec. 204.10. Marking requirements; penalty.

1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * *

3. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 687.7.¹ [1937; last amended 1941.]

¹ See page 343.

Sec. 204.20. Enforcement.

It is hereby made the duty of the Iowa pharmacy examiners, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter [Secs. 204.1—204.25], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1937]

Code 1946, Vol. II, Title XXXV, Ch. 687—Misdemeanor.

Sec. 687.7. Punishment when not otherwise prescribed.

Every person who is convicted of a misdemeanor, the punishment of which is not otherwise prescribed by any statute of this state, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment. [1851]

Code 1946, Vol. I, Title X, Ch. 206—Insecticides and Fungicides.

Sec. 206.1. Definitions.

For the purpose of this chapter [Secs. 206.1—206.5]:

1. "Insecticide" shall include paris green, lead arsenate, and any other substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, households, or other environment.

2. "Paris green" shall include the product sold in commerce as paris green and chemically known as aceto-arsenite of copper.

3. "Lead arsenate" shall include the product sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead.

4. "Fungicide" shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi which may infest vegetation or be present in any environment. [1924]

Sec. 206.2. Marking requirements.

All insecticides and fungicides offered or exposed for sale, or sold in package or wrapped form, shall be labeled on each package or container as provided in sections 189.9¹ * * * [and 189.10¹]. [1924]

¹ See pages 339 and 340.

Code 1946, Vol. I, Title X, Ch. 207—Paints and Oils.

Sec. 207.2. Paint: Marking requirements.

All paint, including paint transported into and delivered in this state, offered or exposed for sale or sold in package or wrapped form shall be labeled

on each package or container as provided in sections 189.9¹ * * * [and 189.10¹] * * *. [1913]

¹ See pages 339 and 340.

Sec. 207.3. Linseed oil and turpentine: Marking requirements.

All linseed oil or oil of turpentine offered or exposed for sale or sold in package or wrapped form shall be labeled on each package or container as provided in section 189.9¹ except that the label shall be printed with ordinary bold-faced type in capital letters not less than five-line pica in size. [1913]

¹ See page 339.

Sec. 207.4. Same: Marking requirements for substitutes.

Any compound or mixture consisting of linseed oil (raw or boiled) and any other product, or any compound or mixture consisting of oil or turpentine and any other product, or any product which is intended to be used as a substitute for linseed oil (raw or boiled) or for oil of turpentine, which is offered or exposed for sale or sold in package or wrapped form shall be labeled on each package or container as provided in sections 189.9¹ * * * [and 189.10¹] except that the label shall be printed with ordinary bold-faced type in capital letters not less than five-line pica in size and the words "substitute for linseed oil" or "substitute for oil of turpentine," as the case may be, shall also appear upon the label in the same manner prescribed for other items. Every storage receptacle containing any such product shall be labeled in the manner herein prescribed for the labeling of the package or container in which such product is offered or exposed for sale, or sold. [1913]

¹ See pages 339 and 340.

Code 1946, Vol. I, Title V, Ch. 81—Itinerant Merchants.

Sec. 81.1. Definitions.

1. When used in this chapter [Secs. 81.1—81.14]:

* * * * *

d. "Department" shall mean the motor vehicle department of the state.

* * * * *

g. "Itinerant merchant" shall mean any person who transports personal property for sale by him within this state, by use of a motor vehicle, except as herein otherwise provided.

2. The term "itinerant merchant" shall not mean or include the following:

a. A person using a motor vehicle, operated by him or his agent, for the transportation of milk, dairy products, grain, fruits, feed, seed, vegetables, livestock, poultry, or other agricultural products, produced or fed by him on a farm operated by him,

Code 1946, Vol. I, Title V, Ch. 81—Itinerant Merchants—Continued.

or any person using a motor vehicle, for the transportation of newspapers, books, or magazines.

b. A person transporting property when such transportation is incident to a business conducted by him at an established place of business operated by him, either within or without this state, and when said property is being transported to or from said established place of business, and when the entire course of such transportation extends not more than three hundred and fifty miles from said established place of business; provided, however, that when the entire course of said transportation is for the purpose of delivery of said property subsequent to the sale thereof said three hundred and fifty miles restriction shall not apply.

c. A person licensed under the provisions of sections 203.6 or 203.7 [itinerant vendor of drugs].

d. A person operating in the manner of an itinerant merchant, buying or selling within a radius of fifty-miles from his residence, provided he has secured a permit, upon the payment of a fee of one dollar (\$.00) to cover expense of mailing and manufacture, upon application to the county treasurer or the department. * * *

e. A salesman selling manufactured articles produced by his employer who sells the same to retail dealers for the purpose of resale.

3. Any person operating in the manner of an itinerant merchant claiming exemption because of interstate operations by passing through or across the state, shall obtain from the department, a permit without payment of fee for each trip or operation. This permit shall state the date the trip is to be made, type of load to be carried, approximate route to be traversed, and source and destination of load. [1939; last amended 1941]

Sec. 81.4. Bonds.

1. No license shall be issued by the department until the applicant shall have filed with each application, and the same have been approved by the department, an insurance policy and a bond issued by a company as herein defined authorized to do business within the state of Iowa as follows:

a. An indemnity bond in the penal sum of five hundred dollars for an itinerant merchant operating with more than twenty-five hundred pounds actual load. Such bond shall be in such form as may be prescribed by the department for the purpose of protecting the public against fraud, conditioned upon the use of honest weights, measures, and grades, if the commodities to be handled by the itinerant merchant are those customarily sold by weight, measure and grade; * * *. The surety on such bond shall be a surety company authorized to engage in the surety business in this state. * * * Whenever the bond provided for in this section shall be exhausted, the department

shall forthwith cancel the license. Said license so cancelled shall be renewed for the balance of the period for which issued by filing an additional bond with corporate surety in like amount conditioned as required in the previous bond. [1939; last amended 1941.]

* * * * *

Sec. 81.5. Department as agent to receive process.

Before a license shall issue, the applicant shall sign and file with the department an irrevocable power of attorney appointing the department his agent to accept service of original notice, in the event that personal service cannot be had upon the applicant in this state, for all causes of action against him arising out of the conduct of his business as an itinerant merchant. * * *. [1939]

Sec. 81.9. Revocation of licenses.

The department may revoke any license or permit issued under the provisions of this chapter [Secs. 81.1-81.14] after proper hearing before it, by the sending of due notice thereof by registered letter, to the itinerant merchant at his last known address, return receipt requested, not less than twenty days before the date of said hearing, for any of the following causes:

1. Failure to comply with the provisions of this chapter * * * or misrepresentation of the source, condition, quality, weight or measure of the products sold by the itinerant merchant. [1939]

* * * * *

Sec. 81.10. Rules.

The department shall make and enforce such rules for the administration of this chapter [Secs. 81.1-81.14] as may be necessary and proper. [1939]

Sec. 81.12. Powers of county and municipal governments.

Nothing in this chapter [Secs. 81.1-81.14] shall be construed to repeal or amend any statute delegating authority to any county or municipal corporation to license, tax, or regulate peddlers or itinerant merchants; * * *. [1939]

Sec. 81.13. Penalties.

Any person violating any provision of this chapter [Secs. 81.1-81.14] shall be guilty of a misdemeanor, except as herein otherwise provided, and shall upon conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail not exceeding thirty days. [1939]

Sec. 81.14. Injunction.

Any county attorney, may commence an action in any court of competent jurisdiction, in the name of the state as plaintiff on the relation of such county attorney, to enjoin any person from violating any of the provisions of this chapter [Secs. 81.1-81.14]. Such action may be maintained upon due

showing that the defendant has violated any of the provisions of this chapter. [1939]

Code 1946, Vol. I, Title V, Ch. 82—Mine Scales.

Sec. 82.14. Duties of inspector.

He [mine inspector] shall examine, test, and adjust, as often as he deems necessary, all scales, beams, and other apparatus used in weighing coal at the mines. * * * [1873]

Sec. 82.109. Scales; weighers; duties; records.

The operator shall, if the miners are paid by weight, provide the mine with suitable scales of standard make, and require the person selected to weigh the coal delivered from the mine to take and subscribe an oath before some person authorized to administer oaths, to the effect that he will keep the scales correctly and truly balanced, and accurately weigh and a true record kept of each car delivered, which oath, with that of the check weighman hereinafter provided for, shall be conspicuously displayed with record of weights at the place of weighing, which record shall carry the account of each miner by itself, be open to the inspection at all proper times of miners and all others having a pecuniary interest in the mine. All damages sustained on account of a failure to weigh and credit to the proper person any coal mined shall be recoverable in an action brought within two years from the time the right thereto accrued, and a knowledge of a violation of this provision by the miner shall not be a defense thereto. [1897]

Sec. 82.110. Check weighman; oath; duties.

The miners employed and working in any mine may furnish a competent checkweighman, who, before entering upon his duties, shall take and subscribe an oath to the effect that he is duly qualified and will faithfully discharge his duties as checkweighman, and he shall at all proper times have access to and the right to examine the scales, machinery, or apparatus used in weighing, and to see all measures and weights of coal mined and the accounts kept thereof; but not more than one person on the part of the miners collectively shall have this right, and such examination and inspection shall be so made as to create no unnecessary interference with the use of such scales, machinery, or apparatus. [1897]

Sec. 82.111. When coal must be weighed; bushel; ton.

The operator shall, where the miner is to be paid by the ton or other quantity, unless otherwise agreed upon in writing, weigh the coal before screening, and the miner shall be credited at the rate of eighty pounds to the bushel and two thousand pounds to the ton, but no payment shall be required for sulphur, rock, slate, blackjack, dirt, or other impurities which may be loaded or found with the coal. [1897]

Sec. 82.127. Penalties.

Any person, firm, or corporation violating any of the provisions of this chapter [Secs. 82.1-82.127] shall be guilty of a misdemeanor and shall be punished as hereinafter provided, respectively:

* * * * *

7. Any owner, lessee, or operator, or any party in charge of any mine, or any weighman or checkweighman violating any of the provisions of this chapter relating to the correct weighing and recording of the weights of coal mined at any mine shall be fined not exceeding five hundred dollars or be imprisoned in the county jail not exceeding sixty days. [1897]

* * * * *

Code 1946, Vol. I, Title VI, Ch. 123—"Iowa Liquor Control Act."

Sec. 123.16. Commission to determine capacity of packages.

The commission [Iowa liquor control commission] shall have the following functions, duties and powers:

* * * * *

8. To determine the nature, form and capacity of all packages containing liquor kept or sold under this chapter [Secs. 123.1-123.94]; provided, that all spirituous and vinous liquor shall be purchased and sold only in the original package. [1934]

* * * * *

Code 1946, Vol. I, Title XVIII, Ch. 479—Railroad Track Scales.

Sec. 479.103. Carload weighing of coal; weight certificates; location.

Every person, firm, or corporation engaged in operating any railroad within the state shall equip the line of its track and thereafter maintain thereon in good order, track scales of sufficient capacity to weigh all carloads of coal that may be transported over the said railroad, and shall weigh the same at the request of any owner, consignee, or consignee of such commodities, and furnish written certificates of such weights to such owner, consignee, or consignee as hereinafter provided. Such track scales shall be so installed and maintained at all division stations along the line of such railroads within the state, and at such other stations as the state commerce commission shall from time to time direct. [1913]

Sec. 479.104. Where coal shall be weighed.

Every person, firm, or corporation engaged in operating any railroad within the state over which coal in carload lots shall be transported for hire, shall weigh such coal at point where such shipment originates unless covered by weight agreement between consignor and railway company, provided such point is equipped with track scales. If not so equipped, it shall be weighed at first practicable point en route where track scales are provided. Said

Code 1946, Vol. I, Title XVIII, Ch. 479—Railroad Track Scales—Continued.

person, firm, or corporation shall furnish to said shipper a bill of lading showing date and place weighed, also the gross, tare, and net weights for each carload of coal so weighed. The tare weight shall be determined by using actual weight of empty car at loading station, provided track scales are maintained at such point. [1913]

Sec. 479.105. Weighings made on request; fee.

Such coal shall be weighed at destination upon request of consignee when there are track scales at such point. If not equipped with track scales at such point, then at nearest practicable point en route where such scales are maintained, and certificate of weight, showing actual gross, tare, and net weights, shall be furnished to consignee and settlement of freight charges based on these weights. A reasonable charge of not more than one dollar per car may be made for such weighing on request. [1913]

Sec. 479.106. Method of weighing.

Cars when weighed on track scales shall be uncoupled, clear and unhampered at both ends, carefully weighed by competent weighmen and certificates issued upon request of consignees, showing gross, tare, and net weights. [1913]

Secs. 479.107. Prima facie evidence.

Certificates mentioned in sections 479.103 to 479.108, inclusive, shall be prima facie evidence of the facts therein recited in any action arising between consignors and consignees and common carriers. [1913]

Sec. 479.108. Penalty against carrier for refusal to weigh cars or furnish weight certificate.

Any common carrier operating in this state violating any of the provisions of sections 479.103 to 479.107 inclusive, by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall be guilty of a misdemeanor and shall be, upon conviction thereof, fined in the sum of not more than one hundred twenty-five dollars for each and every violation. [1913]

Code 1946, Vol. II, Title XXIII, Ch. 543—Bonded Warehouses for Agricultural Products.

Sec. 543.1. Definitions.

As used in this chapter [Secs. 543.1-543.38]:

1. "Commission" shall mean the Iowa state commerce commission.

2. "Warehouse" shall mean any building, structure, or other protected inclosure in this state used or usable for the storage of agricultural products. Buildings used in connection with the operation of the warehouse shall be deemed to be a part of the warehouse.

* * * * *

4. "Agricultural product" shall mean any product of agricultural activity suitable for storage in quantity, including refined or unrefined sugar and canned agricultural products and shall also mean any product intended for consumption in the production of other agricultural products, such as stock salt, binding twine, bran, cracked corn, soybean meal, commercial feeds, and cottonseed meal. [1924; last amended 1943.]

* * * * *

Sec. 543.2. Supervision of weighing.

The commission is authorized to exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. * * * [1924; last amended 1943.]

Sec. 543.3. Rules and regulations.

The commission shall from time to time make such rules and regulations as it may deem necessary for the efficient administration of the provisions of this chapter [Secs. 543.1-543.38], * * *. [1924; last amended 1943.]

Sec. 543.31. License to weigh.

The commission may, upon presentation of satisfactory proof of competency, issue to any person a license to classify any agricultural product or products, stored or to be stored in a warehouse licensed under this chapter [Secs. 543.1-543.38], according to grade or otherwise and to certificate the grade or other class thereof, or to weigh the same and certificate the weight thereof, upon condition that such person agree to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder so far as the same relate to him * * *. In cities and towns where public weighing is prohibited by ordinance except by persons licensed or otherwise authorized by such city or town, any person so authorized if subject to regulations by the city or town will be construed to be automatically licensed under the provisions of this section, and consenting to render the service will be assumed to be an agreement to abide by the terms of this chapter so far as they relate to him. [1924; last amended 1943.]

Sec. 543.32. Same: Revocation.

Any license issued to any person to classify or to weigh any agricultural product or products under this chapter [Secs. 543.1-543.38] may be suspended or revoked by the commission whenever it is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to classify or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter or of the rules and regulations prescribed hereunder, so far as the same may relate to him or that he has used his license or allowed it to be used for any improper purpose whatsoever. Pending investigation, the commis-

sion, whenever it deems necessary, may suspend a license for not to exceed thirty days without hearing. [1924; last amended 1943.]

Sec. 543.36. Penalties.

Every person who violates or fails to comply with any of the provisions of this chapter [Secs. 543.1-543.38] or to comply with any lawfully authorized order, direction, demand, or rule or regulation of the commission shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a period of not to exceed thirty days or by both such fine and imprisonment. [1924; last amended 1943.]

Laws 1949, Ch. 90—"Iowa Drug and Cosmetic Act."

Sec. 2. Definitions.

For the purpose of this Act [Secs. 1-20]—

1. The term "board" means the board of pharmacy examiners * * *.

3. The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man; and (3) articles (other than food) intended to affect the structure or any function of the body of man; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

* * * * *

5. The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.

* * * * *

7. The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

8. The term "immediate container" does not include package liners.

9. The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an

article or any of its containers or wrappers, or (2) accompanying such article.

* * * * *

15. The provisions of this Act regarding the selling of drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such articles in the conduct of any drug, or cosmetic establishment.

16. The term "federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) [1949]

Sec. 3. Prohibited acts.

The following acts and the causing thereof within the State of Iowa are hereby prohibited:

1. The manufacture, sale, or delivery, holding or offering for sale of any drug, device, or cosmetic that is adulterated or misbranded.

2. The adulteration or misbranding of any drug, device, or cosmetic.

3. The receipt in commerce of any drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

5. The dissemination of any false advertisement.

6. The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by section sixteen.

7. The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Iowa from whom he received in good faith the drug, device, or cosmetic.

8. The removal or disposal of a detained or embargoed article in violation of section six.

9. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of or the doing of any other act with respect to a drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1949]

* * * * *

Sec. 4. Injunctions.

In addition to the remedies hereinafter provided the board is hereby authorized to apply to the court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provisions of this Act [Secs. 1-20]; irrespective of whether or not there exists an adequate remedy at law. [1949]

Sec. 5. Penalty for violations; guaranty protection.

1. Any person who violates any of the provisions of this Act [Secs. 1-20] shall be guilty of a misde-

Laws 1949, Ch. 90—"Iowa Drug and Cosmetic Act"
—Continued.

meanor and shall on conviction thereof be subject to imprisonment for not more than six months in the county jail or a fine of not more than five hundred dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than one thousand dollars, or both such imprisonment and fine.

2. No person shall be subject to the penalties of subsection one of this section, for having violated provisions of this Act if he establishes a guaranty or undertaking signed by, and containing the name and address of the person residing in the State of Iowa from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded with the meaning of this Act, designating this Act. [1949]

* * * * *

Sec. 6. Embargo.

1. Whenever a duly authorized agent of the board finds or has probable cause to believe, that any drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act [Secs. 1-20], he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. [1949]

* * * * *

Sec. 10. Drugs: When deemed misbranded.

A drug or device shall be deemed to be misbranded—

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

3. If any word, statement, or other information required by or under authority of this Act [Secs. 1-20] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms

as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

9. (1) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1949]

Sec. 13. Cosmetics: When deemed misbranded.

A cosmetic shall be deemed to be misbranded—

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board.

3. If any word, statement or other information required by or under authority of this Act [Secs. 1-20], to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. If its container is so made, formed, or filled as to be misleading. [1949]

* * * * *

Sec. 15. Regulations for enforcement.

1. The authority to promulgate regulations for the efficient enforcement of this Act [Secs. 1-20] is hereby vested in the board. The board is hereby authorized to make the regulations promulgated under this Act conform, insofar as practicable, with those promulgated under the federal Act. [1949]

* * * * *

Sec. 16. Right of entry.

The board or its duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment, in which drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such drugs, devices, or cosmetics in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this Act [Secs. 1-20] are being violated; * * * [1949]

Sec. 19. Exemption.

The provisions of this act [Secs. 1-20] shall not apply to any person, firm or corporation subject to the federal food, drug and cosmetics act. [1949]

Laws 1949, Ch. 91—"Iowa Anti-Freeze Act."

Sec. 1. Definition.

As used in this act [Secs. 1-13], unless the context or subject matter otherwise requires: (1) "Anti-freeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point: * * * [1949]

Sec. 3. When deemed misbranded.

An anti-freeze shall be deemed to be misbranded: (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1949]

Sec. 5. Enforcement.

The Department of Agriculture shall enforce the provisions of this act [Secs. 1-13] * * *. [1949]

Sec. 11. Penalty.

If any person, partnership, corporation, or association shall violate the provisions of this act [Secs. 1-13], such person, partnership, corporation or association shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished according to the general provisions of title ten¹ (10), Code 1946, and the department may after due hearing cancel registration. [1949]

¹ See Sec. 189.19, page 340.

Code 1946, Vol. II, Title XXXV, Ch. 713—Frauds and other Cheats.

Sec. 713.16. Alteration of official marks; penalty.

If any person falsely alter any stamp, brand, or mark on any cask, package, box, or bale containing merchandise or produce, made by a public officer, appointed for that purpose, in order to denote the quality, weight, or quantity of the contents thereof, with intent to defraud, he shall be fined not more than five hundred dollars and imprisoned in the county jail not exceeding one year. [1851]

Sec. 713.17. False marking; penalty.

If any person counterfeit any mark, stamp, or brand of another, or falsely mark any cask, package, box, or bale as to quality or quantity, with intent to defraud, he shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both. [1851]

Sec. 713.21. Fraudulently using marked container.

If any person, with intent to defraud, use any cask, package, box, or bale, marked, branded, or

stamped by another, for the sale of merchandise or produce of an inferior quality or less in quantity or weight than is denoted by such mark, stamp, or brand, he shall be imprisoned in the county jail not more than one year, or fined not exceeding two hundred dollars, or both. [1851]

Sec. 713.22. Binder twine: Marking requirements.

No binder twine shall be sold, exposed, or offered for sale within this state, except the same bears upon each ball a stamp or label truly stating the name of the manufacturer or importer and the number of feet to the pound in such ball; provided that a deficiency not exceeding five per cent in length stated on the stamp or label shall not be a violation hereof. [1913]

Sec. 713.23. Same: Penalty.

Any person, firm, or corporation who violates the provisions of section 713.22 shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars. [1913]

Sec. 713.24. False advertising; penalty.

Any person, firm, corporation, or association who, with intent to sell, or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes to be made, published, disseminated, circulated, or placed before the public in this state, either directly or indirectly, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact relating to said merchandise, securities, or service offered for sale, or relating to the sale thereof, which is untrue, deceptive, or misleading, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars or not more than one hundred dollars, or thirty days in jail for each offense. [1913]

Sec. 713.25. Same: Exceptions.

The provisions of section 713.24 shall not apply to any owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, or circular who, in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of such advertisement. [1913]



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Sec. 83-101. State standards.

Such standard weights and measures as have been furnished to this state by the government of the United States, in accordance with a joint resolution

of congress, approved June 14, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances and measuring devices, in addition thereto, or in renewal thereof, shall be the authorized standards of the state of Kansas. [1909]

Sec. 83-102. Yard; rod, pole or perch; mile; chain; acre.

The units of standard measures of length and surface from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, are the standard of lengths designated in this act [Secs. 83-101-83-109, 83-115-83-136]. The yard is divided into three equal parts called feet, and each foot into twelve equal parts called inches. For measures of cloth and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths, and sixteenths. The rod, pole or perch contains 5½ yards; the mile, 1,760 yards. The chain for measuring land, is 22 yards long, and is divided into 100 equal parts called links. The acre for land measure shall be measured horizontally and contain 10 square chains, equivalent in area to a rectangle 16 rods in length and 10 in breadth; 640 acres being contained in a square mile. [1909]

Sec. 83-103. Hundredweight; ton; pound means avoirdupois pound, when.

The units of standards of weight, from which all other weights shall be derived and ascertained, shall be the standard weights designated in this act [Secs. 83-101-83-109, 83-115-83-136]. The hundred-weight consists of 100 avoirdupois pounds, and a ton contains 20 hundredweights. Wherever hereafter in this act the word pound is used it shall mean avoirdupois pound unless otherwise distinctly specified. [1909]

Sec. 83-104. Dry measure.

The units of standards of measure of capacity for commodities not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designated in this act [Secs. 83-101-83-109, 83-115-83-136]. The peck, half-peck, quarter-peck, quart, pint and half-pint measures for measuring commodities which are not liquids shall be derived from the halfbushel by successively dividing that measure by two. [1909]

Sec. 83-105. Liquid measure.

The units of standards of measure of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measure designated in this act [Secs. 83-101-83-109, 83-115-83-136]. The liquid gallon shall be divided by continual division by the number two so as to make half gallons, quarts, pints, half-pints and gills. [1909]

Sec. 83-106. Electrical measures.

The standards of electrical measures recognized by the National Bureau of Standards when procured by the state shall be the standard of electrical measures in the state of Kansas. [1909]

Sec. 83-107. Metric system.

The weights and measures of the metric system shall be legal weights and measures in the state of Kansas. [1909]

Sec. 83-109. Standard weights for feeds; bushel; standards for barrel, gallon, and bushel.

That the products hereinafter mentioned shall have only the following standard weights, and whenever any of the following articles shall be contracted for or sold or delivered and no special contract or agreement shall be made to the contrary, such sale and all computations for payment or settlement therefor shall be by net weight, the net weight to be plainly marked on the outside of the barrel, sack, package or bale as the case may be, except fruits and vegetables sold in any standard container as fixed by law, and the net weight, whether stated in words or otherwise, shall be as follows:

(a) All feeding stuffs one hundred pounds, eighty pounds, fifty pounds, twenty-five pounds, and ten pounds per sack net.

(b) The net weight per bushel of the following articles shall be as follows, and any fractional part of a bushel shall be the like fractional part of the said weight per bushel, net:

	<i>Pounds</i>
Alfalfa seed	60
Apples	48
Apples, dried	24
Barley	48
Beans	60
Beans, unshelled green	38
Beans, castor	46
Beets	56
Bluegrass seed, native	14
Bluegrass seed, English	22
Broomcorn seed	30
Buckwheat	48
Cane seed	50
Carrots	50
Cherries, without stems	64
Cherries, with stems	56
Clover seed	60
Corn, shelled	56
Corn in the ear, husked	70
Cucumbers	48
Flaxseed (linseed)	56
Peterita	56
Grapes, with stems	48
Grapes, without stems	60
Hemp seed	44
Kafir corn	56
Lime, unslacked	80
Malt	38
Millet seed, Hungarian	50
Milo maize	56
Nuts, black walnut	50
Nuts, hickory	50
Oats	32
Onions	55
Parsnips	48
Peaches	48
Peaches, dried	33
Pears	50
Peas	60
Peas, green, in pods	30

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	Pounds
Plastering hair, washed	4
Plastering hair, unwashed	8
Plums	52
Popcorn, on cob	70
Popcorn, shelled	56
Potatoes	60
Quinces	48
Rutabagas	56
Rye	50
Salt	80
Sorghum seed	40
Spelts or emmer	14
Spinach	40
Sweet potatoes	50
Sweet potatoes, seed (sorted 1¼ inches in diameter and under)	45
Timothy seed	45
Tomatoes	56
Turnips	55
Wheat	60
Sudan grass seed	40

And the standard barrel for all fruits and vegetables and other dry commodities shall contain 7,056 cubic inches. The term "gallon" shall 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 mean a unit of 2,150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and the one-sixty-fourth parts. [1909; last amended 1947.]

Sec. 83-109a. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two, five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour corn flour, corn meals, hominy and hominy grits: *Provided, however*, That the provisions of this act [Secs. 83-109a—83-109b] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred pounds or for export, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 83-109b. Same: Penalties for violations.

Any violation of this act [Secs. 83-109a—83-109b] shall constitute a misdemeanor and upon conviction,

the offender shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. [1945]

Sec. 83-110. Fruits and vegetables: Climax baskets.

The standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket and twelve-quart basket, respectively: (a) The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket three and seven-eighths inches, outside measurements. Top of basket, length, eleven inches and width five inches, outside measurement. Basket to have a cover five-by-eleven inches, when a cover is used. (b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurements; top of basket, length, fourteen inches, width, six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used. (c) The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurements; top of basket, length, nineteen inches; width, nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. [1923]

Sec. 83-111. Same: Baskets for small fruits or vegetables.

That the standard basket or other container for small fruits, berries and vegetables shall be of the following capacities, namely, dry one-half pint, dry pint, dry quart or multiples of the dry quart. (a) The dry half-pint shall contain sixteen and eight-tenths cubic inches. (b) The dry pint shall contain thirty-three and six-tenths cubic inches. (c) The dry quart shall contain sixty-seven and two-tenths cubic inches. [1923]

Sec. 83-112. Same: Apple boxes.

That the standard apple box shall have inside dimensions of ten and one-half inches by eleven and one-half inches by eighteen inches and shall contain twenty-one hundred and seventy-three and five-tenths cubic inches. [1923]

Sec. 83-113. Same: Penalty for violations.

That it shall be unlawful to manufacture for sale or shipment, sell, offer for sale, or ship within the state, Climax and other baskets and apple boxes, either filled or unfilled, which do not comply with this act [Secs. 83-110—83-114]. Any individual,

partnership, association or corporation that willfully violates this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$100. [1923]

Sec. 83-115. Contract, sales or purchases taken and construed in terms of weights and measures.

All contracts, sales or purchases hereafter made for work to be done, or for any thing to be sold or delivered or done, by weight or measure, within this state, shall be taken and construed in terms of and according to the standards of weights and measures adopted by this act [Secs. 83-101—83-109, 83-115—83-136], except where parties have agreed upon any other calculations or measurement; and all statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. [1909]

Sec. 83-116. Sale of dry commodities.

All dry commodities not otherwise specified in this act [Secs. 83-101—83-109, 83-115—83-136] shall be sold only by standard dry measure, standard weight, or numerical count, except where parties otherwise agree. [1909]

Sec. 83-118. Bottles for milk, cream and other liquid commodities.

All milk or cream that shall be sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. [1909]

Sec. 83-119. Loaf of bread, weight; labeling required, when.

A loaf of bread for sale shall be two pounds in weight. Bread, unless composed in chief part of rye or maize shall be sold only in whole, half and quarter loaves and not otherwise. Bread, when sold, shall, upon the request of the buyer, be weighed in his presence, and if found deficient in weight additional bread shall be delivered to make up the legal weight, except that this section shall not apply to rolls or to fancy bread weighing less than one-quarter of a pound. Every loaf, half-loaf or quarter-loaf of bread which does not weigh the full weight required by this section shall be plainly labeled with the exact weight. [1909]

Sec. 83-120. Print or package of butter, weight; label.

A print or package of butter shall contain sixteen ounces avoirdupois, and when a print or package of butter containing less than sixteen ounces avoirdupois shall be sold its net weight shall be disclosed by the seller to the buyer, or a statement of the net weight be made upon a label attached thereto. [1909]

Sec. 83-121. False weights and measures; penalty; civil liability; evidence; injunction.

It shall be unlawful for any person: (a) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure, or weighing or measuring device that is false, or which has been condemned except under written authorization of the state sealer or an authorized inspector or sealer; (b) to use a weight, measure, or weighing or measuring device that is false, or that does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, for the purpose of:

- (1) Buying or selling any commodity or thing,
- (2) hire or award,
- (3) computation of any charge for services rendered on the basis of weight or measure,
- (4) the determination of weight or measure when a charge is made for such determination;
- (c) to break or remove any tag, mark or seal placed on any weighing or measuring device by the state sealer, his deputies, or inspectors, or by a city sealer, deputy, or inspector; (d) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service; (e) to take or attempt to take more of the represented quantity when the buyer furnishes the weight, measure, or weighing or measuring device by which the amount of any commodity, thing, or service is determined; (f) to keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to the law or contrary to any rule or regulation; (g) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position that may reasonably be assumed by a customer; (h) to violate any of the provisions of chapter 83 of the General Statutes of 1935, and supplements thereto, for which a specific penalty is not provided; (i) to 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. Any person violating any of the provisions of this act [Secs. 83-101—83-142] or any authorized rule or regulation issued pursuant thereto, shall be deemed guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than twenty-five dollars or more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. He shall also be liable to the injured party in double the amount of the property wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of

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representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. A slight variation from the stated weight, measure or quantity for individual packages is permissible, provided this variation is as often above as below the weight, measure or quantity stated: *Provided*, That district courts may issue injunctions restraining violations of this act. [1949]

Sec. 83-122. State sealer of weights and measures: Appointment; duties.

There is hereby created in the state board of agriculture a division which shall be known as the division of weights and measures, and the head thereof shall be appointed by the state board of agriculture in the manner as appointments are made in the classified civil service under the Kansas civil service act and shall be known as the state sealer of weights and measures (hereafter referred to in this act [Secs. 83-101-83-109, 83-115-83-136] as the state sealer). The state sealer shall have the care and custody of the authorized public standards of weights and measures and of balances and other apparatus of all kinds furnished by the government of the United States and owned by the state. He shall maintain the state standards in good order and submit them at least once in every ten years to the national bureau of standards for verification. He shall compare and adjust by the state standards all municipal and other official standard weights, measures, balances and measuring devices which may be sent or brought to him for that purpose, and shall seal the same when found or made to conform to the state standards, by stamping upon each the letter "K" and the last two figures of the year in which the said comparison and adjustment has been made, with seals which he shall have and keep for that purpose: *Provided*, That he may refuse to compare and seal any weights, measures, balances or measuring devices as standards for any municipality or public offices which do not conform to the type approved by the national bureau of standards for such use. [1909; last amended 1947.]

Sec. 83-123. Same: Testing and sealing.

The state sealer may try and prove weights, measures, balances and other measuring devices on request for any person, corporation, or institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as he shall make, he may seal the same with a seal which he shall have and keep for that purpose. [1909]

Sec. 83-124. Same: Records, reports and regulations.

The state sealer shall keep a record of all of the weights, measures, balances or other measuring de-

vices sealed or condemned by him, and shall make an annual report to the governor on or before January 1 of each year, a copy of which shall be filed with the national bureau of standards. He shall issue from time to time regulations for the guidance of county, municipal and all other inspectors or sealers of weights and measures, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1909]

Sec. 83-124a. Same: Rules and regulations.

The state sealer of weights and measures shall promulgate and file with the revisor of statutes such rules and regulations as may be necessary to carry out the purposes of this act [Secs. 83-101-83-109, 83-115-83-136]. The said regulations shall include specifications and tolerances for all weights, measures, and weighing and measuring devices, which specifications and tolerances shall, insofar as practicable, conform to the specifications and tolerances as established by the national bureau of standards. [1947]

Sec. 83-125. Deputy state sealers, appointment; director of revenue to calibrate liquid fuel dispensing pumps, meters and vehicle tanks.

The state board of agriculture shall appoint deputy state sealers, who shall perform such duties as may be prescribed by the state sealer, and the state sealer shall appoint such other office and field help as may be necessary to carry out the provisions of this act insofar as funds for that purpose are appropriated. All such appointments shall be made in accordance with the Kansas civil service act. The state sealer shall purchase such equipment as may be necessary to perform his duties in connection with the administration and enforcement of this act as moneys are appropriated and are made available: *Provided further*, That the director of revenue of the state commission of revenue and taxation shall be authorized to act as deputy state sealer to measure, calibrate and certify the capacity of motor-vehicle fuel and liquid fuel dispensing pumps, meters or other devices, and vehicle tanks used in the transportation thereof. [1909; last amended 1947.]

Sec. 83-127. Sets of standards for county and local sealers.

Sets of standards for county and local sealers, if procured, shall include the following weights, measures and balances, and they shall be of a type approved for such use by the state sealer: One yard measure divided into feet and inches, and at least one of the inches divided into thirty-seconds of an inch. Dry capacity measures: One-half bushel, one peck, one quart and one pint. Liquid capacity measures: One gallon, one quart and one pint. Avoirdupois pound weights in the following number and denomination: One fifty-pound, one twenty-pound, two ten-pound, one five-pound, two two-pound, and one one-pound. Avoirdupois ounce and

fractional ounce weights in the following number and denomination: One eight-ounce, one four-ounce, one two-ounce, two one-ounce, one one-half-ounce, one one-quarter-ounce, one one-eighth-ounce, and two one-sixteenth-ounce. Twenty test weights each of fifty pounds for testing platform scales and other large scales, if the same are to be tested. One equal arm balance of capacity of fifty pounds to one-sixteenth of an ounce. [1909]

Sec. 83-128. Testing and sealing upon request.

The state sealer, deputy state sealers, county and local sealers shall try and prove all weights, measures, balances and measuring devices when requested so to do, and when the same are found or made to conform to the authorized standards they shall seal and mark such weights, measures, balances and measuring devices with a seal to be kept by them for that purpose. When any weight, measure, balance or measuring device is found by any authorized inspector or sealer to be false or untrue or not of an approved type, or which does not conform to the standards, or which cannot be made to conform to the standards by such means as the said inspector or sealer may have at his disposal, he shall condemn the same and tag or mark it condemned in a conspicuous manner. [1949]

Sec. 83-131. Entry on premises by sealers; penalty for unlawful acts.

All state, county and local sealers, or their deputies and other authorized inspectors of weights and measures, shall have full power to enter any premises in or on which any weights, measures, balances or measuring devices may be located or used for the purposes of trade, for the purpose of inspecting, adjusting and sealing or condemning the same. Whoever hinders, obstructs, or in any way interferes with any sealer or other person authorized to inspect weights and measures, while in the performance of said inspection, or whoever fails to produce, upon demand by such authorized sealer or inspector, all weights, measures, balances or measuring devices in or upon his place of business or in his possession for use in manufacture or trade, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than five dollars nor more than one hundred dollars. [1909]

Sec. 83-132. Penalty for sealing or condemning without testing.

Any state or local sealer or deputy who shall seal any weight, measure, balance or measuring device before first testing and making the same conform to the authorized standard, or who shall condemn any weight, measure, balance or measuring device without first testing the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than five dollars nor more than one hundred dollars. [1909]

Sec. 83-133. Records and reports of local sealers.

The several county and municipal sealers and other persons authorized to inspect weights and measures shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed or condemned, and shall make an annual report of the same to the state sealer on or before the first day of September of each year, giving, in addition to the above, an inventory of the standards and apparatus in his possession, and such other information as he may deem important or that the state sealer may require. [1909]

Sec. 83-134. Departments of inspection by cities or municipalities; sealer and deputies, appointment and compensation; quarters and equipment.

Any city or municipality in the state may establish a department of public inspection of weights and measures, and shall have power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances not in conflict with the state laws as may be deemed necessary; and if a city or municipality shall establish such a department it shall provide the sealer with suitable quarters, a set of standards as hereinbefore specified in this act [Secs. 83-101-83-109, 83-115-83-136], and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the state sealer, and shall be returned to him for verification at least once in every five years. [1909]

Sec. 83-135. Investigations by local sealers.

The county or local sealer who may have reason to believe that any weight, measure, balance or measuring device used in trade is inaccurate, or not according to the standard, shall have authority to make an immediate examination of the same and require that the same be tried and tested and conform to the standards herein required. [1909]

Sec. 83-136. Cooperation by state board of health and food and drug inspectors with state and local sealers.

It is hereby made the duty of the state board of health, and its several food and drug inspectors, to cooperate with the state and local sealers in carrying out the provisions of this act [Secs. 83-101-83-109, 83-115-83-136] and all other acts relating to weights and measures, and the said food and drug inspectors are hereby authorized and empowered to act as inspectors of weights and measures used in trade. The state board of health shall procure, at the expense of the state, a full set of standard weights, measures and balances, including sets of standard apothecary's weights and measures, and cause the same to be proved and sealed by the state standards under the direction of the state sealer, together with the necessary working sets of weights,

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measures, balances and measuring devices for the use of the said inspectors, which must be officially sealed, and such weights and measures, balances and measuring devices provided for such inspectors shall be competent evidence in all courts in this state in criminal or civil actions. [1909]

Sec. 83-137. Oils: Standard weight per gallon; sale.

Whenever any of the following named articles shall be contracted for or sold or delivered by wholesale or in the original packages within the state of Kansas, and no special contract or agreement shall be made to the contrary, such sale and all computations for payment and settlement therefor shall be by weight. The weight per gallon shall be as follows: Naphtha, five and three-fourths pounds; kerosene oil, six and one-half pounds; paraffine oil, seven and one-half pounds; castor oil, eight pounds; olive oil, seven and five-eighths pounds; linseed oil, raw, seven and one-half pounds; linseed oil, boiled, seven and one-half pounds; menhaden oil, seven and one-half pounds; cod-liver oil, seven and one-half pounds; whale oil, seven and one-half pounds; lard oil, seven and one-half pounds; neat's-foot oil, seven and one-half pounds; sperm oil, seven and one-fourth pounds; turpentine, seven pounds; miners' oil, seven and one-half pounds; gasoline, seven and one-fourth pounds. [1885]

Sec. 83-138. Same: Civil liability for taking greater number of pounds to gallon or giving less number of pounds.

Whoever in buying any of the articles mentioned in the preceding section shall take any greater number of pounds thereof to the gallon, or in selling any of said articles shall give any less number of pounds thereof to the gallon, than is allowed by said section, with intent to gain advantage thereby, except when expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount or value of the property so wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction. [1885]

Sec. 83-139. Sale of grain, seed, hay or coal; penalty for fraudulent practices; authority of agent, prof.

Every sale of grain, seed, hay or coal shall be deemed to be made on the basis of the actual weight thereof, unless a different basis is established by the express agreement of the parties to the transaction. Any purchaser of grain, seed, hay or coal who, without express agreement with the seller thereof, shall knowingly deduct any quantity or amount from the actual weight or measure of the article purchased, and withhold payment therefor under claim of right so to do by reason of any custom, rule of a board of trade or any other pretense whatsoever, shall be deemed guilty of a misdemeanor, and subject to a fine of not less than twenty-five dollars nor

more than one hundred dollars for each and every offense. No agent or broker selling grain, seed, hay or coal for the owner thereof shall be presumed to have authority to sell any grain, seed, hay or coal on a basis other than that of the actual weight or quantity thereof, but express authority to allow any deduction must be proved. [1905]

Sec. 83-140. Same: Civil liability for deduction from actual weight or measure; attorney's fees.

In case any purchaser of grain, seed, hay or coal shall deduct any amount from the actual weight or measure thereof, and shall knowingly withhold from the seller the purchase price of the quantity so deducted without the express agreement of the seller thereof, such seller may recover from such purchaser three times the amount so withheld, together with reasonable attorney's fees, to be taxed in each court in which the action may be brought or to which an appeal may be taken. [1905]

Sec. 83-141. Measuring device defined.

The word "measuring device" as used in chapter 83 of the General Statutes of 1935, and all acts amendatory thereof or supplemental thereto 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. [1947]

Sec. 83-142. Transfer of state standards.

The state sealer of weights and measures shall obtain from the chancellor of the university of Kansas, and the chancellor shall deliver to the state sealer, such authorized public standards of weights and measures and balances and other apparatus of all kinds furnished by the government of the United States and owned by the state. The state sealer of weights and measures is hereby authorized to take possession of said property and is herewith required to maintain the same in the manner provided by law. [1947]

Laws 1949, Ch. 511—Weights and Measures.

Sec. 3. Registration for removal of condemnation tag.

It shall be unlawful for any person, other than an authorized inspector or sealer, to remove a condemnation tag or mark from any weighing or measuring device, without first having registered with the state sealer. An application for such registration shall be on a form to be supplied by the state sealer and shall supply such information as is required by him. All registrations for such purpose shall expire on December 31 of each even numbered year, following date of issuance. All registrants who shall remove such condemnation tags or marks shall make a report to the state sealer of such removal and of repair work performed within five days after such removal. Registration may be re-

fused and registrations may be canceled by the state sealer, for failure of the registrant to make required reports or for unsatisfactory workmanship: *Provided*, That registrations shall not be so canceled until after a registrant shall have been given ten days notice of a hearing thereon, and an opportunity to be heard. [1949]

General Statutes Annotated 1935, Ch. 13, Art. 4—
Cities of the First Class.

Sec. 13-437. Powers: Weights and measures.

To prescribe rules for weighing and measuring every kind of commodity sold in the city, in all cases not otherwise provided for by law, and may provide for the inspection of grain and weighing of hay, grain, coal, and measuring of wood and other fuel, and determine the place or places of weighing or measuring the same, and regulate and prescribe the place or places of exposing for sale hay, coal, and wood, and fix the fees and dues [duties] of the persons authorized to perform the duties named in this section; * * * [1903]

General Statutes Annotated 1935, Ch. 13, Art. 5—
Cities of the First Class.

Sec. 13-527. Powers: Appointment of weighers.

The mayor, by and with the consent of the council, or the city commission, as the case may be, may appoint a * * * market master, weighmaster, inspector and weigher of produce, * * * but no such officer shall be appointed until his term of office and salary shall have been fixed by ordinance; * * *. The term of all elective or appointive officers shall be two years, * * *. [1903; last amended 1935.]

General Statutes Annotated 1935, Ch. 14, Art. 4—
Cities of the Second Class.

Sec. 14-426. Powers: Weights and measures.

The council may prescribe rules for the weighing and measuring of every commodity sold in the city in all cases not otherwise provided for by law, and may provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel, and determine the place or places of the same, and regulate and prescribe the place or places of exposing for sale hay, coal and wood, and fix the fees and duties of the persons authorized to perform the duties named in this section. [1872]

General Statutes Annotated 1935, Ch. 15, Art. 4—
Cities of the Third Class.

Sec. 15-441. Powers: Weights and measures.

In addition to the other powers provided by law, the governing body of cities of the third class may provide by ordinance for the inspection and weighing of hay, grain, coal, cattle and hogs, and for the measuring of wood for fuel, and determine the place or places of the same, and regulate and pre-

scribe the place or places of exposing for sale hay, coal, and wood; may purchase and locate scales for such weighing, appoint a weighmaster, and prescribe his duties and fees. The council shall require such weighmaster to give a proper bond to the city, for the faithful performance of his duties: *Provided*, That in no case shall there be any greater charge made for weighing than five cents for a single draft. [1883]

General Statutes Annotated 1935, Ch. 2, Art. 10—
Commercial Feeding Stuffs.

Sec. 2-1001. Definition.

The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding livestock and poultry, except the following: (a) Whole seeds or grains. (b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo. (c) Whole hays, straws, cottonseed hulls and corn stover, when unmixed with other materials. (d) All other materials consisting of 60 percentum or more of water. [1923]

Sec. 2-1002. Marking requirements.

Every lot, package, bag or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have printed or stenciled thereon or affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truthfully stating:

(A) (a) the net weight of the contents of the package, bag or parcel; * * *. [1923; last amended 1945.]

Sec. 2-1011. Violations; penalties; seizure.

(1) It shall be deemed a violation of this act [Secs. 2-1001—2-1013] for any manufacturer, importer, jobber, firm, association, corporation or person to sell, offer or expose for sale, or distribute in this state any commercial feeding stuffs:

* * * (D) which is not labeled as required by the provisions of this act and the rules and regulations issued thereunder; (E) which bears a false or misleading statement on the label or the advertising accompanying the feeding stuffs; * * *

(2) It shall be deemed a violation of this act for any manufacturer, importer, jobber, firm, association, corporation or person to: (G) mutilate, destroy, obliterate or remove the label or any part thereof, or do any act which may result in the misbranding or false labeling of such commercial feeding stuffs; * * *

Any manufacturer, importer, jobber, firm, association, corporation or person who shall be guilty of a violation of the provisions of this act or the rules and regulations promulgated and adopted upon conviction thereon shall be fined not more

General Statutes Annotated 1935, Ch. 2, Art. 10—
Commercial Feeding Stuffs—Continued.

than one hundred dollars for the first violation and not less than one hundred dollars nor more than five hundred dollars for each subsequent violation. Any feeding stuffs misbranded or adulterated * * * or which is offered or exposed for sale in violation of any of the provisions of this act shall be subject to seizure and condemnation or sale as the court may direct; * * *. [1923; last amended 1945.]

Sec. 2-1013. Enforcement; rules and regulations.

The secretary of the state board of agriculture is hereby empowered to enforce the provisions of this act [Secs. 2-1001—2-1013] * * *, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the lawful intent and meaning of this act. [1923]

General Statutes Annotated 1935, Ch. 2, Art. 11—
Dressed Poultry.

Sec. 2-1113. Injection increasing weight prohibited.

It shall be unlawful for any person, firm or corporation to inject, or cause to be injected, water or any other substance by means of what is known as a "needle" or "watergun" or by any other means, into dressed poultry that is prepared and/or offered for sale or sold in the state of Kansas, when such injection would increase the weight of such poultry. [1933]

Sec. 2-1114. Same: Sale prohibited.

It shall be unlawful for any person, firm or corporation to knowingly sell, or offer for sale, or cause to be sold or offered for sale, in the state of Kansas, any dressed poultry into which has been injected, by means of a "needle" or "watergun" or by any other device, any water or other substance which would increase the weight of such poultry. [1933]

Sec. 2-1115. Same: Penalty.

Any person, firm or corporation violating any of the provisions of this act [Secs. 2-1113—2-1115], shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed five hundred dollars (\$500), or by imprisonment in the county jail for not to exceed ninety days, or by both such fine and imprisonment. [1933]

General Statutes Annotated 1935, Ch. 2, Art. 12—
Commercial Fertilizers.

Sec. 2-1201. Definition.

(1) The term "commercial fertilizer" means any substance designed, intended, used or susceptible for use to supply food for plants or to increase crops produced by land, except the following: (a) Limestone (calcium carbonate), (b) dolomite (calcium magnesium carbonate), (c) lime (calcium oxide),

(d) slaked lime (calcium hydroxide), (e) gypsum (calcium sulphate), (f) the dung of domestic animals, (g) compost, and (h) fertilizer materials.

(2) The term "fertilizer materials" means any substance containing plant food elements or compounds in possession of manufacturers for use in compounding mixed commercial fertilizers. [1949]

* * * * *

Sec. 2-1204. Marking requirements.

(1) Every package or container of commercial fertilizer shall bear a distinctly printed label in the English language on a tag attached to the package or container, or distinctly printed on the package or container. The label shall show and state:

(a) The name and address of the person registering the commercial fertilizer;

(b) The brand and grade of the commercial fertilizer;

(c) the net weight in the package or container;

* * * * *

(2) Bulk lots shall be accompanied by a label which shall be delivered to the purchaser showing the information required by this section. [1949]

Sec. 2-1208. Penalty for violations; seizure.

(1) It shall be deemed a violation of this act [Secs. 2-1201—2-1210] for any person to sell, offer or expose for sale, or distribute in this state any commercial fertilizer or to take or receive from any person in this state any order for any commercial fertilizer, or to directly or indirectly contract with any person for the sale of any commercial fertilizer which commercial fertilizer: * * * (b) is not labeled as required by the provisions of this act and the authorized rules and regulations; (c) bears a false or misleading statement on the * * * label or the advertising accompanying the commercial fertilizer.

(2) It shall be deemed a violation of this act for any person to: (a) Mutilate, destroy, obliterate or remove the label or any part thereof; or do any act which may result in the misbranding or false labeling of any commercial fertilizer; * * *

(3) Any person who shall violate any of the provisions of this act or the rules and regulations issued thereunder, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars for the first violation and not less than one or more than five hundred dollars for each subsequent violation.

(4) Any commercial fertilizer not in compliance with the provisions of this act shall be deemed a nuisance and shall be subject to seizure in a proceeding before a court of competent jurisdiction. * * * [1949]

Sec. 2-1208a. Hearing before criminal proceedings.

If it shall appear to the secretary [of the state board of agriculture] or his authorized representative from examination or analysis of an official

sample of a commercial fertilizer that the commercial fertilizer is falsely labeled or fails to comply with the provisions of this act [Secs. 2-1201—2-1210], the secretary, before instituting criminal proceedings, shall cause notice to be given to the person in possession of the commercial fertilizer and the registrant that a hearing in relation thereto will be held at a date and place named in said notice. * * * [1949]

Sec. 2-1210. Enforcement; rules and regulations.

* * * The secretary [of the state board of agriculture] is hereby authorized and empowered to enforce the provisions of this act [Secs. 2-1201—2-1210], and amendments thereto, and to prescribe and enforce such rules and regulations relating to commercial fertilizers as he may deem necessary to carry into effect the full intent and meaning of this act. [1949]

General Statutes Annotated 1935, Ch. 2, Art. 18—Binder Twine.

Sec. 2-1801. Registration.

It shall be unlawful to sell, expose or offer for sale or distribute in this state any agricultural binder twine which has not been officially registered by the secretary of the state board of agriculture. Any person or persons, association, partnership, firm or corporation desiring to sell, expose or offer for sale or distribute any agricultural binder twine to dealers, jobbers or consumers within this state shall make application to the secretary of the state board of agriculture for registration of the same, and shall submit an affidavit clearly and truly setting forth * * * the number of feet to the pound, the tensile strength, * * *. [1935; last amended 1939.]

Sec. 2-1802. Labeling of containers.

Every bale, bag, case or other container of agricultural binder twine sold, exposed or offered for sale or distributed within this state, by sample or otherwise, shall bear a distinctly printed label or tag in the English language, truly stating: * * * *second*, the gross and net weights; *third*, the number of feet to the pound; *fourth*, the tensile strength; * * *. [1935]

Sec. 2-1803. Labeling of each ball, skein or spool.

Every ball, skein, spool or other quantity less than a bale, bag, case or other container of agricultural binder twine shall bear a label, tag or stamp in the English language truly stating: * * * *second*, the number of feet to the pound; *third*, the tensile strength; * * * *Provided*, That a deficiency not exceeding four percent of the length per pound and/or the tensile strength shall not be construed to be a violation of any of the provisions of this act [Secs. 2-1801—2-1804]. [1935]

Sec. 2-1804. Penalty for violations.

Any person or persons, association, partnership, firm or corporation violating any of the provisions of this act [Secs. 2-801—2-1804] shall, upon conviction thereof, be deemed guilty of a misdemeanor and punished by a fine of not more than one hundred dollars for the first violation and not less than one hundred dollars for each subsequent violation. [1935]

1947 Supplement to General Statutes Annotated 1935, Ch. 2, Art. 22—Economic Poisons.

Sec. 2-2202. Definition.

For the purpose of this act [Secs. 2-2201—2-2215]: (a) The terms "agricultural chemical" and "economic poison" shall be construed as synonymous terms, and shall mean and include any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects, rodents, predatory animals, fungi, weeds, and any substance labeled, designed or intended for use as a defoliant, and other forms of plant or animal life or viruses, which the secretary shall declare to be a pest. Viruses on or in living man or other animals are specifically excepted and excluded from this definition. Drugs recognized by the United States pharmacopoeia or the national formulary, the label of which bears the descriptive abbreviations for these compendia, U. S. P. or N. F. as the case may be, are specifically excepted and excluded from this definition. [1947]

* * * * *

Sec. 2-2205. Marking requirements.

(a) It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following: * * * (4) Any agricultural chemical, unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing the following: * * * (c) the minimum net weight or measure of the contents: *Provided*, That herbicides shall be labeled to state the net weight of contents. [1947]

Sec. 2-2206. Enforcement.

(a) The examination of agricultural chemicals shall be made under the direction of the secretary [of the Kansas state board of agriculture], or his authorized representative, for the purpose of determining whether they comply with the requirements of this act [Secs. 2-2201—2-2215]. * * * [1947]

1947 Supplement to General Statutes Annotated, 1935,
Ch. 2, Art. 22—Economic Poisons—Continued.

Sec. 2-2208. Penalty for violations.

* * * (b) Any person violating any provisions of this act [Secs. 2-2201—2-2215] other than section 3 (a) (1) [2-2203, (a) (1)] or failing to comply with any of the provisions of this act other than section 3 (a) (1) [2-2203, (a) (1)] or violating or failing to comply with any rule or regulation adopted under the provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars for the first offense and upon conviction for a subsequent offense shall be fined not less than one hundred dollars or more than five hundred dollars for each subsequent offense: *Provided*, That any offense committed more than five years after a previous conviction shall be considered a first offense. * * * [1947]

Sec. 2-2209. Seizures.

(a) Any agricultural chemical that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any court of competent jurisdiction in any county of the state where it may be found and seized for confiscation by process of libel for condemnation: * * * (3) if it fails to bear on its label the information required by this act; * * * [1947]

General Statutes Annotated 1935, Ch. 34, Art. 1—
State Grain Inspection Department.

Sec. 34-101. Creation and functions.

That a state department of record to be designated as the "Kansas state grain inspection department" is hereby established. Said department shall have exclusive control of the official sampling, inspection, grading, weighing and protein analysis and the certification of grades, weights and protein content of all grain at all places where inspection stations are now or may hereafter be established. The certificates issued by the department shall be conclusive evidence to all parties interested and shall form the basis of all settlements between the buyer and seller, unless an appeal is taken therefrom, in the manner provided by law, and all freight charges shall be based on the official state weights. The department shall have supervision and regulation of all warehouses operated under the Kansas public warehouse laws relating to storage of grain. Said department is authorized and empowered by and with the consent of the governor to establish, maintain and operate inspection stations covering all or any part of its service at great railway terminals and points where organized grain markets are regularly maintained; and at other points where operating costs are guaranteed by special arrange-

ments with the industries served, or the managing officers in charge: *Provided*, That where great railroad terminals lie partly within the state of Kansas and partly in an adjoining state and a larger part of the department's service at such terminal is for the account of firms having offices in such adjoining state, it shall be lawful for the department to maintain and operate an inspection station covering part or all of its services in such adjoining state: *Provided*, That no sampling or weighing of grain shall be done by the department outside of the state of Kansas. Such stations shall be located as conveniently to the interest served as practicable: *And provided, further*, That the owner may direct that his grain may not be inspected by writing or stamping upon the bill of lading thereof, "no inspection desired" or words to that effect. [1907; last amended 1933.]

Sec. 34-102. Supervision of weighing; certificates of weight; scale tickets; unlawful acts; penalty.

It shall be the duty of the chief inspector to have a general supervision of the inspection, sampling, sampling for inspection, and weighing of grain, as required by this act [Secs. 34-101—34-118] or the laws of the state; to supervise the handling, inspection, sampling, sampling for inspection, and weighing, protein analysis, and storage of grain; to establish necessary rules and regulations therefor; and for the management of the public warehouses of the state, as such rules and regulations may be necessary to enforce the provisions of this act or any law of this state in regard to the same; to keep proper records of all the inspection, sampling, sampling for inspection and protein analysis, and weighing done into and out of warehouses licensed by law to do business in this state, for which purpose he shall have provided books, blanks, and other material needed in order to keep perfect and proper records. He shall investigate all complaints of fraud or oppression in the grain trade, and correct the same so far as may be in his power. It is hereby declared unlawful for boards of trade, chambers of commerce or any civic or commercial organizations of similar character, to have charge of weighing or issue official certificates of weight on grain at any point within the state. All certificates of weight except those issued by private industries for the purpose of making settlement with their own customers, shall be issued by officials or employees of the Kansas state grain inspection department, on the regular form of weight certificates adopted and approved by the chief inspector. All scales over which official state weights of carlots of grain are taken shall be equipped with type-registering beams, in order that an original punched scale ticket may be taken of each draft weighed. The original punched scale ticket shall become the property of the Kansas state grain inspection department, and shall be filed as a record of the weight. It is hereby declared unlawful for any person,

company or corporation to install or continue to maintain at any elevator, mill or warehouse where official state weights are given, any blower, suction fan, cleaner or other device for the purpose of removing dirt, seeds, sticks, chaff or any like substance from grain unloaded into said elevator, mill or warehouse before the grain has been officially weighed. It is hereby declared to be unlawful for any person, persons, firm or corporation to in any manner change or alter an official state inspection or weight certificate after it has been issued. Where an official state weight certificate has been issued on any lot of grain, the purchaser must make settlement on the basis of the amount of grain shown on the said weight certificate. Any person, persons, firm or corporation who shall violate the provisions of this act shall be deemed guilty of misdemeanor and upon conviction shall be fined a sum of not less than one hundred dollars or more than five hundred dollars, or imprisonment in the county jail for a period of not less than thirty days or for more than one year, or both fine and imprisonment. [1907; last amended 1933.]

Sec. 34-103. Inspection and weighing fees; preventing access to scales a misdemeanor.

That the fees for service of the officers of the department shall be as follows: For inspecting, sampling and moisture tests for each carlot, one dollar twenty-five cents. For inspecting, sampling, and moisture tests on each truck load, one dollar five cents. For inspecting, sampling, and moisture tests in or out of barges or boats, seventy-five cents for each thousand bushels or a fraction thereof. For weighing in or out of elevators or warehouses one dollar twenty-five cents per carlot. For weighing in or out of barges or boats seventy-five cents for each thousand bushels or fraction thereof. * * *. For extra moisture tests, twenty-five cents. Extra samples, secured at the time of original sampling, fifty cents. For new samples, secured after the time or original sample, seventy-five cents. For duplicate certificates ordered after service performed, ten cents: *Provided*, That whenever there shall be accumulated in the revolving fund as provided in section 75-1707 of the General Statutes of 1935 from the fees provided for by this section the sum of two hundred thousand dollars the fee for inspecting, sampling, and moisture tests and the fee for weighing in or out of elevators or warehouses shall be reduced to one dollar ten cents for each carlot, and shall not be thereafter changed until the said revolving fund shall be reduced to one hundred fifty thousand dollars, whereupon said fees shall be and remain one dollar twenty-five cents for each carlot: *Provided further*, That whenever the fees for carlots hereunder shall become one dollar ten cents the fee for inspecting, sampling, and moisture tests shall become and be eighty-five cents on each truck load and the fees for inspecting, sampling and

moisture tests in or out of barges or boats shall become and be sixty cents for each thousand bushels or fraction thereof and the fee for weighing in or out of barges or boats shall become and be sixty cents for each thousand bushels or fraction thereof, and said fees shall remain in effect so long as the said carlot fees shall be one dollar ten cents but not thereafter. The chief inspector shall have the power to fix the manner in which the fees shall be collected. In case any persons, warehouse, or railroad corporation or any of their agents or employees shall refuse or prevent the officers of the department from having access to their scales, elevators, warehouses, and other places in the regular performance of their duties in inspecting, sampling, sampling for inspection and weighing grain or other property in accordance with the tenor and meaning of this act [Secs. 34-101—34-118] or any law now in force or that may be enacted in relation to the same, such persons or corporation shall be guilty of a misdemeanor. [1915; last amended 1947.]

Sec. 34-104. Charges for inspection and weighing grain in transit.

That the charges for inspection, sampling and weighing of grain so inspected, sampled or weighed, and whenever such grain is in transit the said charges shall be treated as advanced charges, shall be collected and paid by the common carrier in whose possession the same is at the time of such inspection, sampling or weighing. [1907; last amended 1915.]

Sec. 34-105. Penalty for neglect of duty in inspecting, weighing or grading.

That any duly authorized chief inspector, assistant inspector or weighmaster of grain under this act [Secs. 34-101—34-118] who shall be guilty of neglect of duty, or who shall knowingly or carelessly inspect, grade or weigh any grain improperly, or who shall accept any money or other valuable consideration, directly or indirectly, for any neglect of duty as such grain inspector, assistant inspector or weighmaster, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in the sum of not less than five hundred dollars nor more than one thousand dollars, or shall be imprisoned in the county jail not less than six months nor more than twelve months, or both such fine and imprisonment, in the discretion of the court, and upon conviction of any such offense, such chief inspector, assistant inspector or weighmaster shall forfeit his office. [1907; last amended 1915.]

Sec. 34-106. Penalty for illegally acting as inspector, sampler or weigher.

The inspection, sampling, sampling for inspection or weighing of grain in this state, whether in or out of public warehouses or elevators, or in cars arriving at points where a state grain inspection is established, shall be performed by such persons

General Statutes Annotated 1935, Ch. 34, Art. 1—
State Grain Inspection Department—Continued.

only as have been duly appointed by the chief inspector of the state of Kansas grain inspection department, and qualified according to law and any person who shall act as such inspector, sampler, sampler for inspection or weigher of grain who has not been duly appointed and qualified, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment: *Provided*, Nothing in this act shall apply to grain when the bill of lading is marked "No inspection desired" or words to that effect, as provided in section 1 [34-101] of this act [Secs. 34-101—34-118]. [1907; last amended 1915.]

Sec. 34-107. Control of inspection, sampling and weighing.

That the chief inspector and assistant and officers of the grain inspection department shall have exclusive control of the inspection, sampling, sampling for inspection and weighing of grain in all places where inspection, sampling, sampling for inspection or weighing is or shall be established under this act [Secs. 34-101—34-118]; the action and certificate of such officer shall be conclusive to all parties interested, unless appealed from as provided by law. [1907; last amended 1915.]

Sec. 34-113. Weight to be furnished shipper.

That any shipper of grain, which grain has been weighed by the grain inspection department of this state, may, on request in writing to the chief inspector and enclosing a stamp for reply, receive, and it shall be the duty of the chief inspector to furnish such shipper, free of charge, the weight of any such grain, by forwarding to him promptly a statement showing such weights: *Provided*, That such written request shall set forth the number and initials of the cars, the weights of which are so desired. [1905]

Sec. 34-114. Testing of track and hopper scales; fees.

All track and hopper scales in the state over which grains are officially weighed shall be tested by a qualified scale expert in the employ of the Kansas grain inspection and weighing department. The fee for such test shall be \$15, which fee shall be paid by the industry for which the test is made, but in no case shall the fees exceed \$30 for any scale during one year: *Provided, however*, That any party interested in the weighing of grain over any scale may request a test at any time and upon such request the chief inspector shall cause such test to be made. If the scale is found incorrect the fee for the test shall be paid by the owner otherwise by the party requesting the test. The fees for the above shall be paid to the chief inspector and by him remitted to the state treasurer and credited to the

Kansas state grain inspection revolving fund in the same manner as other fees collected: *Provided*, No fee shall be collected from any railroad company owning and maintaining its own scales. [1921]

Sec. 34-115. Railroad scale test car: Purchase.

The chief grain inspector is hereby authorized to purchase under the direction and with the approval of the executive council of the state a railroad scale test car, for testing track and hopper scales. The cost of said scale test car shall be paid for out of the grain revolving fund in the same manner as the other expenses of the grain inspection and weighing department. [1921]

Sec. 34-116. Same: Free transportation of car and scale inspector.

Whereas, it is necessary to convey by railway the scale test-weight car of the Kansas state grain inspection and weighing department from place to place, to correct scales of the grain industry of the state, so as to obtain correct weights for weighing grain and other commodities; and the railroads of the state receive a good and valuable consideration because of the correction of the weights of the grain and commodities weighed and transferred over their lines; and that no charge therefor should be made by the railroads for hauling and transferring said car and that the railroads shall furnish free transportation for the scale inspector or his assistant. [1923]

Sec. 34-117. Same: Duty of railroads to make such transportation.

That all railroads in the state shall be and are hereby required to haul and transfer on their lines or railroads the scale test-weight car of the Kansas state grain inspection and weighing department free of charge therefor, and furnish free transportation to the state scale inspector of scales or his assistant or deputy, from place to place, as directed by the chief grain inspector of the state. [1923]

Sec. 34-118. Same: Free transportation of test car.

Every railroad or common carrier shall transport, move and switch to any track or hopper scale in the state over which the Kansas state grain inspection and weighing department issues official weights, free of charge, on application of the chief grain inspector or his authorized agent, any scale test car used by the state for testing track or hopper scales. [1921]

General Statutes Annotated 1935, Ch. 34, Art. 2—
Grain Warehouses.

Sec. 34-232. Weighing at terminal warehouses.

That it shall be the duty of every terminal public warehouseman, whenever inspection and weighing is or shall be established, to receive for storage any grain, dry and suitable for warehousing, that may be

tendered to him in the usual manner in which terminal warehouses are accustomed to receive the same in the ordinary and usual course of business, to the capacity of his warehouse available for public storage, not making any discrimination among the persons desiring to avail themselves of the warehouse facilities; such grain to be in all cases inspected, weighed and graded by a duly authorized inspector and weighmaster of the state grain inspection department * * * and all grain delivered from such warehouse shall be inspected and weighed on its delivery by a duly authorized inspector and weighmaster of the state grain inspection department. * * * The charge for inspection and weighing upon receipt and delivery shall be paid by the warehouseman and may be added to the charge of storage. The chief inspector may recover such charges from the warehouseman by an appropriate action in his name. [1931]

Sec. 34-233. Weighing at local warehouses.

* * * All grain taken into a local public warehouse shall be carefully weighed by the warehouseman or one of his employees and a certificate of weight, the form of which shall be approved by the chief inspector, shall be issued and the weight so shown by said certificate shall be stated on the warehouse receipt. * * * [1931]

Sec. 34-239. Form of receipt for storage grain.

Every receipt issued for grain stored in a warehouse licensed under this act [Secs. 34-223-34-2,103] shall embody within its written or printed terms: * * * (e) the net weight and percentage of dockage, * * *. [1931]

Sec. 34-241. Form of receipt for grain taken for transfer.

* * * The form of receipt to cover grain taken for storage by local public warehouses, and to be transported to and stored in said terminal public warehouse, shall be on a form approved by the chief inspector and shall embody within its written or printed terms: * * * (d) the net weight of percentage and dockage, * * *. [1931; last amended 1939.]

Sec. 34-251. Inspection of scales; sealing.

* * * And all scales used for weighing of property in public warehouses shall be subject to tests by any duly authorized inspector, weighmaster or sealer of weights and measures at any time when required by any such officer, or by any person or persons, agent or agents, whose property has been or is to be weighed on such scales. Any public warehouseman who shall use for grain weighing scales that have been found on such inspection to be inaccurate until after the same have been pronounced correct and properly sealed shall be liable to be proceeded against as hereinafter provided. * * * [1931]

Sec. 34-291. Issuance of receipt containing false statement; penalty.

A warehouseman or any officer, agent or servant of a warehouseman who fraudulently issues or aids in fraudulently issuing a receipt for grain, knowing that it contains any false statement, shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both. [1931]

Sec. 34-298. Penalty for violations.

Unless otherwise provided in this act [Secs. 34-223-34-2,103], any person, firm or corporation, or any officer or agent of any person, firm or corporation, who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) and by imprisonment in the county jail for not less than thirty (30) days, or more than one year. * * * [1931]

Sec. 34-2,100. Rules and regulations by chief inspector.

The chief inspector of the Kansas grain inspection department is hereby authorized to make and enforce reasonable rules and regulations, in conformity with the provisions of this act [Secs. 34-223-34-2,103], governing the duties of public warehousemen and registrars of receipts, the manner of conducting public grain warehouses and of keeping and preserving the papers and records of such warehousemen and registrars, including the regulating of all transactions in which grain is sold to the elevators and warehouses and payment therefor is deferred. [1931; last amended 1941.]

**General Statutes Annotated 1935, Ch. 75, Art. 17—
Warehouse Supervising Weighmaster.**

Sec. 75-1703. Appointment.

The chief inspector shall be authorized to appoint a suitable person as a warehouse examiner and supervising weighmaster who shall be qualified to supervise and regulate all warehouses operated under the Kansas public-warehouse law relating to storage of grain, and superintend the work of weighmasters at the various inspection points within the state. The chief inspector shall be authorized to appoint four suitable and qualified persons as inspectors in charge of stations and to appoint a scale tester, and to appoint suitable and qualified persons as assistant inspectors, or assistant weighmasters, to be acting inspectors and weighmasters in the absence of the chief inspector, who shall not be interested in any public or private grain warehouse or in buying or selling of grain, either directly or indirectly; and also such other employees as may be necessary to properly conduct the business of his office. [1907; last amended 1933.]

General Statutes Annotated 1935, Ch. 34, Art. 3—
Hay and Straw Inspection.

Sec. 34-312. Duties of state grain inspector; rules and regulations.

That it shall be the duty of the state grain inspector to assume and exercise a constant supervision over hay and straw inspection at the terminal points in the state, to establish all necessary rules and regulations for the grading, inspecting and re-inspecting of hay and straw, and for supervision over all public hay stacks at the terminal points in the state, as far as such rules and regulations may be necessary to enforce the provisions of this act [Secs. 34-301—34-316], or any law of this state in regard to the same, to investigate all complaints of fraud or oppression in the hay and straw trade at such terminal points and to correct the same as far as may be in his power. [1917]

Sec. 34-315. Weighing places; fee limitation.

That the state grain inspector shall cause all hay and straw inspected under the provisions of this act [Secs. 34-301—34-316] to be weighed by his department at such places as may be prescribed by the rules and regulations established by the state grain inspector, provided that the fee for such weighing shall not exceed fifty cents per car. [1917]

Sec. 34-316. Penalty for violations.

That any person, firm or corporation violating any provisions of this act [Secs. 34-301—34-316] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than twenty-five (25) dollars, nor more than two hundred (200) dollars for each violation, and all such fines when collected, shall be paid into the state treasury and become a part of the "hay inspection fund". [1917]

General Statutes Annotated 1935, Ch. 47, Art. 5—
Livestock Remedies.

Sec. 47-501. Definitions.

For the purpose of this act [Secs. 47-501—47-515]: (A) The term "livestock remedy" shall mean and include all drugs, combinations of drugs, and combinations of drugs and other ingredients, proprietary medicines and preparations which are prepared or compounded (1) for the treatment, mitigation, prevention or cure of any disease or ailment of any animal except man, (2) (other than feeds) to affect the structure or any function of the body of any animal except man: *Provided, however*, That the term "livestock remedy" is not intended to include drugs or preparations compounded at the request of the purchaser by a registered pharmacist or prescribed by registered veterinarians after diagnosis of animals, and vaccines, serums, and bacterins. * * * (C) The term "secretary" shall mean the

secretary of the state board of agriculture. * * * [1925; last amended 1945.]

Sec. 47-502. Registration.

Any person desiring to sell, offer or expose for sale, or distribute, or take any orders or contract for the sale or distribution in Kansas of any livestock remedy shall first file with the secretary [of the State board of agriculture] an application for registration thereof truthfully stating: * * * (C) The minimum net contents of the container, package or parcel of such livestock remedy expressed by weight or count and weight in the case of solids and by measure in the case of liquids, and by both count and weight or measure per unit in case of dosage forms. * * * [1925; last amended 1945.]

Sec. 47-503. Marking requirements.

Every sack, box, carton, bottle or other package of livestock remedy sold, offered or exposed for sale, or distributed within this state shall have a label affixed thereto or printed thereon in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truthfully stating: * * * (C) the minimum net contents of the container, package, or parcel of such livestock remedy expressed by weight or count and weight in the case of solids and by measure in the case of liquids, and by both count and weight or measure per unit in case of dosage forms: * * * [1925; last amended 1945.]

Sec. 47-505. Refusal or cancellation of registration; enforcement of act.

The secretary [of the State board of agriculture] shall have power to refuse to register any livestock remedy * * * when the label or the advertising thereof shall bear or contain any statement, design or device which is false or misleading, * * *. The state board of agriculture is hereby empowered to promulgate and adopt such rules and regulations, official standards and methods of testing as may be deemed necessary to carry into effect the full intent and meaning of this act [Secs. 47-501—47-515], which shall be enforced by the secretary. * * * [1925; last amended 1945.]

Sec. 47-510. Unlawful acts; misbranding defined; penalties; injunctions; seizure.

(1) It shall be deemed a violation of this act [Secs. 47-501—47-515] for any person to sell, offer or expose for sale, or distribute, or to take or receive any order for, or to directly or indirectly contract for the sale of any livestock remedy: (A) Which is not registered as required by the provisions of this act; (B) which is not labeled as required by the provisions of this act; (C) which is misbranded.

A livestock remedy shall be deemed to be misbranded: (a) If its labeling is false or misleading in any particular; (b) if its container is so made, formed, or filled as to be misleading or deceptive; * * * (d) if any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; (e) if its composition * * * or quantity falls below or differs from that which is purported or is represented to possess by its labeling; * * *

(2) It shall be deemed a violation of this act for any person: (E) To alterate, mutilate, destroy, obliterate or remove the label or any part thereof, or to do any act which may result in the misbranding or false labeling of such article; * * *

(G) To impede, obstruct, hinder, or otherwise prevent, or attempt to prevent, the secretary [of the State board of agriculture] or his authorized agent, in the performance of his duty in connection with the provisions of this act or acts to which it is supplemental or amendatory. Any person who shall violate any provisions of this act or the rules and regulations promulgated and adopted or fail or neglect to comply with any requirement of this act or the rules and regulations promulgated and adopted shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars for the first violation and not less than one hundred dollars or more than five hundred dollars for each subsequent violation. * * * The district courts of the state of Kansas shall have jurisdiction to restrain and enjoin violations of this act by injunction. Livestock remedies which are adulterated or misbranded shall be considered as a common nuisance and contraband, and may be seized and taken into possession by the sheriff or the secretary or his agents, who shall cause a complaint to be filed in the district court for the seizure and condemnation of the livestock remedy * * *. The court may in its discretion release the product for sale if the adulteration or misbranding can be and is corrected by proper labeling or processing, providing all fines and costs assessed are paid, and a good and sufficient bond in an amount fixed by the order of the court is filed with the clerk of the court, conditioned on compliance with the order of the court and the provisions of this act. The relabeling or processing shall be under the supervision of the secretary or his agents. If the product is not released for sale it shall be destroyed by the sheriff, or sold for salvage under the direction of the court. [1925; last amended 1945.]

1947 Supplement to General Statutes Annotated
1935, Ch. 47, Art. 10—Community Sales.

Sec. 47-1001. Definitions.

As used in this act [Secs. 47-1001—47-1013], except where the context clearly indicates a different meaning: (A) The term "commissioner" means the livestock sanitary commissioner of the state of Kansas. (b) The term "livestock" means and includes cattle, swine, sheep, goats, horses and mules. (c) The term "person" means and includes any individual, partnership, corporation or association. * * * (f) The term "community sale" means any series of sales, exchanges or purchases of any livestock made at regular or irregular intervals at an established place or places in this state, and held more than three times a year, by any person, directly or indirectly, for or on account of the producer or producers, consignors or consignors thereof, at public auction or at private sale thereat except that this term shall not apply to sales, purchases or exchanges of livestock of any person, persons or corporation selling the products or produce belonging to them in interstate commerce, when made at or upon a public livestock market which is subject to regulation under what is commonly known as the packers and stockyards act of 1921 of the United States and where federal veterinary inspection is regularly maintained under the supervision of the bureau of animal industry of the department of agriculture of the United States of America. * * * [1937; last amended 1939.]

Sec. 47-1003. Investigations and arrests; right of entry.

* * * The commissioner [livestock sanitary commissioner] and his authorized representative shall have power to make investigations and arrest any persons found violating this act [Secs. 47-1001—47-1013] and shall have, at all reasonable times, free and uninterrupted access to any and all buildings, yards, pens, chutes, or scales in or upon which any of such livestock may be kept, quartered, weighed or handled by any dealer. [1937; last amended 1939.]

Sec. 47-1004. Investigations; suspension or revocation of license.

The commissioner [livestock sanitary commissioner], on his own motion, or upon the verified complaint of any interested party, may investigate, examine or inspect any transaction or happening which may involve a violation or alleged violation of this act [Secs. 47-1001—47-1013] or any rule, order or regulation lawfully issued and promulgated by the commissioner thereunder. In the furtherance of any such examination, investigation or inspection, the commissioner or any authorized representative thereof may examine that part of the ledgers, books, accounts, memoranda or other docu-

1947 Supplement to General Statutes Annotated 1935,
Ch. 47, Art. 10—Community Sales—Continued.

ments, scales, measures, livestock and other articles and things used in connection with the business of such person relating to the transactions involved.
* * * [1937]

Sec. 47-1005. Grounds for refusal, revocation or suspension of license.

The commissioner [livestock sanitary commissioner] may, after hearing, as provided in sections 47-1003 and 47-1004 * * * refuse to grant a license and may revoke or suspend any license, as the case may require, when he is satisfied of the existence of any of the following facts: (a) That any provision of this act [Secs. 47-1001—47-1013], or any rule, order or regulation lawfully promulgated thereunder by the commissioner has been violated by the applicant or licensee. * * * (f) * * * or that the licensee selling livestock by weight fails or refuses to have livestock handled by him weighed on scales that are regularly inspected and tested for accuracy by duly authorized public authority or authorities. [1937; last amended 1939.]

Sec. 47-1010. Penalties for unlawful acts.

Any person shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars, who * * * (e) makes any false or misleading statements as to the * * * quantity of livestock shipped or sold, (f) fails to comply in any respect with this act [Secs. 47-1001—47-1013] and any and all lawful rules, regulations and orders of the commissioner [livestock sanitary commissioner] issued and promulgated hereunder: (g) *Provided, however,* That nothing in this act shall in any manner affect any person engaged in the business of buying or assembling livestock for the purpose of prompt shipment to, or slaughter in, my livestock market or packing house which is subject to regulation under what is commonly known as the packers and stockyards act of 1921, or where federal veterinary inspection is regularly maintained under the supervision of the bureau of animal industry of the department of agriculture of the United States of America. [1937; last amended 1947.]

General Statutes Annotated 1935, Ch. 49, Art. 3—
Mine Scales.

Sec. 49-301. Coal to be weighed before screening.

It shall be unlawful for any mine owner, lessee or operator of coal mines in this state, employing miners at bushel or ton rates or other quantity, to pass the output of coal mines by said miners over any screen or other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employees

and accounted for at the legal rate of weights as fixed by the laws of Kansas. [1893]

Sec. 49-302. Oath of weighman; penalty for violation.

The weighman employed at any mine shall subscribe an oath or affirmation, before a justice of the peace or other officer authorized to administer oaths, to do justice between employer and employee, and to weigh the output of coal from mines in accordance with the provisions of section one [Sec. 49-301] of this act [Secs. 49-301—49-307]. Said oath or affirmation shall be kept conspicuously posted in the weigh office, and any weigher of coal or persons so employed who shall knowingly violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment. [1893]

Sec. 49-303. Check-weighman.

The miners employed by or engaged in working for any mine owner, operator or lessee in this state shall have the privilege, if they so desire, of employing at their own expense a check-weighman, who shall have like rights and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. [1893]

Sec. 49-304. Fraudulent weighing; penalty.

Any person or persons having or using any scale or scales for the purpose of weighing the output of coal at mines, so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatever by reason of which such coal is not correctly weighed, and reported in accordance with the provisions of this act [Secs. 49-301—49-307], shall be deemed guilty of a misdemeanor, and shall upon conviction for each offense be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed sixty days, or by both such fine and imprisonment. [1893]

Sec. 49-305. Contracts or agreements as to screening and weighing.

Any provisions, contract or agreement between mine owners or operators thereof and the miners employed therein whereby the provisions of section 1 [49-301] of this act [Secs. 49-301—49-307] are waived, modified, or annulled, shall be void and of no effect; and the coal sent to the surface shall be accepted or rejected, and if accepted shall be weighed in accordance with the provisions of this act; and right of action shall not be invalidated by reason of any contract or agreement. [1893]

Sec. 49-306. Loaders.

The provisions of this act [Secs. 49-301—49-307] shall also apply to the class of workers in mines known as loaders, engaged in mines wherein mining is done by machinery. Whenever the workmen are under contract to load coal by the bushel, ton, or any quantity the settlement of which is had by weight, the output shall be weighed in accordance with the provisions of this act. [1893]

Sec. 49-307. Inspection of scales at mines; penalty.

That the secretary of mine industries of the state of Kansas shall be ex officio inspector of weights, measures and scales used at coal mines, and he or his deputies are hereby empowered, and it shall be his or their duty, to test the scales used to weigh coal mined in the mines of this state at least once every six months, to ascertain whether or not such scales correctly measure the weight of such coal; and if defects or irregularities are found in such scales which prevent correct weights and measurements, the inspector shall call the attention of the mine owner, agent or operator to said defects, and direct that the same be at once properly adjusted and corrected. If the owner, agent or operator of any coal mine in this state shall refuse to allow such inspector or his deputies to properly test the scales used at such mine or mines, or shall fail or refuse to put such scales in proper adjustment and condition, so that the same shall correctly weigh the coal mined, after being notified by said inspector or his deputy so to do, such owner, agent or operator shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars, or be confined in the county jail not exceeding six months, or both, in the discretion of the court; and it shall be the duty of the prosecuting attorneys in the respective counties to prosecute any person, firm or corporation violating the provisions of this section, the same as in other misdemeanor cases. [1903]

General Statutes Annotated 1935, Ch. 50, Art. 1—
Fraud in weight of shipment.

Sec. 50-131. Agreements or combinations by which shipper is defrauded out of portion of net weight; penalty.

If any person, company or corporation doing business in Kansas shall make any agreement, expressed or implied, or by any understanding or combination with any person, company or corporation within or without the state, by which any shipper of seeds, grains, hay or livestock is defrauded out of any portion of the net weight of any consignment of grain, seeds, hay, or livestock, all such agreements or combinations are hereby declared to be in restraint of trade, and any such person, company or corporation shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in the sum of not less than one hundred dollars and not exceeding one thousand dollars for each offense. [1899]

General Statutes Annotated 1935, Ch. 65, Art. 6—
Food.

Sec. 65-601. Manufacturing of misbranded articles unlawful; penalty.

That it shall be unlawful for any person to manufacture within the state of Kansas any article of food * * * or liquors, which is adulterated or misbranded. * * * within the meaning of this act [Secs. 65-601—65-614]; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall upon conviction thereof be fined not to exceed three hundred dollars, or be imprisoned one year in the county jail, in the discretion of the court, and for each subsequent offense on conviction thereof shall be fined not less than five hundred dollars or be imprisoned for one year in the county jail, or shall receive both such fine and imprisonment, in the discretion of the court. [1907]

Sec. 65-602. Sale of misbranded articles unlawful; penalty.

That it shall be unlawful for any person to sell, keep for sale or offer for sale, within the state of Kansas, any article of food, * * * liquor which is adulterated or misbranded, within the meaning of this act [Secs. 65-601—65-614], and any person who shall sell, keep for sale or offer for sale any article of food * * * or liquor which is adulterated or misbranded, within the meaning of this act, shall be guilty of a misdemeanor, and for each offense shall upon conviction thereof be fined in a sum not to exceed fifty dollars or be imprisoned in the county jail not exceeding one year, or be both fined and imprisoned, in the discretion of the court. [1907]

Sec. 65-603. Rules and regulations for enforcement.

That the state board of health is authorized and directed to make and publish uniform rules and regulations, not in conflict with the laws of this state, for carrying out the provisions of this act [Secs. 65-601—65-614], * * *. [1907; last amended 1909.]

Sec. 65-606. "Food" defined.

* * * The term "food," as used herein, shall include all articles used for food or in the preparation of food, drink, confectionery or condiment by man, whether simple, mixed, or compound. [1907]

Sec. 65-608. When food deemed misbranded.

That the term "misbranded," as used herein, shall apply to all * * * articles of food, or articles which enter into the composition of food, the container or label of which shall bear any statement, design or device regarding such article, * * * which shall be false or misleading in any particular, * * *. That for the purpose of this act [Secs. 65-601—65-614] an article shall also

General Statutes Annotated 1935, Ch. 65, Art. 6—
Food—Continued.

be deemed to be misbranded * * *. In the Case of Foods: * * * *third*, if in package form, and the contents are stated in terms of weight, measure or quantity, the net weight, measure or quantity is not plainly and correctly stated on the outside of the package; * * *. [1907; last amended 1909.]

Sec. 65-609. Guaranty protection.

That no dealer shall be deemed guilty under the provisions of this act [Secs. 65-601—65-614] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles to the effect that the same is not adulterated or misbranded, within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this act: *Provided*, That this exemption shall not apply when such dealer knew or ought to have known that such drugs, liquors or foods so sold, offered or kept for sale were adulterated or misbranded, within the meaning of this act. [1907]

Sec. 65-614. Penalty for violations.

That any person who shall violate any of the provisions of this act [Secs. 65-601—65-614] for which no other penalty is prescribed herein shall on conviction be fined in a sum not less than ten dollars or more than one hundred dollars or be imprisoned in the county jail not more than three months, or by such fine and imprisonment, in the discretion of the court. [1907]

General Statutes Annotated 1935, Ch. 65, Art. 7—
Milk and Cream.

Sec. 65-704. Babcock test.

In determining the value of milk, cream or other dairy products by the use of the Babcock test, it shall be unlawful to give any false reading or in any way manipulate the test so as to give a higher or lower percent of butterfat than the milk, cream or other dairy products actually contain, or to cause any inaccuracy in reading the percent of butterfat by securing from any quantity of milk, cream or other dairy products to be tested an inaccurate sample for the test. * * * None other than the Babcock method, or such method of testing as may be approved by the dairy commissioner, may be employed when testing milk or cream, the test of which is to be used as a basis for making payment for the milk or cream thus tested. None other than single bottle torsion balance scales, or

such scales as may be approved by the dairy commissioner, may be used when weighing cream for testing, when such tests are to be used as a basis for making payment for such cream. In the establishing of new stations or replacing condemned scales, single bottle scales must be installed. It shall be unlawful to use adjustable scale weights in determining the weight of cream used in the Babcock test. Only such centrifuge shall be used as shall meet the approval of the state dairy commissioner. Specifications for apparatus and chemicals and directions for testing milk and cream must conform to those adopted by the American Dairy Science Association, with such additions as are deemed advisable by the dairy commissioner to make them applicable to the provisions of this act [Secs. 65-701—65-718]. All test tubes, bottles, pipettes or instruments used in connection with testing or determining the value of milk, cream or other dairy products by the use of the Babcock test shall be approved by the state dairy commissioner. * * * [1927]

General Statutes Annotated 1935, Ch. 66, Art. 1—
Public Utilities.

Sec. 66-119. Meters: Rules to secure accuracy.

* * * It [State Corporation Commission] shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [1911]

General Statutes Annotated 1935, Ch. 66, Art. 2—
Railroad Track Scales.

Sec. 66-250. Scales at stations, when.

That each and every railway company operating a railway wholly or partly within this state shall, on or before the first day of July, A. D. 1893, construct and provide, and thereafter keep and maintain in good order, a track or car scale of sufficient capacity and suitable for weighing grain in carload lots and in the car, at each and every town or station upon its line of railway or the line of railway operated by it, from which the aggregate of grain shipments on all railways shall be one hundred cars or more of grain and seeds during the year 1892. [1893]

Sec. 66-251. Same; weights by public weigher or shipper, when; verification.

Any town or station not now entitled to track scales under this act [Secs. 66-250—66-260], but from which there shall hereafter be shipped in any calendar year one hundred cars or more of grain, seeds or hay, shall be entitled to the benefits of this act: and any railway company operating a railway upon which such town or station is located shall construct, provide, keep and maintain a track or car scale at such town or station, as provided by

section 1 [66-250], within six months after the expiration of such calendar year: *Provided, however,* That any railway company may elect to accept the weights of any public weigher, or the weights of the shipper, and shall have the right to demand that the weights of such shipper shall be verified by affidavit; and in case they so elect, shall not be required to put in scales, and shall not be liable to the penalties prescribed in this act for failure to put in scales. [1893]

Sec. 66-252. Duty to weigh at nearest station; receipt to shipper; place of weighing before and after loading.

At stations not entitled to car scales by the provisions of this act [Secs. 66-250—66-260] it shall be the duty of such railway company to weigh at one of the stations nearest to such station having no such scales, and such cars before and after loading, and give to such shipper a like receipt as provided in section 6 [66-255] of this act: *Provided,* That such weighing before loading may be on one side of the point of shipment, and after loading on the other side of the point of shipment. [1893]

Sec. 66-253. Manner of weighing cars.

Each railway company operating a railway at any station or town in this state entitled to track scales under this act [Secs. 66-250—66-260] shall correctly weigh all cars immediately before and immediately after being loaded with grain, seeds or hay, said cars to be detached from engine and other cars when weighed, and such weighing to be done in the presence of the shipper of such grain or seeds, if so demanded by him. [1893]

Sec. 66-254. Fee for weighing.

Such railway company shall be entitled to collect and receive from the person shipping such grain, seed or hay, the sum of twenty-five (25) cents for each car of such grain or seed so weighed, as compensation for such weighing. [1893]

Sec. 66-255. Bill of lading; claims and actions; proof.

That each railroad company operating a railroad wholly or partly in this state shall be required to give to any person, delivering grain, seed or hay, in bulk or in sacks, to such company for transportation, at any station entitled to track scales, under this act [Sec. 66-250—66-260], a bill of lading, in duplicate, which bill of lading shall state the exact number of bushels or pounds of grain, seed or hay so delivered to such railroad company, by whom delivered and to whom consigned; and thereafter such railroad company shall be responsible to the consignee named in such bill of lading, or to his heirs or assigns, for the full amount of such grain, seed or hay so delivered to such railroad company, until it shall show that it has delivered the whole amount of such grain, seed or hay to such consignee or to his heirs or assigns: *Provided, however,* That if the shortage on any car of grain, seed

or hay shall not exceed one fourth of one percent of the amount of grain, seed or hay put in the car, then the railway company shall be deemed to have delivered the whole amount of grain, seed or hay in the car: *Provided,* That when a claim for loss is filed against any railroad company and the loss is proven to be greater than one fourth of one percent, then the railroad company shall be responsible for the entire loss without any deduction. And in any action hereafter brought against any railroad company for or on account of any failure or neglect to deliver any such grain, seed or hay to the consignee or to his heirs or assigns, either duplicate of such bill of lading shall be prima facie proof of the amount of such grain, seed or hay so received by such railroad. [1893; last amended 1923.]

Sec. 66-257. Acceptance of weight of shipper where track scales not maintained.

Any railway company failing, neglecting or refusing to provide and maintain track scales, as required by section 1 [66-250] of this act [Secs. 66-250—66-260], shall state in its bills of lading given for grain or seed or hay delivered to it for transportation at any station or town entitled to track scales under the provisions of this act, the number of bushels or pounds of such grain, seed or hay, and as stated by the person or persons delivering such grain, seed or hay to such railway company, and the amount so stated shall be prima facie evidence of the amount of grain, seed or hay so delivered by such person to such railway company, as provided in section 6 [66-255] of this act: *Provided, however,* That the person so delivering such grain, seed or hay to such railway company shall, if required by the railway company, make an affidavit that the amount of such grain, seed or hay as stated by him is true and correct. [1893]

Sec. 66-258. Penalty for neglect to put in car scales.

Any railway company neglecting for six months after the taking effect of this act [Secs. 66-250—66-260] to put in the car scales heretofore provided for shall be liable to a penalty of one hundred dollars (\$100) per day for each station at which such neglect occurs, until the same is put in as herein provided. [1893]

Sec. 66-259. Penalty for failure to give bill of lading.

Any railway company neglecting or refusing to give any person entitled thereto a bill of lading, as required by either sections 6 [66-255] or 8 [66-257] of this act [Secs. 66-250—66-260], shall be liable to a fine of one hundred dollars (\$100) for each and every refusal, to be recovered in an action brought in the name of the state, in any court of competent jurisdiction, and shall also be liable to the party injured by such refusal for all damages sustained thereby, together with a reasonable attorney's fee, to be recovered by an action in any court of competent jurisdiction; * * *. [1893]

General Statutes Annotated 1935, Ch. 66, Art. 2—
Railroad Track Scales—Continued.

Sec. 66-260. Card giving weight of grain in car.

That every shipper of grain from any point in the state of Kansas shall fasten upon the inside of each car shipped by him a card giving car number, initial, date of shipment, and the exact weight of grain in such car as claimed by shipper. If he fails so to do, the official weight shall be prima facie evidence of the quantity of grain shipped in the car. [1923]

Sec. 66-279. Scales at stations for livestock.

It shall be the duty of every railway company or corporation owning or operating a line of railway in this state, to construct and maintain scales for the weighing of livestock at all stations where livestock is received for shipment: *Provided*, This act [Sec. 66-279] shall not apply to stations receiving for shipment less than fifty cars of livestock per annum for the two years last past. [1913]

Sec. 66-2,114. Weighing coal cars.

That each and every railway company operating a railway wholly or partly within this state shall weigh each and every car of coal intended for shipment over their line before and after being loaded. [1905]

Sec. 66-2,115. Manner and time of weighing cars.

The empty car or cars to be loaded shall be detached from the engine and other cars and weighed within twenty-four hours before loading, and after the said car is loaded it shall be detached from the engine and other cars and weighed within forty-eight hours after being loaded. [1905]

Sec. 66-2,116. Certificate of weight.

A certificate of the weights of each car so weighed, showing the date of weighing said car empty and the weight of same, and the date of weighing said car loaded and the weight of same, and the net weight and number of the said car, shall be issued by the weighmaster and attached to the waybill covering the said shipment. At the destination this certificate shall be attached to the freight expense bill and shall become a part of the same, and shall be delivered to the consignee on the payment of all the freight charges. [1905]

Sec. 66-2,117. Weighmaster: Oath and bond; penalty.

A competent weighmaster shall be employed by said railway companies, and said weighmaster shall subscribe an oath or affirmation before an authorized officer and give good and sufficient bond in the sum of one thousand dollars to his employer that he will perform his duties in accordance with this act [Secs. 66-2,114—66-2,118] in every particular; and any weighmaster or person so employed under this act who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor,

and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars for each offense, or by imprisonment in the county jail not exceeding six months, or by both said fine and imprisonment. [1905]

Sec. 66-2,118. Penalty for failure to weigh coal.

Any railway company neglecting to weigh coal as provided by this act [Secs. 66-2,114—66-2,118] shall be liable to a fine of one hundred dollars for each and every car not so weighed, to be recovered in an action brought in the name of the state in any court of competent jurisdiction. [1905]

1947 Supplement to General Statutes Annotated
1935, Ch. 74, Art. 5—Receptacles for Farm Products.

Sec. 74-531. Standards to be promulgated by board.

The state board of agriculture hereinafter referred to as "the board" may * * * make and promulgate standards, both for receptacles and for the grade and classifications of agricultural products, by which their identity, quantity, quality, and value may be determined, and recommend the same for voluntary use by producers, distributors, vendors and others as the standards, grades, or classifications to be adopted for the marketing of same. Such standards, grades or classifications shall not be lower in their requirements than the minimum requirements of the official standards for corresponding standards, grades, and classifications commonly known as United States grades promulgated from time to time by the secretary of agriculture of the United States. Such rules and regulations shall be duly promulgated and filed as required by law. [1947]

Laws 1949, Ch. 242, Art. 2—"Kansas Liquor Control Act."

Sec. 16. Rules and regulations for fixing form, capacity and marking of packages.

The rules and regulations established by the director [state director of alcoholic beverage control], among other things, shall include regulations: (1) Fixing and determining the nature, form and capacity of all containers used for alcoholic liquors; (2) determining the nature of and the representations to be shown upon the labels attached to the containers: *Provided*, That the director shall require that the labels attached to all original containers or packages of alcoholic liquors sold or offered for sale in this state shall set forth in plain and legible print in the English language the quantity of such liquors in full gallons, quarts, pints or half-pints, exclusive of the package or cask containing it or in fractions or multiples thereof: *Provided further*, That no original package of alcoholic liquor sold or offered for sale in the original package in this state shall contain less than one-half pint; * * * [1949]

General Statutes Annotated 1935, Ch. 21, Art. 11—
False Advertising.

Sec. 21-1112. Unlawful acts; penalty.

That any person, firm, corporation or association, who, with intent to sell or in any wise dispose of any merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the sale or consumption thereof, or to induce the public or any person in any manner to enter into any obligation relating thereto, or to acquire title to or an interest therein; who makes, publishes, disseminates, circulates or places before the public, or causes the same to be done, either directly or indirectly, in this state, whether by newspaper publication or otherwise, as herein provided, any label, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, any advertisement of any kind or character regarding merchandise, securities, service, or any other

thing or commodity offered to the public, which advertisement contains any assertion, representation or statement which is in fact untrue, deceptive or misleading, shall be deemed guilty of a misdemeanor and, upon conviction in any court of competent jurisdiction, shall be punished by a fine in any sum not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment for every such offense, and each day such publication or communication shall be published or disseminated shall constitute a violation of the provisions of this act [Secs. 21-1112—21-1114] and shall be deemed a separate and distinct offense: *Provided, also,* That the provisions of this act shall not apply to the publisher of any newspaper or other publication, who publishes or causes to be published, disseminated or circulated any written or printed statement prohibited by the provisions of this act, without knowledge that it is false. [1915]

KENTUCKY

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Revised Statutes 1946, Title XXIX, Ch. 363—Weights and Measures.

Sec. 363.010. Standards of weights and measures.

The weights, measures and balances received from the Government of The United States shall be in the custody of the Secretary of State, and shall be the standard weights and measures in this state. [1881]

Sec. 363.020. Duplicates furnished counties.

The Governor shall cause duplicates of the standard weights, measures and balances to be made for counties that do not have them, and upon the Governor's written certificate of the cost, the Department of Finance shall draw a warrant on the State Treasury therefor. [1881]

Sec. 363.030. Hundredweight; ton.

A hundredweight consists of one hundred pounds, and a ton consists of two thousand pounds. All contracts shall be construed accordingly, unless the contrary is stipulated. [1881]

Sec. 363.040. Bushel weights.

The following weights constitute a bushel of the article named:¹

	Pounds per Bushel
Barley	47
Bluegrass seed	14
Bottom onion sets	36
Bran	20
Buckwheat	56
Castor beans	45
Clover seed	60
Coal	76
Corn in the ear:	
From November 1 to December 31 inclusive	70
At all other times of the year	68
Corn meal	50
Corn, shelled	56
Dried apples	24
Dried peaches	39
Ear corn in the shuck	75
English bluegrass seed	14
Fine salt	55

	Pounds per Bushel
Flax seed	56
Ground peas	24
Hemp seed	44
Hungarian grass seed	50
Irish potatoes	60
Millet seed	50
Oats, shelled	32
Onions	57
Orchard grass seed	14
Peas	60
Plastering hair	8
Rye	56
Salt	50
Sweet potatoes	55
Timothy seed	45
Turnips	60
Unslaked lime	35
Wheat	60
White beans	60

[1881]

¹ A slight rearrangement has been made for convenience of reference.

Sec. 363.050. Barrel for Irish potatoes.

One hundred and sixty net pounds of Irish potatoes shall constitute a merchantable barrel. [1869-70]

Sec. 363.060. Wheat: Standard apparatus for determining test weight per bushel.

(1) Any person buying wheat by grade shall follow the following procedure and use the following standard apparatus for determining the test weight per bushel:

(a) Use an accurate quart or one-half gallon size weight-per-bushel testing apparatus, the kettle of which must have a capacity of exactly 67.2 and 134.4 cubic inches respectively.

(b) A round hopper shall be above the quart or one-half gallon size kettle and the opening at the bottom shall be exactly 1¼ inches in diameter.

(c) The bottom of the hopper must be held exactly 2 inches above the center of the kettle.

(d) A stroker made of hard wood, with smooth

rounded edges, 12 inches long, $\frac{3}{8}$ inches thick, and $1\frac{3}{8}$ inches broad must be used.

(e) A beam shall be used which is both accurately graduated and sensitive.

(f) The kettle shall be filled from the hopper.

(g) After the kettle is full the stroker shall be placed on the edge of the kettle lightly and sides held in a vertical position.

(h) The grain above the edge of the kettle shall be removed with three full-length zigzag motions of the stroker.

(i) The kettle shall rest on a firm base.

(j) The test must be made immediately after the sample has been brought to the inspection room, office or laboratory.

(k) The grain tester shall be tested annually for accuracy of kettle capacity, accuracy of beam readings, and sensitiveness of beam.

(2) This section does not apply to transactions in which the grain is inspected or graded under the United States Grain Standard Act. [1906; last amended 1948.]

Sec. 363.070. Wheat flour, standard measures of; labeling of packages.

(1) The standard measures of wheat flour are packages containing net weights of two, six, twelve, twenty-four, forty-eight, ninety-six and one hundred and ninety-six pounds.

(2) Each package shall have its net weight and the name and address of the manufacturer plainly printed or marked on it in letters and figures not less than one-half inch in height.

(3) No person shall pack for sale, sell or offer for sale in this state any wheat flour except in bags or packages containing the standard measures provided in subsection (1).

(4) The provisions of this section do not apply to the retailing of flour direct to the consumer from bulk stock or to the bakery trade, or to the exchange of wheat for flour by mills grinding for toll, or to any wheat product packed and distributed as a specialty in an identified original package having a net contents of five pounds or less. [1934]

[ED. NOTE.—In Kentucky Revised Statutes 1946, following the foregoing section, it is stated: "NOTE: By 1944, c. 158, KRS 363.070 was amended, but the amendment does not take effect until six months after the expiration of the National Emergency. The text of the section as amended is as follows:

"(1) The standard measure of wheat flour shall be containers of net avoirdupois weights of two, five, ten, twenty-five, fifty and one hundred pounds. The term "wheat flour" as used herein means plain wheat flour, self-rising wheat flour, phosphated wheat flour, bromated wheat flour, enriched wheat flour, enriched self-rising wheat flour and enriched phosphated wheat flour as defined in the standards of identity promulgated by the Federal Security Agency under date of May 26, 1941 (Volume 6, Federal Register, pages 2574 to 2582, inclusive) or as they may be amended.

"(2) Each container shall have its net weight, and the name and address of the actual manufacturer printed or plainly marked on it in letters and figures clearly legible.

"(3) No person shall pack for sale, sell or offer for sale in Kentucky any wheat flour except in containers of the above standard net weights and above described labeling provisions.

"(4) The provisions of this section do not apply to the retailing of flour direct from the manufacturer to the consumer, nor to the sale of flour to the bakery trade, nor to the exchanging of wheat for flour, nor to flour packed in cartons the net contents of which are five pounds or less."

Sec. 363.080. Corn meal, grits, hominy and corn flour: Standard packages; marking requirements.

(1) The standard weight for corn meal, grits, hominy and corn flour is one hundred pounds, and the standard measures are packages containing net weights of one, two, three, four, five, ten, twenty-five, fifty and one hundred pounds, and multiples of one hundred pounds.

(2) Each bag or package shall have plainly printed or marked on it the true net weight of its contents, in pounds and ounces.

(3) No person shall pack for sale, sell or offer for sale in this state any corn meal, grits, hominy or corn flour except in bags or packages containing the standard measures provided in subsection (1).

(4) The provisions of this section do not apply to the retailing of meal direct to the consumer from bulk stock, or to the exchange of corn for meal by mills grinding for toll, or to any cereal product packed and distributed as a specialty in an identified original package having a net contents of less than five pounds. [1920]

Sec. 363.090. Coal: Unscreened not to be sold for screened.

No person shall sell unscreened coal for screened coal. [1869-70]

Sec. 363.100. Millers: Regulations and tolls.

(1) Every owner or operator of a mill grinding meal, flour, bread stuff, feed or similar products shall keep therein and use sealed half-bushel and peck measures and a sealed toll dish, and shall measure all grain by strike measure or weight.

(2) Every miller shall, in due time and in the order received, well and sufficiently grind or manufacture the grain brought to his mill, giving preference only to what is necessary for the use of his own family. No miller shall take or demand for toll more than one-eighth of all grain ground, manufactured or exchanged in his mill, if it is a water mill, or more than one-seventh of such grain if it is a power mill not operated by water. [1893]

Sec. 363.110. Definition of terms used in KRS 363.120 to 363.140.

(1) The term "petroleum products" as used in KRS 363.120 to 363.140 shall mean gasoline, kerosene, and lubricating oils.

(2) The term "commissioner" shall mean the Commissioner of Agriculture, Labor and Statistics. [1942]

Revised Statutes 1946, Title XXIX, Ch. 363—Weights and Measures—Continued.

Sec. 363.120. Tolerances allowed on pumps dispensing gasoline or kerosene.

The tolerances to be allowed in excess or deficiency on all pumps dispensing gasoline or kerosene shall be the values shown in the following table. Provided, however, that the tolerances on all new measuring pumps dispensing gasoline or kerosene shall be one-half of the values given; and provided further, that such reduced tolerances shall also be applied to all devices which are being re-tested after having been found inaccurate and subsequently adjusted or repaired.

DELIVERY Gallons	TOLERANCE Cubic Inches
1	3
2	4
3	5
4	6
5	7

For each additional gallon, add one cubic inch. [1942]

Sec. 363.130. Testing and sealing of pumps and measuring devices used in dispensing gasoline, kerosene and lubricating oils; adjustments.

(1) The commissioner or his agents shall test, from time to time the pumps dispensing gasoline or kerosene and all measuring devices used in dispensing lubricating oils. All pumps found to be giving accurate measure, as defined in KRS 363.120, may be officially sealed in a way that the adjusting device cannot be altered without breaking the seal. The proprietor of any pump that is found to be measuring inaccurately shall be instructed by the agent of the Commissioner to make immediate adjustment of such pump so that it is accurate. After the adjustments have been made, the device may be officially sealed in the same manner as provided for sealing devices found originally accurate. It shall be unlawful for a pump or measuring device found to be measuring inaccurately to be used for vending until such time as the pump or measuring device has been adjusted to where it gives accurate measure.

(2) It shall be unlawful for any person to break a seal applied by the commissioner or his agents without first securing the consent of the commissioner or one of his agents, except where a pump is found to be measuring inaccurately a qualified pump mechanic may be called to adjust the pump, in which event the commissioner shall be notified in writing immediately. [1942]

Sec. 363.140. Powers of cities not affected.

KRS 363.120 and 363.130 do not prohibit cities from enforcing ordinances regulating weights and measures, heretofore or hereafter enacted, not in conflict with KRS 363.120 and 363.130 or the regulations of the Department of Agriculture, Labor

and Statistics, nor from employing city sealers of weights and measures. [1942]

Sec. 363.150. Periodic inspection of weighing and measuring devices at stockyards, tobacco warehouses and grain warehouses; notice of inaccuracy; correction of defects.

(1) The Department of Agriculture, Labor and Statistics shall semi-monthly or oftener inspect the weights, measures, weighing devices and measuring devices of all tobacco warehouses, grain warehouses and public stockyards during the period that such warehouses and stockyards are open for the receipt, storage and sale of tobacco, grain and livestock and shall stamp those weights, measures, weighing devices and measuring devices with a mark that shall be placed in a conspicuous position on the device inspected, with the date of such inspection.

(2) In the event the weights, measures, weighing devices and measuring devices are found inaccurate or defective notice shall be given to the owner thereof and the person in possession to cease using the same until the defective condition has been corrected and the same shall not be again used until the department has been given notice of the correction of said condition and has had full opportunity to inspect the same.

(3) Nothing in this section shall apply to scales under Federal inspection. [1944]

Sec. 363.160. Department of Agriculture to assign inspectors for duties under KRS 363.150.

The Department of Agriculture, Labor and Statistics is hereby directed to assign sufficient of its inspectors employed under the provisions of KRS 248.300¹ to discharge the duties imposed upon the department by KRS 363.150. [1944]

¹ See page 381.

Sec. 363.990. Penalties.

(1) Any person who violates any of the provisions of KRS 363.050 shall be fined not less than ten nor more than one hundred dollars, and also may be imprisoned for not more than six months.

(2) Any person who violates any of the provisions of KRS 363.070 or 363.080 shall be fined not less than twenty-five nor more than five hundred dollars for each offense.

(3) Any person who sells as a hundred-weight or a ton of hemp less than that amount shall be fined not less than one hundred nor more than five hundred dollars for each offense.

(4) Any person violating KRS 363.090 shall be fined not less than five nor more than twenty dollars.

(5) Any person who violates any of the provisions of subsection (1) of KRS 363.100 shall for each offense be fined five dollars, for the use of the school district in which the mill is located.

(6) Any person who violates any of the provisions of subsection (2) of KRS 363.100 as to the time, order or quality of grinding or manufacturing, or the amount of toll, shall for each offense forfeit to

the party injured ten dollars, recoverable before a justice of the peace.

(7) Any person, firm, or corporation who shall knowingly violate any of the provisions of KRS 363.120 to 363.140 shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars nor more than two hundred dollars for each offense.

(8) Any tobacco or grain warehouse or public stockyards or agent, manager, corporation or organization that violates any of the provisions of KRS 363.150 shall be fined not less than one hundred dollars nor more than five hundred dollars, and if a corporation it shall forfeit all corporate rights and privileges.

(9) Any public officer, agent or employe who fails to discharge the duties imposed by KRS 363.150 and 363.160 shall be fined not less than fifty dollars nor more than five hundred dollars. [1944]

Revised Statutes 1946, Title IX, Ch. 83—Cities of the First Class.

Sec. 83.170. Supervision of weights and measures.

(1) The department of public safety shall be under the supervision and direction of a director of safety, and shall have exclusive control, under the city ordinances, of all matters relating to * * * the inspection of weights and measures, * * *. [1893]

Sec. 83.310. Protection against defective weights and measures.

The board of aldermen of each city of the first class shall, by ordinance, provide suitable penalties for the punishment of persons who knowingly use defective or imperfect weights or measures, and may provide for employees, to be appointed by and be under the supervision of the mayor or the director of safety, to enforce the ordinance. The employees shall be paid by the city and no fees shall be charged for their services. [1893]

Revised Statutes 1946, Title IX, Ch. 84—Cities of the Second Class.

Sec. 84.200. Scales; weights and measures; inspection and regulation.

(1) The general council may, by ordinance:
 (a) Establish and regulate the standard of weights and measures to be used in the city, and provide for the inspection of all weights and measures;

(b) Establish, license, tax and regulate public scales, regulate the charges for their use, and compel dealers in coal to weigh their coal on public scales;

(c) Provide for the inspection and measurement of lumber and building material;

(d) Provide for the inspection of foods, poultry, meal, lard and other provisions; oil, coal oil, naphtha, benzine and other burning fluids; molasses,

syrops, turpentine, vinegar and spirituous, vinous or malt liquors;

(e) Provide for the inspection and weighing or measuring of hay and fuel;

(f) Provide for regulating the weight and quality of bread;

* * * * *

(2) No article listed in subsection (1) of this section that is to be shipped beyond the city limits shall be inspected except at the request of its owner. [1894]

Revised Statutes 1946, Title IX, Ch. 85—Cities of the Third Class.

Sec. 85.160. Weights and measures; inspection and regulation.

The common council may, by ordinance:

(1) Establish standard weights and measures to be used in the city;

(2) Provide for the inspection and measuring of lumber and other building materials;

(3) Provide for the inspection and weighing or measuring of stone, fuel, hay, corn, grain and produce of all kinds;

(4) Provide for and regulate the inspection of beef, pork, flour, meal, milk, butter, lard and other provisions, oil and spirits; [1893]

* * * * *

Revised Statutes 1946, Title IX, Ch. 86—Cities of the Fourth Class.

Sec. 86.130. Weights and measures; inspection and regulation.

The city council may, within the city:

(1) Erect and keep in repair accurate public scales, appoint public weighers to attend to them, and fix fees and compensation for the services of the weighers;

(2) Establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases where they are not provided for by law;

(3) Enact ordinances requiring all coal sold for delivery in or out of the city to be weighed by the public weigher;

(4) Enact ordinances requiring all illuminating oils sold in the city to be inspected by the public inspector;

(5) Provide for and regulate the inspection of butter, lard and other provisions;

(6) Regulate the vending of all articles of food for consumption within the city limits. [1893]

Revised Statutes 1946, Title IX, Ch. 87—Cities of the Fifth Class.

Sec. 87.170. Appointment and term of city weigher.

* * * * *

(2) * * * The city council may appoint, and fix the duties and compensation of, * * *

Revised Statutes 1946, Title IX, Ch. 86—Cities of the Fourth Class—Continued.

city weigher, * * * for terms of two years, subject to removal at the pleasure of the council. [1893]

Revised Statutes 1946, Title IX, Ch. 88—Cities of the Sixth Class.

Sec. 88.180. Appointment and term of town weigher.

* * * * *

(3) The board of trustees may appoint * * * a town weigher * * * who shall hold office for two years, but may be removed at the pleasure of the board of trustees. [1893]

Revised Statutes 1946, Title XVIII, Ch. 217—Food.

Sec. 217.010. Definition.

(1) As used in KRS 217.020 to 217.180, unless the context otherwise requires:

(a) "Food" means every article used for or entering into the composition of food or drink for man or domestic animals, including all liquors.

* * * * *

(d) The term "department" means the Department of Health. [1944]

Sec. 217.030. When deemed misbranded.

For the purposes of KRS 217.060 to 217.180, an article of food shall be deemed misbranded:

* * * * *

(4) If it is misrepresented as to weight or measure; * * *. [1918]

Sec. 217.060. Manufacture or sale of misbranded food prohibited.

(1) No person in this state shall manufacture for sale, produce for sale, expose for sale, have in his possession for sale or sell any article of food or drug that is adulterated or misbranded.

(2) No article of food or drug shall be deemed misbranded or adulterated when intended for shipment to any other state or country, if the article is not adulterated or misbranded as determined by the laws of the United States, but if the article is in fact sold or offered for sale for domestic use or consumption within this state this proviso shall afford no immunity. [1918]

* * * * *

Sec. 217.110. Inspectors; right of entry.

(1) The State Board of Health may appoint such agents or inspectors as it deems necessary, who shall have free access at all reasonable hours to any place where any food or drug product is being produced, manufactured, prepared, kept, offered for sale or dispensed, for the purpose of determining whether the provisions of KRS 217.010 to 217.180 are being violated. Upon tendering the market price, any

such agent or inspector may take from any person a sample of any article desired for examination. [1918]

* * * * *

Sec. 217.160. Guaranty protection.

In all prosecutions under KRS 217.010 to 217.180, the courts shall admit as evidence a guaranty made to the holder of the guaranty by any manufacturer or wholesaler residing in this state, to the effect that the product complained of is not adulterated or misbranded within the provisions of KRS 217.010 to 217.180. Such guaranty, properly signed by and containing the full name and address of the wholesaler, jobber, manufacturer or other person residing in this state from whom the holder of the guaranty has purchased the article complained of, shall, in the absence of any proof that the article complained of was adulterated or misbranded after it was received by the holder of the guaranty, be a bar to prosecution of the holder of the guaranty. [1918]

Sec. 217.990. Penalty for manufacture and sale of misbranded food.

(1) Any person who violates any of the provisions of subsection (1) of KRS 217.060 shall be fined not less than ten dollars nor more than one hundred dollars, or imprisoned for not more than fifty days, or both. [1918]

* * * * *

Revised Statutes 1946, Title XVIII, Ch. 218—Narcotic Drugs.

Sec. 218.100. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1934]

Sec. 218.190. Enforcement.

It is hereby made the duty of the State Board of Health, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter [Secs. 218.010-218.250], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1934]

Sec. 218.210. Penalty for violations.

Any person violating any provision of this chapter [Secs. 218.010-218.250] shall upon conviction be punished for the first offense by a fine not exceeding one thousand dollars, or by imprisonment for not exceeding three years, or both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding five thousand dollars, or by

imprisonment in the penitentiary for not exceeding ten years, or by both such fine and imprisonment. [1954]

Revised Statutes 1946, Title XX, Ch. 244—Alcoholic Beverages.

Sec. 244.230. Marking requirements.

(1) The regulations of the Bureau of Internal Revenue in the United States Department of the Treasury¹, as they are now or may be hereafter, with respect to the labeling of distilled spirits and wine, are adopted and any distilled spirits and wine shall be deemed to be properly labeled under all the laws of this state, if the labels conform to those regulations.

(2) Distilled spirits not produced or bottled in the United States shall be labeled in the same manner that distilled spirits produced or bottled in this state are required to be labeled.

(3) Subsections (1) and (2) shall not prevent the department [of Alcoholic Beverage Control] from promulgating regulations on this subject that are in addition to but not contrary to the regulations of the Bureau of Internal Revenue in the United States Department of the Treasury. [1938]

¹ See Code of Federal Regulations 1949 Edition, Title 27, Secs. 4.37 and 5.37 at pages 500 and 520, respectively, which relate to the net content marking of wine and distilled spirits.

For misbranding of alcoholic beverages, see KRS 217.010, 217.030, 217.060, page 380.

Sec. 244.990. General penalty.

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter [Secs. 244.010—244.990] for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred nor more than two hundred dollars or imprisoned in the county jail or workhouse for not more than six months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred nor more than five hundred dollars or imprisoned in the county jail or workhouse for not more than six months, or both. * * * [1938]

Revised Statutes 1946, Title XXI, Ch. 248—Tobacco Warehouses.

Sec. 248.280. Weighing.

(1) Any person engaged in the business of warehouseman for the purpose of receiving, grading, handling, prizing and storing tobacco, shall, upon the receipt of tobacco, have competent persons to grade it into distinct and proper grades and weigh it. He shall give a warehouse receipt for the tobacco to the owner or consignor, setting forth each grade and the number of pounds. [1940]

* * * * *

Sec. 248.300. Enforcement.

(1) The department [of Agriculture, Labor and Statistics] shall administer KRS 248.290 to 248.440 and shall have general supervision over the sale of tobacco in warehouses throughout the state.

(2) The commissioner shall employ such inspectors and other employees as are necessary for the enforcement of KRS 248.290 to 248.440 and fix the duties and compensation of those employees. [1940]

Sec. 248.310. Duties of inspectors; inspecting and sealing of weights and measures.

(1) The inspectors employed under KRS 248.300 shall carry out a general inspection service of all warehouses and shall strictly enforce KRS 248.280 to 248.440.

(2) The inspectors employed by the department shall inspect the weights, measures, weighing devices and measuring devices of all tobacco warehouses and shall stamp those weights, measures, weighing devices and measuring devices with a mark which shall be placed in a conspicuous position on the device inspected. The stamp shall certify that the device has been inspected by an agent of the department, that the device has been found to comply strictly with the laws of this state and of the United States and is in every sense exactly what it purports to be.

(3) An inspector employed by the department may reweigh any tobacco at any warehouse at any time that the inspector is reasonably certain that the tobacco has been improperly weighed. [1940]

Sec. 248.390. Maximum height and weight of baskets of tobacco.

A basket of tobacco when placed on a warehouse floor for the purpose of sale shall not exceed five feet in height and shall contain not more than seven hundred pounds of tobacco. [1940]

Sec. 248.410. Weighmen must be bonded.

(1) Warehouses shall submit to the department [of Agriculture, Labor and Statistics] a list of the names of all weighmen employed. Each weighman so listed shall furnish a bond in the amount of five hundred dollars to the department for the faithful performance of his duty. Should any weighman knowingly and willfully, for the purpose of misleading the public, misrepresent or attempt to misrepresent the weight of any tobacco weighed by him on the warehouse floor, his bond shall be forfeited and the proceeds of it paid into the State Treasury.

(2) No person other than a bonded weighman shall be permitted to weigh tobacco for the purpose of sale at any tobacco warehouse. [1940]

Sec. 248.420. Inducement of false report by weighman prohibited.

No warehouseman shall attempt by any means to influence a weighman to report falsely the weight

Revised Statutes 1946, Title XXI, Ch. 248—Tobacco Warehouses—Continued.

of any tobacco sold on the floor of his warehouse. [1940]

Sec. 248.990. Violations; penalties.

* * * * *

(8) Any person who violates any of the provisions of KRS * * * 248.390 * * * or willfully violates a regulation of the department, * * * shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than three months, or both.

(9) Any person who violates any of the provisions of KRS 248.410 * * * shall be fined not less than five hundred dollars nor more than one thousand dollars. [1940]

* * * * *

Revised Statutes 1946, Title XXI, Ch. 250—Commercial Feeding Stuffs.

Sec. 250.010. Definition.

* * * * *

(4) "Concentrated commercial feeding stuff" includes linseed meals, corn and corn-cob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts and other mill products, ground beef, fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, pea-vine meal, cottonseed meal, velvet bean meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds. [1906]

* * * * *

Sec. 250.260. Marking requirements; size of containers.

(1) Every container of concentrated commercial feeding stuff, manufactured, sold, offered or exposed for sale in or imported into this state, shall have a label securely attached to it. The label shall have plainly printed on it the number of net pounds of concentrated commercial feeding stuff in the container; * * *

(2) All concentrated commercial feeding stuffs shall be in standard weight containers of no other than fifty, one hundred, one hundred and fifty, or two hundred pounds each, or less than fifty pounds, or sold in bulk. [1906]

Sec. 250.350. Enforcement; rules and regulations.

The director [of the Agricultural Experiment Station] may adopt standards for concentrated commercial feeding stuffs and may make and enforce such regulations as he deems necessary to carry fully into effect the true intent and meaning of KRS 250.240 to 250.350. [1906]

Revised Statutes 1946, Title XXI, Ch. 250—Commercial Fertilizer.

Sec. 250.360. Prohibited sales.

No person shall sell, offer or expose for sale any fertilizer without having previously complied with the provisions of KRS 250.360 to 250.480. [1898]

Sec. 250.370. Container to be labeled.

Every quantity of commercial fertilizer, in any shape or form whatever, sold or offered for sale in this state, shall have attached to it in a conspicuous place a label as provided in KRS 250.400. [1898]

Sec. 250.390. Registration.

In each year, before any person shall sell, offer or expose for sale in this state any commercial fertilizer, he shall furnish to the director [of the Agricultural Experiment Station] a sealed quantity of not less than one pound of the commercial fertilizer, sufficient for analysis, accompanied by an affidavit that the sample so furnished is a fair and true sample of a commercial fertilizer which the person desires to sell in this state. The affidavit shall also state * * * the number of net pounds in each container * * *, in such form and manner as the director prescribes. [1898]

Sec. 250.400. Director to furnish labels.

The director [of the Agricultural Experiment Station], upon receipt of the affidavit and sample provided for in KRS 250.390 and upon receipt of the fees provided for in KRS 250.410, shall issue a sufficient number of labels to label not less than twenty tons of the fertilizer. In the label shall be printed the name and address of the manufacturer, the name of the fertilizer, the number of net pounds in each package, * * * [1898]

Sec. 250.480. Enforcement; rules and regulations.

The director [of the Agricultural Experiment Station] shall enforce the provisions of KRS 250.360 to 250.480 and make and enforce such regulations as he deems necessary to carry fully into effect the true intent and meaning of those sections. [1898]

Sec. 250.990. Penalty for violations.

* * * * *

(2) Any person who violates any of the provisions of KRS * * * 250.360 * * * shall be fined not less than one hundred dollars, nor more than five hundred dollars. [1898]

* * * * *

Revised Statutes 1946, Title XXI, Ch. 260—Standard Apple Barrel.

Sec. 260.040. Enforcement; rules and regulations.

The commissioner [of Agriculture, Labor and Statistics] shall enforce KRS 260.040 to 260.120 under regulations adopted by him. [1916]

* * * * *

Sec. 260.070. Dimensions.

(1) The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: length of stave, 28½ inches; diameter of head, 17¼ inches; distance between heads, 26 inches; circumference of bulge, 64 inches outside measurement, representing as nearly as possible 7,056 cubic inches.

(2) Steel barrels containing the interior dimensions provided for in this section shall be construed as a compliance. [1916]

Sec. 260.990. Penalty for violations.

(1) Any person who knowingly violates any of the provisions of KRS 260.040 to 260.120 shall, for the first offense, be fined not less than ten dollars, nor more than twenty-five dollars; for the second offense, he shall be fined not less than twenty-five dollars, nor more than fifty dollars; and for the third and each subsequent offense, he shall be fined not less than fifty dollars nor more than two hundred dollars. Whenever a violation is with respect to a lot or shipment consisting of fifty or more closed packages, there may be imposed in addition to the above penalties twenty-five cents for the first offense, fifty cents for the second offense and one dollar for each subsequent offense for each package in excess of fifty with respect to which the violation is committed. [1916]

* * * * *

Revised Statutes 1946, Title XXI, Ch. 260—Milk and Cream.

Sec. 260.200. Fraudulent manipulation of weights and unfair sampling prohibited.

No person receiving milk or cream by weight or test or by weight and test shall fraudulently manipulate the weights of milk or cream of any patron, take unfair samples or fraudulently manipulate samples. The person weighing the milk or cream shall weigh it accurately and shall report such weights correctly to the factory. He shall thoroughly mix the milk or cream of each patron by pouring and stirring until the milk or cream is uniform and homogeneous in richness, before the sample is taken from the milk or cream. [1918]

Sec. 260.210. Falsifying Babcock tests prohibited.

No person buying and paying for milk or cream on the basis of the amount of fat contained in the milk or cream, shall under-read, over-read or other-

wise fraudulently manipulate the Babcock test or falsify the record of the test, read the test at any temperature except at from 135 to 140 degrees F. or pay on the basis of any measurement or weight except at 17.6 cubic centimeters for milk and 9 grams for cream. In all tests the cream shall be weighed into the test bottles. [1918]

Sec. 260.220. Standard and approved testing apparatus required; inspection fee.

(1) Every person buying and paying for milk or cream on the basis of amount of butterfat contained in the milk or cream, as determined by the Babcock test, shall use standard Babcock test bottles, pipettes and weights and accurate scales, as defined in KRS 260.230 to 260.260. All Babcock test bottles, pipettes and weights shall be inspected for accuracy by the experiment station and shall be legibly and indelibly marked by the experiment station with the letters "S.G.K." (standard glassware, Kentucky). No bottle, pipette or weight shall be used for the test unless so examined and marked by the experiment station. No person shall use any other than standard test bottles, pipettes and weights which have been examined and marked as provided in this section, to determine the amount of fat in the milk or cream bought and paid for on the butterfat basis.

(2) A fee of three cents for each piece of glassware inspected by the experiment station shall be paid by the owner of the glassware to the experiment station. [1918]

Sec. 260.230. Standard milk test bottles.

The specifications of standard milk test bottles used in Babcock tests shall be as follows:

(1) The total percent graduation shall be 8. The graduated portion of the neck shall have a length of not less than 63.5 millimeters (2½ inches). The graduation shall represent 1%, .5% and .1%. The .1% graduations shall not be less than 3 millimeters in length, the .5% graduation shall be 1 millimeter longer than the .1% graduation, projecting 1 millimeter to the left; and the 1% graduation shall extend at least one-half way around the neck to the right and projecting 2 millimeters to the left of the .1% graduations. Each percent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed 1%.

(2) The neck shall be cylindrical. The cylindrical shape shall extend for at least 9 millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

(3) The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smaller diameter at the bottom. If the shape is cylindrical, the outside

Revised Statutes 1946, Title XXI, Ch. 260—Milk and Cream—Continued.

diameter shall be between 34 and 36 millimeters; if the shape is conical, the outside diameter of the base shall be between 31 and 33 millimeters, and the maximum diameter between 35 and 37 millimeters.

(4) The charge of the bottle shall be 18 grams.

(5) The total height of the bottle shall be between 150 and 165 millimeters ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches). [1918]

Sec. 260.240. Standard cream test bottles.

Two types of bottles shall be accepted as standard cream test bottles for purposes of the Babcock test: namely, a 50%, 9 gram short-neck bottle and a 50%, 9 gram long-neck bottle.

(1) The 50%, 9 gram short-neck bottles shall have the following specifications:

(a) The total percent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63.5 millimeters ($2\frac{1}{2}$ inches). The graduation shall represent 5%, 1% and .5%. The 5% graduation shall extend at least half way around the neck to the right. The .5% graduation shall be at least 3 millimeters in length and the 1% graduation shall have a length intermediate between the 5% and .5% graduations. Each 5% graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed .5%.

(b) The neck shall be cylindrical and the cylindrical shape shall extend at least 9 millimeters below the lowest and 9 millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

(c) The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smaller diameter at the bottom. If the shape is cylindrical the outside diameter shall be between 34 and 36 millimeters; if the shape is conical, the outside diameter of the base shall be between 31 and 33 millimeters and the maximum diameter between 35 and 37 millimeters.

(d) The charge of the bottle shall be 9 grams. All bottles shall bear on top of the neck above the graduations, in plain, legible characters, the mark defining the weight charge to be used (9 grams).

(e) The total height of the bottle shall be between 150 and 165 millimeters ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches).

(2) The 50%, 9 gram long-neck bottles shall have the same specifications in every detail as the 50%, 9 gram short-neck bottles, with the exception that the total height of this bottle shall be between 210 and 235 millimeters ($8\frac{1}{4}$ and $9\frac{1}{4}$ inches) and the total length of the graduation shall not be less than 120 millimeters. [1918]

Sec. 260.250. Standard pipette.

The standard pipette shall have a length of not more than 330 millimeters ($13\frac{1}{4}$ inches). The out-

side diameter of the suction tube shall be from 6 to 8 millimeters and the length of the suction tube 130 millimeters. The outside diameter of the delivery tube shall be from 4.5 to 5.5 millimeters, and the length of the delivery tube shall be from 100 to 120 millimeters. The distance of graduation mark above the bulb shall be from 30 to 60 millimeters. The nozzle shall be straight. Delivery shall be 17.6 cubic centimeters of water to 20 degrees C. in 5 to 8 seconds. [1918]

Sec. 260.260. Standard weight.

The standard weight shall be nine grams. [1918]

Sec. 260.990. Penalties.

* * * * *

(3) Any person buying or paying for milk or cream on the basis of the amount of butterfat contained in the milk or cream, who violates any of the provisions of KRS 260.170 to 260.270 shall, for the first offense, be fined one hundred dollars, and, for each subsequent offense, he shall be fined not less than one hundred dollars, nor more than one thousand dollars.

(4) Any employee of a person, buying and paying for milk or cream on the basis of the amount of butterfat it contains, who violates any of the provisions of KRS 260.170 to 260.270 shall be fined not less than twenty-five dollars, nor more than five hundred dollars, or be imprisoned in the county jail for not less than sixty days nor more than twelve months, or both. [1918]

Revised Statutes 1946, Title XXI, Ch. 261—Stockyards and Stockyard Weighmen.

Sec. 261.010. Definitions.

(1) As used in this chapter [Secs. 261.010—261.990], unless the context requires otherwise:

(a) "Commissioner" means Commissioner of Agriculture, Labor and Statistics;

(b) "Department" means the Department of Agriculture, Labor and Statistics; and

(c) "Stockyard" means livestock yard, market place, concentration point, packing plant or any other place where livestock is bought and sold, other than one which is posted and subject to regulation by the United States Secretary of Agriculture under the Packers and Stock Yards Act, 1921 (42 Stat. 159) as amended and regulations promulgated under those statutes by the Secretary of Agriculture.

(2) This chapter does not apply to private sales of livestock between two individuals. [1940]

Sec. 261.020. Enforcement; supervision of scales.

The department shall administer this chapter [Secs. 261.010—261.990] and have general supervision over all scales used by stockyards. [1940]

Sec. 261.060. Scales to be kept in good condition.

All stockyard scales shall be kept clean, well oiled and in good condition at all times. Each stockyard shall make frequent inspection of all scales for evidence of harm done to the scales. [1940]

Sec. 261.070. Inspectors.

The commissioner shall employ such inspectors and other employes as are necessary for the enforcement of this chapter [Secs. 261.010—261.990]. Their duties and compensation shall be fixed by the commissioner. [1940]

Sec. 261.080. Functions of inspector.

(1) Inspectors employed under KRS 261.070 shall inspect, as often as the department deems necessary, all scales in stockyards. Territory shall be assigned by the department to each inspector.

(2) An inspector may:

(a) Reweigh any livestock at any stockyard at any time that he sees fit;

(b) Inspect all scales in all stockyards and require the owner or operator of the scales to clean and oil them and make any necessary adjustments so that the scales shall operate properly at all times; and

(c) Order a technical inspector or scale tester to test the scales at the expense of the stockyard which owns the scales, if, upon inspection, the inspector is reasonably certain that the scales inspected are out of adjustment. [1940]

Sec. 261.090. Only bonded weighmen may weigh livestock.

(1) No person other than a weighman who has been bonded as provided in KRS 261.100, shall weigh livestock for the purpose of sale at any stockyard.

(2) Any owner or operator of any stockyard who employed bonded weighmen prior to June 12, 1940, and who by agreement with the department continues to employ those bonded weighmen shall be exempt from this section and KRS 261.100. [1940]

Sec. 261.100. Weighman to be bonded; forfeiture of bond.

Each weighman employed by a stockyard shall furnish a bond in the amount of one thousand dollars to the department for the faithful performance of his duty. If any stockyard weighman knowingly and willfully misrepresents or attempts to misrepresent the weight of any animal for the purpose of misleading the public, his bond shall be forfeited and the proceeds paid into the State Treasury to be credited to the General Fund. [1940]

Sec. 261.110. Stockyards to send lists of weighmen to department.

All stockyards employing weighmen shall forward to the department lists of all the weighmen employed. [1940]

Sec. 261.990. Penalty for violations.

(1) Any person who violates any of the provisions of KRS 261.090 to 261.110 or knowingly violates KRS 261.060 or any regulation of the department, * * * shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than three months, or both.

* * * * *

(3) Any owner, lessee, manager, or operator of any stockyard who attempts by any means to influence any weighman to falsely report the weight of any animal shall be fined not less than five hundred dollars nor more than one thousand dollars. [1940]

Revised Statutes 1946, Title XXIV, Ch. 278—Public Utilities.

Sec. 278.210. Test and examination of meters; fees.

(1) The commission [Public Service Commission] may provide instruments for, and carry on, the examination and testing of any meter or appliance used to measure the product or service of any utility, and the examination and testing of any instrument used by a utility to test the accuracy of any meter or appliance used to measure its products or services.

(2) Any patron of a utility may, upon request and payment of the fees fixed by the commission, have a test made of the meter or appliance by which his use of the products or services of the utility is measured.

(3) The commission may establish reasonable fees for testing such meters and appliances at the request of a patron of a utility. If the appliance is found to be commercially defective or inaccurate to the extent of more than two percent to the disadvantage of the patron, the fees shall be repaid to the patron and paid by the utility. [1936]

Revised Statutes 1946, Title XXVIII, Chs. 351, 352—Coal Mine Scales.

Sec. 351.020. Enforcement.

(1) The Department of Mines and Minerals shall be headed by the Chief of the Department of Mines and Minerals.

(2) The department shall administer all laws of this state relating to mines. [1934]

Sec. 351.090. Inspectors of mine weights; appointment; oath; bond.

(1) The Governor shall appoint for a term of four years not more than twenty-five district mine inspectors, one of whom shall be designated as an electrical district mine inspector, and not more than eight inspectors of mine weights.

* * * * *

Revised Statutes 1946, Title XXVIII, Chs. 351, 352—
Coal Mine Scales—Continued.

(6) Each district mine inspector and inspector of mine weights shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each district mine inspector and inspector of mine weights shall give bond with surety approved by the Governor. [1934; last amended 1946.]

Sec. 351.180. Inspection of mine scales; fee.

(1) The inspectors of mine weights shall inspect and test all scales, except railroad scales, used in connection with any commercial coal mine in this state, and shall determine their mechanical condition and accuracy. Each coal operator or superintendent shall render such assistance to the inspector of mine weights as may be necessary in conveying and handling the weights and other appliances that are needed for the proper inspecting and testing of scales. The inspector of mine weights shall leave a written record with the mine operator or superintendent as to the condition of the scales inspected and shall post in the weight office a record of the inspection of the scales. If upon inspecting and testing any mine scale the inspector deems it necessary that the scale have any parts replaced, or that the scale be reconditioned or the foundation or building repaired or renewed, the operator or superintendent shall immediately comply with his recommendations.

(2) Each operator shall pay a fee of \$7.50 to the department for each mine scale inspection. [1934]

Sec. 352.520. Operator to furnish scales; inspection and testing.

(1) The operator or superintendent of each coal mine shall provide at the tippie or dumping point of the mine suitable and accurate scales for the weighing of coal for which the miners are to be paid, and when differences arise between the operator or superintendent of the mine and the miners as to the accuracy or capacity of the scales and such differences cannot be adjusted locally the question shall be referred to the Department of Mines and Minerals. The department shall inspect and test the scales as early as practicable after receiving notification. If the inspecting officer of the department finds the scales inaccurate or defective beyond the limit permitted by the department, he shall notify the operator or superintendent of the mine, and the scales shall immediately be repaired and made accurate or accurate scales substituted therefor. If the inspecting officer finds the scales to be weighing within the limits prescribed by the department, he shall so advise the operator, the superintendent and the representative of the miners in a

manner prescribed by the chief of the department.

(2) Where coal is loaded by mechanical means by the day or by the car, subsection (1) does not apply.

(3) No person shall tamper with any mine scale except to adjust the tare weights for the different types of mine cars and balance the scales. [1934]

Sec. 352.530. Check weighman.

(1) When a majority of the miners in any mine request the operator of the mine to allow the miners to employ at their own expense a check weighman to inspect the weights at the mine, and see that all coal mined is properly weighed and accounted for, and perform only such other duties as will insure that the coal is properly weighed and correctly accounted for, the operator shall permit a check weighman to be employed by the miners making the request, provided the person so employed has the reputation of being an honest, trustworthy, discreet, sober and upright man. The check weighman shall be an employe of the mine, unless no employe is a suitable person, in which case the miners may, by agreement with the operator, elect some other person who is suitable. No check weighman shall hold any other office or have any other duties than as check weighman. The check weighman shall be elected by a majority of the employes engaged in mining and loading coal and the election shall be properly conducted by secret ballot at the principal entrance to the mine. The election of each check weighman shall be approved by the county judge of the county, on presentation of an affidavit stating that the check weighman has been duly and properly elected in accordance with the provisions of this section.

(2) The check weighman shall have free access to the mine scales while the mine is in operation or the scales are being tested. No agent or employe of the operator shall hinder or prevent the check weighman in the performance of his duties in a proper manner, and no check weighman shall prevent the weighman or other employe of the operator from performing his duties in a proper manner.

(3) The operator or the superintendent shall see that cars are tared, in their usual running condition, at reasonable intervals. [1934]

Sec. 352.990. Penalty for violations by inspectors, etc., weighman or checkweighman.

* * * * *

(18) Any inspector of mine weights, coal operator, superintendent, agent, company weighman or check weighman who violates any of the provisions of KRS 352.520 or 352.530 shall be fined not less than twenty-five nor more than two hundred dollars. [1934]

* * * * *

Revised Statutes 1946, Title XXVIII, Ch. 354—Clay Mine Scales.

Sec. 354.010. Definitions.

(1) As used in KRS 354.010 to 354.470, unless the context requires otherwise:

* * * * *

(b) "Commercial mine" means any clay mine from which the product is mined for sale or exchange.

(c) "Department" means the Department of Mines and Minerals.

* * * * *

(3) The provisions of KRS 354.010 to 354.470 shall extend to commercial clay, but shall not apply to the mining of clay or other minerals which are mined from open pits or open mines. [1946]

Sec. 354.020. Enforcement.

KRS 354.010 to 354.470 shall be administered and enforced by the Department of Mines and Minerals. [1946]

Sec. 354.130. Inspection of mine scales; fee.

(1) The inspectors of mine weights shall inspect and test all scales, except railroad scales, used in connection with any commercial clay mine in this state, and shall determine their mechanical condition and accuracy. Each clay operator or superintendent shall render such assistance to the inspector of mine weights as may be necessary in conveying and handling the weights and other appliances that are needed for the proper inspecting and testing of scales. The inspector of mine weights shall leave a written record with the mine operator or superintendent as to the condition of the scales inspected and shall post in the weight office a record of the inspection of the scales. If, upon inspecting and testing any mine scale, the inspector deems it necessary that the scale have any parts replaced, or that the scale be reconditioned or the foundation or building repaired or renewed, the operator or superintendent shall immediately comply with his recommendations.

(2) Each operator shall pay a fee of \$7.50 to the department for each mine scale inspection. [1946]

Sec. 354.990. Penalty for violations.

* * * * *

(2) Any person who violates any of the provisions of subsection (1) of KRS 354.130 shall be fined not less than twenty-five nor more than two hundred dollars. [1946]

Revised Statutes 1946, Title XXIX, Ch. 359—Grain Warehouses.

Sec. 359.070. Weigher for grain warehouses in city having board of trade; inspection standards and fees.

(1) The Commissioner of Agriculture, Labor and Statistics shall appoint an inspector, a weigher

and a registrar for the grain warehouses of each city containing grain warehouses and having a board of trade, and shall fix their duties, and the amount and kind of bond to be given by them.

(2) No person shall be appointed as such an inspector, weigher or registrar unless he is a citizen of Kentucky, is at least twenty-five years of age, has been for at least one year next preceding his appointment a resident of the city for which he is chosen, and is not a member of the city board of trade, or interested in any warehouse. [1893].

* * * * *

Sec. 359.080. Weigher in county not having board of trade.

(1) In every county containing grain warehouses and not having a board of trade, the fiscal court shall appoint an inspector, a weigher and a registrar for the grain warehouses of the county. Each inspector, weigher or registrar shall be appointed for a term of two years and until his successor is appointed and has qualified. The inspector, the weigher and the registrar shall each file in the office of the county clerk a bond, with good sureties approved by the fiscal court, and conditioned for the faithful performance of their duties, and action may be brought on the bond by any person injured by a violation of its conditions.

(2) No person shall be appointed as such an inspector, weigher or registrar unless he is a citizen of Kentucky, is at least twenty-five years of age, has been for at least one year next preceding his appointment a resident of the county for which he is chosen, and is not interested in any warehouse.

* * * * *

(4) The inspector, weigher and registrar shall inspect, weigh and register, respectively, all commodities stored in the grain warehouses, and the fiscal court shall fix the fees to be paid to them by the seller for their services. [1893]

Sec. 359.090. Breach of duty by weigher; improper influence.

(1) No inspector, weigher or registrar appointed under KRS 359.070 or 359.080 shall neglect his duty, or knowingly or carelessly inspect or grade any grain improperly, or accept any money or other consideration for any neglect of duty or for improperly performing any duty.

(2) No person shall improperly influence any such inspector, weigher or registrar in the performance of his duties. [1893]

Sec. 359.990. Penalty for improperly influencing weigher.

* * * * *

(3) Any person who violates any of the provisions of sub-section (2) of KRS 359.090 shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not less than three nor more than twelve months, or both. [1893]

Revised Statutes 1946, Title XL, Ch. 434—False Advertising.

Sec. 434.270. Unlawful acts; penalty.

Any person who, directly or indirectly, displays or exhibits to the public in any manner, whether by handbill, placard, poster, picture, film or otherwise; inserts or causes to be inserted in any publication; issues, exhibits or in any way distributes or disseminates to the public; or delivers, exhibits, mails or sends to any other person any false or misleading statement, representation or advertisement, with intent to sell, barter or exchange any goods, wares or merchandise or anything of value; or to deceive or mislead any other person to purchase,

discount or in any way invest in or accept as collateral security any bonds, bill, share of stock, note, warehouse receipt or any security; or to make any loan upon or invest in any property of any kind; or uses any of such advertising methods with the purpose of deceiving or misleading any other person to employ, for a valuable consideration, the services of any person advertising such services, shall be fined not more than five hundred dollars, or be imprisoned for not more than sixty days, or both. If a corporation violates this section, it shall be fined not more than five hundred dollars, and its president, or other officers who are responsible for the management of the corporation, shall be imprisoned for not more than sixty days. [1916]

LOUISIANA

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Acts 1948, No. 95—Weights and Measures.

Sec. 1. State standards.

Be it enacted by the Legislature of Louisiana, That the weights and measures received from the United States under joint resolution of Congress approved June 14, 1836, and July 27, 1866, 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. Such State standards shall be submitted at least once in ten years to the National Bureau of Standards for certification. Such copies of the State standards of weights and measures and such other weights, measures, and apparatus as may be necessary to carry out the provisions of this Act shall be supplied by the State. [1948]

Sec. 2. Commission of weights and measures: Membership; director and assistants.

That there is hereby created a Commission of Weights and Measures, to be composed of the Governor, the Collector of Revenue and the Commissioner of Agriculture and Immigration, which commission shall carry out the provisions of this Act; the Commission of Weights and Measures shall appoint a Director, inspectors of weights and meas-

ures and clerical assistants who shall comprise a Division of Weights and Measures in the Department of Agriculture and Immigration. The powers and duties given to and imposed upon the Commission of Weights and Measures by this Act are hereby given to and imposed upon its Director and inspectors also, when acting under its instructions and at its direction. [1948]

Sec. 3. Same: Power and authority; inspection and right of entrance; violation.

That the Commission of Weights and Measures hereinafter referred to as the Commission, shall have and keep a general supervision over the weights and measures and weighing and measuring devices offered for sale, sold, and in use in the State. When not otherwise provided by law, the Commission shall have the power to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered, or exposed for sale; and it shall be its duty at least once each year and as much oftener as it may deem necessary to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices commercially used or employed in proving the size, quantity, extent, area or measurement of quantities, things, produce, or articles for distribution or consumption, pur-

chased 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 it 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. The Commission of Weights and Measures may for the purposes above mentioned, and in the general performance of its official duties, enter and go into or upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, itinerant buyer, person in charge of any delivery vehicle, or any person whatsoever, and require him, if necessary, to proceed, with or without any vehicle involved, to some place which the Commission may specify. Whenever the Commission finds a violation of the statutes relating to weights and measures, it shall cause the violator to be prosecuted. [1948]

Sec. 4. Same: Regulations; sealing; right to seize and condemn; confiscation.

That the Commission shall issue from time to time regulations for the enforcement of the provisions of this Act [Secs. 1-13]. The said regulations may include standards of net weight, net measure, or net count for any commodity, product, or article, and also specifications and tolerances for all weights, measures, and weighing and measuring devices of the character of those specified in Section 3, which shall be designated 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. Regulations promulgated under the authority of this section shall have the force and effect of law.

Whenever the Commission compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, it shall seal or mark such weights, measures, or weighing or measuring devices with appropriate devices.

The Commissioner shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which, in his best judg-

ment, are not susceptible of satisfactory repair; but such as are incorrect and yet, in its best judgment, may be repaired, it 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 Commission, and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the Commission. 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 Commission. [1948]

Sec. 5. Commodities in package form: Marking requirements; unlawful acts; "in package form" defined.

That 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 Commission. 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 Commission is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill of containers.

The words "in package form" as used in this Act [Secs. 1-13] 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.

Provided, that a box or carton used for shipping purposes, containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear weight or measure of the contents thereof.

Acts 1948, No. 95—Weights and Measures—Continued.

There shall be no violation under this act for any discrepancy between actual weight or volume at the time of sale to the consumer, and the weight marked on the container, or between the fill of container and the capacity of the container, if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or to causes beyond the control of the seller acting in good faith. [1948]

Sec. 6. Meat and poultry to be sold by weight; standard weight containers for flours, meals, hominy and hominy grits; commodities to be sold on basis of net weight; exceptions.

That 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.

It shall be unlawful to pack for sale, sell, offer or expose for sale, or keep, for the purpose of sale any of the following commodities¹ except in containers of net avoirdupois weights of two, five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, hominy, and hominy grits; Provided, however, That the provisions of this section shall not apply to (a) the retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders, in containers of more than one hundred pounds, or (c) the sale of flours and meals for export, or (d) flours, meals, hominy, and hominy grits packed in cartons the net contents of which are five pounds or less, or (e) the exchange of wheat for flour by mills grinding for toll.

Whenever any commodity other than raw cotton in bales 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 [Secs. 1-13], it shall be understood and construed to mean the net weight of the commodity, provided that rope and twine and cordage products may be marked and sold under this Act according to gross weight, under such reasonable rules as the Commissioner may establish consistent with trade practices existing in the rope and twine industry. [1948]

¹ Compare Secs. 9979-9984, page 394.

Sec. 7. Unlawful to misrepresent price or quantity of commodity, thing or service.

That 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. [1948]

Sec. 8. Unlawful to hinder or impersonate director or inspectors; peace officer powers of commission.

That it shall be unlawful for any person to hinder or obstruct in any way the Commission, its director, or inspectors, in the performance of its official duties, or to impersonate in any way the Commission, its deputy, or inspectors. For the purpose of the enforcement of the provisions of this Act [Secs. 1-13], the Commission shall have the powers and authority of a peace officer. [1948]

Sec. 9. Violations of act; penalty.

That any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs one of the acts enumerated in subparagraphs (a) through (i) of this section, 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 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 parish jail for not more than one year, or by both such fine and imprisonment.

(a) Use, sell, offer or expose for sale or hire, or have in possession for the purpose of using, selling, or hiring, a false weight or measure or weighing or measuring device or any device or instrument to be used to or calculated to falsify any weight or measure.

(b) Use, or have in possession for the purpose of current 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, any weight or measure or weighing or measuring device which has not been sealed by the Commission, its director or inspectors, at its direction, within one year, unless written notice has been given to the office of the Commission to the effect that such weight or measure or weighing or measuring device is available for examination or is due for re-examination, as the case may be.

(c) Dispose of any condemned weight, measure, or weighing or measuring device in a manner contrary to law.

(d) Remove from any weight, measure, or weighing or measuring device, contrary to law or regulation, any tag placed thereon by the Commission, or its director or inspectors, at its direction.

(e) Sell or offer or expose for sale less than the

quantity he represents of any commodity, thing, or service.

(f) Take more than the quantity represented of any commodity, thing, or service, when, as buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing, or service is determined.

(g) Keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law.

(h) 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 and measuring operation observed from some position which may reasonably be assumed by a customer.

(i) Violate any provision of this Act [Secs. 1-13] for which a specific penalty has not been provided. [1948]

Sec. 10. Definitions.

That the word "person" as used in this Act [Secs. 1-13] 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. Provided, however, that nothing herein contained shall be deemed to include or refer to water, natural or manufactured gas or electric meters, and Motor Fuel.

The words "sell" or "sale" as used in this Act, shall be construed to include barter and exchange. [1948]

Sec. 12. Not to affect petroleum products.

Anything hereinabove or hereinafter contained to the contrary notwithstanding, this Act [Secs. 1-13] shall not be construed as in any way applying to or affecting the storage, sale or distribution of petroleum products and the weights and measures used in connection therewith, as now regulated and prescribed by Act 14 of the Louisiana Legislature for 1932, as amended. [Dart's Stat., Secs. 3981-3989.16] [1948]

¹ See page 401.

Dart's General Statutes Annotated 1939, Vol. 6, Title 69, Ch. 1—Local Inspectors of Weights and Measures.

Sec. 9945. Offices abolished.

The office of inspector of weights and measures in all the parishes of this state "except the parish of Orleans" is hereby abolished. [1898]

Sec. 9946. Discretionary powers of police juries.

The police jury of the several parishes throughout the state "the parish of Orleans excepted" shall have power to provide for said inspection when they deem it necessary, and regulate the duties and fees for same. [1898]

Sec. 9947. Powers of municipal corporations.¹

All municipal corporations shall have the power to provide for inspection and testing of weights and measures used within said municipalities, and to revoke the license of any person using false weights and measures within said municipalities, and to provide penalties for the violation of any laws passed under the power hereby delegated. [1920]

¹ See Secs. 5422 and 5555, page 395.

Sec. 9969. Appointment of deputy inspectors.

The inspectors of weights and measures, throughout the state of Louisiana, shall have the right of appointing one or more deputies, at their own expense. [1870]

Dart's General Statutes Annotated 1939, Vol. 6, Title 69, Ch. 2—Regulation of Weighing of Certain Products.

Sec. 9970. Stock-yard and slaughter-house weighers are public weighers.

The weighers employed at the slaughter-houses and stockyards of this state are hereby declared to be public weighers, with all the duties and obligations customarily incident thereto, and their certificates of the weights of all stock, both singly and in car-load lots, shall be accepted by all common carriers and corporations, persons, companies and individuals doing business at the yards of the said company. [1914]

Sec. 9971. Cotton: "Scalage" deductions unlawful.

It shall be unlawful for any purchaser or weigher of cotton to deduct two pounds, or any number of pounds, known as scalage, from the actual weight of any bale of cotton, weighed or purchased by them. [1888]

Sec. 9972. Same: Actual weight to be accounted for; exception.

Purchasers shall account to the seller of cotton in all instances for the actual weight of the bale purchased or weighed, except in cases of wet or damaged cotton, when the amount to be deducted may be agreed upon by the parties buying and selling. [1888]

Sec. 9973. Same: Penalty for violations.

For each violation of this act [Secs. 9971-9973], the offender shall be deemed guilty of a misdemeanor, and upon conviction, by a court of competent jurisdiction, he shall be fined not less than ten dol-

Dart's General Statutes Annotated 1939, Vol. 6, Title 69, Ch. 2—Regulation of Weighing of Certain Products—Continued.

lars (\$10.00) nor more than fifty dollars (\$50.00). [1888]

Sec. 9974. Ice: Vehicles to be equipped with scales.

Dealers in ice who employ wagons, trucks, cars, etc., in delivering ice to consumers shall equip such wagons, trucks, cars, etc., with scales or a mechanism for accurately weighing the ice when actually delivered to the consumer, and such weighing device shall be so located as to be open to public view. [1912]

Sec. 9975. Same: Overcharges.

It shall be unlawful for any dealer in ice to charge and collect for a greater amount of ice than the amount actually delivered to the consumer. [1912]

Sec. 9976. Same: Penalties.

Any person, firm, association or corporation found guilty of violating any of the provisions of this act [Secs. 9974-9976] shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine not exceeding fifty dollars (\$50.00) or be imprisoned not over thirty (30) days, or both in the discretion of the court. [1912]

Dart's General Statutes Annotated 1939, Vol. 6, Title 69, Ch. 3—Standard Weights and Measures.

Sec. 9977. Barrel measure; barrel for mess pork; sack for bran or chops; baskets for oysters.¹

There shall be in this state a dry measure to be known under the name of barrel, which shall except for the purchase and sale of oysters contain three and a quarter bushels, according to the American standard, and shall be divided into half and quarter barrels, * * * and a barrel of mess pork shall contain not less than 200 pounds net, and a sack of bran or chops shall contain not less than 100 pounds net. But for the sale of oysters, baskets shall be used which shall contain one-half of the standard barrel, which standard barrel contains three and a quarter bushels according to this section, said baskets to be stamped according to law. [1855; last amended 1902.]

¹ See Sec. 3081, page 396; standard measure for oysters in ports or cities of more than 50,000 inhabitants.

Sec. 9978. Sale of coal and grain; bushel weights.

Coal shall be sold by the barrel or bushel measure; grain shall be sold by the barrel, bushel or weight; the legal weight of a bushel of wheat shall be sixty pounds; of a bushel of corn fifty-six pounds; of a bushel of oats thirty-two pounds; of a bushel of barley thirty-two pounds, and of a bushel of rye thirty-two pounds. [1855]

Sec. 9979. Flour, meal, cereals and grains: Enforcement.

The state board of agriculture and immigration shall be charged with the duties of enforcing this

act [Secs. 9979-9985] for the regulation of the sale of certain mill products and cereals not otherwise provided for, to prevent fraud therein. [1906]

Sec. 9980. Same: Standard packages; marking requirements.

Mill products hereinafter mentioned shall have the following standard weights, viz: Barrels of flour, one hundred and ninety-six pounds (196). Halves, whether in wood or sacks, ninety-eight pounds (98). Quarters, forty-eight pounds (48). Eighths, twenty-four pounds (24). Meal, bolted or unbolted, shall be net one hundred and ninety-six pounds (196) per barrel, whether in wood or sacks, and fractional parts thereof shall be in the same proportion, and cereals or grains of any kind shall have the net weight given upon each barrel or package. [1906]

[ED. NOTE.—Acts 1948, No. 95, Sec. 6, page 392, supersedes the foregoing section as to the standard weights of packages of flour and meal.]

Sec. 9981. Same: Marking requirements.

The correct names, and the true net weight of the contents of each and every hogshead, barrel, cask, bale, sack, or package of any of the foregoing products, whether sold in single packages, or lots, shall be plainly marked, branded or stenciled in large letters and figures not less than two inches in size upon the exterior of such hogsheads, barrel, box, cask, sack, or package, in a conspicuous place, as the head, in case of hogshead, or barrel, and the front or branded side in case of sacks, bales, or package, and it shall be unlawful for any person, firm or corporation to sell or exchange or offer for sale or exchange any of such products so packed or contained until the provisions hereof have been complied with. [1906]

Sec. 9982. Same: Penalties.

If any person shall knowingly violate the provisions of this act [Secs. 9979-9985], he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined a sum not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), and each transaction shall be deemed a separate offense, which fine or fines shall be recoverable before any court of competent jurisdiction at the suit of the commissioner of agriculture and immigration, or any citizen, without bond or advance cost, and shall be disposed of as hereinafter provided. [1906]

Sec. 9983. Same: Interference with inspector.

Any manufacturer, dealer or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any inspector or other person in the performance of his duty in connection with this act [Secs. 9979-9985] shall be guilty of a misdemeanor, and shall upon conviction be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). [1906]

Sec. 9984. Same: Seizure.

The commissioner shall have a privilege on any mill products and cereals sold in this state, in violation and contravention of the provisions of this act [Secs. 9979-9985], and may proceed by writ of provisional seizure against the mill products and cereals so sold in the hands of whomsoever they may be, and wheresoever he may find them, regardless of the domicile of the owner thereof, to recover the fines and penalties due for the illegal sale thereof, by presenting a petition to a competent judge or magistrate, within whose jurisdiction said mill products and cereals are found, stating on oath at the foot of the petition the amount and nature of the demand, the mill products or cereals on which the privilege exists, and praying that the mill products or cereals be seized to satisfy the claim and pay the costs of suits. [1906]

Sec. 9988. Coal: Gauging; fee.

All anthracite or bituminous coal sold in this state shall be gauged or weighed by the state coal and coke gaugers in the state, whose fees, duties and responsibilities shall remain as now fixed by law, provided the fee for weighing shall not exceed one cent per ton. [1894]

Sec. 9989. Same: Standard barrel and ton.

The standard measures for the bituminous and anthracite coal in this state shall be the barrel containing 6,988 cubic inches and the standard ton of 2,000 pounds. [1894]

Sec. 9990. Same: Penalty.

Whoever shall violate the provisions of this act [Secs. 9988-9990] shall be adjudged guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), at the discretion of the court, for each offense. [1894]

Sec. 9999. Log measurement: Standard rule.

What is known as the "Scribner-Doyle" rule or scale shall be the standard rule for the measurement of sawlogs in this state. [1914; last amended 1918.]

Sec. 10000. Same: Penalties.

Any person, firm or corporation who shall compute the measurement of sawlogs sawn, delivered or bought by any other rule or scale than the above in making settlement with employee, contractor or seller, shall be deemed guilty of a misdemeanor, subject to indictment by presentment by grand jury or by bill of information, and on conviction on bill of information or indictment before any court of competent jurisdiction, shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or be imprisoned not less than sixty (60) days nor more than twelve (12) months at the discretion of the court. [1914; last amended 1918.]

Dart's General Statutes Annotated 1939, Vol. 4, Title 43, Ch. 2—Government by Mayor and Aldermen.

Sec. 5422. Powers and duties of mayor and board of aldermen.

The mayor and board of aldermen of every city, town and village, shall have the care, management, and control of the city, town or village and its property and finances, and shall have power to enact ordinances for the purposes hereinafter named, and such as [are] not repugnant to the laws of the state, and such ordinances to alter, modify and repeal; and they shall have power:

* * * * *

Ninth. To prescribe rules for the weighing and measurements for every commodity sold in the municipality, in all cases not otherwise provided by law, and to provide for the measuring of wood and fuel and the weighing of coal, and determine the place or places for the sale of the same and fix fees and duties of the persons authorized to perform the duties herein named; * * * [1898]

[ED. NOTE.—The laws providing for commission forms of government, those of 1910, 1912, and 1934, respectively, did not list the specific powers of the council for which they provided, but gave the council the powers "now had, possessed and exercised by the municipal authorities, and officers elected or appointed under the authority of the several charters of the cities as organized prior to the adoption of the provisions of this act by any city, unless otherwise provided in this act." The quoted material was taken from one of the above acts, each act having a similar provision. See section 9947, page 393.]

Dart's General Statutes Annotated 1939, Vol. 4, Title 43, Ch. 7—Commission-Manager Form of Government.

Sec. 5555. Powers and duties of city manager.

The powers and duties of the city manager shall be:

* * * * *

(i) To enforce all laws and ordinances relating to weights and measures, as may be adopted by the commission or ordained by state laws. [1918]

* * * * *

Dart's General Statutes Annotated 1939, Vol. 4, Title 43, Ch. 27—Public Cotton Warehouse of New Orleans.

Sec. 6247.3. Appointment of weighers.

Samplers, weighers and inspectors employed for sampling, weighing and inspecting cotton received and delivered at the public cotton warehouse, which said public cotton warehouse is owned and operated by the board of commissioners of the Port of New Orleans, shall be appointed by the board of commissioners of the Port of New Orleans on and by the recommendation of the board of directors of the New Orleans cotton exchange, which recommendation shall make the New Orleans cotton ex-

Dart's General Statutes Annotated 1939, Vol. 4, Title 43, Ch. 27—Public Cotton Warehouse of New Orleans—Continued.

change responsible for the accuracy and correctness of the weighing, sampling and inspecting of cotton, for which responsibility and warranty a sum to be agreed on by the board of commissioners of the Port of New Orleans and the cotton exchange shall be set aside and paid to said cotton exchange which shall always be provided by a charge against the cotton for services rendered. [1935]

Dart's General Statutes Annotated 1939, Vol. 1, Title 2, Ch. 14—Sweet Potatoes.

Sec. 175.05. Standard bushel for taxation purposes.

There is hereby imposed and levied a tax at the rate of two cents (2¢) per bushel of fifty (50) pounds [whether such potatoes are in crates, sacks, or other containers, or in bulk] or fraction thereof on all sweet potatoes shipped in the State of Louisiana. * * * [1942; last amended 1946.]

Dart's General Statutes Annotated 1939, Vol. 2, Title 22, Ch. 7—Oysters.

Sec. 3081.¹ Standard measure; inspections.

There shall be in this state for the purchase and sale of oysters arriving at ports or cities within the state of more than fifty thousand inhabitants from any other port, city or place, whether said oysters arrive in barrels, sacks, bulk or otherwise a standard measure in the form of a basket, which shall contain one bushel and one-half a bushel, said baskets to be inspected and stamped by the inspector of weights and measures or other officer exercising his functions for the respective districts or parishes where said oysters arrive, if there be any such inspector or officer at the place of arrival, and in the parish of Orleans by the inspector of weights and measures of the municipality or district where the oysters thus arriving are unloaded. [1910]

¹ Compare Sec. 9977, page 394.

Sec. 3082. Inspection at ports or cities.

Each and every sack of oysters arriving at the ports or cities mentioned in section 1 [Sec. 3081] of this act [Secs. 3081–3088] shall contain one standard basket as established by this act, and each and every barrel of oysters arriving at the different ports or cities mentioned in said section 1 [Sec. 3081] of this act, shall contain two standard baskets as established by section 1 [Sec. 3081] of this act, said sacks and barrels to be inspected by the inspector or officer exercising his functions as provided in section 1 [Sec. 3081], and must contain the measurements stated in this act at the time of delivery to the consignee, buyer or importer, and at the time of delivery to any subsequent buyer of said oysters after arrival, whether in sacks, barrels or baskets. [1910]

Sec. 3083. Fee; certificate of measurement.

The inspector of weights and measures or other officer exercising his functions in the district or

parish where said oysters are unloaded shall be entitled to charge and collect for such inspection from the buyers, importers or consignees of said oysters a fee of one-fourth of one cent for each basket inspected and unloaded, payable immediately and the inspector or other officer exercising his functions may issue a certificate of inspection and measurement which shall be prima facie evidence of such inspection and measurement of the oysters under the provisions of this act [Secs. 3081–3088]; provided that for the stamping of each basket mentioned in section 1 [Sec. 3081], such inspector or officer shall be entitled to charge and collect immediately after stamping from the owner or owners of the baskets so inspected and stamped, a fee of thirty cents. [1910]

Sec. 3084. Powers and duties of inspectors.

For the purpose of making the inspection and measurement provided by this act [Secs. 3081–3088], and of ascertaining the number of sacks, barrels and baskets arriving in the different ports and cities mentioned in section 1 [Sec. 3081] and the names and addresses of the sellers, exporters, consignors, buyers, importers and consignees of such oysters to be inspected and measured under the provisions of this act, and the quantity consigned to each buyer, importer and consignee, and such other information as may be necessary to obtain an order to perform the duties imposed upon him by law, such inspector or officer exercising his functions shall have the right and power to go on board the boat arriving with such oysters, in order to count the number of barrels, sacks, and baskets thus arriving and to be unloaded from said boat, and shall also have the right and power to demand and obtain an examination of the boat's manifest and it shall be the duty of the owner, master, captain or other person in charge of said boat or of said manifest to produce the manifest and allow such examination by said inspector or officer. [1910]

Sec. 3085. Compulsory inspections; penalties.

Any and all buyers, sellers, importers and exporters of oysters arriving at the different ports and cities in the State of Louisiana, of more than fifty thousand inhabitants, are charged with the duty of having such oysters inspected and measured, and such baskets inspected and stamped, in accordance with the provisions of this act [Secs. 3081–3088] and any and all buyers, sellers, importers and exporters of oysters arriving at the ports and cities mentioned in section 1 [Sec. 3081], and any and all owners, masters and captains of boats arriving with oysters at said ports or cities, and any other person or persons, firm or firms and corporation or corporations (through their proper officer) violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punishable for each offense by fine not exceeding twenty-five

dollars, or imprisonment not exceeding thirty days or both at the discretion of the court having jurisdiction. [1910]

Sec. 3086. Appointment of representative inspectors.

There shall be an oyster inspector selected and appointed by the governor from each parish shipping oysters under the provisions of this act [Secs. 3081-3088], whose duties and functions shall be to inspect and measure every sack and barrel of oysters arriving at the different ports or cities mentioned in section 1 [Sec. 3081] of this act, at the same time and place as the inspection might be made by the inspector of weights and measures, or other officer exercising similar functions, mentioned in section 2 [Sec. 3082] of this act; provided, there shall be only one inspection and measurement of oysters made by each oyster inspector provided for in this section. [1910]

Sec. 3087. Fees; certificate to be signed.

The said oyster inspector, mentioned in section 6 [Sec. 3086] of this act [Secs. 3081-3088], shall be entitled to collect from the buyer, importer or consignee of said oysters, one-fourth of one cent for each basket inspected and unloaded, payable immediately by the said buyer, importer or consignee of said oysters for the account and at the expense of the consignor or shipper of said oysters, provided, that the oyster inspector herein mentioned shall sign all certificates of inspection and measurement referred to in section 3 [Sec. 3083] of this act, together with the inspector of weights and measures, or other officer exercising his functions, and no such certificate shall be valid or of any effect unless signed by both said inspectors, nor shall any claim for shortage of measure be allowed any consignee, buyer or importer of said oysters, unless he shall have first secured this certificate of inspection and measurement. [1910]

Sec. 3088. Disputes as to measurements to be arbitrated.

In the event the two inspectors provided for in this act [Secs. 3081-3088] fail to agree in their inspection and measurement of oysters as provided for in this act, either or both shall immediately call in as arbitrator, the presiding officer of the board, or commission, exercising control over the oyster industry, and in his absence, any member of said board or commission, and in the absence of the latter, any inspector of said board or commission, whose award shall be final and who shall make out and sign the certificate of inspection and measurement herein referred to. [1910]

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 3—Milk and Cream.

Sec. 3262.16. Equipment for testing; Babcock or Gerber test only to be used.

No person, or any employee of such person, shall use in the determination of the butterfat content of

milk or cream, any test glassware, or centrifuges except such as conform to the requirements of the United States Bureau of Standards and which have been inspected, tested and approved by the commission [Louisiana Milk Commission] or its employees. The use of glassware not approved by the commission shall constitute a violation of this act [Secs. 3262.14-3262.29]. No method other than the "Babcock" test or the "Gerber" tests shall be used in determining the butterfat percentage of milk or cream until such test has been approved by the commission. Every installation of laboratory equipment to be used in determining the butterfat content of milk or cream shall be inspected and approved by the commission. The use of an unapproved installation is a violation of this act. [1946]

[ED. NOTE.—By Acts 1948, No. 57, the Louisiana Milk Commission was merged and consolidated into the Department of Agriculture and Immigration which was empowered to exercise all of the duties and functions of the Louisiana Milk Commission.]

Sec. 3262.20. Unlawful to falsify test.

No person, nor any employee of such person, shall underread, overread or in any way manipulate any approved butterfat test so that other than the true butterfat percentage is obtained; and it shall also be unlawful for any person or any employee of such person to falsify the record of any such butterfat test. [1946]

Sec. 3262.21. Unlawful to falsify weight.

No person, nor any employee of such person, shall underread, overread or in any way manipulate any weighing or measuring device so that other than the true weight or measure of the milk or cream purchase is obtained; and it shall also be unlawful for any person, or any employee of such person, to falsify the record of any such weight or measure. [1946]

Sec. 3262.22. Defective devices prohibited; revocation of license.

No person purchasing milk or cream on the basis of its butterfat content shall use any weight, measure, or butterfat test thereof other than the correct weight, measure, or butterfat tests; nor shall such person have in his possession any inaccurate, defective or untrue weighing or measuring device; nor shall any such person make any misrepresentation as to any weight, measure or test. If investigation discloses tampering with samples taken for butterfat testing, the license of the sampler or tester charged with the proper care of such samples shall immediately be revoked or suspended by the commission [Louisiana Milk Commission.¹] [1946]

¹ See Ed. note following Sec. 3262.16.

Sec. 3262.24. Rules and regulations for enforcement.

The commission [Louisiana Milk Commission¹] is hereby empowered to promulgate such rules and

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 3—Milk and Cream—Continued.

regulations as it may deem necessary for the enforcement of this act [Secs. 3262.14-3262.29], and by such rules and regulations, as conditions change, may alter the requirements of sections 3 to 10 [Secs. 3262.16-3262.23], inclusive of this act, which said sections shall be construed as directory, and to be made mandatory only when incorporated in rules and regulations adopted by the commission. [1946]

* * * * *

¹ See Ed. note following Sec. 3262.16.

Sec. 3262.28. Violations; penalty.

Any employee of any person buying milk or cream on the basis of the amount of butterfat contained therein, or any person testing milk or cream for percentage of butterfat violating any of the provisions of this act [Secs. 3262.14-3262.29], or violating any lawful order, rule or regulation of the commission [Louisiana Milk Commission¹] issued under the authority of this act, upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) or be imprisoned for not less than ten days nor more than ninety days. Any person buying or paying for milk or cream on the basis of the butterfat contained therein, violating any provisions of this act, upon conviction thereof shall be fined in the sum of one hundred dollars (\$100.00) or be imprisoned for not less than ten nor more than ninety days for the first offense and in the sum of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or be imprisoned for not less than sixty days nor more than six months for each subsequent offense. [1946]

¹ See Ed. note following Sec. 3262.16.

Sec. 3264. Test of Babcock glassware; fees; sealing.

All bottles, pipettes or measuring glasses used by a person in determining by the Babcock method the value of milk or cream, where the result of such test is used as a basis for payment or for public record, or for record in any of the national breed associations shall, before such use, be tested for accuracy of measurement and for accuracy of the per cent scale marked thereon, at the Louisiana Agricultural Experiment Station. Such bottles, pipettes or measuring glasses as are correct shall be marked in permanent marks or characters, which shall be proof that they were so tested; but incorrect bottles, pipettes or measuring glasses shall be destroyed. The person owning such bottles, pipettes or glasses shall pay the actual expense of testing the accuracy of same. Such mark or character as the Louisiana State Experiment Station shall select as its official mark for tested bottles, pipettes or glassware shall be used only by the Louisiana Agricultural Experiment Station and its use by any other person or persons is strictly prohibited. [1920]

Sec. 3267. Penalties for violating preceding section.

Any cream station, cooling station, receiving station, creamery, milk plant, cheese factory, condensory, ice cream factory, or person or persons who shall fail to comply or violate any of the provisions of this act [Secs. 3263-3268] shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or imprisoned for a period of not less than thirty (30) days nor more than ninety (90) days. [1920]

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 4—Rice.

Sec. 3277. Falsely increasing weight of rice.

It shall be unlawful for any person to use oil, paraffine or any other similar substance in the process of cleaning rice or in preparing it for market, for the purpose of increasing its weight, transparency or brilliancy or for in any manner bettering its appearance. [1898]

Sec. 3278. Penalties for violating preceding section.

Any person violating the provisions of this act [Secs. 3277-3278] shall be guilty of a misdemeanor and on conviction thereof before any court of competent jurisdiction shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days, at the discretion of the courts for each offense. [1898]

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 7—"Uniform Narcotic Drug Act."

Sec. 3315.10. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1934]

Sec. 3315.20. Enforcement.

It is hereby made the duty of the president of the state board of health, his officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all district attorneys, to enforce all provisions of this act [Secs. 3215.1-3215.27], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1934]

Sec. 3315.21. Penalty for violations.

Any person violating any provision of this act [Secs. 3215.1-3215.27] shall upon conviction be punished by imprisonment at hard labor for not less than 20 months nor more than five years. [1934]

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 9—"State Food, Drugs and Cosmetic Act."

Sec. 3317.2. Definitions.

As used in this act [Secs. 3317.1-3317.27], unless the context otherwise indicates—

(a) The term "food" includes all substances and preparations used for, or entering into the composition of, food, drink, confectionery, chewing gum, or condiment for man or other animals.

(b) The term "drug," for the purpose of this act, includes (1) all substances and preparations recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) all substances and preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) all substances, and preparations, other than food and cosmetics, intended to affect the structure or any function of the body.

(c) The term "device," for the purposes of the act, includes all devices intended (1) for the use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (2) to affect the structure or any function of the body.

(d) The term "cosmetic" includes all substances and preparations intended for cleansing, or altering the appearance of, or promoting the attractiveness of, the person; except that such term shall include soaps only when medicinal or curative qualities are claimed therefore.

(e) The term "person" includes individual, partnership, corporation, and association

* * * * *

(g) The term "label" means the principal display or displays of written, printed, or graphic matter (1) upon any food, drug, device, or cosmetic, or the immediate container thereof, and (2) upon the outside container or wrapper, if any there be, of the retail package of any food, drug, device or cosmetic.

(h) The term "labelling" includes all labels and other written, printed, and graphic matter, in any form whatsoever, accompanying any food, drug, device, or cosmetic.

(i) The term "advertisement" includes all representations of fact or opinion disseminated to the public in any manner or by any means other than by the labelling.

* * * * *

(1) The term "board" means the state board of health. [1936]

Sec. 3317.4. When food deemed misbranded; exemptions.

A food shall be deemed to be misbranded if it has been found to be such by any department of the United States government, or:

(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to mislead the purchaser.

(e) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under subdivision (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(f) If any word, statement, or other information required on the label under any provision of this act [Secs. 3317.1-3317.27] is not prominently placed thereon in such manner as to be easily seen and in such terms as to be readily understood by purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package.

* * * * *

(h) If it purports to be or is represented as a food for which a standard of quality or fill of container has been prescribed by regulations as provided by section 5 and 15 [Secs. 3317.5, 3317.15], and its quality or fill falls below such standard of quality or fill of container and its label fails to bear a statement, in such manner as the regulations specify, showing it falls below such standard of quality or fill of container.

* * * * *

(1) The board is hereby authorized to promulgate regulations exempting from any labeling requirement of this act small open containers of fresh fruits and fresh vegetables and also food which is, in accordance with the practice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is in conformity with the provisions of this act upon removal from such processing, labeling, or repackaging establishment. [1936]

Sec. 3317.5. Regulations relating to fill of container.

For the effectuation of the purpose of this act [Secs. 3317.1-3317.27] the board is hereby authorized to promulgate regulations, as provided by section 15 [Sec. 3317.15], fixing and establishing for any food a definition and standard of identity, and a reasonable standard of quality or fill of container: * * * And provided further, that in any regulation pertaining to fill or [of] container the board shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. [1936]

Dart's General Statutes Annotated 1939, Vol. 2, Title 23, Ch. 9—"State Food, Drugs and Cosmetic Act"
—Continued.

Sec. 3317.9. When drugs and devices deemed misbranded; exemptions.

A drug or device shall be deemed to be misbranded if it has been found to be such by any department of the United States government, or:

(a) If its labeling is false or misleading in any particular. * * *

(c) If in package form it fails to bear a label containing * * * (2) an accurate statement of the quantity of the contents in either terms of weight, measure, or numerical count: Provided, That under subdivision (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board, where compliance with such provisions would be impracticable.

(d) If any word, statement, or other information required on the label under any provision of this act [Secs. 3317.1-3317.27] is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package.

* * * * *

(i) (1) If it is a drug and its container is so made, formed, or filled as to mislead the purchaser: * * *

(k) The board is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of this act drugs and devices which are, in accordance with the practice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are in conformity with the provisions of this act upon removal from such processing, labeling, or repacking establishment. [1936]

Sec. 3317.12. When cosmetics deemed misbranded; exemptions.

A cosmetic shall be deemed to be misbranded if it has been found to be such by any department of the United States government, or:

(a) If its labeling is false or misleading in any particular, * * *

(b) If in package form it fails to bear a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under subdivision (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board, where compliance with such provisions would be impracticable.

(c) If any word, statement, or other information required on the label under any provision of this act

[Secs. 3317.1-3317.27] is not prominently placed thereon in such manner as to be easily seen and in such terms as to be readily understood by the purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package.

(d) The board is hereby authorized to promulgate regulations excepting from any labeling requirement of this act cosmetics which are, in accordance with the practice of the trade, processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are in conformity with the provisions of this act upon removal from such processing, labeling, or repacking establishment. [1936]

Sec. 3317.15. Regulations for enforcement.

(a) The authority to promulgate regulations for the efficient enforcement of this act [Secs. 3317.1-3317.27] is hereby vested in the board. [1936]

* * * * *

Sec. 3317.20. Prohibited acts; penalties; guaranty protection.

(a) The following acts and the causing thereof are hereby prohibited:

(1) The introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in commerce.

(3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof in the original unbroken package for pay or otherwise.

(4) The dissemination of a false advertisement by any means for the purpose of inducing, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

* * * * *

(b) Any person who violates any of the provisions of this act [Secs. 3317.1-3317.27] shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine; and for a second or subsequent offense imprisonment for not more than two years, or a fine of not more than \$3,000, or both such imprisonment and fine: Provided, however, That any person who violates any of the provisions of subdivision (4) of paragraph (a) of this section shall only be liable for and forfeit and pay a penalty of not more than \$1,000 if (1) the violation does not involve imminent danger to health or gross deception, and (2) the violation is established by opinion evidence only.

* * * * *

(d) No dealer shall be subject to the penalties of paragraph (b) of this section (1) for having received

any article of food, drug, device, or cosmetic and in good faith sold it as received unless he refuses to furnish on request of an officer or employee duly designated by the board the name and address of the person from whom he purchased or received such article and all documents pertaining to the delivery of the article to him, or (2) if he established a guaranty or undertaking signed by the person residing in Louisiana from whom he received in good faith the article of food, drug, device, or cosmetic, or the advertising copy thereof, to the effect that such article is not adulterated or misbranded, and such copy is not false, within the meaning of this act [Secs. 3317.1-3317.27], designating it. To afford protection, such guaranty or undertaking shall contain the name and address of the person furnishing such guaranty or undertaking, and such person shall be amenable to the prosecution and penalties which would attach in due course to the dealer under the provisions of this act. [1936; last amended 1942.]

Sec. 3317.23. Seizure.

(a) Any article of food, drug, device, or cosmetic that is adulterated, misbranded, or unregistered, * * * shall be liable to seizure and condemnation by the board or such officer or employee as it may designate for the purpose. [1936; last amended 1942.]

Sec. 3317.24. Injunction.

(a) In order to avoid multiplicity of criminal prosecutions, the district courts are hereby vested with jurisdiction for cause shown, to restrain by injunction, temporary or permanent, any person from the repetitious (1) introduction or causing to be introduced into commerce any adulterated, misbranded, or unregistered food, drug, device, or cosmetic; or (2) dissemination of or causing to be disseminated a false advertisement by any means for the purpose of inducing, directly or indirectly, the purchase of foods, drugs, devices, or cosmetics in commerce. * * * [1936]

Dart's General Statutes Annotated 1939, Vol. 3, Title 32, Ch. 2—Beef and Pork Barrels.

Sec. 3967. Weight; dimensions; marking requirements.

All barrels shall be made of good seasoned oak or ash, free from every defect; and every barrel shall contain two hundred pounds of beef or pork, the barrel not to measure more than eighteen inches across the head, and twenty-eight long, to be hooped with at least twelve good substantial hoops; the barrel to be branded on the bilge with at least the initials of the cooper's name and weight which is contained in each barrel, and also to be branded with the first letters of the Christian name and the surname at full length of the inspector [beef and pork inspector for the city of New Orleans]. [1855]

Dart's General Statutes Annotated 1939, Vol. 3, Title 32, Ch. 3—Petroleum Products.

Sec. 3981. Definitions.

For the purpose of this act [Secs. 3981-3989.12]:

* * * * *

(c) The phrase "gasoline pump" shall include any pump, meter or similar measuring device used for measuring gasoline;

* * * * *

(e) The term "supervisor" or "supervisor of public accounts" shall mean collector of revenue for the state of Louisiana or his duly authorized assistants. [1932; last amended 1942.]

Sec. 3986. Measuring devices to be accurate; inspection; sealing; measurement and calibration of vehicle tanks; violation of act; certificate of compliance; fee.

It shall be unlawful for any person to use any scales, measures or measuring device in the handling or sale of petroleum products unless the same is true and accurate, and the standards of weights and measures applied to said scale, measure or measuring device shall be those adopted by the United States Bureau of Standards.

It shall be the duty of the supervisor [collector of revenue] to seal and forbid the use of any inaccurate measuring device until such time as the defect is corrected. The breaking of said official seal shall be prima facie evidence of a violation of this act [Secs. 3981-3989.12], and it shall be unlawful for any person to refuse to permit the supervisor to inspect and seal, if deemed necessary, any such measuring device, or to break the seal after being placed by said supervisor.

For the purpose of this act, the term "vehicle tank" shall mean any vehicle tank, tank truck, tank wagon, or any other container in which gasoline, motor fuel, or any other petroleum products are transported in this state.

For the purpose of strengthening and making the administration of this act more effective, the collector of revenue is hereby authorized to measure, calibrate and determine, under regulations promulgated by him, the capacity in gallons of any vehicle tank, as defined herein, and to require every person, as defined herein, to produce for inspection or measurement, testing, measuring and/or calibrating, any vehicle tank so used by such person, and to provide for the production of vehicle tanks for subsequent checking and measurement from time to time as he may see fit.

The provisions of this act are not applicable to carriers-for-hire operating under valid permits or certificates of convenience or necessity issued by the public service commission of this state and not engaged in transporting gasoline, motor fuel, or any other petroleum products for the purpose of sale, use or consumption within this state, and persons

Dart's General Statutes Annotated 1939, Vol. 3, Title 32, Ch. 3—Petroleum Products—Continued.

operating motor busses under franchises or licenses issued by municipalities.

It shall be a violation of this act to sell or distribute gasoline, motor fuel, or any other petroleum products from any vehicle tank or to withdraw gasoline, motor fuel, or any other petroleum products from any such vehicle tank or from any fuel tank or auxiliary fuel tank for the purpose of sale, unless said vehicle tank has been measured and/or calibrated under the provisions of this act. The failure of the owner of any vehicle tank, after notice by the collector of revenue in accordance with regulations promulgated by him, to submit said vehicle tank for measuring, calibrating and/or determining the capacity thereof or for inspection under said regulations shall constitute a violation of this act.

The removal, obliteration or changing of any measurement, certificate, tag, marking or device made by the collector of revenue or his representative under the provisions of this act or under rules and regulations promulgated by him, shall constitute a violation of this act.

Proof of the fact that a vehicle has been measured and/or calibrated in compliance with this act shall be a certificate issued by the collector of revenue, for which certificate a fee of \$1.00 shall be charged for the purpose of defraying expenses incidental to the administration of this act. [1932; last amended 1944.]

Sec. 3989.3. Rules and regulations; enforcement; right of entry.

The supervisor [collector of revenue] is hereby authorized and empowered to establish rules and regulations not inconsistent with the provisions of this act [Secs. 3981-3989.12], for the purpose of properly enforcing this act. It shall be his duty, and he is hereby required and directed, to faithfully and impartially enforce the provisions of this act; and, for that purpose, the said supervisor shall have full access, ingress and egress at all reasonable hours to any place or building wherein gasoline, kerosene, tractor fuel or other petroleum products are stored, transported, sold or offered for sale. He is also authorized and empowered to open and inspect any case, package, or other container, tank, pump, tank car, storage tank, and to enter upon any barge, vessel or other vehicle of transportation, and may take samples, not exceeding one litre per sample, for analysis; and, with instruments conforming to the weights and measures adopted by the United States Bureau of Standards, check any measuring device or the volume or weight of contents of any container. * * * [1932; last amended 1942.]

Sec. 3989.6. Condemnation of measuring devices.

The supervisor [collector of revenue] shall have authority to placard or seal any pump, tank or con-

tainer used or useful in dispensing gasoline, kerosene, or tractor fuel not conforming to the provisions of this act [Secs. 3981-3989.12], and it shall be unlawful for any person to deface, obscure or remove any condemnation placard, or seals, posted or placed by the supervisor, or in any manner to interfere with or obstruct said supervisor in the discharge of his duties, under the provisions of this act. [1932; last amended 1942.]

Sec. 3989.9. Suspension of right to engage in business as a penalty.

Any person violating the terms and provisions of this act [Secs. 3981-3989.12], by putting or placing in any tanks, pumps, or other containers, any gasoline, kerosene or other motor fuel contrary to the provisions of this act, or who shall wilfully use any pump or measuring device which is mechanically inaccurate shall, for the first offense, forfeit the right, for not less than one week nor more than six months, to continue or to engage in the business of buying, selling or distributing gasoline, kerosene or other motor fuel, at the place of business involved. For the second, or subsequent, offense, said person shall forfeit the right to engage in said business for not less than three months nor more than twelve months. Said forfeiture, however, shall extend only to the individual guilty of said offense, unless the said individual, be acting as an agent for a principal who knew of and participated in, or knowing of said violation, acquiesced therein. The said forfeiture shall extend to the right to use the filling station and all tanks, pumps, containers or equipment for the same and like period of time for the first and second offense, as above set forth. Provided, however, that if the said dealer does not own the said property or equipment, and is merely renting, leasing, or borrowing the same, or is acting as agent for another, said forfeiture will extend to the owner thereof or the principal of such agent when and if the owner of said property or equipment or the principal or such agent, knew, or had good reason to know, of the said violation by the said person or agent in possession of the said property. The supervisor [collector of revenue] is hereby vested with authority on motion in a court of competent jurisdiction to take a rule on the said dealer, to show cause in not less than two or more than ten days, inclusive of holidays after the service thereof, which may be tried out of term and in chambers and shall always be tried by preference, why said dealer should not be ordered to cease from further pursuit of business as a dealer for the aforesaid period, and other violations of the injunction shall be considered as a contempt of court and punished according to law. [1932]

Sec. 3989.10. Penalties for violations.

Any person, or any agent, or officer, employee or servant thereof, who shall violate any of the provisions of this act [Secs. 3981-3989.12], shall be fined

in a sum not exceeding five hundred dollars (\$500.00) or shall be imprisoned for not more than six (6) months, or shall suffer both fine and imprisonment, at the discretion of the court; and each separate sale or attempt to sell in violation of the provisions of this act, shall be deemed a separate offense. [1932]

Dart's General Statutes Annotated 1939, Vol. 3, Title 32, Ch. 4—Gas, Electric and Water Meters.

Sec. 3990.¹ Meters to be furnished.

Every person, firm, association or corporation now engaged or hereafter engaging in the business of furnishing natural or artificial gas for heating, illuminating or other purposes, electricity for illuminating or for power or other purposes, water for domestic use or power or other purposes, and paid for by patrons by meter measure, shall furnish to each and every patron a meter properly tested and in good order, and shall arrange such meters so that the patron can, at any time, see the meter dial and ascertain how much gas, electricity or water is being consumed, and for what amount such patron is liable therefor. [1910]

¹ See sections 7917.1 and 7917.2, this page.

Sec. 3991. Charges not to be for more than registered amount.

It shall be unlawful for any person, firm, association or corporation engaged in furnishing gas, water or electricity to consumers, to be paid for by meter measure, to charge or receive, from any patron or consumer, pay for more gas, electricity or water than the meter furnished by such person, firm, association or corporation shall indicate has been used by such consumer at the time to which payment is made and received, provided the minimum charge contracted for with the municipalities shall not be affected. [1910]

Sec. 3992. False meters.

It shall be unlawful, for any person, firm, association or corporation who knowingly constructs or uses or furnishes to consumers of gas, electricity or water, to be used, any false meter or any false system for measuring and registering the quantity of gas, electricity or water consumed by any person who is connected with the service of said gas, electric or water company. [1910]

Sec. 3994. Penalty for violations.

Any person, firm, association or corporation violating any of the provisions of this act [Secs. 3990–3996] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars and not more than two hundred dollars for each offense. [1910]

Sec. 3995. Authority of municipalities.¹

The several municipalities of this state are given the power and authority to appoint inspectors to carry out the intent and purposes of this act [Secs. 3990–3996], and further granting and giving to the several municipalities of this state the power and authority to pass ordinances providing for the inspection of gas, water, electric light and power meters, and fixing the expense of same. [1910]

¹ See section 8010, this page.

Sec. 3996. Exceptions.

This act [Secs. 3990–3996] shall not apply to water, gas or electric power plants owned by any municipality or political subdivision of the state. [1910]

Dart's General Statutes Annotated 1939, Vol. 5, Title 55, Ch. 1—Public Service Commission.

Sec. 7917.1.¹ Gas, electricity and water: Enforcement.

Hereafter the Louisiana public service commission shall exercise all necessary power and authority over any street railway, gas, electric light, heat, power, water-works, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished or to be furnished by such public utilities.

Provided that this act [Secs. 7917.1–7917.2] shall not apply to any public utility the title to which is in the state of Louisiana or any of its political subdivisions or municipalities. [1934]

¹ See sections 3990–3996, inclusive, this page.

Sec. 7917.2. Same: Scope of commission's authority.

The power, authority, and duties of the commission shall affect and include all matters and things connected with, concerning, and growing out of the service to be given or rendered by such public utilities. [1934]

Sec. 8010. Same: Municipalities divested of powers.

Any and all laws and parts of laws granting authority and power to the municipalities of this state to supervise, regulate and control the rates charged and to be charged by, and service of, any street railway, gas, electric light, heat, power, water-works or other local public utility, are hereby revoked and repealed.

Provided that this act [Sec. 8010] shall not apply to any public utility the title to which is in the state of Louisiana or any of its political subdivisions or municipalities. [1934]

Dart's General Statutes Annotated 1939, Vol. 6, Title 62, Ch. 24—Checkweighing of Fruit and Vegetable Containers.

Sec. 9594.10b. State market commission may checkweigh.

* * * * *

Dart's General Statutes Annotated 1939, Vol. 6, Title 62, Ch. 24—Checkweighing of Fruit and Vegetable Containers—Continued.

(f) The state market commission, in so far as possible, upon request, at nominal cost, will furnish special services in connection with the marketing of fruits and vegetables, which may include the taking of precooling temperatures, checkweighing of contents in containers of fruits and vegetables, checkcounting manifests of shipments, supervising the loading or unloading of bonded or similar receipts or shipments, drawing of official samples for laboratory analysis and furnishing of inspectors for raw products in processing plants. [1940; last amended 1946.]

[ED. NOTE.—By ACTS 1948, the State Market Commission was merged and consolidated into the Department of Agriculture and Immigration which was empowered to exercise all of the duties and functions of the State Market Commission.]

Acts 1948, No. 93—Commercial Fertilizers.

Sec. 1. Enforcement.

* * * that the Commissioner of Agriculture and Immigration shall have authority to administer and to enforce the provisions of this Act [Secs. 1-12]; and that the Director of the Agricultural Experiment Station of the Louisiana State University and Agricultural and Mechanical College shall be designated as the State Chemist. [1948]

Sec. 2. Definition.

That, for the purposes of this Act [Secs. 1-12], the following definitions shall apply:

1. Commercial Fertilizer—shall refer to all materials, not otherwise excluded from the definition, sold for the purpose of promoting the growth of plants or exerting beneficial action on the soil. Materials specifically excluded from the definition are: lime, limestone, marl, gypsum, sulphur and unground bones when unmingled with other substances. Also excluded from the definition is manure, or excrement from any domestic animal provided such has not been dried or otherwise treated. [1948]

* * * * *

Sec. 3. Stop sale order.

* * * * *

8. In case of violation of any of the provisions of this Act, the Commissioner shall issue a stop sale order preventing further sale, movement, or disturbance of any lot of fertilizer involved until settlement of any action against the guarantor is made. On settlement of any action the Commissioner may take the following action according to the nature of his findings:

- (a) Release the fertilizer for sale.
- (b) Require the guarantor to take up the fertilizer and reimburse the purchaser therefor.
- (c) Sell the fertilizer at public auction.
- (d) Destroy the fertilizer. [1948]

* * * * *

Sec. 4. Statement to be filed; marking requirements; ton.

That the following conditions and restrictions must be complied with by any person or guarantor selling, distributing or otherwise handling fertilizers in this State.

1. Before any fertilizer may be sold or offered for sale the guarantor must file the following information with the Commissioner for each brand of fertilizer to be sold in the State:

(a) Net weight of contents of package

* * * * *

2. Every lot or package of fertilizer sold in the State shall carry a readily visible tag or label stating in plain English the same information furnished to the Commissioner on registration, except that the ingredients need not be listed. * * *

3. That every guarantor or person manufacturing or selling any commercial fertilizer as defined in Section 2 of this Act shall pay to the Commissioner an inspection fee of twenty-five cents per ton (2000 lbs.) on all commercial fertilizers sold in this State. * * * [1948]

Sec. 6. Cancellation of registration.

That repeated failure of the guarantor to meet the guaranteed weight or analysis of a fertilizer or to fail to make payment of inspection fee, or to fail to pay penalties assessed against the guarantor, shall be considered just cause for cancellation of the registration on any such fertilizer involved. [1948]

Sec. 7. Violations; penalty.

That the following shall be considered violations of this Act [Secs. 1-12] and upon conviction the offender shall be fined not less than fifty (\$50.00) dollars and not more than five hundred (\$500.00) dollars.

1. Violation of any of the provisions of this Act.
2. Interference with the Commissioner, or State Chemist or their representatives in the performance of their duties in connection with carrying out the provisions of this Act. [1948]

* * * * *

Sec. 9. Same: Warning notices for minor violations.

That nothing contained in this Act [Secs. 1-12] shall be construed as requiring the Commissioner to report for the institution of proceedings under this Act minor violations of this Act, whenever the Commissioner has reason to believe the public interest will be adequately served by issuance of a written notice or warning. [1948]

Sec. 10. Exceptions.

That none of the provisions of this Act [Secs. 1-12] shall apply to materials that are to be used in the manufacture of mixed fertilizer; to fertilizers processed or manufactured in this State intended for sale or distribution in other states, nor to fertilizers being transported through this state and destined for use in other states. [1948]

Acts 1948, No. 94—Commercial Feed.

Sec. 1. Enforcement.

* * * that the Commissioner of Agriculture and Immigration shall have authority to administer and to enforce the provisions of this Act [Secs. 1-12]; and that the Director of Agriculture Experiment Station of the Louisiana State University and Agricultural and Mechanical College shall be designated as the State Chemist. [1948]

Sec. 2. Definitions.

That, for the purposes of this Act [Secs. 1-12], the following definitions shall apply:

(1) Commercial Feed—as related to this Act shall refer to all materials, not otherwise excluded from the definition, sold, or exposed or offered for sale intended for feeding livestock. Materials excluded from this definition are:

- (a) Whole unmixed grains or seeds
- (b) Whole hays
- (c) Straw, chaff, and hulls from grains or seeds
- (d) Corn stover unmixed with other materials
- (e) Other materials containing more than sixty percent (60%) water.

(2) Livestock—shall refer to horses, mules, cattle, sheep, goats, swine, domestic rabbits, poultry, and any other animals of agricultural importance as the Commissioner may designate. [1948]

Sec. 3. Stop sale order.

(6) In case of violation of any of the provisions of this Act [Secs. 1-12], the Commissioner shall issue a stop sale order preventing further sale, movement, or disturbance of any lot of feed involved until settlement of any action against the guarantor is made. On settlement of any action the Commissioner may take the following action according to the nature of his findings.

- (a) Release the feed for sale
- (b) Require the guarantor to take up the feed and reimburse the purchaser therefor
- (c) Sell the feed at public auction
- (d) Destroy the feed. [1948]

Sec. 4. Statement to be filed; marking requirements; ton.

That the following conditions and restrictions must be complied with by any person or guarantor selling, distributing or otherwise handling feeds in this State.

(1) Before any feed may be sold or offered for sale the guarantor must file the following information with the Commissioner for each brand of feed to be sold in the State.

- (a) Net weight of contents of package.

(2) Every lot or package of feed sold in the State shall carry a readily visible tag or label stating in

plain English the same information furnished to the Commissioner on registration.

(7) That every guarantor or person manufacturing or selling any commercial feed as defined in Section 2 of this Act shall pay the Commissioner an inspection fee of twenty-five cents per ton (2,000 lbs.) on all commercial feeds sold in this State. [1948]

Sec. 6. Cancellation of registration.

That the repeated failure of the guarantor to meet the guaranteed weight or analysis of a feed or to fail to make payment of inspection fee, or to pay penalties assessed against the guarantor shall be considered just cause for cancellation of his registration on any such feed involved. [1948]

Sec. 7. Violations; penalties.

That the following shall be considered violation of this Act [Secs. 1-12] and upon conviction the offender shall be fined not less than fifty (\$50.00) dollars and not more than five hundred (\$500.00) dollars for each offense.

- (1) Violation of any of the provisions of this Act.
- (2) Interference with the Commissioner, or State Chemist or their representatives in the performance of their duties in connection with carrying out the provisions of this Act. [1948]

Sec. 9. Warning notices for minor violations.

That nothing contained in this Act [Secs. 1-12] shall be construed as requiring the Commissioner to report for the institution of proceedings under this Act minor violations of this Act, whenever the Commissioner has reason to believe the public interest will be adequately served by issuance of a written notice or warning. [1948]

Sec. 10. Exceptions.

That none of the provisions of this Act [Secs. 1-12] shall apply to materials that are to be used in the manufacture of mixed feed; to feeds processed or manufactured in this State intended for sale or distribution in other states, nor to feeds being transported through this State and destined for use in other states. [1948]

Acts 1948, No. 112—Agricultural Poisons.

Sec. 1. Enforcement.

* * * that the Commissioner of Agriculture and Immigration shall have authority to administer and to enforce the provisions of this Act [Secs. 1-11]; and that the Director of the Agricultural Experiment Station of the Louisiana State University and Agricultural and Mechanical College shall be designated as the State Chemist. [1948]

Sec. 2. Definition.

That, for the purposes of this Act [Secs. 1-11], the following definitions shall apply:

Acts 1948, No. 112—Agricultural Poisons—Continued.

(1) Agricultural Poisons—as related to this Act shall refer to any substance, or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, fungi or weeds, where such substances are used, or intended to be used on field crops, vegetable crops, gardens, orchards, etc. [1948]

* * * * *

Sec. 3. Stop sale order.

* * * * *

(7) In case of violation of any of the provisions of this Act, the Commissioner shall issue a stop sale order preventing further sale, movement, or disturbance of any lot of poison involved until settlement of any action against the guarantor is made. On settlement of any action the Commissioner may take the following action according to the nature of his findings.

- (a) Release the poison for sale.
- (b) Require the guarantor to take up the poison and reimburse the purchaser therefor.
- (c) Sell the poison at public auction.
- (d) Destroy the poison. [1948]

* * * * *

Sec. 4. Statement to be filed; marking requirements; hundred weight.

That the following conditions and restrictions must be complied with by any person or guarantor selling, distributing or otherwise handling poisons in this State.

(1) Before any poison may be sold or offered for sale the guarantor must file the following information with the Commissioner for each brand of poison to be sold in the State.

- (a) Net weight of contents of package.

* * * * *

(2) Every lot or package of poison sold in the State shall carry a readily visible tag or label stating in plain English the same information furnished to the Commissioner on registration. * * *

(4) That every guarantor or person manufacturing or selling any agricultural poison as defined in Section 2 of this Act shall pay to the Commissioner an inspection fee of ten (10c) cents per hundred-weight (100 lbs.) on all agricultural poisons sold in this State. * * * [1948]

Sec. 5. Cancellation of registration.

That repeated failure of the guarantor to meet the guaranteed weight or analysis of a poison or to fail to make payment of inspection fee, shall be considered just cause for cancellation of his registration on any such poison involved. [1948]

Sec. 6. Violations; penalties.

That the following shall be considered violations of this Act [Secs. 1-11] and upon conviction the offender shall be fined not less than fifty (\$50.00)

dollars, and not more than five hundred (\$500.00) dollars for each offense.

(1) Violation of any of the provisions of this Act.

(2) Interference with the Commissioner, or State Chemist or their representatives in the performance of their duties in connection with carrying out the provisions of this Act. [1948]

* * * * *

Sec. 8. Warning notices for minor violations.

That nothing contained in this Act [Secs. 1-11] shall be construed as requiring the Commissioner to report for the institution of proceedings under this Act minor violations of this Act, whenever the Commissioner has reason to believe the public interest will be adequately served by issuance of a written notice or warning. [1948]

Sec. 9. Exceptions.

That none of the provisions of this Act shall apply to materials that are to be used in the manufacture of agricultural poison; to poisons processed or manufactured in this State intended for sale or distribution in other states, nor to poisons being transported through this State and destined for use in other states. [1948]

Dart's Criminal Statutes, 1943, Part IV, Ch. 19—False Advertising.

Sec. 966. Unlawful acts.

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor. [1914]

Sec. 967. Same: Penalty.

Any person, firm, corporation or association who shall violate any of the provisions of this act [Secs. 966-967] shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars, or be imprisoned in the parish jail for not less than ten days nor more than six months, or by both said fine and imprisonment at the discretion of the court for each offense. [1914]

MAINE

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Sec. 241. State sealer of weights and measures; state standards.

The commissioner of agriculture shall be the state sealer of weights and measures.

The standard weights and measures furnished by the government of the United States in accordance with the joint resolution of Congress approved June 14, 1836, and any additions thereto and renewals thereof certified to by the United States bureau of standards, and weights, measures, balances, and apparatus added by the state sealer of weights and measures and verified by the United States bureau of standards, shall be the standards of weights and measures throughout this state. [1911-13]

Sec. 242. Custody and certification of standards.

The standards adopted by the state shall be kept at the state house under the supervision of the state sealer and shall not be removed or used except for the adjustment of a set of working standards that are copies of the original standards or for scientific

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purposes or to be verified by the national bureau of standards. The state sealer shall maintain the state standards in good order and shall submit them at least once in 10 years to the national bureau of standards for certification. He shall at least once in 5 years cause the standards of the several cities and towns to be compared and corrected to conform with the state standards. [1911-13]

Sec. 243. Establishment of tolerances; supervision and enforcement of weights and measures laws; rules and regulations.

The state sealer of weights and measures shall after consultation with, and with the advice of, the national bureau of standards, establish specifications, tolerances and regulations for use in this state and said specifications, tolerances and regulations shall be the legal requirements of the state. He shall have general supervision of the weights and measures, and weighing and measuring devices of the cities and towns of the state, and cause the enforcement of all laws pertaining to weights and measures in use in the state and may appoint such agents as he desires to assist in the enforcement. He shall make rules and regulations for the enforce-

ment of the provisions of sections 241 to 247, inclusive, of this chapter [Ch. 27], and sections 105 to 110,¹ inclusive, of chapter 79, and sections 176 to 202,² inclusive, of chapter 88. [1913; last amended 1947.]

¹ See page 423.

² See pages 409-413.

Sec. 244. Enforcement of weights and measures law affecting municipal officers; deputy and inspectors.

The state sealer shall enforce the provisions of law requiring municipal officers to procure and maintain standards of weights and measures, and the appointing of a sealer of weights and measures. He may appoint a deputy who shall have the authority conferred by the 2 following sections, and may appoint inspectors with authority to perform any part or all of the duties provided in sections 245 and 246. [1913]

Sec. 245. Inspection of work of local sealer; purchase of 100-gallon portable test measure.

The state sealer or his duly appointed deputy shall visit the various cities and towns in the state in order to inspect the work of the local sealers, and may at all times inspect and test the weights, measures, and balances of any person, firm, association, or corporation used, or to be used, in purchasing from or selling to the public any goods, wares, merchandise, or other commodities; if any such weights, measures, or balances are found to be inaccurate or defective, he shall forthwith cause the same to be corrected or condemned.

The state sealer of weights and measures or his duly appointed deputy, is hereby authorized to purchase, maintain and use a 100-gallon portable test measure for the purpose of testing the capacity of measuring devices used in the sale, purchase and distribution of gasoline. The expense of purchasing this 100-gallon portable test measure shall be provided for by proceeds from the tax on gasoline as provided in section 160 of chapter 14. [1913; last amended 1947.]

Sec. 246. Test of commodities offered for sale; right of entry.

The state sealer or his duly appointed deputy may, at irregular intervals, examine commodities sold or offered for sale and test them for correct weight, measure, or count, and bring complaint for violations of sections 176 to 197,¹ inclusive, of chapter 88. He, or his duly appointed deputy may, for the purpose stated above, and in the general performance of his or their official duties, have access without formal warrant to any stand, place, building, or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any person for the purpose of making the proper tests. [1913]

¹ See pages 409-412.

Sec. 247. Record and annual report.

The state sealer shall keep a record in detail of the work of his office and shall annually, on or before the 1st day of July, make a written report of the work of his office to the governor and council. [1911]

Sec. 248. Oil bottles: Rules and regulations; sealing.

The state sealer of weights and measures shall make rules and regulations governing the manufacture and sale of lubricating oil bottles and may authorize the sealing of such lubricating oil bottles by any manufacturer thereof upon his agreeing to conform to such rules and regulations, and may revoke such authority on the failure of any manufacturer to conform with the said rules and regulations. [1933]

Revised Statutes 1944, Vol. I, Title 10, Ch. 88—Weights and Measures.

Sec. 176.¹ Local sealers: Election; term; removal only for neglect; penalties; state sealer to have jurisdiction.

The municipal officers of each town shall elect a sealer of weights and measures, also a deputy sealer if necessary, not necessarily a resident therein, and said sealer and deputy shall hold office during their efficiency and the faithful performance of their duties. On complaint being made to said officers of the inefficiency or neglect of duty of a sealer or deputy sealer, the said officers shall set a date for and give notice of a hearing to the complainant, sealer complained of, and the state sealer. If the evidence satisfies the said officers that the said sealer or deputy sealer has been inefficient or has neglected his duty, they may remove him from office and appoint another in his stead. The state sealer of weights and measures shall have jurisdiction over said sealer or deputy sealer, and any vacancy caused by death or resignation shall be filled by election by said municipal officers within 30 days; for each month that said municipal officers neglect their duty they severally shall forfeit \$10. Within 10 days after each such election the clerk of each city or town shall communicate the name of the person so elected to the state sealer of weights and measures, and for neglect of this duty shall forfeit \$10. Such sealer of weights and measures in any town may be sealer for several towns if such is the pleasure of the municipal officers therein, provided such action received the approval of the state sealer of weights and measures. [1913; last amended 1933.]

¹ See Sec. 179, page 410.

Sec. 177. Same: Powers.

All local sealers of weights and measures and their deputy sealers in cities and towns shall have the same power that is given the state sealer of weights and measures and deputy state sealer by section 246 of chapter 27. [1917]

Revised Statutes 1944, Vol. I, Title 10, Ch. 88—
Weights and Measures—Continued.

Sec. 178. Town standards; custody; certification; penalty.

The treasurer of each town, at the expense thereof, or jointly with the treasurers of adjacent towns, shall constantly keep as town standards a set of beams and weights and measures subject to the approval of the state sealer and conformable to the state standards. Said treasurers shall cause all beams and weights and measures belonging to their towns to be proved and sealed by the state standards once in 5 years. For each neglect of said duties by any treasurer, he shall be punished by a fine of \$100. [1842]

Sec. 179. City scales; appointment of weighers and deputy sealers.

Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers, and fix their fees, to be paid by the purchaser. The municipal officers of cities and towns may appoint a deputy sealer of weights and measures to hold office during their pleasure, and fix his compensation. Such deputy shall act under the direction of the sealer of weights and measures in the municipality, and shall have the same authority as the sealer in the performance of his duties. [1913]

Sec. 180. Local sealer: Records; annual report.

The several city and town sealers and other persons authorized to inspect weights and measures shall keep records of all weights and measures, balances, and measuring devices inspected, sealed, or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed, or condemned. Each sealer shall make an annual report, duly sworn to, on or before the 1st day of June of each year, to the state sealer, giving in addition to the above an inventory of the standards and apparatus in his possession, and such other information as he may deem important, or as the state sealer may require. [1913]

Sec. 181. Same: Duty to receive and receipt for standards; neglect of duty; penalty.

The sealer shall receive the standards and seal from the treasurer, giving a receipt therefor, describing them and their condition, and therein engaging to redeliver them at the expiration of his office in like good order; and he shall be accountable for their due preservation while in his possession. For each neglect of any duty prescribed in sections 176 to 202, inclusive, such sealer shall be punished by a fine of \$10. [1821]

Sec. 182. Same: To give notice of time and place of test; sealing; condemnation.

The sealers of weights and measures in the several cities and towns shall annually give public notice by advertisement, or by posting in 1 or more public places in their respective cities and towns notices to

all inhabitants or persons having usual places of business therein and who use weights or measures, or who use weighing devices, measuring devices, or weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity for the purpose of buying or selling goods, wares, merchandise, or other commodities or for public weighing, or for hire, or reward, to bring them in to be tested. Such sealers shall attend 1 or more convenient places, and shall seal or condemn such devices in accordance with the result of their test, and shall make a record thereof. [1899; last amended 1937.]

Sec. 183. Same: Duty after notice and noncompliance; sealing of vehicle tanks.

After giving said notice, said sealers shall go once a year or oftener, on request of the owner or on complaint, to the stores, houses, places of business, and vehicles of persons not complying therewith, and shall test and seal or condemn in accordance with the result of their tests, the weighing or measuring devices, or the devices which register or indicate the price as well as the weight or measure of such persons, provided that when a vehicle tank used in the buying or selling of commodities by liquid measures has once been sealed, it shall not be necessary to seal it again while it remains in the same condition as when first sealed. When a vehicle tank is subdivided into 2 or more compartments, each compartment, for the purposes of this section, shall be considered as a separate tank. [1899; last amended 1937.]

Sec. 184. Same: All scales, weights, and measures may be tested any time.

All persons using any scales, weights, or measures for the purpose of buying or selling any commodity, may, when they desire it, have the same tested and sealed by the sealers of weights and measures at the office of any of said sealers. [1899]

Sec. 185. Same: When mark may be used in place of seal; minor adjustments; notice of condemnation; penalty for removal of notice.

In case a sealer of weights and measures cannot seal any weights, measures, and balances in the manner before provided, he may mark them with a stencil, or by other suitable means so as to show that they have been inspected; but he shall in no case seal or mark as correct any weights, measures, or balances which do not conform to the standards. If such weights, measures, or balances can be readily adjusted by such means as he has at hand, he may adjust and seal them; but if they cannot be readily adjusted, he shall affix to such weights, measures, or balances a notice, forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards. Whoever removes said notice, without consent of the officer affixing the same, shall for each offense be punished by a fine of not less than \$10, nor more than \$50. [1899]

Sec. 186. Same: To be furnished with working standards.

A sealer when visiting the place of business of any person for the purpose of testing any weights, measures, or balances, may use for that purpose such weights, measures, or balances as he can conveniently carry with him, and each city and town shall furnish its sealer with one or more duplicate sets of weights, measures, and balances, which shall at all times be kept to conform to the standards furnished by the state, and all weights, measures, and balances so sealed shall be deemed to be legally sealed the same as if tested and sealed with the standard weights, measures, and balances. [1899]

Sec. 187. Same: Seizure of false weights and measures.

A sealer of weights and measures may seize without a warrant such weights, measures, or balances as may be necessary to be used as evidence in cases of violation of the law relating to the sealing of weights and measures, such weights, measures, or balances to be returned to the owners, or forfeited as the court may direct. [1899]

Sec. 188. Same: Procedure for testing upon complaint; penalty.

When a complaint is made to a sealer of weights and measures by any person that he has reasonable cause to believe or when such sealer himself has reasonable cause to believe that a weight, measure, or balance used in the sale of any commodity within his city or town is incorrect, the said sealer shall go to the place where such weight, measure, or balance is and shall test the same, and mark it according to the result of the test applied thereto; and if the same is incorrect and cannot be adjusted, the said sealer shall attach a notice thereto, certifying that fact, and forbidding the use thereof until it has been made to conform to the authorized standard. Any person using a weight, measure, or balance after a sealer has demanded permission to test the same, and has been refused such permission, shall be punished by a fine of not less than \$10, nor more than \$100. [1899]

Sec. 189. Stamping of incorrect equipment.

All weights, measures, and balances that cannot be made to conform to the standard shall be stamped "condemned" or "CD" by the sealer, and no person shall thereafter use the same under the penalties provided in the case of the use of false weights and measures. [1899]

Sec. 190. Equipment to be sealed before use; penalties.

No person, firm or corporation shall use any weights, measures, scales, steelyards, beams, or other weighing or measuring device or balances, or any weighing or measuring devices having a device for indicating or registering the price, as well as the weight or measure of a commodity, except meters for measuring water, gas, or electricity supplied by companies subject to regulation by the public util-

ities commission, until they are sealed by a public sealer of weights and measures. Whoever violates any of the provisions of this section shall be punished by the penalties provided for in section 192. [1903; last amended 1937.]

Sec. 191. Sales by gross ton.

Such articles as are sold or exchanged in any market or town in the state by gross or avoirdupois weight, shall be sold or exchanged as follows: 25 avoirdupois pounds constitute 1 quarter; 4 quarters, 1 hundred; and 20 hundreds, 1 ton; and all other articles, usually sold by tale, shall be sold by decimal hundred. [1828]

Sec. 192. Penalty for using false, altered, or condemned scales, weights, measures, etc.; powers and duties of sealers; right of entry.

Whoever by himself, or by his servant, or as the agent or servant of another, shall use or retain in his possession any false scale, weight, or measure, or weighing or measuring device in the buying or selling of any commodity or thing, or whoever, after a weight, measure, scale, balance, or beam has been adjusted and sealed, shall alter it so that it does not conform to the public standard and shall fraudulently make use of it, or whoever shall dispose of any condemned scales, weight, measure, or weighing or measuring device, contrary to law, or remove any tag, stamp, or mark placed thereon by the sealer; or whoever by himself, or by his agent or servant, or as agent or servant of another, shall sell, offer, or expose for sale less than the quantity he represents, or whoever by himself, or by his agent or servant, or as the agent or servant of another, shall sell, offer for sale, or have in his possession for the purpose of selling, any false scales, weight, or measure, or any device or instrument to be used or calculated to falsify any weight or measure, shall be guilty of a misdemeanor and shall for the 1st offense be punished by a fine of not more than \$50; for the 2nd offense by a fine of not less than \$20, nor more than \$200; and for any subsequent offense by a fine of \$50 and by imprisonment for not less than 30 days, nor more than 90 days. The possession or use by any person of any false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure, or other apparatus.

Any person, refusing to exhibit any sales slip, record of sale, or weight slip in his possession, or to allow proper tests for correct weight, measure, or count, or refusing to proceed to a proper and convenient place for the making of any such test, shall be punished by a fine of not more than \$10.

Every sealer of weights and measures, or his duly appointed deputy, who has reasonable cause to believe that a weight, measure, scale, balance, or

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Weights and Measures—Continued.

beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same. A sealer, or his duly appointed deputy, may examine commodities sold or offered for sale and test them for correct weight, measure, or count, and bring complaint for violations of the provisions of sections 176 to 197, inclusive. He, or his duly appointed deputy, may, for the purpose stated above, and in the general performance of his or their official duties, have access without formal warrant to any stand, place, building, or premises, or to any sales slip, record of sale, or weight slip, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any person for the purpose of making the proper tests. [1903]

Sec. 193. Fees of sealers.

The fees of sealers of weights and measures, for testing and adjusting scales, weights and measures by the town standard, to be paid by the persons for whom the service is rendered, are as follows: for testing railroad track scales of 40,000 pounds capacity and upwards, \$4; elevator scales of 20,000 pounds capacity and upwards, \$1.50; platform scales of 5,000 pounds capacity and upwards, \$1; dormant scales of less than 5,000 pounds capacity, 50c; dormant beef track scales, 50c; platform scales of less than 5,000 pounds capacity, 50c; beam scales of over 1,000 pounds capacity, 50c; wagon or auto truck scales, \$2; computing scales, 50c; platform scales of less than 1,000 pounds capacity, 50c; platform counter scales, 50c; counter balance or trip scales, 50c; spring balance scales, 50c; automatic-indicating scales, 50c; weights, each 3c; measures, wet and dry, each 3c; yardsticks, each, 5c; coal baskets, each, 10c; milk cans, large size, 5c each; milk cans, small size, 3c each; milk bottles, in lots of 1 gross or less, 1c each, in lots from 1 to 2 gross, 3/4c each, in lots of more than 2 gross and not over 4 gross, 1/2c each, in lots greater than 4 gross, 1/4c each; for testing gasoline pumps of not over 5 gallon capacity, 75c; for testing gasoline pumps of not over 10 gallon capacity, \$1; for testing gasoline meters, 75c; for fabric measuring devices, 25c; for testing fuel oil meters, \$1; for testing wholesale fuel oil or gasoline meters, \$2; for testing vehicle tanks, \$1 for 1st 100 gallons or less, and 50c for each additional 100 gallons or fractional part thereof, provided, however, that no testing of such vehicle tanks shall be made by less than a 100-gallon test measure; for testing taxicab meters, \$1; for adjusting weights when either light or heavy, not to exceed 10c each; for adjusting measures, wet or dry, when either large or small, not to exceed 10c each; for adjusting yardsticks, not to exceed 5c each; for adjusting any weight or measure not mentioned above, a fair and

reasonable compensation. [1899; last amended 1947]

Sec. 194. Refusal to pay fees; penalty.

Any person, firm, or corporation for whom scales, weights, and measures or any weighing or measuring devices have been tested by a local sealer of weights and measures, who shall neglect or refuse to pay for said services rendered, shall be punished by a fine of \$3 and costs for the 1st offense, and by a fine of not less than \$10 and costs, nor more than \$20 and costs, for each subsequent offense. [1935]

Sec. 195. Salary of local sealers.

The city government of a city may by ordinance and a town may by by-law provide that the sealer of weights and measures for their city or town shall be paid by a salary, and that he shall account for and pay into the treasury of the city or town the fees received by him by virtue of his office; and where such salary is paid no fees shall be charged for services rendered under the provisions of section 182. [1899]

Sec. 196. Weighers and measurers not to give certificate of weight or measure until qualified; penalty.

It shall be unlawful for any weigher of coal, hay, straw, junk, or other articles offered to be weighed, or for any measurer of wood, bark, or charcoal to give a certificate of weight or measure until said weigher or measurer shall have qualified by taking oath for the faithful performance of the duties of his office. Whoever violates any of the provisions of this section shall be punished by a fine of not less than \$10, nor more than \$25, for each offense. [1919]

Sec. 197. Penalty for using unsealed equipment.

Whoever sells by any other weights, measures, scales, beams, or balances than those which have been sealed as before provided shall forfeit a sum not exceeding \$20 for each offense, and when by the custom of trade such weights, measures, scales, beams, or balances are provided by the buyer, he shall, if he purchases by any other, be subject to a like penalty to be recovered by an action of tort to the use of the complainant. [1899]

Sec. 198. Jurisdiction of courts.

Trial justices within their county shall have original jurisdiction, concurrent with municipal courts and the superior court, of prosecutions for all offenses against the laws pertaining to weights and measures. [1913; last amended 1933.]

Sec. 199. Measurers of salt, corn, and grain: Appointment; fees; hogshead of salt.

The municipal officers of towns annually may appoint measurers of salt, corn, and grain therein, who shall receive such fees from the purchaser as said officers establish; and, in every contract made

in the state for the sale of salt by the hogshead, such hogshead shall consist of 8 bushels; and, when the buyer or seller requests, salt, corn, or grain bought or sold in places where such measurers live shall be measured by them. [1829; last amended 1836.]

Sec. 200. Bushel and barrel weights; penalty.

Standard weights per bushel of commodities are as follows:¹

	<i>Pounds per Bushel</i>
Apples	44
Apples, dried	25
Barley	48
Beans	60
Beans, Lima	56
Beans, shell	28
Beans, soy	58
Beans, scarlet or white runner, pole	50
Beans, string	24
Beans, Windsor (broad)	47
Beets	60
Beets, sugar	60
Beet greens	12
Blackberries	40
Blueberries	42
Buckwheat	48
Carrots	50
Corn, cracked	50
Corn	56
Cranberries	32
Currants	40
Dandelions	12
Feed	50
Hair (for masonry use) well dried and cleaned	11
Kale	12
Lime	70
Mangel-wurzel	60
Meal, except oatmeal	50
Oats	32
Onions	52
Parsley	8
Parsnips	45
Peaches, dried	33
Peaches	48
Peanuts, green	22
Peanuts, roasted	20
Peas	60
Pears	58
Peas, unshelled green	28
Peas, wrinkled	56
Potatoes	60
Potatoes, sweet	54
Quinces	48
Raspberries	40
Rice, rough	44
Rutabaga	60
Rye	56
Salt, Turk's Island or other coarse grades	70
Salt, Liverpool or other fine grades	60
Spinach	12
Strawberries	40
Sugar beets	60
Tomatoes	56
Turnips	60
Turnips, English	50
Wheat	60

all to be in good order and fit for shipping or for market; the measure of each of these articles shall be determined as aforesaid at the request of the vendor or vendee; and if either party refuses to do

so he forfeits twenty cents for each bushel, to the person prosecuting therefore within thirty days.

The standard weight of a bushel of [the following articles] when well cleaned and in good condition is:

	<i>Pounds per Bushel</i>
Bran	20
Seed, alfalfa	60
Seed, clover	60
Seed, flax	56
Seed, hemp	44
Seed, herd's-grass	45
Seed, timothy	45
Seed, Hungarian grass	48
Seed, millet	50
Seed, millet, Japanese	35
Seed, orchard grass	14
Seed, red top	14
Seed, Sea Island cotton	44
Seed, sorghum	50
Seed, upland cotton	30

The standard weight of a barrel of flour is 196 pounds; of a barrel of potatoes in good order and fit for shipping is 165 pounds; of a barrel of sweet potatoes in like condition, 150 pounds. [1835; last amended 1915.]

¹ For convenience of reference a change has been made in the arrangement which necessitated slight changes in the wording.

Sec. 201. Sale of fruit, nuts, and vegetables by measure; standard containers; penalty.

All fruits, nuts, and vegetables, if sold by measure, shall be sold by dry measure, United States standard, and shall be measured by level measure. Baskets or other receptacles holding one quart or less which are to be used in the sale of strawberries, blackberries, cherries, currants, blueberries, huckleberries, raspberries, or gooseberries, shall be of the capacity of one quart, one pint, or one-half pint, United States standard, dry measure. Whoever sells or offers for sale or has in possession with intent to sell, any of the aforesaid fruits in any basket or other receptacle holding one quart or less which does not conform to said standard, or conforming to said standard is not level measure, shall be punished by a fine of ten dollars for each offense. Said baskets or other receptacles shall not be required to be tested and sealed as provided under the provisions of sections 176 to 202, inclusive, but any sealer or health officer may test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold; and, if the same is found to contain less than the standard measure, or if the quantity of such fruit is otherwise less than as herein provided, he shall seize the same and make complaint against the vendor. [1913]

Sec. 202. Sale of ice by weight; weighing on request; penalty.

A dealer in ice who on request of the purchaser of ice refuses or neglects to weigh the same when delivered or gives false weight shall for each offense be punished as provided in section 192. Whoever,

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having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses on the request of the purchaser of ice to weigh the same when it is delivered, or gives false weight, shall be punished by a fine of not more than \$10. [1913]

Revised Statutes 1944, Vol. I, Title 10, Ch. 88—
Weighing and/or Measuring of Leather, Wood,
Charcoal, Coal, Coke, Lumber, and Logs in Cities
and Towns.

Sec. 134. Sole leather: Appointment of inspectors; duties.

The municipal officers of each town, when they deem it expedient, may appoint one or more suitable inspectors of sole leather, who shall receive such fees from their employer, as said officers establish; and when paid by the seller, to be repaid to him by the buyer; when requested they shall go to any place in their town to inspect any sides of sole leather which have not been inspected in this state according to law. [1829]

Sec. 135. Same: Weighing and marking.

Each inspector of sole leather shall provide himself with a proper apparatus, with which he shall weigh and stamp every side of sole leather inspected by him, with the weight thereof, his surname, and the name of his town; * * * [1829]

Sec. 136. Wood and bark¹: Dimensions of cord; penalty.

All cordwood offered for sale shall be 4 feet long including one-half the scarf, and well and closely laid together. A cord of wood or bark shall measure 8 feet in length, 4 feet in width, and 4 feet in height, or otherwise contain 128 cubic feet; the measurer shall make due allowance for refuse or defective wood and bad stowage. Any person or persons exposing for sale as a cord of wood anything less shall be punished by a fine of not less than \$10, nor more than \$50, for each offense. Cities and towns by ordinance may assign location for teams to sell said cordwood and bark. [1821]

¹ See Secs. 142, 162, 163, 196 (Ch. 88), pages 414, 416, and 412, respectively.

Sec. 137. Same: Fees of measurers of wood and bark.

Measurers of firewood and bark shall receive such fees for their services as the municipal officers of the town designate, to be paid by the driver, and repaid by the buyer when brought by land, and by the wharfinger when brought by water. [1821]

Sec. 138. Same: Penalty for selling before survey.

If any firewood or bark brought into any town by land is sold and delivered, unless otherwise agreed to by the purchaser, before it is measured by a sworn measurer, and a ticket signed by him and given to the driver, stating the quantity that the load contains, the name of the driver, and the town in which he resides, such wood or bark is

forfeited and may be libeled and disposed of according to law. [1821]

Sec. 139. Same: To be corded and measured when brought by water; penalty.

All cordwood brought by water into any town for sale shall be corded on the wharf or land on which it is landed, in ranges, making up in height what is wanting in length; then it shall be so measured and a ticket given to the purchaser, who shall pay the stated fees; and no such wood shall be carried away by any wharfinger or carter before it has been so measured, under a penalty of \$1 for every load. [1821]

Sec. 140. Same: Certificate of quantity; forfeiture.

Persons carrying fire-wood from a wharf or landing for sale shall be furnished by the owner or seller with a ticket stating the quantity and the name of the driver; and if such fire-wood is carried away without such ticket, or any driver refuses to exhibit such ticket to any sworn measurer on demand, or does not consent to have the same measured, when in the opinion of the measurer the ticket certifies a greater quantity of wood than the load contains, such wood shall be forfeited, and may be seized and libeled by said measurer according to law. [1821]

Sec. 141. Same: Penalty for fraudulent stowage.

When any wood, bark, or charcoal, sold by the cord, foot, or load, is so stowed as to prevent the surveyors from examining the middle of the load, and it appears on delivery that it was stowed with the fraudulent intent of obtaining payment for a greater quantity than there was in fact, the seller or owner thereof forfeits \$10 to the county. [1825]

Sec. 142. Same: Sale of wood by the load; penalty.

Fitted wood, not exceeding 16 inches in length, sold by the load in the loose shall contain: if sold as a load, not less than 144 cubic feet; if sold as a $\frac{3}{4}$ load, not less than 108 cubic feet; if sold as $\frac{1}{2}$ load, not less than 72 cubic feet; if sold as $\frac{1}{4}$ load, not less than 36 cubic feet. Whoever violates the provisions of this section shall be punished by a fine of not more than \$20, or by imprisonment for not more than 30 days. [1939]

Sec. 143. Charcoal¹: Method of sale; cord.

Charcoal brought into a town for sale may be measured and sold by the cord or foot, estimating the cord at 96 bushels, when the purchaser and seller agree to the same; and the measurers of wood shall be measured measurers of charcoal also. [1821]

¹ See Secs. 142, 162, 163, 196 (Ch. 88), pages 414, 416, and 412, respectively.

Sec. 144. Same: Standard basket; sealing; penalty.

All baskets for measuring charcoal brought into a town for sale shall be sealed by the sealer of the town where the person using them usually resides, and shall contain 2 bushels and be of the following

dimensions, viz: 19 inches in breadth in every part, and 17½ inches deep, measuring from the top of the basket to the highest part of the bottom; and in measuring charcoal for sale, the basket shall be well heaped. Whoever measures charcoal for sale, in any basket of less dimensions, or not sealed, forfeits, for each offense, \$5. [1821]

Sec. 145. Same: Seizure of non-standard baskets.

The municipal officers of towns may appoint some suitable person to seize and secure all baskets used for measuring charcoal, not conforming to the provisions of section 144. [1821]

Sec. 146. Same: Penalty for failure to give certificate.

Any measurer of wood, bark, or charcoal who neglects or refuses to give to the owner or purchaser a certificate of the contents of a load forfeits \$5 for each offense; and all the penalties hereinbefore provided may be recovered by action of debt or by complaint, one-half to the town where the offense is committed, and one-half to the prosecutor. [1836]

Sec. 147. Coal and coke ¹: Method of sale; ton; marking requirement; penalty.

Anthracite, bituminous, and all mineral coal or coke shall be sold by weight and 2,000 pounds shall constitute a ton. Coal or coke put up in bags or package form shall have marked on the bag in a plain and conspicuous manner the net weight. For each violation of the provisions of this section, there shall be a fine of not less than \$25 nor more than \$100. [1867]

¹ See Secs. 142, 162, 163, 196 (Ch. 88), pages 416, and 412, respectively.

Sec. 148. Same: Weighers; certificate of weight; penalty.

The municipal officers shall annually elect or appoint weighers of coal or coke who shall be sworn in accordance with the statute. Unless coal or coke are sold by the cargo, or put up in bags or package form and the weight marked thereon as provided in section 147, the seller shall cause it to be weighed by a sworn weigher who shall give a certificate by him signed showing thereon the gross, tare and net weight of each load. Such certificate of weight shall be delivered by the seller to the person in charge of the load for delivery and such person shall give such certificate to the consumer-purchaser or his agent upon delivery of such load of coal or coke. Whoever violates any of the provisions of this section, or, whoever is guilty of fraud or deceit as to the weighing, selling or delivering of coal or coke, or, whoever, by himself or by his servant, agent or employee, sells or delivers, or attempts to sell or deliver, coal or coke which is short in weight of that represented to the purchaser shall be punished by a fine of not more than \$50, or by imprisonment

for not more than 30 days, or by both such fine and imprisonment. [1867; reenacted 1945.]

Sec. 149. Boards, planks and other lumber ¹: Election of surveyors.

Every town, at its annual meeting, shall elect one or more surveyors of boards, plank, timber, and joist; one or more surveyors of shingles, clapboards, staves, and hoops; and every town containing a port of delivery whence staves and hoops are usually exported shall also elect two or more viewers and cullers of staves and hoops; and the municipal officers of a town may, if they deem it necessary, appoint not exceeding 7 surveyors of logs. [1821; last amended 1829.]

¹ See Secs. 162, 163 (Ch. 88), page 416.

Sec. 150. Same: To be surveyed before delivery.

All boards, plank, timber, and joist, offered for sale shall, before delivery, be surveyed by a sworn surveyor thereof, and, if he has doubts of the dimensions, he shall measure the same and mark the contents thereon, making reasonable allowance for rots, knots, and splits, drying and shrinking; pine boards ¾ of an inch thick when fully seasoned, and in that proportion when partly seasoned, shall be considered merchantable; and no pine boards, except sheathing boards, shall be shipped for exportation beyond the United States, but such as are square edged, and not less than ⅞ of an inch thick, nor less than 10 feet long, under penalty of forfeiture to the town whence shipped. [1821]

Sec. 152. Same: Bundle of shingle; forfeiture.

All shingles shall be split or sawed crosswise the grain; each bundle shall contain 250 shingles and, if in square bundles, 25 courses, and be 22½ inches at the lay; and when packed to be surveyed as "number one" or for exportation, if in any bundle there are 5 shingles deficient in the proper dimensions, soundness, or number to make 250 merchantable shingles, or if any shingles are offered for sale before they are surveyed and measured by a sworn surveyor of some town in the county where they were made, and the quality branded on the hoop or band of the bundle, unless the parties otherwise agree, they are forfeited to the town where the offense is committed. [1821]

Sec. 154. Same: Hogshead and barrel staves.

Staves packed for sale or exportation shall be well and proportionally split, and of the following dimensions, viz:

* * * * *

All white or red oak hogshead or barrel staves, at least, one with another, 4 inches in breadth, and no one less than 3 inches in breadth in the narrowest part; those of the breadth last mentioned shall be clear of sap; and 2 staves shall be sold as 1 cast; 50 casts, 100 staves; and 1,000 staves, 1,000. [1828]

Revised Statutes 1944, Vol. 1, Title 10, Ch. 88—
Weighing and/or Measuring of Leather, Wood,
Charcoal, Coal, Coke, Lumber, and Logs in Cities
and Towns—Continued.

Sec. 155. Same: Dimensions of hogshead hoops; how packed.

All hogshead hoops exposed for sale or packed for exportation shall be from 10 to 13 feet in length, and of oak, ash, or walnut, of good and sufficient substance, well shaved; if of oak or ash, at least 1 inch broad, and, if of walnut, $\frac{3}{4}$ of an inch at the smaller end; the different lengths shall be made up in bundles by themselves; each bundle shall contain 25 hoops, 4 bundles shall make 100, and 1,000 hoops, 1,000; and every bundle, packed for sale or exportation, found to be deficient in number or dimensions, is forfeited to the town where it is exhibited. [1844]

Sec. 156. Same: Not to be sold until measured; certificate; penalty.

No person shall deliver on sale, or ship, or attempt to ship for exportation, any boards, plank, timber, joists, shingles, clapboard, staves, or hoops before they have been surveyed, measured, viewed, or culled, as the case may be, and branded by the proper officer, and a certificate thereof given by him, specifying the number, quality, and quantity thereof, under a penalty of \$2 per 1,000, by quantity or tale, as such article is usually sold, one-half to the town where the offense is committed, and one-half to the prosecutor; and in addition thereto, the master or owner of any vessel exporting any of the articles aforesaid beyond the limits of the United States contrary to law shall, for the 1st offense, forfeit \$200 to the town whence said articles are exported; and if after conviction he commits a 2nd offense in the same vessel, he forfeits the same sum, and the vessel is also forfeited to the town. [1821]

Sec. 157. Same: Failure to measure.

In any action hereafter brought for the price of boards, plank, timber, joists, shingles, clapboards, staves, or hoops, unless sold by the cargo, any failure to survey, measure, view, or cull, and brand the same and to give certificate thereof as required by section 156, shall not defeat recovery in such action, unless it appears that before delivery the purchaser requested such survey, measurement, view, or culling, and branding and certificate. [1895]

Sec. 159. Logs: Duties of surveyors.

Surveyors of logs may inspect, survey, and measure all mill logs floated or brought to market or offered for sale in their towns, and divide them into several classes, corresponding to the different quality of boards and other sawed lumber which may be manufactured from them; and they shall give certificates under their hands of the quantity and quality thereof to the person at whose request they are surveyed. [1829]

Sec. 160. Same: Unit of measurement.

Unless the parties otherwise agree, in the scaling or measurement of unmanufactured logs and timber the cubic foot shall be the unit of measure, to be determined by mathematical calculation or by such cubic rules as the parties may agree upon. [1909]

Sec. 161. Same: Round timber to be scaled.

Any person measuring round timber, the quantity of which is estimated by the thousand, shall scale the same and mark upon each log surveyed by him the contents thereof, unless otherwise agreed by the parties contracting. [1915]

Sec. 162. Failure of measurer to perform duties; fraudulent practices; penalty.

If any person, duly elected a surveyor, measurer, viewer, or culler of any of said articles under the provisions of sections 136 to 163, inclusive, and duly qualified, unnecessarily refuses or neglects to attend to the duties of his office when requested, he forfeits \$3; and if he connives at or willingly allows any breach of the provisions hereof, or practices any other fraud or deceit in his official duties, he forfeits \$30 to the use aforesaid. [1821]

Sec. 163. Recovery of penalties; jurisdiction of courts.

All pecuniary penalties in sections 136 to 163, inclusive, may be recovered by action of debt, indictment, or complaint, and all other forfeitures, by a libel filed by the treasurer or any inhabitant of the town interested. Where the violation of any of the provisions of sections 136 to 163, inclusive, is made an offense punishable by a fine, trial justices within their county shall have jurisdiction of such offenses concurrent with municipal courts and the superior court. [1841]

Sec. 164. Fees of surveyors of lumber.

Surveyors of boards, plank, timber, and joist shall receive, for viewing only, 6c a thousand feet; for measuring and marking the same, 6c more; and in that proportion for any part of a thousand, to be paid by the buyer.

Surveyors of shingles and clapboards shall receive, for surveying and telling, 6c a thousand to be paid by the buyer.

* * * * *

Surveyors shall receive at the rate of 4c a thousand feet board measure for viewing and inspecting mill logs, and 2c a thousand in addition for measuring and marking the quantity and quality of the logs, and making out and delivering certificates of the same, to be paid by the buyer. [1821]

Revised Statutes 1944, Vol. 1, Title 4, Ch. 27, Secs. 42 to 49—Eggs.

[ED. NOTE.—These sections include provisions for the labeling of eggs and the establishment of net weight and size requirements for Maine consumer grades for shell eggs, but as they are primarily quality provisions they have been omitted from this publication.]

Revised Statutes 1944, Vol. I, Title 4, Ch. 27—Milk and Cream.

Sec. 88. Standard measures.

All milk and cream bought and sold by measure for consumption within this state shall be bought and sold by wine measure, the standard for which shall be 231 cubic inches to the gallon, and for subdivisions of the gallon, in the same proportion. [1909]

Sec. 89. Proving and marking of measures and containers; penalty.

All measures, cans, or other vessels used in the purchase or sale of milk or cream, except glass bottles and jars sealed in accordance with the provisions of sections 94 and 95, shall be tried and proved by the standard mentioned in the preceding section, by the sealer of weights and measures of the city or town in which the person, firm, or corporation purchasing or selling such milk or cream resides or has a place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans, or other vessels hold, together with the year in which such measures, cans, or other vessels are sealed. Whoever, by himself, clerk, servant, or agent, sells by measure any milk or cream by any other than the measure so tried, sealed, and marked, shall forfeit for each offense the sum of \$10. Any measure, can, or other vessel used in the purchase or sale of milk or cream, lawfully sealed, as aforesaid, shall be deemed to be lawfully sealed under the provisions of this section. [1909]

[ED. NOTE.—In Revised Statutes of Maine, following the foregoing section, it is stated: "See ch. 88, Sec. 124, re inspectors to prosecute for violations; c. 88, Sec. 197, re penalty for using weights, etc. not sealed." Sec. 124 provides that dairy products inspectors appointed by the municipal officers of cities and towns shall prosecute for all violations of Secs. 89 and 98 of ch. 27. For Sec. 197, see page 412.]

Sec. 92. Testing and marking of milk containers.

All cans or containers sold for use in the purchase or sale of milk or cream at wholesale shall have their capacity plainly, conspicuously, and indelibly marked thereon in terms of liquid quarts. They shall be sealed by the manufacturer thereof, as hereinafter provided, or by a sealer of the town where the user resides or has a usual place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans, or other vessels hold, together with the year in which such measures, cans, or other vessels are sealed. The commissioner [of agriculture] shall prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The commis-

sioner may at any time, for cause, revoke the authority so given by him to any manufacturer. When sealed by the manufacturer, such cans or containers shall be marked with his name, initials, or trademark and with any other designating marks which the commissioner may require. The sealing of such containers by the manufacturer shall not exempt the user from the laws relative to giving a false or insufficient measure, using a false measure, or having the same in possession with intent to use. Sealers of the town where the user resides or has a usual place of business may at least annually inspect all cans or containers marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed as herein required, a can or container need not again be sealed while in the same condition as when first sealed. The words "container" and "containers" as used in this and the following section shall not apply to bottles or jars. [1933]

Sec. 93. Penalty for violation of preceding section; enforcement.

Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells any can or container to be used in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding \$10 for each can or container so sold. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, uses any can or container in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding \$10 for each offense. The commissioner [of agriculture], his deputies and sealers shall enforce the provisions of this and the preceding section. [1933]

Sec. 94. Capacity of bottles and jars.

Glass bottles and jars used for the sale of milk or cream shall be of one of the following capacities only: 1 gallon, a multiple of the gallon, 2 quarts, 1 quart, 1 pint, $\frac{5}{8}$ of 1 pint, $\frac{1}{2}$ of 1 pint or 1 gill and shall be sealed as full measure under the provisions of section 182¹ of chapter 88 or by the manufacturer, as provided in section 95. The use, for the distribution of milk or cream to the consumer, of glass bottles or jars of any other capacity than as herein provided is prohibited and declared to be illegal. All dealers in milk or cream who use, for the distribution of milk or cream to consumers, glass bottles or jars which have not been sealed by the manufacturer, shall bring such bottles or jars to the office of their city or town sealer to be sealed as aforesaid. If a bottle or jar has once been sealed by a sealer of weights and measures, or by the manufacturer, it shall not in any case be necessary to have it sealed again at any time while it is used for

Revised Statutes 1944, Vol. I, Title 4, Ch. 27—Milk and Cream—Continued.

the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream. [1913; last amended 1947.]

¹ See page 410.

Sec. 95. Marking of bottles and jars sealed by manufacturer; bond.

Such bottles or jars as are sealed by the manufacturer shall be clearly and permanently marked with its capacity, with word "Sealed" and for purposes of identification, with the name, initials, or trademark of the manufacturer, and the manufacturer's mold designation which identifies the pattern or design of the bottle; the capacity designation and the word "Sealed" shall not be on the bottom of the bottle. The manufacturer's mark of the mold designation which identifies the pattern or design of the bottle shall be approved by the state sealer of weights and measures upon application by the manufacturer, and upon filing by the manufacturer, with the treasurer of state, of a bond payable to the state in the sum of \$1,000, with sureties to be approved by the attorney-general, conditioned upon his conforming to the requirements of this section. A record of the bonds furnished, and of each manufacturer's mark of the mold designations shall be kept in the office of the state sealer of weights and measures. [1913; last amended 1947.]

Sec. 96. Penalty for selling bottles not complying with law; penalty for using such bottles.

Any manufacturer who sells milk or cream bottles to be used in this state that do not comply as to size and markings with the provisions of the 2 preceding sections, shall forfeit \$500, to be recovered by the attorney-general in an action upon the bond of such manufacturer. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of section 94 as to markings and capacity shall be punished by a fine of not more than \$50 for each offense. [1913]

Sec. 97. Weighing and testing by Babcock test; penalty.

All milk or cream purchased by any person, firm, or corporation for use in or to be resold by any creamery in this state, at the option of the seller or producer, shall be weighed and shall be tested by the Babcock test to ascertain the amount of butterfat per pound therein contained; and the value of the cream or milk thus purchased shall be determined by the amount of butterfat per pound as thus ascertained. Sellers or producers as aforesaid, who are making regular or daily delivery of milk or cream to the same purchaser that desire to sell

said products as herein provided, shall give to the purchaser 10 days' written notice of their desire to make future sales in accordance with the provisions hereof. The test herein provided shall be made by the owners or operators of the creamery purchasing as aforesaid or by the commissioner [of agriculture] or his deputies; but upon petition in writing, signed by 25% or more of the patrons of any creamery and addressed to the commissioner, or upon petition in writing signed by the owner or operator of any creamery and addressed to said commissioner, one or more tests shall be made by, or under the direction of said commissioner, and the finding of said commissioner shall be conclusive upon all parties therein concerned; provided, however, that when the total number of patrons of any one creamery exceeds 100 then the number of petitioners herein required need not exceed 30. All samples of cream tested by said test shall be weighed and the standard unit for testing shall be 18 grams. Any person, firm, or corporation, or the servant or agent of any person, firm, or corporation, who violates the provisions of this section shall be punished by a fine of not more than \$50, or by imprisonment for not more than 30 days. [1905; last amended 1943.]

Sec. 98¹. Glassware to be tested for accuracy, and marked.

All bottles, pipettes, or other measuring glasses used by any person, firm, or corporation, or their agents or employees, at any creamery, butter factory, cheese factory, condensed milk factory, or elsewhere in this state, in determining by the Babcock test or any other test, the value of milk or cream received from different persons at such creameries or factories, shall be tested before such use, for accuracy of measurement and for accuracy of the per cent scale marked thereon. Such bottles, pipettes, or measuring glasses shall bear in marks or characters ineffaceable the evidence that such test has been made by the authority named in the following section. No inaccurate bottles, pipettes or other glasses shall bear such marks or characters. [1895]

¹ See E.d. note following Sec. 89, page 417.

Sec. 99. Officer in charge of testing and marking glassware.

The director of the Maine Agricultural Experiment Station, or some competent person designated by him, shall test the accuracy of all bottles, pipettes, or other measuring glasses used by persons, firms, or corporations in the state buying or pooling milk or cream, or apportioning butter or cheese, made from the same, by the contents of butter-fat contained therein. The said director, or the person designated by him, shall mark such bottles, pipettes, or other measuring glasses as are found correct, with marks or characters which cannot be erased, and which marks or characters shall stand as proof that they have been so tested. The said director shall receive for such service no more than the actual

cost incurred, which shall be paid by the persons or corporations for whom it is done. [1895]

Sec. 112. Commissioner may inspect testing apparatus and order same condemned.

The commissioner [of agriculture], or his deputy, may enter the premises of any creamery, cheese factory, condensary, or receiving station for milk or cream, and may inspect all apparatus and materials used for making tests for the purpose of determining the accuracy of the same, and for ascertaining whether the provisions of sections 98, 99, * * * are being complied with. Said commissioner may order any weighing, testing, and sampling apparatus to be repaired or may condemn the same or any part thereof or any materials used in making tests, and may give such instructions regarding weighing, sampling, and the making of tests as he deems proper. [1919; last amended 1943.]

Revised Statutes 1944, Vol. I, Title 4, Ch. 27—Commercial Feeding Stuffs, Commercial Fertilizers, Foods, Insecticides and Fungicides.

Sec. 5. Enforcement.

The commissioner [of agriculture] shall diligently enforce all provisions of this chapter [Secs. 1-248] * * * [1911]

Sec. 157. Sale of misbranded commodities prohibited.

No person shall manufacture, sell, distribute, transport, offer, or expose for sale, distribution, or transportation, any article of * * *, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, or insecticide which is * * * misbranded within the meaning of this chapter [Secs. 1-248]. [1911]

Sec. 158. Definitions of certain commodities.

* * * * *

The term "commercial feeding stuff" as used herein shall be held to include all articles of food used for feeding live stock, and poultry, except hays and straws, the whole seeds, and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flaxseed, and broom corn.

The term "commercial fertilizer" as used herein shall be held to include all materials used for fertilizing purposes, except unprocessed animal manure.

* * * * *

The term "food" as used herein shall be held to include all articles, whether simple, mixed or compound, used for food, drink, confectionery, or condiment by man or animals.

The term "fungicide" as used herein shall be held to include any substance or mixture of substances intended to be used for preventing, destroy-

ing, repelling, or mitigating any and all fungi that may infest vegetation, or be present in any environment whatsoever.

The term "insecticide" as used herein shall include paris green, lead arsenate, and any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, or houses, or be present in any environment whatsoever. [1911; last amended 1949.]

Sec. 160. Commercial feeds: Marking requirements.

Every lot or package of commercial feeding stuff, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person, shall have affixed, in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly giving the number of net pounds in the package; * * * If the feeding stuff is sold in bulk or put up in packages belonging to the purchaser, the seller shall upon the request of the purchaser furnish him with a copy of the statements named in this section. [1911]

Sec. 163. Commercial fertilizer: Lime, marl or wood-ashes.

Lime, marl, or wood-ashes intended for fertilizing purposes, and without regard to the price at which it is sold or offered for sale, shall be classed as a commercial fertilizer within the meaning of this chapter [Secs. 1-248]. All the requirements and penalties relative to commercial fertilizers named in this chapter shall apply to any and every lot of lime, marl, or wood-ashes intended for fertilizing purposes. * * * [1913]

Sec. 164. Same: Marking requirements.

Every lot or package of commercial fertilizer, which is manufactured, sold, distributed, caused to be transported, offered or exposed for sale, distribution, or transportation in the state by any person shall have affixed, in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly giving the number of net pounds in the package. * * * If the fertilizer is sold in bulk or put up in containers furnished by the purchaser, the seller shall, upon request of the purchaser, furnish the latter with a copy of the statements named in this section. [1911; reenacted 1949.]

Sec. 165. Insecticides and fungicides: Marking requirements.

Every lot or package of a fungicide or an insecticide, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the number of net pounds in the package. * * * [1911]

Revised Statutes 1944, Vol. I, Title 4, Ch. 27—Commercial Feeding Stuffs, Commercial Fertilizers, Food, Insecticides and Fungicides—Continued.

Sec. 167. Cancellation of registrations.

* * * He [the commissioner of agriculture] may also cancel the registration of any feeding stuff, commercial fertilizer, fungicide, or insecticide that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in violation of any of the provisions of this chapter [Secs. 1-248]. * * * [1911]

Sec. 169. Definition of misbranded commodities.

The term "misbranded" as used herein, shall apply to all articles of * * * commercial feeding stuff, commercial fertilizer, * * * food, fungicide, and insecticide, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, or which is falsely branded in any particular.

For the purpose of this chapter [Secs. 1-248] an article shall also be deemed to be misbranded:

II. In case of commercial feeding stuff:

A. If any package fails to bear all of the statements required by section 160.

III. In case of commercial fertilizer:

A. If any package fail to bear all the statements required by section 162.

VI. In case of fungicide and insecticide:

A. If any lot or package fail to bear all the statements required by section 165. [1911]

Sec. 170. Food in package form; marking requirements.

For the purpose of this chapter [Secs. 1-248] an article of food in package form, if sold at a greater price than five cents, shall also be deemed to be misbranded if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances shall be established by rules and regulations made in accordance with the provisions of section 3.1 [1913]

1 Sec. 3 of Ch. 27 provides that the Commissioner of Agriculture shall make uniform rules and regulations for carrying out the provisions of this and other sections of Ch. 27, and also provides that the Commissioner shall publish any information concerning food and other articles as he may deem to be of public benefit.

Sec. 186. Misbranding prohibited; penalty.

No person shall * * * misbrand, within the meaning of this chapter [Secs. 1-248], any * * *

commercial feeding stuff, commercial fertilizer, * * * food, fungicide, insecticide * * * or manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation, any article of * * * commercial feeding stuff, commercial fertilizer, * * * food, fungicide, insecticide * * * in violation of any of the provisions of this chapter. Whoever violates said provisions shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense. [1911]

Sec. 187. Guaranty protection.

No person shall be prosecuted under the provisions of * * * sections 157 to 186, inclusive, when he can establish proof of purchase, and a guaranty signed by the person residing in the United States, from whom the purchase was made, to the effect that the article in question is not * * * misbranded within the meaning hereof. [1911; last amended 1949.]

Revised Statutes 1944, Vol. I, Title 4, Ch. 27—Packing of Apples.

Sec. 5. Enforcement.

The commissioner [of agriculture] shall diligently enforce all provisions of this chapter [Secs. 1-248] * * * [1911]

Sec. 206. Standard barrel; standard bushel box.

The standard barrel for apples shall contain 7,000 cubic inches; provided, however, that a barrel of the following dimensions when measured without distention of parts: length of stave, 28½ inches; diameter of head, 17⅛ inches; distance between heads, 26 inches; circumference of bulge not less than 64 inches outside measurement, shall be a lawful barrel. The standard bushel box for apples shall contain 2,350 cubic inches; provided, however, that a box 18 inches by 11½ inches by 10½ inches, inside measurement, without distention of parts, shall be a lawful bushel box. [1913]

Sec. 207. Marking requirements; penalty.

Manufacturers of standard barrels and boxes to be used in shipping apples shall mark, in a conspicuous place, on each barrel the words "standard barrel" and on each box the words "standard box." Whoever fails to comply with the provisions of this section shall be punished by a fine of not more than \$100. [1915]

Sec. 209. Additional marking requirements.

Every closed package or container of apples, which is packed, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the size of the package in terms of standard bushel box or standard barrel, * * * [1913; last amended 1949.]

Sec. 210. Misbranded apples not to be packed, sold, etc.

No person shall, within this state, pack, sell, distribute, transport, offer or expose for sale, distribution, or transportation, apples which are adulterated or misbranded within the meaning of section 211. [1913]

Sec. 211. When deemed misbranded.

For the purpose of sections 206 to 215, inclusive, apples packed in a closed package or container or sold at retail in bulk or in an open package or container shall be deemed to be adulterated if their measure, quality, grade, or purity do not conform in each particular to the claims made upon the affixed guaranty, and shall be deemed to be misbranded:

I. If the package or container, whether open or closed, fails to bear all statements required by section 209;

II. If the package or container, whether open or closed, bears any statement, design, or device regarding such article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular. [1913; last amended 1949.]

Sec. 213. Right of entry.

The commissioner [of agriculture], in person or by deputy, shall have free access, ingress, and egress, at all reasonable hours to any place or any building wherein apples are packed, stored, transported, sold, offered or exposed for sale, or for transportation. * * * [1913]

Sec. 214. Penalty for violations.

Whoever adulterates or misbrands apples within the meaning of section 211, or whoever packs, sells, distributes, transports, offers, or exposes for sale, distribution, or transportation apples in violation of any provision of sections 206 to 215, inclusive, shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense. [1913]

Sec. 215. Guaranty protection.

No person shall be prosecuted under the provisions of the 9 preceding sections when he can establish a guaranty signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded, within the meaning of section 211. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of the 9 preceding sections. [1911]

Ch. 34 of the Revised Statutes 1944—Second Biennial Revision of the Sea and Shore Fisheries Laws.

[ED. NOTE.—In the foreword to the Second Biennial Revision of the Sea and Shore Fisheries Law, which revision may be found near the end of the 1949 Laws of Maine, it is stated: The revision of chapter 34 of the revised statutes of 1941 is compiled and issued in accordance with the provisions of Chapter 332 of the public laws of 1947. A new revision of such chapter 34 was passed by the 93rd legislature by Chapter 332 of the public laws of 1947 and was incorporated into the 1st biennial revision of the sea and shore fisheries laws. This 2nd revision retains the same section numbers as those in the 1st revision and all new sections enacted by the public laws of 1949 were given new numbers. * * *]

Sec. 2. General supervision.

The commissioner [of sea and shore fisheries] shall have general supervision of the administration and enforcement of the sea and shore fisheries laws under the provisions of this chapter [Ch. 34, Secs. 1-145], except as otherwise provided by law. * * * [1947]

Sec. 35. Size of smoked herring boxes regulated; penalty; exception.

No person, firm or corporation engaged in the state in buying, selling or packing of smoked herring shall sell or offer for sale smoked herring in boxes of less than the following dimensions: 2 inches in depth, 6 inches in width, inside measure, and 12 inches in length, outside measure. Whoever packs, sells or offers for sale smoked herring in boxes in violation of this section shall forfeit 25¢ for each box so packed, sold or offered for sale; but this section does not apply to boxes of boneless herring. [1947]

Sec. 36. Purchase of herring regulated; state sealer of weights and measures to measure and seal holds of boats; fees; penalty.

No person, firm or corporation shall purchase or sell herring in their live or raw state for packing purposes other than by some standard method of measurement, such as by the bushel, barrel of 3 bushels, hogshead of 17½ bushels, or fractional part of said standard method of measurement.

All holds of all boats transporting herring for processing purposes shall be measured and sealed by the state sealer of weights and measures, or his duly authorized agent, and the fees for measuring and sealing shall be paid by the owners of the boats. The measure shall be in 5 hogshead divisions, cut ⅜ of an inch deep in the hold of the boat. The state sealer of weights and measures shall forthwith certify to the commissioner of sea and shore fisheries the name of the owner of each boat, the name of each boat and the capacity of each boat.

Any person, firm or corporation purchasing herring from a fisherman or his agent shall either pay cash to said fisherman or his agent at the time of purchase or shall furnish to said fisherman or his

Ch. 34 of the Revised Statutes 1944—Second Biennial Revision of the Sea and Shore Fisheries Laws—Continued.

agent a written acknowledgment of purchase, containing all information necessary to a complete understanding of the transaction, including the price and quantity and providing for payment not later than 7 days after receipt of said herring, and all payments shall be made in money or in money equivalent.

Any person violating the provisions of this section shall be punished by a fine of not less than \$100, nor more than \$500, for each offense. [1947; last amended 1949.]

Sec. 92. Size of bait barrels; penalty.

In all contracts relating to the sale of clam, quahog or mussel bait, fresh or salt, by the barrel, and clam, quahog or mussel bait barrels, such barrels shall be 25¼ inches long and 15½ inches head diameter, outside measure.

Whoever violates any provision of this section shall be punished by a fine of not more than \$50 for each offense. [1947]

Revised Statutes 1944, Vol. I, Title 6, Ch. 46—Water, Gas, and Electricity.

Sec. 23. Meters furnished consumers to be inspected and sealed; testing apparatus.

No corporation, municipality, district, or person shall furnish for use any gas, electric, or water-meter in any city or town, in which there shall be a duly appointed and qualified inspector of meters, unless such meter shall have been first inspected, approved, marked, and sealed by such inspector. Every corporation, municipality, district, or person furnishing gas, water, or electric current to consumers, shall provide and keep in and upon its premises a suitable and proper apparatus, to be approved and stamped by the inspector of meters for such city or town, for testing and proving the accuracy of all water, gas, and electric meters, by which apparatus every meter furnished to a consumer shall be tested. [1909]

Sec. 24. Meter inspectors: Appointment.

The municipal officers of cities and towns may annually appoint an inspector of meters who shall serve for 1 year or until another is qualified in his stead, at such salary as the municipal officers shall determine. The said inspector shall have charge of the inspection of all water, gas, and electric meters furnished for use in the city or town. [1909]

Sec. 25. Same: Duties.

The inspector of meters shall, upon application in writing as provided in the following section, by any consumer of gas, water, or electric current in said city or town, inspect, examine, prove, and ascertain the accuracy of any gas, water, or electric

meter of which complaint is made, and when the said meter shall be found, or made, to be correct, the inspector shall stamp or mark such meter with some suitable device, which device shall be recorded in the office of the clerk of the city or town where he was appointed. [1909]

Sec. 26. Inspection of meters upon request; removal of faulty meter; expenses of inspection.

If any consumer, to whom a meter has been furnished, shall apply in writing to the city or town clerk for the inspection of such meter, and shall deposit with the clerk the fee fixed by the municipal officers for said service, the inspector shall inspect and test said meter and, if said meter on being so tested, shall be found to be incorrect to the extent of 4%, if an electric meter, or 2%, if a gas or water meter, to the prejudice of such consumer, the inspector shall order the corporation, district, municipality, or person furnishing said meter forthwith to remove the same and to install in place thereof a meter which has been tested, approved, marked, and sealed by an inspector of meters; and the inspector shall thereupon give a certificate to the consumer, showing the result of said test. Upon presenting said certificate to the city or town clerk, the consumer shall receive the fee deposited with said clerk; and in such case the corporation, district, municipality, or person shall bear the expense of such inspection and shall pay to the treasurer of the city or town the fee required of the consumer; but such consumer shall not be entitled to recover back in whole or in part from such corporation, municipality, district, or person any sums paid for service prior to the filing of his application for inspection. All fees collected by the city or town clerk or treasurer shall be placed to the credit of the city or town to be used for municipal purposes. [1909]

Revised Statutes 1944, Vol. I, Title 8, Ch. 57—Apple Cider.

Sec. 14. Marking requirements.

* * * * *

The commission [state liquor commission] shall cause each and every container taken from an apple cider processing plant for sale to be labeled, marked or branded as to the quantity contained in it, * * * [1943; last amended 1947.]

Revised Statutes 1944, Vol. I, Title 9, Ch. 62—Narcotic Drugs.

Sec. 43. Marking requirements.

I. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1941]

Sec. 51. Enforcement.

The bureau of health, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of sections 34 to 52, inclusive, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs. [1941]

Sec. 52. Penalty for violations.

Any person violating any provision of sections 34 to 52, inclusive, shall upon conviction be punished, for the 1st offense, by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment; and upon conviction for any subsequent offense, by a fine not exceeding \$5,000, or by imprisonment for not more than 5 years, or by both such fine and imprisonment. [1941]

Revised Statutes 1944, Vol. I, Title 10, Ch. 79—Standard of Length in Counties.

Sec. 107. Penalty against surveyor for violation of Sec. 108.

* * * Neglect or refusal to comply with the provisions of this section¹ shall render such surveyor liable to a penalty of \$25 for each neglect, to be recovered on complaint in the county where any survey is made, half to the complainant and half to the county. The provisions of this section shall not apply to such surveys as are made by angles from some fixed, permanent line, or by a solar instrument and independent of the magnetic needle. [1903]

¹ See Sec. 108 below which renders surveyor neglecting to comply with the terms of Sec. 108 liable to the penalties and disability set forth in Sec. 107.

Sec. 108.¹ Standard of length; construction; public use; comparisons.

The county commissioners at the expense of the several counties shall also erect and forever maintain therein, at such place or places as the public convenience may require, a standard of length of not less than 100 feet, with suitable subdivisions marked thereon. Such standard may consist of stone monuments permanently fixed with metal plates on the tops thereof, properly marked and protected; or of a steel bar of the necessary length properly marked and suitably placed and protected. All such standards shall be made to correspond with the standard of the United States Bureau of Weights and Measures, and shall be provided with proper means for determining the tension of tapes or chains during comparison. They shall be under the care and custody of the clerk of courts, who shall keep a suitable book for the record of comparisons, and they shall be accessible to any person for comparing any tape, chain, or other linear measure. Every surveyor shall before making sur-

veys in this state, and at least annually, compare his tape or chain used in such surveys with the standard in the county in which he resides or in which surveys are to be made; and shall record the result in the book provided for that purpose, giving description of such tape or chain, with the difference, if any, between the same and such standard, together with the date and temperature and the tension on such tape or chain at the time of comparison. When such standard shall have been completed in any county, any surveyor residing or making surveys in such county who shall neglect or refuse to comply with the terms of this section, shall be liable to the penalties and disability set forth in section 107.² [1903]

¹ See Sec. 243, page 408; rules and regulations for enforcement.

² See Sec. 107, this page.

Sec. 109. Inspection; reports.

When the * * * standard of length is established, repaired or rebuilt in any county, the governor with the advice and consent of the council, shall appoint a competent commissioner, not necessarily a resident of this state, to inspect and verify the same. Such commissioner * * * in case of a standard of length shall give a description of the structure, its location and exact length as determined by comparison with some authentic standard from the United States Bureau of Weights and Measures. All such reports shall be full and accurate and be deposited in the office of the secretary of state, and a certified copy shall be filed and recorded in the office of the clerk of courts in the county where such structure is situated. Such commissioner shall receive from the state such compensation as the governor and council shall allow. [1903]

Sec. 110. Breaking or altering; penalty.

Whoever wilfully displaces, alters, defaces, breaks, or otherwise injures any of the pillars or points, plates, enclosures, bars, locks, bolts, or any part of the structure of any * * * standard of length shall forfeit not more than \$100, to be recovered by indictment, half to the prosecutor and half to the county, and shall also be liable in an action of debt for the amount necessarily expended in repairing damages caused by his act. [1903]

Revised Statutes 1944, Vol. II, Title 15, Ch. 166—Grist Mills.

Sec. 52. Owners of grist mills to furnish scales; penalty for neglecting or refusing to weigh.

The owner or occupant of every grist mill shall keep scales and weights therein to weigh corn, grain, and meal, when required; and he shall well and sufficiently grind as required, according to the nature, capacity, and condition of his mill, all grain brought to his mill for that purpose, and in the

Revised Statutes 1944, Vol. II, Title 15, Ch. 166—
Grist Mills—Continued.

order in which it shall be received; and for neglecting or refusing to weigh the same when required, or failing to grind the same in the order received, or for taking more than lawful toll, he shall be punished by a fine of not less than \$10, nor more than \$50, for each offense; * * * [1885]

Revised Statutes 1944, Vol. II, Title 13, Ch. 120—
False Advertising.

Sec. 29. Unlawful acts; misdemeanor.

Any person, firm, corporation, or association who, with intent to sell or in any wise dispose of merchandise, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other

publication, or in the form of a book, notice, handbill, poster, bill, circular, label, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact, which is untrue, and designed to be deceptive or misleading, shall be guilty of a misdemeanor.¹

The provisions of this section shall not apply to any radio station, publisher of a newspaper, magazine, or other publication, or printer, who publishes or prints said advertisements without actual knowledge of its falsity. The fact of the publishing or printing of such advertisement shall not be prima facie evidence of such actual knowledge of falsity. [1941]

¹ See Sec. 2, Ch. 136, below; punishment for misdemeanor.

Revised Statutes 1944, Vol. II, Title 13, Ch. 136—
Misdemeanor.

Sec. 2. Punishment when not fixed by statute.

When no punishment is provided by statute, a person convicted of an offense shall be punished by a fine of not more than \$500, or by imprisonment for less than 1 year. [1917]

MARYLAND

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Flack's Annotated Code 1939, Vol. 2, Art. 97—Weights and Measures.

Sec. 1. State standards.

The standards for weights and measures in this State, except as otherwise provided in this Article [Sec. 1-65], shall be the same as the standards of weights and measures of the United States. [1914]

Sec. 2. Appointment of county inspectors; duties.

The County Commissioners of each County, shall, on or before the first day of May in each year, appoint some person, or persons, as inspector or inspectors of standards of weights and measures, who shall safely keep and preserve the same, and, when required, deliver them to said County Commissioners, or to such persons as they may appoint to receive the same; and who shall perform the duties as prescribed by this article in the territory for which they have been appointed. [1914]

Sec. 3. Appointment of inspectors for Baltimore City; duties.

The Comptroller of Baltimore City shall appoint such number of inspectors of Standards of weights and measures as may be required for said city, said appointment to be made in the way and manner now, or that may hereafter be, adopted by the Mayor and City Council of Baltimore under and by virtue of the powers conferred by the Charter of

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said city; and said inspectors shall safely keep and preserve said standards of weights and measures in and for the City of Baltimore, and, when required, deliver them to said Comptroller, or to such persons as he may appoint to receive the same; and they shall perform the several duties prescribed by this Article [Secs. 1-65] in and for the territory for which they have been appointed. [1914]

Sec. 4. Inspector's bond.

Each person so appointed for the several Counties and the City of Baltimore, before entering upon the duties of his office, shall give bond to the County Commissioners of the County for which he is appointed or to the Mayor and City Council of Baltimore City if appointed for said city, in the penal sum of five hundred dollars, conditioned for the faithful discharge of all the duties appertaining to his office. [1914]

Sec. 5. Duties of inspectors; use of weights and measures unlawful unless inspected and branded; penalties.

All weights and measures used within this State in the vending of articles, shall be inspected and stamped or branded by said inspectors, and when adjusted shall be by said inspectors stamped or branded with letters "Md. S.," meaning thereby "Maryland Standard," together with the figures that will indicate the year of inspection, in such manner

and on such parts of said weights and measures as shall be most lasting and effectual in preventing and detecting fraudulent practices or impositions in the use of such weights and measures; and the like inspection shall be repeated once in every year, and the year of inspection stamped or branded thereon; provided that such inspection and stamping or branding, as set out in this Section, shall be done in the city of Baltimore at such times and in the manner as is now, or may hereafter be provided by the Mayor and City Council of said city. Such weights and measures so examined and stamped or branded as aforesaid, and no other, shall be used in this State in the vending of such articles as are directed by law to be, or are usually sold by weight or measure,¹ firm or corporation or agent, employee or officer of any person, firm or corporation; and any person violating any one of the provisions of this section shall be liable to indictment in any Court in this State having criminal jurisdiction, and upon conviction thereof shall be fined not more than fifty dollars, in the discretion of the Court, for the first offense, and if convicted a second time for a violation of this section, the person or persons so offending shall be fined not more than one hundred dollars, and be imprisoned for not more than thirty days, in the discretion of the Court, and his, her or their license, if any was issued for the business he, she or they are engaged in, shall be declared null and void by the Judge of said Court; and it shall not be lawful for such person or persons to obtain another license for the period of twelve months from the time of such conviction, nor shall a license be obtained by any other person or persons to carry on said business on the premises or elsewhere, if the person, so as aforesaid convicted, has any interest whatever therein, or shall derive any profit whatever therefrom; and in case of being convicted more than twice for a violation of this section, such person or persons on each occasion shall be imprisoned for not more than sixty days, and fined not more than double that imposed on such person or persons on the last preceding conviction; and his, her or their license, if any was issued, may be declared null and void by the Court, and no new license shall be issued to such person or persons for a period of two years from the time of such conviction, nor to any one else to carry on said business wherein he or she is in anywise interested, as before provided for the second violation of the provisions of this section. [1914; reenacted 1916.]

¹ This section as reenacted in 1914, and as printed in the session laws for that year, showed a period following the word "measure." Then came the following sentence: "Any person, firm, or corporation, or agent, employee or officer, of any person, firm or corporation, violating any of the provisions of this section shall be fined not more than twenty dollars for each offense." This concluded the section, the current wording being that of the 1916 reenactment found in that year's session laws.

Sec. 6. Notice of time of inspections to be published; exception to Baltimore City.

The inspectors of weights and measures for the several Counties of the State shall attend at the different markets, towns and villages, in the County for which they shall respectively be appointed at least once in each year, and at the different public inspecting warehouses in said Counties at least twice in each year, on some certain days to be appointed by the County Commissioners of which thirty days' public notice shall be given by advertisement inserted in some one or more newspapers in the Counties in which there may be such paper printed, and also by advertisement set up at some conspicuous place in the said markets, warehouses, villages and towns, and shall inspect and adjust all beams and scales, weights and measures, used or intended to be used in said County; provided, that such inspection and adjustment of all beams, scales, weights and measures in Baltimore City shall be made at the times and in the manner as is now or may hereafter be provided by the Mayor and City Council of said city. [1914]

Sec. 7. Records of inspections; examination of sample packages submitted by manufacturer; certificate.

Each inspector of weights and measures shall keep a record in book form, in which he shall register the names of the persons whose beams and scales, weights and measures he has adjusted, also the names of the manufacturers or persons for whom sample packages have been measured, together with the day of the month and year, and number and description of the same so adjusted or measured, which he shall submit to the inspection of the County Commissioners of the County for which he is appointed, or the Comptroller of Baltimore City if appointed for said city, once in each year or oftener if required. It shall also be the duty of the inspector or inspectors of standards of weights and measures to examine all sample packages submitted to them for measurement, and if the submitted package or packages are found to be in conformity with the standard of measurements as provided for by this article [Secs. 1-65], the said inspector or inspectors are to issue a certificate to the party or parties submitting the sample package setting forth this fact, which certificate is to be sufficient authority for the manufacturer of such packages to manufacture and to sell the same. [1914]

Sec. 8. Refusal to have inspections made; penalty.

If any person, firm or corporation, or agent, employee, or officer, of any person, firm or corporation shall refuse or neglect to have his, her, their or its beams or scales, weights and measures inspected and adjusted as directed in this Article [Secs. 1-65] when required to do so by the proper officer, he, she, they, or it, shall be fined five dollars for every day during such delinquency. [1914]

Flack's Annotated Code 1939, Vol. 2, Art. 97—
Weights and Measures—Continued.

Sec. 9. Use of family scales prohibited for commercial purposes; penalty.

It shall be unlawful for any person, firm or corporation, or agent, employee or officer of any person, firm or corporation to have in his, their or its possession for commercial purposes, any scale designated or commonly known as family scales. Any person, firm or corporation, or any agent, employee or officer of any person, firm or corporation having in his, her, their or its possession for commercial purposes any such scale, shall on conviction be subject to a fine of not less than twenty dollars nor more than fifty dollars for each offense, provided, that this shall not apply to any county of which there is no inspector of weights and measures or other similar official. [1920]

Sec. 10. Seizure and sale of false equipment.

If any inspector shall be informed or has reason to suspect that any person, firm or corporation is using, or has in his, her, their or its possession with fraudulent intention any false beams or scales, or weights, or measures, he shall examine the same, and if he finds them, or any of them to be false he shall seize the same as a forfeiture, and adjust, and sell them at public auction; and shall annually return a statement of the money received therefor under oath to the County Commissioners of the County for which he is appointed, or the Comptroller of Baltimore City, if appointed for said city. [1914]

Sec. 11. Use of damaged or condemned equipment; penalty.

If any weight or measure which shall have been stamped or branded as required by provisions of this Article [Secs. 1-65], shall be broken, injured, altered, or changed, or condemned by any inspector, and shall be found thereafter in the use of any person, firm or corporation, or agent, employee, or officer, of any person, firm, or corporation, within this State, such person, firm, or corporation, or agent, employee, or officer of such person, firm or corporation, shall be fined twenty-dollars for each and every offense; provided, that this Section shall not apply to the standard quart berry box or basket, nor to the standard barrel for the measurement in this State of green peas or beans in the hull. [1914]

Sec. 12. Disposal of condemned equipment in Baltimore; removal of tag; penalty.

It shall be unlawful for any person, firm or corporation, or for any agent, employee or officer of any person, firm or corporation to sell, destroy or dispose in any way of any scale, weight or measure which has been condemned by an inspector of weights and measures in the City of Baltimore without the knowledge and consent of said inspector, or to remove any tag placed on a scale, weight or measure

by such inspector showing that it has been condemned until such scale, weight or measure has been re-inspected and approved, and the said tag shall be placed in a conspicuous place and shall only be removed by one of the inspectors of weights and measures. Any one violating the provisions of this section shall, upon conviction, be fined not less than twenty-five nor more than one hundred dollars for each and every offense. [1920]

Sec. 13. Compensation of inspectors.

Each inspector for the several Counties shall receive compensation for the discharge of his duties as the County Commissioners of the County for which he is appointed shall think proper to allow, which shall be levied on the assessable property of said County, and collected as other County charges. And the inspectors appointed for Baltimore City shall receive compensation for the discharge of their duties as is now, or may hereafter be, provided by the Mayor and City Council of said city. [1914]

Sec. 14. Fees for adjusting equipment.

Whenever any inspector shall be applied to [to] adjust scales, weights and measures by adding to or diminishing the same, or to adjust scales and beams he shall be allowed an additional reasonable compensation therefor to be paid by the party so applying for his services. [1914]

Sec. 15. Standard units of liquid measure; sale of ice cream, frozen custard, etc. according to standard; penalty.

The units or standards of measures of capacity for liquids designated in this Article [Secs. 1-65] shall be based on a liquid gallon, or two hundred and thirty-one cubic inches; thirty-one and one-half gallons equaling one barrel, and two barrels one hog-head, continual divisions of the gallon by two, equaling half-gallons, quarts, pints, half-pints and gills. Ice cream, frozen custard, ice milk, milk sherbet, water ice or ice sherbet sold in packages or containers of one gill or more shall, for the purposes of this section, be deemed to be a liquid. Any person, firm or corporation selling ice cream, frozen custard, ice milk, milk sherbet, water ice or ice sherbet in packages or containers containing one gill or more which do not conform to the divisions of the gallon as prescribed in this section shall be guilty of a misdemeanor and, upon conviction, be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each and every offense. [1914; last amended 1935]

Sec. 16. Standard units of dry measure.

The units or standards of measures of capacity for dry measure designated in this Article [Secs. 1-65] shall be based on a dry bushel of two thousand one hundred and fifty and four-tenths cubic inches; continual divisions of the bushel by two, equaling half-bushels, pecks, half-pecks, quarter-pecks, quarts, pints and half-pints. [1914]

Sec. 17. Standard basket.

The standard five-eighths ($\frac{5}{8}$) of a bushel basket shall contain not less than thirteen hundred and forty-four (1344) cubic inches. [1914]

Sec. 18. Standard measure for berries, nuts, and small fruits.

The standard of measure for shipping and selling strawberries, raspberries, blackberries, currants, gooseberries, cranberries, whortleberries, cherries, plums, peanuts, kernels of other nuts, and all other berries and small fruits, grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be the quart containing sixty-seventh [sixty-seven] and two-tenths cubic inches, continual division of the quart by two, equalling pints and half-pints. [1914]

Sec. 19. Same: Containers other than standard prohibited; penalty.

Any person, firm or corporation, or agent, employee or officer of any person, firm or corporation, having in his, her or its possession for use for the packing or repacking of the berries, fruits, nuts and other articles designated in the sixteenth section of this Article [Secs. 1-65], grown in this State or elsewhere, a berry box or basket of less capacity than that designated in Section sixteen, shall on conviction be fined not less than twenty dollars nor more than fifty dollars for each offense; and the possession for use, or use of each such berry box or basket shall constitute a separate offense. [1914; last amended 1920.]

Sec. 20. Standard bushel for fruits and vegetables.

The standard bushel box or basket for the shipment or sale by the box or basket of peaches, pears, tomatoes and all other fruits and vegetables grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of the capacity of two thousand one hundred and fifty and four-tenths cubic inches when even full, a half-bushel box or basket for the same shall be of the capacity of one thousand and seventy-five and two-tenths cubic inches when even full. [1914]

Sec. 21. Standard barrel measure for green peas or beans in the hull; marking requirements; penalty.

The standard barrel for the measurement of all green peas, or beans in the hull for which a heaping measure is now given, shall be of the following dimensions, namely: diameter of said barrel at the top shall be eighteen and three-fourth inches inside the staves, the diameter at the bottom inside the staves shall be sixteen and one-fourth inches, and the depth of said barrel shall be twenty-six inches inside, and to contain in all six thousand two hundred and fifty-three and three-fourth cubic inches, measurement by said barrel to be struck measure. The dimensions of any barrel so used shall be stamped by the inspector of weights and dry measures

of the City of Baltimore upon the same in three conspicuous places, and any person using a barrel for the measurement of peas, beans and like farm products without being so stamped shall be fined not less than one hundred dollars nor more than five hundred dollars, said fines to be collected as other fines are now collected. [1914; last amended 1916.]

Sec. 22. Same: Use when damaged or condemned; penalty.

If any barrel for the measurement of green peas, or beans, in the hull when sold by the bushel in this State, which shall have been stamped as provided for in Section 21 of this Article [Secs. 1-65], shall be broken, injured, altered, or changed, or condemned by the inspector, and shall be found thereafter in the use of any person, firm, or corporation, or agent, employee, or officer of any person, firm or corporation, within the State, such person, firm, or corporation, or agent, employee, or officer of such person, firm or corporation, shall be fined not less than one hundred dollars for each offense. [1914]

Sec. 23. Standard barrel for fruits and vegetables.

The standard barrel for the shipment or sale by the barrel of pears, quinces, Irish potatoes, sweet potatoes, turnips, green peas, beans, cabbage, beets, parsnips, carrots, kale, spinach, broccoli, onions, and all other fruits and vegetables grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of not less than the following dimensions: Diameter of top and bottom, sixteen and one-half inches; diameter of bulge, eighteen and one-half inches—both inside measurements, length of stave twenty-seven and one-half inches. [1914]

Sec. 24. Standard double-head barrel for apples.

The standard double-head barrel for the shipment or sale by the barrel of apples grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of the following dimensions: Head diameter, seventeen and one-eighth inches ($17\frac{1}{8}$), regardless of the depth of the chine in the staves; distance between heads, twenty-six inches (26), inside measurement; circumference at the bulge, sixty-four inches (64), outside measurement. [1914]

Sec. 25. Marking of non-standard barrels; penalty.

Any person, firm or corporation in this State who manufactures, sells, offers for sale, or has in his, her, or its possession barrels, baskets, or boxes of the capacities defined in Sections 20, 23 and 24 of this Article [Secs. 1-65], and if of less capacities than are defined in said Sections 20, 23 and 24, must plainly mark in three conspicuous places on the exterior sides of said barrels, baskets, or boxes, in letters not less than one and one-half inches high the word "Short." Any person, firm, or corporation, or agent, employee, or officer of any person, firm, or

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corporation, violating any of the provisions of this Section shall be fined not less than one dollar, nor more than five dollars for each offense; and the use, sale, or manufacture of each barrel, basket, box, half-box, or half-basket, not marked as designated herein shall constitute a separate offense. [1914]

Sec. 26. Bushel, ton, and barrel weights.

The standard weights for grain, hay, straw, produce, and mineral coal for this State shall be as follows:¹

Apples (dried).....	pounds per bushel	28
Apples (green).....	do	50
Alsike clover seed.....	do	60
Alfalfa seed.....	do	60
Barley.....	do	48
Barley malt.....	do	34
Buckwheat.....	do	48
Blue-grass seed.....	do	14
Dried beans.....	do	60
Bran.....	do	20
Carrots.....	do	50
Corn (shelled).....	do	56
Corn (on cob).....	do	70
Corn (on cob).....	pounds per barrel	350
Corn (shelled).....	do	280
Corn meal.....	pounds per bushel	48
Clover seed.....	do	60
Castor beans or seed.....	do	50
Coal or culm.....	do	76
Coal.....	pounds per ton	2,000
Charcoal (commercially dry) cubic inches per bushel.....		2,748
Cowpeas.....	pounds per bushel	60
Flour.....	pounds per barrel	196
Flaxseed.....	pounds per bushel	56
Herd's grass seed.....	do	45
Hungarian grass seed.....	do	50
Hemp seed.....	do	44
Hay.....	pounds per ton	2,000
Lime.....	pounds per bushel	80
Millet (German and American).....	do	50
Oats.....	do	32
Onions.....	do	54
Orchard grass seed.....	do	14
Peaches (peeled).....	do	40
Peaches (unpeeled).....	do	32
Dried peas.....	do	60
Potatoes (sweet and Irish).....	do	60
Peanuts.....	do	22
Rye.....	do	56
Red top grass seed (chaff).....	do	14
Red top grass seed (fancy).....	do	32
Rape.....	do	50
Straw.....	pounds per ton	2,000
Salt (coarse).....	pounds per bushel	70
Salt (fine).....	do	56
Sorghum.....	do	50
Timothy grass seed.....	do	45
Turnips.....	do	60
Wheat.....	do	60

[1914; last amended 1929.]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 27. Transactions in grain by bushel weight only.

All charges for freight, measurement, weighing, inspection, wharfage and commission on grain shall be made on the number of bushels as ascertained by

weight, and not by running measurement. Any person, firm or corporation, or agent, employee, or officer of any person, firm or corporation, violating any of the provisions of this Section, shall be fined not less than five dollars nor more than fifty dollars for each offense. [1914]

Sec. 28. False quantity marking on packages of cotton, woolen, or other dry goods; penalty.

No person shall sell any package or parcel of cotton, woolen, or other dry goods having any mark thereon or attached thereto indicating or stating a greater number or a larger quantity than is actually contained in such package or parcel; and any auctioneer, commission merchant or dealer so selling, shall in each case forfeit and pay to the purchaser or purchasers of each package or parcel double the value of the quantity of goods, which on actual measurement shall be found there is wanting in any such package or parcel to make up the number of yards or quantity marked thereon. All sums not exceeding one hundred dollars forfeited and payable under this Section shall be recoverable by the purchaser or purchasers before a Justice of the Peace as other debts; and all sums exceeding one hundred dollars by appropriate action in any Court having jurisdiction thereof in the City of Baltimore or the County where such sales were made. [1914]

Sec. 29. Bushel weight for tomatoes; scales and weigher for Center Market of Baltimore City; method of weighing; fees.

The standard of weights of tomatoes in the State of Maryland shall be sixty pounds to the bushel; and for the purpose of ascertaining the true weight thereof, there shall be appointed by the Governor a weigher, who shall be chargeable with the duty of weighing all tomatoes and other vegetables sold by weight brought to Center Market of Baltimore City for sale by the wagon-load on the scales now located at said market when applied to, to have said tomatoes or other vegetables weighed; and who shall receive therefor the sum of ten cents per wagon-load for performing such services, two cents of which shall be paid by him quarterly to the Comptroller to whom he shall give bond in the penalty of one thousand dollars, and the balance he shall retain as his own compensation for the services hereby imposed and performed; provided that besides the two cents he shall pay all excess over one thousand dollars to the Comptroller, it being the intent of this Section that he shall only receive one thousand dollars *per annum* as his salary to be paid entirely from his fees, at eight cents net per load. The said tomatoes and other vegetables shall be weighed in the wagons, and after delivery to the purchasers the wagons and empty boxes shall be returned to the said scales and the weight thereof shall be deducted from the gross weight as shown by the first weighing, and the said packers or purchasers shall be required to pay for said vegetables at the weight certified by

said weigher. In case the boxes, in which the tomatoes or other vegetables are contained, shall not be returned, said weigher shall weigh ten empty boxes, and the average weight shall be established as the weight of all boxes contained in any wagon or wagons so weighed by him, and any packer or purchaser who shall refuse to pay for the same according to the certificate of said weigher shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than fifty dollars for each offense; and any driver of any wagon who shall sell, dispose of, or barter any of the produce in his wagon which has been sold to a packer or other purchaser between the time of the weighing of the same and the delivery to said packer or purchaser, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined twenty-five dollars for each offense. [1914]

Sec. 30. Giving short weight or measure; penalty.

Any person, firm or corporation, or agent, employee or officer of any person, firm or corporation who shall knowingly and willfully give short weight or short measure to any one purchasing any article or commodity shall be guilty of a misdemeanor and shall on conviction be fined not less than twenty-five dollars nor more than five hundred dollars. A warrant for the arrest of any person, or agent, employee or officer of any person, firm or corporation may be issued at the instance of the purchaser receiving the short weight or measure or at the instance of any inspector of weights and measures in the State of Maryland. [1920]

Sec. 31. Penalties, how recoverable.

All fines, forfeitures and penalties imposed by the several Sections of this Article [Secs. 1-65], except as otherwise hereinbefore provided, shall be recoverable as now provided by the laws of the State of Maryland for the recovery of fines, forfeitures and penalties; one-half of said fines, forfeitures and penalties, except as otherwise hereinbefore provided, to be paid to the informer,¹ and the other half to the City of Baltimore or the County in which the offense shall have been committed. [1914]

¹ As to abolition of informer's fees, see Sec. 3, Art. 38, Flack's Annotated Code 1939, which reads as follows: "No portion of any fine, penalty or forfeiture shall be paid to any informer."

Sec. 57. Solid fuel: Definitions.

Whenever used in this sub-title [Secs. 57-64]:

(a) "Solid Fuel" shall mean and include anthracite, semi-anthracite, bituminous or semi-bituminous coal, lignite coal, briquettes, boulets, coke, gas house coke, petroleum coke, petroleum carbon or any other manufactured or patented fuel not sold by liquid or metered measure except charcoal.

(b) "Person" shall mean and include an individual, partnership, association of individuals or corporation. [1937]

Sec. 57A. Same: Transfer of general supervision over weighing and licensing from bureau of mines to state comptroller.

General supervision over licensing of persons engaged in the business of selling solid fuel in Maryland, and of persons weighing solid fuel in connection with the issuance of delivery tickets is hereby transferred from the Bureau of Mines to the State Comptroller. Whenever the words "Chief Engineer of the Bureau of Mines", "Chief Mine Engineer", "Director of the Bureau of Mines", "Bureau of Mines", or "Bureau" appear in this sub-title, there shall be substituted therefor the words "State Comptroller". The records of the Bureau of Mines relating to its duties under this sub-title prior to the effective date of this June 1, 1949 shall be transferred to the State Comptroller. This section applies only to supervision of the licensing of, or weighing in connection with, the sale of solid fuel as broker, dealer or otherwise in the State of Maryland, and nothing herein is intended to affect the jurisdiction of the Bureau of Mines over weighing for the purpose of determining compensation for the labor of miners, as provided in Chapter XXIII (Compensation to Workmen for Labor) of sub-title "Bureau Mines" of Article 89 of the Annotated Code Maryland (1939 Edition, as amended in 1947 Supplement). [1949]

Sec. 58. Same: Registration and oath of dealers; penalty; exception.

No person shall engage in the business of selling solid fuel as broker, dealer or otherwise, in the State of Maryland, unless he shall first obtain a certificate of registration as a solid fuel dealer. Application for such certificate of registration shall be made to the Clerk of the Court of Common Pleas in the City of Baltimore, or to the Clerk of the Circuit Court for any county, upon a blank to be furnished by the said Clerk in such form as shall be determined by the Chief Inspector of Licenses of the State License Bureau, and shall be made in duplicate, one copy shall be filed with the clerk to whom such application is made, and a duplicate copy shall be filed by said clerk with the State License Bureau. Such application shall be verified by the oath of the applicant or, if the applicant is a corporation, by the oath of some officer thereof, and upon payment of the registration fee herein-after provided and a filing fee of fifty cents, the clerk shall issue to the applicant a certificate of registration as a solid fuel dealer for an annual period beginning on the first day of July in each year. The fee for such registration shall be Ten Dollars (\$10) for each annual period, payable in advance. Any person selling solid fuel in the State of Maryland, unless he has first obtained a certificate of registration, as herein provided, shall be deemed guilty of a violation of the provisions of this section, and upon conviction thereof, shall be

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punished by a fine of not more than Fifty Dollars (\$50) or by imprisonment for not more than thirty days, or by both such fine and imprisonment. This section shall not apply to operators who have mines located in this State, and who sell coal at the tipple either in car loads or by truck. [1937]

Sec. 59. Same: Revocation of certificate of registration.

The Chief Inspector of Licenses shall revoke any certificate of registration issued pursuant to the provisions of this sub-title [Secs. 57-64], upon proof that the applicant has made false statements in his application for said certificate of registration, or upon proof that the person to whom such a certificate of registration has been issued has been guilty of a violation of any provision of this sub-title, and a conviction of such violation by any court or magistrate shall be conclusive evidence of such violation. Such revocation shall be made only upon complaint of some person and after hearing upon due notice to the holder of such certificate of registration.
* * * Any person selling solid fuel in the State of Maryland during the time that his certificate of registration as a solid fuel dealer has been revoked, shall be deemed guilty of a violation of the provisions of this section and upon conviction thereof shall be punished by a fine of not more than \$250 or by imprisonment for not more than three months or by both such fine and imprisonment. [1937; last amended 1945.]

Sec. 60. Same: Delivery ticket; contents; tolerance; penalties.

All deliveries of solid fuel to purchasers who are consumers thereof, except solid fuel which is sold in bags in lots of one hundred pounds or less, not exceeding a total of one-quarter ton, shall be evidenced by a "delivery ticket." Such delivery ticket shall bear upon its face the following statement: "I hereby attest that I have delivered to the purchaser named herein the quantity and kind of coal specified in this ticket," and this statement shall be signed in ink or indelible pencil upon the original and one of the duplicate originals by the person actually making the delivery. Every delivery ticket shall also contain upon its face, in ink or indelible pencil, the following information: (a) date of issuance; (b) name and address of the person, firm or corporation selling the solid fuel; (c) the name and address of the purchaser; (d) the quantity in pounds and the kind, grade and size of the solid fuel delivered; (e) the signature of the licensed weighmaster issuing such ticket, together with his license number; (f) the license number on the vehicle carrying the solid fuel. Every delivery ticket shall be issued in triplicate, shall be serially numbered in each yard or branch, and shall be used only in consecutive order. One of the delivery tickets issued shall be used as the delivery receipt and shall be signed on its face by the recipient of the solid fuel or his agent. Another one

of such delivery tickets shall be given to the purchaser at the time of making the delivery. Every driver or person in charge of a vehicle in which solid fuel is being transported for delivery to a purchaser within the State of Maryland, shall at all times have in his possession delivery tickets for the solid fuel so transported or delivered, shall present them for inspection to any police officer upon request, and shall present them to the purchaser before unloading or attempting to unload the vehicle. The actual amount of the load of solid fuel being transported or delivered shall not be less than the weight represented in the delivery ticket or tickets, provided that in all cases sixty (60) pounds to a ton may be considered as an allowance for variation in scales and wastage, and the kind and size of the solid fuel being transported and delivered must be as specified in the delivery ticket. Any person transporting or delivering solid fuel in the State of Maryland except in the manner provided for in this section, shall be deemed guilty of a violation of the provisions of this section, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than six (6) months or by both such fine and imprisonment. Where solid fuel is delivered in car load quantity to a single consumer or to one or more consumers who have agreed to divide a car load lot and who are transporting the solid fuel from the siding or have made arrangements for such transportation, the delivery ticket shall show merely the initial, number and location of the car from which said fuel was unloaded, the date of delivery and the name of the person making delivery. Nothing in this section shall apply to the delivery of coal to or from a boat. [1937]

Sec. 61. Same: Weighmaster's license; revocation; duties; section applicable to District of Columbia.

No person shall make or issue a delivery ticket for solid fuel as provided in this sub-title [Secs. 57-64] unless such solid fuel has been weighed as herein provided by a weighmaster duly licensed by the Bureau of Mines.¹ Application for a license shall be made upon the form prescribed by the Chief Mine Engineer,¹ shall state the name and address of the applicant's employer and shall be verified by the oath of the applicant. In addition the applicant shall furnish satisfactory evidence of good moral character, and of ability to weigh accurately, and make correct weight tickets. The Bureau¹ may issue a license upon the payment of the annual license fee of ten dollars (\$10). The license may be renewed for successive periods of one year each, upon payment of a license fee of ten dollars (\$10), which license shall be kept in the place where the weighmaster is engaged in weighing and shall be open to inspection. Every licensed weighmaster shall notify the Bureau¹ in writing of any change of the name or address of his employer. A license may be suspended or re-

voked by the Chief Mine Engineer¹ after hearing, upon due notice to the licensee, for dishonesty, incompetency, inaccuracy, or any violation of the provisions of this sub-title. No licensed weighmaster shall knowingly permit any delivery ticket to be used or issued which purports to bear his signature which was not in fact signed by him or which expresses a weight not ascertained by him, nor shall any person use a delivery ticket not signed by a licensed weighmaster, nor knowingly issue or use a delivery ticket which purports to bear the signature of a licensed weighmaster but which was not in fact signed by such licensed weighmaster. No licensed weighmaster shall weigh up and sign a delivery ticket for any load of solid fuel unless such load is weighed by him on scales located within the State, which have been tested, approved, and sealed within twelve months, by the Bureau of Mines,¹ or, in case of scales located within the City of Baltimore, by the Division of Weights and Measures of the Department of Public Works of the City of Baltimore, and unless within twenty-four hours preceding the weighing of the vehicle loaded he shall have first weighed the vehicle empty² to determine the true tare weight of the vehicle unloaded and unless all the wheels of the vehicle, tractor, trailer, or semi-trailer included, transporting the solid fuel are on the scale at one and the same time, provided, however, that if the tractor is disconnected from the trailer or semi-trailer at the time of weighing the trailer or semi-trailer may be weighed without the tractor. No licensed weighmaster shall weigh up and sign a delivery ticket for any load of anthracite transported or being transported into the State of Maryland by motor vehicle unless and until a duplicate original of the certificate of origin of such anthracite shall be filed with the weighmaster as in this sub-title hereinafter provided, and such weighmaster upon signing such delivery ticket for any such load of anthracite shall make a notation upon the delivery ticket of the serial number and date of the certificate of origin covering said anthracite; provided, however, that for the purpose of permitting licensed dealers in solid fuel in the District of Columbia to comply with the provisions of this sub-title, the Bureau of Mines¹ is authorized to issue weighmaster licenses to persons employed in the District of Columbia by a dealer in coal who has obtained a license to do business in the State of Maryland, and such persons may weigh up and sign a delivery ticket for any load of solid fuel if such load has been weighed by him on scales located within the District of Columbia which have been tested, approved and sealed by the Sealer of Weights and Measures of the District of Columbia. Application for a weighmaster license pursuant hereto shall be made in the manner hereinbefore provided and such license shall be subject to all of the provisions of this Article [Secs. 1-65] and may be revoked as in said Article provided.

This section is intended to apply solely in favor of solid fuel dealers in the District of Columbia and shall under no circumstances be held to enlarge the privileges of solid fuel dealers doing business elsewhere than in the District of Columbia or of persons employed by them and if this section or any part thereof is held to create an unlawful discrimination against such solid fuel dealers or the persons employed by them, then and in that event, this section shall be deemed to be of no effect whatever and this sub-title shall be deemed to remain in full force and effect as if this section had never been passed. [1937; last amended 1939.]

¹ State Comptroller. For transfer of general supervision over weighing and licensing from Bureau of Mines to State Comptroller, see Sec. 57A, page 431.

² In Flack's Annotated Code 1939, following the foregoing section, it is stated: "The provisions of this section requiring vehicle to have been weighed empty before issuance of delivery ticket, to the extent applicable to interstate transportation, is unreasonable and unnecessary, and, therefore, unlawful restraint upon interstate commerce. *Yarger v. State*, 175 Md. 232."

Sec. 62. Same: Certificate of origin; weighing of loaded vehicles upon entering state; penalties.

No anthracite coal brought into the State of Maryland by motor vehicle shall be hauled, transported, purchased, sold or delivered in the State unless such anthracite is at all times accompanied by an original certificate of origin containing the following information:

- (1) The name or names and location of, and the name or names of the owners or operators of, the breaker, colliery or other place or places of production where the anthracite to which the certificate refers, has been produced.
- (2) The kind, size and weight of the anthracite.
- (3) The name and address of person claiming ownership of said anthracite.
- (4) The name and address of the driver of the motor vehicle transporting said anthracite and the State motor vehicle registration number of said vehicle, and the date of loading of said vehicle.
- (5) The name and address of the person or persons to whom said anthracite is to be delivered.

Every driver of a motor vehicle bringing anthracite into the State shall, before delivering the same, proceed to a scale operated by a licensed weighmaster. At the time of weighing every such driver shall file with the weighmaster a duplicate original of the required certificate of origin covering said anthracite. Such duplicate original certificate shall thereafter within one week, be filed with the Bureau of Mines¹ by the weighmaster with whom said certificate was first filed. Duplicate certificates of origin so filed with the Bureau of Mines¹ shall be open to public inspection during reasonable hours in accordance with the regulation of the Bureau.

Any person hauling, transporting, selling or delivering or causing directly or indirectly to be hauled, transported, sold or delivered any anthracite brought

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into the State of Maryland by motor vehicle, unaccompanied by a certificate of origin, or accompanied by a false, fraudulent or unauthorized certificate, shall be deemed guilty of a violation of the provisions of this section and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six months or to both such fine and imprisonment. [1937]

¹ State Comptroller. For transfer of general supervision over weighing and licensing from Bureau of Mines to State Comptroller, see Sec. 57A, page 431.

Sec. 63. Same: Penalties.

Any violation of any of the provisions of this sub-title [Secs. 57-64] except where a definite penalty is provided, shall upon conviction be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. [1937]

Sec. 65. State Board of Agriculture empowered to inspect weights and measures; penalties.

In addition to the powers of inspection, regulation and adjustment of scales, beams, weights and measures conferred by this Article [Secs. 1-65] upon the inspectors appointed by the County Commissioners of the several counties, and by the Comptroller of Baltimore City, the State Board of Agriculture shall, through its officers, agents and employees, have the authority and power to inspect, regulate and adjust any or all scales, beams, weights and measures used in the several counties of the State and in the City of Baltimore in the vending or purchasing of agricultural products and farm supplies which are directed by law or are usually sold by weight or measure. The said State Board of Agriculture shall have and exercise, through its officers, agents and employees, all the authority and power conferred by this Article upon the inspectors appointed by the County Commissioners of the several counties, and by the Comptroller of Baltimore City, including the power to condemn any scale, beam, weight or measure which it is impossible to repair, and to prohibit the use of and to remove and destroy or otherwise dispose of the same. The authority and power hereby conferred shall be exercised in such manner, by such method or methods and at such time or times as shall be determined upon by the said State Board of Agriculture, and the said Board shall have power to make or cause to be made an inspection or inspections of such scales, beams, weights and measures as, in its discretion, the public interest shall require.

Any person, firm or corporation, or any officer, agent or employee of such person, firm or corporation refusing to have his, her, their or its scales, beams, weights or measures inspected, regulated or adjusted by the said State Board of Agriculture, or

its officers, agents or employees as authorized by this Article, or refusing to carry out the lawful orders of the said Board, its officers, agents or employees, or interfering in any way with the exercise of the authority conferred by this Article, shall, upon conviction, be subject to the penalties provided therefor in this Article. The provisions of this section shall be construed as additional and supplemental to, and not in substitution for or in conflict with, any of the other sections of this Article. [1924]

Flack's Annotated Code 1939, Vol. 1, Art. 2A—Fruit and Vegetable Containers.

Sec. 30. Rules and regulations governing marking requirements.

The State Board of Agriculture through the Maryland State Department of Markets and its duly authorized agents may, after investigation and public hearing: * * * (2) promulgate from time to time rules and regulations governing the markings which shall be required upon containers of any fruit or vegetable, for the purpose of showing: * * * and/or (d) the variety, quantity, quality, condition and size of the product. [1939]

Sec. 32. When conformance to act mandatory.

No standard, grade, rule or regulation prescribed under this sub-title [Secs. 29-40] shall affect the right of any person to sell his fruit or vegetable without conforming thereto, but no person shall mark his fruit or vegetable, or container thereof in such a manner as to indicate that his fruit or vegetable conforms with any standard or grade of the Board [of agriculture] unless he shall have conformed with all the rules and regulations of the Board in relation thereto. [1939]

Sec. 33. Enforcement; rules and regulations.

The Board [of agriculture], through the Department [State Department of Markets] and its agents, shall enforce the provisions of this sub-title [Secs. 20-40] and may promulgate and enforce such rules and regulations as may be necessary to secure uniformity in the enforcement of this sub-title and the proper marking of containers of any fruit or vegetable. [1939]

Sec. 35. Penalty for violations.

Any person violating any provisions of this sub-title [Secs. 29-40] or willfully interfering with the Board [of agriculture] or its duly authorized agent in the performance of its duties, is guilty of a misdemeanor and shall, upon conviction, be fined not less than \$5.00 nor more than \$50.00 for the first offense, and not less than \$50.00 nor more than \$100.00 for the second offense, and not less than \$250.00 for each subsequent offense. [1939]

Sec. 37. Exemption from prosecution; certificates as prima facie evidence.

No person shall be prosecuted for violation of the provisions of this subtitle [Secs. 29-40] where it can

be established that the fruit or vegetable passed inspection by an authorized inspector of the Department [State Department of Markets] or by an inspector of the United States Department of Agriculture and was graded, packed and marked in accordance with the provisions of this sub-title. Certificates of inspection issued by all such inspectors shall be accepted as *prima facie* evidence in any Court of the facts contained therein. [1939]

Sec. 38. When vendor exempt from prosecution.

Any person who sells any fruit or vegetable in a container which is not properly marked shall not be prosecuted therefor when he can establish by satisfactory evidence that he was not a party to the grading or packing of the fruit or vegetable in question, and had no knowledge that the same was mismarked or illegally packed. [1939]

Flack's Annotated Code 1939, Vol. 1, Art. 23—Taximeters.

Sec. 365. Inspection and test.

The owner shall post in a conspicuous place, in each of the taxicabs owned by him, for which a permit shall have been issued, a schedule of the fares to be collected from passengers, and such schedule shall be so printed and arranged that such passengers can readily determine the exact fare payable by them, and it shall be unlawful to collect any fare otherwise than as appearing on, and determinable from, said schedule. Each taxicab, for which a permit has been issued, shall be equipped, while being used in the taxicab service, with accurate taximeters properly installed and connected, which taximeters shall be used exclusively as the means of measuring the charges for taxicab service rendered. When a fixed charge is made by zone, the extent of the zone shall be expressed in mileage. Such meters shall be subject to inspection and test by the Public Service Commission at the expense of the owner. [1931]

Flack's Annotated Code 1939, Vol. 1, Art. 23—Gas and Electric Meters.

Sec. 399. Appointment of meter inspectors; duties; permissible meters; testing apparatus.

* * * * *

The Commission [Public Service Commission] shall appoint inspectors of gas and electric meters, whose duty it shall be to inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring or ascertaining the quantity of illuminating or fuel gas, or natural gas, furnished by any gas corporation to or for the use of any person, and any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electrical current furnished for light, heat and power by any electrical corporation to or for the use of any person or persons, and

when found to be or made to be correct, the inspector shall stamp or mark all such meters and each of them with some suitable device, which device shall be recorded in the office of the Secretary of State.

No corporation or person shall furnish or put in use any gas meter which shall not have been inspected, proved and sealed, or any electric meter which shall not have been inspected, approved, stamped or marked by an inspector of the Commission. Every gas and electric corporation shall provide and keep in and upon its premises a suitable and proper apparatus, to be approved and stamped or marked by the Commission, for testing and proving the accuracy of gas and electric meters furnished by it for use, and by which apparatus every meter may and shall be tested, on the written request of the consumer to whom the same shall be furnished, and in his presence if he desires it. [1910; last amended 1914.]

Sec. 400. Inspection of meter upon request; removal if incorrect.

If any consumer to whom a meter has been furnished shall request the commission [public service commission] to inspect such meter, the commission shall have the same inspected and tested; if the same, on being tested, shall be found to be four per cent, if an electric meter, or two per cent, if a gas meter, defective or incorrect, to the prejudice of the consumer, the inspector shall order the gas or electrical corporation forthwith to remove the same and to place instead thereof a correct meter, and the expense of such inspection and test shall be borne by the corporation, if the same, on being so tested, shall be found to be correct, the expense of such inspection and test shall be borne by the consumer. A uniform reasonable charge shall be fixed by the commissioner [a public service commissioner] for this service. [1910]

Flack's Annotated Code 1939, Vol. 1, Art. 25—County Standard of Length.

Sec. 138. County to provide standard measure; custody.

The said county commissioners shall provide and keep a standard measure of one rod in length, by which surveyors of lands in said [each] county may compare, test and verify their several chains, the said standard measure to be kept under the control and in the custody of the county clerk, and to be accessible to all surveyors as aforesaid under such restrictions and regulations as may be deemed by the said county commissioners compatible with its safety and proper preservation. [1870]

Flack's Annotated Code 1939, Vol. 1, Art. 27—Apple Barrel.

Sec. 203. Dimensions.

An apple barrel ¹ shall be of the following dimensions: Head diameter, seventeen and one-eighth

Flack's Annotated Code 1939, Vol. 1, Art. 27—Apple Barrel—Continued.

inches; length of stave, twenty-eight and one-half inches; bulge, not less than sixty-four inches, outside measurement; and every person, firm or corporation buying or selling apples in this State by the barrel shall be understood as referring to the quantity or size of the barrel specified in this section; provided, however, that nothing in this section shall prevent any shipment of apples in the regular flour barrel. [1900]

¹ See Sec. 24, page 429.

Flack's Annotated Code 1939, Vol. 1, Art. 27—
"Uniform Narcotic Drug Act."

Sec. 340. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1935]

Sec. 351. Enforcement.

It is hereby made the duty of the State Department of Health, its officers, agents, inspectors and representatives, and of all peace officers within the State, and of all State's Attorneys, to enforce all provisions of this sub-title, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other States, relating to narcotic drugs. [1935]

* * * * *

Sec. 352. Penalty for violations.

Any person violating any provision of this sub-title [Secs. 328-357] shall, upon conviction, be punished for the first offense by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment for not exceeding three years, or both; and for any subsequent offense by a fine not exceeding three thousand dollars (\$3,000.00) or by imprisonment for not exceeding five years, or both. [1935]

Flack's Annotated Code 1939, Vol. 1, Art. 43—Food.

Sec. 189. Penalties for manufacturing and selling misbranded food; exceptions.

It shall be unlawful for any person, persons, firm or corporation within this State to manufacture for sale, produce for sale, expose for sale or sell any article of food, * * * which is * * * misbranded or insufficiently labeled within the meaning of sections 189 to 200, and any person or persons, firm or corporation who or which shall manufacture for sale, produce for sale, expose for sale or sell any article of food * * * which is * * * misbranded or insufficiently labeled within the meaning

of sections 189 to 200, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not to exceed five hundred dollars, or shall be sentenced to no more than one year's imprisonment, or both such fine and imprisonment, in the discretion of the court; provided, that no article shall be deemed misbranded * * * within the provisions of sections 189 to 200 when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this *proviso* shall not exempt said article from the operation of any of the provisions of sections 189 to 200. [1910]

Sec. 192. When food deemed misbranded.

* * * for the purpose of Sections 189 to 200, an article shall also be deemed to be misbranded.

* * * * *

In the case of foods:

* * * * *

Second. If it be labeled or branded so as to deceive or mislead the purchaser, * * *.

Third. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of Section 196.

Fourth. If the package containing it, or its label, shall bear any statement, design or device regarding the ingredients or the substances contained therein which statement, design or device shall be false or misleading in any particular; * * * [1910; last amended 1935.]

Sec. 193. Guaranty protection.

No dealer shall be prosecuted under the provisions of sections 189 to 200 when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer or other parties residing in this State from whom any article or articles which may or can come within the provisions of sections 189 to 200 has or have been purchased, to the effect that same is not * * * misbranded within the meaning of sections 189 to 200, designating them. Any guaranty under the provisions of sections 189 to 200 to afford protection shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said guarantor or guarantors shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of sections 189 to 200. [1910]

Sec. 197. Enforcement; rules and regulations.

The State Board of Health shall enforce the provisions of Sections 189 to 200, and shall have the power to adopt from time to time, promulgate and publish by circular or otherwise, such general rules and regulations for the enforcement thereof * * * as it may deem proper; * * * [1910; last amended 1935.]

1947 Cumulative Supplement to Flack's Annotated Code 1939, Art. 43—Milk and Cream.**Sec. 509. Separate permit required at places where milk and cream are weighed, measured or tested.**

Every person who is engaged in any business in the conduct of which such person buys or receives milk or cream from the producer thereof shall, irrespective of the method of payment or settlement therefor, be required to hold a separate permit to be issued by the University of Maryland for each place where such milk or cream is weighed, measured or tested, * * *. [1941]

Sec. 510. Same.

* * * It shall be unlawful for any person to purchase or receive milk or cream by weight, measure, or butter fat test at any place where the same is to be weighed, measured or tested unless such person holds an appropriate valid permit for such place, or after such permit has expired, is revoked, or while it is suspended.

Sec. 511. Requirements for and test of glassware, weights, and balances; fees.

It shall be unlawful for any person who is subject to the provisions of Section 509 of this sub-title [Secs. 497-525] to use, in the determination of the butter fat content of the milk or cream so purchased or received, any test glassware, weights, centrifuges, or balances which do not conform to the requirements of the United States Bureau of Standards and which have not been inspected, tested and approved by the University of Maryland, and for each such inspection said University shall have the right to make a reasonable charge, not in excess of five (5¢) cents per item. [1941]

Sec. 512. Weight of cream-test sample.

* * * In all tests of cream, the quantity used in the test bottle shall be either nine (9) or eighteen (18) grams by weight, not measure, and the test shall be read with the aid of an approved meniscus remover. [1941]

Sec. 513. Weighing by licensed weigher; testing; records.

Every person who is subject to the provisions of Section 509 of this sub-title [Secs. 497-525] who purchases or receives milk on the basis of its weight shall have such weight ascertained by a person duly licensed as weigher by the University of Maryland, and every such person who purchases or receives

milk or cream on the basis of its butter fat content shall have such content ascertained and the samples used for such ascertainment drawn by a person duly licensed as sampler by said University. Immediately after the milk and/or cream shall be so weighed or tested, a record thereof shall be made in ink or with indelible pencil by the licensed weigher or tester who weighed or tested the same. Such record shall show the name of the producer, or his number where he is identified by number, in a manner satisfactory to said university, the location of the farm on which the milk and/or cream was produced, the marks by which the samples thereof may be identified, the weight, where the milk was purchased or received on the basis of its weight, and the butter fat content where the milk and/or cream were purchased or received on the basis of such content. All such records shall bear the date when such milk was weighed or such milk and/or cream was tested and the license number and signature of the weigher or tester who weighed or tested such milk and/or cream, and, together with evidence of payment for such milk and/or cream on the basis of such records, shall be kept for at least twelve (12) calendar months from the date thereof at the place where the milk or cream recorded thereon was received, and during such period shall be open to inspection at all reasonable times by the University of Maryland, and at the request of any person who produced any milk or cream shown upon any such record, that portion of the record which relates to the milk or cream produced by such person shall be open to the inspection of that person at any and all reasonable times. [1941]

Sec. 517. Unlawful to use incorrect weight, measure, or test.

No person shall use as a basis of payment to any producer of milk or cream any weight, measure, or butter fat test thereof other than the correct such weight, measure, or butter fat test. [1941]

Sec. 520. Enforcement.

The University of Maryland shall enforce the provisions of Sections 509 to 522, both inclusive, of this sub-title [Secs. 497-525], and shall have authority to make rules and regulations necessary for such enforcement. [1941]

Sec. 522. Penalties for violations.

Any person convicted of violating any of the provisions of Sections 509 to 521, both inclusive, of this sub-title [Secs. 497-525], except Sections 512 and 517, shall be sentenced to pay a fine of not to exceed One Hundred Dollars (\$100.00), or to imprisonment in jail for not to exceed thirty (30) days, or both, at the discretion of the court, for each such offense. Any person convicted of violating any of the provisions of Sections 512 or 517 of this sub-title shall, for the first offense, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor

1947 Cumulative Supplement to Flack's Annotated Code 1939, Art. 43—Milk and Cream—Continued.

more than One Thousand Dollars (\$1,000.00) or to imprisonment in jail for not more than nine (9) months, and for each subsequent such offense shall be sentenced to pay a fine of not less than One Thousand Dollars (\$1,000.00) or to imprisonment in jail for not less than nine (9) months, or both, at the discretion of the court. * * * [1941] —

Flack's Annotated Code 1939, Vol. 2, Art. 58—Weighing and Testing of Milk or Cream on Petition.

Sec. 26. Board of Agriculture to weigh or test on petition.

* * * * *

On petition of twenty-five patrons of any dairy, creamery, or cooling station, the State Board of Agriculture, shall, through its duly authorized agent, make an inspection of such dairy, creamery or cooling station, including the testing and weighing of the milk or cream of each patron. [1916]

* * * * *

1947 Cumulative Supplement to Flack's Annotated Code 1939, Art. 48, Sec. 145—Eggs.

[ED. NOTE.—This section specifies minimum weights per dozen for the different egg grades but as its provisions relate primarily to quality said section has been omitted.]

Flack's Annotated Code 1939, Vol. 1, Art. 48—Tobacco.

Sec. 19. Hogsheads to be weighed; records.

It shall be the duty of each inspector [of tobacco] to cause each hogshead of tobacco before it is uncased, to be weighed, and the tobacco in each hogshead and the cask itself, to be separately weighed in his presence or that of his weighing clerk, in scales with weights of the proper standard; and the weight of each hogshead as first weighed, and the gross and net weight of the tobacco therein contained after inspection, to be entered in a proper book, with sufficient reference to its numbers and marks as previously recorded. [1864; last amended 1916.]

Sec. 20. Hogsheads to be marked with weight.

It shall be the duty of each inspector to cause to be marked with a marking-iron on the side of each hogshead of tobacco under his charge the warehouse, number and weight of said hogshead, and the net weight of tobacco contained therein, and the gross warehouse number of such hogshead to be marked with blacking on each head thereof. [1864; last amended 1916.]

Sec. 25. False packing.

If any inspector or warehouse official upon examination of any hogshead or basket or other container of tobacco has reason to suspect that the same is trash or false packed; he shall cause the same to be shaken out and repacked, and shall charge for so

doing either the sum of two dollars per hogshead or one-half cent per pound of tobacco, the same to be paid by the owner or his agent; and if any inspector shall find that the package, cask or hogshead containing said tobacco is constructed of green or unseasoned timber, it shall be his duty to uncask said tobacco and furnish a new and dry package, cask, or hogshead for the same at the cost and expense of the owner of said tobacco or his agent; said cost and expense not to exceed, however, the sum of one dollar for each package, cask or hogshead so furnished. [1872; last amended 1943.]

Sec. 31. Condemned or stayed tobacco to be weighed; records.

All tobacco inspected in any of the warehouses which may be condemned or stayed shall be carefully cased up and weighed and the gross weight and tare be entered upon a book kept for that purpose, together with the number of breaks in such hogshead as may be stayed, also the cause, whether for false packing, trash, order or wet. [1872; last amended 1916.]

Sec. 32. Stayed tobacco to be repacked and reweighed; records.

All tobacco thus stayed shall, with all convenient dispatch be shaken out, reconditioned and packed under the supervision of the inspector and reweighed and entered upon the inspection books as all other tobacco. [1872; last amended 1916.]

Sec. 40. Dimensions of hogsheads.

No tobacco of the growth of this State shall be passed or accounted lawful tobacco for sale or storage in a hogshead market in Maryland unless the same be packed in hogsheads not exceeding fifty-four inches in the length of the staves, nor exceeding forty-eight inches across the head; and the owner or his agent of tobacco packed in any hogshead of greater dimensions shall repack the same in hogsheads of the size herein prescribed, at his own expense before the same shall be passed. [1872; last amended 1943.]

Sec. 47. Same: Lawful containers.

It shall and may be lawful for any grower or any owner of tobacco grown in this State to sell the same either in the State or out of it, in hogsheads of any size or weight, or in boxes, or in any other kind of style of package, without being compelled to have the same inspected by the State inspectors and without being compelled to place the same in the State warehouses for any purpose whatsoever, * * * [1864; last amended 1916.]

Sec. 59B. Weighing and measuring devices; inspections.

The proprietor or manager of every warehouse holding tobacco for sale shall have proper weights, measures, weighing devices, and measuring devices, and shall see that all such weights, measures, weighing devices, and measuring devices conform to the lawful standard and are kept in proper repair. All such weights, measures, weighing devices and meas-

uring devices shall be inspected periodically by the State Superintendent of Weights and Measures or by the Bureau of Mines and if found to be accurate and in good condition, said State Superintendent of Weights and Measures or Bureau of Mines shall make proper certification thereto. [1943]

Sec. 59C. Weighman not to misrepresent weight; penalty.

Any weighman or person acting as weighman, in any market engaged in selling or storing leaf tobacco in Maryland, who shall knowingly and wilfully misrepresent or attempt to misrepresent the weight of any tobacco weighed by him on the warehouse floor shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-Five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for each and every violation of this section. [1943]

Sec. 59K. State tobacco authority to inspect weights and measures of sales agencies.

* * * * *

(b) The Authority [State Tobacco Authority] shall make inspections from time to time or upon request of any interested party in order to determine the accuracy of any weights or measures used by any licensed tobacco commission sales agency. [1949]

* * * * *

Flack's Annotated Code 1939, Vol. 1, Art. 48—Commercial Feeding Stuffs.

Sec. 103. Definition.

The term "Commercial Feeding Stuffs," shall be held to include all feeding stuffs used for feeding live stock and poultry, except the following:

(a) Whole seeds or grains.

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo.

(c) Whole hays, straws, cottonseed hulls, corn stover and silage, when unmixed with other materials. [1920; last amended 1933.]

Sec. 104. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this State shall have printed thereon or affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1920]

* * * * *

Sec. 106. Registration; bulk sales.

Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling, offering or exposing for sale or distributing any commercial feeding stuffs as defined

in Section 103 of this Article [Secs. 1-173], shall pay to the University of Maryland an annual registration fee of fifteen (\$15) dollars for each brand of commercial feeding stuff sold, offered or exposed for sale or distributed in this State except the following: pure wheat bran, pure wheat middlings, pure wheat mixed feed; pure rye bran, pure rye middlings, pure rye mixed feed, pure buckwheat bran, pure buckwheat middlings, pure buckwheat feed; pure corn and oat chop, pure corn bran and pure corn meal, sold as a feeding stuffs, on which no fee is required, and receive therefor a license to sell such commercial feeding stuffs until the first day of January next following; said fees to constitute a fund for the payment of the cost of the inspections, sampling, analysis and other expenses incident to putting into effect the provisions of this sub-title [Secs. 103-113]. Whenever any commercial feeding stuffs, as defined in Sections 103 or 106 is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand tags upon which shall be printed the statement required by the provisions of Section 104, and when such feeding stuffs is sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser with sufficient tags for said packages, and, upon request, with a card or cards upon which appears the statement required by the provisions of Section 104. [1920; last amended 1933.]

Sec. 111. Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this State, any commercial feeding stuffs without having attached thereto or printed thereon the * * * statement as required by the provisions of this sub-title [Secs. 103-113], or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said State Chemist or his authorized agent in the performance of his duty in connection with the provisions of this Article [Secs. 1-173], or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in Section 103, without complying with the requirements of the provisions of this sub-title, * * * shall be deemed guilty of a violation of the provisions of this Article and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for the first violation and not less than one hundred dollars (\$100.00) for each subsequent violation. * * * [1920]

Sec. 113. Enforcement; rules and regulations.

The Maryland State Board of Agriculture is hereby empowered to enforce the provisions of this

Flack's Annotated Code 1939, Vol. 1, Art. 48—Commercial Feeding Stuffs—Continued.

sub-title [Secs. 103-113] and to prescribe the form of tags or labels to be used on commercial feeding stuff and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this sub-title. [1920]

Flack's Annotated Code 1939, Vol. 1, Art. 48—Insecticides and Fungicides.

Sec. 114. Definitions.

Certain terms appearing in this sub-title [Secs. 114-120] shall be defined as follows:

(a) The term "person" shall include any individual, firm, corporation, partnership, association, trust, joint stock company or unincorporated organization.

(b) The term "insecticide or fungicide" shall be construed to mean and include any and all substances intended for agricultural use in preventing, destroying, repelling or mitigating insects, rodents, fungi, bacteria, weeds or other pests, but to exclude drugs, poisons, chemicals or other preparations sold or intended for medicinal or toilet purposes or for use in the arts or sciences.

* * * * *

(c) The term "misbranded" shall apply to any insecticide or fungicide, the package or label of which shall bear any statement regarding such article or its ingredients which does not conform to the requirements of this sub-title. [1939]

* * * * *

Sec. 115. Marking requirements.

It shall be unlawful for any person to deliver, distribute, sell, expose, or offer for sale, either at wholesale or retail within this State:

(a) Any insecticide or fungicide unless the same shall be enclosed in the registrant's or the manufacturer's original unbroken container or package to each of which is affixed a label bearing: * * * (4) the net weight or measure of the contents. [1939]

* * * * *

Sec. 117. Enforcement; rules and regulations.

The provisions of this sub-title [Secs. 114-120] shall be enforced and administered by the State Board of Agriculture of this State, which is hereby authorized and empowered (1) to register insecticides or fungicides manufactured, compounded, delivered, distributed, sold, offered or exposed for sale, either at wholesale or retail, within this State; (2) to collect labels and samples thereof for analysis, examination or test by existing agencies of this State; * * * (3) to promulgate such rules and regulations in conformity with this sub-title as

may be necessary for its administration. * * * [1939]

Sec. 118. Exemptions.

The provisions of this sub-title [Secs. 114-120] prohibiting delivery and distribution of any insecticide or fungicide shall not apply to transactions of (1) manufacturers, processors or packers which relate to improvement, production and preparation of said commodities for lawful sale within the meaning of this sub-title; (2) common or private carriers and warehousemen while engaged in lawfully transporting and storing insecticide or fungicide; (3) public officers while engaged in the performance of their official duties, or (4) any employee of any of the foregoing while acting within the scope of his employment. [1939]

Sec. 119. Penalty for violations.

Any person violating any provision of this sub-title shall, upon conviction, be fined not more than \$25.00 for the first offense, nor more than \$100.00 for any subsequent offense. [1939]

Flack's Annotated Code 1939, Vol. 1, Art. 48—Agricultural Lime.

Sec. 121. Marking requirements.

All agricultural liming materials and gypsum, sold, offered, or exposed for sale within this State, shall have attached to it or be accompanied, in the manner provided in Section 123 hereof, by a plainly printed statement giving the following information:

* * * * *

(e) The net weight, when the material is sold in packages. [1935]

* * * * *

Sec. 122. Definitions.

For the purposes of this sub-title [Secs. 121-281], the term "agricultural liming materials" means any substances that contain calcium and magnesium in condition and quantity suitable for use in neutralizing soil acidity, or that are used as ingredients or reagents in the preparation of any fungicide or insecticide. The term "gypsum" means products consisting chiefly of calcium sulphate. [1935]

Sec. 123. Tags and labels.

The statement required by Section 121 shall, in the case of goods sold in package, be plainly printed upon the package, or upon a tag or label fastened thereto, of such quality and in such manner that it shall not be detached in handling, and, in the case of goods sold in bulk, the said statement shall be delivered to the purchaser either with the invoice therefor or with the goods. [1935]

Sec. 126. Penalty for violations; enforcement officer.

Any person or persons selling, offering, or exposing for sale, any of the materials covered by Section 121 or brand of the same, unless accompanied by

the statement required by Section 121, or, when so accompanied, if the said statements shall be false in any particular, or without having complied with all the foregoing provisions of this sub-title [Secs. 121-128], shall be guilty of a misdemeanor; and on conviction shall be sentenced to pay a fine of not less than ten nor more than fifty dollars for the first offense, and not less than one hundred dollars for each subsequent offense. It shall be the duty of the State Chemist to enforce the provisions of this sub-title; * * * [1935]

Flack's Annotated Code 1939, Vol. 2, Art. 61—Commercial Fertilizers.

Sec. 1. Definitions.

The term "fertilizer" as used in this Article [Secs. 1-15] shall mean any commercial fertilizer, or any article, substance or mixture sold, offered or exposed for sale, for manurial purposes in the State of Maryland of which the selling price shall be more than \$5.00 per ton of two thousand pounds, but shall not include ground gypsum, lime, ground limestone, ground shells, dung of all poultry or dung of domestic animals, in bulk, when sold as such and when not mixed with other fertilizer or fertilizer materials. The term "State Chemist" shall mean the professor in charge of the Chemical Department of the University of Maryland, who shall be *ex officio* State Chemist. * * * [1931]

Sec. 4. Marking requirements.

Every bag, barrel or package of fertilizer must bear plainly and conspicuously on the outside of same, and every parcel or lot sold in bulk must be accompanied by a clear and true statement in legible print, in the order herein stated, the following:

The net weight of the contents of the package or lot in pounds; [1931]

* * * * *

Sec. 10. Penalty for violations.

Any importer, manufacturer, manipulator, dealer, agent or person who shall sell, offer or expose for sale, or distribute in this State, any fertilizer or fertilizer material except that sold in bulk to manufacturers, manipulators or mixers for resale without having attached thereto or printed thereon the statement as required by the provisions of this Article [Secs. 1-15], or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said State Chemist or his authorized agent in the performance of his duty in connection with the provisions of this Article, or who shall sell, offer or expose for sale or distribute in this State any fertilizer as defined in Section 1 without complying with the requirements of the provisions of this Article, * * * shall be deemed guilty of a violation of the provisions of this Article and upon conviction thereof shall be fined not more than one hundred (\$100.00) dollars for the first violation and

not less than fifty (\$50.00) dollars for each subsequent violation. * * * [1931]

Sec. 13. Rules and regulations.

The University of Maryland shall have authority to establish rules and regulations in regard to the inspection, analysis and sale of fertilizer and fertilizer materials not inconsistent with the recommendations of the Association of Official Agricultural Chemists and the publication of all information pertaining to and authorized by this Article [Secs. 1-15] to the end that the provisions of this Article may be effectively administered and enforced. [1931]

1947 Cumulative Supplement to Flack's Annotated Code 1939, Art. 72—Oyster Measures.

Sec. 2. Enforcement.

The provisions of this Article [Secs. 1-16] shall be administered by the Commission of Tidewater Fisheries * * *. [1945]

Sec. 10. Measures used for oysters in the shell and oyster shells; measures used in payment of shuckers; measures for sale of shucked oysters.

(a) All oysters in the shell and all oyster shells sold in this State shall be measured either in a half bushel tub, a bushel tub, a bushel and a half tub or a three bushel tub, and no measures shall be used for measuring either oysters in the shell or oyster shells except an iron circular tub with straight sides and a straight solid bottom, with holes in the bottom for draining; such holes to be no larger, however, than one inch in diameter; and all measurements to be taken from inside to inside; and the dimensions shall be as follows:

Half Bushel Tub—Fifteen inches across the top, thirteen inches across the bottom and seventeen inches diagonally from the inside chime to the top;

Bushel Tub—Sixteen and one-half inches across the bottom, eighteen inches across the top and twenty-one inches diagonally from the inside chime to the top;

Bushel and a Half Tub—Eighteen inches across the bottom, nineteen inches across the top and twenty-four inches diagonally from the inside chime to the top.

Three Bushel Tub—Twenty-two inches across the bottom, twenty-four inches across the top and twenty-nine and twenty-six hundredths inches diagonally from the inside chime to the top.

All oysters measured in the shell as herein required shall be even measure to the top of the tub only.

(b) In consideration of the quantity of water contained in measures of newly shucked oysters the proprietors or managers of all plants, houses or establishments may measure oysters as received from the shuckers in a special gallon cup which shall contain nine pints and no more, and no other

1947 Cumulative Supplement to Flack's Annotated Code 1939, Art. 72—Oyster Measures—Continued.

measure shall be used than this nine pint gallon cup in measuring any oysters received from the shuckers. All nine pint gallon measures used in measuring newly shucked oysters shall be stamped by the same officers of the State as are now required by law to inspect measures; and it shall be unlawful for any proprietor or manager of any house, plant or establishment which shucks oysters to neglect to have such nine pint gallon measures stamped.

(c) All shucked oysters sold in this State shall be sold by the Standard United States pint, quart or gallon, liquid measure, or by multiples of these liquid measures. [1945; last amended 1947.]

Sec. 16. Penalty for violations.

* * * * *

(h) Any person violating any of the provisions of Section 10 shall be guilty of a misdemeanor, and upon conviction thereof, fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), and stand committed to jail until such fine and costs are paid. [1945; last amended 1947.]

* * * * *

Flack's Annotated Code 1939, Vol. 2, Art. 89—Mine Scales.

Sec. 31. Appointment of inspector of weights and mine scales.

The Governor shall appoint from the list of eligibles previously established by the State Employment Commissioner, an inspector of weights and mine scales, and said inspector of weights and mine scales shall be paid such salary, and provided with such equipment, as may from time to time be provided for in the Budget. * * * [1939]

Sec. 150. Miners to be paid by weight; scales to be provided; records; test weights; exception.

In all coal mines in this State, the miners shall be paid by weight and the operator of every coal mine shall provide and hereafter maintain suitable and accurate scales, which scales shall be examined, tested, and kept in thorough repair by a competent person employed by such operator, at least once in every six months; a correct record shall be kept of all coal so weighed, which record shall be open at all reasonable hours to the inspection of miners employed at such mine. Such operator shall keep at the mine weighhouse such standard United States test weights as may be prescribed by the Bureau [of mines], for use in testing such scales, provided, however, that this section shall not apply to any operator who does not employ more than 3 men at any one time. The word "miners" as used in this section shall not be construed to include those persons who mine coal mechanically and who are paid a day rate for their services, in accordance with

the terms and provisions of any collective bargaining agreement, between said operator and such employees. [1922; last amended 1941.]

Sec. 151. Coal not to be screened before weighing.

The operator of every such mine shall not, before weighing the coal, pass the same over any screen or other device which shall take any part from the value thereof, or otherwise remove any of the coal; and shall duly credit the just and merchantable weight thereof to the employee sending the same to the surface. [1922; last amended 1941]

Sec. 152. Competency and oath of weighers.

The person authorized to take such weight and keep such record shall, before entering upon his duties, satisfy the district mine inspector that he understands the operation and adjustment of mine scales; and shall before entering upon his duties take and subscribe before a person authorized to administer oaths, an affidavit that he has not, and will not have, while so employed, any financial interest, direct or indirect, in such mine; and that he will accurately weigh and carefully keep a record of all coal weighed; which affidavit shall be filed in the office of the Clerk of the Circuit Court for the County, and a copy thereof kept conspicuously at the place of weighing, provided that in the event that any person so authorized to take such weight and keep such records shall become incapacitated, the operator may in such emergency appoint some other person, who understands the operation and adjustment of mine scales, who may act in the place and stead of the person authorized until such emergency appointee or some other person may be duly qualified; provided, that immediate action shall be taken to qualify such a person and an immediate report of such emergency action shall be transmitted to the district mine inspector. [1922]

Sec. 153. Check-weighmaster; duties.

The miners employed in any coal mine in this State shall have power, if they desire, of employing at their own expense a check-weighmaster, who shall have the right to be present and observe the weighing of coal by the weighmaster, to examine and test the scales, to inspect records made by such weighmaster; and be subject to the same qualifications, oath and penalties as such weighmaster. [1922]

Sec. 154. Duties of weighmaster.

The weighmaster shall balance, test and examine the scales each morning before starting to weigh coal; and shall accurately weigh and record the just net weight of such coal, crediting the employee who has sent the same to the surface in tons and hundred-weights computing therefor any majority fraction of a hundred-weight as a whole hundred-weight, and omitting credit of any fraction of a hundred-weight less than one-half a hundred-weight. [1922]

Sec. 156. Bushel and ton of coal.

Seventy-six pounds avoirdupois shall constitute one bushel of coal; and two thousand pounds avoirdupois shall constitute one ton of coal. [1922]

Sec. 156. Authority of Bureau as weights and measures inspector.

The Bureau [of mines] is hereby made inspector of weights and measures at all mines of this State, and all inspectors thereof are authorized, empowered and directed, under regulations of such Bureau, to conduct frequent inspections of all scales, measuring instruments, cars, and containers, and to determine their condition, accuracy, correct branding, weight, use and operation, to assure the proper use thereof and the competency of any person authorized to use them. [1922]

Sec. 158. Use of incorrect scale or measure a misdemeanor.

Any person or persons having or using any scale, measure, car, container or other instrument for the purpose of determining the amount of product and resulting compensation of any workman employed in or about any such mine, who shall knowingly or of gross negligence so arrange, construct or operate any such instrument that an incorrect determination and compensation may be reported, or shall make or permit to be made an incorrect and fraudulent record and account thereof, shall be guilty of a misdemeanor; and every day any such instrument is so arranged, constructed, or operated to obtain such incorrect determination, or such incorrect and fraudulent record and account is made or permitted to be made, shall be a separate offense. [1922]

1947 Cumulative Supplement to Flack's Annotated Code 1939, Vol. 1, Art. 27—False Advertising.

Sec. 207. Definitions; unlawful acts; penalty.

1. The word "person" when used in this section shall include association, firm, partnership, corporation, or agent or employee of any thereof.

2. The word "merchandise" when used in this section shall include real estate, securities, service, employment, the making of loans at interest, or any contract with reference to any of the foregoing, and anything else purporting to be of value.

3. The word "advertise" when used in this section shall mean publish, circulate, disseminate or place before the public in any way or through any media whatever, for the purpose of the sale of merchandise, and shall specifically include advertising by outside or inside signs, including neon or other electrical signs, advertising by radio, telephone, or television, and advertising through newspaper, magazine, book, notice, circular, pamphlet, letter, handbill, poster, placard, card, label, or any other way similar or dissimilar to the foregoing.

(b) It shall be unlawful for any person, for the purpose of purchase, sale or disposal of merchandise, to advertise any statement containing a representation of fact which is known or by the exercise of reasonable care should be known by such person to be untrue, deceptive or misleading.

* * * * *

(e) Any person who violates any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not exceeding one year, or both fined and imprisoned. [1945]

MASSACHUSETTS

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Annotated Laws (1933), Vol. X, Constitution, Ch. 1,
Sec. 1—General Court.

[ED. NOTE.—No section of the Massachusetts Constitution refers specifically to weights and measures, but the following section has been construed to permit enactments by the legislature relative to weights and measures under the police power, in that the legislature has the power to protect the public against fraud.]

[Sec. 36] Article IV. Powers of general court.

And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming

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and settling all civil officers within the said commonwealth; the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support

Annotated Laws (1933), Vol. X, Constitution, Ch. 1, Sec. 1—General Court—Continued.

of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth taken anew once in every ten years at least, and as much oftener as the general court shall order. [1780]

[ED. NOTE.—In the Annotated Laws of Massachusetts, following the foregoing section, it is stated: "The protection of the public against fraud is a well-recognized branch of the police power, in the exercise of which the State may abridge an individual's freedom to contract, even in private business. Instances of this are the laws regulating the sale of oleomargarine and merchandise in bulk and the laws relating to weights, measures and packages. 4 Op. A. G. 519, 521."]

Annotated Laws (1944), Vol. I, Title II, Ch. 23—Department of Labor and Industries.

Sec. 1. Creation and supervision.

There shall be a department of labor and industries, under the supervision and control of a commissioner of labor and industries, in this chapter (Ch. 23) called the commissioner, an assistant commissioner, who shall be a woman, and three associate commissioners, one of whom shall be a representative of labor and one a representative of employers of labor. [1912; last amended 1921.]

Sec. 3. Duties of commissioner.

The commissioner shall be the executive and administrative head of the department. Except as otherwise provided, he shall have charge of the administration and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce, shall direct all inspections and investigations, and may assign the officers and employes of the department to the several divisions thereof. He shall organize in the department a division of standards, a division on the necessities of life, a division of occupational hygiene, and such other divisions as he may from time to time determine. * * * He shall prepare for the consideration of the assistant commissioner and the associate commissioners rules and regulations for the conduct of the department and all other rules and regulations which the department is authorized by law to make, and they shall, except as otherwise provided, take effect when approved by the associate commissioners and the assistant commissioner, or upon such date as they determine. The commissioner may designate the assistant commissioner or an associate commissioner to discharge the duties of the commissioner during

his absence or disability. [1912; last amended 1941.]

Sec. 4. Appointees.

The commissioner, assistant commissioner and associate commissioners may, with the approval of the governor and council, appoint not more than six directors and may, with like approval, remove them. One of them, to be known as the director of standards and necessities of life, shall have charge of the division of standards and the division on the necessities of life, and each of the others shall be assigned to take charge of a division, other than the division of unemployment compensation or its successor. The commissioner may employ, for periods not exceeding ninety days, such experts as may be necessary to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from chapter thirty-one [Civil Service]. Except as otherwise provided, the commissioner may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. [1835; last amended 1941.]

Sec. 5. Same: Employment requirements.

All directors, inspectors and other permanent employes of the department shall devote their whole time to the affairs of the department; and all directors and inspectors and such other employes as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and council. Except as otherwise provided, the commissioner, assistant commissioner and associate commissioners shall determine from time to time how many of the inspectors employed shall be women. [1859; last amended 1935.]

Sec. 8. Director of standards and necessities of life: Duties.

The director of standards and necessities of life shall, in addition to the powers and duties conferred and imposed upon him by law, perform such other duties as may be assigned to him by the commissioner. [1919; last amended 1939.]

Sec. 9. Inspectors of standards; bonds; penalty for hindering director or inspector.

Inspectors of standards appointed under section four shall aid the director in the performance of his duties, shall have all necessary powers therefor and shall give bond for the faithful performance of their duties. Whoever hinders, obstructs or in any way interferes with the director or an inspector in the performance of any official duty imposed by law shall, except as otherwise provided, be punished by a fine of not more than three hundred dollars or by imprisonment for not more than two months. [1859; last amended 1935.]

Annotated Laws (1946), Vol. III, Title XV, Ch. 98—Weights and Measures.

Sec. 1. Definitions.

In this chapter [Secs. 1–57] the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

“Director”, director of standards and necessities of life of the department of labor and industries.

“Deputy”, deputy sealer of weights and measures.

“Inspector”, inspector of standards.

“Sealer”, sealer of weights and measures.

“Weighing or measuring device”, all weights, measures, scales, balance beams, vibrating steel-yards, and weighing or measuring devices used for weighing or measuring any commodity bought, sold or exchanged or for hire or reward, computing scales and other devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale, taximeters and other forms of measuring devices used upon vehicles for determining the cost of transportation; and all machines and other forms of measuring devices used or intended to be used for determining the measurement of leather bought, sold or offered for sale. [1907; last amended 1939.]

Sec. 2. Relation of avoirdupois pound to troy pound.

The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundred weight shall contain one hundred avoirdupois pounds, and the ton twenty hundredweight. [1894]

Sec. 3. State standards.

The following weighing and measuring devices now in the custody of the director shall be the sole authorized standards, except as provided in sections four, nine and ten of this chapter, and in section one of chapter ninety-nine [metric system], and with the standards supplied under authority of said sections shall be called the state standards: a set of dry measures consisting of one half-bushel, eight, four, two and one quarts, one pint and one-half pint; a set of liquid measures consisting of one gallon, two and one quarts, one pint, two and one gills; a set of apothecaries' liquid measures consisting of one gallon, four, two and one pints, twelve, eight, six, four, three, two and one ounces, four, two and one drams, ten and five minims; a set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, three, two and one pounds, eight, six, four, three, two and one ounces, eight, six, four, three, two and one drams; a set of troy weights consisting of five thousand, three thousand, two thousand, one thousand, five hundred, three hundred, two hundred, one hundred, fifty, thirty, twenty, ten, five, three, two and one pennyweights, ten, six, five, four, three, two and one grains, one

half a grain, twelve, ten, six, five, four, three, two and one ounces, five tenths, four tenths, three tenths, two tenths, one tenth, five one-hundredths, four one-hundredths, three one-hundredths, two one-hundredths, one one-hundredth, five one-thousandths, four one-thousandths, three one-thousandths, two one-thousandths, one one-thousandth, five ten-thousandths, four ten-thousandths, three ten-thousandths, two ten-thousandths and one ten-thousandth of an ounce; a set of apothecaries' weights consisting of twelve, six, two and one ounces; a set of apothecaries' weights consisting of twelve, six, two and one ounces, four, two and one drams, two and one scruples, ten, five, four, three, two and one grains, one half, one quarter and one tenth grains; a yard measure and three sets of balances.

Such standards shall be kept by the director, and he shall, at least once in five years, cause them to be compared with the standards of the United States government, and, if necessary, corrected to agree therewith. [1647; last amended 1920.]

Sec. 4. Additional state standards; replacements.

The state standards shall also include all weighing and measuring devices received from the United States under the resolution of congress approved June fourteenth, eighteen hundred and thirty-six, and all other weighing and measuring devices received from the United States as standard weights and measures, and such as have been or shall be supplied by the commonwealth and certified by the national bureau of standards. Weighing and measuring devices procured to replace the standards shall be preserved in the same form and of the same dimensions as required of said standards, and the denominations thereof shall be marked thereon. [1799; last amended 1920.]

Sec. 5. Municipal standards.

Towns shall keep the following standard weights, measures and balances: A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four, two, one, one half, one quarter, one eighth and one sixteenth ounces; a set of dry measures consisting of one half-bushel, one eight-quart, one four-quart, one two-quart, one one-quart, one pint and one half-pint; a set of liquid measures consisting of one gallon, one half-gallon, one quart, one pint, one half-pint and one gill; one balance; one yard measure; and each town hereafter incorporated shall be furnished by the director with a complete set of the foregoing standards. Each city and each shire town shall keep the meter and kilogram and the standard troy weights designated by the director. [1647; last amended 1920.]

Sec. 6. Safe keeping of municipal standards.

Town treasurers shall, at the expense of the towns, provide therein accessible places for the safe

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and suitable keeping and preservation of the standards furnished by the commonwealth, which shall be used only as standards. The treasurer shall have the care and oversight thereof; shall see that they are kept in good order and repair; and if any are lost, destroyed or irreparably damaged, shall, at the expense of the town, replace them by similar standards. Towns may effect insurance on such standards for their own benefit. [1692-3; last amended 1909.]

Sec. 7. Penalty for neglect of town treasurer.

Each such treasurer who neglects to provide a suitable place for keeping such standards, or to keep them in good order and repair, or who suffers any of them through his neglect to be lost, damaged or destroyed, shall forfeit two hundred dollars. [1799; last amended 1897.]

Sec. 8. Vibrating steelyards.

Vibrating steelyards may be used if each beam and the poises thereof are annually tried, proved and sealed by a sealer or deputy. [1800; last amended 1816.]

Sec. 9. State clinical standard thermometer.

A clinical standard thermometer supplied by the commonwealth and certified by the national bureau of standards for use by the commonwealth, shall be the state clinical standard thermometer. Nothing in the five following sections shall be construed as adopting or authorizing the adoption of any particular scale as the thermometer standard for this commonwealth. [1917]

Sec. 10. Office clinical standard thermometers.

The commonwealth shall also supply additional clinical standard thermometers necessary to carry out sections nine to fourteen, inclusive, to be known as office clinical standards. Such thermometers shall be verified by the director upon their receipt and at least once in each six months thereafter, by direct comparison with the state clinical standard thermometer. The office clinical standards may be used in making comparisons of clinical thermometers under test. [1917; last amended 1919.]

Sec. 11. Tolerances and specifications for clinical thermometers.

The director shall promulgate tolerances and specifications for clinical thermometers. A correct clinical thermometer shall be one conforming to the standard established as provided in section nine and to specifications promulgated under this section, within such tolerances. [1917; last amended 1919.]

Sec. 12. Testing of clinical thermometers; fees.

The director may at any time inspect and test any clinical thermometer in the possession of any

manufacturer or dealer in this commonwealth and for this purpose may remove the same to such place as he may deem most convenient. Whenever he inspects and tests such a thermometer and finds it to be correct he shall seal, mark or otherwise certify it as correct. Whenever he inspects and tests such a thermometer and finds it to be incorrect he may condemn, seize and destroy it; or he may return it to the owner upon a satisfactory guarantee that it will not be sold or used.

The following fees for testing clinical thermometers shall be paid to the director for the use of the commonwealth: (a) one to eleven thermometers, inclusive, twenty-five cents each; (b) any number in excess of eleven, at the rate of two dollars per dozen; but no fee shall be charged for testing thermometers bearing the seal authorized by section thirteen other than those which have been voluntarily submitted for test by the director or inspectors of standards. [1917; last amended 1948.]

Sec. 13. Manufacture, sale and sealing of clinical thermometers; designating marks.

The director shall prescribe rules and regulations governing the manufacture and sale of clinical thermometers and may authorize the sealing of such thermometers by any manufacturer thereof upon his agreement to conform to said rules and regulations and the filing of a surety bond in such sum and upon such terms as the director may require. When representative samples of any clinical thermometer have been submitted by the manufacturer to the director and approved by him, he shall assign a designating mark which shall thereafter be permanently engraved by the manufacturer upon all clinical thermometers which are intended for sale and which conform to the samples which have been so approved. Clinical thermometers sealed by the manufacturer shall be marked with the name, initials or trade mark of the manufacturer, and with such other marks as the director may authorize or require. The director may revoke the authority given by him to any manufacturer under the provisions of this section upon proof that the authorized seal or designating mark has been affixed to a thermometer not conforming to the approved sample or that the prescribed rules and regulations have not been complied with. [1917; last amended 1921.]

Sec. 14. Penalties for violation of preceding section.

Whoever, himself or by his servant or agent, or as the servant or agent of another person, keeps for the purpose of sale, offers or exposes for sale, or sells any clinical thermometer not sealed, marked or certified as correct by the director, or by the manufacturer as provided by the preceding section, shall be punished by a fine of not more than ten dollars for each thermometer so sold, or kept, or offered or exposed for sale, and whoever violates any rule or regulation prescribed by the director under author-

ity of said section shall be punished by a fine of not more than fifty dollars. [1917; last amended 1921.]

Sec. 14A. Containers for lubricating oil.

Glass bottles or jars intended to be used in the sale of lubricating oil shall be made of clear, uncolored glass and shall be manufactured only in the following capacities: one gallon, two quarts, one quart, or one pint, Massachusetts standard liquid measure. Each bottle or jar shall have its capacity clearly blown in the glass and shall be sealed by the manufacturer thereof, as hereinafter provided, or by a sealer of the town where the user resides or has a usual place of business. The director shall prescribe regulations, including specifications and tolerances, governing the sealing of such bottles or jars by the manufacturer and may authorize such sealing by any manufacturer upon his written agreement to comply with such regulations. The director may at any time, for cause, revoke the authority so given by him to any manufacturer. When sealed by the manufacturer, such bottles or jars shall have clearly blown therein his name, initials, or trade mark, and any other designating marks which the director may authorize or require. The sealing of such bottles or jars by the manufacturer shall not exempt the user from the laws relating to the giving of a false or insufficient measure, the using of a false measure, or having in his possession a false measure with intent to use. Sealers of the town where the user resides or has a usual place of business shall at least annually inspect bottles or jars marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed as herein required, such bottles and jars need not again be sealed while in the same condition as when first sealed. [1931; last amended 1936.]

Sec. 15. Sealing of glass milk or cream bottles or jars; designating marks.

Glass bottles or jars used for the distribution of milk or cream to consumers, and holding, when filled to a level with the bottom of the cap or stopple or other definite filling point, not less than three ounces and seven drams and not over four ounces and two drams; not less than seven ounces and six drams and not over eight ounces and two drams; not less than fifteen ounces and five drams and not over sixteen ounces and four drams; not less than thirty-one ounces and four drams and not over thirty-two ounces and four drams; not less than forty-seven ounces and three drams and not over forty-eight ounces and five drams; not less than sixty-three ounces and two drams and not over sixty-four ounces and six drams, shall be sealed as measures under section forty-one or by the manufacturer. Dealers in milk or cream using glass bottles or jars for the distribution of milk or cream to consumers, not sealed by the manufacturer, shall

bring them into the office of the sealer in their town, to be sealed; but no fee shall be charged or received for sealing them. If a bottle or jar has once been sealed by a sealer or manufacturer, it need not be sealed again while used for the distribution of milk or cream to consumers. Glass bottles or jars sealed hereunder shall be legal measures only for the distribution of milk or cream to consumers. Bottles or jars sealed by the manufacturer shall be marked with his name, initials, or trade mark, and by any other mark required by the director. The sealing of such bottles or jars by the manufacturer shall not affect any law relating to the giving of false measure or the using, or having in possession, of false measures with intent to use the same. The director, on approval by the commissioner of labor and industries, may revoke the authority given by him to any manufacturer under this section, on proof that the authorized seal or designating mark has been affixed to any bottle or jar not conforming to the respective capacities provided for in this section. [1900; last amended 1920.]

Sec. 16. Sealing and stamping of milk or cream paper or fibre containers.

Paper or fibre bottles and jars used for the distribution of milk or cream to consumers, and holding, when filled to a level with the bottom of the cap or stopple, not less than eight, sixteen, thirty-two, forty-eight or sixty-four ounces, shall be sealed as measures under section forty-one or fifty-one, or by the manufacturer in the manner provided in the preceding section, and when so sealed may be used as provided by law for glass milk jars and bottles. Every such bottle or jar shall have plainly stamped upon it by the manufacturer the words: "Penalty for re-use, twenty-five dollars." [1910]

Sec. 17. Penalty for re-use of paper or fibre containers.

Whoever re-uses any such paper or fibre bottle or jar for distributing milk, cream or other liquid used for food after such bottle or jar has been once used thereof, shall be punished by a fine of not more than twenty-five dollars. [1910]

Sec. 18. Wholesale milk or cream container: Sealing; designating marks.

All cans or containers sold for use in the purchase or sale of milk or cream at wholesale shall have their capacity plainly, conspicuously and indelibly marked thereon in terms of liquid quarts. They shall be sealed by the manufacturer thereof, as hereinafter provided, or by a sealer of the town where the user resides or has a usual place of business. The director shall prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The director may at any time, for cause, revoke the authority so given by him to any

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manufacturer. When sealed by the manufacturer, such cans or containers shall be marked with his name, initials or trade mark and with any other designating marks which the director may require. The sealing of such containers by the manufacturer shall not exempt the user from the laws relative to giving a false or insufficient measure, using a false measure, or having the same in possession with intent to use. Sealers of the town where the user resides or has a usual place of business shall at least annually inspect all cans or containers marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed as herein required, a can or container need not again be sealed while in the same condition as when first sealed. [1916; last amended 1924.]

Sec. 19. Same: Penalty.

Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells any can or container to be used in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding ten dollars for each can or container so sold. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, uses any can or container in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding ten dollars for each offence. The director, inspectors and sealers shall enforce the provisions of this and the preceding section. [1916; last amended 1924.]

Sec. 20. Ice cream containers.

All cans, moulds or other containers used in the sale of ice cream or other frozen desserts and/or ice cream mix by measure shall be of the capacity of Massachusetts standard liquid measure. Such cans, moulds or other containers shall be sealed, as hereinafter provided, by the manufacturer thereof, or by a sealer, and shall not be legal measures except for ice cream or other frozen desserts and/or ice cream mix. When sealed by the manufacturer, such containers shall be marked with his name, initials or trade mark. They may also be marked with any other designating mark assigned to him by the director; provided, that he has agreed to conform to the regulations made by the director relative thereto. When such containers have not been sealed by the manufacturer, they shall be sealed, before they are used by a sealer, and the dealer who intends to use them shall bring such containers to the office of such sealer for that purpose, but no fee shall be charged for sealing them. The sealing of such containers by the manufacturer shall not be held to exempt the user from the laws

relating to the giving of false or insufficient measure, or the using of a false measure, or having in his possession a false measure with intent to use. [1920; last amended 1934.]

Sec. 21. Same: Inspection semi-annually.

Sealers shall inspect at least semi-annually all cans, moulds or other containers sealed in accordance with the preceding section, and shall make a record of such inspection. If a container has once been sealed as aforesaid, it shall not be necessary to have it sealed again while it is used for the sale of ice cream or other frozen desserts and/or ice cream mix, as long as it remains in the same condition as when first sealed. [1920; last amended 1934.]

Sec. 22. Cartons for sale of viscous etc., commodities regulated.

Paper or fibre cartons which are used for the sale by measure of viscous or semi-solid commodities or mixtures of solids and liquids shall contain and shall be sold as containing one gill, one half pint, one pint, one quart, two quarts, one gallon, two and one half gallons, and multiples of the gallon, Massachusetts standard liquid measure. Such cartons shall be of such shape and dimensions as may be approved by the director. Whenever the shape and dimensions of any such carton have been so approved, the director may authorize the manufacturer to have printed thereon a statement of its capacity in terms of Massachusetts standard liquid measure and with such other words and marking as the director may require. Such cartons shall be legal measure only for such commodities as may be designated by the director and shall be exempt from the laws requiring the sealing of measures. [1920; last amended 1941.]

Sec. 23. Testing, etc., of containers.

A sealer or deputy of any city or town or the director or an inspector may, if he so desires, and shall, upon complaint, test the capacity of any container which is used or intended to be used as a measure under sections twenty to twenty-four, inclusive; and if the same does not conform to the law, he shall seize it and enter complaint. The director may, at any time, for due cause, revoke any authority or permit granted by him to any manufacturer under said sections. [1920]

Sec. 24. Unauthorized marking; penalty.

Whoever violates any provision of sections twenty to twenty-three, inclusive, and whoever marks a container or other measure, or procures the same to be marked or has printed thereon or procures to have marked or printed thereon, a mark, number or designation without the approval or authority of the director, except as provided in section twenty, shall be punished by a fine of not more than fifty dollars. [1920]

Sec. 25. Marking as condemned incorrect or unsealed devices; penalty for removing mark.

All weighing or measuring devices which cannot be made to conform to the standard shall be stamped, marked or labelled "Condemned" or "CD" by the sealer. Weighing or measuring devices in possession of a merchant or vendor not used for buying or selling, or for weighing and measuring for hire or reward shall be plainly marked by the sealer with a notice that such articles have not been sealed under this chapter. Whoever removes said notice without the consent of the person affixing the same shall be punished by a fine of not more than fifty dollars. [1870; last amended 1920.]

Sec. 26. Penalty for using, etc., false or condemned devices.

Whoever uses, or has in possession with intent to use, a false or condemned weighing or measuring device for weighing or measuring any commodity bought, sold or exchanged, or for hire or reward, shall be punished by a fine of not more than fifty dollars. The possession of such weighing or measuring device shall be prima facie evidence of intention to use it in violation of law. [1863; last amended 1920.]

Sec. 27. Penalty for using unsealed devices.

Whoever sells or, if by the custom of trade such weighing or measuring devices are provided by the buyer, buys, by any weighing or measuring device which has not been sealed according to law shall forfeit not more than twenty dollars to the use of the person suing therefor. [1680; last amended 1897.]

Sec. 28. Seller's rights when law violated.

A seller may recover the fair market value of goods, wares or merchandise sold, if they were, for the purpose of the sale, weighed or measured upon weighing or measuring devices not sealed according to law, or weighed or measured by a person not a sworn weigher, measurer or surveyor, or by a person not authorized by law to weigh or measure the same, if such sale is made in good faith and the purchaser is not injured thereby. [1875; last amended 1878.]

Sec. 29. Director of standards and necessities of life: Powers and duties; rules and regulations; appeal.

The director shall enforce the laws relating to the use of weighing and measuring devices and the giving of false or insufficient weight or measure and shall keep a detailed record of his work in connection therewith. He shall also from time to time establish units of measurement to be observed in the sale of wooden shingles in the commonwealth. He may also, if he deems it desirable, and shall, upon request of the manufacturer of any weighing or measuring device or of any sealer of weights and measures, examine such device to determine

whether or not its construction is such as to insure reasonably permanent accuracy and whether or not it may be used to facilitate the perpetration of fraud, approving or disapproving it accordingly. When any weighing or measuring device has been so approved or disapproved by him, he shall notify all sealers of weights and measures, who shall thereafter act in accordance with such approval or disapproval when devices of that type are submitted to them for test.

The director may from time to time adopt, and may thereafter amend or repeal, and shall enforce, all such reasonable rules and regulations, and orders thereunder, as may be necessary or suitable in relation to weighing and measuring devices, and the use thereof; provided, that such rules and regulations are in accordance with such generally accepted standards of engineering practice as relate to such weighing and measuring devices. Any person aggrieved by any rule or regulation, or order thereunder, made under authority of the preceding sentence may appeal therefrom to the commissioner of labor and industries, who, after due notice, shall hold a hearing thereon and thereafter render a decision upon such appeal; and any person aggrieved by such decision may appeal therefrom to the district court within whose judicial district such person resides or has his usual place of business, and the decision of said court shall be final. [1907; last amended 1945.]

Sec. 31. Same: Possession of seals; penalty.

The director and town and district sealers shall keep seals for their use. The seal of the director shall bear the letters "C. M." and those of the sealers shall be of a type approved by the director. Any sealer neglecting to keep such a seal shall forfeit not more than twenty dollars, and whoever, without being duly authorized thereto, impersonates a sealer or deputy by the use of a seal or otherwise, or has in his possession an imitation or counterfeit of the seal used by a sealer or deputy shall be punished by a fine of not more than fifty dollars. [1647; last amended 1919.]

Sec. 32. Same: Testing and inspecting of local standards; penalties.

At least once in three years, the standards of apothecaries' weights and of apothecaries' liquid measures in the custody of town treasurers and at least once in ten years, or oftener if the director deems it necessary, the other standard weights, measures and balances of each town shall be tested, adjusted and sealed or certified under his direction. He shall also see that such standards are kept in good order and condition, and may at any time, and shall on request of a town treasurer, cause an inspection of the standards to be made. The director and his inspectors may also inspect any weighing or measuring devices used for buying, selling

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or exchanging goods, wares, merchandise or other commodity, or for public weighing in a town, and, if found inaccurate, shall forthwith inform the mayor or selectmen, who shall cause the law relating thereto to be enforced. If the director or an inspector discovers a violation of law, he may make and prosecute a complaint and shall have therefor the same statutory powers relative to the enforcement of laws pertaining to weights and measures as are vested in local sealers. Every treasurer neglecting to have the standards in his care sealed as provided in this section shall forfeit not more than fifty dollars. [1738-9; last amended 1935.]

Sec. 33. Same: Tests of devices used in state institutions.

The director or his inspectors under his direction, shall at least once in each year test all weighing and measuring devices used in checking the receipt or disbursements of supplies in each state institution or department, and shall mark them in accordance with the results of such tests. He shall report in writing his findings to the executive officers of the institution or department; and at their request shall appoint in writing one or more employees, then in the actual service of such institution or department, as special deputies to check the receipt or disbursement of supplies. [1915; last amended 1919.]

Sec. 34. Sealers of weights and measures: In cities and large towns.

Subject to chapter thirty-one, the mayor of each city and the selectmen of each town of over ten thousand inhabitants shall appoint a sealer, and may appoint one or more deputies to act under the direction of the sealer. The sealer and deputies shall enforce the law pertaining to weighing and measuring devices and to the giving of false or insufficient weight or measure. Sealers and deputies appointed hereunder shall receive a salary to be determined by the board, officer or body authorized to determine salaries in their respective cities and towns, and shall also receive an additional allowance for transportation and other necessary expenses. They shall account for and pay into their city or town treasuries monthly all fees received and shall make an annual report to the appointing board or officer, and to the director as provided by section thirty-seven. [1647; last amended 1920.]

[ED. NOTE.—In ANNOTATED LAWS OF MASSACHUSETTS, following the foregoing section, it is stated: "Terms of office not extended by placing sealers under civil service. This section [Sec. 34] is not repealed by Sec. 4 of Ch. 31 and although sealers are protected by civil service laws from being lowered in rank or compensation or removal from office, their term of office is not extended. (4 Op. A. G. 127)."]

Sec. 35. Same: In small towns.

The selectmen of towns of less than ten thousand inhabitants shall annually appoint a sealer and may

appoint one or more deputies to act under his direction. Such sealers and deputies shall have the same powers and duties as sealers and deputies appointed under the preceding section and shall receive such compensation as may be determined by the selectmen and an additional allowance for transportation and other necessary expenses. The selectmen may at any time remove such sealers or deputies and appoint others in their places. [1863; last amended 1920.]

Sec. 36. Same: District sealers.

Two or more towns, or one city and one or more towns, may combine the whole or any part of their respective territories as may be agreed upon by the boards or officers having the appointing power in such cities or towns into a district with one district sealer and one set of standards. He shall have the powers of and perform the duties of sealers under the direction of the director within the district. Each such sealer shall forthwith on his appointment give bond, with sureties approved by the appointing power, for the faithful performance of his duties, for the safety of the standards, working equipment, records, and other things committed to him, and for their surrender to his successor or to any person duly appointed to receive them. He shall be paid a salary determined by the appointing power and shall be provided by them with necessary standards and working equipment, and shall be allowed necessary sums for transportation and other expenses. Each such sealer shall keep a complete record of all his official acts and shall make an annual report to the director as provided by the following section and to each city or town in his district. He shall account for and pay into the treasury of each city or town monthly all fees received by virtue of his office in such city or town. [1914; last amended 1919.]

Sec. 37. Same: Annual reports.

Each sealer shall annually, between the first and tenth days of January, report to the director the weighing and measuring devices tested, sealed or condemned by him, with an inventory of standards and working apparatus in possession of his town or district, and other information required by the director. [1907; last amended 1936.]

Sec. 38. Same: Duplicate sets of apothecaries' weights to be provided.

Sealers shall, upon request to the director, be provided, at the expense of their towns, with duplicate sets of apothecaries' weights and apothecaries' liquid measures described in section three, to be used as standards in the towns where they are kept. [1897; last amended 1919.]

Sec. 39. Same: Accountability to towns for equipment.

Except as otherwise provided in section thirty-six each sealer shall receive from his town treasurer a

set of standards and a seal, and shall give a receipt therefor, stating their condition when received; and shall be accountable to such town for the preservation thereof in like condition until returned to the treasurer. [1799; last amended 1914.]

Sec. 40. Same: Duplicate sets of weights to be provided.

A sealer or deputy visiting the place of business of a person to test and seal weighing or measuring devices may use therefor suitable weights, measures and balances; and each town and district shall furnish its sealer with one or more duplicate sets of weights, measures and balances, which shall at all times be kept to conform to the standards provided by the commonwealth; and all weighing or measuring devices so sealed shall be deemed legally sealed, as if tested and sealed with the standards. [1877; last amended 1920.]

Sec. 41. Same: Annual tests and sealing; notice; pick clocks excepted.

Sealers shall annually give public notice, by advertisement or by posting notices in one or more public places in their towns or districts, to all inhabitants, or persons having usual places of business therein, using weighing or measuring devices for the purpose of buying or selling goods, wares or merchandise, for public weighing or for hire or reward, to bring them in to be tested, adjusted and sealed, excepting that pick clocks on looms in textile factories, required by section one hundred and fifty-six of chapter one hundred and forty-nine, shall be tested on the request of either an employer or an employee, or both, or, in any event, at the discretion of the commissioner of labor and industries or his authorized representative. Such sealers shall attend in one or more convenient places, and shall adjust, seal or condemn such devices in accordance with the results of their tests, and shall make a record thereof. [1647; last amended 1941.]

Sec. 42. Same: Procedure when notice of annual tests and sealing is disregarded; exceptions; penalty.

After giving said notice, said sealers shall go to the houses, stores, shops and vehicles of persons not complying therewith, and shall test and adjust, seal or condemn in accordance with the results of their tests, the weighing or measuring devices of such persons; provided, that devices for determining the measurement of leather bought, sold or offered for sale shall be tested at least semi-annually, and provided, further, that when a vehicle tank used in the sale of commodities by liquid measure has once been sealed, it shall not be necessary to seal it again while it remains in the same condition as when first sealed. A person who neglects or refuses to exhibit his weighing or measuring devices to a sealer or deputy, or who hinders, obstructs or in any way interferes with a sealer or deputy in performance of duty, shall be punished by a fine of not more than fifty dollars. [1705-6; last amended 1927.]

Sec. 43. Same: Testing of devices registering price.

A sealer or deputy shall test all weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale as to the correctness of both weights or measures and values indicated by them. [1907; last amended 1917.]

Sec. 44. Same: Testing of mechanical devices for measuring leather.

Devices used for determining the measurement of leather bought, sold or offered for sale shall be tested as to the correctness of measures indicated by them by a sealer of the town where they are used, and the director may make such rules and regulations as he deems necessary to insure the greatest possible accuracy in the use of said devices. [1913]

Sec. 45. Same: Testing of taximeters; penalty.

All devices used upon vehicles for determining the cost of transportation shall be tested as to the correctness of measures and values indicated by them, and the director may make rules and regulations to insure accuracy in the use thereof. Any owner or operator of a taxicab or other vehicle who refuses or neglects to comply with any rule or regulation so made by the director shall be punished by a fine of ten dollars. [1909; last amended 1919.]

Sec. 46. Same: Testing of devices used in standardizing production and in determining wages, capacity of tanks, etc., and the accuracy of automatic devices; exceptions.

The director may, if he deems it desirable, and shall, upon request, test any weights, measures, instruments or mechanical devices of any kind used or intended to be used in standardizing the production of any manufactured article by controlling processes or by determining the dimensions, proportions or properties of materials or products, in determining wages or compensation for labor performed, in determining the dimensions or capacity of any tank, can or other container, or in determining the accuracy of any automatic weighing or measuring device. When any such weight, measure, instrument or mechanical device has been tested and found correct by the director, he may seal the same. If he finds it inaccurate, he may, in his discretion, either condemn it or he may furnish the owner or user with a certificate indicating the amount and direction of any errors found by him. This section shall not give to the said director or to his inspectors the power to seal any of the devices which, on April twenty-ninth, nineteen hundred and twenty, were required by law to be sealed by the local sealers throughout the commonwealth. [1920]

Sec. 47. Same: Annual testing of apothecaries' weights or liquid measures; specifications for glassware established by director; designating marks.

Apothecaries and other persons dealing in or dispensing drugs, medicines or merchandise sold,

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dispensed or given away by apothecaries' weights or by apothecaries' liquid measure, shall, at least annually, cause the weights and measures so used to be tested and sealed by the sealer in the town where they do business; provided, that a graduated glass measure once sealed by a sealer, or by the manufacturer, need not be again sealed while remaining in the same condition as when first sealed. The director shall establish specifications for graduated glass measures. When a representative sample of a graduated glass measure has been submitted to the director and approved by him, as conforming to specifications, he shall assign a designating mark or number to be thereafter permanently affixed to such measures of the particular kind so approved. Graduated glass measures sealed by the manufacturer shall be marked with his name, initials or trade mark and by other marks required by the director. The director may revoke the authority so given to any manufacturer under this section on proof that the authorized seal or designating mark has been affixed to a measure not conforming to the approved sample. [1897; last amended 1919.]

Sec. 48. Same: Penalty against persons using untested apothecaries' weights and measures.

Whoever sells or dispenses drugs, medicines or merchandise requiring the use of apothecaries' weights or apothecaries' liquid measures or in the sale of which they are commonly used, and does not have such weights and measures tested under this chapter shall be punished by a fine of not less than five nor more than fifty dollars. [1897; last amended 1914.]

Sec. 49. Same: Annual test of hay and coal scales, etc.

Sealers shall go once a year, and oftener if necessary, to each hay and coal scale and other weighing or measuring device in their towns not easily or conveniently removed, and shall test, adjust and seal or condemn them. [1705-6; last amended 1920.]

Sec. 50. Same: Testing upon request.

Whoever uses any weighing or measuring devices may have them tested by the sealer at any time upon request and the sealer shall seal or condemn the same in accordance with the results of his tests. [1870; last amended 1876.]

Sec. 51. Same: Sealing of glass milk or cream bottles or jars.

When notified by a dealer in milk or cream using glass bottles or jars for the distribution thereof that he has in his possession not less than six gross of such bottles or jars not sealed, sealers shall forthwith seal them as provided in section fifteen, at a suitable place provided by the dealer. [1906]

Sec. 52. Same: Testing upon complaint; right to enter and inspect altered scales; penalty.

If a person informs a sealer that he has reasonable cause to believe, or if such sealer has reasonable cause to believe, that any weighing or measuring device used in the sale of a commodity in his town is incorrect, said sealer shall go where it is and shall test and mark it according to the result of the test; and if it is incorrect and cannot be adjusted, he shall attach thereto a notice of that fact forbidding its use until it conforms to the authorized standard. If a sealer has reasonable cause to believe that any weighing or measuring device has been altered since last adjusted and sealed, he shall enter the premises where it is kept or used and examine it. Whoever uses a weighing or measuring device after refusing permission to a sealer to test it shall be punished by a fine of not less than ten nor more than one hundred dollars. [1863; last amended 1897.]

Sec. 53. Same: Other methods of sealing; notice forbidding use of device; penalty.

If a sealer cannot seal any weighing or measuring device in the usual manner, he may mark it with a stencil or by other suitable means, showing that it has been inspected; and if a weighing or measuring device is so small as to render it impracticable to seal it in the usual manner, he shall give a certificate in a form approved by the director, specifying each such weighing or measuring device so tested; but he shall in no case seal or mark as correct weighing or measuring devices not conforming to the standards. If such weighing or measuring device can be readily adjusted by means at hand, he may adjust and seal it; but if not, he shall affix thereto a notice forbidding its use until he is satisfied that it conforms to the standards; and whoever removes said notice without the consent of such officer shall forfeit not more than fifty dollars, to be equally divided between the town and the complainant. [1877; last amended 1919.]

Sec. 54. Same: Seizure as evidence; disposition.

A sealer or deputy may seize without a warrant weighing or measuring devices necessary to be used as evidence in cases of violation of the laws relative to the sealing thereof; and they shall be returned to the owners or forfeited, as the court directs. [1877; last amended 1920.]

Sec. 55. Same: Seizure of illegal devices; disposition; penalty.

A sealer or deputy may seize weighing or measuring devices not conforming to legal standards or not sealed as required by law; and a person having in his possession such weighing or measuring devices, with intent to use them in violation of law, shall be punished by a fine of not more than fifty dollars; and such devices, upon order of a court, shall be destroyed. Possession thereof shall be prima facie evidence of intention to use them in violation of law. [1883; last amended 1917.]

Sec. 56. Same: Fees.

Except as otherwise provided, sealers shall receive the following fees for sealing the following weighing or measuring devices:—

(a) Each scale with a weighing capacity of more than ten thousand pounds, five dollars.

(b) Each scale with a weighing capacity of five thousand to ten thousand pounds, two dollars.

(c) Each scale with a weighing capacity of one hundred to five thousand pounds, one dollar.

(d) Scales and balances under one hundred pounds, fifty cents.

(e) Each liquid capacity measure, except vehicle tanks, of the capacity of more than one gallon and measures on pumps, twenty-five cents.

(f) Each liquid measuring meter, except water meters, the diameter of the inlet pipe of which is one inch or less, one dollar; and for each such meter the diameter of the inlet pipe of which is more than one inch, three dollars.

(g) Each taximeter or measuring device used upon vehicles to determine the cost of transportation, one dollar.

(h) Each machine or other mechanical device used for determining linear or area measurement, one dollar.

(i) Milk bottles or jars, fifty cents per gross.

(j) Vehicle tanks used in the sale of commodities by liquid measure and having a capacity of one hundred gallons or less, one dollar. For each additional one hundred gallons or fraction thereof, an additional fee of fifty cents shall be received. When a vehicle tank is subdivided into two or more compartments, each compartment shall, for the purposes of this section, be considered as a separate tank.

(k) All weights and other measures, ten cents each.

They shall also receive reasonable compensation for necessary repairs, alterations and adjustments made by them. [1647; last amended 1949.]

Sec. 56A. Location of weighing devices for food sold at retail.

A scale or other weighing device, when used in weighing in the presence of the purchaser food sold at retail by weight, shall be so placed that its weight indications may be accurately read, and the weighing operation observed by such purchaser. [1941]

Sec. 57. Annual report of commissioner.

The commissioner of labor and industries shall make an annual report of the acts of the director. [1890; last amended 1931.]

Annotated Laws (1946), Vol. III, Title XV, Ch. 99—

The Metric System of Weights and Measures.

Sec. 1. Metric system authorized.

The weights and measures of the metric system may be employed and used in the commonwealth, and no contract or dealing shall be deemed invalid and no pleading in any court shall be open to objection because the weights or measures are stated therein in terms of the metric system; provided, that the carat weight of two hundred milligrams, and its multiples and subdivisions, shall be the sole legal standard for the buying and selling of diamonds and other precious stones. The metric weights and measures received from the United States and now in the custody of the director of standards and necessities of life may be used as authorized standards, and shall in no case be removed from his custody except when necessary for their preservation or repair. [1877; last amended 1939.]

Sec. 2. Tables of measurements.

The following tables shall be recognized in the construction of contracts and in legal proceedings as establishing in terms of the metric system the equivalents of the other weights and measures expressed therein and may also be used for computing, determining and expressing in customary weights and measures the weights and measures of the metric system.

MEASURES OF LENGTH

Metric denominations and values		Equivalents in denominations in use
Myriameter	10,000 meters.	6.2137 miles.
Kilometer	1,000 meters.	0.62134 mile, or 3,280 feet 10 inches.
Hectometer	100 meters.	328 feet 1 inch.
Dekameter	10 meters.	39.37 inches.
Meter	1 meter.	39.37 inches.
Decimeter	1-10 of a meter.	3.937 inches.
Centimeter	1-100 of a meter.	0.3937 inch.
Millimeter	1-1000 of a meter.	0.0394 inch.

MEASURES OF CAPACITY

Metric denominations and values			Equivalent in denominations in use	
Names	Number of liters	Cubic measure	Dry measure	Liquid or wine measure
Kiloliter or stere.....	1,000	1 cubic meter.....	1308 cubic yards.....	264.17 gallons.
Hectoliter.....	100	1-10 of a cubic meter.....	2 bush. and 3.35 pecks.....	26.417 gallons.
Dekaliter.....	10	10 cubic decimeters.....	9.08 quarts.....	2.6417 gallons.
Liter.....	1	1 cubic decimeter.....	0.908 quart.....	1.0567 quarts.
Deciliter.....	1-10	1-10 of a cubic decimeter.....	6.1022 cubic inches.....	0.845 gill.
Centiliter.....	1-100	10 cubic centimeters.....	0.6102 cubic inch.....	0.538 fluid ounce.
Milliliter.....	1-1000	1 cubic centimeters.....	0.061 cubic inch.....	0.27 fluid dram

MEASURES OF SURFACE

Metric denominations and values		Equivalents in denominations in use
Hectare.....	10,000 square meters.	2.471 acres.
Are.....	100 square meters.	119.6 square yards.
Centare.....	1 square meter.	1,550 square inches.

WEIGHTS

Metric denominations and values			Equivalent in denominations in use
Names	Number of grams	Weight of what quantity of water at maximum density	Avoirdupois weight
Millier or tonneau.....	1,000,000	1 cubic meter.....	2,204.6 pounds.
Quintal.....	100,000	1 hectoliter.....	220.46 pounds.
Myriagram.....	10,000	10 liters.....	22.046 pounds.
Kilogram or kilo.....	1,000	1 liter.....	2.2046 pounds.
Hectogram.....	100	1 deciliter.....	3.5274 ounces.
Dekagram.....	10	10 cubic centimeters.....	0.3527 ounce.
Gram.....	1	1 cubic centimeter.....	15.432 grains.
Decigram.....	1-10	1-10 of a cubic centimeter.....	1.5432 grains.
Centigram.....	1-100	10 cubic millimeters.....	0.1543 grain.
Milligram.....	1-1000	1 cubic millimeter.....	0.0154 grain.

[1877]

Sec. 3. Duties of director of standards and necessities of life and town treasurers.

The duties of the director of standards and necessities of life and the duties and responsibilities of the treasurer of each town, with respect to the keeping, care, verification and use of the standard weights and measures of the metric system, shall be the same as those established by law with respect to other standard weights and measures. [1877; last amended 1939.]

Sec. 4. Sealing of metric weights and measures.

The director of standards and necessities of life may verify, adjust and seal all metric weights and measures brought to him for that purpose. The sealer of weights and measures in each town which has received the standard metric weights and measures shall verify, adjust and seal all metric weights and measures brought to him for that purpose from

within the county where such town is situated, and he shall receive a reasonable compensation therefor; but he shall claim no fees for any sealing, verification or adjustment for the performance of which he may otherwise receive compensation by salary paid by the town. [1877; last amended 1939.]

Sec. 5. Duties of persons using metric system.

Every person who uses weights or measures of the metric system for the purpose of selling any goods, wares, merchandise or other commodities shall have them adjusted, sealed and recorded by an authorized sealer of weights and measures, and shall thereafter be responsible for the correctness and exactness of the same; and every person who illegally or fraudulently uses the metric weights or measures shall be liable to the same penalty to which he would have been liable if he had used other weights and measures. [1877]

Annotated Laws (1944), Vol. I, Title VII, Ch. 41—
Cities and Towns.

Sec. 85. Weighers, measurers and surveyors of commodities: Appointment.

The mayor or the selectmen, on the written request of any person engaged in buying, selling or transporting goods or commodities which require weighing, surveying or measuring, shall appoint weighers, measurers or surveyors of such goods or commodities, who shall be sworn before entering upon their duties, shall serve for one year, and may be removed at any time by the appointing authority. At least one such weigher, measurer and surveyor in each town shall not be engaged in the business of buying, selling or transporting the goods or commodities weighed, measured or surveyed by him, but no person shall be ineligible for appointment because of sex or because of residence elsewhere than in the town where appointed, notwithstanding any provisions to the contrary in any general or special act. [1918]

Sec. 86. Same: Duties and obligations; penalty for misrepresenting weights or measures.

All persons appointed under the preceding section shall keep accurate records, in the form prescribed by the director of standards and necessities of life, of all weighings, measurements or surveys made by them, which shall at all reasonable times be open to inspection by said director and his inspectors and by the local sealer of weights and measures. If any person so appointed shall wilfully misrepresent the weight, quantity or measurements of any goods weighed, measured or surveyed by him, he shall be punished by a fine of not more than one hundred dollars. [1918; last amended 1939.]

Sec. 87. Weighers of particular commodities.

The two preceding sections shall not affect the provisions of law for the appointment of weighers, measurers or surveyors of particular commodities. [1918]

Sec. 88. Public weighers of fish: Appointment; bond.

The mayor of each city, and the selectmen of each town, where salt water fish are landed from vessels, shall annually appoint a public weigher of fish, to hold office for one year from the time of his appointment and until his successor is appointed, who shall be sworn to the faithful performance of his official duties and shall give bond, with sureties, in the sum of five thousand dollars. [1888]

Sec. 89. Same: May appoint deputy weighers.

A public weigher of fish may appoint, subject to the approval of the mayor or the chairman of the selectmen, deputy weighers, for whose official conduct he shall be answerable, who shall be sworn, and from each of whom such weigher shall require a bond, with sureties, in the sum of one thousand

dollars. The weigher and his deputies shall not be interested directly or indirectly in the buying or selling of fish. [1888]

Sec. 90. Same: Penalty for violating oath of office.

A weigher or any of his deputies who violates his oath of office shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit his office. [1888]

Annotated Laws (1946), Vol. III, Title XV, Ch. 94—
Inspection and Sale of Food, Drugs and Various Articles.

Sec. 1. Definitions.

The following words as used in this section and the other sections of this chapter [Secs. 1-206] to which their definition is hereinafter respectively limited, unless the context otherwise requires, shall have the following meanings: [1933]

* * * * *

“Closed package”, in sections one hundred to one hundred and seven, inclusive, one hundred and nine, one hundred and ten, one hundred and twelve and one hundred and thirteen, a barrel, box or other container, the contents whereof cannot be sufficiently inspected without opening it. [1915]

* * * * *

“Commercial feeding stuff”, in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, includes all feeding stuff used for feeding live stock and poultry and containing not more than sixty per cent of water, except whole seeds or grains, and also unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo, whole hays, whole straws, unground cotton seed hulls and unground corn stover when unmixed with other materials. [1903; last amended 1912.]

“Commercial fertilizer”, in sections two hundred and fifty to two hundred and sixty-one, inclusive, dried or partly dried manure, pulverized or ground, and each natural or artificial manure containing nitrogen, phosphoric acid, potash, calcium oxide or magnesium oxide, except the excrements and litter from domestic animals when sold in its natural state. [1911; last amended 1933.]

* * * * *

“Director”, in sections twenty-five to thirty-one, inclusive, two hundred and twenty-seven to two hundred and thirty-five, inclusive, and two hundred and fifty-four to two hundred and sixty-one, inclusive, director of the Massachusetts agricultural experiment station.

* * * * *

“Food”, in sections * * *, one hundred and eighty-one, * * *, includes all articles, whether

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simple, mixed or compound, used for food or drink,
confectionery or condiment, by man or animal.
[1882; last amended 1917.]

* * * * *

"Importer", in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, and in sections two hundred and fifty to two hundred and fifty-four, inclusive, and two hundred and fifty-six to two hundred and sixty-one, inclusive, a person procuring for sale or distribution in the commonwealth commercial feeding stuff or cattle feed, and commercial fertilizers, respectively, from another state or country. [1903; last amended 1912.]

"Label", in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, a printed label required by section two hundred and twenty-five, and in sections two hundred and fifty to two hundred and fifty-four, inclusive, and two hundred and fifty-six to two hundred and sixty-one, inclusive, a printed label required by section two hundred and fifty. [1911; last amended 1912.]

* * * * *

"Package", in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, two hundred and fifty to two hundred and fifty-four, inclusive, and two hundred and fifty-six to two hundred and sixty-one, inclusive, includes sack, bag, tin, box, jar, and any similar receptacle. [1911; last amended 1912.]

* * * * *

Sec. 7. Bread: Sold by weight only; unit weights defined.

Except as provided in section eight, bread shall not be manufactured for sale, sold, or offered or exposed for sale otherwise than by weight, and shall be manufactured for sale, sold, or offered or exposed for sale only in units of one pound, one and one half pounds, or multiples of one pound. When multiple loaves are baked, each unit of the loaf shall conform to the weight required by this section. The weights herein specified shall mean net weights not more than twelve hours after baking, or not more than twelve hours after the sale and delivery of such loaves by the manufacturer or by his servant or agent. Such weights shall be determined by the average weight of not less than six loaves; provided, that such average weights shall be determined by the weight of at least twelve loaves whenever such number of loaves is available at the time and place of such weighing; and provided further, that bread found upon any premises occupied for the manufacture of bread for sale, or any bread found in the wagons, trucks, baskets, boxes, or other delivery vehicles or receptacles owned or controlled by the manufacturer of such bread, and being transported or delivered for sale, shall for the purposes of this section be deemed to

have been baked within twelve hours unless such bread is marked, designated or segregated as stale bread, under regulations prescribed by the director of standards and necessities of life. [1696; last amended 1911.]

Sec. 8. Same: Exceptions from preceding section; marking requirements.

Unit weights, as defined in the preceding section, shall not apply to rolls or to fancy bread weighing less than four ounces, nor to loaves bearing in plain position a plain statement of the weight of the loaf and the name of the manufacturer thereof. Such information shall be stated in case of wrapped bread, upon the wrapper of each loaf; provided that, when cellophane or similar transparent wrappers are employed, the director of standards may authorize the placing of a statement of such information between such transparent wrapper and the top of the loaf in such manner that such statement may be easily read through the wrapper. In the case of unwrapped bread such information shall be stated upon a printed label not larger than one by one and three quarters inches nor smaller than one by one and one half inches. No label, attached to an unwrapped loaf, shall be larger than provided herein, nor shall any such label be affixed in any manner or with any gum or paste which is unsanitary or unwholesome. When an inspection of bread is made at any bakery by the director or any inspector of standards or sealer of weights and measures, the manufacturer of such bread, or his servants, or agents, shall, upon request of the official making such inspection, inform him whether such bread is manufactured for sale in any of the standard unit weights prescribed by the preceding section and, if not so manufactured for sale in such standard unit weights, shall furnish such official with samples of the labels or wrappers intended to be used on all such loaves of other than standard unit weights. [1859; last amended 1937.]

Sec. 9. Same: Rules and regulations; tolerances; enforcement; seizure; hearings.

The director of standards and necessities of life shall prescribe such rules and regulations as are necessary to enforce the two preceding sections, including reasonable tolerances or variations within which all weights shall be kept; provided, that such tolerances or variations shall not exceed one ounce per pound under the standard unit or marked weight. The said director, and under his direction the local sealers of weights and measures, shall cause this section to be enforced. They may seize without warrant any bread which they may deem necessary to be used as evidence of violation of law, giving a receipt therefor, and such bread shall be returned to the owner or forfeited as the court may direct. Before any prosecution is begun under this section by any inspector of standards, the parties concerned shall be notified and given an opportunity to be heard before the director. Be-

fore any prosecution is begun under this section by any sealer or deputy sealer of weights and measures, the parties concerned shall be notified and given an opportunity to be heard before the sealer and shall have the right of appeal to the director of standards and necessities of life; provided, that such appeal is filed with said director in writing within five days from the finding of the local sealer. When such appeal has been entered no prosecution shall be begun until the charges have been reviewed by said director. [1908; last amended 1939.]

Sec. 10. Same: Penalty for violations.

Whoever violates any provision of sections * * * [seven] to nine, inclusive, * * *, or whoever fails or refuses to comply with any request for information made under authority of said sections, shall be punished by a fine of not more than one hundred dollars. [1800; last amended 1937.]

Sec. 19. Sale of watered milk unlawful; penalty.

No person himself or by his servant or agent shall sell, exchange or deliver or have in his custody or possession with intent so to do, or expose or offer for sale or exchange, any * * * milk to which water or any foreign substance has been added, * * *. Whoever violates any provision of this section shall be punished for the first offence by a fine of not less than fifty nor more than two hundred dollars, for the second offence by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offence by a fine of fifty dollars and by imprisonment for not less than two nor more than three months. [1856; last amended 1908.]

* * * * *

[Ed. Note.—The foregoing section is enforced by the Milk Regulation Board.]

Sec. 25. Testing of milk and cream: Testing of utensils for determining value of milk.

No bottle, pipette or other measuring glass or utensil shall be used by any inspector of milk, or by any person in any milk inspection laboratory, in determining, by the Babcock or other centrifugal machine, the composition of milk or cream for the purposes of inspection, or by any person in any place in determining, by the Babcock or other centrifugal machine, the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, until such measuring glass or utensil has been tested for accuracy and verified by the director [director of the Mass. agriculture experiment station], or by his duly designated deputy. Each such bottle, pipette or other measuring glass or utensil shall be submitted to the said director by the owner or user thereof, to be tested for accuracy, before the same is used for such purposes. As a fee for making the test, the owner or user shall pay to the said director a sum not exceeding five

cents for each bottle, pipette or other measuring glass or utensil tested. Each measuring glass or utensil so tested and verified or found inaccurate shall be marked accordingly by the director or by his said deputy. No such measuring glass or utensil so marked inaccurate shall be used in determining the composition or milk-fat content of milk or cream. [1901; last amended 1929.]

Sec. 26. Same: Inspection and condemnation of testing machines.

Each Babcock or other centrifugal machine used by an inspector of milk or by a person in a milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by a person in any place for determining the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, shall be inspected at least once in each year by the director [director of the Mass. agriculture experiment station] or by his inspector or deputy. The owner or user of any such centrifugal machine shall pay to the director as a fee for making each annual inspection the actual cost thereof.

Each Babcock or other centrifugal machine used as aforesaid which, in the opinion of the director, his inspector or deputy is not in condition to give accurate results, may be condemned by him. No Babcock or other centrifugal machine so condemned shall be used for determining the composition or milk-fat content of milk or cream as aforesaid, unless such machine is corrected to the satisfaction of the director, his inspector or deputy, and approved by him. [1901; last amended 1929.]

Sec. 27. Same: Certificate for use of testing machines required.

No inspector of milk and no person in a milk inspection laboratory shall manipulate the Babcock or other centrifugal machine to determine the composition of milk or cream for purposes of inspection, and no person in any place shall manipulate such a centrifugal machine to determine the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, without first obtaining a certificate from the director [director of the Mass. agriculture experiment station] or his duly designated deputy that he is competent to do such work. The fee therefor shall be two dollars, and shall be paid to the director. If a holder of a certificate is notified by the director, or by his duly designated deputy, to correct his use of such a centrifugal machine, the actual cost of an inspection to ascertain if such person has corrected his use of the said machine shall be paid by him or by his employer to the director. [1901; last amended 1929.]

Sec. 28. Same: Certificate of competency.

The director [director of the Mass. agriculture experiment station] or his duly designated deputy

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may issue certificates of competency to persons desiring to manipulate the Babcock or other centrifugal machine who in his opinion are competent. The director or his deputy may make and enforce rules governing applications for such certificates and the granting thereof and may revoke the authority of any holder of a certificate who, in the opinion of the director, his deputy or inspector, is not correctly manipulating a machine as aforesaid, or is using dirty or otherwise unsatisfactory glassware or utensils in connection therewith. No holder of such certificate whose authority has been so revoked shall thereafter manipulate any such machine for the purposes mentioned in the preceding section. [1901; last amended 1919.]

Sec. 29. Same: Testing and inspection of measuring devices.

The director [director of the Mass. agriculture experiment station] shall test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him under section twenty-five, and shall inspect or cause to be inspected at least once each year each Babcock or other centrifugal machine used by an inspector of milk, or by a person in any milk inspection laboratory, for the purposes of inspection, or by any person in any place to determine the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, and shall collect the fees or actual costs of tests and inspections under this and the four preceding sections. The director, his inspectors and deputies, may enter upon premises where tests of milk or cream are made in order to inspect any apparatus used in making such tests and to ascertain whether this and the four preceding sections are complied with. [1901; last amended 1929.]

Sec. 29A. Same: Rules and regulations governing tests to determine milk-fat content.

The director [director of the agriculture experiment station] shall, after reasonable notice and a hearing, and with the approval of the governor and council, prescribe, and may from time to time in like manner modify or amend, rules and regulations to govern the methods and frequency of making tests for determining the composition or milk-fat content of milk or cream as a basis for payment in buying or selling. The director or his inspectors and deputies may, and the director of milk control, his inspectors and deputies, shall, enter upon any premises where samples of milk or cream are taken, stored or tested as a basis for payment in buying or selling, in order to determine whether rules and regulations made hereunder are being observed. [1929; last amended 1946.]

Sec. 30. Same: Enforcement.

The director [director of the Mass. agriculture experiment station] shall enforce sections twenty-

five to thirty-one, inclusive, and the rules and regulations made thereunder, and may prosecute or cause to be prosecuted any person violating any provision of said sections or of said rules and regulations, and the director of milk control or his designated assistant shall have concurrent authority with the director in prosecuting or causing to be prosecuted any person violating any provision of the rules and regulations established under section twenty-nine A. Sections twenty-five to thirty-one, inclusive, and the rules and regulations made thereunder, shall not affect any person using any centrifugal or other machine or test to determine the composition or milk-fat content of milk or cream if such use or test is made for the information of such person only, and not for purposes of inspection or as a basis for payment in buying or selling. [1912; last amended 1946.]

Sec. 31. Same: Penalties.

Whoever hinders or obstructs the director [director of the Mass. agriculture experiment station] or the director of milk control, or any inspector or deputy of either said director or said director of milk control, in the discharge of any authority or duty imposed upon him by any provision of sections twenty-five to thirty, inclusive, whoever violates any provision of said sections, and whoever knowingly violates any provision of the rules and regulations made thereunder, shall be punished by a fine of not less than fifteen nor more than fifty dollars. [1901; last amended 1946.]

Sec. 84. Sale of fish: Quintal weight of fish.

If fish are sold by the quintal, it shall mean a quintal of one hundred pounds avoirdupois, and all contracts relative to fish thus sold shall be so construed. [1837]

Sec. 85. Same: Clam bait by barrel.

If clam bait is sold by the barrel, "barrel" shall mean a fish barrel of not less than twenty-eight nor more than twenty-nine gallons, and containing twenty-six gallons of clams and not more than three gallons of pickle. If the purchaser and seller disagree as to the quantity in a barrel, either party may have it measured by the director of standards and necessities of life or a sealer of weights and measures. If such barrel does not contain the said number of gallons of clams, the seller shall receive payment for the number of gallons of clams it does contain, but shall pay the expense of measuring and cooping; otherwise the purchaser shall pay such expense. [1803; last amended 1939.]

Sec. 86. Same: Public weigher of fish; weight certificate.

All fish when landed from a vessel or boat shall be weighed by a public weigher of fish or his deputy, when so requested or demanded by the buyer or seller of such fish or by the master, agent or a majority of the crew of such vessel or boat; and said

weigher shall issue a certificate of weight to the seller and a duplicate to the buyer. [1888]

Sec. 87. Same: Record of weight, etc., to be kept by weigher.

Each deputy shall report to such weigher the weight of fish weighed by him, and the weigher shall keep a complete record of such weight with the date of weighing, the name of the vessel from which the fish were taken and the person for whom they were weighed. [1888]

Sec. 88. Same: Fees for weighing.

The fees for weighing shall be twenty cents per one thousand pounds, but in no case less than one dollar, and shall be paid by the person applying to have the fish weighed. Each deputy shall pay to the weigher two cents per one thousand pounds for all fish weighed by him. [1888]

Sec. 88B. Same: Shucked scallops and quahaugs in the shell to be sold only by weight; penalty.

No shucked scallops or quahaugs in the shell shall be sold except by weight. Whoever himself or by his servant or agent violates any provision of this section shall be punished by a fine of ten dollars. [1936]

Secs. 89 to 92A. Eggs.

[ED. NOTE.—These sections provide grade standards for eggs. The pertinent sections are not given in detail because their provisions relate primarily to quality.]

Sec. 92B. Meat and poultry: Sale at retail by weight only; exception; penalty.

All meats and poultry shall be sold at retail only by weight and, except when sold in package form bearing a plain and conspicuous statement of quantity of contents as provided in section one hundred and eighty-one¹, such weight shall be determined at the time of sale. Whoever himself or by his servant or agent violates any provision of this section shall be punished by a fine of ten dollars. [1935]

¹ See page 466.

Sec. 96. Sale of fruits, vegetables and nuts: Certain commodities to be sold by dry measure; "original standard container" defined; exceptions; penalty.

Except as otherwise provided in sections ninety-eight and ninety-nine and in chapter ninety-nine,¹ [The Metric System of Weights and Measures], or except when sold in the original standard container, all fruits, nuts, vegetables and grain shall be sold at retail by avoirdupois weight or numerical count. The words "original standard container", as used in this section shall mean and include only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is established by law of this commonwealth or by act of Congress, the contents of which have not been removed or repacked by the retailer, and upon which is plainly and conspicuously marked the net quantity of the contents thereof in terms of weight,

measure or numerical count. This section shall not apply to the sale of apples repacked under the provisions of section one hundred and four nor to the sale by the bunch, of fresh beets, onions, turnips, rhubarb and other similar vegetables usually and customarily sold by the bunch. Whoever violates any of the provisions of this section shall be punished by a fine of not more than ten dollars. [1695-6; last amended 1922.]

¹ See page 457.

Sec. 98. Same: Containers of certain berries; capacity; test of capacity; seizure; penalty.

Baskets or other receptacles holding one quart or less which are used or intended to be used in the sale of strawberries, blackberries, cherries, currants, blueberries, raspberries or gooseberries shall be of the capacity of one quart, one pint or one half pint, Massachusetts standard dry measure. Said baskets or other receptacles shall not be required to be tested and sealed as provided by chapter ninety-eight [Weights and Measures], but the scaler or deputy scaler of weights and measures of any town or the director of standards and necessities of life may, if he so desires, and shall, upon complaint, test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold and if the same is found to contain less than the standard measure he shall seize the same and make complaint against the vendor.

Whoever sells or offers for sale a basket or other receptacle holding one quart or less to be used in the sale of any of the aforesaid fruit which does not conform to said standard, and whoever sells or offers for sale any of the aforesaid fruit in any basket or other receptacle holding one quart or less which does not conform to said standard, shall be punished by a fine of not less than five nor more than ten dollars. [1900; last amended 1939.]

Sec. 99. Same: Berries sold by strike or level measure.

Berries, except cranberries, when sold shall, subject to the preceding section, be measured by the strike or level measure. [1850; last amended 1922.]

Sec. 99A. Same: Massachusetts standard box and half box for farm produce sold at wholesale; dimensions; marking requirements; penalty; enforcement.

The Massachusetts standard box for farm produce sold at wholesale, except as otherwise provided, shall contain two thousand one hundred fifty and forty-two one hundredths cubic inches and shall be of the following dimensions by inside measurements: seventeen and one half inches in length by seventeen and one half inches in width and seven and one sixteenth inches in depth. The Massachusetts standard half box for farm produce sold at wholesale shall contain one thousand seventy-five and twenty-one one hundredths cubic inches and shall be of the following dimensions by inside measurements: twelve and three eighths

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inches in length by twelve and three eighths inches in width and seven and one sixteenth inches in depth. When the above specified boxes are made of wood the ends shall be not less than five eighths inches in thickness and the sides and bottom not less than three eighths inches in thickness. All such boxes and half boxes of the dimensions specified herein shall be marked on at least one outer side in bold, uncondensed capital letters, not less than one inch in height:—Standard Box Farm Produce,—and,—Standard Half Box Farm Produce,—respectively. Whoever marks or otherwise represents any box or half box to be a standard box or half box for the sale of farm produce at wholesale shall, unless such box or half box complies with every specification and requirement of this section, be punished by a fine of not more than fifty dollars. The director of standards and necessities of life in the department of labor and industries, his inspectors and the sealers and deputy sealers of weights and measures in cities and towns shall enforce the provisions of this section. [1921; last amended 1939.]

Sec. 100. Standard barrel and box for apples: Dimensions.

The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: length of stave, 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 box for apples shall be of the following dimensions by inside measurement: eighteen inches by eleven and one half inches by ten and one half inches, without distention of its parts; and shall have a capacity of not less than two thousand one hundred and seventy-three and one half cubic inches. [1915]

Sec. 107. Same: Enforcement.

The commissioner of agriculture and his duly authorized assistants shall have authority to enforce sections one hundred * * * and to prosecute all violations thereof. Before any prosecution is begun by the commissioner of agriculture or any of his duly authorized assistants the parties concerned shall be given an opportunity to be heard before the said commissioner or a person designated by him for such purpose. The parties concerned shall be given reasonable notice of the hearing, specifying the day, hour and place thereof and accompanied by a description of the alleged violation. Such hearings shall be governed by rules

and regulations prescribed by said commission. [1918; last amended 1931.]

Sec. 115. Standard barrel and crate for cranberries: Dimensions.

The legal and standard barrel for cranberries shall measure not less than twenty-five and one fourth inches between the heads, inside; the length of the staves shall be twenty-eight and one half inches; the diameter of the head shall be not less than sixteen and one fourth inches, including the bevelled edge; the outside bulge circumference shall measure not less than fifty-eight and one half inches the thickness of the staves shall be not greater than four tenths of an inch. The legal and standard crate for cranberries shall measure seven and one half inches, by twelve inches, by twenty-two inches, in side, exclusive of any interior partition or support and shall have an interior capacity of one thousand nine hundred and eighty cubic inches; but any square or oblong crate or box of different form, but of as great interior capacity, shall be considered a legal and standard crate. [1875; last amended 1911.]

Sec. 116. Same: Enforcement; penalty; marking requirements.

Each barrel, crate, one half crate or one quarter crate used for the sale or delivery of cranberries shall be of the standard measure prescribed in this or the preceding section, and shall be marked as therein required. No person shall use any barrel, crate, one half crate or one quarter crate for such sale or delivery, the capacity of which is less than that of the corresponding standard package prescribed in the preceding section. Sealers of weights and measures shall enforce this and the preceding section. Whoever violates any provision of this or the preceding section shall be punished by a fine of not more than one hundred dollars.

It shall be lawful to use for the sale and delivery of cranberries, square or oblong packages which contain one half crate or one quarter crate, provided that such packages have an interior capacity, exclusive of any partition or support, of nine hundred and ninety and of four hundred and ninety-five cubic inches, respectively. No barrel, crate, one half crate or one quarter crate, intended to be used for the sale or delivery of cranberries, except of the standard measure specified in this section and plainly marked with the words "Massachusetts Standard Measure", shall be manufactured or sold. No person shall so mark any barrel or other package so used, or intended to be used, unless its interior capacity is as great as the capacity herein specified for such package.

Nothing in this or the preceding section shall prohibit the use of third, half and three quarter barrels, as provided by United States law. [1884; last amended 1911.]

Sec. 117. Sale of cranberries in packages; marking requirements.

It shall be lawful to use for the sale and delivery of cranberries packages containing one, two or four

pounds of cranberries, net weight; provided, that said net weight is plainly stamped on the top or side of each package. [1911]

Sec. 140. Weighers of beef: Appointment; oath.

In each town where beef cattle are sold for the purpose of marketing or barrelling, the mayor or selectmen shall appoint one or more persons, conveniently situated in such town and not dealers in cattle, as weighers of beef. Each such weigher shall be sworn to the faithful performance of his duties. [1815]

Sec. 141. Same: Fees.

Fees for weighing cattle shall be paid by the vendor and shall be twenty cents for each of the first five cattle, fifteen cents for each of the second five, ten cents each from the eleventh to the twentieth, inclusive, and five cents for each above twenty; also twelve and one half cents for each certificate, which shall contain the weight of each of the cattle weighed for one person unless the vendor requests a division thereof. [1915]

Sec. 158. Weighing of ice: Duty of dealer to furnish scales and price list of ice; penalty.

A dealer in ice, who refuses or neglects to provide scales for each vehicle used by him for the retail delivery of ice, or who neglects to furnish to the sealer of weights and measures of each city or town in which he conducts business a list of the current prices of ice sold by him at retail, shall be punished by a fine of not more than fifty dollars. [1890; last amended 1926.]

Sec. 159. Same: Duty to post prices and sell ice by weight; penalty.

Whoever having charge of the retail delivery of ice from a vehicle neglects to keep conspicuously posted upon each side of the vehicle the current retail prices of ice sold by him, or refuses or neglects to sell the same by weight, or refuses to weigh the same upon request of the purchaser, shall be punished by a fine of not more than fifty dollars. [1890; last amended 1926.]

Sec. 172. Standard barrel and hogshead.

The barrel shall contain thirty-one and one-half gallons and the hogshead two barrels, except that barrels containing malt beverages shall contain thirty-one gallons and that with respect to such barrels and fractional parts thereof a variation or tolerance of three per cent over and under the standard capacity shall be permitted. [1894; last amended 1939.]

Sec. 174. Cental.

A cental or hundredweight shall be one hundred pounds. [1880; last amended 1888.]

Sec. 174A. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions; penalty.

No person shall pack for sale, sell, offer or expose for sale in this commonwealth, except in containers of net avoirdupois weights of five, ten, twenty-five, fifty and one hundred pounds, and multiples of one hundred pounds, any of the following commodities:—wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, that this section shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred pounds, or (c) flours, meals, hominy and hominy grits packed in containers the net contents of which are less than three pounds, or (d) the exchange of wheat for flour by mills grinding for toll. Whoever violates any provisions of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars. [1945; last amended 1946.]

Sec. 176. Definition of weight; construction of contracts; tolerances; penalty.

"Weight" in a sale of commodities by weight shall mean the net weight of all commodities so sold; and contracts concerning such sales shall be so construed; provided, that in respect to commodities not intended for food or fuel reasonable tolerances or variations shall be permitted in accordance with established trade customs. Violation hereof shall be punished by a fine of not more than one hundred dollars. [1826; last amended 1917.]

Sec. 177. Penalty for giving false weight or measure or inferentially misrepresenting weight or quantity.

Except as otherwise provided by section two hundred and forty-eight,¹ whoever himself or by his servant or agent gives or attempts to give false or insufficient weight or measure, or inferentially misrepresents the weight or quantity of a commodity sold or delivered by weight or measure by stating a price without stating the weight or quantity of such commodity, such price being in fact greater than the price advertised for such commodity or mutually understood by both parties to be the price for a given weight or measure, or demands or accepts payment in excess of the regularly quoted selling price of a commodity sold or delivered by weight or measure, or takes or attempts to take more than the quantity he represents when, as the buyer, he furnishes the weights, measures or weighing or measuring device by means of which the amount of commodity is determined, shall be punished for the first offence by a fine of not more than fifty dollars, for the second offence by a fine of not more than two hundred dollars, and for a subsequent offence by a

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fine of fifty dollars and by imprisonment for not less than one nor more than three months. [1907; last amended 1946.]

¹ See page 469.

Sec. 178. Rules for weighing by public weighers; penalty; public weigher defined.

Each public weigher of goods or commodities shall weigh them according to section one hundred and seventy-six, and shall certify accordingly; and for each refusal or neglect he shall forfeit not more than ten dollars. Each weigher of goods appointed by a town, and each weigher for hire or reward, shall be a public weigher hereunder. [1826]

Sec. 180. Certain courts to have jurisdiction over false weights and measures prosecutions.

Complaints and prosecutions for violations of law relating to the use or giving of false or insufficient weight or measure may be commenced and prosecuted in a court having jurisdiction of the place to which the goods are shipped. [1914]

Sec. 181. Packages containing food: Net quantity to be marked thereon; exceptions; enforcement.

Subject to the variations, tolerances and exemptions provided for by the following section, no person shall himself or by his agent or servant sell or offer for sale food in package form unless the net quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count. This section shall not apply to retail sales of food made from bulk if the quantity is weighed, measured or counted at the time of such sale by the retailer, nor to the sale of milk, cream or buttermilk in glass jars, as provided by section fifteen¹ of chapter ninety-eight.

The director of standards and necessities of life shall enforce this and the three following sections. [1914; last amended 1939.]

¹ See page 451.

Sec. 182. Same: Tolerances and exemptions.

The director of standards and necessities of life shall adopt the variations, tolerances and exemptions established, or hereafter established, by rules and regulations provided for by section three of the act of Congress¹ * * * with such further reasonable variations, tolerances and exemptions not covered by the rules and regulations of said section as he deems expedient. [1914; last amended 1939.]

¹ The Federal food and drug act of 1906, Ch. 3915, Acts of Congress, now superseded by the Federal Food, Drug and Cosmetic Act of 1938, 21 U. S. C. 301 et seq.; 52 St. at L. 1040 et seq.

Sec. 183. Same: Penalty for violating Sec. 181.

Whoever violates any provision of section one hundred and eighty-one shall for the first offence be punished by a fine of not less than ten nor more than fifty dollars, and for a subsequent offence by a fine of not less than twenty-five nor more than one hundred dollars. [1914]

Sec. 184. Same: Hearing before prosecution; guaranty protection.

Prosecutions under the preceding section shall not be commenced until the party concerned is notified and given an opportunity to be heard before the director of standards and necessities of life. No dealer shall be prosecuted thereunder if he establishes a guaranty, signed by the wholesaler, jobber, manufacturer, dealer or other person residing in the United States, from whom he purchased such articles, that they are correctly marked or labelled under section one hundred and eighty-one, designating it and containing the name and address of such vendor but in that case such guarantor shall be liable to prosecution and to the penalties provided by section one hundred and eighty-three. If section one hundred and eighty-one has been violated and the guarantor is without the commonwealth, no action shall be brought, but the director of standards and necessities of life shall report the facts to the proper national authorities. [1914; last amended 1939.]

Sec. 219. Weighers of grain: Appointment; oath.

Mayors and selectmen shall annually appoint one or more weighers of grain, who shall be sworn to the faithful performance of their duty; and if only one is appointed by them, they may authorize him to appoint deputy weighers. [1655; last amended 1922.]

Sec. 221. Same: Fees.

The fees of weighers of grain and their deputies if any are authorized, shall be prescribed by the aldermen or selectmen of the several towns where they are appointed. One half of such fee shall be paid by the seller and one half by the purchaser [1762-3; last amended 1922.]

Sec. 222. Same: Certificate of sale by cental; penalty.

If any wheat, corn, rye, oats, barley, buckwheat, cracked corn, ground corn or corn meal, ground rye or rye meal, or feed, or any other meal, is sold by the cental or hundred-weight, the weigher or his deputy on request of either party to the contract, shall ascertain the weight thereof and shall give a certificate of the number of centals or hundredweight of the same; and whoever sells and delivers a quantity of either of said articles exceeding one cental or hundredweight, if it has not been weighed by such weigher or his deputy, shall forfeit to the purchaser ten dollars for each lot purporting to be a cental or hundredweight which contains less than one hundred pounds. [1880; last amended 1922.]

Sec. 224. Same: Penalty for false weights or collusion.

If a weigher or deputy weigher uses, or has in his possession with intent to use, for the purposes provided in sections two hundred and nineteen to two hundred and twenty-two, inclusive, any false weight, scale, balance or other instrument for weighing, or colludes with the purchaser or seller with intent to defraud the other party, or makes and utters a false and fraudulent certificate under sections two hundred and nineteen to two hundred and twenty-two, inclusive, he may be removed from office by the aldermen or selectmen, and shall also on conviction thereof be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months. [1762-3; last amended 1922.]

Sec. 225. Commercial feeding stuffs: Marking requirements.

Each package, lot or parcel of commercial feeding stuff sold or offered, exposed or kept for sale or distributed shall have affixed thereto in a conspicuous place, as provided in the following section, a tag or label containing a legible and plainly printed statement in the English language clearly and truly certifying:

(a) The weight of the contents of the package, lot or parcel; [1903; last amended 1939.]

* * * * *

Sec. 226. Same: Tag or label to be affixed to package; bulk sales.

When any feeding stuff is sold or offered, exposed or kept for sale or distributed in packages, the tag or label shall be affixed in a conspicuous place on the outside thereof. When any feeding stuff is offered, exposed or kept for sale in bulk, the tag or label shall be affixed in a conspicuous place on the bin or other enclosure where the feeding stuff is contained, but need not state the number of pounds thereof. When any feeding stuff is sold or distributed in bulk the tag or label shall be affixed in a conspicuous place on the vehicle in which the feeding stuff is shipped, delivered or distributed and shall state the number of pounds thereof. * * * [1903; last amended 1912.]

Sec. 234. Same: Penalty for selling without tag or label.

Whoever sells, offers, exposes or keeps for sale or distributes any commercial feeding stuff without the tag or label required, * * * shall for the first offence be punished by a fine of not more than one hundred dollars and for a subsequent offence shall be punished by a fine of not less than one hundred dollars. [1903; last amended 1912.]

Sec. 235. Same: Enforcement; rules and regulations.

The director [director of Mass. agricultural experiment station] shall enforce sections two hundred and twenty-five to two hundred and thirty-four, inclusive, and may prescribe and enforce such rules and regulations relative to the sale of commercial feeding stuff or cattle feed as he deems necessary to

enforce said sections. He may prosecute or cause to be prosecuted any person violating any provision of said sections, and no complaint shall be made or prosecuted for any such violation except with his authorization or approval. [1903; last amended 1912.]

Sec. 236. Weighing of hay: Weighers; appointment; oath; regulation of hay scales; penalty.

If a town or the city council of a city accepts this section or has accepted corresponding provisions of earlier laws, the mayor or selectmen may from time to time appoint, for a term not exceeding one year, and may at any time remove, weighers of hay, who shall be sworn to the faithful performance of their duty and who shall have the superintendence of the hay scales belonging to such city or town, and shall weigh hay offered for sale therein and any other article offered to be weighed. Cities and towns may establish ordinances and by-laws for the regulation of hay scales and of the compensation of weighers of hay. Whoever, not having been so appointed, sets up hay scales in a city or town for the purpose of weighing hay or other articles offered to be weighed shall forfeit to the use of such city or town twenty dollars a month, so long as such scales are maintained. [1824]

Sec. 237. Sale of timothy or herdsgrass seed regulated; penalty.

Except as otherwise provided in chapter ninety nine¹ [The Metric System of Weights and Measures], all contracts for the sale and delivery of timothy or herdsgrass seed shall be made by avoirdupois weight. Whoever violates this section shall be punished by a fine of not more than twenty dollars. [1862; last amended 1922.]

¹ See page 457.

Sec. 238. Sale of coal, coke, and charcoal: Weighers of coal; appointment; oath.

The mayor or selectmen shall annually appoint, and may remove, weighers of coal, one of whom at least shall not be engaged in the business of selling coal, who shall be sworn to the faithful performance of their duty, and by whom all coal shall be weighed. No person shall be ineligible for appointment in a town because of the fact that he is not a resident thereof, notwithstanding any provisions to the contrary in any city charter. Women shall be eligible for appointment as weighers of coal. [1849; last amended 1920.]

Sec. 239A. Same: Standard sizes for anthracite coal; tolerances.

The director of standards and necessities of life shall from time to time by rule or regulation establish standard sizes for anthracite coal offered for sale within the commonwealth, with variances or tolerances not to exceed five per cent determined by weight [1926; last amended 1939.]

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Sec. 240. Same: Sale by weight only; ton for coal.

Coal shall be sold by weight, and, except when sold by cargo, two thousand pounds avoirdupois shall be the standard for the ton. Coke and charcoal in any quantities shall be sold only by weight or measure. [1849; last amended 1923.]

Sec. 241. Same: Sale in bags, sacks and baskets regulated.

Coal in quantities of one hundred pounds or less shall be sold by weight, and coke and charcoal in quantities of one hundred pounds or less shall be sold by weight or measure, in bags, sacks or baskets, and until delivered shall be kept in the same bags, sacks or baskets in which they were weighed or measured; and coal, coke and charcoal thus sold shall be exempt from section two hundred and forty-four. When sold by weight, such bags, sacks or baskets shall be plainly marked with the name and business address of the person who puts up the same, and with the weight of the coal, coke or charcoal therein in letters and numerals, respectively, of bold uncondensed type at least one inch in height. Paper bags or sacks used in the sale of coal shall contain and shall be sold as containing twenty-five pounds, avoirdupois weight, and, in addition to the marking herebefore required, such bags or sacks shall be plainly and conspicuously marked with the classification of such coal, whether anthracite, semi-anthracite, bituminous containing less than twenty-three per cent volatile matter or bituminous containing more than twenty-three per cent volatile matter, and with the size of the coal contained therein. [1883; last amended 1926.]

Sec. 242. Same: Baskets and similar receptacles regulated.

Baskets or similar receptacles used in selling coke, charcoal or unpacked kindling wood by measure shall be of one bushel or multiple thereof, Massachusetts standard dry measure, shall have their capacity plainly marked thereon, shall be sealed by a sealer of weights and measures of the town or district where the vendor resides or conducts his business, and shall be filled at least level full when well shaken. [1901; last amended 1919.]

Sec. 243. Same: Paper bags or sacks regulated; penalty.

Paper bags or sacks used or intended to be used in the sale of coke, charcoal or kindling wood by measure shall be not less than twenty-five inches in height, not less than thirteen and one half inches in width, and the bottoms shall not be less than four and three quarters inches wide. They shall be filled to a point not more than six inches from the upper end. Bags of unpacked kindling wood or of coke or charcoal sold or offered for sale by measure shall contain, and shall be sold as containing, one half bushel, Massachusetts standard dry measure. Bags and sacks shall be plainly marked with

the name and business address of the person putting up the same, and the words "one half bushel" in bold, uncondensed, capital letters at least one inch in height. Whoever himself or by his servant or agent or as the servant or agent of another sells or offers for sale a paper bag or sack to be used in the sale of coke, charcoal or kindling wood by measure which does not conform in every particular to the requirements of this section shall be punished by a fine of not more than one hundred dollars. [1908; last amended 1921.]

Sec. 244. Sale of coal, charcoal, coke, and road construction material: Weighing; certificate of weight.

Whoever, except as provided in section two hundred and forty-one, sells coke, charcoal or coal by weight, or whoever sells material for road construction by weight, shall without cost to the purchaser cause the goods or material to be weighed by a sworn weigher of the town where they are weighed, and shall cause to be signed by the weigher a certificate stating the name and place of business of the seller, and either the identifying number, of which a permanent record shall be kept, or the name of the person taking charge of the goods or material after the weighing as given to the weigher on his request, the tare weight, and the quantity of the goods or material. Such certificates shall be given to said person and shall be given by him only to the owner of the goods or material or his agent when he unloads the same; and each such person, on request and without charge therefor, shall permit the director of standards and necessities of life, or any inspector of standards in any town, or any sealer of weights and measures of any town to examine the certificate and to make a copy thereof. [1901; last amended 1941.]

Sec. 245. Same: Certain officials may direct goods to be weighed.

The director of standards and necessities of life or any inspector of standards in any town, or a sealer of weights and measures within his town, wherein any quantity of coke, charcoal or coal or material for road construction in the course of delivery is found may direct the person in charge of the goods or material to convey the same without delay or charge to scales designated by such director, inspector or sealer, who shall there determine the quantity of the goods or material, and, except in the case of coke, charcoal or coal in baskets or bags as required by section two hundred and forty-one, shall determine their weight together with the tare weight, and shall direct said person to return to such scales immediately after unloading the goods or material; and upon such return, the director, inspector or sealer shall determine the tare weight. The scales designated by the director, inspector or sealer as aforesaid may be the public scales of the town or any other scales therein which have been duly tested and sealed and shall be such scales as in his judgment are most convenient. [1901; last amended 1941.]

Sec. 246. Same: Record of weights and measures to be kept.

Each sealer of weights and measures of a town and each sworn weigher shall keep in a book used by him solely for that purpose a record of all baskets sealed by him as aforesaid, and of all weighings and determinations or quantities of coke, charcoal or coal or material used for road construction made by him as aforesaid. Such record shall be made at the time of measuring or weighing, and shall state the day and hour of the measuring or weighing, the name and place of business of the vendor, the name of the owner of the baskets or of the purchaser of the goods or material as given to him on his request by the person taking charge of the baskets or of the goods or material after weighing or measuring, the capacity of the baskets measured or quantity of the goods or material determined, and the name of said person; and, in the case of a re-weighing as provided in section two hundred and forty-five, shall state the weight as given in the certificate and as determined by him. No charge shall be made by any such sealer for anything done under this section and sections two hundred and forty-four and two hundred and forty-five. [1901; last amended 1941.]

Sec. 247. Sale of edgings and kindling wood.

Edgings or kindling wood shall not be sold in bundles unless the same are closely packed and are not less than twenty-seven inches in circumference. Kindling wood may be sold in bulk by the load; but if unpacked shall not be sold unless by measure and, if exceeding six inches in length, shall not be sold in bags or sacks. [1909; last amended 1919.]

Sec. 248. Violations of Secs. 239A-247; fraud and deceit in weighing or measuring coal and fuel oil; penalties; enforcement.

Whoever violates any provision of sections two hundred and forty to two hundred and forty-seven, inclusive, if no other penalty is provided therein, or of a rule or regulation made under section two hundred and thirty-nine A, or fails to comply with any request for information or direction made under authority of sections two hundred and forty, two hundred and forty-one, two hundred and forty-four to two hundred and forty-six, inclusive, or gives a false answer to any such request, shall be punished by a fine of not more than fifty dollars; and whoever is guilty of fraud or deceit as to weighing, selling or delivering of coke, charcoal or coal, or the measuring, selling or delivering of fuel oil or range oil, or whoever, by himself, or by his servant, agent or employee, sells or delivers or attempts to sell or deliver coal which is short in weight or which contains an unreasonable amount of shale, slate, rock or other foreign substance or which produces an excessive amount of non-combustible residue, including ash, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. The director of standards

and necessities of life and local sealers of weights and measures shall cause sections two hundred and forty to two hundred and forty-nine, inclusive, and rules and regulations made under section two hundred and thirty-nine A, to be enforced. [1901; last amended 1946.]

Sec. 249. Penalty for possession of illegal measures for coal, coke, charcoal or kindling wood.

A vendor of coal, coke, charcoal or kindling wood, who has in his possession a basket, bag, sack or other measure which does not conform in every particular to the requirements respecting such measure, with intent to use or permit it to be used in measuring coal, coke, charcoal or kindling wood sold or offered for sale, shall be punished by a fine of not more than twenty dollars, and such basket, bag, sack or measure shall be destroyed. [1758-9; last amended 1920.]

Secs. 249A-249F. Coal.

[ED. NOTE.—These sections provide for inspection of coal. The pertinent sections are not given in detail because their provisions relate primarily to quality.] [1923; last amended 1939.]

Sec. 250. Commercial fertilizers: Marking requirements.

No commercial fertilizer shall be sold or offered or exposed for sale without a plainly printed label accompanying it, displayed in the manner herein-after set forth, and truly stating the following particulars:

1. The number of pounds of the fertilizer sold or offered or exposed for sale. [1869; last amended 1933.]

* * * * *

Sec. 251. Same: Label to be affixed, when.

When any fertilizer is sold or offered or exposed for sale in packages, the label shall be affixed in a conspicuous place on the outside thereof. When any fertilizer other than the product of gas houses, known as gas house lime, is offered or exposed for sale in bulk the label shall be affixed in a conspicuous place to the bin or other enclosure where the fertilizer is contained but need not state the number of pounds thereof, and when such fertilizer is sold in bulk the label shall be affixed in a conspicuous place to the vehicle in which the fertilizer is shipped or delivered, and shall state the number of pounds thereof. When any fertilizer is sold in packages furnished by the purchaser the seller shall furnish the labels therefor. [1911]

Sec. 253. Same: Untrue label forbidden.

* * * and no person shall sell, offer or expose for sale a fertilizer or brand thereof with a label which is untrue in any particular. [1869; last amended 1911.]

Sec. 260. Same: Rules and regulations; enforcement.

The director [director of the Mass. agricultural experiment station] shall enforce sections two hun-

Annotated Laws (1946), Vol. III, Title XV, Ch. 94—
Inspection and Sale of Food, Drugs and Various
Articles—Continued.

dred and fifty to two hundred and sixty-one, inclusive, and may prescribe and enforce such rules and regulations as to the sale of commercial fertilizers as he deems necessary to enforce said sections, and may prosecute or cause to be prosecuted any person violating any provision of said sections. * * * [1873; last amended 1918.]

Sec. 261. Same: Penalty for violations.

Whoever hinders or obstructs the director [director of the Mass. agricultural experiment station], his inspector or deputy, in the discharge of any authority or duty conferred or imposed by any provision of sections two hundred and fifty to two hundred and sixty-one, inclusive, and, * * * whoever violates any provision of sections two hundred and fifty to two hundred and fifty-four, inclusive, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1911; last amended 1918.]

Sec. 262. Lime: Inspectors.

The mayor of a city or the selectmen of a town where lime is manufactured, or into which it is imported, may annually appoint one or more inspectors of lime, who shall be sworn to the faithful performance of their duty and shall inspect all lime manufactured in such city or town at the time when a cask is filled at the kiln, and all lime imported or sold in such city or town. [1809]

Sec. 263. Same: Branding of casks.

Each cask of lime so inspected shall be branded with the word "inspected", with the name of the inspector, and with the name of the town where it is manufactured. [1809]

Sec. 265. Same: Standard cask.

No stone lime manufactured within the commonwealth shall be sold or exposed for sale, or shipped on board a vessel in casks, unless it is well burnt and pure, in good and sufficient new casks containing either one hundred and eighty or two hundred and eighty pounds each, made of well seasoned heads and staves, with ten good and sufficient hoops on each cask, well driven and sufficiently secured with nails and pins. [1785; last amended 1920.]

Sec. 266. Same: Penalty for selling in other than standard cask; exception.

Whoever sells, exposes for sale, ships or receives on board a vessel in casks, any lime manufactured in the commonwealth, other than such as is contained in casks made according to the preceding section and marked or branded as provided in section two hundred and sixty-three shall be punished by a fine of one dollar and fifty cents for each cask sold, exposed for sale, shipped or received on board

a vessel; but sections two hundred and sixty-two to two hundred and sixty-eight, inclusive, shall not prevent any person from retailing lime by the bushel or other quantity, when not in casks. [1809]

Sec. 268. Same: Forfeiture and seizure of casks.

A cask of lime which is sold, exposed for sale, or put on board a vessel, contrary to any provision of sections two hundred and sixty-two to two hundred and sixty-eight, inclusive, shall be forfeited, and may be seized and libelled by an inspector of lime. [1793; last amended 1809.]

Sec. 278. Nails and brads: How packed; casks.

Wrought, cut or wire nails and brads of all sizes manufactured in the commonwealth shall be well made, packed free from waste pieces of iron unless they are refuse nails or brads, and free from any fraudulent mixture increasing the weight, in strong and sufficient casks of season timber, well hooped, containing not more than three hundred pounds each. [1799; last amended 1892.]

Sec. 279. Same: Branding of casks.

Each cask of wrought, cut or wire nails or brads shall be marked or branded on the head by the manufacturer, in plain, legible letters in the English language, with his name and the net weight of the contents of the cask. [1799; last amended 1892.]

Sec. 280. Same: Forfeiture of cask or package not marked with net weight.

If a cask, package or quantity of wrought, cut or wire nails or brads, manufactured in the commonwealth or elsewhere and not branded or marked as provided in the preceding section, is offered or exposed for sale within the commonwealth or put on board a vessel or vehicle, unless to be carried out of the commonwealth, it shall be forfeited. [1799; last amended 1892.]

Sec. 282. Same: Disposition of forfeitures.

All forfeitures recovered * * * shall be divided equally between the informer and the commonwealth. [1799; last amended 1892.]

Sec. 283. Slot machines and other automatic devices: Use regulated.

No person shall maintain any slot machines or other automatic device, except gas meters, electric meters and telephones, which, upon the deposit therein of any coin or other article of value, furnishes music or other entertainment, exhibits pictures, provides facilities for weighing, supplies any merchandise or other thing, or renders any service, or is represented to do or perform any of the above mentioned things, unless such machine or device is of a type approved by the director of standards and necessities of life; but no person maintaining such machine or device with respect to which, or to the operation, service or supplies of which, there is any

element of chance shall be protected or be entitled to immunity from prosecution because of such approval. [1920; last amended 1939.]

Sec. 284. Same: Penalty.

Whoever installs or maintains a machine or device mentioned in the preceding section which is of a type not approved as therein provided shall, if such machine or device fails properly to respond to the insertion or deposit therein of a coin or other article of value, be punished by a fine of not more than twenty-five dollars. [1920]

Sec. 285. Sewing thread: Marking requirements.

Each manufacturer of cotton, linen or silk sewing thread, and each person engaged in putting up such thread on spools, or in packages of four ounces weight or less not wound on spools, shall, before the same is offered for sale, affix to or impress upon each spool of such thread, and upon each package of such thread not wound on spools, a label or stamp plainly and conspicuously designating the quantity of thread which such spool or package contains, either by giving the length in yards or by giving the weight. [1869; last amended 1880.]

Sec. 286. Same: Penalty against manufacturer, etc. for failure to affix label and for falsely labeling.

Each person referred to in the preceding section who neglects to affix a correct label to or to impress a correct stamp upon each spool and package of thread, or who affixes to or impresses upon, or causes or suffers to be affixed to or impressed upon any spool or package of thread intended for sale, a label or stamp specifying that such spool or package contains a greater number of yards or a greater quantity of thread by five per cent than such spool or package does contain, shall forfeit five dollars for each spool or package so without a label or stamp or so falsely labelled or stamped which is sold or delivered to any person to be sold; one half to the use of the commonwealth and one half to the use of the person who sues therefor. [1869; last amended 1878.]

Sec. 287. Same: Penalty against merchant, etc. for false label.

A merchant, jobber or trader who sells or offers for sale cotton, linen or silk sewing thread, put up either on spools, or in packages of the weight of four ounces or less not wound on spools, which is not labelled or stamped, or which is falsely labelled or stamped as regards length or quantity by an amount greater than five per cent of the true length or quantity, shall be liable to the penalty provided in the preceding section. [1869; last amended 1880.]

Sec. 288. Same: Certain bobbins exempted.

The three preceding sections shall not apply to ready wound bobbins of thread adapted for use in sewing machine shuttles. [1878]

Sec. 296. Wood and bark: Measurers.

A town and the city council of a city shall annually choose one or more measurers of wood and bark, who shall be sworn to the faithful performance of their duties and shall hold office during the year and until others are chosen and qualified in their stead. A town, by vote fixing the number to be chosen, may delegate the appointment of such measurers to the selectmen. [1647; last amended 1796.]

Sec. 297. Same: Measurers may act in adjoining town.

Such measurers may, in the manner prescribed for measurers of lumber in section eight of chapter ninety-six,¹ be licensed to act in a town adjoining that for which they are elected or appointed. [1894; last amended 1920.]

¹ See page 473.

Sec. 298. Same: Standard measurement for cord wood and kindling wood.

Cord wood sold or offered or exposed for sale shall be four feet in length, including half the kerf. The term "firewood" shall be construed to mean and include wood cut to any lengths of less than four feet and more than eight inches. The standard unit of measure for cord wood or firewood shall be the "cord" of one hundred and twenty-eight cubic feet consisting of or equivalent to a pile, closely stacked, eight feet in length, four feet in width and four feet in height. The term "kindling wood" shall be construed to mean and include all split wood, edgings, clippings or other waste wood averaging eight inches or less in length. Except as provided by sections two hundred and forty-three¹ and two hundred and forty-seven,² the standard unit of measure for kindling wood shall be the bushel of two thousand one hundred and fifty and forty-two hundredths cubic inches. [1655; last amended 1934.]

¹ See page 468.

² See page 469.

Sec. 299. Same: Certificate of sale; penalty.

Whoever, except as otherwise provided, sells cord wood or firewood, shall cause a certificate or memorandum to be issued and delivered to the purchaser or his agent at the time of delivery of the wood. Such certificate or memorandum shall include the names and addresses of the seller and of the purchaser, and a statement of the quantity of wood delivered, in terms of cords or of cubic feet. Whoever violates any provision of this or the preceding section shall be punished by a fine of not more than fifty dollars. [1758-9; last amended 1934.]

Sec. 300. Same: Fees of measurers.

Measurers of wood and bark shall be entitled to such fees for their services as the aldermen or selectmen shall establish; and the fees shall in each case be paid to the measurer by the driver and shall be repaid by the purchaser. [1647; last amended 1796.]

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Inspection and Sale of Food, Drugs and Various
Articles—Continued.

Sec. 301. Same: Measurement of water borne wood.

Cord wood brought by water into a town for sale, and landed, shall be measured by a public measurer; and for that purpose the wood shall be corded and piled by itself in ranges, making up in height what is wanting in length, and, being so measured, a ticket shall be given to the purchaser, who shall pay the stated fees for such service. Towns may establish ordinances and by-laws, with suitable penalties, for the inspection, survey, measurement and sale of wood and bark for fuel brought therein for sale, and may also provide for the appointment of inspectors, surveyors and other officers and establish their fees. [1799; last amended 1830.]

Sec. 302. Same: Tickets showing quantity in load; exceptions.

Each wharfinger, carter or driver who conveys firewood or bark from a wharf or landing place shall be furnished by the owner or seller with a ticket certifying the quantity which the load contains and the name of the driver; and if firewood or bark is thus conveyed without such ticket accompanying the same, or if a driver refuses to produce and show such ticket to any sworn measurer on demand, or to give his consent to have the same measured, or if such ticket certifies a greater quantity of wood or bark than the load contains in the opinion of such measurer after measuring the same, the driver and owner shall for each load thereof severally forfeit five dollars. Sections two hundred and ninety-six to three hundred and three, inclusive, shall not apply to a person who transports or carts or causes to be transported or carted from a wharf or landing place to his own dwelling house or store cord wood or bark which he has purchased on a wharf or landing place, or which he has landed thereon upon his own account. [1758-9; last amended 1799.]

Sec. 303. Same: Inspection, survey, measurement and sale of bark, etc.; penalties.

The city council of a city may establish ordinances, with suitable penalties not exceeding five dollars for any one violation thereof, for the regulation of the sale of prepared wood, slabs and edgings for fuel, when sold by the load, and for the inspection, survey, measurement and sale of bark for fuel or manufacturing purposes brought into said city for sale, whether the same is exposed for sale in ranges or upon a vehicle; and said city may provide for the appointment of such surveyors, inspectors and other officers as may be necessary to carry into effect said ordinances and may establish their fees. [1830; last amended 1891.]

Sec. 303F. Fuel oil: Seller to issue certificate as to quantity to purchaser; penalty.

Whoever sells fuel oil in quantities of ten gallons or over for heating or cooking purposes shall cause

a certificate or memorandum to be issued and delivered to the purchaser or his agent at the time of delivery of such oil. Such certificate or memorandum shall include the names and addresses of the seller and of the purchaser, and a statement of the quantity of oil delivered, in terms of gallons and fractions thereof, if any. Whoever violates any provision of this section shall be punished by a fine of not more than fifty dollars. [1935]

Sec. 305. Fraudulent packing; penalties.

Whoever, with intent to defraud or injure, in baling or in packing in any container any commodity sold by weight, including wool, leather, cotton, waste, rags and paper, places therein any substance foreign to the contents thereof shall be punished for the first offence by a fine of not more than one hundred dollars, for the second offence by a fine of not more than two hundred dollars, and for a subsequent offence by a fine of fifty dollars and imprisonment for not less than one nor more than three months. [1919]

Annotated Laws (1946), Vol. III, Title XV, Ch. 95—
Measurers of Leather.

Sec. 1. Appointment; oath.

The mayor of a city or the selectmen of a town, upon the request of two or more voters thereof, shall annually appoint one or more measurers of leather who have been certified by the director of standards and necessities of life as fit persons for such appointment, and who shall be sworn to the faithful performance of their duty. The director of standards and necessities of life may at any time, for cause, revoke such certificate of fitness, and such revocation shall immediately render such appointment void. [1841; last amended 1939.]

Sec. 2. May act in any city or town.

A measurer of leather for one town may measure leather in any other town. [1866; last amended 1913.]

Sec. 3. Duties.

Each measurer, upon request, shall go to any place within the town for which he is appointed and there ascertain the area of each skin or side or other portions of leather submitted to him. For this purpose, he shall use only such racks, measures or mechanical devices as have been legally tested and sealed, and shall mark or cause each skin or side or other portion of leather to be marked with indelible figures giving the measurement thereof in square feet, including fractions as small as one quarter of a foot. After the area of any skin or side or other portion of leather has been determined as aforesaid, it shall be permissible to add one quarter of a foot to such measurement for any remaining fraction greater than one eighth of a foot; but no such remaining fraction of less than one eighth of a foot shall be added or included in such measurement. [1841; last amended 1913.]

Sec. 4. Penalty for sale of unmeasured leather.

Whoever sells or offers leather for sale by measure shall cause the same to be measured by a sworn measurer unless such leather has previously been measured by a sworn measurer of a town in the commonwealth, or by some person lawfully appointed therefor in any other state, or unless the measurement thereof has been expressly waived in writing by the buyer and seller thereof. Whoever violates this section shall be punished by a fine of not less than ten nor more than fifty dollars. [1866; last amended 1913.]

Sec. 5. Penalty for altering or counterfeiting measurers' marks.

Whoever counterfeits or causes to be counterfeited, or not being a sworn measurer, alters or defaces with intent to deceive, a measurer's marks on a skin or side or other portion of leather shall be punished by a fine of twenty-five dollars. [1841; last amended 1913.]

**Annotated Laws (1946), Vol. III, Title XV, Ch. 96—
Measurers of Lumber.**

Sec. 7. Appointment; oath.

Towns may annually elect one or more measurers of lumber, who shall be sworn to the faithful performance of their duties, and cities may by ordinance provide for the annual appointment of such measurers. [1710-11; last amended 1920.]

Sec. 8. May be licensed to act in adjoining towns.

A measurer of lumber in any town may apply to the selectmen of an adjoining town for a license to measure lumber therein, and if the selectmen are of the opinion that it will be for the public convenience they may, upon payment of a fee not exceeding one dollar, grant such license, and may limit the territory in which such license may be exercised. Such a license shall remain in force while the licensee holds the office of measurer in the town for which he was chosen, but not later than the next annual town meeting of said town. [1894; last amended 1920.]

Sec. 9. Fraud in measuring; penalty.

A measurer of lumber for any city or town who is guilty of or connives at a fraud or deceit in measuring, marking or numbering the contents of any kind of wood or lumber, or who, when lawfully requested, refuses without good reason to measure lumber, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1783; last amended 1924.]

Sec. 10. Penalty for inducing measurer to make false measurement.

A seller or purchaser of lumber who induces or attempts to induce a measurer to make a false meas-

urement shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1878; last amended 1924.]

Sec. 11. Penalty for misrepresentation of authority.

Whoever without authority represents himself to be an official measurer of lumber of any city or town shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1858; last amended 1924.]

Sec. 11A. Standard log rule.

The international log rule, based upon one fourth inch saw kerf, as expressed in the formula $(D^2 \times 0.22) - 0.71D) \times 0.901762$ for four foot sections (D represents top diameter of log in inches; taper allowance, one half inch per four feet lineal), shall be the standard log rule for determining the board foot content of saw logs in this commonwealth, and all contracts entered into for the purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule, unless some other method of measurement is specifically agreed upon. [1945]

**Annotated Laws (1946), Vol. III, Title XV, Ch. 97—
Tests of Surveyor's Measures.**

Sec. 3. Annual test of surveyors' apparatus by sealers of weights and measures; penalty.

All apparatus for linear measurements used by a land surveyor shall be annually tested and proved by the sealer of weights and measures in the town where such surveyor resides or has his office, and all chains, tapes or other apparatus used for linear measurements which cannot be made to conform to the standard shall be marked "condemned", or "CD", by said sealer, and any surveyor who thereafter uses for measuring land any such apparatus shall be punished by a fine of twenty dollars. [1871]

Sec. 4. Appointment of person other than sealer to make test.

The mayor and aldermen of a city or the selectmen of a town may appoint a suitable person, other than the sealer of weights and measures, to test, prove and mark the measuring apparatus of land surveyors. [1871]

Sec. 5. Tests to be based on state standards.

The standards used for such tests shall be based upon and correspond to the standards furnished by the commonwealth to sealers of weights and measures. [1871]

Sec. 6. Fees for testing.

The fees for such testing and proof of each article of apparatus shall be twenty-five cents, and shall be paid by the person presenting the apparatus for test. [1871]

Annotated Laws (1946), Vol. III, Title XV, Ch. 101
—Hawkers and Pedlers.

Sec. 13. Hawker and pedler defined.

Except as hereinafter expressly provided, the terms "hawker" and "pedler" as used in this chapter [Secs. 1-33] shall mean and include any person, either principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares or merchandise, either on foot, on or from any animal or vehicle. [1713-14; last amended 1920.]

Sec. 14. Unauthorized selling.

A hawker or pedler who sells or barter or carries for sale or barter or exposes therefor any goods, wares or merchandise, except as permitted by this chapter [Secs. 1-33], shall forfeit not more than two hundred dollars, to be equally divided between the commonwealth and the town in which the offence was committed. [1713-14; last amended 1920.]

[ED. NOTE.—In Annotated Laws of Massachusetts, following the foregoing section, it is stated: "The omission of a pedler to comply with Sec. 27 of this chapter renders him liable to the penalty imposed by this section. Com. v. Cusick, 120 Mass. 183."]

Sec. 27. Endorsement of license; production thereof and use of badges, etc.

Every person licensed as a hawker or pedler shall endorse his usual signature upon his license. He shall produce his license for inspection whenever demanded by the director [of standards and necessities of life] or by a mayor, alderman, selectman, inspector of standards, sealer or deputy sealer of weights and measures, city or town treasurer or clerk, constable, police officer or justice of the peace; and if he fails so to do, he shall be subject to the same penalty as if he had no license. The director shall, at the expense of the licensee, provide a badge for each pedler and plates or tags for each pack, parcel or vehicle used in hawking or peddling. Such badges, plates or tags shall bear the number of the license, the word "pedler," and such other information as the director may deem necessary. Each pedler shall wear his badge in a conspicuous place. Each wagon or other vehicle shall have attached to the front or side thereof, in a place where it may readily and plainly be seen, and each pack or parcel carried by a pedler traveling on foot shall have conspicuously displayed thereon, the plate or tag provided by the director with the license number attached thereto. [1846; last amended 1941.]

Sec. 30. Revocation of license.

Any license granted by the director [of standards and necessities of life] under this chapter [Secs. 1-33] may be revoked by him upon conviction of the licensee of any crime which in the judgment of

the director warrants such revocation, * * * [1852]

Sec. 32. Arrest; prosecution.

The director [of standards and necessities of life], inspectors of standards and, within their respective towns, sealers or deputy sealers of weights and measures, constables and police officers shall arrest and prosecute every hawker and pedler, and transient vendor, whom they may have reason to believe guilty of violating any provision of this chapter. [Secs. 1-33]. [1864; last amended 1941.]

Annotated Laws (1942), Vol. IV, Title XIX, Ch. 130
—Marine Fish.

Sec. 5. Enforcement of laws.

The director [of the division of marine fisheries], coastal wardens, deputy coastal wardens, fish inspectors and members of the state police shall enforce the laws relating to fish. * * * [1941]

Sec. 91. Sale by weight only; exceptions; penalty.

All food fish except soft-shell clams and oysters sold at wholesale shall be sold by weight and shucked scallops or quahaugs in the shell shall not be sold at any time except by weight. Whoever violates this section shall be punished by a fine of not less than ten nor more than fifty dollars. [1941]

Annotated Laws (1948), Vol. V, Title XXII, Ch. 164
—Sale of Gas and Electricity.

Sec. 103. Gas meters: Inspection and sealing before use.

The department [of public utilities], in accordance with its rules and regulations, shall * * * inspect, examine, ascertain and prove the accuracy of all meters which are to be used for measuring illuminating gas and which are to be furnished to or for the use of, any consumer or company, and shall seal, stamp or mark every such meter, if it be found correct, with some suitable device to be determined by the department and recorded in the office of the state secretary. A meter shall not be stamped correct if it varies more than two per cent from the standard measure. The department shall keep a correct record of all meters examined by its employees with their proof at the time of inspection, which shall be open at all times for examination by the officers of any gas company in the commonwealth. [1861; last amended 1928.]

Sec. 111. Same: Unit of measure.

The unit of measure for the sale of gas by meter shall be the cubic foot, containing sixty-two and two thousand nine hundred and ninety-three ten thousandths pounds avoirdupois weight of air-free distilled water at sixty degrees Fahrenheit when weighed in dry air at the same temperature and at a barometric pressure of thirty inches of mercury. [1861; last amended 1918.]

Sec. 112. Same: Companies to provide meter provers.

Every gas company with a capital paid in of one hundred thousand dollars or more, and every other gas company, if required by the department [of public utilities], and all makers and vendors of meters shall set up at some convenient place upon their premises one or more meter provers of a size and type approved, tested and calibrated by the department, by means of which meters may be tested. [1861; last amended 1914.]

Sec. 113. Same: Penalty for providing meters not tested.

A gas company providing a meter for measuring gas supplied to a customer which, if never before used, has not been duly sealed and stamped, or, if opened after being sealed and stamped, has not been again tested, sealed and stamped, shall be punished by a fine of five dollars for every such meter in use, payable to the city or town where the meter is situated. [1861; last amended 1914.]

Sec. 114. Same: Testing meters in use.

Meters in use shall be tested by the department [of public utilities], on the request of the consumer or of the gas company, in the presence of the consumer if desired, and with sealed apparatus. If it finds that the meter is correct, the person requesting the inspection shall pay the fees for such inspection and the expense of removing the meter for the purpose of being tested, and the reinspection shall be stamped on the meter. If it finds that the meter is incorrect, the gas company shall pay such expenses and shall furnish a new meter without charge to the consumer. [1861; last amended 1928.]

Sec. 115. Same: To register plainly.

Meters for measuring gas supplied to consumers shall register the quantity of gas passing through them in cubic feet so that the number of cubic feet of gas consumed may be easily ascertained by the consumer thereof. No meter shall be used which may confuse or deceive the consumer in ascertaining the price he pays per thousand cubic feet or the number of cubic feet consumed. [1886; last amended 1914.]

Sec. 115A. Same: Replacement of gas meters.

Each meter for measuring gas provided by a gas company or municipal lighting plant to a consumer shall, not later than seven years from the date of installation or replacement, be removed by the company or municipal lighting plant from the premises of the consumer and replaced by it with such a meter which has been newly tested, sealed and stamped in accordance with law. [1936; last amended 1937.]

Sec. 116. Gas and electricity: Entry on premises to examine meters.

An officer or servant of a gas or electric company who is duly authorized in writing by the president, treasurer, agent or secretary of said company, may at any reasonable time enter any premises supplied

with gas or electricity by such company for the purpose of examining or removing the meters, * * * and of ascertaining the quantity of gas or electricity consumed or supplied; * * * [1861; last amended 1923.]

Sec. 117. Same: Customer to be given meter reading upon request.

When a gas or electric meter in a building owned or used by a customer of a gas or electric company is read by an employee or agent of such company, he shall, upon request, deliver to the person using the gas or electricity measured by the meter a written statement of the amount recorded by the meter at that time. [1911; last amended 1914.]

Sec. 118. Same: Electric meters to register plainly.

Meters for measuring electricity for lighting purposes supplied to consumers shall register the quantity of electricity passing through them in kilowatt hours, so that the number of kilowatt hours consumed may easily be ascertained by the consumer. [1913; last amended 1914.]

Sec. 119A. Same: Quantity marked on bill.

When a consumer is charged for gas or electricity at several rates according to the quantity used, his bill, to the extent that the gas or electricity is used for domestic purposes, shall be so itemized as to show the quantity charged for at each rate, and where the use is for other than domestic purposes such detail shall be furnished by the company on request of the consumer, and the bill shall contain a statement to this effect. [1936; last amended 1939.]

Sec. 120. Electric meters: Testing of meters in use.

A customer of a corporation subject to this chapter [Secs. 1-127], or such corporation, may apply to the department [of public utilities] for an examination and test of any electric meter, demand indicator, so called, and any other device or appliance installed by such corporation upon a customer's premises and used by such corporation to determine the charge to the customer for its service. The department shall forthwith cause such examination and test as in its judgment is practicable and reasonable to be made by a competent and disinterested person, and shall furnish to the corporation and to the customer a certificate of the result and expense thereof. If, upon such examination and test, it appears that the appliance does not register correctly, the department may order the corporation to correct or remove such meter, demand indicator or other device or appliance and to substitute a correct meter, demand indicator or other device or appliance therefor. All fees for examinations and tests shall in the first instance be paid by the person or corporation making application therefor; but if the examination or test is made at the request of a customer, and the

Annotated Laws (1948), Vol. V, Title XXII, Ch. 164
—Sale of Gas and Electricity—Continued.

meter is found to be incorrect because too fast, the corporation shall pay such fees to the department, to be repaid by it to the applicant. A meter shall be deemed correct for the purposes of this section if it appears from such examination or test that it does not vary more than five per cent from the standard approved by the department. This section shall not authorize or prohibit differential prices for electricity supplied by any such company. [1901; last amended 1914.]

Sec. 121. Same: Rules and regulations.

The department [of public utilities] may establish such rules and regulations, fix such standards, prescribe such fees, and employ such means and methods in, and in connection with, such examinations and test of electric meters as it deems most practicable, expedient and economical. The department may purchase such materials, apparatus and standard measuring instruments for such examinations and tests as it deems necessary. [1901; last amended 1914.]

Sec. 122. Same: Penalty for providing incorrect electric meters or other measuring devices.

Whoever, being engaged in the sale of electricity, maintains upon the premises of a customer for the purpose of determining the charge to be made for electricity supplied to him a meter, demand indicator or other mechanical device or appliance which is found upon examination and test, as provided in section one hundred and twenty, to register incorrectly as against such customer, shall refund to him such an amount as, if not agreed upon, shall, upon application of the customer and after opportunity given to the vendor to be heard, be determined by the department [of public utilities]. [1912; last amended 1914.]

Annotated Laws (1948), Vol. V, Title XXII, Ch. 165
—Water Meters.

Sec. 10. Testing.

Any person using water supplied by a city, town, district or company, measured by a meter, shall be entitled to an examination and test of such meter to determine the accuracy of the same in any quarter or period, upon written application therefor, which shall be made before the expiration of the time when the rate for such quarter or period is required to be paid, to the board, commissioner or officer in charge of the water works of the city, town or district, if the water is supplied by a city, town or district, or to the company, if the water is supplied by a company. Such examination and test shall be made by a competent person employed by the city, town or district, if the water is supplied by a city, town or district, or by a competent person designated by the mayor of the city or the selectmen of the town where the water is supplied, if it is supplied by a company. A

written report of the result of the examination and test shall be furnished to the person making the application, and if it appears that the meter has registered with substantial accuracy, the expense of the examination and test shall be paid by the person applying therefor, and in no case shall the expense so required to be paid exceed three dollars for each examination and test, but if it appears that the meter has not registered with substantial accuracy and that the person has been charged with, or has paid for, more water than he should have been charged with or should have paid for, the amount of such excess shall forthwith be credited to such person or remitted to him if he has paid the same, and the expense of the examination and test shall be borne by the city, town, district or company supplying the water; if, however, it appears that the person has been charged with, or has paid for less water than he should have been charged with or should have paid for, he shall forthwith be charged with the proper additional amount and shall pay the same, together with the expense of the examination and test, to the city, town, district or company supplying the water. [1914]

Annotated Laws (1933), Vol. IX, Title I, Ch. 266—
False Advertising.

Sec. 91. Unlawful acts; penalty.

Any person who, with intent to sell or in any way dispose of merchandise, securities, service, or anything offered by such person, directly or indirectly, to the public for sale or distribution, or who, with intent to increase the consumption of or demand for such merchandise, securities, service or other thing, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public within the commonwealth, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, and which such person knew, or might on reasonable investigation have ascertained to be untrue, deceptive or misleading, shall be punished by a fine of not less than ten nor more than five hundred dollars; provided, that this section shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular, or to any agent of the advertiser who in good faith and without knowledge of the falsity or deceptive character thereof publishes, causes to be published, or participates in the publication of such advertisement. [1902; last amended 1916.]

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Sec. 285.1. Department created; commission; director of agriculture.

There is hereby created a state department of agriculture which shall possess the powers and perform the duties hereinafter granted and conferred. The general administration of said powers and duties shall be vested in a bi-partisan commission of agriculture which shall be composed of 5 members appointed by the governor, subject to confirmation by the senate: Provided, That 1 member of said commission shall be a resident of the Upper Peninsula. * * * The commission shall appoint and employ a director of agriculture who shall continue in office at the pleasure of the commission * * *. He may appoint, with the approval of the commission, such assistants and employees as may be necessary to perform the duties hereby imposed, * * *.

Whenever, in any law of the state, reference is made to the commissioner of agriculture, reference shall be deemed to be made to the director of agriculture. [1921; last amended 1947.]

Sec. 285.2. Abolishment of office of state food and drug commissioner, etc. and transfer of powers to state department of agriculture.

The state department of agriculture shall exercise the powers and perform the duties now vested by law in the department of animal industry, the state food and drug commissioner,¹ the state veterinary board, the immigration commission, the commissioner of immigration, the market director, and shall also possess the powers and duties formerly vested

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by law in the Michigan agricultural fair commission. The departments, boards, commissions and officers whose powers and duties are hereby transferred to the state department of agriculture shall be abolished as of the thirtieth day of June, 1921. All records, files and papers of any nature whatsoever pertaining to the functions thereof shall be turned over to the department hereby created. Any hearing or other proceeding pending before any board or officer whose tenure is so terminated shall not be abated but shall be deemed to be transferred to the state department of agriculture and shall be carried on and determined by the commissioner [director] of agriculture in accordance with the provisions of the law governing such hearing or proceeding. [1921; last amended 1923.]

¹ For powers and duties previously vested in food and drug commissioner, see Sec. 289.2, page 492.

Compiled Laws 1948, Vol. 2, Ch. 290—Weights Measures and Standards.

Sec. 290.1. State standards.

The weights and measures received from the United States under a resolution of congress approved June 14, 1836, and 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 such as shall be supplied by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards, by which all county and municipal standards of weights and measures shall be tried, proved and sealed. [1913]

Sec. 290.2. Superintendent of weights and measures; deputy and inspectors.

The state dairy and food commissioner¹ by virtue of his office shall be state superintendent of weights and measures during his term of office. His deputy shall be deputy superintendent of weights and measures and all inspectors appointed by the dairy and food commissioner shall be state inspectors and sealers of weights and measures. [1913]

¹In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "Dairy and Food Commissioner: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture, * * *." See Secs. 289.2 and 285.2, pages 492 and 478, respectively.

Sec. 290.3. Same: Powers and duties.

The superintendent of weights and measures shall take charge of the standards adopted by this article as the standards of the state, and cause them to be kept in a safe and suitable place in the office of the superintendent 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 (10) years to the national bureau of standards for certification. He shall at least once in five (5) years try and prove by the state standards all weights, measures and other apparatus which may belong to any county or city, and shall seal such when found to be accurate stamping on them the letter "C" and the last two (2) figures of the year with seals which he shall have and keep for that purpose. He shall have and keep a general supervision of the weights, measures and weighing and measuring devices offered for sale, sold, or in use in the state. He shall, upon the written request of any citizen, firm, corporation or educational institution in the state test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the state. He, or his deputy, or inspectors, by his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts and disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his finding 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 of weights and measures shall appoint in writing one (1) or more employes then in the actual service of each institution, who shall act as special deputies without extra compensation for the purpose of checking the receipts and disbursements of supplies. He shall keep a complete record of 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 (1st) day of July make to the gov-

ernor a report of the work done by his office. The state superintendent or his deputy, or inspectors, at his direction, shall inspect all standards and apparatus used by the counties and cities at least once in five (5) years and shall keep a record of the same. He, or his deputy, or inspectors, at his direction shall at least once in five (5) years visit the various cities and counties of the state in order to inspect the work of the local sealers, and in the performance of such duties, he may inspect the weights, measures, balances, or any other weighing appliance of any citizen, firm, or corporation, and shall have the same power as the local sealer of weights and measures. The superintendent shall issue from time to time, regulations for the guidance of city and county sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1913]

Sec. 290.4. County weights, measures and apparatus; certification; use as public standards.

The board of supervisors of each county and the commissioner or common council of each city who may in their discretion appoint a sealer under this act [Secs. 290.1-290.10], shall procure at the expense of the county or city, and shall keep at all times, a complete set of weights and measures and other apparatus of such material and construction as said superintendent of weights and measures may direct. All such weights, measures, and other apparatus having been tried and accurately proven by him, shall be sealed and certified to by the state superintendent as hereinbefore provided; and shall be then deposited with and preserved by the county or city sealer as public standards for such county or city. [1913]

Sec. 290.5. County sealer; appointment, term, salary, powers and duties, records, report, bond; state sealer and inspectors, powers and duties; combination of counties.

The board of supervisors of each county may in its discretion appoint a county sealer of weights and measures in each county for a term of two (2) years. He shall be paid a salary to be determined by said board, and no fee shall be charged by him or by the county for the inspection, testing, or sealing of weights, measures, or weighing or measuring devices; where not otherwise provided by law, the county sealer shall have the power within his county, and the state superintendent, his deputies and inspectors, within the state, to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measuring and tools, appliances and accessories connected with any and all such instruments or measures kept, offered, or exposed for sale, sold or used or employed within the county by any proprietor, agent, lessee, or employe in proving the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by such person

Compiled Laws 1948, Vol. 2, Ch. 290—Weights, Measures and Standards—Continued.

or persons for sale, hire, or award; and they shall have the power to and shall from time to time weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold or in the process of delivery, in order to determine whether the same contains the amount represented, and whether they be offered for sale or sold in a manner in accordance with law. The county sealer shall at least once each year, and as much oftener as he may deem necessary, see that the weights, measures, and all apparatus used in the county are correct. The county and state inspectors may for the purpose above mentioned and in the general performance of their official duties enter or go in 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 dealer 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 sealer or state inspectors find a violation of the statute relating to weights and measures, they shall cause the violator to be prosecuted. Whenever any sealer or inspector compares weights, measures, or weighing or measuring instruments 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 instruments with appropriate devices to be approved by the state superintendent of weights and measures. The county sealer shall keep a complete record of all of his official acts and shall make an annual report to the board of supervisors and an annual report duly sworn to on the first (1st) day of July to the state superintendent of weights and measures on blanks to be furnished by the superintendent. The county sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of one thousand (1,000) dollars, with sureties to be approved by the appointing power for the faithful performance of the duties of his office: Provided, however, that nothing in the above shall be construed to prevent two (2) or more counties from combining the whole or any part of their districts as may be agreed upon by the board of supervisors with one (1) set of standards and one (1) sealer, upon the written consent of the state superintendent of weights and measures. A county sealer appointed in pursuance of such 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 party to the agreement. [1913]

Sec. 290.6. City sealer; appointment, duties, powers; county sealer, acting in city; combination of county and city.

Any incorporated city in this state may in its discretion appoint a city sealer of weights and measures

under this act [Secs. 290.1-290.10]. He shall be appointed by the mayor, by and with the advice and consent of the common council. He shall perform in said city the duties and have like powers as the county sealer in the county. In those cities in which no sealer is appointed as above, the county sealer of the county, if there be one (1), shall perform in said cities the duties and have like powers as in the county: Provided, however, That nothing in the above shall be construed to prevent any county and a city situated therein from combining the whole or any part of their districts as may be agreed upon with one (1) sealer, subject to the written approval of the state superintendent 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. [1913]

Sec. 290.8. Seizure for use as evidence.

The superintendent of weights and measures, his deputy, inspectors, and the county and city sealers of weights and measures are hereby made special policemen, and are authorized to seize, for use as evidence and without formal warrant any false or unsealed weight, measure or weighing or measuring device or package or amounts of commodities, found to be used, retained or offered or exposed for sale or sold in violation of law. [1913]

Sec. 290.9. Hindering an officer; penalty.

Any person who shall hinder or obstruct in any way, the superintendent of weights and measures, his deputy, or inspectors, or any county or city sealer, in the performance of his official duties shall be guilty of a misdemeanor, and shall be punished upon conviction thereof, in any court of competent jurisdiction, by a fine of not less than two (2) nor more than two hundred (200) dollars, or by imprisonment in the county jail for not more than ninety (90) days or by both such fine and imprisonment. [1913]

Sec. 290.10. Impersonation of weights and measures officials; penalty.

Any person who shall impersonate in any way the superintendent of weights and measures, his deputy, inspectors, or any county or city sealer, by use of his seal or otherwise, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars, or by imprisonment in the county jail for not more than ninety (90) days or by both such fine and imprisonment. [1913]

Sec. 290.17. Hundredweight; as contract term.

When any commodity shall be sold by the hundred weight, it shall be understood to mean the net

weight of one hundred pounds avoirdupois, and all contracts concerning goods or commodities sold by weight, shall be construed accordingly, unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. [1846]

Sec. 290.19. Standard measure for fruits, charcoal, commodities sold by heaped measure.

The half bushel and the parts thereof shall be the standard measure for fruits and other commodities customarily sold by heap measure; and in measuring such commodities the half bushel or other smaller measure shall be heaped as high as may be without especial effort or design and the standard measure of charcoal shall be twenty-seven hundred and forty-eight (2748) cubic inches for each and every bushel thereof. [1846; last amended 1867.]

Sec. 290.21. Legal fruit standards.

That standards established by the United States secretary of agriculture for fruits shall be accepted as the legal standards, except in cases where other standards are specifically prescribed. [1929]

Sec. 290.31. Weight per bushel, of certain grains, dried fruit, coal, vegetables and products.

That whenever wheat, rye, shelled corn, corn on the cob, corn meal, oats, buckwheat, beans, clover seed, timothy seed, flax seed, hemp seed, millet seed, blue grass seed, red top seed, barley, dried apples, dried peaches, potatoes (sweet), onions, turnips, peas, cranberries, dried plums, castor beans, salt, mineral coal, Hungarian grass seed, orchard grass seed, osage orange seed, beets, carrots or parsnips, shall be sold by the bushel, and no special agreement as to the measure or weight thereof shall be made by the parties, the measure thereof shall be ascertained by weight, and shall be computed as follows, viz: ¹

	<i>Pounds per Bushel</i>
Wheat	60
Rye	56
Shelled corn	56
Corn on the cob	70
Corn meal	50
Oats	32
Buckwheat	48
Beans	60
Clover seed	60
Timothy seed	45
Flax seed	56
Hemp seed	44
Millet or Hungarian grass seed	50
Blue grass seed	14
Red top seed	14
Barley	48
Apples, dried	22
Peaches, dried	28
Potatoes	60
Potatoes, sweet	56
Onions	54
Turnips	58
Peas	60
Cranberries	40

	<i>Pounds per Bushel</i>
Plums, dried	28
Beans, castor	46
Salt, Michigan	56
Coal, anthracite (mineral)	80
Coal, bituminous (mineral)	60
Grass seed, orchard	14
Orange seed, osage	33
Beets	56
Carrots	50
Parsnips	50

[1863; last amended 1925.]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 290.41. Stone-lime: Weight per bushel.

* * *, That whenever stone-lime is sold, and no special agreement is made by the parties, the bushel shall consist of seventy (70) pounds. [1871]

Sec. 290.71. Apples: Weight per bushel.

That whenever apples are bought or sold by weight forty-eight (48) pounds shall constitute a bushel. [1877]

Sec. 290.85. Same: Labels on containers; conclusive evidence.

It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession apples for sale unless such container has been legibly and conspicuously tagged, branded, labeled or stenciled with letters not less than a quarter of an inch in height before being removed from the premises where prepared for sale with * * * the true net contents. * * * It shall be conclusive evidence, and the apples deemed to be for sale, when containers are packed for delivery or transit, or when same are exposed for sale or when the same are in the process of delivery or transit or are located at a depot, station, boat dock, or any place where apples or other products are held in storage, or for immediate or future sale or transit. [1937]

Sec. 290.86. Same: Enforcement; right of entry.

The commissioner [director] of agriculture ¹ is hereby charged with the enforcement of this act [Secs. 290.81-290.90] and is given power unto himself and his inspectors to enter into and upon any premises where apples are graded or packed or stored to inspect the same as to grade, pack and condition. [1937]

¹ The commissioner of agriculture is superseded by the department of agriculture. See Sec. 285.1, page 478.

Sec. 290.90. Same: Violation of act a misdemeanor.

Whosoever violates any of the provisions of this act [Secs. 290.81-290.90] or the rules and regulations promulgated hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be

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published as provided by the laws of this state. [1937]

Sec. 290.101. Standard barrel for fruits, vegetables and dry commodities; standard barrel for cranberries.

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 ($28\frac{1}{2}$) inches; diameter of heads, seventeen and one-eighth ($17\frac{1}{8}$) inches; distance between heads, twenty-six (26) inches; circumference of bulge, sixty-four (64) inches, outside measurement; and the thickness of staves not greater than four-tenths ($\frac{4}{10}$) of an inch. Provided, That any barrel of a different form having a capacity of seven thousand fifty-six (7056) 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 ($28\frac{1}{2}$) inches; diameter of heads, sixteen and one-fourth ($16\frac{1}{4}$) inches; distance between heads, twenty-five and one-fourth ($25\frac{1}{4}$) inches; circumference of bulge, fifty-eight and one-half ($58\frac{1}{2}$) inches, outside measurement; and the thickness of staves not greater than four-tenths ($\frac{4}{10}$) of an inch. [1917]

Sec. 290.102. Same: Violations; penalty.

It shall be unlawful to sell, offer, or expose for sale in this state, or to ship from this state, to any other state, territory, or the District of Columbia or to a foreign country, a barrel containing fruits or vegetables or any other dry commodity of less capacity than the standard barrels defined in the first section of this act [Sec. 290.101], or subdivisions thereof known as the third ($\frac{1}{3}$), half ($\frac{1}{2}$), and three-quarter ($\frac{3}{4}$) barrel, and any person guilty of a wilful violation of any of the provisions of this act [Secs. 290.101–290.104] shall be deemed guilty of a misdemeanor and be liable to a fine not to exceed one hundred (100) dollars, in any court of this state having jurisdiction: Provided, however, That no barrel shall be deemed below standard within the meaning of this act 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. [1917]

Sec. 290.103. Same: Tolerances; prosecutions; exceptions.

Reasonable variations shall be permitted and tolerance established by rules and regulations made by the director of the bureau of standards and approved by the secretary of commerce. Prosecutions for offenses under this act [Secs. 290.101–290.104] may be begun upon complaint of local sealers of weights and measures or other officer of the state

appointed to enforce the laws of the said state, relating to weights and measures: Provided, however, That nothing in this act shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count. [1917]

Sec. 290.111. Flours, meals, hominy, grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in the state of Michigan any of the following commodities except in containers with capacities in net avoirdupois weights of 5, 10, 25, 50, and 100 pounds, and multiples of 100 pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, rye flour, buckwheat flour, soya flour, corn meals, hominy and hominy grits: Provided, however, That the provisions of this act [Secs. 290.111–290.113] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds, or for export or (c) flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than 5 pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945; last amended 1947.]

Sec. 290.112. Same: Violation a misdemeanor.

Any violation of this act [Secs. 290.111–290.113] shall constitute a misdemeanor. [1945]

Sec. 290.113. Same: Enforcement; prosecution.

It shall be the duty of the commissioner¹ of agriculture to investigate all complaints of violations of this act [Secs. 290.111–290.113], and to take all steps necessary to its enforcement. It shall be the duty of all prosecuting officers of this state to prosecute to completion all suits brought under the provisions of this act upon complaint of said commissioner or any person. [1945]

¹ Director. See Sec. 285.1, page 478.

Sec. 290.121. Size of peach basket.

That the quantity known as a box or basket of peaches, shall contain 716 and $\frac{1}{2}$ cubic inches, or $\frac{1}{3}$ of a bushel strict measure. [1871]

Sec. 290.131. Standard containers for fruits and vegetables: Climax basket.

That standards for climax baskets for grapes and other fruits and vegetables shall be the two (2)-quart basket, four (4)-quart basket, and twelve (12)-quart basket, respectively.

(a) The standard two (2)-quart climax basket shall be of the following dimensions: length of bottom piece, nine and one-half ($9\frac{1}{2}$) inches; width of bottom piece, three and one-half ($3\frac{1}{2}$) inches;

thickness of bottom piece, three-eighths ($\frac{3}{8}$) of an inch; height of basket, three and seven-eighths ($3\frac{7}{8}$) inches, outside measurement; top of basket, length eleven (11) inches and width five (5) inches, outside measurement. Basket to have a cover five (5) by eleven (11) inches, when a cover is used;

(b) The standard four (4)-quart climax basket shall be of the following dimensions: length of bottom piece, twelve (12) inches; width of bottom piece, four and one-half ($4\frac{1}{2}$) inches; thickness of bottom piece, three-eighths ($\frac{3}{8}$) of an inch; height of basket, four and eleven-sixteenths ($4\frac{11}{16}$) inches outside measurement; top of basket, length fourteen (14) inches, width six and one-fourth ($6\frac{1}{4}$) inches, outside measurement. Basket to have cover six and one-fourth ($6\frac{1}{4}$) inches by fourteen (14) inches, when cover is used;

(c) The standard twelve (12)-quart climax basket shall be of the following dimensions: length of bottom piece, sixteen (16) inches; width of bottom piece, six and one-half ($6\frac{1}{2}$) inches; thickness of bottom piece, seven-sixteenths ($\frac{7}{16}$) of an inch; height of basket, seven and one-sixteenths ($7\frac{1}{16}$) inches, outside measurement; top of basket, length nineteen (19) inches, width nine (9) inches, outside measurement. Basket to have cover nine (9) inches by nineteen (19) inches, when cover is used. [1917]

Sec. 290.132. Same: Small fruits, berries and vegetables.

That the standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities: namely, dry one-half ($\frac{1}{2}$) pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half ($\frac{1}{2}$) pint shall contain sixteen and eight-tenths ($16\frac{8}{10}$) cubic inches;

(b) The dry pint shall contain thirty-three and six-tenths ($33\frac{6}{10}$) cubic inches;

(c) The dry quart shall contain sixty-seven and two-tenths ($67\frac{2}{10}$) cubic inches. [1917]

Sec. 290.133. Same: Violations; penalty; foreign shipments excepted.

That it shall be unlawful to manufacture for shipment, or to sell within the state any climax baskets or other containers for small fruits, berries, or vegetables, whether filled or unfilled, which do not conform to the provisions of this act [Secs. 290.131-290.137]; and any person guilty of a wilful violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five (25) dollars: Provided, That nothing herein contained shall apply to the manufacture, sale, or shipment of climax baskets, baskets, or other containers for small fruits, berries, and vegetables when intended for export to foreign countries when such climax baskets, baskets, or other containers for small fruits, berries, and vegetables accord with the specifications of the foreign purchasers or comply with the

law of the country to which shipment is made or to be made. [1917]

Sec. 290.134. Same: Inspection; tolerances.

That the examination and test of climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether such baskets or other containers comply with the provisions of this act [Secs. 290.131-290.137], shall be made by the dairy and food department, and the dairy and food commissioner¹ shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary. [1917]

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "Dairy and Food Commissioner: Office abolished; powers and duties transferred to food and drug commissioner, which in turn has been repealed and superseded by the department of agriculture." See Sec. 289.2 and 285.2, pages 492 and 478, respectively.

Sec. 290.136. Same: Guaranty protection.

That no dealer shall be prosecuted under the provisions of this act [Secs. 290.131-290.137] when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the United States from whom such climax baskets, baskets, or other containers, as defined in this act, were purchased, to the effect that said climax baskets, baskets, or other containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of climax baskets, baskets, or other containers to such dealer, and in such case said party or parties shall be amenable to the prosecution, fines, and other penalties which would attach in due course to the dealer under the provisions of this act. [1917]

Sec. 290.141. Standard containers for grapes: Fancy table grapes.

"Fancy Table Grapes" shall be packed in 2 or 4 quart climax baskets or carriers of 2 or more small units, or any container of less than 12 quart, (16 pound) capacity, * * * [1925; last amended 1927.]

Sec. 290.142. Same: No. 1 grapes.

"No. 1 Grapes" shall be packed in 12 quart, (16 pound) capacity climax baskets, or larger containers, * * * [1925; last amended 1927.]

Sec. 290.143. Same: No. 2 grapes.

"No. 2 Grapes" shall be packed in 12 quart (16 pound) capacity climax baskets, or larger capacity, * * * [1925]

Sec. 290.144. Same: "Frosted grapes".

Grapes that have been subject to frost injury prior to harvest may be packed only in 12 quart (16 pound) capacity climax baskets, or containers of larger capacity, * * * [1925]

Compiled Laws 1948, Vol. 2, Ch. 290—Weights, Measures and Standards—Continued.

Sec. 290.145. Same: Marking requirements.

All containers shall be clean and in good condition, and shall be conspicuously and legibly marked declaring: * * * (3) The net contents. * * * Excepting as otherwise provided in this act [Secs. 290.141-290.148], the labeling or marking of the containers shall be done with letters not less than 1/4 inch in height before leaving the premises of the person or persons responsible for the grading and packing. [1925]

Sec. 290.147. Same: Right of entry.

The commissioner¹ of agriculture, his inspectors or agents, for the purpose of inspection and enforcement of this act [Secs. 290.141-290.148], or any section or part of section thereof, are given authority and power to enter into or upon any premises or property, without warrant, where grapes are packed, exposed, offered or consigned for sale, or held in possession for storage or delivery, and inspect the same, also procure, upon market value being tendered or accepted, sufficient samples to present as evidence in obtaining complaint for prosecution. [1925]

¹ Director. See Sec. 285.1, page 478.

Sec. 290.148. Same: Penalties for violations.

Any person convicted of violating any of the provisions of this act [Secs. 290.141-290.148] shall be deemed guilty of a misdemeanor and upon conviction thereof for the first offense, be subject to a fine of not more than 50 dollars and costs, or imprisonment in the county jail for not to exceed 30 days, or both such fine, costs and imprisonment in the discretion of the court. Any person convicted for the second and subsequent violations shall be subject to a fine of not more than 200 dollars and costs, or 30 days in jail, or both such fine, costs and imprisonment in the discretion of the court or magistrate before whom such conviction may be had. [1925; last amended 1927.]

Sec. 290.154. Irish potatoes: Marking requirements; conclusive evidence.

It shall be unlawful for any person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession potatoes prepared for market unless such container has been legibly and conspicuously branded or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the grading and packing. * * * together with true net contents. * * * It shall be conclusive evidence and the potatoes deemed to be for sale, when containers are packed for delivery or transit, or when

same are exposed for sale or when the same are in the process of delivery or transit or are located at a depot, station, boat dock, or any place where potatoes or other products are held in storage, or for immediate or future sale or transit. [1929; last amended 1937.]

Sec. 290.157. Same: Enforcement; right of entry.

The commissioner [director] of agriculture¹ hereby charged with the enforcement of this act [Secs. 290.151-290.162] and is given power unto himself and his inspectors to enter into and upon any premises where potatoes are graded or packed or stored to inspect the same as to grade, pack and condition. The commissioner of agriculture shall enforce the provisions of this act through state inspectors. [1929; last amended 1937.]

* * * * *

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "The commissioner of agriculture is superseded by the department of agriculture." See Sec. 285.1, page 478.

Sec. 290.158. Same: Rules and regulations.

The commissioner [director] of agriculture¹ may promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this act [Secs. 290.151-290.162]. * * * [1929; last amended 1937.]

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "The commissioner of agriculture is superseded by the department of agriculture." See Sec. 285.1, page 478.

Sec. 290.162. Same: Penalties for violations.

Whosoever violates this act [Secs. 290.151-290.162] * * * by not stenciling or branding containers as herein required or by removing any department notices placed upon said containers or by removing or altering any stencils or brands placed upon or attached to any container as in this act required, unless ordered to do so by the commissioner [director] of agriculture or his duly appointed inspector or inspectors shall be guilty of a misdemeanor and subject to a fine of not more than 50 dollars and costs for the first offense and not more than 100 dollars and costs for each subsequent offense, or by imprisonment in the county jail for not more than 30 days in default of paying the fine and costs, or both such fine and imprisonment in the discretion of the court. [1929; last amended 1937.]

Sec. 290.201. Bread: Standards; size of pans.

All bread sold or offered for sale by retail food outlets to the consumers shall be standardized in 12 ounce, 16 ounce, 20 ounce, 24 ounce and 32 ounce loaves with 1 ounce tolerance, and shall conform to the following pan sizes:

(a) The following provisions shall apply to loaves of bread baked in uncovered pans:

1. The 12 ounce loaf shall be baked in a pan

which shall not exceed 8 inches in length at the top and 4 inches in width at the top, inside measurements.

2. The 16 ounce loaf shall be baked in a pan which shall not exceed 10 inches in length at the top and $4\frac{1}{2}$ inches in width at the top, inside measurements.

3. The 20 ounce loaf shall be baked in a pan which shall not exceed $12\frac{1}{4}$ inches in length at the top and $4\frac{1}{2}$ inches in width at the top, inside measurements.

4. The 24 ounce loaf shall be baked in a pan which shall not exceed 15 inches in length at the top and $4\frac{3}{4}$ inches in width at the top, inside measurements.

5. The 32 ounce loaf shall be baked in a pan which shall not exceed 16 inches in length at the top and $4\frac{3}{4}$ inches in width at the top, inside measurements.

Provided, however, That loaves of bread may be baked in pans of differing widths from those set forth above if the pan contents shall not exceed 6.25 cubic inches per ounce of dough used.

(b) The following provisions shall apply to loaves of bread baked in covered pans:

1. The 16 ounce loaf shall be baked in a pan which shall not exceed 10 inches in length at the top and 4 inches in width at the top, inside measurement.

2. The 24 ounce loaf shall be baked in a pan which shall not exceed 15 inches in length at the top and 4 inches in width at the top, inside measurements.

3. The 32 ounce loaf shall be baked in a pan which shall not exceed 16 inches in length at the top and 4 inches in width at the top, inside measurements. [1941]

Sec. 290.202. Same: Scope of act.

This act [Secs. 290.201-290.203] shall apply only to white bread baked in pans. This act shall not apply to bread sold to restaurants, hotels, or other types of eating establishments or other places where bread is not offered for retail sale. [1941]

Sec. 290.203. Same: Violation a misdemeanor.

Any person, firm or corporation who shall sell any bread in violation of the provisions of this act [Secs. 290.201-290.203] shall be guilty of a misdemeanor.³ [1941]

³ See Sec. 750.504, page 494; punishment for misdemeanor.

Sec. 290.401. Standard log rule; effect on contracts.

The international log rule, based upon $\frac{1}{4}$ inch saw kerf, as expressed in the formula $(D^2 \times 0.22) - 0.71D \times 0.904762$ for four foot sections (D represents top diameter of log in inches; taper allowance, $\frac{1}{2}$ inch per 4 feet lineal), is hereby adopted as the standard log rule for determining the board foot content of saw logs and, unless some other log rule

or other method of measurement is agreed upon, all contracts hereafter entered into for the purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule. [1941]

Compiled Laws 1948, Vol. 1, Ch. 41—Township Scales.

Sec. 41.491. Establishment; control; tax levy.

It shall be lawful for the township, board of any township or village council of any village in this state to appropriate money for the purpose of establishing township or village scales for the weighing of farm produce and for other purposes. All sums hereby authorized to be appropriated shall be assessed, levied and collected in the same manner as other expenses of such townships or villages are assessed, levied and collected. The maintenance, management and control of such scales shall be under the direction of the township board or village council, as the case may be and the expense connected therewith shall be paid in the same manner as other expenses of such townships or villages are paid. [1917]

Compiled Laws 1948, Vol. 1, Ch. 67—"General Village Act."

Sec. 67.1. General powers of villages; weights and measures.

Every village subject to the provisions of this act, shall, in addition to such other powers as are conferred, have the general power and authority granted in this chapter [Secs. 67.1-67.64], and the council may pass such ordinances in relation thereto as it may deem proper, namely:

* * * * *

Twelfth, To provide for the inspection and sealing of weights and measures, and to enforce the keeping and use of proper weights and measures by vendors; [1895; last amended 1921.]

* * * * *

Compiled Laws 1948, Vol. 1, Ch. 91—"Fourth Class Cities Act."

Sec. 91.1. General powers of city corporations of fourth class; weights and measures.

Every city incorporated under the provisions of this act, shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter [Secs. 91.1-91.9] mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, namely:

* * * * *

Eighteenth, To regulate the inspection, weighing and measuring of brick, lumber, fire-wood, coal, hay and any article of merchandise;

Nineteenth, To provide for the inspection and sealing of weights and measures and to enforce the

Compiled Laws 1948, Vol. 1, Ch. 91—"Fourth Class Cities Act"—Continued.

keeping and use of proper weights and measures by vendors; [1895]

* * * * *

Compiled Laws 1948, Vol. 2, Ch. 286—Commercial Fertilizer.

Sec. 286.31. Definition; marking requirements.

The term "commercial fertilizer" shall be held to include any and every substance, limestone or lime rock, imported, manufactured, prepared or sold for fertilizing or manurial purposes, the retail price of which is 10 dollars or more per ton. Every lot or parcel of commercial fertilizer sold, offered or exposed for sale, or distributed within this state shall have on each bag or sack, in a conspicuous place on the outside, a legible and plainly printed statement in the English language clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1885; last amended 1913.]

* * * * *

Sec. 286.36. Penalty for violations; civil damages.

Any person or persons who shall sell or offer for sale any commercial fertilizer in this state without first complying with the provisions of sections 1 [Sec. 286.31] * * * shall upon conviction thereof be fined not less than 100 dollars for the first offense, and not less than 300 dollars for every subsequent offense, and the offender shall also be liable for all damages sustained by the purchaser of such fertilizer on account of such misrepresentation. [1885]

Sec. 286.39. Enforcement; rules and regulations.

The commissioner¹ of agriculture is hereby empowered to enforce the provisions of this act [Secs. 286.31-286.39] and to prescribe and enforce such rules and regulations relating to the sale of commercial fertilizers as may be deemed necessary to carry into effect the full intent and meaning of this act. [1923]

¹ Director. See Sec. 285.1, page 478.

Public Acts 1949, No. 297—"The Insecticide, Fungicide, and Rodenticide Act of 1949."

Sec. 2. Definitions.

For the purpose of this act:

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other vertebrate animals, which the director [of agriculture] shall declare to be a pest.

* * * * *

q. The term "director" means the director of the Michigan department of agriculture.

* * * * *

s. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison, or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

t. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) Upon the economic poison or device or any of its containers or wrappers;

(2) Accompanying the economic poison or device at any time;

* * * * *

v. The term "misbranded" shall apply—

(1) To any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) To any economic poison—

* * * * *

(f) If any word, statement, or other information required by or under the authority of this act to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1949]

* * * * *

Sec. 3. Marking requirements.

a. It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce between points within this state through any point outside this state any of the following:

* * * * *

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container can not be clearly read, a label bearing:

* * * * *

(c) The net weight or measure of the content subject, however, to such reasonable variations as the director [of agriculture] may permit. [1949]

* * * * *

Sec. 7. Examination.

a. The examination of economic poisons or devices shall be made under the direction of the director [of agriculture] for the purpose of determining whether they comply with the requirements of this act. * * * [1949]

Sec. 9. Violations; penalties; minor violations.

Any manufacturer, importer, jobber, firm, association, corporation, or person, who shall sell, offer, or expose for sale, or distribute in this state, or who shall take or receive from any firm, association, corporation, or person in this state any order for the sale of any economic poison or device as defined in section 2 of this act, or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation, or person in this state for the sale of such economic poison or device to be delivered in this state by common carrier or otherwise, which has not been registered as required by the provisions of this act, or without complying with the labeling requirements of this act * * * shall be deemed guilty of a violation of the provisions of this act and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$200.00, or to imprisonment of not more than 60 days in the county jail, or both such fine and imprisonment in the discretion of the court: Provided, however, That nothing in this act shall be construed as requiring the director [of agriculture] to report for prosecution or for the institution of libel proceedings, minor violations of the act whenever he believes that the public interest will be best served by a suitable notice of warning in writing. [1949]

Sec. 10. Seizure.

The director [of agriculture], his deputy, or any person by said director duly appointed for that purpose, is authorized at all times to seize and take possession of any and all economic poisons or devices, substitutes therefor, or imitations thereof, kept for sale, exposed for sale, distributed, or held in possession or under the control of any person, which are contrary to the provisions of this act. [1949]

* * * * *

Sec. 13. Jurisdiction vested in department of agriculture.

Jurisdiction in all matters pertaining to the distribution, sale and transportation of economic poisons and devices is by this act vested exclusively in the department of agriculture and all acts and parts of acts inconsistent with this act are hereby expressly repealed. * * * [1949]

[E. B. NOTE.—Sec. 8 (not included herein) includes exemptions with respect to economic poisons used officially by State or Federal officials, used experimentally, and intended for export.]

Compiled Laws 1948, Vol. 2, Ch. 287—Livestock Dealers.

Sec. 287.121. Definitions.

(a) The word "department" as used in this act [Sec. 287.121-287.131] shall mean the Michigan state department of agriculture.

(b) The words "animals" or "livestock" as used in this act shall mean and include horses, mules, cattle, calves, swine, sheep and goats.

(c) The words "dealer" or "broker" as used in this act shall mean any person, copartnership, association or corporation engaged in the business of buying, receiving, selling, exchanging, transporting, negotiating, or soliciting sale, resale, exchange, transportation or transfer of any such animals, but it shall not be construed to include: (1) any railroad transporting animals either interstate or intrastate; (2) any person, association, copartnership or corporation who or which, by dispersal sale, is permanently discontinuing the business of farming, dairying, breeding, or feeding animals; (3) any person, association, copartnership or corporation that sells livestock which has been raised on the premises of such person, association, copartnership or corporation; (4) any butcher, packer or processor to whom animals are delivered and used exclusively for slaughter, or that part of the business of a farmer which consists of buying or receiving animals for grazing and feeding purposes and the sale or disposal of such animals after the feeding or grazing period of not less than 21 days; (5) terminal livestock markets where United States bureau of animal industry veterinary inspection is daily maintained.

* * * * *

(e) "Livestock auction" as used in this act shall mean any livestock market where livestock is accepted on consignment and the auction method is used in the marketing of such livestock. A public auction of farm goods by a farmer is not included in this definition of a livestock auction.

(f) The word "weighmaster" as used in this act shall mean any person registered under this act who weighs livestock at any livestock market licensed under this act. [1937; last amended 1945.]

Sec. 287.123. License required; weighing by registered weighmaster.

Each dealer, broker or agent engaged in such business for the purposes aforesaid shall file an application with the department [of agriculture] for a license to transact such business. * * * Provided further, That when any livestock is purchased or sold by weight, such licensees shall employ a registered weighmaster who shall be required to do all the weighing: Provided further, That the duties, qualifications and requirements for registration of weighmasters shall be established by the director of agriculture under the provisions of section 9 [Sec. 287.129] * * *. [1937; last amended 1949.]

Sec. 287.124. Revocation of license.

* * * The following reasons shall be construed as just cause for revocation of a license:

* * * * *

Compiled Laws 1948, Vol. 2, Ch. 287—Livestock Dealers—Continued.

(b) Where there have been false or misleading statements * * * in the buying or receiving of animals, or receiving, selling, exchanging, soliciting, or negotiating sale, resale, exchange, transport, transfer, weighing, or shipment of animals. [1937]

* * * * *

Sec. 287.129. Rules and regulations.

The department [of agriculture] is authorized to formulate, adopt, promulgate and enforce rules and regulations for the purpose of carrying into effect the provisions of this act [Secs. 287.121—287.131]. [1937]

Sec. 287.131. Penalty for violations.

Whoever violates or refuses to comply with any of the provisions of this act [Secs. 287.121—287.131] shall, upon conviction, be sentenced to pay a fine of not less than 25 dollars nor more than 100 dollars and costs of prosecution, and in default of payment of fine and costs, shall be sentenced to imprisonment for not less than 10 nor more than 30 days, and for each subsequent violation a fine shall be imposed of not less than 100 dollars nor more than 500 dollars, or imprisonment for not more than 6 months, or both, and the costs of prosecution. [1937]

Compiled Laws 1948, Vol. 2, Ch. 287—Livestock Remedies.

Sec. 287.141. Definition; remedies excepted.

The term "live stock remedy" shall be held to include all condimental feeds, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines, or any preparations of like nature in either solid or liquid form used for any animal except man, and administered internally for the purported purpose of stimulating, invigorating, curing ailments, or other reasons: Provided, That this act [Secs. 287.141—287.150] shall not apply to remedies prescribed and used by a veterinarian, regularly licensed in Michigan, for use in connection with his own practice, or to the preparation and sale of remedies by registered pharmacist or registered assistant pharmacists operating in licensed drug stores. [1929; last amended 1931.]

Sec. 287.142. Certificate to be filed stating minimum net contents of package.

Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in Michigan any live stock remedies, the manufacturer thereof shall file with the commissioner [director] of agriculture¹ a sworn certificate stating: * * * third, the minimum net contents of the package, lot or parcel of

such live stock remedy (expressed by weight in the case of solids and by measure in the case of liquids); * * * [1929]

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "The commissioner of agriculture is superseded by the department of agriculture." See Sec. 285.1, page 478.

Sec. 287.143. Marking requirements.

Every sack, box, carton, bottle or other container of live stock remedy sold, offered or exposed for sale, or distributed within this state, shall have a label affixed thereto in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truly certifying: * * * third, the minimum net contents of the sack, box, carton, bottle or other container; * * * [1929]

Sec. 287.149. Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall * * * violate any of the rules and regulations promulgated by the commissioner [director] of agriculture¹ as provided herein, shall be deemed guilty of a violation of the provisions of this act [Secs. 287.141—287.150] and upon conviction thereof shall be sentenced to pay a fine of not less than 100 dollars, nor more than 200 dollars, or to imprisonment for not less than 30 days, nor more than 60 days, in the county jail, or both such fine and imprisonment in the discretion of the court. [1929]

¹ See footnote following Sec. 287.142.

Sec. 287.150. Enforcement; rules and regulations.

The commissioner [director] of agriculture¹ is hereby empowered to enforce the provisions of this act [Secs. 287.141—287.150] and to prescribe and enforce such rules and regulations relating to the sale and license of live stock remedies as may be deemed necessary to carry into effect the full intent and meaning of this act. [1929]

¹ See footnote following Sec. 287.142.

Compiled Laws 1948, Vol. 2, Ch. 287—Commercial Feeds.

Sec. 287.181. Definition.

The term "commercial feeds" is defined as any simple mixed, prepared, milled, compounded, processed, or blended product entering into commerce, together with all condimental and patented proprietary feeds used for feeding animals other than man, except unmixed whole seeds or grains, as defined by the U. S. grain standards; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, cracked or rolled, screened or unscreened, corn, wheat and oats; whole hays, straws, ensilage and corn stover when unmixed with other materials, and liquid by-products from milk returned to farmers from cheese factories, skimming stations, creameries or other places where

milk is received and the by-products distributed. [1917; last amended 1937.]

Sec. 287.182. Marking requirements.

Every lot, parcel or package of commercial feeds manufactured, sold, offered or exposed for sale, or distributed within this state shall have affixed there-to a tag or label, in a conspicuous place on the outside, containing a legible and plainly written statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the lot, parcel or package; [1917; last amended 1939.]

* * * * *

Sec. 287.190. Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or persons who * * * shall manufacture, sell, offer or expose for sale or distribute in this state any commercial feeds which do not bear a tag or label with all of the facts required in section 2 [Sec. 287.182] * * * shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than 100 dollars for the first offense, and not less than 200 dollars for each subsequent offense, or to imprisonment of not less than 30 days, nor more than 60 days in the county jail, or both such fine and imprisonment in the discretion of the court. * * * [1917; last amended 1937.]

Sec. 287.191. Enforcement; regulations.

The commissioner [director] of agriculture¹ is hereby empowered to enforce the provisions of this act [Secs. 287.181-287.191] and to prescribe and enforce such rules and regulations relating to the sale of commercial feeds as may be deemed necessary to carry into effect the full intent and meaning of this act. [1917; last amended 1937.]

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "The commissioner of agriculture is superseded by the department of agriculture." See Sec. 285.1, page 478.

Compiled Laws 1948, Vol. 2, Ch. 288—Milk and Cream.

Sec. 288.51. Babcock test: Operator's license.

Every person who shall test milk or cream in this state by the Babcock method or otherwise for the purpose of determining the percentage of butterfat or milk fat contained therein; where such milk or cream is bought and paid for on the basis of the amount of butterfat contained therein, shall first obtain a license from the commissioner [director] of agriculture.¹ [1935]

* * * * *

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "The commissioner of agriculture is superseded by the department of agriculture." See Sec. 285.1, page 478.

Sec. 288.52. Same: Rules and regulations.

The director of agriculture shall establish and promulgate rules and regulations not inconsistent with this act [Secs. 288.51-288.59] that shall govern the granting of licenses under this act and shall establish and promulgate rules and regulations not inconsistent with this act that shall govern the manner of testing * * *. [1935; last amended 1949.]

Sec. 288.56. Same: Standard testing glassware, scales and weights; specifications.

In the use of the Babcock test all persons shall use the "standard Babcock testing glassware, scales and weights". The term "standard Babcock testing glassware, scales and weights" shall apply to glassware, scales and weights complying with the following specifications:

Standard milk test bottles.

(a) Standard milk test bottles.

Graduation. The total percent graduation shall be eight (8) percent. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths ($63 \frac{5}{10}$) millimeters (two and one-half ($2\frac{1}{2}$) inches). The graduation shall represent whole percent, five-tenths ($5/10$) percent, and tenths percent. The tenth percent graduation shall not be less than three (3) millimeters in length; the five-tenths ($5/10$) percent graduations shall be one (1) millimeter longer than the tenths percent graduations, projecting one (1) millimeter to the left; the whole percent graduations shall extend at least one-half ($1/2$) way around the neck to the right and projecting two (2) millimeters to the left of the tenths percent graduations. Each percent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth ($1/10$) percent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend for at least nine (9) millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten (10) millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five (45) cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four (34) and thirty-six (36) millimeters; if conical, the outside diameter of the base shall be between thirty-one (31) and thirty-three (33) millimeters, and the maximum diameter between thirty-five (35) and thirty-seven (37) millimeters.

The charge of the bottle shall be eighteen (18) grams.

The total height of the bottle shall be between one hundred fifty (150) and one hundred sixty-five

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(165) millimeters (five and seven-eighths ($5\frac{7}{8}$) and six and one-half ($6\frac{1}{2}$) inches).

Standard cream test bottles.

(b) Standard cream test bottles.

Two types of bottles shall be accepted as standard cream test bottles, a fifty (50) percent nine (9) gram short-neck bottle and a fifty (50) percent nine (9) gram long-neck bottle.

Fifty (50) percent nine (9) gram short-neck bottles. Graduation. The total percent graduation shall be fifty (50). The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths ($63\frac{5}{10}$) millimeters (two and one-half ($2\frac{1}{2}$) inches.) The graduation shall represent five (5) percent, one (1) percent and five-tenths ($\frac{5}{10}$) percent. The five (5) percent graduations shall extend at least one-half ($\frac{1}{2}$) way around the neck of the bottle (to the right). The five-tenths ($\frac{5}{10}$) percent graduations shall be at least three (3) millimeters in length, and the one (1) percent graduations shall have a length intermediate between the five (5) percent and five-tenths ($\frac{5}{10}$) percent graduations. Each five (5) percent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths ($\frac{5}{10}$) percent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend at least nine (9) millimeters below the lowest and nine (9) millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten (10) millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five (45) cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four (34) and thirty-six (36) millimeters; if conical, the outside diameter of the base shall be between thirty-one (31) and thirty-three (33) millimeters, and the maximum diameter between thirty-five (35) and thirty-seven (37) millimeters.

The charge of the bottle shall be nine (9) grams. All bottles shall bear on top of the neck above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (nine (9) grams).

The total height of the bottle shall be between one hundred fifty (150) and one hundred sixty-five (165) millimeters (five and seven-eighths ($5\frac{7}{8}$) and six and one-half ($6\frac{1}{2}$) inches) same as standard milk test bottles.

Fifty (50) percent nine (9) gram long-neck bottles. The same specifications in every detail as specified for the fifty (50) percent nine (9) gram short-neck bottle shall apply for the long-neck bottle with the exceptions, however, that the total height of this

bottle shall be between two hundred ten (210) and two hundred thirty-five (235) millimeters (eight and one-half ($8\frac{1}{2}$) and eight and seven-eighths ($8\frac{7}{8}$) inches) and that the total length of the graduation shall be not less than one hundred twenty (120) millimeters.

Standard Babcock pipette.

(c) The standard Babcock pipette.

Total length of pipette shall be not more than three hundred thirty (330) millimeters (thirteen and one-fourth ($13\frac{1}{4}$) inches). Outside diameter of suction tube six (6) to eight (8) millimeters. Length of suction tube one hundred thirty (130) millimeters. Outside diameter of delivery tube four and five-tenths ($4\frac{5}{10}$) to five and five-tenths ($5\frac{5}{10}$) millimeters. Length of delivery tube one hundred (100) to one hundred twenty (120) millimeters. Distance of graduation mark above bulb thirty (30) to sixty (60) millimeters. Nozzle straight. Delivery seventeen six-tenths ($17\frac{6}{10}$) cubic centimeters of water at twenty (20) degrees C in five (5) to eight (8) seconds.

Standard cream test scales.

(d) Standard cream test scales.

All butterfat and cream scales used for the purpose of determining the value or percent of butterfat content of milk or cream by the Babcock test or otherwise shall be subject to the following specifications:

1. The scale shall be provided with a graduated face of at least ten (10) divisions over which the pointer shall play.

2. The pointer must reach to the graduated divisions and shall terminate in a fine point to enable the readings to be made clearly and distinctly.

3. The clear interval between the divisions on the graduated face shall not be less than five one-hundredths ($\frac{5}{100}$) inch.

4. All scales whose weight indications are changed by an amount greater than one-half ($\frac{1}{2}$) the tolerance allowed, when set in any position on a surface making an angle of three (3) degrees or approximately five (5) percent with the horizontal, shall be equipped with leveling screws and a device which will indicate when the scale is level: Provided, however, That the scale shall be re-balanced at zero each time its position is altered during the test.

(5) The addition of one-half ($\frac{1}{2}$) grain to the scale when loaded to capacity shall cause a movement of the pointer at least equal to one (1) division on the graduated face.

6. The sensibility reciprocal and tolerance of cream test and butterfat test scales shall be one-half ($\frac{1}{2}$) grain (thirty (30) milligrams).

Standard weights.

(e) Standard weights.

The standard cream test weight shall be nine (9) grams and the allowable tolerance therefor shall not exceed one-half ($\frac{1}{2}$) grain (thirty (30) milligrams).

Every person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test shall use standard Babcock test bottles, pipettes, weights and scales as defined in this act, and it shall be unlawful for any such person, firm, company, association, corporation or agent thereof to falsely manipulate, under-read or over-read the Babcock test or any other contrivance used for determining the quality or value of milk or cream where the value of said milk or cream is determined by the percentage of butterfat contained in the same or to make a false determination by the Babcock test or otherwise, or to falsify the record of such test or to read the test at any temperature except the correct temperature which shall be between one hundred thirty-five (135) degrees and one hundred forty (140) degrees Fahrenheit, or to pay on the basis of any test, measurement or weight except the true test, measurement or weight. [1935]

Sec. 288.57. Same: Inspection and certification of standard testing glassware; fee.

No person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test or otherwise shall use the "standard Babcock testing glassware" unless each piece of such glassware shall bear the certificate of the commissioner of agriculture thereon. Before such glassware shall be used, the same shall be submitted to the commissioner [director] of agriculture¹ for his inspection, and all such glassware so inspected and approved by him shall bear the certificate of the commissioner of agriculture in such form as the commissioner of agriculture by rules and regulations shall prescribe. Before such certificate shall be placed thereon, the person requesting same shall pay to the commissioner of agriculture an inspection fee of three (3) cents for each such piece of glassware so certified. [1935]

¹ See footnote following Sec. 288.51, page 489.

Sec. 288.59. Same: Penalty for violations.

Any person violating any of the provisions of this act [Secs. 288.51-288.59] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred (100) dollars and the cost of prosecution, or by imprisonment in the county jail for a period of not more than two (2) months, or both such fine and imprisonment in the discretion of the court.
* * * [1935]

Sec. 288.351. Milk or cream bottles: Capacity; tolerances; average contents; marking; numbering; bond of manufacturer; record.

On and after January one (1), nineteen hundred sixteen (1916), bottles used for the sale of milk and

cream in this state shall be of the capacity of half ($\frac{1}{2}$) gallon, three (3) pints, one (1) quart, one (1) pint, ten (10) ounces, half ($\frac{1}{2}$) pint, one (1) gill filled full to the bottom of the lip. The following variations on individual bottles or jars may be allowed: Six (6) drams above and six (6) drams below on the half ($\frac{1}{2}$) gallon; five (5) drams above and five (5) drams below on the three (3) pint; four (4) drams above and four (4) drams below on the quart; three (3) drams above and three (3) drams below on the pint; two and one-half ($2\frac{1}{2}$) drams above and two and one-half ($2\frac{1}{2}$) drams below on the ten (10) ounce; two (2) drams above and two (2) drams below on the half ($\frac{1}{2}$) pint; two (2) drams above and two (2) drams below on the gill. But the average contents of not less than twenty-five (25) bottles selected at random from at least four (4) times the number tested must not be in error by more than one-quarter ($\frac{1}{4}$) of the tolerances: One and five tenths ($1\frac{5}{10}$) drams above and one and five tenths ($1\frac{5}{10}$) drams below on the half ($\frac{1}{2}$) gallon; one and twenty-five hundredths ($1\frac{25}{100}$) drams above and one and twenty-five hundredths ($1\frac{25}{100}$) drams below on the three (3) pint; one (1) dram above and one (1) dram below on the quart; seventy-five hundredths ($\frac{75}{100}$) drams above and seventy-five hundredths ($\frac{75}{100}$) drams below on the pint; seventy-five hundredths ($\frac{75}{100}$) drams above and seventy-five hundredths ($\frac{75}{100}$) drams below on the ten (10) ounce; five-tenths ($\frac{5}{10}$) drams above and five-tenths ($\frac{5}{10}$) drams below on the half ($\frac{1}{2}$) pint; five-tenths ($\frac{5}{10}$) drams above and five-tenths ($\frac{5}{10}$) drams below on the gill. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of 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 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 of weights and measures¹ upon application by the manufacturer, and upon filing by the manufacturer of a bond in the sum of one thousand (1,000) dollars with sureties to be approved by the attorney general, conditioned upon their performance of the requirements of this section. A record of the bonds furnished, the designating numbers, and to whom furnished, shall be kept in the office of the superintendent of weights and measures. [1915]

¹ In Compiled Laws of Michigan 1948, following the foregoing section, it is stated: "Superintendent of weights and measures: Powers and duties now exercised by the department of agriculture, see Sec. 290.2", page 479.

Sec. 288.352. Same: Penalty; action against bondsmen; false or insufficient measure.

On and after January one (1), nineteen hundred sixteen (1916), any manufacturer who sells milk or

Compiled Laws 1948, Vol. 2, Ch. 288—Milk and Cream—Continued.

cream bottles to be used in this state, which do not comply as to size and markings with the provisions of this act [Secs. 288.351-288.353], shall suffer the penalty of five hundred (500) dollars, 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, jars or bottles purchased after this law takes effect, which do not comply with the requirements of this act as to markings and capacity, shall be deemed guilty of using false or insufficient measure. [1915]

Sec. 288.353. Same; Duties of sealers of weights and measures; penalty against owner for using bottles not marked with capacity.

Sealers of weights and measures are not required to seal bottles or jars for milk or cream marked as in this act [Secs. 288.351-288.353] provided, but they 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 whether the above provisions are being complied with, and they shall report violations found immediately to the superintendent of weights and measures. Any dealer who knowingly uses for the purposes of selling milk or cream, jars or bottles purchased after this law takes effect, which do not comply with this act as to marking the capacity, shall be guilty of a misdemeanor and be punished accordingly. [1915]

Compiled Laws 1948, Vol. 2, Ch. 289—Foods.

Sec. 289.2. Food and drug commissioner: Powers; powers and duties of dairy and food commissioner transferred; appointments.

The food and drug commissioner,¹ on his appointment and qualification as such, shall have charge and supervision of the enforcement of all the laws of this State relating to the dairy and food, drug and liquor business, weights and measures, and such further powers and duties as may be imposed by law and as prescribed herein. All the powers and duties imposed by law upon the dairy and food commissioner, at the time this act takes effect, are hereby transferred to and vested in the food and drug commissioner. The food and drug commissioner, his deputies and inspectors, shall have the powers of a sheriff in making arrests and in enforcing the laws relating to the prohibition of the manufacture, sale, bartering, furnishing, giving away, receiving, possession and use of intoxicating liquors; and in enforcing the laws relating to dairy, foods, drugs and weights and measures in any place within this state. He shall appoint a deputy, who shall have the powers and duties of the food and drug commissioner as may be deputized to him by the food and drug commissioner. [1917; last amended 1919.]

¹ Office of food and drug commissioner abolished and powers and duties transferred to the department of agriculture, see Sec. 285.2, page 478.

Sec. 289.81. Sale of misbranded food prohibited.

No person, firm or corporation by themselves or their agents or servants shall within the state, have in their possession with intent to sell, or offer or expose for sale, or sell any article of food which is adulterated or misbranded within the meaning of this act [Secs. 289.81-289.100]. [1895; last amended 1913.]

Sec. 289.82. Food defined.

The term "food" as used herein, shall include all articles used for food, drink, confectionery or condiment, intended to be eaten or drunk by man or other animals, whether simple, mixed or compound. [1895; last amended 1913.]

Sec. 289.83a. When food deemed misbranded; tolerances and exemptions.

(a) An article shall be deemed to be misbranded within the meaning of this act [Secs. 289.81-289.100]:

* * * * *

Third, If in package form every package, box, bottle, basket or other container does not bear the true net weight, excluding the wrapper or container, which shall be stated in terms of pounds, ounces and grains avoirdupois weight or the true net measure, which measure, in case of liquids, shall be in terms of gallons of two hundred and thirty-one (231) cubic inches or fractions thereof, as quarts, pints and ounces or the true numerical count, as the case may be, expressed on the face of the principal label in plain English words or numerals, so that it can be plainly read: Provided, however, That reasonable variations shall be permitted and tolerances therefor and also exemptions as to small packages shall be established and promulgated by the dairy and food commissioner:¹ * * * * * The provisions of this subdivision shall not apply to beverages in glass containers:

Fourth, * * * * * Every article of food as defined in the statutes of this state shall be sold by weight, measure or numerical count and as now generally recognized by trade custom, except where the parties otherwise agree, and shall be labeled in accordance with the provisions of the food and beverage laws of this state. Only those products shall be sold by numerical count which cannot well be sold by weight or measure. All foods not liquid, if sold by measure, shall be sold by standard dry measure, the quart of which contains sixty-seven twenty one-hundredths ($67\frac{20}{100}$) cubic inches, providing that the provisions of this section shall not apply to fresh fruit and vegetables. [1913; last amended 1915.]

¹ Office of dairy and food commissioner abolished; powers and duties transferred to food and drug commissioner, which in turn has been abolished and superseded by the department of agriculture. See Secs. 289.2 and 285.2, pages 492 and 478, respectively.

Sec. 289.98. False branding or marking; penalty.

Whoever shall falsely brand, mark, stencil or label any article or product required by this act [Secs. 289.81—289.100] to be branded, marked, stenciled or labeled, or shall remove, alter, deface, mutilate, obliterate, imitate or counterfeit any brand, mark, stencil or label so required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (100) nor more than one thousand (1,000) dollars and the costs of prosecution, or by imprisonment in the county jail or state house of correction and reformatory at Ionia, for not less than six (6) months or more than three (3) years or by both such fine and imprisonment in the discretion of the court for each and every offense. [1895]

Sec. 289.99. General penalty.

Whoever shall do any of the acts or things prohibited, or wilfully neglect or refuse to do any of the acts or things enjoined by this act [Secs. 289.81—289.100], or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and where no specific penalty is prescribed by this act shall be punished by a fine of not less than twenty-five (25) nor more than five hundred (500) dollars, or by imprisonment in the county jail for a period of not more than ninety (90) days, or by both such fine and imprisonment, in the discretion of the court. [1895; last amended 1899.]

Sec. 289.100. Enforcement.

It shall be the duty of the dairy and food commissioner¹ of the state to investigate all complaints of violations of this act [Secs. 289.81—289.100], and take all steps necessary to its enforcement. * * * [1895]

¹ Office of dairy and food commissioner abolished. See footnote following Sec. 289.83a, page 492.

Compiled Laws 1948, Vol. 2, Ch. 289, Secs. 289.301 to 289.313—Eggs.

[ED. NOTE.—These sections provide grade standards for eggs, including weight requirements for the various grades. The pertinent sections are not given in detail because their provisions relate primarily to quality.] [1939]

Compiled Laws 1948, Vol. 2, Ch. 335—"Uniform Narcotic Drug Act."

Sec. 335.60. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, * * * of narcotic drug contained therein. * * * [1937]

Sec. 335.69. Enforcement.

It is hereby made the duty of the Michigan board of pharmacy, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this act [Secs. 335.51—335.77], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states, relating to narcotic drugs. [1937; last amended 1949.]

Sec. 335.70. Penalty for violations.

Any person violating any provision of this act [Secs. 335.51—335.77] shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 4 years or by a fine of not more than 2,000 dollars or by both such fine and imprisonment. [1937]

Compiled Laws 1948, Vol. 3, Ch. 425—Mine Scales.

Sec. 425.6. Testing of scales.

The state coal mine inspector shall be ex-officio inspector of weights, measures and scales used at coal mines, and he is hereby empowered and it shall be his duty to test all the scales, correctly measure the weight of such coal, and if defects or irregularities are found in such scales, which prevent correct weights and measurements, the inspector shall call the attention of the mine owner, agent or operator to such defects, and shall direct the same to be at once properly adjusted and corrected. [1913]

Sec. 425.7. Standard test weights; custody; expenses.

For the purpose of carrying out the provisions of this act [Secs. 425.1—425.113], the state inspector shall be furnished by the state with a complete set of standard weights, suitable for testing the accuracy of track scales and of all smaller scales at mines. Such test weights shall remain in the custody of the inspector for use at any point within the state, and for any amounts expended by him for storage, transportation or handling of the same, he shall be fully reimbursed upon making entry of the proper items in his expense voucher. [1913]

Sec. 425.8. Weighmen; oath; checkweighmen.

All weighmen who shall perform the duty of weighing coal shall be sworn by some one competent to administer a legal oath, that they will perform their duty accurately and impartially as between employers and employes, and that they will honestly report and record all weights of coal with which they are entrusted. The coal mine employes shall have the right to name a competent and fair check weighman, who shall be paid by the employes and be sworn by one authorized to administer oaths. [1913]

Compiled Laws 1948, Vol. 4, Ch. 750—"The Michigan Penal Code."

Sec. 750.9. Violation of statute not having specific penalty deemed misdemeanor.

When the performance of any act is prohibited by this or any other statute, and no penalty for the violation of such statute is imposed, either in the same section containing such prohibition, or in any other section or statute, the doing of such act shall be deemed a misdemeanor. [1931]

Sec. 750.33. False advertising prohibited; misdemeanor.

Any person, who with intent to sell, purchase, or in anywise dispose of or acquire merchandise, securities, service or anything offered or sought by such person, directly or indirectly, to or from the public for sale, purchase or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before the public in this state, in a newspaper or by radio broadcast or other mode of publication or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, letter or communication intended for a large number of persons, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to or sought from the public, or regarding the motive or purpose of a sale, purchase, distribution or acquisition which advertisement contains any assertion, representation or statement or illustration, including statements of present or former sale price or value, which is untrue, deceptive or misleading, or calculated to subject any person to disadvantage or injury through the publication of false or deceptive statements, shall be guilty of a misdemeanor: Provided, however, That the provisions of this section shall not apply to any owner, publisher, printer, agent or employe of a newspaper or other publication, periodical or circular, who in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published or takes part in the publication of such advertisement. [1937; last amended 1941.]

Sec. 750.504. Punishment of misdemeanors when not fixed by statute.

A person convicted of a crime declared in this or any other act of the state of Michigan to be a misdemeanor, for which no other punishment is specially prescribed by any statute in force at the time of the conviction and sentence, shall be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than 100 dollars, or by both such fine and imprisonment. [1931]

Sec. 750.561. False weights and measures; penalties.

Any person who shall offer or expose for sale, sell, or use 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 in buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be guilty of a misdemeanor. Upon a second or subsequent conviction he shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not less than 100 dollars or more than 500 dollars. [1931]

Sec. 750.563. Penalty for false weighing of livestock, beef, pork, hay, grain, etc.

Any person who shall weigh for any person purchasing, or selling, or offering for sale, any live stock, neat cattle, sheep, swine, poultry, or other live animals, or any beef, pork, mutton, fowls, or other animals when dressed, or any hay, grain or produce, and shall fail, neglect or refuse to make a true and correct weight or weights thereof or give to the purchaser and seller, or person offering the same for sale, when requested, the true, full, correct and gross amount of any and all such weights, shall be guilty of a misdemeanor.¹ [1931]

¹ See Sec. 750.504, this page; punishment for misdemeanor.

Sec. 750.564. Fruit or vegetable containers to hold quantity represented; penalty.

Any person who shall offer for sale or sell in any township, city or village within this state, any fruits or vegetables contained in the drawers, cases, boxes or baskets, represented to hold one bushel or any fractional part thereof, which said drawers, cases, boxes or baskets shall not be of the dimensions to hold or shall not hold the quantity offered for sale or sold, whether by the bushel or 32 quarts or any fractional part thereof, shall be guilty of a misdemeanor.¹ [1931]

¹ See Sec. 750.504, this page; punishment for misdemeanor.

Sec. 750.565. Fruit baskets to be marked as to number of pounds; penalty.

Any manufacturer or shipper or dealer in peach baskets or other fruit packages designed for the shipment of peaches, grapes and plums, who shall sell or offer to sell such peach baskets or other fruit packages without marking or causing to be marked in a plain manner on the outside, otherwise

than the bottom of such baskets or packages, the capacity of each basket or package in pounds at the rate of 1 pound for each 43.008 cubic inches of space contained in such basket or package, shall be guilty of a misdemeanor.¹ [1931]

¹ See Sec. 750.504, page 494; punishment for misdemeanor.

Sec. 750.566. Label required on binder twine; specifications; tolerances; penalty.

Any person who shall sell, expose or offer for sale within this state, binder twine, except the same bear upon each ball a stamp, tag or label truly stating the

name of the manufacturer, importer or jobber of such twine, the kind or kinds of material it contains, and the number of feet to the pound in such ball, shall be guilty of a misdemeanor: ¹ Provided, That a deficiency not exceeding five (5) per cent in the length or tensile strength stated on the stamp, tag or label shall not be a violation hereof.

The selling or exposing for sale of any ball of twine which does not conform to the requirements of this section shall constitute a separate and distinct offense. [1931]

¹ See Sec. 750.504, page 494; punishment for misdemeanor.

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Weights and Measures.

Sec. 239.01. Department of weights and measures created under jurisdiction of commission.

There is hereby created a department to be known as the department of “weights and measures” hereafter referred to as the department, and it shall be under the jurisdiction of the commission, [Railroad and Warehouse Commission] which shall have supervision and control over all weights, weighing devices, and measures in the state. [1911]

Sec. 239.02. Commissioner of weights and measures; deputies; employees; compensation; qualifications; bond.

The commission [Railroad and Warehouse Commission] shall appoint a commissioner of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter [Secs. 239.01–239.51]; and fix their compensation upon a graduated scale, based upon efficiency and length of service. The commission shall provide for such examinations as it may deem necessary to determine the qualifications and fitness of appointees.

The commissioner of weights and measures and the deputies shall give a bond in a sum to be fixed and approved by the commission. [1887; last amended 1921.]

Sec. 239.04. Fees to be paid into state treasury.

All moneys collected by the department [of weights and measures] for special services, fees, and penalties shall be paid into the state treasury and credited to a fund known as the weights and measures fund, and be available for the use of the department of weights and measures. [1919]

Sec. 239.05. Weighing of livestock: Definitions.

* * * * *

(2) As used in sections 239.13 to 239.27, the terms “packing plants” and “slaughtering houses” means plants, houses, and places of business where live stock purchased or acquired at places within the state are slaughtered.

(3) As used in sections 239.13 to 239.27, the term “concentration point” means any stock yard at which live stock is assembled by rail or other means of transportation, and at which live stock is bought

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and sold or is assembled for shipment or reshipment to a packing plant or a public stockyard, or graded or weighed for the purpose of establishing a basis for sale or reshipment. A railroad stockyard owned and operated by a railroad company and used as a railroad facility and which is used by the public only for loading and unloading of live stock shipped by rail; and a stockyard or place where only feeder pigs weighing 50 pounds or less, are sold, are each not to be considered a “concentration point” as the term is used in these sections.

(4) As used in sections 239.13 to 239.27, the term “buyer” or “dealer” means any person, firm, corporation, or his or its employees, agents, or representatives, engaged as a buyer or dealer of live stock direct from producers, their agents or representatives, except persons engaged exclusively in the sale of meats at retail and persons licensed under section 31.185 [relating to frozen food locker plants].

(5) As used in sections 239.13 to 239.27, the term “packers” means any person engaged in the business as a dealer and buyer of live stock for purposes of slaughter or of manufacturing or preparing meats or meat products for sale or shipment within the state. “Packers” shall not include persons engaged exclusively in the sale of meats at retail and persons licensed under section 31.185 [relating to frozen food locker plants].

(6) As used in sections 239.13 to 239.27, the term “live stock commission merchant” means any person or firm engaged in selling or buying live stock at a public terminal live stock market. [1935; last amended 1949.]

¹ See pages 501–503.

Sec. 239.06. Power to make rules and regulations.

The commission [Railroad and Warehouse commission] shall prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter [Secs. 239.01–239.51], and it may change, modify, or amend any or all rules when deemed necessary and the rules so made shall have the force and effect of law. [1911]

Sec. 239.07. Duties and powers of department; standards of weights and measures; sealing and tending.

The department [of weights and measures] shall take charge of, keep, and maintain in good order

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Weights and Measures—Continued.

the standard of weights and measures of the state and submit them to the bureau of standards at Washington, D. C., for certification when it is deemed necessary; and keep a seal so formed as to impress the letters "MNN" and the date of sealing upon the weights and measures that are sealed; it shall test, correct, and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state and keep a record thereof; it shall have general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state; and upon the written request of any person test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state; it shall keep a complete record of the standards, balances, and all testing and sealing apparatus owned by the state, and annually, during the first 15 days of January, make a report of its actions to the governor of the state. [1911]

Sec. 239.08. Inspecting, testing, sealing; incorrect weights and measures.

The department [of weights and measures] or any of its employees shall have power to inspect and test all weights, scales, beams, and measures of every kind, instruments and mechanical devices for measurement, and tools, appliances, or accessories connected with any or all such instruments for measurement that are kept, offered, or exposed for sale, or sold, or used, or employed within this state by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by any person for sale, hire, or reward; and it shall, at least once in each year, and as much oftener as may be deemed necessary, see that the weights, measures, and all apparatus used in the state are correct. In the general performance of this duty the department, or any of its employees, may enter or go into and upon any stand, place, building, or premises to stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer and require him, if necessary, to proceed to some place which the sealer may specify for the purpose of making proper tests. Scales, weights, measures, or weighing or measuring instruments that are found, upon inspection, to correspond with the standards in the possession of the department shall be sealed with proper devices to be approved by the commission [Railroad and Warehouse Commission]. Any employee shall condemn, seize, and destroy incorrect weights, measures, or weighing or measuring devices which, in the judgment of the department cannot be satisfactorily repaired, and

such as are incorrect and yet may be repaired, shall be marked as "condemned for repair", in the manner to be prescribed by the department. The owners or users of any scales, weights, measures, or weighing or measuring instruments which have been so disposed of shall have the same repaired or corrected within 30 days, and the same shall not be used or disposed of in any way without the consent of the department. [1911]

Sec. 239.09. Powers as special policemen.

The department [of weights and measures] and all authorized employees under the provisions of sections 239.01 to 239.11 are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statute in relation to weights and measures, and to seize for use as evidence and without formal warrant, any false weight, measure, or weighing or measuring device or package or kind of commodity found to be used, retained, or offered or exposed for sale or sold in violation of law. [1911]

Sec. 239.10. Inspection fees.

No fee shall be charged for the regular annual inspection of scales, weights, measures, and weighing or measuring devices. At all other times, the cost of the inspection shall be paid by the owner when the same is performed at his request; and when made at the request of some other person the cost shall be paid by the owner, if the scale, weight, measure, and weighing or measuring device is found to be incorrect; otherwise by the person making the request. The commission [Railroad and Warehouse Commission] shall have power to fix the fees and expenses for all special services. All moneys collected by the department [of weights and measures] for special services, fees, and penalties shall be paid into the state treasury, and credited to the state revenue fund. [1911; last amended 1915.]

Sec. 239.12. Electric, gas or water meters: Testing; procedure; fees; condemnation; entry.

The commission [Railroad and Warehouse Commission] shall have power to inspect and test all meters, mechanical devices, and measures of every kind, and tools, appliances, and accessories connected therewith, used, employed, kept, sold, or offered or exposed for sale within this state for the purpose of measuring the amount, quantity or extent of electricity, gas, or water furnished, sold, or distributed to the public by any person, association, corporation, or municipality except cities of the first class having, or which may hereafter have, meter inspection departments. Upon petition of at least ten consumers of electricity, gas, or water within the territorial limits of any municipality and upon the deposit with the clerk of such municipality by each of such consumers of a fee of 25 cents for each such meter, mechanical device, and meas-

ure installed or used upon the premises of each such petitioning consumer, the governing body of such municipality may request the commission to make an inspection and test of all such meters, mechanical devices, and measures upon the premises of such petitioning consumers. Thereupon the commission, within a reasonable time after the receipt by it of such request, shall proceed to make an inspection¹ and test of all such meters, mechanical devices, and measures upon the premises of all such petitioning consumers and upon the premises of all other consumers within such municipality who, at the time of such inspection and test, shall have deposited with the clerk of such municipality the fee of 25 cents for each such meter, mechanical device, and measure upon the premises of such consumers. All such fees collected by the clerk of any such municipality shall be remitted by such municipality to the commission within 30 days of the completion of such inspection and test, and deposited to the credit of the weights and measures fund. All such meters, mechanical devices, and measures found, upon inspection, to be correct and accurate, shall be sealed with proper devices and approved by the commission. The commission, or any of its employees, shall condemn, seize and destroy all incorrect and inaccurate meters, mechanical devices, and measures which, in the judgment of the commission, cannot be satisfactorily repaired; and such as are incorrect and inaccurate and yet may be repaired shall be marked as "Condemned for Repair", in the manner to be prescribed by the commission. The owner of such meters, mechanical devices, and measures which have been so "Condemned for Repair" shall have the same repaired and corrected within 30 days; and such meters, mechanical devices, and measures shall not be disposed of without the consent of the commission. In the general performance of its duty, the commission, or any of its employees, may enter or go into or upon any premises, building, stand, or place at all reasonable times. [1927; last amended 1931.]

¹ For penalty for obstruction of inspection, see Sec. 239.25, page 503.

Sec. 239.13.¹ Weighing livestock: Commission to appoint weigher at packing plants, slaughtering house, and concentration points.

The commission [Railroad and Warehouse Commission] shall appoint at packing plants,² slaughtering houses,² and concentration points² where the average daily number of live stock slaughtered or handled is 250 head or more, such weighers as may be necessary for weighing livestock, provided that no weighers shall be appointed at packing plants or slaughtering houses at which the only live stock slaughtered or handled is purchased or acquired at a public stockyard as defined by section 225.01.³ The commission shall prescribe and follow such

reasonable regulations as it deems necessary for determining such daily average. Such weighers shall weigh all live stock coming to these places for sale or slaughter, unless the same has been previously weighed by state weighers, and keep a record thereof. Upon request the weighers shall furnish the interested parties a certificate setting forth the number of animals weighed and the actual weight of such animal or animals. Such certificate shall be prima facie evidence of the facts therein certified. The scales at all such places on which live stock is weighed shall be constructed and maintained in accordance with requirements of the department of weights and measures, and be tested up to the maximum draft that may be weighed thereon by the department of weights and measures at least once every 30 days. [1935]

¹ See Secs. 216.47-216.52, page 515, weighing of livestock in public stockyards; see also, Sec. 216-45, page 515, stock sales in stockyards.

² For denitions, see Sec. 239.05, page 499.

³ Sec. 225.01 defines public stockyard as, "all stock yards into which live stock is received for the purpose of exposing the same for sale of for feeding the same and doing business for compensation."

Sec. 239.14. Same: Commission to fix fees.

The commission [Railroad and Warehouse Commission] shall prescribe the fee necessary to cover the cost of such weighing, to be assessed and collected from the seller in such manner as the commission may prescribe; provided, that the fee assessed be the same, and the manner of collection thereof be uniform at all markets, including the public terminal live stock market, in the state at which the average daily number of head of live stock bought and sold is 250 or more. All moneys so collected shall be deposited in the state treasury and known as the live stock weighing fund, and paid out only on the order of the commission and the state auditor's warrant. [1935]

Sec. 239.15. Same: Qualification of weighers.

No weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchase, or sale of live stock, nor in the employment of any person or corporation engaged therein. [1935]

Sec. 239.16. Same: Bond of weigher.

Every such weigher shall give to the state a bond in the sum of \$2,000, conditioned for the faithful discharge of his duties. [1935]

Sec. 239.17. Same: Rules and regulations; inspectors; accounts to be kept by packing plants; access to accounts; mandamus.

(1) The commission [Railroad and Warehouse Commission] shall prescribe such rules and regulations as may be necessary to enforce all the provisions of Sections 239.13 to 239.21, 239.26 and 239.27.

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Weights and Measures—Continued.

(2) Every owner or proprietor of a packing plant, slaughtering house, or concentration point and every live stock commission merchant shall keep within the state such accounts, records, and memoranda as will fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stock holding or otherwise. The commission is authorized to require annual or more frequent reports from every owner or proprietor of any packing plant, slaughtering house, concentration point, or public stockyards subject to the provisions of sections 239.13 to 239.22, 239.26, and 239.27 in such forms and relating to such matters and things connected with such business as the commission may prescribe. The commission shall at all times have access to all accounts, records, and memoranda existing and required to be kept by owners or operators of packing houses, slaughtering houses, concentration points, and public stockyards subject to sections 239.13 to 239.22, 239.26, and 239.27. The commission may prescribe the manner and form in which such accounts, records, and memoranda shall be kept and the matters and things connected with the business of such person which such accounts, records, and memoranda shall disclose. Thereafter any person who fails to keep accounts, records, and memoranda in the manner and form prescribed or approved by the commission shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both.

(3) Any employee or agent of the commission duly authorized in writing by the commission shall at all reasonable times, for the purpose of examination, have access to and the right to copy any book, account, record, paper, or correspondence relating to the business of any owner or operator of a packing plant, slaughtering house, concentration point, or public stockyards, or to which the commission is authorized to have access under the provisions hereof. Any person who upon demand refuses any duly authorized employee or agent of the commission such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall, upon conviction thereof, be liable to a penalty of \$500.00 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. This penalty shall be recoverable in a civil suit brought in the name of the state of Minnesota and paid into the treasury of the state as miscellaneous receipts.

(4) Upon the application of the attorney general of the state at the request of the commission, the district courts of the state shall have jurisdiction to issue writs of mandamus commanding the owner or operator of any packing plant, slaughtering house, or concentration point to comply with the

provisions of this section, or any order of the commission made in pursuance thereof. [1935; last amended 1949.]

Sec. 239.18. Same: Live stock buyers required to be licensed; revocation.

(1) All buyers or dealers of live stock¹ shall be duly licensed as hereinafter provided. * * *

(4) The commission [Railroad and Warehouse Commission] may decline to grant or may revoke a license when it is satisfied that (1) the applicant or licensee has violated the laws of this state governing the shipment or transportation of live stock; (2) that the applicant or licensee has been guilty of fraudulent practices in the purchase of live stock or in dealing in live stock; or (3) that the applicant or licensee has violated or failed to comply with the provisions of sections 239.13 to 239.22, 239.26, and 239.27. Before any license shall be revoked the licensee shall be furnished with a copy of the complaint made against him and a hearing shall be had before the commission upon at least ten days' notice to the licensee to determine whether such license shall be revoked or declined, which notice may be served either by registered mail addressed to the address of the licensee as shown in his application or in the manner provided by law for the service of a summons. At the time and place fixed for hearing the commission or any official, employee, or agent of the commission authorized by the commission shall receive evidence, administer oaths, examine witnesses, and hear the testimony, and thereafter file an order either dismissing the proceedings or revoking the license. [1935; last amended 1949.]

¹ For definition see Sec. 239.05, page 499.

Sec. 239.19. Same: Live stock buyers shall keep records.

Each buyer shall keep a record, in form satisfactory to the commission [Railroad and Warehouse Commission], showing the grading of animals purchased, the number and weight of animals of each grade included in the purchase, the price per hundred pounds paid for the animals of each grade, the number of animals docked, the number of animals in each grade docked, and the amount of dockage of each grade and such other accounts, records, and memoranda concerning his buying transactions as may from time to time be required by the commission, and the commission shall at all times have access to such accounts, records, and memoranda and may at any time examine live stock purchased by the buyer and take such action as it deems necessary to prevent or discover violations of sections 239.13 to 239.22, 239.26, and 239.27. [1935]

Sec. 239.20.¹ Same: Live stock scales tested.

The buyers of slaughter live stock operating at concentration points shall have scales upon which the animals are weighed, inspected and tested by a

scale inspector of the department of weights and measures at least once every 30 days at their own expense. All such scales shall be tested up to the maximum draft that may be weighed on the scales. [1935]

1 Sec. 229.06, page 516, public hay track scales, inspection; Sec. 459.11, page 507, public wagon scales, tested; Sec. 216.34, page 513, scales, inspection of.

Sec. 239.21. Same: Live stock fed before weighing.

The seller may require the buyer of his live stock to give the live stock such feed as it will consume during a two-hour period prior to weighing, the feed to be furnished by the buyer at the expense of the seller, and after such feeding the animals shall be given by the buyer free access to water until their thirst is fully quenched. If feeding is omitted, the actual scale weight shall apply as the sole basis for settlement with the shipper. [1935]

Sec. 239.225. Same: Overages to be turned over to state treasurer.

All excess moneys arising from inability to make fractional change at tariff rates, in the weighing of animals, by the railroad and warehouse commission, which excess is retained by any person, firm, corporation, or association shall be paid on demand to the railroad and warehouse commission and forthwith deposited in the office of the state treasurer and credited to the live stock weighing fund therein; and that all such moneys heretofore similarly arising and retained, which have been heretofore paid to such commission and are now in the state treasury and not otherwise appropriated, are hereby appropriated and credited to such live stock weighing fund. [1943]

Sec. 239.23. Sale and use of false or unsealed weights or measures; selling less than quantity represented; refusal to pay testing; sealing and condemnation fees; penalties.

Any person who shall offer or expose for sale, sell or use, or have in his possession a false scale, weight or measure, or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed within one year, as provided by sections 239.01 to 239.11, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure, or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the department, or sell or offer or expose for sale less than the quantity he represents; or sell or offer or expose for sale any such commodities in the manner contrary to law; or sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used to, or calculated to, falsify any weight or measure, or refuse to pay any fee charged for testing and sealing or condemning any scale, weight, or measure, or weighing or measuring device, shall be guilty of a misdemeanor; and, upon conviction,

fining a sum not less than \$20.00, nor more than \$100.00, or by imprisonment for not less than ten days, nor more than 90 days, and the costs of such proceeding. No scale, weight, measure, or weighing or measuring device that has been sealed by the department [of weights and measures] shall be used, sold, or exposed for sale until the fee charged for the service has been paid. [1911]

Sec. 239.24. Hindering official a misdemeanor.

Any person hindering, impeding, or restricting in any way any employee of the department [of weights and measures] while in the performance of his official duty shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$20.00, nor more than \$100.00, or by imprisonment for not less than ten, nor more than 90, days for each offense. [1911]

Sec. 239.25. Obstruction of inspection of meters; penalty.

Every person, association, or corporation that refuses to allow entrance upon or into his or its premises, building, stand, or place for the purpose of inspection as prescribed in section 239.12, or that shall use, employ, keep, sell, or offer or expose for sale any such meters, mechanical devices, or measures in violation of section 239.12 shall be guilty of a misdemeanor¹; and each violation thereof shall constitute a separate offense. [1927]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.

Sec. 239.26. Weighing of livestock: Certain acts deemed gross misdemeanor.

Any weigher who shall knowingly or carelessly weigh any live stock improperly, or give any false certificate of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such weigher in the performance of his duty by preventing his proper access to the scales used in the weighing of live stock, or otherwise, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$100.00, nor more than \$1000.00, or by imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment. [1935]

Sec. 239.27. Same: Violation of act a gross misdemeanor; punishment.

Any person who shall violate any of the provisions of sections 239.13 to 239.22, 239.26, and 239.27, and for which violation no penalty is hereinbefore specified, shall be guilty of a gross misdemeanor; and, upon conviction, punished for each such offense by a fine of not less than \$100, nor more than \$1000, or by imprisonment in the county jail for not less than 30 days, nor more than one

Statutes Annotated (1945), Vol. 16, Part I, Ch. 239—
Weights and Measures—Continued.

year, or by both such fine and imprisonment.
[1935]

Sec. 239.28. Dry measures.

The standard measure of capacity for commodities sold by dry measure shall be the bushel containing 2150.42 cubic inches. The half bushel, peck, half peck, quarter peck, quart, and pint shall be derived by successively dividing that measure by two. [1861; last amended 1913.]

Sec. 239.29. Liquid measures.

The standard measure of capacity for liquids shall be the wine gallon, containing 231 cubic inches; and 31.50 gallons shall constitute a barrel, except for fermented malt liquors which shall be a barrel of 31 gallons, and 6½ gallons a hogshead. [1861; last amended 1913.]

Sec. 239.30. Lineal measure.

The standard measure of length, from which all other measures of extension, lineal, superficial, or solid, shall be derived, is the yard, of three feet, or 36 inches. [1903; last amended 1913.]

Sec. 239.31. Hundredweight.

In contracts for the sale of goods or commodities, the term "hundredweight" shall mean 100 pounds avoirdupois. [1861; last amended 1913.]

Sec. 239.32. Standard weight of bushel.

In contracts for the sale of any of the following articles, the term "bushel" shall mean the number of pounds avoirdupois herein stated:¹

	Pounds per bushel
Alfalfa	60
Apples, dried	28
Apples, green	50
Barley	48
Beans, broad Windsor	47
Beans, white runner pole	50
Beans, scarlet runner pole	50
Beans, lima	56
Beets	50
Beans (except lima beans, scarlet runner pole beans, white runner pole beans and broad Windsor beans)	60
Blue grass	14
Broom corn seed	57
Buckwheat	50
Carrots	45
Chestnuts	50
Clover seed	60
Corn, in ear ²	70
Corn, shelled (except sweet corn)	56
Corn, sweet	48
Cranberries	36
Cucumbers	48
Flaxseed	56
Hempseed	50
Hickory nuts	50
Hungarian grass seed	48
Lime	180
Millet	48
Oats	32
Onions	52

Pounds per
bushel

Onion-seeds, bottom	32
Onion-seeds, top	28
Orchard grass	14
Parsnips	42
Peaches	48
Peaches, dried	28
Peanuts	22
Pears	45
Peas, smooth	60
Peas, wrinkled	56
Plastering hair, unwashed	8
Plastering hair, washed	4
Potatoes, Irish	60
Potatoes, sweet	55
Rapeseed	50
Redtop seed	14
Rhubarb	50
Rutabagas	52
Rye	56
Sorghum seed	57
Spelt or spilts	40
Timothy seed	45
Tomatoes	50
Turnips	55
Walnuts	50
Wheat	60

¹ But if lime is sold by the barrel the weight shall be 200 pounds.

In contracts for the sale of green apples, the term "bushel" shall mean 2150.42 cubic inches. [1861; last amended 1935.]

¹ A slight change has been made in the arrangement for convenience of reference.

² During the months of October and November not exceeding 80 pounds and during the months of December and January not exceeding 72 pounds may be used as the standard bushel of new ear corn. See Sec. 232.10, page 519.

Sec. 239.33. Standard measurement of wood.

In all contracts for sale of wood the term "cord" shall mean 128 cubic feet of wood, in four foot lengths; and if the sale is of "sawed wood", a cord shall mean 110 cubic feet when ranked, or 160 cubic feet when thrown irregularly or loosely into a conveyance for delivery to the purchaser; and if the sale is of "sawed and split wood", a cord shall mean 120 cubic feet, when ranked, and 175 cubic feet when thrown irregularly and loosely into a conveyance for delivery. [1913]

Sec. 239.34. Standard weight of coal, charcoal and ice.

In all contracts for the sale of coal, charcoal, and ice, the term "ton" shall mean 2,000 pounds. A sale of coal, charcoal, and ice, except by weight, is hereby prohibited. [1913]

Sec. 239.35. Standard weight of flour barrel.

In all contracts for the sale of flour, the term "barrel" shall mean 196 net pounds avoirdupois. [1913]

Sec. 239.36. Fractional parts.

All contracts for the sale of a fractional part of a bushel, barrel, ton, or cord of any article or commodity on which the legal weight or measurement per bushel, barrel, ton, or cord has been established,

shall require and mean a like fractional part of the legal and established weight or measurement per bushel, barrel, ton, or cord. [1913]

Sec. 239.37. Tolerances established by commission.

The commission [Railroad and Warehouse Commission] shall establish uniform tolerances or reasonable variation to take care of unavoidable shrinkage, and of scale variations in handling and weighing of any of the articles mentioned in this chapter [Secs. 239.01-239.51]. [1913]

Sec. 239.38. Sealing.

Every person engaged in any business requiring the use of weights or measures shall cause those used by him to be tested and sealed by the county sealer. Every person who shall buy, sell, or dispose of any goods or commodities by an unsealed weight, measure, or scale kept by him, or shall knowingly use any such weight, measure, or scale which has been sealed, but is incorrect, shall be guilty of a misdemeanor;¹ but no contract of sale shall thereby be rendered void. [1861; last amended 1895.]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.

Sec. 239.39. Testing upon request.

Upon written request of any person aggrieved, and payment of \$1.00, and mileage at the rate of 20 cents per mile going and returning, the county sealer or his deputy shall test any weights, measures, or scales used in his county, whether already sealed or not. If such sealer, or deputy shall give to the person complained of prior notice of such testing, he shall be guilty of a misdemeanor.¹ [1861; last amended 1889.]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.

Sec. 239.40. Neglect to procure standards.

When a county treasurer is requested, in writing, to procure any standard of weight or measure required by law to be kept by him, he shall procure the same within 20 days thereafter, or forfeit to the county \$100.00 at the suit of any interested person. [1861]

Sec. 239.41. Bread: Standard avoirdupois weight; twin or multiple loaves.

It shall be unlawful for any person, firm, or corporation to manufacture, produce for sale, sell, or offer or expose for sale in this state bread in loaves of any other weight than the following standard avoirdupois weights: one pound, one and one-half pounds, or any multiple of one pound.

When twin or multiple loaves are baked the weights herein specified shall apply to each unit of the twin of multiple loaf, but nothing in sections 239.41 to 239.43 and 239.45 shall be construed to prohibit making a twin loaf of a total weight of 16 or 24 ounces if the same be marked and sold as a pound or a pound and a half loaf. [1927]

Sec. 239.42. Same: Marking requirements.

* * * * *

Every loaf or twin loaf of bread sold within this state shall have affixed on the loaf or on the outside of the wrapper in a plain statement the weight of the loaf or twin loaf of bread, together with the name and address of the manufacturer. [1927; last amended 1931.]

Sec. 239.43. Same: Net weight construed.

The weights specified in sections 239.41 to 239.43 and 239.45 shall be construed to mean net weights within a period of 24 hours after baking. A variation at the rate of one ounce per pound over or one ounce per pound under the specified weight of each individual loaf shall not be a violation of sections 239.41 to 239.43 and 239.45; provided, that the total weight of 25 loaves of bread of a given variety shall in no case fall below 25 times the unit weight. [1927; last amended 1931.]

Sec. 239.44. Penalty for buying and selling commodities contrary to lawful standards of weight or measure.

Whoever in buying shall take any greater number of pounds or cubic feet to the bushel, barrel, ton, or cord, as the case may be, than is allowed and provided in Secs. 239.28 to 239.37, or in selling, shall give any less number, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$10.00, nor more than \$100.00, or by imprisonment for not less than ten, nor more than 90 days in the county jail, and the cost of such proceeding. [1913]

Sec. 239.45. Bread: Penalty for violating Secs. 239.41-239.43.

Any person, firm, or corporation which shall violate any provision of sections 239.41 to 239.43 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$10.00, nor more than \$100, and each separate sale or violation of any provision shall constitute a separate offense. [1927]

Sec. 239.46. Fines.

All fines collected under the provisions of sections 239.28 to 239.40 shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought. [1861; last amended 1889.]

Sec. 239.51. Flour, corn meal, hominy and hominy grits: Standard weights of containers; exceptions; penalty for violations.

(1) It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of three, five, ten, 25, 50 and 100 pounds, and multiples of 100 pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated

Statutes Annotated (1945), Vol. 16, Part I, Ch. 239—
Weights and Measures—Continued.

flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy, and hominy grits.

The provisions of this section shall not apply to:

(a) The retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock;

(b) The sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds or for export;

(c) Flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than three pounds;

(d) The exchange of wheat for flour by mills grinding for toll.

(2) Any violation of this section constitutes a misdemeanor.¹ [1945]

¹ Punishment for misdemeanor, see Sec. 610.19, page 522.

Statutes Annotated (1945), Vol. 24, Part I, Ch. 410, Appendix 1—Cities Under Laws 1870, Ch. 31, as amended, Subchapter IV.

Sec. 3. Same: Powers and duties of council enumerated.

The common council * * * shall have authority by ordinance, resolution or by-laws—

* * * * *

Twentieth—To regulate the place and manner of weighing and selling hay, and measuring and selling of fire wood, coal, peat and lime, and to appoint suitable persons to superintend and conduct the same.

* * * * *

Twenty-fifth—To provide by ordinance for a standard of weights and measures; for the appointment of a city sealer, and require all weights and measures to be sealed by the city sealer; and to provide for the punishment of the use of false weights and measures.

Twenty-sixth—To regulate the inspection of flour, pork, beef, fish, salt, whiskey, and other liquors and provisions; and to appoint inspectors, measurers, weighers and gaugers; to regulate their duties and prescribe their compensation. [1870]

* * * * *

[ED. NOTE.—In Minnesota Statutes Annotated, at the beginning of Ch. 410, Appendix 1, page 169, it is stated: "Laws 1870, ch. 31, was entitled 'An Act to authorize the Incorporation of Cities;' it provides for the organization of cities upon the petition of two-thirds of the legal voters residing within the limits of certain territory.

"The Act of 1870 was not repealed by the Revised Laws of 1905. It has been held that, as to cities incorporated thereunder, the Act is still applicable and in force.

"In response to an inquiry from the Publisher of Minnesota Statutes Annotated, Orville C. Peterson, Esq., Attorney for the League of Minnesota Municipalities, advises that there are five cities operating under Laws 1870, c. 31 as set out in this Appendix, namely, Canby, Luverne, Marshall, Montgomery and Waterville.]"

Statutes Annotated (1945), Vol. 24, Part I, Ch. 410, Appendix 2—Cities Under Laws 1895, Ch. 8, as amended, Subchapter VI.

Sec. 135. Same: Specific powers of city council.

The city council shall have power by ordinance, not inconsistent with the constitution and laws of the state and the United States, as follows:

* * * * *

Forty-seventh—To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto.

* * * * *

Forty-ninth—To provide for and regulate the place and manner of weighing of hay and straw and selling the same, and measuring and selling of fire wood, coal and lime.

Fiftieth—To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by vendors of proper weights and measures duly tested and sealed.

* * * * *

Seventy-first—To regulate and control the quality and measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat, and power in the city.

* * * * *

Seventy-second—To establish offices for inspectors, weighers, gaugers, scalers, electricians, wharf masters, market masters, quarantine masters and such other officers as it may be necessary to carry into effect the inspection laws of the city, and the powers herein granted; and to regulate the duties of said officers and to authorize and direct said officers to enforce and carry into effect the provisions of any ordinance passed hereunder. [1895]

* * * * *

[ED. NOTE.—In Minnesota Statutes Annotated, at the beginning of Ch. 410, Appendix 2, Page 215, it is stated: "Laws 1895, c. 8, was entitled 'An act to provide for the incorporation, organization and government of cities.' The act authorized the inhabitants of contiguous territory, not organized as a city and having not less than 1,000 population, to become incorporated as a city by a majority vote of the qualified electors resident therein at an election called for that purpose as provided in the act.

"Sections 14 to 40, constituting subchapter 1 of the Act, were repealed by Revised Laws 1905, Sec. 5541 (M. S. A. Sec. 646.25). The remainder of the act has not been repealed. As to cities incorporated under the act it is still applicable, except as otherwise changed by subsequent laws.

"In response to an inquiry from the Publisher of M. S. A., Orville C. Peterson, Esq., Attorney for the League of Minnesota Municipalities, advises that there are five cities

operating under Laws 1895, c. 8 as set out in this Appendix, namely, Cloquet, East Grand Forks, Melrose, Red Lake Falls and Thief River Falls.”]

Statutes Annotated (1945), Vol. 24, Part I, Ch. 411—
Cities of the Fourth Class.

Sec. 411.40. Powers and duties of common council.

The common council * * * shall have authority, by ordinance, resolution, or by law:

(44) To regulate the making and sale of bread, and prescribe the weight and quality of the bread in the loaf, and provide for the seizure and forfeiture of bread baked contrary thereto;

(46) To provide for and regulate the place and manner of weighing hay and straw and selling the same, and measuring and selling of fire wood, coal, and lime;

(47) To provide for a standard of weights and measures and for the inspection and sealing of all weights and measures and to enforce the keeping and use by vendors of proper weights and measures duly tested and sealed;

(67) To regulate and control the quality and measurement of gas, and to prescribe and enforce regulations for the manufacture and distribution of gas, and to inspect gas and gas meters, and to control and regulate the measurement and use of electricity and electrical apparatus for furnishing light, heat and power in the city;

(68) To establish offices for inspectors, weighers, gaugers, scalers, electricians, wharf masters, market masters, quarantine masters, and such other officers as it may be necessary to carry into effect the inspection laws of the city and the powers herein granted; and to regulate the duties of these officers and to authorize and direct these officers to enforce and carry into effect the provisions of any ordinance passed hereunder; [1870; last amended 1921.]

[ED. NOTE.—In Minnesota Statutes Annotated, Vol. 24, at page 54, it is stated: “Only the cities of North Mankato and Waconia now operate under this Chapter” [Ch. 411].]

Statutes Annotated (1945), Vol. 24, Part I, Ch. 412—
Villages.

Sec. 412.211. Powers of village council.

12. The village council shall have power to establish markets, provide public scales, and appoint a weighmaster. It may by ordinance regulate markets and the use of scales and restrain sales in streets. [1905; last amended 1949.]

[ED. NOTE.—In Minnesota Statutes Annotated, Vol. 24, at page 55, it is stated: “This chapter [Ch. 412] now applies to all villages in the state.”]

Statutes Annotated (1945), Vol. 26, Part I, Ch. 459—
Public Wagon Scales and Public Scales.

Sec. 459.08. Public wagon scales: Certain cities empowered to maintain.

Any city containing not to exceed 10,000 inhabitants, or any village or borough in this state, is hereby authorized and empowered to maintain public wagon scales therein as provided in sections 459.08 to 459.12. [1905]

Sec. 459.09. Same: Acquisition and maintenance.

The council of any such municipality is hereby authorized and empowered to buy, establish, and maintain public wagon scales in such municipality, and the council is hereby authorized and empowered to hire, buy, and maintain scales already in use in the municipality, the same to be used and maintained as a public wagon scale in such municipality for the public use therein. [1905]

Sec. 459.10. Same: Rules and regulations; weighmasters; duties; charges.

The council of such municipality wherein such public scales are maintained shall have control of such scales and shall make such rules or regulations in regard to the maintenance and use of the same as they shall deem proper, and the council shall annually appoint a public weighmaster, whose duty it shall be to have charge of such scales and properly weigh all articles and commodities thereon, and give a statement in writing of the weight of such articles or commodities weighed thereon to the person applying to have such articles weighed, and such statement shall be prima facie the correct weight of these articles or commodities, and the council shall fix the compensation of the weighmaster, which compensation shall be paid out of the treasury of such municipality, and shall, from time to time, fix the price to be charged for weighing any article or commodity thereon, and the weighmaster shall collect such charge at the time of weighing such article or commodity, and he shall at the end of each month pay all moneys collected by him for such charge into the treasury of the municipality and file with the recorder of such municipality a statement of the amount of such money collected. [1905]

Sec. 459.11. Same: Testing; right to use.

Such scales shall be tested, stamped, and sealed by the sealer of weights and measures, before being used, and as often thereafter as may be necessary. Any person either buying or selling any article or commodity by weight to be delivered in such municipality wherein such public scales are maintained may have the same weighed upon such public scales by paying the fee charged for weighing thereon. [1905]

Statutes Annotated (1945) Vol. 26, Part I, Ch. 459—
Public Wagon Scales and Public Scales—Continued.

Sec. 459.12. Same: Not to apply to certain cities.

Sections 459.08 to 459.12 shall not apply to any city having a charter which provides for a city weighmaster. [1905]

Sec. 459.13. Public scales; weighmaster.

Any city in this state is hereby authorized and empowered to establish and maintain public scales for the weighing of hay, grain, seed, pork, coal, and all other gross commodities offered and exposed for sale in the city, and to create the office of weighmaster, to take charge of and conduct the city scales, and inspector of coal and wood. Such scales shall be established and such office of weighmaster shall be created by ordinance duly passed by a majority of all the members of the council of the city. The powers and duties of the weighmaster and inspector of coal and wood shall be established and defined by such ordinance.

Upon the passage of such ordinance, and yearly thereafter, the council of the city shall without delay elect a weighmaster and inspector for the city who shall hold his office for one year from the date of his election and until his successor shall be elected and qualified. [1895]

Statutes Annotated (1945), Vol. 4, Part I, Ch. 17—
"Minnesota Fertilizer Law of 1949."

Sec. 17.202. Enforcement.

This act [Secs. 17.201-17.218] shall be administered by the Commissioner of Agriculture, Dairy and Food of the State of Minnesota, hereinafter referred to as the "commissioner." [1949]

Sec. 17.203. Definitions.

* * * * *

(c) The term "commercial fertilizer" includes both mixed fertilizer or fertilizer materials.

(d) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(e) The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth, with or without inert materials. [1949]

* * * * *

Sec. 17.205. Marking requirements.

(a) Any commercial fertilizer offered for sale or sold or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container the net weight * * *

(b) If transported in bulk, the net weight

* * * shall accompany delivery and be supplied to each and every purchaser. [1949]

Sec. 17.211. Sale of misbranded article prohibited.

A commercial fertilizer is misbranded if it carries any false or misleading statement upon or attached to the container, * * *. It shall be unlawful to sell, offer for sale or distribute a misbranded commercial fertilizer in this state. [1949]

Sec. 17.216. Stop sale order.

It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the commissioner finds said commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this act [Secs. 17.201-17.218] or any regulation issued thereunder, until the law has been complied with and said commercial fertilizer is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. [1949]

Sec. 17.217. Seizures.

Any lot of commercial fertilizer not in compliance with the provisions of this act [Secs. 17.201-17.218] shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. * * * [1949]

Sec. 17.29. Penalty for violations.

* * * * *

(4) (a) Any person convicted of violating any of the provisions of this act [Secs. 17.201-17.218] or any rule or regulation issued thereunder shall be adjudged guilty of a misdemeanor.¹ [1949]

* * * * *

¹ Punishment for misdemeanor. see Sec. 610.19, page 522.

Statutes Annotated (1945), Vol. 4, Part I, Ch. 24—
Economic Poisons.

Sec. 24.02. Economic poisons: Definitions; marking requirements.

* * * * *

(6) The term "economic poison" shall include any substance or mixture of substances intended for use in preventing, destroying, repelling, or mitigating any and all insects, rodents, fungi (including bacteria), and other forms of plant or animal life which the Commissioner of Agriculture, Dairy and Food shall declare to be a pest.

* * * * *

(12) The term "person" shall include any individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization.

(13) The term "label" means the written, printed

or graphic matter on the immediate container of the article or on the article itself and also on the outside container or wrapper, if any there be, of the individual consumer package of such article. The label shall contain the following mandatory information: * * * (3) the net weight or measure, as the case may be, which is contained in the package; * * *

(16) The term "misbranded" shall apply to any economic poison or device if its labeling bears any statement, design, or graphic representation relative to the article or its ingredients which is false or misleading in any particular * * *. [1945]

Sec. 24.075. Exemptions.

The provisions of laws 1945, Chapter 427, [Secs. 24.02, subdivision 6-16, 24.071-24.077] * * * shall not apply to (1) finished economic poisons in transit through the state or in storage within the state intended for and sold outside of the state; (2) economic poison ingredient materials in transit or in storage intended for manufacturing, processing, mixing or repacking; (3) common or private carriers and warehousemen while engaged in lawfully transporting and storing economic poisons; (4) public officers while engaged in the performance of their official duties; or (5) any employee of the foregoing while acting in the scope of employment. [1945]

Sec. 24.076. Enforcement.

The commissioner [of agriculture, dairy and food] is charged with the proper enforcement of all the provisions of Laws 1945, Chapter 427 [Secs. 24.02, subdivisions 6-16, 24.071-24.077]. [1945]

Sec. 24.077. Penalties for violations.

Any person violating any of the provisions of the Laws 1945, Chapter 427 [Secs. 24.02, subdivisions 6-16, 24.071-24.077], or any regulations made hereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25.00, or by imprisonment in the county jail for not less than 30 days for the first offense, and in the sum of not less than \$50.00, or by imprisonment in the county jail for not less than 60 days for each subsequent offense. [1945]

Statutes Annotated (1945), Vol. 4, Part I, Ch. 24—Anti-Freeze Law.

Sec. 24.24. Definitions.

(1) Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this act [Secs. 24.24-24.32] shall be given the meanings subjoined to them.

(2) The term "antifreeze" shall include substances and preparations intended for use as permanent cooling mediums or to be added to the cooling system of internal combustion engines to

prevent freezing of the cooling liquid or to lower its freezing point. Methyl alcohol, ethyl alcohol or other substances whether they be alcohols or other compounds shall not be deemed "antifreezes" within the meaning of this act if their entire contents be volatile at 212 degrees Fahrenheit or less.

* * * * *

(4) The term "commissioner" as used in this act shall mean the commissioner of the department of agriculture, dairy and food of the state of Minnesota.

(5) The term "label" means the written, printed or graphic matter on the immediate container of the article or on the article itself and also on the outside container or wrapper, if any there be, of the individual consumer package of such article. The label shall contain the following mandatory information: * * * (3) the net weight or measure, as the case may be, which is contained in the package.

* * * * *

(8) The term "misbranded" shall apply to any antifreeze (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1949]

Sec. 24.27. Seizure.

The commissioner may seize all antifreeze or similar articles, the manufacture, transportation, sale or use of which is prohibited by this act [Secs. 24.24-24.32] or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of any provision of this act or in violation of any rule, regulations, definition, standard or ruling made, adopted, published hereunder, and for this purpose he and his several assistants, inspectors, agents and employees shall have the power of a constable. Such seizures may be made without a warrant, but in such case as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary, a search warrant may be issued as in the case of stolen property, the form of the complaint and of the warrant being adapted to the purpose of this act. [1949]

Sec. 24.28. Penalty for violations.

* * * * *

(2) Any person violating any of the provisions of this act [Secs. 24.24-24.32] for which no specific penalty is provided shall be guilty of a misdemeanor.

(3) Any person violating any rule or regulation promulgated by the commissioner shall be guilty of a misdemeanor. [1949]

Statutes Annotated (1945), Vol. 4, Part I, Ch. 24—
Anti-Freeze Law—Continued.

Sec. 24.30. Exemptions.

The provisions of this act [Secs. 24.24-24.32], except section 3 [Sec. 24.26], shall not apply to (1) finished antifreeze in transit through the state or in storage within the state intended for and sold outside the state; (2) antifreeze ingredient materials in transit or in storage intended for manufacturing, processing, mixing or repacking; (3) common or private carrier and warehousemen while engaged in lawfully transporting and storing antifreeze; (4) public officers while engaged in the performance of their official duties; (5) any employees of the foregoing while acting in the scope of employment. [1949]

Sec. 24.31. Enforcement.

The commissioner is charged with the enforcement of all the provisions of this act [Secs. 24.24-24.32], * * *. [1949]

Sec. 24.32. Act not to apply to retailers.

This act is not intended and shall not apply to retailers. [1949]

Statutes Annotated (1945), Vol. 4, Part I, Ch. 25—
Commercial Feeding Stuffs.

Sec. 25.01. Definitions.

* * * * *

(2) The term "concentrated commercial feeding stuffs" includes linseed meals, coconut meals, gluten feeds, gluten meals, germ feeds, corn feeds, maize feeds, starch feeds, sugar feeds, dried brewer's grains, malt sprouts, dried distiller's grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn brans, wheat brans, wheat middlings, wheat shorts, and other mill by-products not excluded in this section, ground beef or fish scraps, dried blood, blood meals, bone meals, tankage, meat meals, slaughter-house waste products, mixed feeds, clover meals, alfalfa meals and feeds, pea vine meal, cottonseed meal, sunflower oil cake, velvet bean meal or any other leguminous meal, mixed feeds and mixed meals made from seeds or grains and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, canned and dry dog foods, patented proprietary or trade and market stock and poultry feeds; but it shall not include straws, hays, whole seeds, unmixed meals, made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn, nor wheat flours or other cereal flours. [1919]

Sec. 25.03. Marking requirements.

Any person, company, corporation, or agent who shall sell, offer or expose for sale or distribution in this state any concentrated commercial feeding

stuffs shall affix, or cause to be affixed, to every package or sample of such concentrated commercial feeding stuffs, * * * in a conspicuous place on the outside thereof, a tag or label, which shall be accepted as a guarantee of the manufacturer, importer, dealer, or agent, and which shall have plainly printed thereon, in the English language the number of net pounds of concentrated commercial feeding stuffs in the package, * * * [1919; last amended 1949.]

Sec. 25.09. Rules and regulations for enforcement.

The commissioner [of agriculture, dairy and food] is hereby empowered * * * to prescribe and enforce such rules and regulations relating to concentrated commercial feeding stuff as he may deem necessary to carry into effect the full intent and meaning of sections 25.02 to 25.10, * * * [1919]

Sec. 25.14. Penalties for violations; exceptions.

(1) Any person, company, corporation, or agent, who shall offer for sale, sell, or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuff which has not been registered with the commissioner [of agriculture, dairy and food], as required by the provisions of sections 25.02 to 25.10, or which does not have affixed to it a tag or label required by the provisions of sections 25.02 to 25.10, * * * shall be guilty of a misdemeanor; and, upon conviction thereof, fined in the sum of \$50.00 for the first offense, and in the sum of \$100.00 for each subsequent offense. * * *

Nothing in sections 25.02 to 25.10 shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers, or manipulators who mix concentrated commercial feeding stuff for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or to prevent the commissioner, or any person deputized by him, or the Minnesota agricultural experiment station, or any person in the employ of the Minnesota agricultural experiment station, making experiments with concentrated commercial feeding stuffs for the advancement of the science of agriculture. [1919]

* * * * *

Statutes Annotated (1945), Vol. 4, Part I, Ch. 30—
Potatoes.

Sec. 30.03. Marking requirements.

Every closed package containing potatoes offered or exposed for sale, at wholesale or at retail, in cities of the first and second classes, by persons other than the growers thereof, shall bear upon the outside of each package, either by brand, tag, or label, in plain letters and figures, * * * the minimum weight when packed. [1931]

Sec. 30.05. Who may pack and ship.

No person other than the growers thereof shall pack for sale, ship for sale, offer or consign for sale, or sell potatoes in closed packages in carload lots, not branded in accordance with the provisions of sections 30.02 to 30.09; and no person shall pack for sale, ship for sale, offer or consign for sale, or sell potatoes in closed packages in truckload lots, other than the producer, which are not tagged, labeled, or branded in accordance with the provisions of sections 30.02 to 30.09. [1931]

Sec. 30.12. Same: All shipments must be tagged.

It shall be unlawful for any person, firm, trucker, association, organization, or corporation, or any agent, representative, or assistant to any person, firm, trucker, association, organization, or corporation, except those hereinbefore exempted, to sell, transport, deliver, or consign potatoes prepared for market unless each container has been legibly and conspicuously tagged, branded, labeled, and stenciled before being moved from the premises of the person responsible for the grading and packing, and the name of the grade legibly placed thereon, together with the true net contents expressed in weight. [1935]

Sec. 30.23. Enforcement.

It shall be the duty of the commissioner [of agriculture, dairy, and food] to enforce the provisions of this chapter [Secs. 30.01 to 30.24.] [1931; last amended 1937.]

Sec. 30.24. Penalty for violations.

(1) Any person violating any of the provisions of sections 30.02 to 30.09 shall be guilty of a misdemeanor¹ for the first offense and a gross misdemeanor² for each subsequent offense, and such conviction may be proper cause for the suspension or forfeiture or cancellation of any license held by the person so convicted.

(2) Whoever violates sections 30.10 to 30.15, or any part or provision thereof, * * * by not tagging or branding containers as therein required, or by removing or altering any tag or brand placed upon or attached to any containers as therein required, unless ordered to do so by the commissioner [of agriculture, dairy and food], or his duly appointed representative, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$10.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30 days, nor more than three months, or by both such fine and imprisonment in accordance with the discretion of the court. [1931; last amended 1937.]

¹ Punishment for misdemeanor, see Sec. 610.19, page 522.

² Punishment for gross misdemeanor; see Sec. 610.20, page 522.

Statutes Annotated (1945), Vol. 4, Part I, Ch. 31—
Foods.Sec. 31.01.¹ Definitions; marking requirements.

(3) "Food" includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or compound for man, whether simple, mixed, or compound.

(5) "Misbranded" applies to all articles of food, or articles which enter into the composition of food, the package or label of which bears any statement, design, or device regarding such article, * * * which shall be false or misleading in any particular, * * *

An article shall also be deemed to be misbranded, in the case of food:

(2) If it be labeled or branded so as to deceive or mislead the purchaser, * * *.

(3) If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of net weight, measure, or numerical count; provided, that reasonable variations may be permitted, and tolerances, and also exceptions as to small packages may be established, by rules and regulations made [by the commissioner of agriculture, dairy, and food] * * *; and, provided, further, that the commissioner shall have full authority to determine when food is in package form;

(4) If the package containing it, or its label, shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

(6) "Frozen foods" means ice-cream, frozen custards, ice milk, milk sherbet, fruit ice or ice sherbet, or frozen malted milk. [1921; last amended 1941.]

¹ See also Sec. 32.511, page 513, similar provision.

Sec. 31.02. Unlawful to sell, etc., misbranded food.

It shall be unlawful for any person to manufacture, sell, use, transport, offer for sale or transportation, or have in possession with intent to use, sell, or transport, any article of food which is adulterated, misbranded, insufficiently labeled, * * * within the meanings of sections 31.02 to 31.17 and 31.28 to 31.43. [1921]

Sec. 31.05. Seizure; search warrants.

The commissioner [of agriculture, dairy, and food] may seize all food, the manufacture, transportation, sale, or use of which is prohibited by

Statutes Annotated (1945), Vol. 4, Part I, Ch. 31—
Foods—Continued.

sections 31.02 to 31.17 and 31.28 to 31.43, or which is manufactured, sold, used, transported, kept or offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport, in violation of any provision of sections 31.02 to 31.17 and 31.28 to 31.43, or in violation of any rule, regulation, definition, standard, or ruling made, adopted, and published under sections 31.02 to 31.17 and 31.28 to 31.43, and for this purpose he and his several assistants, inspectors, agents, and employees shall have the powers of a constable. Such seizure may be made without a warrant, but in such case, as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary, a search warrant may be issued, as in the case of stolen property, the form of the complaint and of the warrant being adapted to the purposes of sections 31.02 to 31.17 and 31.28 to 31.43. [1921]

Sec. 31.13. Analysis or examination of misbranded food; prima facie evidence.

It shall be the duty of the chief chemist and assistants to make analyses and examinations of such articles as shall be furnished to them by the commissioner [of agriculture, dairy, and food], for the purpose of determining from such examination whether such articles are adulterated, misbranded, insufficiently labeled, * * * within the meaning of sections 31.02 to 31.17 and 31.28 to 31.43, and whether such articles have been manufactured, used, sold, transported, offered for use, sale, or transportation, or had in possession with intent to use, sell, or transport in violation of any provision thereof, or of any definition, standard, rule, regulation, or ruling made and published thereunder, and to certify the result of such analysis and examination to the commissioner. A copy of the result of the examination or analysis of any such article, duly authenticated, by the chemist making such analysis or examination, under oath of such chemist, shall be prima facie evidence in all courts of the matters and facts therein contained. [1921]

Sec. 31.25. Frozen foods: Marking requirements.

(1) All cans or containers used in the sale or distribution of ice-cream mix, or ice-cream mix base shall bear a label attached to the same giving the following information:

- * * * * *
- (4) Statement of net contents;
- * * * * *

Every package of frozen foods packed by the manufacturer shall bear a label. The label shall give the name of the product, the name and address of the manufacturer or distributor, and a statement of the net contents. [1937; last amended 1949.]

* * * * *

Sec. 31.36. Canned foods: Rules and regulations for canneries.

Any and all power and authority in sections 31.02 to 31.17 and 31.28 to 31.43 conferred upon the commissioner [of agriculture, dairy, and food] shall be applicable for the purpose of prescribing rules and regulations for the operation of canneries, and proper labels, * * * on products of canneries. [1921]

Sec. 31.44. Penalties for violations of food laws.

(1) Any person violating, or failing to comply with, any of the provisions of sections 31.01 to 31.17 and 31.28 to 31.43, or any of the provisions of any of the rules, regulations, definitions, standards, or rulings made and published thereunder, shall be guilty of a misdemeanor and, save as therein otherwise specifically provided, for each first offense shall be punished by a fine of not less than \$15.00, or by imprisonment for not less than 20 days, and for each subsequent offense, by a fine of not less than \$50.00, or by imprisonment for not less than 60 days.

(2) Any person violating any of the provisions of sections 31.19 to 31.27, or any regulations made thereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$15.00, or by imprisonment in the county jail for not less than ten days for the first offense, and in the sum of not less than \$30.00, or by imprisonment in the county jail for not less than 20 days, for each subsequent offense.

* * * * *

(4) For the purpose of enforcing the provisions of section 31.01 the commissioner of agriculture, dairy and food, his assistants, inspectors, agents and employees shall have the power and authority granted under the provisions of sections 31.04 to 31.15 inclusive. [1921; last amended 1949.]

Statutes Annotated (1945), Vol. 4, Part I, Ch. 32—
Milk and Cream.

Sec. 32.25. Milk and cream sold by weight; Babcock test; apparatus; misdemeanor.

(1) All milk and cream purchased from two or more producers for the purpose of manufacture into butter or cheese, or for the purpose of condensing or drying the same, or for the purpose of resale, shall be purchased by weight and payment shall be made therefor upon the basis of milk-fat therein contained and not otherwise; provided, that in purchasing whole milk from which the milk-fat or cream is to be separated and the skimmed milk sold or processed separately, the purchaser shall pay for such skimmed milk by weight in addition to the amount paid for milk fat as herein prescribed, computing the skimmed milk at 80 per cent of the weight of the whole milk, or the purchaser of such whole milk may pay for same on the basis of the fat and the non-fat solids contained therein.

The percentage of milk-fat in such milk and cream shall be determined by the Babcock test and by employing a standard official method for operating this test, which method shall be that adopted, prescribed, and set forth, with specifications in detail, in the rules and regulations from time to time made and published by the commissioner [of agriculture, dairy and food] under and pursuant to the authority therefor conferred by the Minnesota Dairy and Food Law for the purpose of carrying out and enforcing the provisions thereof, which authority hereby expressly is declared to be applicable in the premises.

(2) All glassware, test bottles, pipettes, acid measures, chemicals, scales, and other apparatus used in the operation of this test shall conform to the specifications set forth in that method.

(3) Any person who shall use any appliances other than the standard Babcock glassware for measuring or testing milk or cream sold or purchased at prices determined upon the basis of milk-fat therein contained, or who shall manufacture or sell Babcock glassware which is not constructed or graduated in accordance with these specifications, or who shall employ any test other than the Babcock test, or any method other than the standard official method for determining the milk-fat content of milk or cream or who shall underread or otherwise falsify or manipulate the reading of the test, or who shall falsely state, certify, or use in the purchase or sale of milk or cream a misreading of such test, whether the test or actual reading shall have been made by such person or by any other person, shall be guilty of a misdemeanor. [1921; last amended 1947]

Sec. 32.50. Penalty for violating chapter 32.

* * * * *

(1) Any person, firm, corporation, association or copartnership violating any of the provisions of chapter 32 or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor and punished by imprisonment not exceeding three months, or by a fine not exceeding \$100. [1949]

Sec. 32.511.¹ Enforcement; marking requirements.

(1) For the purpose of enforcing the provisions of Minnesota Statutes 1945, Chapter 32 and amendatory acts the commissioner of agriculture, dairy and food, his assistants, agents, and employees, shall have the power and authority granted under the provisions of sections 31.02 to 31.15, inclusive.

(2) "Misbranded" applies to all articles of food, or articles which enter into the composition of food, the package or label of which bears any statement, design, or device regarding such article, * * * which shall be false or misleading in any particular, * * *.

An article shall also be deemed to be misbranded, in the case of food:

* * * * *

(b) If it be labeled or branded so as to deceive or mislead the purchaser, * * *

(c) If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of net weight, measure, or numerical count; provided, that reasonable variations may be permitted, and tolerances, and also exceptions as to small packages may be established, by rules and regulations made by the commissioner; and, provided, further, that the commissioner shall have full authority to determine when food is in package form.

(d) If the package containing it, or its labels, shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular. [1949]

¹ See also Sec. 31.01, page 511, similar provision.

Statutes Annotated (1945), Vol. 8, Part I, Ch. 91—
Log Surveying.

Sec. 91.09. Scribner's rule.

* * * Scribner's decimal C rule shall be the standard rule for all surveys, and every log shall be surveyed by the largest number of even feet in its length above ten and under 24 feet. All logs of 24 feet or more in length shall be surveyed as two logs or more. [1858]

Statutes Annotated (1945), Vol. 15, Part I, Ch. 216—
Scales.

Sec. 216.34. Track scales: Inspection of.

The Commission [Railroad and Warehouse Commission] shall have the power to enforce reasonable regulations for the weighing of cars and of freight offered for shipment in carload lots. All track scales used by common carriers for the purpose of weighing carload freight shall be under the control and jurisdiction of the commission and subject to inspection, exempt from the jurisdiction of scalers of weights and measures. The entire cost of such supervision and inspection shall be a proper charge against the common carriers interested in or owning the several scales, the same to be paid upon a statement rendered by the commission. All moneys collected shall be credited to the grain inspection fund. [1907]

[ED. NOTE.—In Minnesota Statutes Annotated, following the foregoing section, it is stated: "Saving Clause. Sections 239.01 to 239.10 create the Department of Weights and Measures and define the powers and duties of the Department. Section 239.11 provides that 'Sections 239.01 to 239.11 shall not apply to nor repeal section 216.34 or sections 216.35, 216.36, and 216.37.'"]

Statutes Annotated (1945), Vol. 15, Part I, Ch. 216—
Scales—Continued.

Sec. 216.35.¹ Sealing devices: Duty of commission.

The commission [Railroad and Warehouse Commission] is hereby authorized and directed to inspect all sealing devices made for the purpose of sealing scales known to be on the market, and to officially approve any device considered by it to be a proper and safe device to be used in the sealing of scales. [1909]

¹ See Ed. note following Sec. 216.34.

Sec. 216.36.¹ Same: When required.

When directed to do so by the commission [Railroad and Warehouse Commission], any person or company owning and operating a scale under the jurisdiction of the commission is hereby required to install such scale with some sealing device which has the official approval of the commission. [1909]

¹ See Ed. note following Sec. 216.34.

Sec. 216.37.¹ Same: Failure to install; tampering with; penalties.

Any person or company failing within 30 days after notice to install such sealing device when directed to do so by the commission [Railroad and Warehouse Commission], shall be subject to a penalty in the sum of \$100.00. It shall be a felony for any person to change, break, or tamper with, or cause to be changed, broken, or tampered with, the sealing device or sealing thereof after the same has been properly installed and inspected by some authorized agent of the commission. [1909]

¹ See Ed. note following Sec. 216.34.

Sec. 216.38 Track scales: Commission may require installation at terminal warehouse.

After an investigation and hearing, upon its own motion, the commission [Railroad and Warehouse Commission] is hereby authorized to require the installation of track scales at terminal warehouses where it shall find such installations to be practicable and to be necessary for the prompt and economical weighing of grain and grain products at such warehouse; provided, that the expense of such installation shall be borne by the owner of such warehouse. [1921]

Sec. 216.39. Same: Commission may order in and require installation at all points deemed necessary; regulations; under control and jurisdiction of commission.

The commission [Railroad and Warehouse Commission] shall have power to order in and require the installation of track scales used by common carriers at all points in the state where the same are deemed to be necessary, and enforce reasonable regulations for the weighing of cars and of freight.

All track scales used by common carriers for the purpose of weighing carload freight shall be under the control and jurisdiction of the commission and subject to inspection, exempt from the jurisdiction

of sealers of weights and measures. The entire cost of such supervision and inspection shall be a proper charge against the common carriers interested in or owning the several scales, the same to be paid upon a statement rendered by the commission. All moneys collected shall be credited to the grain inspection fund. [1911; last amended 1913.]

Sec. 216.40.¹ Same: Equipment for testing.

The commission [Railroad and Warehouse Commission] is hereby authorized to purchase two test cars, to be used in testing track scales, at a cost of not to exceed \$5,000 each; also to erect on some railroad track in or near Minneapolis, St. Paul, or Minnesota Transfer, where a permanent free site can be procured, a master track scale with a building for the same, to be used in testing and verifying weights of test cars; scales and building not to cost to exceed \$7,000. [1913]

¹ Movement of test cars; see Sec. 217.33, page 516.

Sec. 216.41.¹ Same: Installed; cost.

The commission [Railroad and Warehouse Commission] is hereby authorized to purchase and install a two section master railroad track scale, to be used in proving the correctness of railroad track scale test cars. The commission also is authorized to repair and extend the present master track scale house and railroad track, and to alter and repair its railroad track scale test cars, at a total cost for all such betterments of not to exceed \$20,000.

The commission is hereby authorized to pay the cost of the foregoing betterments from the grain inspection fund. [1923]

¹ Movement of test cars; see Sec. 217.33, page 516.

Sec. 216.42. Weighing of coal: Commission to regulate weighing on track scales.

The commission [Railroad and Warehouse Commission] shall have power to enforce reasonable regulations for the weighing of cars of coal offered for shipment in carload lots in this state, except coal shipped by any person, company or corporation for their own use or consumption.

On all cars of coal required by the commission to be weighed under sections 216.42 to 216.46, the consignor shall order and the carrier shall deliver the empty car before being loaded, free of switching charges, to a scale designated by the commission for weighing empty.

Any consignor failing to comply with any of the provisions of sections 216.42 to 216.46 shall be subjected to a penalty of \$25.00, to be recovered by the aggrieved consignee or purchaser.

All track scales now or hereafter used by common carriers or by shippers of coal for the purpose of weighing carload lots of coal shall be under the control and jurisdiction of and subject to inspection by such commission, and such scales over which the commission assumes control and jurisdiction, shall be

exempt from the jurisdiction of sealers of weights and measures. [1911; last amended 1943.]

Sec. 216.43. Same: Carload lots to be weighed; exceptions.

The commission [Railroad and Warehouse Commission] shall cause to be weighed all coal shipped in carload lots from any coal dock or coal distributing point in the state, except coal shipped therefrom by any person, company or corporation for their own use or consumption. [1911]

Sec. 216.44. Same: Weighers; fees.

The commission [Railroad and Warehouse Commission] shall appoint such weighmasters and weighers as may be necessary to carry the provisions of Laws 1911, Chapter 326 [Secs. 216.22-216.45], into effect. Each weighmaster and each weigher shall give bond to the State of Minnesota in the sum of \$5,000, conditioned for the faithful discharge of his duty, and each weighmaster and each weigher shall have authority to carry out and perform his duties hereunder, pursuant to such rules and regulations as shall be prescribed by the commission and shall, pursuant thereto, control and supervise the weighing of all coal herein required to be weighed by such commission.

The fees for such weighing shall be fixed by the commission and be paid by the person, firm, or corporation making such shipment. [1911]

Sec. 216.45. Same: Grain sections applicable to.

All of the provisions of sections 233.27 to 233.29, 233.35,¹ * * * and all acts and parts of acts supplementary thereto, as relating to grain, shall be construed as a part of laws 1911, Chapter 326 [Secs. 216.42-216.45] and as relating to coal and coal shipments in carload lots required to be weighed in accordance with the provisions of laws 1911, Chapter 326, so far as applicable thereto. [1911]

¹ See page 520.

Sec. 216.46. Livestock weighing: Scales in stockyards.

The commission [Railroad and Warehouse Commission] shall have the power to order in and require the installation and maintenance of stock scales at all stockyards in the state where the same are deemed to be necessary and to fix the capacity of the scales, which scales shall be for the free use of all patrons of such stockyards shipping live stock from, into, or through such stockyards. [1913]

Sec. 216.47. Same: Stock weighers; appointment of; bond; reports; certificates; qualifications; action on bond; revocation of appointment.

The commission [Railroad and Warehouse Commission] shall appoint at public stockyards such weighers as may be necessary for the purpose of weighing live stock. Every such weigher shall give to the state a bond in the sum of \$5,000 conditioned for the faithful discharge of his duty.

Such weighers shall report daily to the supervisor of stockyards all weights taken by them in such form as he may prescribe. The supervisor of stockyards shall furnish to interested parties a certificate setting forth the number of animals weighed, for whose account weighed, and the actual weight of such animal or animals. Such certificate shall be prima facie evidence of the facts therein certified.

No such weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchasing, or selling of live stock, or in the employment of any person or corporation engaged therein, nor shall he be a member of any live stock exchange or organization of like character.

All bonds required by this section shall be filed with the secretary of state, and suit may be brought thereon by any person injured by the misconduct of the principal.

Upon written complaint filed with the commission, charging any such weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the commission shall investigate such charge and, if it be sustained, remove such officer. [1919]

Sec. 216.48. Same: Weighing stock; fees.

The commission [Railroad and Warehouse Commission] shall prescribe the fee necessary to cover the cost of supervision and weighing to be assessed and collected in such manner as it may prescribe. All moneys so collected shall be deposited in the state treasury and known as the "live stock weighing fund", and paid out only on order of the commission and in the auditor's warrant. The interest from such deposits of these moneys shall be credited on the first day of each month to such fund, and notice of the amount of such interest shall be sent to the commission. [1919; last amended 1921.]

Sec. 216.49. Same: Impersonating stock weigher; penalty.

Any person not duly appointed and qualified, who shall assume to act as such weigher, shall be guilty of a misdemeanor and be punished by a fine of not less than \$50.00, nor more than \$100.00. [1919]

Sec. 216.50. Same: False certificate of weight; penalty.

Any such weigher of live stock who shall knowingly or carelessly weigh any live stock improperly, or give any false certificates of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence, or attempt to influence, any such officer in the performance of his official duty, shall be guilty of a gross misdemeanor and punished by a fine of not less than \$100.00, nor more than \$1,000, or imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment. [1919]

Statutes Annotated (1945), Vol. 15, Part I, Ch. 216—
Scales—Continued.

Sec. 216.51. Same: Use of term "supervisor of weights" or "state weigher" prohibited; penalty.

Any person who is not connected with the state weighing department is hereby prohibited from using the term "supervisor of weights" or "state weigher", any representation of the seal of the state, or any other words or device calculated or tending to indicate that the certificate or receipt is issued under state authority, or to otherwise deceive or mislead the public or any person interested, when issuing certificates or receipts purporting to show the weight of live stock.

Any person found guilty of violating any of the provisions of this section shall be guilty of a misdemeanor.¹ [1919]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.

Sec. 216.52. Same: Interference with weigher; penalty.

Any person or corporation who shall obstruct any state supervisor or weigher in the performance of his official duties by preventing his proper access to the scales used in the weighing of live stock or otherwise, shall forfeit to the state \$100.00 for each offense. [1919]

Statutes Annotated (1945), Vol. 15, Part VI, Ch. 217
—General Provisions Relating to Track Scales.

Sec. 217.33. Carrier to move test car.

Every carrier shall transport, move, and switch to any track scale in this state free of charge on the application of the commission [Railroad and Warehouse Commission] or its authorized agent, any test car used by the state in testing track scales. [1913]

Sec. 217.34. Private scales at railroad stockyards prohibited.

All railroad companies maintaining stockyards at railroad stations within this state shall prohibit the installation or maintenance of scales of any kind belonging to any person, corporation, or firm other than railroad companies, as provided in section 216.46, and the installation, use, and maintenance of such private scales in such stockyards is hereby prohibited. [1913]

Statutes Annotated (1945), Vol. 16, Part I, Ch. 229—
Public Hay Tracks.

Sec. 229.01. Terminal point defined; designation and establishment of public hay tracks; rules and regulations.

(1) Terminal points shall mean the cities of St. Paul, Minneapolis, Duluth, and South St. Paul.

(2) The commission [Railroad and Warehouse Commission] shall designate at convenient places on the several lines of railway entering terminal points in this state, tracks to be known as public hay tracks. The different railway companies either separately or jointly are hereby required to provide suitable tracks to meet the requirements of this chapter [Secs. 229.01–229.20]. Such public hay

tracks may be established on each individual line of railway, or they may be so established as to serve for two or more railways.

(3) The commission shall adopt all necessary rules and regulations for the weighing and inspecting of hay and straw at such terminal points. [1905]

Sec. 229.02. Duties of commission; rules and regulations.

(1) It shall be the duty of the commission [Railroad and Warehouse Commission] to assume and exercise a constant supervision over the hay and straw interests of this state; to supervise the * * * weighing * * * of hay and straw; to establish all necessary rules and regulations for the weighing * * * of hay and straw, and for the management of all public hay tracks at terminal points in this state as far as such rules and regulations may be necessary to enforce the provisions of any law in this state in regard to the same; to investigate all complaints of fraud or oppression in the hay and straw trade, and to correct the same as far as may be in their power. [1905]

* * * * *

Sec. 229.04. Delivery of hay and straw at tracks for weighing.

All hay and straw shipped to terminal points, unless otherwise directed by the consignor, shall, by the common carrier transporting the same, be brought to and delivered at one or another of such public hay tracks, for the purpose of being weighed and inspected as in this chapter [Secs. 229.01–229.20] provided. [1905]

Sec. 229.05. Weighing and inspection; duties of carrier as to certain cars.

All hay and straw so received shall be weighed and inspected by duly appointed weighers and inspectors of hay and straw under such rules and regulations as the commission [Railroad and Warehouse Commission] shall establish.

All carriers shall return, free of switching charge for weighing empty, all cars not reconsigned that have been weighed loaded with hay or straw, to the scale on which the same was weighed, or some other scale under the charge of the state, used for weighing hay and straw. Weight on reconsigned cars may be had by the use of the weight of the loaded car and the marked stenciled weight on the car. [1905; last amended 1911.]

Sec. 229.06. Carriers to maintain track scales; state weighmasters; inspecting scales.

It shall be the duty of all common carriers transporting hay to such terminal points to construct and maintain at such public hay tracks as may be established by the commission [Railroad and Warehouse Commission] suitable track scales of such size and capacity as the commission shall direct. If in its judgment it is necessary, the commission may order that such track scales be housed in such a manner as to insure accuracy. All scales at such

hay tracks shall be under the control of state weigh-masters and subject to inspection by them, exempt from the jurisdiction of scalers of weights and measures. They shall be inspected at the request of any person interested in any hay or straw to be weighed thereon. If found incorrect the cost of inspection shall be paid by the owner thereof; otherwise by the person requesting inspection. No scales found incorrect shall be used until reexamined and found correct. Nothing in this chapter [Secs. 229.01-229.20] shall be so construed as to prevent the use of such scales by the owner for the purpose of weighing any other commodities in carload lots. [1905]

Sec. 229.07. Appointment of weighers and inspectors.

The commission [Railroad and Warehouse Commission] shall appoint a suitable number of persons to perform such weighing and inspecting of hay and straw. Such weighers and inspectors shall be under the immediate supervision of the chief inspector of grain. * * * [1905]

Sec. 229.08. Obstructing performance of weighers; penalty; oath and bond of weighers.

In case any person or railway corporation or any of their agents or employees shall refuse or prevent the weighers and inspectors of hay and straw from having free access to their scales and tracks in the regular performance of their duties as such weighers or inspectors of hay and straw, they shall forfeit to the State of Minnesota the sum of \$100.00 for each offense, such penalty or forfeiture to be paid to the state treasurer for the benefit of the hay inspection fund in this chapter [Secs. 229.01-229.20] created, and shall also be required to pay all costs of prosecution. Each weigher and inspector of hay and straw shall take an oath of office the same as required of deputy grain inspectors, and shall give a bond to the State of Minnesota in the penal sum of \$5,000 with good and sufficient sureties to be approved by the commission [Railroad and Warehouse Commission], and conditioned in like manner as the commission requires from the chief inspector of grain. The bonds given by such weighers and inspectors of hay and straw shall be filed in the office of the secretary of state and suit may be brought upon any bond in any court having jurisdiction thereof for the use of the person so injured. [1905]

Sec. 229.09. Removal of weigher.

The chief inspector of grain shall have the power to remove any of the weighers or inspectors of hay and straw at pleasure. [1905]

Sec. 229.10. Charges for weighing; compensation of weighers.

The weighers and inspectors of hay and straw shall be governed in the performance of their duties by such rules and regulations as may be provided by the commission [Railroad and Ware-

house Commission]; the Commission shall have power to fix the rate of charges for the weighing and inspecting of hay and straw and the manner in which the same shall be collected, which charges shall be regulated in such manner as will in the judgment of the commission produce sufficient revenue to meet the necessary expenses of the weighing and inspecting service, and no more; the commission shall fix the amount of compensation to be paid to the weighers and inspectors of hay and straw and prescribe the time and manner of payment thereof, which compensation shall be paid out of the hay inspection fund on the order of the commission. [1905]

Sec. 229.11. Disqualifications of weigher.

No weigher or inspector of hay or straw or any of the sureties on his bond, shall, during his term of service, be in any way interested in the handling, storing, shipping, purchasing or selling of hay or straw, or any of their products, nor in the employment of any person or corporation engaged therein, nor shall they be members of any board of trade or organization of like character. [1905]

Sec. 229.12. Grounds for removal of weigher.

Upon complaint in writing of any person to the commission [Railroad and Warehouse Commission], supported by reasonable and satisfactory proof, that any weigher or inspector of hay and straw has violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of his position, such person shall be by the commission immediately removed from office. [1905]

Sec. 229.13. Disposition of funds.

The charges for the weighing and inspecting of hay and straw shall be and constitute a lien on the hay and straw so weighed or inspected, and when such hay or straw is in transit these charges shall be considered as advance charges, to be paid by the common carrier in whose possession the same is at the time of weighing or inspecting. All money so collected, and all fines and penalties for violation of any of the provisions of this chapter [Secs. 229.01-229.20], shall be paid into the state treasury and credited to the grain inspection fund, and paid out on order of the commission [Railroad and Warehouse commission] and state auditor's warrant. All interest received from deposits of these moneys shall be credited on the first of each month to such fund and notice of the amount of such interest shall be sent to the chief inspector. [1905; last amended 1921.]

Sec. 229.16. Weighers to make true weights and keep record.

All weighers of hay and straw provided for by this chapter [Secs. 229.01-229.20] shall be required to make true weights under the penalties herein-

Statutes Annotated (1945), Vol. 16, Part I, Ch. 229—
Public Hay Tracks—Continued.

before provided, and in addition thereto shall keep a correct record of all weighing done by them at the hay tracks where they are stationed, in which record shall be entered an accurate account of all hay, straw, or other property weighed, or the weighing of which was supervised by them or their assistants, giving the amount of each weight, the number of car or cars weighed, if any, the initial letter of the car or cars weighed, where weighed, date of weighing, and contents of car. [1905]

Sec. 229.17. Certificates of weighers and inspectors as prima facie evidence.

The weighers and inspectors of hay and straw shall give, upon request of any person interested, certificates under their hand and seal showing the amount of each weight; or, if inspected, the grade, number of car or cars weighed or inspected, if any, the initial of the car or cars, hay yard where weighed or inspected, date of weighing or inspecting, and contents of car; such certificate of weights shall be admitted in all actions either at law or in equity as prima facie evidence of the facts therein contained, and as prima facie evidence that any contract of sale and purchase of such hay was made upon such weights and grades, but the effect of such evidence may be rebutted by other competent evidence. [1905; last amended 1925.]

Sec. 229.18. Penalty against carrier violating chapter.

Any carrier failing to comply with any of the provisions of this chapter [Scs. 229.01–229.20] shall be subjected to a penalty of \$25.00, to be recovered by the aggrieved shipper. [1905; last amended 1911.]

Sec. 229.19. Impersonating weigher or inspector; penalty.

Any person not duly appointed and qualified, who shall assume to act as a weigher or inspector of hay and straw, shall be guilty of a misdemeanor and punished by a fine of not less than \$50.00, nor more than \$100.00. [1905]

Sec. 229.20. Neglect of duty by hay weigher; penalty.

Any duly authorized weigher or inspector of hay and straw who shall be guilty of any neglect of duty or who shall knowingly or carelessly weigh or inspect any hay or straw improperly, or who shall accept any money or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such weigher or inspector of hay and straw, or any person who shall improperly influence or attempt to influence any weigher or inspector of hay and straw in the performance of his duties as such weigher or inspector, as the case may be, shall be deemed guilty of a misdemeanor; and, on conviction thereof, fined not less than \$100.00, nor more than \$1,000, or imprisoned in the county jail not less than 30 days, nor

more than one year, or both, in the discretion of the court. [1905]

Statutes Annotated (1945), Vol. 16, Part I, Ch. 232—
Public Local Grain Warehouses.

Sec. 232.01. Definition.

(1) All elevators, flour, cereal and feed [mills], malt-houses and warehouses in which grain is received, stored or handled, situate at any location other than Minneapolis, St. Paul and Duluth, shall be public warehouses known as public local grain warehouses and shall be under the supervision and subject to the inspection of the commission [Railroad and Warehouse Commission].

(2) All elevators, flour, cereal and feed mills, malt-houses or warehouses located in any of the cities above named receiving grain in less than minimum carload lots shall also be required to conform to all laws relating to public local grain warehouses.

(3) Any person, firm, association or corporation handling, receiving or storing grain for one or more persons, as bailee or otherwise, and issuing warehouse, storage or other form of receipt for the grain so received, handled or stored, shall be deemed to be conducting the business of a public local grain warehouse and shall be subject to the provisions of this act and under the supervision of the commission. [1923; last amended 1949.]

Sec. 232.05. State inspection and weighing.

The commission [Railroad and Warehouse Commission], upon proper application for state inspection or weighing of grain by any person interested at any other point than St. Paul, Minneapolis, or Duluth, may furnish such service, if the commission deems it expedient; provided, such person first agrees to pay all costs of the service. Rules governing state inspection and weighing at other terminals shall apply at such points. [1901; last amended 1943.]

Sec. 232.06. Warehouse storage receipts: Terms; liability; penalty; revocation of license.

(1) * * * Upon delivery of grain for storage a legal warehouse storage receipt shall be issued to the owner or his agent which shall state the place and date when the grain was received, the name of the owner of the grain, the kind and grade of the grain * * *, the gross weight, dockage and net weight of the grain as per Minnesota standard weight * * *.

(4) The person, firm, or corporation issuing such receipt shall be held liable to the owner for the delivery of the kind, grade and net quantity of grain called for by said receipts. The term "grain" shall include the following products: Wheat, corn, oats, rye, barley, flaxseed, speltz and soy beans.

* * * * *

(7) Any person, firm, association, or corporation, or any officer or agent of either thereof, who shall violate the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 or by imprisonment in the county jail for not less than 30 days. The commission [Railroad and Warehouse Commission] shall have the power and it shall be its duty whenever it finds, after a hearing, that the provisions of this chapter [Secs. 232.01-232.19] have been violated by any person holding a license to conduct a public local grain warehouse in this state, to revoke such license, * * * [1923; last amended 1949.]

Sec. 232.09. Warehouseman shall keep record.

Every public local warehouseman shall keep in proper books a record of all grain received, stored or shipped, stating the weight, grade, dockage for dirt, or other cause, and the name of the owner. [1923; last amended 1943.]

Sec. 232.10. Standard weights to be used.

It shall be unlawful for any person, firm, or corporation engaged in the purchase, sale, or storage of grain at any public local grain warehouse in this state, as the same is now or may be hereafter defined by law to use any other measure for such grain than the standard bushel¹; and the number of pounds to be used or called a bushel shall be the number of pounds provided by law as the standard weight of the kind of grain in question; provided, that during the months of October and November not exceeding 80 pounds and during the months of December and January not exceeding 72 pounds may be so used as the standard bushel of new ear corn. [1923; last amended 1943.]

¹ Standard bushel; see Secs. 239.28, 239.32, page 504.

Sec. 232.19. Revocation of license for violations of chapter.

* * * It shall be the duty of the commission [Railroad and Warehouse Commission] whenever it finds, after a hearing, that any of the provisions contained in sections 232.01 to 232.18 have been violated by any person holding a license to operate a public local grain warehouse in this state, to revoke such license, and in such case, no new license shall be granted to the person whose license is so revoked nor to anyone either directly or indirectly engaged with him in said business, for the period of one year. [1923; last amended 1943.]

Statutes Annotated (1945), Vol. 16, Part I, Ch. 233—Public Terminal Warehouses.

Sec. 233.01. Definitions.

(1) Wherever the term "commissioner" is used in this chapter [Secs. 233.01-233.40] it shall be construed to mean the railroad and warehouse commission of the State of Minnesota.

* * * * *

(3) The term "public terminal warehouse" where used in this chapter shall be construed to mean and include all elevators or warehouses located within the switching limits of St. Paul, Minneapolis, and Duluth, or other points in the state, which are now, or hereafter may be, designated as terminal points in which grain not belonging to the warehouseman is received for storage, whether for hire or without charge, and shall include all warehouses where grain stored for different owners is mixed with the grain of other owners and where the identity of the different lots or parcels is not preserved, and shall include all warehouses where grain other than that of the warehouseman is stored in separate bins and the identity thereof preserved.

* * * * *

(4) All elevators or warehouses included within the foregoing definition of public terminal warehouses are hereby declared to be "public terminal warehouses" and subject to license and regulation as provided in this chapter. [1923]

Sec. 233.24. State weighmaster to inspect scales.

All scales in public terminal warehouses or used for weighing grain in railroad yards at terminal points shall be under the control of the state weighmasters and subject to inspection by them, exempt from the jurisdiction of sealers of weights and measures. They shall be inspected at the request of any person interested in any grain weighed or to be weighed thereon. If found incorrect, the cost of inspection shall be paid by the owner thereof; otherwise by the person requesting inspection. No scales found incorrect shall be used until reexamined and found correct. [1923]

Sec. 233.25. Weighmasters and weighers.

The commission [Railroad and Warehouse Commission] shall appoint at each terminal point a state weighmaster and such weighers as may be necessary, who shall have the control of the weighing of all grain subject to state inspection, except when otherwise ordered by the party shipping the same. Every such weighmaster and weigher shall give bond to the state in the sum of \$5,000, conditioned for the faithful discharge of his duty. [1885; last amended 1893]

Sec. 233.26. Weighmaster's and weigher's records and certificates.

All weighmasters and weighers shall keep such records as may be prescribed by the commission [Railroad and Warehouse Commission], and shall furnish to any person for whom weighing is done a certificate under his hand, showing the amount of each weight, the number and initial letter or other distinctive mark of each car weighed, the place and date of weighing, and the contents of car. Such certificate shall be prima facie evidence of the facts therein certified. [1893]

Statutes Annotated (1945), Vol. 16, Part I, Ch. 233—
Public Terminal Warehouses—Continued.

Sec. 233.27. Fees for weighing.

The fees for inspection and weighing shall be fixed by the commission [Railroad and Warehouse Commission] and be a lien upon the grain. If the grain is in transit, such fees shall be paid by the carrier and treated as advance charges, and, if received for storage, by the warehouseman, and added to the storage charges. * * * [1885; last amended 1903.]

Sec. 233.28. Qualifications of inspectors and weighmasters.

No member of a board of appeals, chief or deputy inspector, weighmaster, or weigher shall during his term of service be in any way interested in the handling, storing, shipping, purchasing, or selling of grain or any of its products, nor in the employment of any person or corporation engaged therein, nor shall he be a member of any board of trade or organization of like character. [1885]

Sec. 233.29. Removal of weighmasters.

Upon written complaint filed with the commission [Railroad and Warehouse Commission], charging any inspector, deputy inspector, weighmaster, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the commission shall investigate such charge and, if it be sustained, remove such officer. [1885]

Sec. 233.30. Obstructing weighmaster or weigher.

Any person or corporation who shall obstruct any state weighmaster or weigher in the performance of his official duties, by preventing his proper access to the scales used in the weighing of grain or otherwise, shall forfeit to the state \$100.00 for each offense. [1885]

Sec. 233.31. Certificates not issued under state authority.

Any person who is not connected with the state weighing department is hereby prohibited from using the term "weighmaster", "state weighmaster", any representation of the seal of the state or any other words or device calculated or tending to indicate that the certificate or receipt is issued under state authority, or to otherwise deceive or mislead the public or any person interested, when issuing certificates or receipts purporting to show the weight of grain, hay or straw. Where weighing is done under the authority of the charter or an ordinance of any city or village, or under the auspices of any incorporated chamber of commerce, board of trade, or exchange, any certificate or receipt issued therefor shall on its face plainly show its source and the signature of the person signing the same shall be followed by a designation plainly showing the capacity in which the signer is acting, and the term "weighmaster" may be a part of such designation. Every such certificate or receipt issued by anyone other than the duly authorized representa-

tives of the state weighing department shall have plainly stamped or printed across its face in red ink in letters not less than one-quarter of an inch high the words, "This Certificate is not Issued Under State Authority". [1907]

Sec. 233.35. Misconduct of weighmasters; violation of Sec. 233.31 a misdemeanor.

* * * * *

(2) Any inspector, deputy inspector, weighmaster, or weigher who shall knowingly or carelessly inspect or weigh any grain improperly, or give any false certificate of inspection or weight, or accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence, or attempt to influence, any such officer in the performance of his official duty, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$100.00, nor more than \$1,000, or imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment.

(3) Any person found guilty of violating any provision of section 233.31 shall be guilty of misdemeanor¹. [1885; last amended 1907.]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.

Statutes Annotated (1945), Vol. 16, Part I, Ch. 235—
General Provisions Relating to Grain.

Sec. 235.01. Supervision.

The commission [Railroad and Warehouse Commission] shall exercise general supervision over the grain interests of the state and of buying, selling, handling, inspection, weighing, and storage of grain, and of the management of public warehouses and public grain markets, including chambers of commerce, boards of trade, and grain exchanges; investigate, on complaint or upon its own motion, all cases of fraud and injustice in the grain trade, unfair practices, or unfair discrimination in the buying or selling of grain; have the power to compel the discontinuance of such unfair practices or unfair discrimination; and make all proper rules and regulations for carrying out and enforcing the provisions of all laws of the state relating to such subjects. The expenses of supervision and investigation in carrying out the provisions of this section shall be paid from the grain inspection fund. [1885; last amended 1925.]

Sec. 235.02. Grain includes flax seed and soy beans.

The term "grain" wherever used in chapters 216 to 235 Secs. [216.01-235.19] includes flax seed and soy beans. [1905; last amended 1939.]

Sec. 235.13. Penalties for violations of chapters 216 to 235.

Any person who shall violate any of the provisions of chapters 216 to 235 [Secs. 216.01-235.19], where no specific penalty is prescribed, shall be

guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$50.00, nor more than \$500.00. Any corporation which shall violate any such provision shall forfeit to the state, for each violation, not less than \$50.00, nor more than \$500.00. [1893]

Sec. 235.14. Certificates; inspection; weighing.

Every elevator company, corporation, copartnership, association, or individual operating any elevator, building, or place in this state for the purchase, storage, or deposit of any grain or other farm commodity shall be entitled to receive from, and shall demand of, the officer whose duty it is to issue the same the official certificate of inspection in duplicate, together with the weighmaster's certificate¹ in duplicate, for any grain or other farm commodity shipped from any such elevator, building, or place and inspected and weighed as provided by the laws of this state. [1909]

¹Weighmaster's records and certificates; see Sec. 233.26, page 519.

Sec. 235.15. Duplicate certificate to be delivered to buyer.

Within ten days from the delivery of any certificate, as provided in section 235.14, the company, corporation, copartnership, association, or individual receiving the same shall deliver to the local buyer at the place where such grain or other farm commodity is purchased, stored, or deposited, one of the duplicate certificates and the same shall be retained by such local buyer in his office or place of business for 30 days thereafter and be subject to examination by any person desiring to inspect same. [1909]

Sec. 235.16. Failure to deliver certificate; penalty.

Any company, corporation, copartnership, association, or individual mentioned in section 235.14 who shall fail to deliver any certificate mentioned in section 235.14 within the time and as provided in section 235.15 shall be guilty of a misdemeanor¹; and the weight and grade of the grain or other farm commodity, as shown by the records of the local buyer, shall be taken as a basis of settlement between the local buyer of any such grain or farm commodity and the company, corporation, copartnership, association, or individual failing to deliver the certificate. [1909]

¹Punishment for misdemeanor; see Sec. 610.19, page 522.

Statutes Annotated (1945), Vol. 21, Part I, Ch. 325—Cotton Duck.

Sec. 325.01. Definitions.

* * * * *

(20) "Cotton duck" or "canvas" includes all cotton duck or canvas, whether single filling, double filling, army roll, or wide duck.

(21) The equivalent of 36 inches in length by 29

inches in width, or seven and one-fourth square feet, of cotton duck or canvas shall constitute a yard.

(22) An "ounce" shall be one-sixteenth of a pound avoirdupois. [1913]

Sec. 325.34. Marking requirements.

Any person, company, or corporation who shall manufacture for sale, or who may offer or expose for sale, any cotton duck or canvas or any article, other than clothing and wearing apparel, composed or made, in whole or in part, of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture. [1913]

Sec. 325.35. Unlawful not to mark correct weight or misrepresent true weight.

It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell, or endeavor to sell any cotton duck or canvas or any articles other than clothing and wearing apparel, composed or made, in whole or in part, of any cotton duck or canvas without having marked thereon the true and correct weight of the canvas or cotton duck, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of the canvas or cotton duck, by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture. [1913]

Sec. 325.36. Concealing or misstating size unlawful.

It shall be unlawful for any person or corporation, either individually or in representative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof. [1913]

Sec. 325.37. Unlawful to deface marks.

It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by sections 325.34 to 325.37, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of sections 325.34 to 325.37. [1913]

Sec. 325.48. Penalties for violations.

* * * * *

[Subdiv. 2] (2) Any person, company, or corporation violating any of the provisions of sections 325.34 to 325.37 shall be deemed guilty of a mis-

Statutes Annotated (1945), Vol. 21, Part I, Ch. 325—
Cotton Duck—Continued.

demeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25.00, nor more than \$50.00, and for each subsequent offense by a fine of not less than \$50.00, nor more than \$100.00. [1913]

* * * * *

Statutes Annotated (1945), Vol. 21, Part I, Ch. 325—
Domestic Heating Fuel.

Sec. 325.149. Delivery tickets; exemptions; penalty for violations.

No person, firm, or corporation shall deliver any domestic heating fuel without such delivery being accompanied by a delivery ticket, on which shall be distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, the net quantity or quantities of fuel contained in the cart, wagon, vehicle or compartment thereof, bag, sack or container used in such deliveries when sold by weight; or the number of gallons or cubic feet that is being delivered when sold by measure, with the name of the purchaser thereof and the name of the dealer from whom purchased. The delivery ticket shall also clearly state the name, type, kind and grade of fuel being delivered. When the buyer carries away the purchase, a delivery ticket showing the actual amount delivered to the purchaser must be given to the purchaser at the time the sale is made.

Sales of wood for fuel direct from producer to consumer shall be exempt from the provisions of this section. This section shall not apply to deliveries in quantities of ten gallons or less.

Whoever violates any provision of this section is guilty of a misdemeanor¹. [1943]

¹ Punishment for misdemeanor; see Sec. 610.19, this page.

Statutes Annotated (1945), Vol. 40, Part V, Ch. 610
—Misdemeanors.

Sec. 610.19. Punishment of misdemeanors when not fixed by statute.

Whoever is convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than \$100. [1889]

Sec. 610.20. Punishment of gross misdemeanor when not fixed by statute.

Whoever shall be convicted of a gross misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$1,000. [1905]

Statutes Annotated (1945), Vol. 40, Part V, Ch. 618
—"Uniform Narcotic Drug Act."

Sec. 618.10. Marking requirements.

When a manufacturer sells or dispenses a narcotic drug, and when a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity * * * of narcotic drug contained therein. * * * [1937]

Sec. 618.20. Enforcement.

The state department of health shall cooperate with all peace officers within the state, and all county attorneys, to enforce the provisions of this chapter [Secs. 618.01–618.25] and with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1937]

Sec. 618.21. Penalties for violations.

Any person violating any provisions of this chapter [Secs. 618.01–618.25] shall, upon conviction, be punished by a fine of not exceeding \$1,000, or by imprisonment in a state penal institution for not exceeding five years, or by both such fine and imprisonment. [1937]

Statutes Annotated (1945), Vol. 40, Part V, Ch. 620
—False Weights and Measures.

Sec. 620.55. Use of false weights and measures.

Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly delivering less than the quantity he represents; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the foregoing provisions of this section; or who shall knowingly mark or stamp false or short weights or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so marked, shall be guilty of a misdemeanor¹. [1885]

¹ Punishment for misdemeanor; see Sec. 610.19, this page.

Sec. 620.56. Containers for small fruits to be of legal size.

It shall be unlawful for any person to sell, offer for sale, or give away, any containers for the distribution of berries or small fruits in less quantities than one bushel, unless the containers are of the capacity of one quart, one pint, or one-half pint, or multiples of a quart standard dry measure, and all sales of raspberries, blackberries, blueberries, currants, gooseberries, strawberries, and similar berries, and all plums, cherries, and similar small fruit, in

less quantities than one bushel shall be by dry measure, or in containers as above specified. The possession of containers for berries or small fruit shall be presumptive evidence that they were to be used for distribution. [1913]

Sec. 620.57. Same: Not to be refilled.

In no case shall such containers be refilled for use in the sale of berries or small fruits of any kind whatsoever. [1913]

Sec. 620.58. Same: Penalty for violations.

Any person violating the provisions of sections 620.56 and 620.57 shall be guilty of a misdemeanor and punished by a penalty of not less than \$10.00, nor more than \$100.00, or by imprisonment in the county jail for not less than ten, nor more than 90, days. [1913]

Statutes Annotated (1945), Vol. 40, Part V, Ch. 620
False Advertising.

Sec. 620.52. Unlawful acts; misdemeanor; enforcement.

Any person, firm, corporation, or association, who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, di-

rectly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or any thing so offered to the public, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall be guilty of a misdemeanor.¹

The duty of a strict observance and enforcement of this law and prosecution for any violation thereof is hereby expressly imposed upon the commissioner of agriculture, dairy, and food, and it shall be the duty of the county attorney of any county wherein a violation of this section shall have occurred, upon complaint being made to him, to prosecute any person violating any of the provisions of this section. [1913; last amended 1915.]

¹ Punishment for misdemeanor; see Sec. 610.19, page 522.



MISSISSIPPI

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The standards of the weights and measures of this state as given below shall be deposited with the secretary of state and also at the different state institutions of learning, and the secretary of state and the proctors of those institutions are authorized to confirm and seal all weights and measures brought to them, and to receive the fees therefor. And on all sales by weight of agricultural products hereinafter named the number of pounds per bushel or the number of pounds per gallon as stated in the following schedule shall be the true and legal standard weight, viz:

	Pounds
Barley, per bushel	60
Bluegrass seed, per bushel	14
Bran, per bushel	20
Buckwheat, per bushel	48
Castor beans, per bushel	46
Clover seed, per bushel	60
Corn, in the ear	72
Corn, shelled, per bushel	56
Corn meal, per bushel	48
Corn meal, bolted, per bushel	44
Corn meal, unbolted, per bushel	48
Cottonseed, per bushel	32
Dried apples, per bushel	26
Dried peaches, per bushel	33
Flaxseed, per bushel	56
Flour, in barrels, per barrel, net	196
Flour, in half barrels, net	98
Flour, in one-fourth barrel sacks, net	48
Flour, in one-eighth barrel sacks, net	24
Ground peas, per bushel	24
Hempseed, per bushel	44
Hungarian grass seed, per bushel	50
Irish potatoes, per bushel	60
Lime, unslaked, per bushel	80
Louisiana cane molasses, per gallon	11
Malt, per bushel	38
Meal, in barrels, net	200

	Pounds
Millet seed, per bushel	50
Oats, per bushel	32
Onions, per bushel	57
Peas, per bushel	60
Rye, per bushel	56
Salt, per bushel	50
Sorghum, per gallon	11
Sorghum seed, per bushel	42
Stone coal, per bushel	80
Sweet potatoes, per bushel	54
Timothy seed, per bushel	45
Turnips, per bushel	55
Wheat, per bushel	60
White beans, per bushel	60

[1892; last amended 1914.]

Sec. 5133. Standard weight of coal.

The standard weight of coal shall and is hereby established at two thousand pounds to the ton, or two hundred pounds to the box or barrel, and unless otherwise agreed upon, coal shall be sold by the ton of two thousand pounds, or the box or barrel of two hundred pounds. [1908]

Sec. 5134. Charcoal barrel.

Unless otherwise agreed upon, charcoal shall be sold by measure, and the measure of charcoal shall be a barrel of the capacity of three and one-quarter bushels. [1892]

Sec. 5135. Measure of saw-logs and square timber.

The table known as "Scribner's Lumber and Log-book by Doyle's Rule," is the standard rule of measurement by which saw-logs and square timber shall be measured. The use of any other rule of measurement is unlawful; and any person who shall use any other rule which gives a less number of feet in a given log, shall be guilty of a misdemeanor, and punished accordingly, and be liable to any person injured for triple damages. [1880]

Sec. 5136. Feeding stuffs labeled.

The correct name and true net weight of the contents of each and every hoghead, barrel, box, cask, bale, sack or package of flour, corn meal, cottonseed meal and of any and all other kinds of feeding stuff made from cereals of any kind, whether pure, mixed or adulterated, and whether sold in single packages or lots, shall be plainly marked, branded, or stenciled in large, legible letters and figures, upon the exterior of such hoghead, barrel, box, cask, bale or package, and it shall be unlawful for any person, firm or corporation or the agent, employee or representative of any person, firm or corporation to sell or exchange or offer for sale or exchange any of such mill products, so packed or contained, until the provisions hereof have been complied with. [1906]

Sec. 5138. Same: Penalty for violations.

If any person shall violate the provisions of * * * [Sec. 5136] he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of not less than twenty-five dollars nor more than one hundred dollars. [1906]

Sec. 5139.¹ Penalty for using short weights or measures.

It is hereby made a misdemeanor for any person or corporation to sell or buy any of the foregoing commodities on short weights in violation of the above schedule of rates and any such person or corporation upon conviction shall be punished by a fine of not less than five nor more than fifty dollars. [1914]

¹ See Sec. 7121, page 536; forfeiture of underweight barrels of flour, meal, pork or beef.

Sec. 5140. Contracts construed.

All contracts for work or labor done, or anything to be sold and delivered, will be construed to have been made according to the standards, unless the parties stipulate to the contrary. [1892]

Sec. 5141. Standards for counties and cities.

The board of supervisors of every county, and the mayor and board of aldermen of every city, may procure the standards of weights and measures, duly sealed by the secretary of state or some proctor, and consisting of one weight of fifty pounds, one of twenty-five pounds, one of fourteen pounds, and one of seven pounds; two of four pounds, two of two pounds, and two of one pound, avoirdupois; one measure of one yard and one of one foot, cloth measure; one measure of half a bushel, one of one peck, and one of one-half peck, dry measure; one measure of one gallon, one of a half-gallon, one of one quart, one of one pint, and one of one gill, wine measure. [1848]

Sec. 5142. Same: Officer to keep standards; sealing.

The inspector of provisions [inspector of food¹] appointed by the county or city shall be the keeper

of the standards of weights and measures, and shall seal by such standards all measures brought to him; but if there be no such officer, the clerk of the circuit court and clerk of the city shall be respectively keepers of the standards for the county and city, and shall seal weights and measures brought to them, and receive the fees allowed. [1892]

¹ See Sec. 7117, page 536.

Sec. 5143. Same: Stamps for sealing weights and measures.

The boards of supervisors and mayors and boards of aldermen shall respectively provide the proper stamps or brands with which to seal weights and measures. [1892]

Sec. 5144. Dealers to have weights and measures sealed; penalty.

When the county or city is supplied with the standards of weights and measures, every dealer therein, shall have none but sealed weights and measures, and the weights shall be so sealed as that the removal of any part of the filling will destroy or deface the seal; and every dealer having, in such case, any weight or measure which has not been duly sealed, shall be guilty of a misdemeanor, and shall pay a fine of ten dollars for every day he may use any unsealed weight or measure. [1892]

Sec. 5145. Sale by false weight or measure; penalty.

If any person shall sell anything by any false weight or measure, whereby another shall be cheated; or if any person shall sell any lightweight loaf or package, calling the same a pound or other quantity, or if any person shall sell any under-capacity bottle or other vessel, calling it a pint, quart, or other quantity, he shall be guilty of a misdemeanor and fined not less than ten dollars, and imprisoned not less than ten days. [1892]

Code 1942 Annotated, Vol. 3, Title 16, Div. 2—Municipal Corporations.

Sec. 3398. Powers of mayor and board of aldermen.

The mayor and board of aldermen of every city, town, and village shall have the care, management, and control of the city, town, or village and its property and finances, and shall have the power to enact ordinances for the purposes hereinafter named, and such as are not repugnant to the laws of the state, and such ordinances to alter, modify, and repeal; and they shall have power: [1892]

Sec. 3407. Ninth. Weighing, measuring and inspection of commodities.

To prescribe rules for the weighing and measurement of every commodity sold in the municipality, in all cases not otherwise provided by law, and provide for the measuring of wood and fuel and the weighing of coal, and determine the place or places for the sale of the same, and fix the fees and duties of the person authorized to perform the duties herein named; * * * [1892]

Code 1942 Annotated, Vol. 3, Title 16, Div. 2—
Municipal Corporations—Continued.

Sec. 3436. Thirty-sixth. May test water, electric light and gas meters.

If, upon complaint of any citizen or citizens interested, the board of mayor and aldermen of any municipality finds that there is reasonable ground for believing that any meter or meters intended to measure or register the quantity of water, or electric light or power, or gas supplied or furnished by any individual, company or corporation to the municipality or its inhabitants is or are of a less candle power or degree of brilliancy than required by contract, said mayor and board of aldermen may employ an expert, who shall examine and test said meter or meters and said light or lights, as the case may be, and report back to said board, notice of the time and place of the proposed test or tests being first given to all parties interested; and if such examination or test shall show the fact that said meter or meters measure or register incorrectly or excessively, or that said light or lights are of a less candle power or brilliancy than required by contract, then all expenses of such examination and test incurred by said municipal authorities shall be charged against and collected back from said individual, company or corporation supplying or furnishing said water, electric light or power, or gas, as the case may be, and such penalties may be imposed as the municipal ordinances may provide. [1906]

Code 1942 Annotated, Vol. 4, Title 19, Ch. 1—
Agricultural Seeds.

Sec. 4397. Definitions.

The term "agricultural seeds" as used in this act [Secs. 4397—4397-31] shall be defined as the seeds of cotton, corn, melons, small grains, beans, peas, sorghums, peanuts, vetch, clovers, alfalfa, grasses, and any and all other plants (except potatoes and sweet potatoes), grown on field scale for grain, hay, fibre, or any other purpose, which are sold, offered or exposed for sale within this state for seeding purposes within this state; while the term "vegetable seeds" shall include the seeds of those crops that are generally grown in Mississippi on garden scale and generally known and sold under the name of "vegetable seeds." [1944]

Sec. 4397-02. Marking requirements for packages of one pound or more.

Every lot of agricultural and/or vegetable seeds as defined in section 1 [4397] * * *, when in bulk, packages, or other containers of one pound or more, shall have affixed thereto, a plainly written in ink or printed tag or label in the English language, stating on one side of label only and with no intervening matter:

(a) * * * the net weight thereof. [1944]
* * *

Sec. 4397-03. Marking requirements for mixtures.

Mixtures of agricultural seeds which contain two or more kinds of such seeds in excess of five per cent by weight of each, or of the two combined, shall have affixed thereto, a plainly written or printed tag or label, in the English language, stating on one side of label only and with no intervening matter:

(a) That such seed is a mixture, together with the lot number and the net weight thereof. [1944]
* * *

Sec. 4397-07. Exemptions.

Agricultural seeds or mixtures of same and vegetable seeds shall be exempt from the provisions of this act [Secs. 4397—4397-31]:

(a) When possessed, exposed for sale, or sold for food or feed purposes only when so labeled.

(b) When sold to merchants, firms, corporations, or cooperative associations, or when in store to be recleaned and labeled in accordance with the provisions of this act before being sold or exposed for sale for seeding purposes, provided that such seeds shall be tagged or labeled "To Be Recleaned or Tested."

(c) No label shall be required unless requested by the purchaser, on agricultural seeds, mixtures of same, and vegetable seeds, when such seeds are sold directly to and in the presence of the purchaser, and taken from a container labeled in accordance with this act. [1944]

Sec. 4397-12. Enforcement of act.

The duties of enforcing this act [Secs. 4397—4397-31] and carrying out its provisions and requirements shall be vested in the commissioner of agriculture, and the said commissioner shall have authority to establish rules and regulations not inconsistent with the provisions of this act. * * * [1944]

Sec. 4397-19. Penalty for violations.

Every violation of the provisions of this act [Secs. 4397—4397-31] shall be deemed a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), * * * [1944]

Code 1942 Annotated, Vol. 4, Title 19, Ch. 2—
Standard Containers for Fruits and Vegetables.

Sec. 4424. Commissioner of agriculture to establish standard sizes for and weight of containers.¹
* * *

The commissioner of agriculture may also establish standard sizes for boxes, or containers, used in the handling of fruits and vegetables in this state, provided such standards established by the commissioner shall conform with the federal standard con-

tainer act of congress, and the commissioner may also establish the standard weight of each box or container when filled with fruits or vegetables. [1924; last amended 1948.]

¹ See Secs. 4527 and 4532, pages 530, 531; recommendation of marketing committee.

Code 1942 Annotated, Vol. 4, Title 19, Ch. 3—Commercial Feeds.

Sec. 4436. Definition.

The term "commercial feeds" shall be held to include cottonseed meal, the so-called mineral feeds and all other feeding stuff used for feeding live stock and poultry, except the following: (a) Whole unmixed seeds or grains. (b) Cottonseed hulls. (c) The unmixed meals made from and consisting of the entire grains of corn (but not corn chops), wheat, barley, rye, oats, buckwheat, flaxseed, kafir and milo. (d) Whole hays, straws when unmixed with other materials. (e) And all other materials when containing 60 per cent or more of water. [1928]

Sec. 4437. Marking requirements.

Every lot or parcel of commercial feeds sold, offered or exposed for sale or exchange or distribution within this state shall have fixed thereto a tag in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truly certifying: (a) The net weight of the package, lot or parcel. * * * [1928]

Sec. 4447. Penalty for violations; stop sale order.

Any manufacturer, importer, jobber, firm, association, corporation, or person who * * * shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said commissioner of agriculture and commerce, or his authorized inspector or agent in the performance of his duty in connection with provisions of this statute [Secs. 4436-4449], or who shall sell, offer or expose for sale or for distribution in this state, any commercial feeds as defined, without complying with the requirements of the provisions herein, * * * shall be guilty of a misdemeanor¹ and punished accordingly, and the commissioner of agriculture or his legal representative shall have the authority to stop the sale of any commercial feed stuffs, or oil seed meals, offered or exposed for sale or distribution that do not meet the provisions of this act, and such feed stuffs, or oil seed meal, shall not again be placed on the market in this state until the requirements of the law have been met and said feed stuffs released for sale by the commissioner of agriculture, or his legal representative. [1928; last amended 1946.]

* * * * *

¹ For punishment for misdemeanor, see Sec. 2562, page 537.

Sec. 4449. Enforcement.

The commissioner of agriculture and commerce, except as otherwise provided, is hereby empowered to enforce the provisions of this statute [Secs. 4436-4449]. [1928]

Code 1942 Annotated, Vol. 4, Title 19, Ch. 4—Commercial Fertilizer.

Sec. 4450. Marking requirements.

That every lot or parcel of commercial fertilizer or fertilizer material sold, offered or exposed for sale or distribution within this state shall bear in a conspicuous place on the outside thereof, a tag, containing a plainly printed statement in the English language and truly certifying: (a) the net weight of the contents of the package, lot or parcel; * * * [1928; last amended 1940.]

Sec. 4466. Rules and regulations for enforcement.

The commissioner of agriculture and commerce and the state chemist shall have authority to establish such rules, regulations, definitions, and standards in regard to the inspection, analysis, and the sale of fertilizers and fertilizer materials as shall not be inconsistent with the provisions of this statute [Secs. 4450-4474] and as will best carry into effect the intent and meaning thereof. * * * [1928]

Sec. 4468. Penalty for violations; stop sale order.

Any manufacturer, importer, firm, or person who * * * shall impede, obstruct or attempt to prevent the commissioner of agriculture and commerce or his deputy or agent in the performance of his duty in connection with the provisions of this statute; or who shall fail to label each package or lot as required herein, * * * or who shall use a label that is incomplete or false or misleading in any respect; * * * shall be guilty of a misdemeanor¹ and punished accordingly. The commissioner of agriculture, or his legal representative, shall have the authority to stop the sale of any commercial fertilizer or fertilizer material offered or exposed for sale or distribution that does not meet the provisions of this act, and such fertilizer or fertilizer material shall not again be placed on the market in this state until the requirements of the law have been met and said fertilizer released for sale by the commissioner of agriculture, or his legal representative. [1928; last amended 1946.]

¹ For punishment for misdemeanor, see Sec. 2562, page 537.

Code 1942 Annotated, Vol. 4, Title 19, Ch. 5, Art. 3—Standard Containers for Fruits and Vegetables.

Sec. 4526. Marketing committee; districts.

That a committee be, and it is hereby created to consist of seven members, four of whom shall be producers of vegetables and three of whom shall be handlers of vegetables, to be nominated and appointed as herein provided, from the following described districts:

Code 1942 Annotated, Vol. 4, Title 19, Ch. 5, Art. 3—
Standard Containers for Fruits and Vegetables—
Continued.

(a) District No. 1 shall be composed of Beat No. 5 of Covich county and all of Simpson county and shall be represented by two producers and one handler.

(b) District No. 2 shall be composed of Beats No. 1, No. 2 and No. 3 of Covich county and all of the counties of Jefferson, Lincoln and Lawrence, and shall be represented by one producer and one handler.

(c) District No. 3 shall be composed of Beat No. 4 of Covich county and all of the counties of Hinds, Rankin and Claiborne, and shall be represented by one producer and one handler.

Upon the passage of this act [Secs. 4526-4530] the committee of four vegetable producers and three vegetable handlers selected to serve until April 1, 1941, as the administrative committee for the state-federal tomato marketing agreement, shall be designated as the committee to serve until April 1, 1941 as herein provided, and on or before March fifteenth of each year, beginning with 1941, the committee then serving shall call meetings and select a committee as herein authorized, the members of which shall serve for a period of one year beginning April first of each year, or until their successors have been appointed. A vacancy from any cause shall be filled in the same manner. Members shall serve without compensation. [1940]

Sec. 4527. Standard containers: Committee may recommend; commissioner of agriculture may specify.¹

Whenever the committee deems it advisable to regulate the marketing of fresh vegetables in any manner considered by them to be helpful to the industry during any specified period, it may so recommend in writing to the commissioner of agriculture and commerce. At the time of submitting such recommendations the committee shall furnish to the commissioner of agriculture and commerce all pertinent data and information upon which it acted in making such recommendations, along with such other data and information as the commissioner of agriculture and commerce may request.

Based upon the recommendation of the committee and upon the information submitted in connection therewith, and upon other available data, the commissioner of agriculture and commerce may regulate the marketing of fresh vegetables produced in the area defined by this act, for any specified period, by regulating the handling of any vegetable produced in the districts defined in section 1 [4526] hereof in one or more of the following manners:

* * * * *

(5) Specifying standard containers which may be

used in the purchase or sale of any vegetables. [1940]

* * * * *

¹ See Sec. 4424, page 528; power of commissioner to establish standard sizes for and weights of containers.

Sec. 4528. Enforcement.

The commissioner of agriculture and commerce shall have authority and police power to enforce any and all regulations issued pursuant thereto. [1940]

Sec. 4529. Penalties for violations.

Every person, who by themselves, their agents or employees, violates any of the provisions of this act [Secs. 4526-4530] or any regulations issued under the provisions of this act shall for each offense be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding \$25.00, nor less than \$5.00 or 30 days in jail for the first offense; not exceeding \$50.00 nor less than \$40.00 or 60 days in jail for the second offense; not exceeding \$200.00 nor less than \$100.00 or 90 days in jail or both for the third and all following offenses, and all costs for each and every offense. [1940]

Sec. 4531. Additional districts; committee.

That a committee be and it is hereby created to consist of nine members, six of whom shall be producers of fruits or vegetables and three of whom shall be handlers of fruits or vegetables, to be nominated and appointed as herein provided, from the following described districts:

(a) District No. 1 shall be composed of Lamar county and shall be represented by one producer.

(b) District No. 2 shall be composed of Stone county and shall be represented by one producer.

(c) District No. 3 shall be composed of Perry county and shall be represented by one producer.

(d) District No. 4 shall be composed of Jefferson Davis county and shall be represented by one producer.

(e) District No. 5 shall be composed of Covington county and shall be represented by one producer.

(f) District No. 6 shall be composed of a combination of all of the above named counties, and shall be represented by four handlers selected from the counties at large.

Within 30 days after the passage of this act [Secs. 4531-4535] the commissioner of agriculture shall cause to be held in each of the districts herein defined a meeting of growers and a meeting of shippers. At each such meeting the growers or shippers present shall select the members of the committee provided in this section. Members so chosen shall serve until April 1st, 1943. Subsequent members shall be chosen at meetings of growers or shippers held prior to March 15th of each year, such meetings to be called by the committee then serving. Members shall serve for a period of one year begin-

ning April 1st, each year and shall serve without compensation. Any vacancy shall be filled in the same manner as the selection of a member. [1942]

Sec. 4532. Standard containers: Committee may recommend; commissioner of agriculture may specify.¹

Whenever the committee deems it advisable to regulate the marketing of fresh vegetables in any manner considered by them to be helpful to the industry during any specified period, it may so recommend in writing to the commissioner of agriculture and commerce. At the time for submitting such recommendations the committee shall furnish to the commissioner of agriculture and commerce, all pertinent data and information upon which it acted in making such recommendations, along with such other data and information as the commissioner of agriculture and commerce may request.

Based upon the recommendation of the committee and upon the information submitted in connection therewith, and upon other available data, the commissioner of agriculture and commerce may regulate the marketing of fresh vegetables produced in the area defined in this act [Secs. 4531-4535], for any specified period, by regulating the handling of any vegetable produced in the districts defined in section 1 [Sec. 4531] hereof, in one or more of the following manners:

* * * * *

(5) Specifying standard containers which may be used in the purchase or sale of any vegetable. [1942]

* * * * *

¹ See Sec. 4424, page 528; power of commissioner to establish standard sizes for and weight of containers.

Sec. 4533. Enforcement.

The commissioner of agriculture and commerce shall have authority and police power to enforce any and all regulations issued pursuant thereto. [1942]

Sec. 4534. Penalty for violations.

Every person, who by themselves, their agents or employees, violates any of the provisions of this act [Secs. 4531-4535] or any regulations issued under the provisions of this act shall for each offense be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding \$25.00 nor less than \$5.00 or 30 days in jail for the first offense; not exceeding \$50.00 nor less than \$40.00 or 60 days in jail for the second offense; not exceeding \$200.00 nor less than \$100.00 or 90 days in jail or both for the third and all following offenses, and all costs for each and every offense. [1942]

Code 1942 Annotated, Vol. 4, Title 19, Ch. 6, Art. 1
—Milk and Cream, and Frozen Desserts.

Sec. 4541. Milk and cream: False tests unlawful.

It shall be unlawful for any person, either for himself or another, to falsely manipulate, or under-

read or over-read, take inaccurate samples or make any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensery, ice cream plant, milk plant or milk depot, or when sold or purchased. * * * Cream tests must be weighed. The scales must be sensitive and accurate. The tester and owner or owners are jointly responsible for their accuracy. * * * [1928]

Sec. 4542. Same: Bottles and pipettes; marking requirements; designating number and bond of manufacturer; penalty against manufacturer for selling glassware not in conformity with law; penalty against dealer for using glassware not in conformity with law; specifications; testing.

(a) All bottles and pipettes used in measuring milk or milk products for making determination of the percent of fat in said milk or milk products, shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed," and in the side of the pipette or the side or bottom of the bottle the name, initials or trademark of the manufacturer and his designating number, which designating number shall be furnished by the state commissioner of agriculture upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of \$1,000.00 with sureties to be approved by said commissioner, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished, shall be kept in the office of said commissioner. Any manufacturer who sells Babcock, or other milk, cream or butter test bottles or milk pipettes, to be used in this state, that do not comply with the provisions of this section shall suffer a penalty of \$500.00, to be recovered by the attorney-general of the state in action in the name of the state upon the bond of such manufacturer and any dealer who uses, for the purpose of determining the per cent of milk fat in milk or milk products, any bottles or pipettes that do not comply with the provisions of this section relating thereto, shall be guilty of a misdemeanor and upon conviction, shall be punished as elsewhere¹ provided for violations of the provisions of this chapter [Sec. 4536-4575].

(b) The state commissioner of agriculture shall prescribe specifications with which the glassware mentioned in this section shall comply. The unit of graduation for all Babcock or other glassware shall be the true cubic centimeter, or the weight of one gram of distilled water at four degrees centigrade. The said commission shall from time to time make tests of individual bottles and pipettes used by various firms in the state in order to ascertain whether the above provisions are being complied with and shall report any violations found to the attorney-general. [1928]

¹ See Sec. 4555, page 532.

Code 1942 Annotated, Vol. 4, Title 19, Ch. 6, Art. 1—
Milk and Cream, and Frozen Desserts—Continued.

Sec. 4545-01. Frozen dairy products and desserts: Definition.

(a) Frozen dairy foods and fruit ices are: Milk or milk products, eggs or egg products, nutritive sweetening ingredients, water, confection, nut meats, fruit or fruit pieces, citric or other organic food acid or other wholesome flavoring agents and colors together with harmless stabilizer, and shall be deemed to include ice cream, fruit ice cream, nut ice cream, ice cream mix, frozen custard, milk sherbets, ices or water ices, frosted malted milk or frosted malt ice cream, sandwiches and frozen confections. [1948]

* * * * *

Sec. 4545-04. Same: Marking requirements.

* * * * *

(b) No person, firm or corporation shall fill, pack, store or keep for the purpose of sale, offer for or expose for sale, or sell any frozen dessert 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 or measure; provided that reasonable variations and tolerances shall be permitted, and that these variations and tolerances shall be established by rules and regulations made by the commissioner of agriculture, * * *. [1948]

Sec. 4545-06. Same: Penalty for violations; enforcement.

Any person, firm, association or corporation which shall do any of the acts or things prohibited or neglects or refuses to do any of the acts or things required by this act [Secs. 4545-01—4545-11] or regulations made thereto, or in any way violates any of its provisions shall be deemed guilty of a misdemeanor and for each and every offense shall be punished by a fine of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00) and the costs of prosecution or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment in the discretion of the court. The commissioner of agriculture shall be charged with the enforcement of the provisions of this act. [1948]

Sec. 4555. Penalty for violations of Secs. 4541 and 4542.

Any person coming within the provisions of this chapter [Secs. 4536-4575] who shall fail to comply with, or who shall violate any of its provisions, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or confined in jail not more than sixty days, or both. [1928]

Code 1942 Annotated, Vol. 4, Title 19, Ch. 10—
Cotton.

Sec. 4827. Public ginner to mark all cotton baled; penalty.

Every public ginner shall plainly mark or stamp upon each bale of cotton packed ¹ or baled by him,

the number of the bale, his own initials, and the initials of the customer for whom the cotton is ginned and baled, and shall enter in a book or register the name of the customer, the date when each bale was ginned and baled, and a record of the marks placed by him upon each bale as above directed, and shall allow an inspection of such entries at any time by any person interested to make it. Any person violating any of the provisions of this section shall upon conviction, be punished as for a misdemeanor ². [1908]

¹ For fraudulent packing, see Sec. 2063, page 537.

² For punishment for misdemeanor, see Sec. 2562, page 537.

Sec. 4828.¹ Cotton weighers to keep register; violation a misdemeanor.

Every public cotton weigher, and every person who weighs cotton for any warehouse or gin or cotton buyer, shall keep a book, or register, in which he shall enter all marks or stamps provided for in last preceding section appearing upon each bale of cotton weighed by him, and shall allow an inspection of such entries at any time by any person interested to make it. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.² [1908]

¹ For deduction as scalage, penalty, see Sec. 2372, page 537.

² For punishment for misdemeanor, see Sec. 2562, page 537. Also see Sec. 2065, page 537.

Code 1942 Annotated, Vol. 4, Title 20, Ch. 1, Art. 1
—“Petroleum Products Inspection Act of Mississippi.”

Sec. 5082. Powers and duties of comptroller.

The motor vehicle comptroller, hereinafter called the “comptroller” is hereby vested with the sole and exclusive power and authority and is charged with the duty of administering and enforcing the provisions of this act [Secs. 5081-5103], and he shall have the authority to establish rules and regulations not inconsistent herewith in connection with its enforcement. The assistant motor vehicle comptroller and director of petroleum taxes are hereby authorized and empowered to perform such duties and acts as are required of them by law and by the comptroller. [1946]

Sec. 5091. Scales, measuring and dispensing equipment.

No person shall use any scales, measure or measuring device in the handling or sale of petroleum products, unless the same is true and accurate; and the standards of weights and measures shall be those most recently adopted by the United States Bureau of Standards, except that in no event shall gasoline be dispensed for sale through visible or bowl pumps with outside indicators, and in no event shall any such bowl be drained by any device except through the regular dispensing hose. [1946]

Sec. 5093. Right of entry; inspection; penalty for failing or refusing to permit inspection, etc.; injunction.

The motor vehicle comptroller and his agents and employees shall have full access, ingress and egress, at all reasonable hours, to any place or building wherein internal combustion engine fuels, lubricating oils and other like products are stored, transported, sold, offered or exposed for sale. He may also, either in person or by his agents, or employees, open for inspection, any case, package or other container, tank, pump, tank car, storage tank, stationary engine or tractor and enter upon any barge, vessel or other vehicle of transportation, and may, upon tendering the market price, take samples, not exceeding one gallon for analysis; and with instruments conforming to the standards of weights and measures most recently adopted by the United States Bureau of Standards, check any measuring device or the volume of weight of contents of any container.

* * * * *

Any distributor or other person failing or refusing to permit the motor vehicle comptroller or his duly authorized agents to take samples provided for, or to exercise any rights or authority granted him under the provisions of this section, shall be guilty of a misdemeanor, for first offense, and upon conviction shall be punishable by a fine of not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for sixty days, or by both such fine and imprisonment. Any person guilty of a second violation of this section, shall, in addition to the other penalty provided herein, be enjoined from continuing in the gasoline and oil business in this state for a period of not less than one year nor more than five years, and any judge or chancellor now authorized to grant injunctions shall grant an injunction enjoining said distributor or other person from continuing in the gasoline and oil business for the period prescribed by this section, provided that no injunction shall be issued unless not less than five (5) days notice is given in the manner prescribed by law. [1946]

Sec. 5098. Comptroller to purchase standard weights, measures, and instruments for testing standards.

* * * The comptroller shall purchase standard weights and measures, certified by the United States Bureau of Standards, and also shipping cases and cans or vessels of appropriate capacity, as containers for storing and shipping samples to be tested, and he shall purchase for use of inspectors, instruments for testing standards of weight and measure, which shall be certified as correct by the United States Bureau of Standards. * * * [1946; last amended 1948.]

Sec. 5100. General penalty for violations; inaccurate equipment to be locked or sealed, when; refusal to allow inspection prima facie evidence of inaccuracy; procedure for unlocking or unsealing.

Any person or officer, agent, servant, or employee thereof who shall violate any provision of this act [Secs. 5081-5103] shall be guilty of a misdemeanor and, upon conviction, and where no other penalty is provided in this act, shall be fined not exceeding one hundred dollars (\$100.00) for the first offense, and not exceeding two hundred dollars (\$200.00) for each subsequent offense, or shall be imprisoned in the county jail for not exceeding ninety (90) days, or shall suffer both such fine and imprisonment; and each separate sale or attempt to sell in violation of the provisions of this act shall be deemed a separate offense.

In addition to the penalties hereinabove described, and as a cumulative and enforcement measure, the comptroller or his duly appointed representatives shall have the right to request an inspection of any pump, truck, or other equipment, and if upon such inspection any such pump, truck, or other equipment is found to be inaccurate, or if the right to inspect any such pump, truck, or other equipment is refused or denied the comptroller, or his duly authorized representatives, he or they shall have the right to immediately close and lock said pump and other equipment or to seal same with the comptroller's seal, unless such inaccuracy be corrected within forty-eight (48) hours.

It shall be prima facie presumed upon any refusal to allow the right to inspect that the pump, truck, or other equipment sought to be inspected is inaccurate, or is operating in violation of this act [Secs. 5081-5103]. When any such pump or other equipment is locked or sealed, it may not be unlocked or the seal thereon broken except in the presence of a mechanic or other person called for the purpose of repairing the inaccuracy in the machinery of such pump or equipment, and such inaccuracy shall be immediately thereafter repaired, and the pump or other equipment properly regulated. The comptroller may, in his discretion, require an affidavit from the mechanic repairing such pump or other equipment, or any other proof which he may deem advisable to the effect that said pump was unlocked or the seal thereon broken in the presence of such mechanic, and that the inaccuracies therein were thereupon completely repaired or regulated. [1946; last amended 1948.]

* * * * *

Code 1942 Annotated, Vol. 4, Title 20, Ch. 2—
Paints and Varnish.

Sec. 5123. Sale of paints and varnish not labeled in accordance with law; penalty.

It shall be unlawful for any person, firm or corporation within this state to manufacture for sale, sell, or exchange, or to offer or to keep for sale or

Code 1942 Annotated, Vol. 4, Title 20, Ch. 2—Paints and Varnish—Continued.

exchange any paint, putty, linseed oil or other paint oils, turpentine or varnish that is not labeled in accordance with the provisions of this statute [Secs. 5123-5131], or which is adulterated or misbranded or insufficiently labeled or branded; and any person, firm, or corporation violating any provision hereof shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars, and not more than one hundred dollars for the first offense, and not less than fifty dollars and not more than two hundred dollars for each subsequent offense. [1920]

Sec. 5124. "Paint" defined.

The term paint as used herein shall include all substances, whether dry or ground in oil, used or intended for use as paint or as components of paint. It shall include paste and semi-paste paints, house, carriage, wagon, barn, floor, roof, and implement paints and enamels, and all kinds of liquid and ready mixed paints. It shall not include artists' colors, liquid bronzes, colors intended to be mixed with water for decorative purposes, wood fillers, stove polishes or stove enamels, and shingle and roof stains. [1920]

Sec. 5125. Marking requirements.

Every container or receptacle of paint, putty, linseed oil, or other paint oils, turpentine, and varnish sold, exchanged, or offered or kept for sale or exchange shall bear a label printed in legible type in English stating:

* * * * *

(b) The volume, if sold by volume; and the net weight if sold by weight. [1920]

* * * * *

Sec. 5126. When deemed misbranded.

For the purposes of this statute [Secs. 5123-5131], paint, putty, linseed oil, or other paint oils, turpentine, and varnish shall be deemed to be misbranded if the container is labeled or marked in any manner that tends to deceive the purchaser as to the nature, composition, volume, or weight of the contents thereof, and the same shall be insufficiently branded if the label fails to give fully the information required herein, * * *. [1920]

Sec. 5127. State chemist to enforce.

The state chemist is hereby charged with the enforcement of the provisions of this chapter [Secs. 5123-5131]. He shall also prepare such rules and regulations as are necessary to carry its intent and purpose into effect; * * *. [1920]

Code 1942 Annotated, Vol. 5, Title 23, Ch. 7, Art. 1—Oysters.

Sec. 6057. Enforcement by chief inspector.

The chief inspector [of the seafood commission] * * * is hereby constituted a peace officer of the State of Mississippi with full police power and jurisdiction to enforce all laws with reference to the sea foods of the State of Mississippi and all rules and regulations promulgated by the sea food commission, and he may exercise such powers in any county of the State of Mississippi and on any waters of the State, * * * and he shall in person or through his deputies prosecute all persons who violate any of such laws, and shall at any and all times seize any or all oysters, fish, or other sea foods which have been caught, taken or transported in a manner contrary to the laws of this state, * * *. [1930; last amended 1948.]

Sec. 6059. Enforcement by deputy inspectors.

The deputy inspectors and assistant chief inspector shall be under the jurisdiction and direction of the chief inspector, and they are hereby constituted peace officers of the State of Mississippi, with full police powers and jurisdiction to enforce all laws with reference to the sea foods of the State of Mississippi and all rules and regulations promulgated by the sea food commission, and they may exercise such powers in any county in the State of Mississippi and on any waters of the state. * * * They shall visit the various factories, and all places of business where sea foods are dealt in, and there inspect the oysters, fish and other sea foods on hand, the "barrel measures" used at said places of business, * * * and they shall prevent and prosecute all violations of this chapter [Secs. 6047-6131] and of all laws on this subject hereinafter enacted. [1930; last amended 1948.]

Sec. 6068. Standard of measure; duties of chief inspector and deputy inspectors; penalty against chief inspector.

A standard measure for oysters is hereby established, which said measure shall consist of a tub or other round vessel of the following dimensions, to wit: It shall measure seventeen inches in diameter inside at the bottom and twenty-one and one-half inches inside at the top, and fourteen and one-half inches inside from bottom to top, the unit of such tub or measure to be in the shape of inverted frustum of a cone. Two of these measures filled to the top shall make one barrel, and all oysters bought or sold in this state in the shell shall be measured in a measure of this dimension or measure holding a fraction or multiple thereof, and it shall be unlawful for any person to have in his possession any measure for oysters in the shell which shall differ in size from the measure herein provided for, or to demand or require a greater or less measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters until it has

been measured and stamped by the oyster inspector with a metal tag or stamp, showing the quantity of oysters which such measure will hold. It shall be the duty of the oyster inspector to make such measurements and to visit for that purpose each place where oysters are bought and sold as required, not to exceed once in each month during the canning season, and shall keep a book in which shall be recorded the dimensions of all vessels so measured. And for each stamp the chief inspector shall receive the sum of twenty-five cents from the person, persons or corporation to whom it is issued. The chief inspector shall keep a book to be known as the "oyster measure record", in which he shall register the names of each person, firm or corporation to whom he has issued such stamp and the date of issuance; and said record shall be open for the inspection of the public during business hours; and for every false or fraudulent issuance of said stamp or for every stamp issued without a record thereof being kept, in the "oyster measure record", the chief inspector shall be guilty of a misdemeanor and shall, on conviction, be fined the sum of fifty dollars, one-half of which shall be paid to the person or persons informing on the chief inspector. [1902]

Sec. 6087. Barrel for taxation purposes.

In addition to the privilege licenses required by this chapter [Secs. 6047-6131], further inspection tax and fee of five cents (5) per barrel is hereby laid upon all oysters canned and packed in, and on all oysters shipped raw in or from this state, on all oysters caught or taken from the public reefs or private bedding grounds for packing, canning and for shipment or sale raw. Whenever any oysters have escaped collection of tax, as herein provided by reason of being opened or shucked on the reefs, or anywhere on the waters, by reason of a failure of the proper record being kept according to law, so that a measurement in the shell, by the barrel, cannot be made hereunder, then for the purpose of collecting the tax provided, six hundred opened or shucked oysters shall constitute a barrel. * * * [1902; last amended 1948.]

Sec. 6104. Penalties for violations of chapter.

Any person, firm or corporation violating any of the provisions of this chapter [Secs. 6047-6131], or any act amendatory hereto, unless otherwise provided for shall on conviction be fined not less than ten dollars, nor more than fifty dollars, for the first offense and not less than twenty-five dollars nor more than five hundred dollars for any subsequent offense, * * *. [1930]

Code 1942 Annotated, Vol. 5, Title 23, Ch. 7, Art. 2—Shrimp.

Sec. 6119. Shrimp barrel, capacity for taxation purposes.

In addition to the privilege licenses required, a tax and fee of twenty-five cents (25) per barrel is

hereby laid and levied upon all shrimp canned and packed in, and all shrimp shipped raw in or from this state, and on all shrimp caught or taken from the waters within the jurisdiction of the state of Mississippi. * * *

All shrimp must be delivered into the ports or harbors of this state whole and as taken from the waters, and for the purpose of this act. [Sec. 6119] two hundred and ten (210) pounds of shrimp whole and as taken from the waters shall be one barrel. [1942; last amended 1948.]

Code 1942 Annotated, Vol. 5, Title 25, Ch. 6, Art. 4—Food.

Sec. 7109. Sale of misbranded food prohibited; penalty.

It shall be unlawful for any person, persons, firm, or corporation, within this state, to manufacture for sale, produce for sale, knowingly expose for sale, have in his or their possession for sale, or sell any article of food which is adulterated, misbranded or insufficiently labeled within the meaning of this article [Secs. 7107-7129]; and any person, persons, firm or corporation who shall manufacture for sale, produce for sale, expose for sale, have in his or their possession for sale, or sell any article of food which is adulterated, misbranded or insufficiently labeled within the meaning of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than five hundred dollars, or be imprisoned not to exceed ninety days, or both such fine and imprisonment; provided it shall be lawful to sell any article named herein which is up to the standard required by the national pure food law or any federal statute regulating or governing the manufacture or sale of such article. [1910]

Sec. 7110. Definition.

The term "food" as used in this article [Secs. 7107-7129] shall include every article used for, or entering into the composition of, or used or intended for use in the preparation of food or drink for man, whether simple, mixed or compound. [1910]

Sec. 7112. When food deemed misbranded.

An article shall be deemed to be mislabeled or misbranded:

If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. [1910]

Sec. 7113. Inspector of food: Appointment in counties, cities, and towns.

The board of supervisors of every county, and the mayor and board of aldermen of every city, town, and village, respectively, may appoint and commission a suitable person to be inspector of food, and said boards may direct, from time to time, what kinds of food shall be inspected. [1848]

Code 1942 Annotated, Vol. 5, Title 25, Ch. 6, Art. 4—
Food—Continued.

Sec. 7114. Same: Regulations for government of inspectors and dealers; penalties.

The said boards may respectively make and publish all needful regulations for the government of the inspectors, and of dealers in food, and may enforce such regulations by proper penalties, and they may prescribe and regulate the compensation of the inspector and his fees and perquisites, and define his duties. [1892]

Sec. 7116. Same: Liability for safe-keeping of standards of weights and measures.

Every inspector of foods shall be liable, civilly and criminally, as other officers are, for fraud and any malfeasance or misfeasance in office, and shall be liable on his bond for the safekeeping and accounting for the standards of weights and measures. [1892]

Sec. 7117.¹ Same: Keeper of weights and measures; sealing.

The inspector of food of any county, city, town, or village shall be keeper of the standards of weights and measures, and shall seal all weights and measures brought to him conforming or conformed to the standard. [1892]

¹ See Sec. 5142, page 527.

Sec. 7118.¹ Instruments for gauging liquids to be furnished inspectors; county and city boards to regulate inspection, gauging, and marking of packages.

In case it be necessary or proper, the board of supervisors, or the board of mayor and aldermen, shall supply the inspector with all the necessary instruments for gauging and ascertaining the contents of vessels of liquids; and such boards may direct and regulate the inspection, gauging, and marking or branding packages of liquids, and enforce such regulations. [1892]

¹ See Sec. 5141, page 527; standard measures.

Sec. 7119. Penalty for obstructing inspector.

Any person who shall oppose or obstruct any inspector of food in the discharge of his official duties, shall, for every such offense, forfeit and pay two hundred dollars, and shall, moreover, be liable for any injury or damage that may be sustained by any such opposition or obstruction. [1848]

Sec. 7121. Underweight barrels of flour, meal, pork or beef forfeited.¹

If any person shall sell, keep, or offer for sale, any barrel of flour, meal, pork, or beef, as a barrel thereof, containing less than the standard weight net, he shall forfeit to the county all of such underweight flour, meal, pork, or beef which he may have in his possession. [1848]

¹ See Sec. 5139, page 527; penalty for using short weights or measure.

Sec. 7124. State chemist charged with enforcement of food law.

The state chemist is hereby charged with the proper enforcement hereof, and the inspection, collection, examination and analysis of specimens of food to determine whether such articles are adulterated, misbranded or insufficiently labeled shall be carried out under his supervision. Such inspectors and chemists as are absolutely necessary for maintaining an inspection of goods manufactured, sold, offered or kept for sale, shall be appointed by the president and board of trustees of the Agricultural and Mechanical College on his recommendation * * *. [1910]

Sec. 7126. Inspectors: Right of entry.

In the execution of his duties, an inspector shall have free access at all reasonable hours to any place where foods are sold, and in calling for and taking a sample of any food, he shall tender the market price asked for it. [1910]

Sec. 7127. Same: Interference with; penalty.

Any person or dealer who shall impede, obstruct, hinder, prevent or attempt to prevent an inspector in the performance of his duties, shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than fifty dollars or be imprisoned in the county jail not more than ninety days, at the discretion of the court. [1910]

Code 1942 Annotated, Vol. 6, Title 28, Ch. 7—Weighting by Railroads.

Sec. 7885. Railroads to weigh cottonseed; weight certificate; penalty for failure to weigh or furnish certificate; liability of initial carrier; exception.

Every railroad in this state transporting cottonseed in carload lots shall weigh each carload of cottonseed so transported by it on demand either of the consignor or consignee unless the same has been weighed by a connecting carrier, and shall furnish to the consignor or the consignee of the said cottonseed, or both of them, a true statement of the weight of each car of seed shipped by or to such consignor or consignee upon demand, and for failure to weigh such cottonseed or to furnish a statement as to the weight of such car of cottonseed, the said railroad company shall forfeit to the consignor or consignee, or both, the sum of one hundred and twenty-five dollars to be recovered by suit at the instance of the party to whom such information is refused. Provided, however, in the event any carload of cottonseed is shipped or transported over more than one railroad the same need not be weighed except by one of said carriers, but the initial carrier shall weigh the same or be responsible for the failure of the connecting carrier or carriers to weigh said car: Provided further, if the railroad has no scales available at destination of shipment or in transit and the oil mill should refuse the railroad permission to test-weight on its

scales, then and in such event the penalty herein provided shall not be imposed. [1928]

Sec. 7886. Weighing may be done by any bonded weigher.

In case the common carrier cannot conveniently weigh on their scales, weighing may be done by any bonded weigher, not in the employ of any oil mill, or weights may be taken by an agent of said common carrier on the mill scales. Said bonded weigher or agent of common carrier shall supply consignor or consignee with correct weights upon demand of either or both. Charges for all weighing shall be as now or hereafter adopted by the railroad commission. [1928]

Code 1942 Annotated, Vol. 2, Title 11, Ch. 1—Frauds Relating to Cotton.

Sec. 2063. Penalty for fraudulent packing of cotton.¹

If any person shall fraudulently pack or bale any cotton, he shall, on conviction thereof, be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months, or both. [1848]

¹ See Sec. 4827, page 532; gins.

Sec. 2065. Traders in seed-cotton to keep register¹; penalty.

Every person who buys or barter for seed-cotton, and fails to enter in a book or register the names of all persons from whom he buys or procures by barter such cotton, the date of the transaction, the quantity received, and the place where said to have been grown, or to allow an inspection of such entries at any time by any person interested to make it, shall, on conviction, be fined not less than twenty dollars nor more than two hundred dollars, or be

imprisoned in the county jail not less than one week nor more than three months, or both. [1882]

¹ See Sec. 4828, page 532; weigher's register.

Sec. 2372.¹ Deduction as scalage; penalty.

If any purchaser or weigher of cotton shall deduct from the true weight of any bale or package thereof any amount whatever, as scalage, with intent to diminish the sum to be paid or credited to the seller, he shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than twenty dollars. [1888]

¹ See Sec. 4828, page 532, gins; Sec. 7885, page 536, weighing by railroads.

Sec. 2373.¹ Deduction as scalage, purchasers to account for actual weight; penalty.

If any purchaser of cotton shall fail to account to the seller for the actual weight of the cotton bought, except where the amount of the deduction is agreed upon between them, or adjudged by a disinterested person for them, he shall be guilty of a misdemeanor, and, on conviction, shall be punished as prescribed in the last section. [1888]

¹ See Sec. 4828, page 532; gins.

Code Annotated 1942, Vol. 2, Title 11, Ch. 2—Misdemeanor.

Sec. 2562. Penalty for misdemeanor where none fixed elsewhere by statute.

Offenses for which a penalty is not provided elsewhere by statute, and offenses indictable at common law, and for which a statutory penalty is not elsewhere prescribed, shall be punished by fine of not more than five hundred dollars and imprisonment in the county jail not more than six months, or either. [1857]



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Revised Statutes Annotated, Vol. 27, Ch. 142, Art. 1—Weights and Measures.

Sec. 15624. County clerk to procure weights and measures.

The clerk of each county court shall provide, at the expense of the county, one measure of one foot, or twelve inches, English measure; one measure of three feet, or thirty-six inches, English measure, denominated one yard; one half-bushel measure, which shall contain one thousand seventy-five and one-fifth cubic inches, denominated dry measure; one gallon measure, which shall contain two hundred and thirty-one cubic inches; one half-gallon measure, which shall contain one hundred and fifteen and one-half cubic inches; one quart measure, which shall contain fifty-seven and three-

fourths cubic inches. Also, one set of weights, called avoirdupois weights, and one seal, with initials of the county inscribed thereon; which measures, weights and seal shall be kept by the clerk of the county court of each county. [1813]

Sec. 15625. Clerk to give notice; commercial weights and measures to correspond; penalty.

So soon as the weights and measures are provided, the clerks of the county courts shall cause notice thereof to be given at the court house door, for two months; and any person who shall knowingly keep any measure or weights, and buy or sell any commodity whatsoever by such weights or measures as shall not correspond with the weights and measures deposited in the clerk's office, shall, for every such offense, forfeit and pay to the party injured ten

dollars, to be recovered by civil action before any justice of the peace of the county. [1813]

Sec. 15626. County clerk to seal weights and measures.

Clerks of the county court shall, with the seal aforesaid, seal all weights and measures presented to them for that purpose, that correspond with the county standard. [1813]

Sec. 15627. Standard hundredweight and ton.

The hundredweight shall consist of one hundred pounds avoirdupois, and twenty such hundreds shall constitute a ton. [1845]

Sec. 15628. Standard bushel.

Whenever the articles hereinafter named shall be sold by the bushel, and no special agreement as to the measurement or weights thereof shall be made by the parties, the bushel shall consist of the following number of pounds, viz.:¹

	<i>Pounds per Bushel</i>
Wheat	60
Beans	60
Clover seed	60
Irish potatoes	60
Peas	60
Split peas	60
Rye	56
Shelled corn	56
Flax seed	56
Unshelled corn	70
Barley	48
Oats	32
Bran	20
Onions	57
Dried peaches	33
Dried apples	24
Buckwheat	52
Castor beans	46
Hemp seeds	44
Blue grass seed	14
Timothy seed	45
Cotton seed	33
Salt	50
Mineral coal	80
Coke	(1)
Charcoal	(1)
Sweet potatoes	56
Parsnips	44
Common turnips	42
Carrots	50
Rutabagas	50
Corn meal	50
Millet	50
Green peas, unshelled	56
Green beans, unshelled	56
Apples	48
Peaches	48
Pears	48
Hungarian grass seeds	48
Malt	38
Top onion sets	28
Red top seed	14
Orchard grass seed	14
Sorghum seed	42
Osage orange seed	36
Cucumbers	48
Tomatoes	45

¹ 2,680 cubic inches per bushel.

And whenever apples shall be sold by the barrel, and no special agreement is made as to the size of the barrel by the parties, the size shall be as follows: Length of barrel, twenty-eight and one-half inches, with chimes of three-quarters of an inch at the ends; the diameter of the heads shall be seventeen and one-quarter inches, and the diameter of the center of the barrel inside shall be twenty and one-half inches. [1845; last amended 1893.]

¹ For convenience of reference a slight change has been made in the arrangement.

Sec. 15629. Plank and sawed timbers to be sold by board measure.

All plank and sawed timbers and lumber shall, unless otherwise agreed by special contract, be sold by board measure. [1855]

Sec. 15630. Flour, meal, hominy and hominy grits: Standard weight containers; exceptions; violation a misdemeanor.

It shall be unlawful for any person, partnership, corporation, company, co-operative society, organization to pack for sale, sell, offer or expose for sale in this State any of the following commodities except in containers of net avoirdupois weights of five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100), pounds, and multiples of one hundred (100), pounds; Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this Act [Sec. 15630] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from a container or from bulk stocks or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred (100) pounds, or for export, or (c) flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than three (3) pounds, or (d) the exchange of wheat for flour or corn for meal by mills grinding for toll. It shall be unlawful for any person to sell, offer or expose for sale any of the commodities mentioned in this Act, in the original container specified in this Act unless the number of pounds net contained therein be plainly labeled or stamped on said container. Any violation of this Act shall constitute a misdemeanor.¹ [1945]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Sec. 15631. Fraudulent weighing of ore; penalty.

Any person or persons who keep any public or private scales, and weigh for themselves or others, mineral, lead, zinc, coal and other ores, who knowingly take more than ten hundred pounds for one thousand or more than twenty hundred pounds avoirdupois for one ton, or fail to correctly balance his or their scales before weighing, or shall fail or neglect to account for each fractional part of a thou-

Revised Statutes Annotated, Vol. 27, Ch. 142, Art. 1—
Weights and Measures—Continued.

sand or ton, as the case may be, in weighing any of the ores herein named, which ores are bought and sold by the thousand or ton, shall, for every such offense, forfeit and pay to the party injured a sum not less than twenty dollars nor more than fifty dollars, to be recovered by civil action before any justice of the peace in the county. [1881]

Sec. 15632. Sale of grain, coal, etc., to be made at actual weight; penalty for deductions.

Every sale of grain, seed, hay or coal shall be made on the bases of the actual weight thereof, and any purchaser of grain, seed, hay or coal, who shall deduct any amount from the actual weight or measure thereof, under claim of right to do so by reason of any custom or rule of a board of trade or any pretense whatsoever, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than ten dollars nor more than one hundred dollars for each and every offense. [1909]

Sec. 15633. Sale of coal; certificate of weight required; penalty for violations.

Every person or persons selling and delivering coal in wagon load or truck load lots shall correctly weigh said coal and shall furnish to the driver or person in charge of such load a ticket signed by the person selling such coal, stating the gross, tare and net weights, and said ticket shall also state the name of the purchaser of such coal and shall correctly describe the quality, kind and character of such coal; and the seller's driver or agent in charge of said load shall on the delivery of such load deliver such ticket to such purchaser. Any state, county or township officer sworn to preserve the peace shall have power to enforce the provisions of this section and in the enforcement thereof may require any driver or person in charge of such load of coal while hauling same, to exhibit the weight ticket of said load, and may require such person to drive such load to any public or private scale and have the same weighed thereon, and to return after delivery of such load and have the empty vehicle weighed. Any person or persons selling and delivering coal contrary to the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not less than ten dollars, nor more than one hundred dollars for each offense. [1923]

Sec. 15634. Agent's or broker's contract to sell grain, etc.; restrictions; penalty.

No agent or broker selling any grain, seed, hay or coal shall have authority, under claim or right to do so by reason of any custom or rule of board of trade, to sell any grain, seed, hay or coal only on the basis of the actual weight thereof, and any contract of sale of any grain, seed, hay or coal made in violation of sections 15632 and 15634 of this

article [Secs. 15624–15634] shall be null and void. [1909]

Sec. 15634.1. Inspection and testing of weights and measures; authority of commissioner of agriculture or his agents.

The Commissioner of Agriculture or any of his agents are hereby authorized and empowered to test all weights, measures, and weighing and measuring devices used within the State of Missouri for the purpose of purchasing or selling any commodity by weight or measure, or used in determining the weight or measure of commodities upon which labor is bestowed and such labor or service is determined by weight or measurement thereof. Provided that this section shall not apply to present laws concerning weights and measures now enforced by other state agencies. [1943]

Sec. 15634.2. Tagging as "Condemned for Repairs" weighing or measuring devices not meeting requirements; use a misdemeanor.

When any of the weighing or measuring devices mentioned in Section 1 [Sec. 15634.1] hereof fail to correspond, within reasonable tolerance, which tolerance shall be established by the Commissioner of Agriculture after consultation with and with the advice of the National Bureau of Standards, it shall be the duty of the Commissioner of Agriculture or his agents to mark or tag such devices as "Condemned for Repairs". Any such weighing and measuring devices so marked or tagged shall not be used until corrected and such corrections are approved by the Commissioner or his agents. Any person who uses any such weighing or measuring devices during the time they are marked "Condemned for Repairs" shall be guilty of a misdemeanor.¹ [1943]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Sec. 15634.3. Right of entry; hindering Commissioner misdemeanor.

The Commissioner of Agriculture or his agents are hereby authorized to enter, during business hours, all places at which such weighing and measuring devices are used to make the inspections provided for in the enforcement of this act [Sections 15634.1–15634.4], and any person, firm, or corporation who hinders or delays the Commissioner or his agents in the performance of the aforesaid duties, shall be guilty of a misdemeanor.¹ [1943]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Sec. 15634.4. Purchase of supplies by commissioner; rules and regulations.

The Commissioner of Agriculture is hereby authorized to purchase the necessary supplies and equipment needed in the enforcement of the provisions of this act [Secs. 15634.1–15634.4], and he may promulgate rules and regulations for the

enforcement of this act, not inconsistent with the purposes of this act. [1943]

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 1—Classification of Cities.

Sec. 6212. Cities of the first class: Definition.

All cities and towns in this state containing one hundred thousand inhabitants or more shall be cities of the first class.¹ [1877]

¹ See Sec. 6293, this page; powers.

Sec. 6213. Cities of the second class: Definition.

All cities and towns in this state containing thirty thousand and less than one hundred thousand inhabitants shall be cities of the second class.¹ [1877; last amended 1885.]

¹ See Sec. 6609, page 544, powers.

Sec. 6214. Cities of the third class: Definition.

All cities and towns in this state containing three thousand and less than thirty thousand inhabitants, which shall elect to be a city of the third class, shall be cities of the third class.¹ [1877; last amended 1885.]

¹ See Sec. 6956, page 544, powers.

Sec. 6215. Cities of the fourth class: Definition.

All cities and towns in this state containing five hundred and less than three thousand inhabitants, and all towns existing under any special law, and having less than five hundred inhabitants, which shall elect to be cities of the fourth class, shall be cities of the fourth class.¹ [1877]

¹ See Sec. 7196, page 544, powers.

Sec. 6216. Villages: Definition.

All towns not now incorporated in this state containing less than five hundred inhabitants, are hereby declared to be villages:¹ *Provided*, that any village in this state now or hereafter having more than two hundred inhabitants may by majority vote of the qualified electors therein elect to become a city of the fourth class. [1879; last amended 1927.]

¹ See Sec. 7248, page 544, powers of trustees.

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 2—Cities of the First Class.

Sec. 6293. Powers of mayor and common council.

The mayor and common council shall have power within the city,¹ by ordinance, not inconsistent with the Constitution or any laws of this state or of this article [Secs. 6223–6602]:

* * * * *

XVII. To license, tax and regulate * * * inspectors and gaugers, public scales, grain elevators, storage and transfer houses; * * * slot weighing machines, automatic scales machines; * * *

XXIV. To require all traders or dealers in merchandise or property of any description which

is sold by measure or weight, and all common carriers using weights and measures, to cause their weights or measures to be tested and sealed, and to be subject to inspection.

XXV. To regulate and provide for inspecting and measuring of firewood, lumber, shingles, timber, posts, staves, headings and all kinds of building materials, and for measuring all kinds of mechanical work, * * *

XXVI. To provide for the inspection and weighing of hay, lime, stone, coal, charcoal and all kinds of coal used for fuel or for heating purposes, and the places and manner of weighing the same.

XXVII. To regulate the inspection of beef, pork, flour, meal and other provisions, whiskey and other liquors to be sold in barrels, hogheads and other vessels or packages; to appoint weighers, gaugers and inspectors, and to prescribe their duties.

XXVIII. To regulate the weight and quality of bread to be sold or used in the city. [1909; last amended 1929.]

* * * * *

¹ See Sec. 6212, this page; definition.

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 2A—Cities of First Class, Alternative Government.

Sec. 6602.1. Organization under act.

Any city of the first class or any city having or which may hereafter have a population entitling it to become a city of the first class may become organized under the provisions of this act.¹ [Secs. 6602.1–6602.305] * * * . [1949]

¹ This act provides for an alternative form of government for cities of the first class and makes provision for what is generally known as the commission form of government.

Sec. 6602.10. Powers.

Every city of the first class, organized under this Act [Secs. 6602.1–6602.305], shall have power, by ordinance, not inconsistent with the Constitution, or the laws of this State, or of this act:

* * * * *

II. To license, tax and regulate * * * inspectors and gaugers, public scales, grain elevators, slot weighing machines, * * * . [1949]

Sec. 6602.11. Same: Inspection of articles; weights and measures.

Every city of the first class, organized under this Act [Secs. 6602.1–6602.305], shall have power, by ordinance, not inconsistent with the Constitution, or the laws of this State, or of this act:

* * * * *

II. To inspect, test, measure and weigh any article of food, drink, or wear for consumption or use, bought, sold, used or handled in the city, * * *

III. To establish standards of weights and measures, and to provide for the inspection of all

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 2A—
 Cities of First Class, Alternative Government—Continued.

weights and measures: Provided, however, that the standards as established by the United States government or the state of Missouri shall be used where they apply. [1949]

* * * * *

Sec. 6602.12. Same: Weight of bread.

Every city of the first class, organized under this act [Secs. 6602.1–6602.305], shall have power, by ordinance, not inconsistent with the Constitution, or the laws of this State, or of this act:

* * * * *

V. * * * to prescribe the weight and quality of bread to be sold in the city, and to provide for the seizure and confiscation of said products when not conforming to the regulation. [1949]

* * * * *

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 3—Cities of the Second Class.

Sec. 6609. Powers.

Every city of the second class¹ shall have power, by ordinance, not inconsistent with the Constitution, or any law of this state, or of this article [Secs. 6603–6848]:

* * * * *

XVIII. To license, tax and regulate * * * inspectors and gaugers, public scales, grain elevators, storage and transfer houses; * * * slot weighing machines, automatic scales machines, automatic selling machines or devices, * * *

XXII. To inspect, test, measure and weigh any article of food, drink, or wear for consumption or use, bought, sold, used or handled in the city, * * *

XXIII. To establish standards of weights and measures, and to provide for the inspection of all weights and measures: *Provided, however*, that the standards as established by the United States government or the state of Missouri shall be used where they apply.

* * * * *

XLI. To provide for the inspection of milk, cream and ice cream offered for sale or for use in such city, and to provide a standard for such products, and to prescribe the weight and quality of bread to be sold in the city, and to provide for the seizure and confiscation of said products when not conforming to the regulations. [1945]

¹ See Sec. 6213, page 543, definition.

Revised Statutes Annotated, Vol. 16, Ch. 38, Art. 5—Cities of the Third Class.

Sec. 6956. Inspection, weighing, etc.

The council [in cities of the third class¹] may prescribe rules and provide methods by ordinance

for the inspection, weighing and measuring of any commodity sold in the city in all cases not otherwise provided for by law, and may provide for the selling, weighing and inspecting of meats, poultry and vegetables, of butter, lard and other provisions and articles of food; and may provide for the inspecting and measuring of wood, coal and fuel, lumber, shingles, timber and all kinds of building material, and shall have power to appoint inspectors and measurers; * * * and fix the fees of the person or persons appointed to perform the duties named in this section. [1893]

¹ See Sec. 6214, page 543, definition.

Revised Statutes Annotated, Vol. 17, Ch. 38, Art. 9—Cities of the Fourth Class.

Sec. 7196. Powers of mayor and board of aldermen.

The mayor and board of aldermen [of cities of the fourth class¹] shall have power and authority to regulate * * * inspectors, gaugers, * * * [1945]

¹ See Sec. 6216, page 543, definition.

Revised Statutes Annotated, Vol. 17, Ch. 38, Art. 10—Villages.

Sec. 7243. Corporate powers vested in trustees.

The corporate powers and duties of every village¹ so incorporated shall be vested in a board of trustees, * * * [1825; last amended 1909.]

¹ See Sec. 6215, page 543, definition.

Sec. 7248. Powers of trustees.

Such board of trustees shall have power to pass by-laws and ordinances * * * to establish and regulate markets; * * * to license, tax and regulate hay, grain and stock scales; * * * [1808; last amended 1874.]

Revised Statutes Annotated, Vol. 13, Ch. 32, Art. 1—"Liquor Control Act."

Sec. 4889. Nature, form and capacity of packages fixed by supervisor.

The supervisor of liquor control shall have authority to * * * fix and determine the nature, form and capacity of all packages used for containing intoxicating liquor of any kind, to be kept or sold under this act [Secs. 4874–4949]; * * * ; prescribe all forms of labels to be affixed to all packages containing intoxicating liquor of any kind; * * * [1937]

Revised Statutes Annotated, Vol. 14, Ch. 33, Art. 2—Grain Shipments.

Sec. 5228. Grain shipped to be weighed by railroad; weight receipt; shortage made up.

Every railroad corporation chartered by or organized under the laws of this state, or doing business within the limits of the same, when desired by any person wishing to ship any grain over its road, shall receive and transport such grain,

in bulk or otherwise, * * * ; and at all stations where scales are required to be kept, at the time such grain is received by it for transportation, such corporation shall carefully and correctly weigh the same, and issue to the shipper thereof a receipt or bill of lading for such grain, in which shall be stated the true and correct weight, and such corporation shall weigh out and deliver to such shipper, his consignee or other person entitled to receive the same, at the place of delivery, the full amount of such grain, without any deduction for leakage, shrinkage or other loss in the quantity of the same, except that one-half of one per cent shall be allowed for leakage, shrinkage or other loss on bulk grain. In default of such delivery, the corporation so failing to deliver the full amount of such grain shall pay to the person entitled thereto the full market value of any such grain not delivered at the time and place when and where the same should have been delivered. [1872]

Sec. 5250. Railroad corporation defined.

The term "railroad corporation" contained in this chapter [Secs. 4997-5563] shall be deemed and taken to mean all corporations, companies or individuals now owning or operating, or which may hereafter own or operate, any railroad in this state. [1872]

Revised Statutes Annotated, Vol. 15, Ch. 35, Art. 2—Railroad Track Scales.

Sec. 5615. Common carrier to furnish facilities for testing track scales.

It shall be the duty of all railroad corporations and common carriers operating in this state, to provide suitable facilities for the testing of all track scales used by such railroad corporations and common carriers. The commission [public service commission] is hereby authorized, after a hearing upon its own motion and after notice to the railroads operating in this state, to order a suitable car or other device or facility to be provided by the railroad corporations and common carriers operating in this state, to be used in testing the track scales used by such railroads, the expenses of providing such car, device or facility to be equitably and reasonably apportioned among the different railroad companies by the commission. Such car, device or facility shall be used by the commission to test the accuracy of all track scales, and the different railroad corporations shall transport and move such car, device or facility, without charge therefor, to the different places designated by the commission under such reasonable rules and regulations as the commission may prescribe. Such car, device or facility may be used in adjoining states to test the scales of the railroad corporations and for that purpose may be taken beyond the limits of this state under such reasonable rules and regulations for the due care and return thereof

as the commission may prescribe. The commission is hereby authorized to prescribe and collect a reasonable fee sufficient to cover the cost and expenses connected therewith for the inspection and testing of all scales. [1913]

Revised Statutes Annotated, Vol. 15, Ch. 35, Art. 4—Gas, Water and Electric Meters.

Sec. 5648. Inspection.

1. The commission [Public Service Commission] shall appoint inspectors of gas and water meters, whose duty it shall be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all gas and water meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat or power, or the quantity of water, furnished by any person, corporation or municipality to or for the use of any person or persons, and when found to be or made to be correct, the inspector shall seal all such meters and each of them with some suitable device, which device shall be recorded in the office of the secretary of state.

2. No corporation, person or municipality shall furnish, set or put in use any gas or water meter which shall not have been inspected, proved and sealed by an inspector of the commission.

3. The commission shall appoint inspectors of electric meters, whose duty it shall be, when required by the commission, to inspect, examine and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current used for light, heat or power by any person, corporation or municipality to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No corporation, person or municipality shall furnish, set or put in use any electric meter the type of which shall not have been approved by the commission.

4. Every gas corporation, electrical corporation, water corporation and municipality shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas, water and electric meters furnished for use by it, and by which apparatus every meter may be tested.

5. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same upon being so tested shall be found to be more than four per centum if an electric meter, more than

Revised Statutes Annotated, Vol. 15, Ch. 35, Art. 4—
Gas, Water and Electric Meters—Continued.

two per centum if a gas meter, or more than five per centum if a water meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the corporation or municipality, if the same on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this subsection, the expense of such inspection and test shall be borne by the consumer.

6. The commission may prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. [1913]

Revised Statutes Annotated, Vol. 20, Ch. 57, Art. 1A—Department of Public Health and Welfare.¹

¹ See Food, Drugs and Cosmetics, Secs. 9857-9875, pages 546-549.

Sec. 9759.1. Department created; divisions; powers; certain commission and boards abolished.

There is hereby created and established as a department of state government a department of public health and welfare, which may hereafter be referred to as the department. * * * The state board of health, as established by Article I, Chapter 57, Revised Statutes of Missouri, 1939, * * * [is] hereby abolished and discontinued and all powers and duties over activities and institutions pertaining to, controlled by and administered through the state board of health, * * * shall henceforth be vested in and administered through the department of public health and welfare, together with any additional powers and duties which may herein or hereafter be assigned to the department. [1945]

Sec. 9759.13. Powers and duties of state board of health transferred to department of public health and welfare; division of health.

All powers and duties heretofore under administration and control of the state board of health, except the examination and licensing of persons, shall henceforth be under administration and control of the department of public health and welfare and shall be assigned to the division of health within the department, together with all other powers and duties which may herein or hereafter be assigned. In all laws of Missouri, and orders and findings issued thereunder, wherever the term state board of health is used, the term division of health shall hereafter be substituted and understood. * * * [1945]

Sec. 9759.22. Foods and drugs: Powers and duties of division of health.

All powers and duties heretofore exercised by the state board of health pertaining to administration of acts relating to food and drugs shall be exercised by the division of health. In all laws of Missouri and in orders and findings thereunder,

wherever the words "food and drug commissioner" are used, they shall hereafter refer to and be understood to mean the director of health. Said director shall have power to appoint a deputy who, under the director, shall be chiefly responsible for administration of laws pertaining to food and drugs, and particularly to enforce all laws that now exist or that may hereafter be enacted regarding the production, manufacture or sale of any food products, or any ingredients that are used in the preparation of foodstuffs, or the misbranding of the same; and personally, or by his assistants, inspect any article of food or drug made or offered for sale in this state which he may, through himself or his assistants, suspect or have reason to believe is impure, unhealthful, adulterated or misbranded, and shall have power to cause to be arrested and prosecuted, any person or persons engaged in the manufacture or sale of foods or drugs or any food ingredients contrary to the laws of this state. Said director shall make orders and findings for carrying out the provisions of this article [Secs. 9759.1-9759.39] and such orders and findings shall conform as nearly as practicable to the orders and findings at present established or which may hereafter be established for the enforcement of the Act of Congress, approved and known as the Food and Drug Act, together with any amendments thereto [21 U.S.C. 301, et seq.; 52 Stat. 1040 et seq.]. [1945]

Revised Statutes Annotated, Vol. 21, Ch. 58, Art. 1—Food, Drugs and Cosmetics.

Sec. 9857. Definitions.

For the purpose of this Act [Secs. 9857-9878A]—
(a) The term "Board" shall be construed to mean the State Board of Health.¹

(b) The term "person" includes individual, partnership, corporation, and association.

(c) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(e) The term "device" * * * means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treat-

ment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.

* * * * *

(h) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

* * * * *

(o) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying of any such articles in the conduct of any food, drug, or cosmetic establishment.

(p) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.). [1943]

¹ Now Division of Health, Department of Public Health and Welfare, see Secs. 9759.1, 9759.13, 9759.22, page 546.

Sec. 9858. Prohibited acts.

The following acts and the causing thereof within the State of Missouri are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery of proffered delivery thereof for pay or otherwise.

* * * * *

(e) The dissemination of any false advertisement.

(l) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by Section 9876.

(g) The giving of a guaranty or undertaking referred to in Section 9860 (b), which guaranty or undertaking is false; except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Missouri or in the United States, from whom he received in good faith the food, drug, device, or cosmetic.

* * * * *

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1943]

* * * * *

Sec. 9859. Injunction.

In addition to the remedies hereinafter provided the State Board of Health¹ is hereby authorized to apply to the Circuit Court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Section 9858; irrespective of whether or not there exists an adequate remedy at law. [1943]

¹ See footnote following Sec. 9857.

Sec. 9860. Penalties for violations; guaranty protection.

(a) Any person who violates any of the provisions of Section 9858 shall, on conviction, be adjudged guilty of a misdemeanor, and punished by a fine of not more than \$1000.00 or imprisonment for not more than one year or by both such fine and imprisonment.

(b) No person shall be subject to the penalties of subsection (a) of this section for having violated Section 9858 (a) or 9858 (c), if he establishes a guaranty or undertaking signed by the person from whom he purchased the food, drug, device, or cosmetic; if a resident of this state, that the food, drug, device, or cosmetic is not adulterated or misbranded within the meaning of this Act [Sections 9857-9878A], designating it, or, if a non-resident of this state residing in the United States, or a resident of this state engaged in interstate commerce with reference to the product involved, that the food, drug, device, or cosmetic is not adulterated or misbranded within the meaning of an Act of Congress entitled "An act to prohibit the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics, and for other purposes" approved June twenty-fifth, one thousand nine hundred and thirty-eight, and the supplements and amendments thereto. [Federal Food, Drug and Cosmetic Act, Title 21

Revised Statutes Annotated, Vol. 21, Ch. 58, Art. 1—
Food, Drugs and Cosmetics—Continued.

U.S.C. 301 et seq.; 52 Stat. 1040 et seq.]. [1943]

* * * * *

Sec. 9861. Tagging, embargoing, etc. of misbranded articles.

(a) Whenever a duly authorized agent of the State Board of Health¹ finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act [Secs. 9857–9878A], he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. [1943]

* * * * *

¹ See footnote following Sec. 9857, page 546.

Sec. 9863. Minor violations; notice or warning.

Nothing in this Act [Secs. 9857–9878A] shall be construed as requiring the State Board of Health¹ to report for the institution of proceedings under this Act, minor violation of this Act, whenever the State Board of Health believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1943]

¹ See footnote following Sec. 9857, page 546.

Sec. 9864. Federal Act: Regulations more stringent than, prohibited; compliance with standards of deemed compliance with this act.

In no event shall the said state board of health¹ prescribe or promulgate any regulation fixing or establishing any definitions or standards which are more rigid or more stringent than those prescribed by the Federal Act applying to any commodity covered by this Act [Secs. 9857–9878A] and if any product or commodity covered by this Act shall comply with the definitions and standards prescribed by the Federal Act for such product or commodity, such product or commodity shall be deemed in all respects to comply with this Act. [1943]

¹ See footnote following Sec. 9857, page 546.

Sec. 9866. Food; When deemed misbranded; tolerances; exemptions.

A food shall be deemed to be misbranded—
(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed or filled as to be misleading.

(e) If in package form, unless it bears a label

containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the State Board of Health.¹

* * * * *

(1) The Board is hereby directed to promulgate regulations exempting from any labeling requirement of this Act [Secs. 9857–9878A] (1) small open containers of fresh fruits and vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling or repackaging establishment. [1943]

¹ See footnote following Sec. 9857, page 546.

Sec. 9868a. Act shall not apply to animal food grown on farm or to properly labeled prepared food for animals or to garbage.

Nothing in this Act [Sec. 9857–9878A] shall apply to any ordinary animal food grown on a farm; nor to any prepared food for animals the contents of which are stated on a label attached to the package or container in which such prepared food is contained; nor garbage fed to hogs. [1943]

Sec. 9870. Drug or device: When deemed misbranded; tolerances; exemptions.

A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the State Board of Health.¹

* * * * *

(1) * * *
(3) The Board is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of this Act [Secs. 9857–9878A], drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling, or repackaging establishment. [1943]

¹ See footnote following Sec. 9857, page 546.

Sec. 9873. Cosmetics: When deemed misbranded; tolerances; exemptions.

A cosmetic shall be deemed to be misbranded—
(a) if its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the State Board of Health.¹

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) The Board is hereby directed to promulgate regulations exempting from any labeling requirement of this Act [Secs. 9857–9878A] cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this Act upon removal from such processing, labeling or repackaging establishment. [1943]

¹ See footnote following Sec. 9857, page 546.

Sec. 9874. False advertisements.

An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any material respect. [1943]

Sec. 9875. Regulations for enforcement.

(a) The authority to promulgate regulations for the efficient enforcement of this Act [Secs. 9857–9878A] is hereby vested in the State Board of Health.¹ The Board shall make the regulations promulgated under this Act conform, in so far as practicable with those promulgated under the Federal Act. [1943]

* * * * *

¹ See footnote following Sec. 9857, page 546.

Revised Statutes Annotated, Vol. 21, Ch. 58, Art. 8—Locker Plants.

Sec. 9980.101. Definitions.

When used in this Act [Secs. 9980.101–9980.116], unless the context otherwise requires:

“Locker Plant” means a location or establishment in which space in individual lockers is rented for the storage of food.

* * * * *

“Food” means all articles used for food, drink, confectionery or condiment by man, whether simple, mixed or compound, and any substance used

as a constituent in the manufacture thereof.

* * * * *

“Operator” means any person, co-partnership, firm or corporation operating or maintaining a locker plant.

* * * * *

“Commissioner” means the Commissioner of Agriculture of the State of Missouri. [1945]

Sec. 9980.112. Report of weight and quantity may be required.

If requested by the user, the locker plant operator shall supply the person delivering the carcass or parts of carcasses an accurate and complete report showing the carcass weight at time of delivery, and disposition of carcass, including the quantity used for sausage or other meat products. Likewise, the operator shall supply a complete and accurate record showing the weights and quantity of any fruits or vegetables received and the size and number of containers of finished products packed. [1945]

Sec. 9980.116. Failure to comply cause for revocation of license; injunction.

Failure on the part of any locker plant operator to properly comply with the provisions of this act [Secs. 9980.101–9980.116] shall authorize and empower the Commissioner [of Agriculture] to refuse to license or to revoke or suspend any license of the offending operator.

Injunction may issue by any court of competent jurisdiction to enforce the provisions hereof. [1945]

Revised Statutes Annotated, Vol. 21, Ch. 71—Public Mills.

Sec. 10314. Definition.

All grist mills which grind for toll, and all water grist mills, built on any watercourse by authority of any statute or order of any court, are hereby declared to be public mills, * * * . [1825]

Sec. 10316. Rates of toll.

The owner or occupier of every public mill or mills doing an exchange business shall be entitled to toll all grain ground thereat according to the following rates: First, if a water mill, one-eighth, and if a mill propelled by power other than water, one-sixth, and no more: *Provided, however*, that such mills must actually grind or exchange all grain taken to their mills, and take therefrom the toll by weight, as above provided, and no more, as full payment for such grinding, when requested to do so. [1813; last amended 1919.]

Sec. 10320. Owner to keep measures.

The owner or occupier of a public mill shall, when his mill is in repair and fit for business, give due attendance to his customers, and assist in loading and unloading all grain which may be brought by them for the purpose of being ground, and the

Revised Statutes Annotated, Vol. 21, Ch. 71—Public Mills—Continued.

material which shall be made thereof; and shall always keep at such mill a half bushel and a peck measure, tried and sealed by the clerk of the county court, and proper toll dishes for such measures. [1825]

Sec. 10321. Penalty for violations.

Any owner, keeper or occupier of a public mill, who shall violate any of the provisions of this chapter [Secs. 10314 to 10324], shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than five nor more than fifty dollars. [1835; last amended 1851.]

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 6—"The Missouri Dairy Law."

Sec. 14112. Babcock test to be used.

When milk or cream is bought on a butterfat basis, the Babcock test must be used. It shall be unlawful for any person to manipulate, under-read or over-read the Babcock test or any other contrivance for determining the quality or value of milk or cream, or to falsify or fail to keep the record thereof, or to pay for such milk or cream on the basis of any measurement, grade, weight or test except the true measurement, grade, weight or test: *Provided*, that any person selling milk or cream under the provisions of this law [Secs. 14097-14132], who is dissatisfied with the grade or test designated for his milk or cream, shall be entitled to receive pay for such milk or cream on the grade or test as made and reported to him without waiving his right to protest the accuracy thereof; and such seller shall have the right to have his milk or cream officially graded or tested, under the procedure by him and the buyer thereof jointly taking an average sample of the said milk or cream and submitting such sample (marked as a "joint sample") to either of the following, as selected by the seller: (a) to an agent of the commissioner of agriculture, or (b) to the laboratory of the state department of agriculture, or (c) to the dairy department of the Missouri college of agriculture and experiment station, or (d) the laboratory of the state board of health: *Provided further*, that the grade or test made and decided by any one of the foregoing persons, departments, or institutions shall be final, and either the seller or the buyer shall be entitled to receive any financial adjustment due him on the basis of the final grade or test made as provided in this section. [1939]

Sec. 14128A. Cheese deemed misbranded, when.

Cheese shall be deemed to be misbranded:

(1) If its label is false or misleading in any particular;

* * * * *

(4) If in package form unless it bears a label containing:

* * * * *

(b) An accurate statement of the quantity of the contents in terms of weight and measure; [1945]

* * * * *

Sec. 14130. Penalty for violating dairy law.

Any person, or any officer, agent, representative, servant or employee of such person, who violates any of the provisions of this law [Secs. 14097-14132] shall be deemed guilty of a misdemeanor¹ and punished as provided by law, and in addition thereto his or their license shall be subject to suspension or revocation by the commissioner as provided in this law. [1939]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 18—Marketing of Farm Products.

Sec. 14288. Commissioner of agriculture to establish and enforce standards of weights and measures.

* * * The commissioner of agriculture shall have authority to establish, administer and in course of his duties enforce the standards of grades, weights and measures established and/or recommended by the United States department of agriculture, except as otherwise provided by the laws of this state. * * * [1933]

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 19—Standards for Containers for Agricultural Products.

Sec. 14290. Definitions.

* * * * *

(b) "Agricultural products" shall include horticultural, viticultural, dairy, bee, and any farm product.

* * * * *

(d) The term "Commissioner" shall mean the Commissioner of Agriculture of the Missouri State Department of Agriculture.

* * * * *

(i) The term "bushel", as applied to apples sold by volume means 2150.4 cubic inches; the term "bushel," as applied to apples sold by weight, means 48 pounds. [1925; last amended 1941.]

* * * * *

Sec. 14291. Commissioner to fix standards.

In order to promote, protect, further, and develop the agricultural interests of this state the commissioner [of agriculture] is hereby authorized and empowered after investigation and public hearing * * * to fix and promulgate official standards for containers of farm products and change any of them from time to time. [1925]

Sec. 14292. Commissioner to specify dates when standards become effective.

In promulgating the standards or any alterations or modifications of such standards the commis-

sioner [of agriculture] shall specify the date or dates when the same shall become effective and shall give public notice not less than 30 days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. [1925]

Sec. 14293. Commissioner authorized to cooperate with United States or any department.

The commissioner is authorized to fix and promulgate as the official standard for this state for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the congress of the United States, and in carrying out the provisions of this article [Secs. 14290-14305] the commissioner is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein. [1925]

Sec. 14300. Containers must comply with standards; penalty.

* * * Whenever any standard for a container for an agricultural product becomes effective under this article [Secs. 14290-14305], no person thereafter shall manufacture for commerce within the jurisdiction of this state, or sell, ship, or offer for sale in such commerce any container, either filled or unfilled, to which the standard is applicable which does not comply with such standard subject to such tolerances as may be permitted under this article. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25.00 or not more than \$100.00. [1925]

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 22—Commercial Feeding Stuffs.

Sec. 14319. Definition.

The term "commercial feeding-stuffs" shall be held to include all feeding-stuffs used for feeding livestock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, and milo, whole hays, straws, cotton seed hulls and corn stover, pure corn chops and pure ground ear corn, when the same are not mixed with other materials, but the term shall not apply to other materials containing sixty (60) per cent or more of water. [1917; last amended 1929.]

Sec. 14320. Marking requirements; standard weight packages.

Every bag, package, lot or parcel of commercial feeding-stuffs sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label, in a conspicuous place on

the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying: (a) the net weight of the contents of the package; * * * : *Provided further*, that all packages of feeds shall be in standard weight packages of five, eight and one-third, ten, twenty-five, fifty, one hundred, one hundred and fifty or two hundred pounds. [1917; last amended 1929.]

Sec. 14330. Penalties for violations.

Any person who shall violate any of the provisions of this article [Secs. 14319-14333] or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any representative of the commissioner [of agriculture] in the performance of his duties shall be guilty of a misdemeanor.¹ * * * [1929; last amended 1939.]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Sec. 14331. Rules and regulations for enforcement.

The commissioner [of agriculture] is hereby empowered to prescribe and enforce such rules and regulations as may be necessary for the enforcement of this article [Secs. 14319-14333]. [1929; last amended 1939.]

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 22—"Honest Label Dog Food Law."

Sec. 14333.2. Definitions; enforcement.

The following words, terms and definitions, when used in this act [Secs. 14333.1-14333.15], shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) The term "dog food", when used in this act, shall be understood to mean any article of "commercial mixed food", whether simple, mixed or compound, packed in cans or hermetically sealed containers and used for food for dogs; *provided, however*, that the "commercial mixed food" referred to in this section shall not be construed to apply to the "dry commercial mixed dog foods" which are manufactured for sale in this state, or sold, offered or possessed for sale, exchange, barter or trade in this state; *and it is further provided* that the said "dry commercial mixed dog foods" shall henceforth be subject to all of the requirements of Article 22 of Chapter 102, Revised Statutes of Missouri, 1939, entitled "Commercial Feedingstuffs".

(b) The term "Commissioner" means the Commissioner of Agriculture of the Missouri State Department of Agriculture, who is charged with the enforcement of the law and regulations governing the distribution of the "dog food" in the State of Missouri.

* * * * *

(c) The term "label" means any written, printed, or graphic matter upon any can or hermetically

Revised Statutes Annotated, Vol. 25, Ch. 102, Art. 22
—“Honest Label Dog Food Law”—Continued.

sealed container, bag or package or bulk of “dog food”. [1941]

* * * * *

Sec. 14333.3. Mislabeling prohibited.

No person shall, within this state, manufacture, sell, distribute, offer or expose for sale any “dog food”, which is adulterated, mislabeled or unregistered, within the meaning of this act [Secs. 14333.1–14333.15]. [1941]

Sec. 14333.5. When dog food deemed to be mislabeled.

“Dog food” shall be deemed to be mislabeled:

(a) If it is not labeled; or

(b) If the label contains any inaccurate statements, or does not conform in all particulars with the label approved by the said Commissioner [of agriculture] in connection with the registration of the distributor’s “dog food” under this act [Secs. 14333.1–14333.15].

Sec. 14333.8. Certification.

The certification made by a distributor for the purpose of registration of any brand or kind of “dog food” shall contain the following information and such other reasonable information as the said Commissioner [of agriculture] may require, for the purpose of ascertaining whether the brand or kind of said “dog food” submitted for registration conforms with the provisions of this act [Secs. 14333.1–14333.15] and all reasonable regulations issued thereunder:

* * * * *

(c) A copy of the label of the brand or kind of “dog food”, which is being submitted for registration. The label must have imprinted thereon, in a conspicuous manner, a clear and legible statement in the English language, which covers the following:

(1) The net weight of the contents. [1941]

* * * * *

Sec. 14333.11. Regulations.

The Commissioner [of agriculture] is authorized to promulgate reasonable regulations, not contrary to the terms and the intent of this act [Secs. 14333.1–14333.15], in order to effectuate any of the purposes of this act. [1941]

Sec. 14333.13. Penalty for violations.

Any violation of the provisions of this act [Secs. 14333.1–14333.15], or failure to comply with such provisions, shall be a misdemeanor,¹ and punishable as such. A violation of any of the provisions of this act by a partnership, corporation or association shall also be deemed a violation by the individual partners, directors, officers, agents or employees of such partnership, corporation or

association, who personally ordered, did, or knowingly permitted any of the acts or omissions constituting in whole or in part such violations. [1941]

¹ See Sec. 4853, page 556, punishment for misdemeanor.

Sec. 14333.14. Temporary withdrawal from sale.

In addition to the other penalties imposed in this act [Secs. 14333.1–14333.15], any lot of “dog food” sold, offered or exposed for sale contrary to the provisions of this act may, by the Commissioner [of agriculture] or his duly authorized representative, in the course of the performance of inspection duties, be ordered temporarily withdrawn from sale, pending either (a) an informal adjustment according to law between the Commissioner or his authorized representative and the person, firm or corporation in charge of the lot or parcel of “dog food” in question, or (b) the filing of a formal complaint, without undue delay, with the attorney-general or prosecuting attorney. [1941]

Revised Statutes Annotated, Vol. 26, Ch. 109, Art. 1—“Missouri Grain Warehouse Act.”

Sec. 14685.2. Missouri grain warehouse department; weighing.

That a state department of record to be designated as the “Missouri Grain Warehouse Department” is hereby established and is hereinafter referred to as “the Department”. Said department shall have the exclusive right to inspect or grade all grain and certify the grade thereof at all places where stations of said department are now or may hereafter be established; *provided*, that the owner may direct that his grain may not be inspected by writing or stamping upon the bill of lading therefor, or by other notice to the department in writing timely given, the words “No inspection desired,” or by other words to the same effect. Said department shall have the exclusive right to weigh or supervise the actual weighing of grain in licensed public warehouses subject to the provisions of this act [Secs. 14685.1–14685.58] and may weigh or supervise the actual weighing of grain in private warehouses or industries upon application of the owners or operators thereof and their agreement to guarantee the operating costs; *provided*, that nothing in this act contained shall be deemed to limit or abrogate the right of grain exchanges or boards of trade to weigh or supervise the weighing of grain in such private warehouses or industries. Said department is authorized and empowered, in the discretion of the Grain Warehouse Commissioner, to establish, maintain, and operate chemical laboratories and inspection and weighing stations covering all or any part of its services at important railway terminals and points where organized grain markets are regularly maintained, and at other points where operating costs are guaranteed by special arrangements with the industries served or

the managing officers in charge thereof. Said department shall have supervision and regulation of all warehouses operated under the provisions of this act relative to the storage of grain. Where a part or portion of a warehouse or elevator is licensed for storage purposes as herein provided for, the right of the department to weigh or supervise the weighing of grain therein shall be confined to such part of such warehouse or elevator as is licensed. The department may supervise the weighing or weigh in the balance or other portions of such warehouses or elevators upon application of the owners or operators thereof as in the case of private warehouses or elevators as hereinabove provided for. [1911]

Sec. 14685.7. Duties of commissioner.

It shall be the duty of the Grain Warehouse Commissioner to have a general supervision of the sampling, inspection, weighing, and public warehousing of grain as required by this act [Secs. 14685.1-14685.58], to supervise the handling, sampling, inspection, weighing, and storage of grain in public warehouses; to supervise protein or other chemical analysis of grain where laboratories are now or may hereafter be established; to establish necessary rules and regulations for all the aforesaid functions, and for the management of the public warehouses of the state, as such rules may be necessary to enforce the provisions of this act; to keep proper records of all sampling, inspection, weighing, protein or other chemical analysis performed under the provisions of this act, for which purpose he shall have provided books, blanks and other material needed in order to keep perfect and proper records; to fix the fees in accordance with provisions of this act; to represent the grain department in all matters requiring his attendance within and without the state of Missouri; to employ and pay the necessary personnel in accordance with provisions of this act.

It shall be the duty of the Commissioner to appoint all necessary personnel required to perform the functions of the department under his supervision, such personnel including chief inspectors and inspectors, chief weighmasters, weighers, warehouse examiners, samplers and helpers, chief clerks and clerks, chief chemists and assistant chemists, chief scale inspectors and assistant scale inspectors, chief registrars and assistant registrars, stenographers, and such additional personnel as reasonable demands may require from time to time. [1941]

Sec. 14685.8. Fees.

The Commissioner [Grain Warehouse Commissioner] shall have full power to fix the fees for sampling, inspection, weighing * * * or for additional services of whatever nature consistent with the provisions of this act [Secs. 14685.1-14685.58], which fees shall be regulated in such

manner as will, in the judgment of the Commissioner produce sufficient revenue to meet the necessary expenses of the services of sampling, inspection, weighing * * *, and for administration and clerical work in connection therewith. All fees shall be turned into the State Treasury and set up as a special fund to the credit of the Grain Warehouse Fund, and all fees so turned into the State Treasury from services performed in accordance with the provisions of this act are hereby re-appropriated to the Department for the purpose of paying all salaries and expenses necessary for complying with the provisions of this act, and paying all other expenses incurred in the administration of the department. * * * All fees collected shall be paid monthly into the State Treasury and become a part of the grain inspection, weighing and public warehouse fund of the State, the earnings of each month to be paid into said treasury on or before the 20th day of the month following the one during which such fees were earned; *provided, however*, that at the end of each biennial period all money remaining in said fund in excess of thirty thousand dollars shall be transferred by the State Treasurer and become a part of the general revenue fund. [1941]

Sec. 14685.11. Bonds of weighmasters.

All duly authorized * * * supervising weighmasters and warehouse examiners shall execute corporate surety bonds in the penal sum of ten thousand dollars, * * * and all duly authorized samplers, inspectors and weighmasters shall execute corporate surety bonds in the penal sum of five thousand dollars. All said bonds shall be executed by the aforesaid for the faithful performance of their respective duties with surety to be approved by the Commissioner [Grain Warehouse Commissioner]. [1941]

Sec. 14685.12. Negligent or unlawful acts of weighers; penalty.

Any duly authorized officer or employee appointed under the provisions of this act [Secs. 14685.1-14685.58] who shall be guilty of neglect of duty, or who shall knowingly or carelessly inspect, * * * test, or weigh any grain improperly, or who shall accept any money or other valuable consideration, directly or indirectly, for any neglect of duty as such duly authorized officer or employee, or any person who shall improperly influence any duly authorized officer or employee in the performance of his duties as such officer or employee shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than one hundred dollars nor more than one thousand dollars, or shall be imprisoned in the county jail, or if in the city of St. Louis the jail of said city, not less than six nor more than twelve months, or both such fine and imprisonment in the discretion of the court. [1941]

Revised Statutes Annotated, Vol. 26, Ch. 109, Art. 1—
"Missouri Grain Warehouse Act"—Continued.

Sec. 14685.14. Persons who may inspect, weigh or supervise weighing of grain; penalty against unauthorized weigher or supervisor; exception.

The inspection, weighing, or supervising of actual weighing of grain in this state whether into or out of licensed public warehouses or public elevators or portions of elevators and warehouses so licensed for public storage operations, subject to the provisions of this act [Secs. 14685.1—14685.58], or in cars, barges, wagons, trucks, or sacks at points where state grain inspection or weighing is established shall be performed by such persons as have been duly appointed by the Commissioner [Grain Warehouse Commissioner] and qualified according to law. * * * any person who shall weigh or supervise the weighing of grain in public warehouses where state grain weighing is established and who has not been duly appointed by the Commissioner or directed by a State weighmaster so to do, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail, or if in the City of St. Louis in the city jail of said city, for not less than three months nor more than six months, or both such fine and imprisonment, at the discretion of the court, for every such offense so committed; *provided*, nothing in this section shall apply to the inspection of grain when the bill of lading is marked "no inspection desired" or words to that effect, as provided in Section 2 [Sec. 14685.2] of this act. [1941]

Sec. 14685.15. Weighing or supervising weighing of grain; certificate; scales.

It shall be the duty of grain weighmasters appointed by the Commissioner [Grain Warehouse Commissioner] as in this act [Secs. 14685.1—14685.58] provided to weigh or to supervise the actual weighing of all grain as provided for in the provisions of this act, and the certificate of weight of such weighmasters in the discharge of their duties shall be the basis of settlement between the buyer and seller. Such weighmasters shall have the entire control, subject to the supervision of the Commissioner, of the scales under their supervision. [1941]

Sec. 14685.17. Terminal public warehouse defined.

The term terminal public warehouse, as used in this act [Secs. 14685.1—14685.58], shall mean any public warehouse located in any city in this State which now has or may hereafter have a population of seventy-five thousand or more, or a local public warehouse in this state, the owner or operator of which requests and obtains state inspection and weighing and guarantees the expense thereof; *provided*, any such elevator or warehouse not in excess of one-hundred fifty thousand bushels mea-

sured capacity shall be deemed a local public warehouse within the meaning of this act unless the operator thereof shall make application for a license as a terminal public warehouse and shall guarantee the expense of weighing and inspection therein. [1941]

Sec. 14685.18. "Local public warehouse" defined.

The term local public warehouse as used in this act [Secs. 14685.1—14685.58] shall mean any public warehouse which is not a terminal public warehouse as defined in the preceding section. [1941]

Sec. 14685.23. Certificate of weight.

* * * All grain taken into a local public warehouse shall be carefully weighed by the warehouseman or one of his employees, and a certificate of weight, the form of which shall be approved by the Commissioner [Grain Warehouse Commissioner], shall be issued, and the weight so shown by said certificate shall be stated on the warehouse receipt. * * *. [1941]

Sec. 14685.28. Charge allowed for risk and shrinkage.

* * * * *

In addition to the local public warehouse charges, the warehouseman may make an additional charge of one and one-half cents per bushel for risk and shrinkage in transit, * * *. [1941]

Sec. 14685.41. Testing of scales; use of inaccurate scales.

* * * And all scales used for the weighing of property in public warehouses shall be subject to tests by any scale inspector duly appointed and authorized by the Commissioner [Grain Warehouse Commissioner] at any time when required by any such officer. Any public warehouseman who shall use for grain weighing scales that have been found on such inspection to be inaccurate until after the same have been pronounced correct and properly sealed shall be liable to be proceeded against as hereinafter provided.¹ * * *. [1941]

¹ See Sec. 14685.44 below.

Sec. 14685.44. Hearing as to violations; revocation of license.

The Commissioner [Grain Warehouse Commissioner] is authorized, upon information, knowledge and belief, that any licensee, holding a license under the provisions of this act [Secs. 14685.1—14685.58], has violated any of the provisions thereof, to conduct a hearing respecting any such violation. * * *. If at the conclusion of such hearing the Commissioner finds that the provisions of this act have been violated by any licensee holding a license herein, such Commissioner may revoke and annul such license, and in such case he may refuse to grant a new license to a licensee whose license may be so revoked, or to anyone, either directly or indirectly, engaged with such licensee in said business, for the period of one year. * * *. [1941]

Sec. 14685.48. Official weigh-ups and inspections.

Every terminal public warehouseman operating under a terminal warehouse license is required to have an official weigh-up and inspection or examination annually of the different kinds of grain, at such time or times as may be directed by the Commissioner [Grain Warehouse Commissioner] during such period; *provided, however*, that the Commissioner may for good cause shown grant a reasonable extension of time. The Commissioner may also cause partial weigh-ups by measurements or otherwise at such times as the Commissioner may direct. Every local public warehouse operating under a local warehouse license shall be required to have official weigh-ups by measurement or otherwise at such times as the Commissioner may deem necessary. [1941]

Sec. 14685.50. Reinspection and weighing of grain in public terminal elevators.

Operators of public terminal elevators, may, with the consent of the Commissioner [Grain Warehouse Commissioner], call a reinspection and weighing of grain in the elevator, and upon the surrender of outstanding warehouse receipts in the discretion of the Commissioner, before or at the completion of said reinspection and weighing, same may be cancelled and new warehouse receipts issued therefor, such reinspection and weighing to be made under regulations prescribed by the Commissioner. [1941]

Sec. 14685.51. Device to remove dirt, etc., before grain is officially weighed forbidden.

It shall be unlawful for any person, company, or corporation to install or continue to maintain in any elevator, mill, or warehouse where official state weights are given any blower, suction fan, cleaner, or other device for the purpose of removing dirt, seeds, sticks, chaff, or any like substance from grain unloaded into said elevator, mill, or warehouse before the grain has been officially weighed. [1941]

Revised Statutes Annotated, Vol. 26, Ch. 109, Art. 2—Inspection of Oils.**Sec. 14700. Measuring devices to be tested.**

It is also made the duty of said inspector [state inspector of oil], in addition to his other duties in person or by deputy or special agent, and at least once in every six months, to carefully test and inspect the measuring devices or other instrumentalities used by any person, firm or corporation selling gasoline and motor vehicle fuels at retail, in this state, in quantities aggregating more than two hundred gallons monthly, in measuring such gasoline and motor vehicle fuels so sold and when he finds that such measuring device or instrumentality does not correctly and accurately register and measure the amount and quantity sold, shall

require the correction, removal or discontinuance of the same. [1919; last amended 1925.]

Sec. 14701. Inspectors to keep records which shall be open to inspection.

The inspector and deputy inspectors shall keep a full and accurate record of all premises and measuring devices by them examined, inspected or tested, and of the conditions by them found in making such examination and inspection, with his orders regarding same, and such record shall be kept in a book provided by the state for that purpose, and shall be open to inspection by the governor and all other persons interested. [1870; last amended 1921.]

Sec. 14702. Penalty for violating two preceding sections.

Any person violating any of the provisions of sections * * * [14700 and] 14701 shall be deemed guilty of a misdemeanor. [1919]

Sec. 14710. Penalty for violation of article.

Any person violating any of the provisions of article 2, chapter 109, Revised Statutes of Missouri, 1939, except when otherwise provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty dollars nor more than five hundred dollars or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment. [1939]

Revised Statutes Annotated, Vol. 26, Ch. 111, Art. 1—Mine Scales.**Sec. 14805. Screening coal before weighing prohibited.**

It shall be unlawful for any mine owner, lessee or operator of coal mines in this state, employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or any other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employee sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of Missouri; * * * and any owner, agent or operator of any coal mine in this state who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars for each offense, or by imprisonment in the county jail for a period of not less than sixty days nor more than six months, or by both such fine and imprisonment; proceedings to be instituted in any court having competent jurisdiction. [1885; last amended 1899.]

Sec. 14806. Weighman and checkweighman; oath; penalty for violation of duty.

The weighman employed at any mine shall subscribe an oath or affirmation before a justice

Revised Statutes Annotated, Vol. 26, Ch. 111, Art. 1—
Mine Scales—Continued.

of the peace, or other officer, authorized to administer oaths, to do justice between employer and employee, and to truly and correctly weigh the output of coal from the mines as herein provided. The miners employed by or engaged in working for any mine owner, operator or lessee of any mine in this state shall have the privilege, if they desire, of employing at their own expense a check weighman, who shall have like equal rights, powers and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weigh office, and any weigher of coal or person so employed, who shall knowingly violate any of the provisions of this article [Secs. 14783-14815], or any owner, operator or agent of any coal mine in this state who shall forbid or hinder miners employing or using a check weighman as herein provided, or who shall prevent or willfully obstruct any such check weighman in the discharge of his duty, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or by imprisonment in the county jail for a period not less than thirty days nor more than ninety days, or by both such fine and imprisonment, proceedings to be instituted in any court having competent jurisdiction. Whenever the coal mine inspector shall be satisfied that the provisions of this section have been willfully violated, it shall be his duty to forthwith inform the prosecuting attorney of any such violation, together with all the facts in his knowledge, and the prosecuting attorney shall thereupon investigate the charge so preferred, and if he be satisfied that the provisions of this section have been so violated, it shall be his duty to prosecute the person or persons guilty thereof. [1885; last amended 1895.]

Sec. 14807. Owner or operator to furnish scales; penalty for using false scales.

Every owner, agent or operator of any coal mine in the state, employing miners at bushel or ton rates, shall provide at such mine or mines accurate and suitable scales of standard manufacture upon which shall be weighed all coal coming out of such mine or mines; said scale or scales to be located at a reasonable distance from the point where the coal is delivered to the surface opening of the mine or mines, and in no case shall said scale or scales be located at a greater distance from said surface opening of the mine or mines than one hundred feet. Any owner, agent, operator, person, or persons having or using any scales or scale for the purpose of weighing the product of the miners' labor, and so arranges or constructs said scale or scales, or by any contrivance therewith connected causes the fraudulent weighing of such

coal or said product, or who shall knowingly resort to, permit or employ any person or means whatsoever, by reason of which said product of the mine is not correctly weighed and reported in accordance with the true weight and the provisions of this article [Secs. 14783-14815], shall be deemed guilty of a misdemeanor, and shall, upon conviction for each and every offense, be punished by a fine of not less than two hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed ninety days, or by both such fine and imprisonment; proceedings to be instituted in any court of competent jurisdiction. [1885; last amended 1899.]

Sec. 14808. Loaders; manner of weighing.

The manner of weighing, as hereinbefore provided for, shall apply to the class of workers in mines known as loaders, engaged in mines wherein the mining is done by machinery, whenever the workmen are under contract to load coal by the bushel, ton, or any quantity the settlement of which is had by weight. [1885]

Sec. 14809. Inspector to test scales; penalty for refusing test or failing to put scales in proper adjustment.

The coal mine inspector of this state shall be *ex officio* inspector of weights, measures and scales used at coal mines, and he is hereby empowered and it shall be his duty to test the scales used to weigh coal mined in the mines of this state at least every six months, to ascertain whether or not such scales correctly measure the weight of such coal, and if defects or irregularities are found in such scales which prevent correct weights and measurements the inspector shall call the attention of the mine owner, agent or operator to said defects and direct that the same be at once properly adjusted and corrected. If the owner, agent or operator of any coal mine in this state shall refuse to allow such inspector to properly test the scales used at such mine or mines, or shall fail or refuse to put such scales in proper adjustment and condition, so that the same shall correctly weigh the coal mined after being notified by said inspector so to do, such owner, agent or operator shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding five hundred dollars, or be confined in the county jail not exceeding six months, or both, in the discretion of the court, and it shall be the duty of the prosecuting attorneys in the respective counties to prosecute any person, firm or corporation violating the provisions of this section the same as in other misdemeanor cases. [1899]

Revised Statutes Annotated, Vol. 13, Ch. 31, Art. 9—Misdemeanors.

Sec. 4853. Punishment of misdemeanor when not fixed by law.

Whenever any offense is declared by statute to be a misdemeanor, and no punishment is prescribed by that or any other statute, the offender

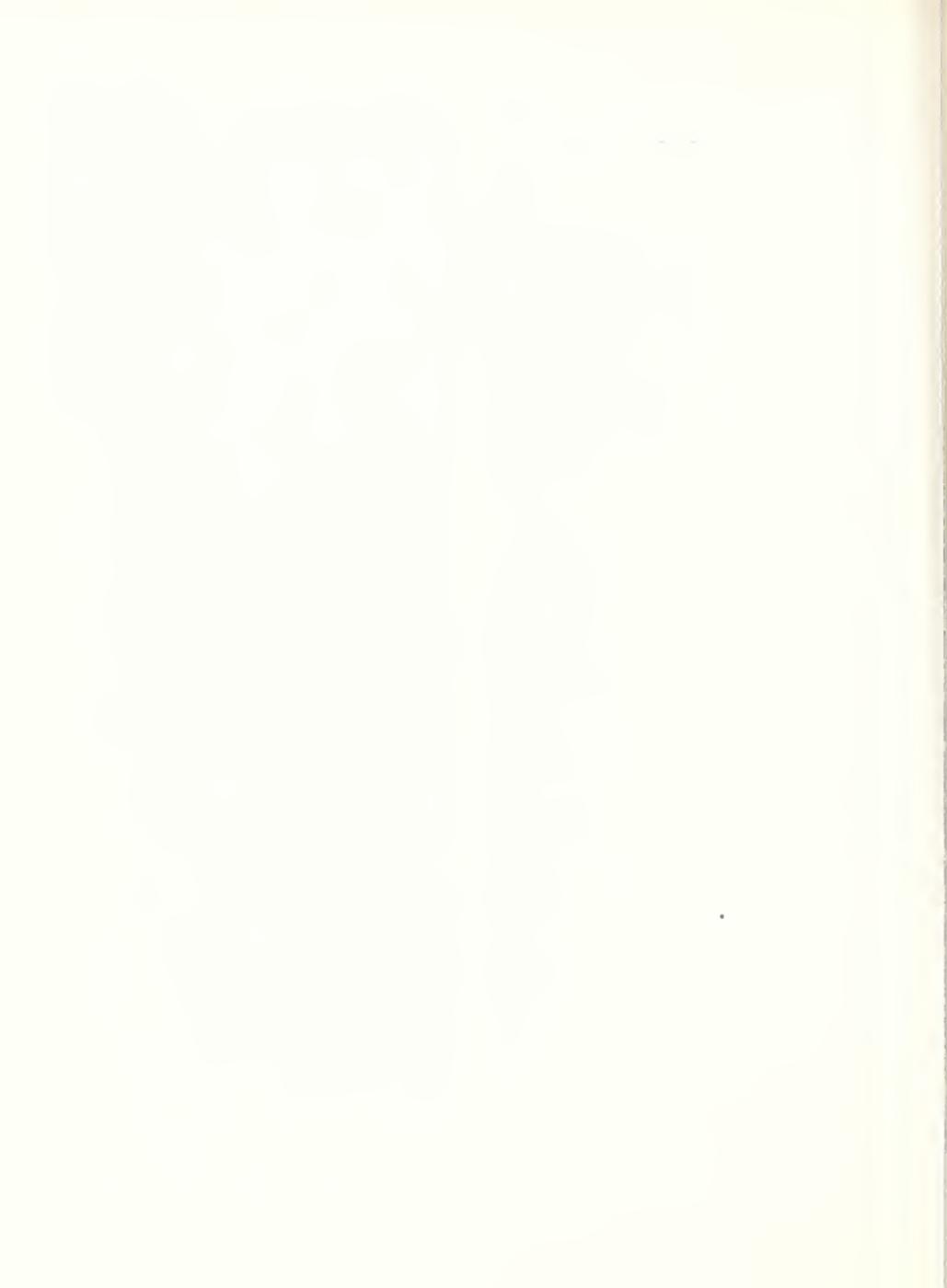
shall be punished by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. [1835; last amended 1919.]

Revised Statutes Annotated, Vol. 13, Ch. 31, Art. 8—False Advertising.

Sec. 4698. Unlawful acts; penalty.

Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated,

circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than ten days nor more than ninety days, or by both such fine and imprisonment: *Providing*, that nothing herein shall apply to any proprietor or publisher of any newspaper or magazine who publishes, disseminates or circulates any such advertisement without the knowledge of the unlawful or untruthful nature of such advertisement. [1915]



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Weights and Measures.

Sec. 4212. Standards; tolerances and specifications; penalty.

The weights and measures accepted and used by the bureau of standards of the United States at the present time, except as hereinafter provided, are the lawful standard weights and measures of the state. The state sealer of weights and measures may establish tolerances and specifications for commercial weighing and measuring apparatus similar to the tolerances and specifications recommended by such bureau of standards. Any person violating such standards, tolerances or specifications shall be guilty of a misdemeanor.¹ [1895; last amended 1945.]

¹ See Sec. 10725, page 581, punishment for misdemeanor. Also see Sec. 4234, page 563.

Sec. 4213. Unit of extension.

The standard yard is the unit or standard measure of length and surface from which all other measures of extension, whether lineal, superficial, or solid, are derived and ascertained. [1895]

Sec. 4214. Division of the yard.

The yard is divided into three equal parts, called feet, and each foot into twelve equal parts, called inches; for measures of cloths and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths, and sixteenths. [1895]

Sec. 4215. Rod, mile, and chain.

The rod, pole, or perch contains five and a half yards, and the mile one thousand seven hundred and sixty yards; the chain for measuring land is twenty-two yards long, and divided into one hundred equal parts, called links. [1895]

Sec. 4216. Acre.

The acre for land measure must be measured horizontally, and contains ten square chains, and is equivalent in area to a rectangle sixteen rods in length and ten in breadth; six hundred and forty acres being contained in a square mile. [1895]

Sec. 4217. Unit of weights.

The standard avoirdupois and troy weights are the units of standards of weight from which all other weights are derived and ascertained. [1895]

Sec. 4218. Division of pound; hundred-weight; ton.

The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, is divided into sixteen equal parts, called ounces; the hundred-weight consists of one hundred avoirdupois pounds and twenty hundred-weight constitute a ton. The troy ounce is equal to the twelfth part of the troy pound. [1895]

Sec. 4219. Unit of liquid measure.

The standard gallon and its parts are the units or standards of measure of capacity for liquids, from which all other measures of liquids are derived and ascertained. [1895]

Sec. 4220. Barrel and hogshead.

The barrel is equal to thirty-one and a half gallons, and two barrels constitute a hogshead. [1895]

Sec. 4221. Unit of dry measure.

The standard half-bushel is the unit or standard measure of capacity for substances other than liquids, from which all other measures of such substances are derived and ascertained. [1895]

Sec. 4222. Division of the half-bushel.

The peck, half-peck, quarter-peck, quart, and pint measure for measuring commodities other than liquid are derived from the half-bushel by successively dividing that measure by two. [1895]

Sec. 4223. Division of capacity for commodities sold by heap measure.

The measures of capacity for charcoal, ashes, marl, manure, Indian corn in the ear, fruit, and roots of every kind, and for all other commodities commonly sold by heap measure, are the half-bushel and its multiples and subdivision; and the measures used to measure such commodities must

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Weights and Measures—Continued.

be made cylindrical, with plane and even bottom, and must be of the following diameters from outside to outside: The bushel, nineteen and a half inches; half-bushel, fifteen and a half inches; and the peck, twelve and a third inches. [1895]

Sec. 4224. Heap measure.

All commodities sold by heap measure must be duly heaped up in the form of a cone; the outside of the measure, by which the same are measured, to be the limit of the case of the cone, and said cone to be as high as the article will admit. [1895]

Sec. 4225. Contracts construed.

Contracts made within this state for work to be done, or for anything to be sold or delivered by weight or measure, must be construed according to the foregoing standards. [1895]

Sec. 4226. Standard ton and bushel.

The standard ton consists of twenty hundred pounds, but a ton of mineral coal is expressed by the conventional quantity of twenty-six and one-third bushels of seventy-six pounds each. A bushel of the articles hereinafter named consists of the number of pounds affixed to each:

	Pounds
Alfalfa	60
Apples	50
Apples, dried	28
Barley	48
Beans	60
Beans, White Runner Pole	50
Beans, Broad Windsor	47
Beans, Lima	55
Blue Grass Seed	14
Bran	20
Beets	60
Buckwheat	52
Broom Corn Seed	30
Bromus Inermis	14
Corn, Shelled	56
Corn, Sweet	48
Corn, in the ear	70
Clover Seed	60
Coal, Stone	80
Chestnuts	50
Cucumbers	48
Carrrots	45
Cranberries	36
Flaxseed	56
Hempseed	50
Hickory Nuts	50
Hungarian Grass Seed	48
Lime	80
Millet	50
Mustard Seed	56
Oats	32
Onions	52
Onion, Bottom Sets	32
Onion, Top Sets	28
Orchard Grass Seed	14
Potatoes, Sweet	46
Potatoes, Irish	60
Peas	60
Peanuts	22
Peaches, dried	28

	Pounds
Pears	45
Parsnips	42
Plastering Hair, Unwashed	8
Plastering Hair, Washed	4
Rye	56
Rapeseed	50
Rutabagas	52
Rhubarb	50
Salt	80
Speltz	40
Sorghum Seed	57
Turnips	60
Timothy Seed	45
Tomatoes	50
Wheat	60
Walnuts	50

[1895; last amended 1945.]

Sec. 4227. Penalty for demanding, exacting or taking more than the prescribed number of pounds per bushel or per ton.

Any person, persons, company, or corporation who shall demand, exact, or take more than the prescribed number of pounds per bushel or per ton as fixed by the provisions of the preceding section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both such fine and imprisonment, in the discretion of the court. [1895; last amended 1921.]

Sec. 4228. Measurement of hay in the stack.

Hereafter unless otherwise agreed to between the contracting parties, the following shall constitute the legal measurement for hay in stack in the state of Montana: Four hundred twenty-two cubic feet shall constitute a ton of clean, native, blue joint hay, after thirty days and up to three months settlement in stack; when the same shall have been in stack three months, or over, three hundred and forty cubic feet shall be considered a ton. Five hundred twelve cubic feet shall constitute a ton of alfalfa or rough slough grass, after the same shall have been in the stack thirty days or more and up to one year. Four hundred and fifty cubic feet shall constitute a ton of clean timothy and clover, after the same shall have been in the stack thirty days or more and up to one year. As to all other kinds of hay, five hundred and twelve cubic feet shall constitute a ton after the same shall have been in the stack sixty days or more and up to one year. For making measurements of hay in stack, the following is hereby made the legal method of measurement, to-wit: The width and length of the stack shall be measured, and the distance from the ground against one side of the stack, to the ground against the other side of the stack, directly over and opposite, shall be taken in linear feet and inches, and then the width shall be subtracted from the measurement over the stack, as above indicated, the result divided by two, and the result so obtained multiplied by the width, and the result thus

obtained multiplied by the length, which will give the number of cubic feet contained in the stack, and the tonnage shall thereupon be determined by dividing the total number of cubic feet by the number of cubic feet allowed under the provisions of this act for a ton. [1907; last amended 1921.]

Sec. 4234. Penalties for using, marking or stamping false weights and measures.

The penalties for using, marking, or stamping false weights and measures, or selling therewith, is provided for in sections 11428 to 11431¹ of the penal code. [1895]

¹ See page 581.

Sec. 4235. State sealer of weights and measures; deputies; bond.

The commissioner of agriculture is hereby declared to be and is the ex officio state sealer of weights and measures. He shall appoint as many deputy sealers of weights and measures as he may deem necessary, subject to existing laws. Each such deputy shall give a bond to the state of Montana in the sum of one thousand dollars (\$1,000.00) conditioned upon the faithful performance of his duties. [1911; last amended 1939.]

Sec. 4236. Same: Powers and duties.

Said state sealer of weights and measures shall have general supervision over the weights and measures of the state. He shall take charge of the standards of weights and measures and shall procure at the expense of the state any weights and measures that may be necessary, and shall cause them to be kept and in no case removed from a fire-proof vault, except for the purpose of certification and repairs. He shall maintain said standards in good order and shall submit them once in ten years (10) to the national bureau of standards for certification. [1911; last amended 1939.]

Sec. 4237. Same: Authority to perform acts authorized.

The state sealer of weights and measures shall be authorized to perform any and all acts by this act [Secs 4235-4264.2] authorized. [1911; last amended 1939.]

Sec. 4238. Same: Duties and powers; deputies.

The state sealer shall prescribe and adopt such rules and regulations for the installation of heavy duty scales as he may deem necessary to carry out the provisions of this chapter, and he may change or modify or amend any or all rules whenever deemed necessary. Said state sealer of weights and measures, or his deputies, shall visit the various counties, cities and towns in the state, and in the performance of his duties, he, or his deputies, shall inspect weights and measures and balances which are used for buying or selling goods, wares, merchandise, or other commodities, and for public weighing, and shall test or calibrate weights and measures, weighing devices or apparatus used as test standards in the state. He, or his deputies, shall,

at least once a year, test all scales, weights and measures used in checking the receipts or disbursements of supplies of every state institution, and shall report in writing his findings to the executive officer of the institution concerned. The state sealer of weights and measures shall prepare a certificate of suitable size which shall be issued to the owner or person in charge after inspection, and a proper seal to be attached or affixed to all weights and measures or measuring devices so tested. Said certificates and seals shall bear the signature of the state sealer of weights and measures, or shall be signed by a deputy sealer of weights and measures. Such certificate shall be numbered in consecutive order, and shall show the date of issuance. It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel or remove any such certificate, or any seal, stamp or mark provided for by this act [Secs. 4235-4264.2], or cause or permit the same to be done, or to violate any of the provisions of this act, without the written consent of the state sealer of weights or that of the deputy who inspected the weighing device. [1911; last amended 1949.]

Sec. 4240. Use of weights and measures before testing; sealing; penalty.

From and after the passage and approval of this act [Secs. 4235-4264.2] it shall be unlawful for any person or persons, firm, or co-partnership, corporation, or association of persons engaged in the trade of buying or selling, purchasing or disposing of, or dealing in any merchandise or commodities to any person, or persons, in the state of Montana, to sell or purchase by weight or by measure, without first having had the weights and measures, scales or measuring devices used by them, or in their possession, for the purpose of determining the amount or quantity of any article or articles of merchandise, tested and a seal attached thereto by the state sealer of weights and measures, or by his deputies. Such seal shall be attached or placed in a conspicuous place upon such weighing or measuring device. Any person or persons making use of weighing devices subject to this act must report to the sealer of weights and measures or his deputies, in writing, the number and location of said weighing device and must promptly report the installation of any new weighing device. Any person or persons using any weight or measure, or scale or other measuring device after the passage and approval of this act, or annually thereafter, which has not been tested as provided by this act, shall, upon conviction thereof, be deemed guilty of a misdemeanor.¹ [1911; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4241. Weights and measures adjusted annually.

Every person or persons, firm, co-partnership or corporation engaged in the trade of buying and selling, or as a public weigher or user of weights

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and measures shall, at least once each year, have his weights, measures, balances and scales adjusted and sealed. [1911; last amended 1939.]

Sec. 4242. State sealers and deputies to enter and test devices annually; drivers of vehicle to show weight ticket on demand.

At least once each year, the state sealer of weights and measures, or his deputies, shall visit the places of business and enter upon the carts, wagons or vehicles then in use for the business of all persons engaged in the trade of buying and selling or selling, who have weights, measures, or balances which have not been sealed during the current year, and try, adjust and seal the same. All drivers of vehicles used in transporting any commodity which has been weighed shall, upon demand of the sealer of weights and measures, or his deputies, exhibit for examination the weigh ticket or bill of the commodity weighed or transported, showing the weight thereof. [1911; last amended 1939.]

Sec. 4243. Testing and sealing of measuring and computing devices.

The state sealer of weights and measures, or his deputies shall have power to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of any kind, instruments or mechanical devices for measurement, and the tools, appliances, or accessories connected with any and all of such instruments or measurements, used, kept for use, sold, offered for sale, or kept for sale, or employed within the state by a proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by such persons for sale, hire, or award. Provided also, that the state sealer of weights and measures, or his deputies, shall at least once a year and as often as may be deemed necessary, try and prove all computing scales and other devices having a device for indicating or registering the price as well as the weight of the commodity offered for sale. Computing devices, which may be used by any person at any place within this state, shall be tested as to the correctness of both weight and arithmetical values indicated by them. [1911; last amended 1939.]

Sec. 4244. Packages or amounts of commodities subject to testing; wagon scales to be tested; police powers of sealers and deputies.

The sealer of weights and measures, or his deputies, shall at irregular intervals examine all commodities sold and offered for sale and test them for correct weight, measure or count. And he, or his deputies, shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold, or in the process of delivery, in order to determine

whether the same contain the quantity or amount represented and whether they are being offered for sale or sold in accordance with law and may seize for use as evidence any such amounts of commodities or package or packages which shall be found to contain a less amount than that represented. He, or his deputies, shall, for the purposes above mentioned, and in the general performance of their official duties, enter or go into or upon, with or without formal warrant, any stand, place, building, or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever and require him, if necessary, to proceed to some place specified by the sealer of weights and measures, or his deputies, for the purpose of making the proper tests; and in the exercise of such duties they shall have full police power to enforce any and all reasonable measures for testing such weights and measures, and also in ascertaining whether false or short weights and measures are being given in any sales or transfer of articles or merchandise taking place within the state. Whenever the state sealer of weights and measures, or his deputies, have reason to believe that any person or persons or corporation is violating the provisions of this act [Secs. 4235-4264.2], or any act relating to weights and measures, they shall submit the evidence to the properly constituted authority in the county in which such violation occurs, who shall thereupon prosecute the persons alleged to have violated the provisions of this act, or any act relating to weights and measures, or such evidence may be submitted direct to the attorney general of the state, who shall have authority to prosecute such persons in the proper county. [1911; last amended 1939.]

Sec. 4245. Track scales; power to condemn; penalty for wilful short weighing or measuring.

(a) All track scales used for the purpose of weighing freight in carload lots within the state shall be under the control and direction and jurisdiction of the state sealer of weights and measures, and subject to inspection by him, or his deputies.

(b) The state sealer of weights and measures, or his deputies, shall have power either on their own motion or on complaint being made, to determine whether any scales are defective or inefficient, or whether the time, manner, or method of using same is unreasonable, ineffective, or unjust, and shall have power to condemn any scale found to be defective or inefficient, and prohibit the use of the same while in that condition, and to render such decision and to make such order, rule, or regulation as may be deemed necessary or advisable. No scale platform shall be allowed to extend over the manufacturer's specifications.

(c) Any person or persons who shall sell, or direct or permit any person or persons in his or their employ to sell any commodity or article of merchandise and make or give any false or short weight or measure, or any person or persons owning or

keeping, or having charge of any scales or steelyards for the purpose of weighing livestock, hay, grain, coal, or other articles, who shall report any false or untrue weight, whereby any other person or persons may be defrauded or injured, shall be deemed guilty of a misdemeanor,¹ and shall be answerable to the party defrauded or injured in double damages. [1913; last amended 1945.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4246. Package labels; commodities and articles of merchandise; sale by net weight, measure, or count; tolerances; refusal to exhibit for test; standard berry containers; penalties.

It shall be unlawful for any person or persons, association, or corporation, to sell or offer for sale in this state any commodity or article of merchandise in a package or container, without having such package or container labeled in plain, intelligible words and figures, with a correct statement of the net weight, measure, or numerical count of its contents, designated, where not otherwise provided, by lettering of at least 1/9 inch in height (8 point type). Provided, that nothing in this section shall prevent the sale of a commodity within the provisions of this act [Secs. 4235-4264.2] when such sale is made from bulk and the quantity is weighed, measured, or counted for the immediate purpose of such sale; provided, further, that nothing in this section shall apply to commodities or articles of merchandise, except milk and cream, offered for sale or sold in packages or containers at a price of ten cents (10c) or less per such package or to commodities or articles of merchandise in packages or containers which are sold by the aggregate net weight of the contents thereof.

1. It shall be unlawful for any person to sell or offer for sale in this state any commodity or article of merchandise, except by true net weight, measure, or numerical count, except where the parties otherwise agree. Contracts for work done, or anything to be sold by weight or measure, shall be construed according to the standards hereby adopted as the standards of this state, except where the parties have agreed upon any other calculations of measurement, and all statements and representations of any kind referring to the weight or measure of commodities or articles of merchandise shall be understood in the terms of the standards of weights and measures aforesaid. It shall be unlawful for any person to sell solid substances by liquid measure.

2. It shall be unlawful for any person, in buying or selling any commodity or article of merchandise, to make or give false or short weight or measure, or to sell or offer for sale any commodity or article of merchandise less in weight or measure than he represents, or to use a weight, measure, balance or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchan-

dise, or to have a weight, measure, balance, or measuring device adjusted for the purpose of giving false or short weight or measure, or to use in buying or selling of any commodity or article of merchandise a computing scale or device indicating the weight and price of such commodity or article of merchandise, upon which scale or device the graduations or indications are falsely or inaccurately placed, either as to weight or price, or to use any computing scale having a horizontal registering bar with a barrel computing device, unless such scale is adjusted to register the correct weight from all angles of vision, and the view on the customer's side shall never be, in any manner, obstructed. The selling and delivering of any commodity or article of merchandise shall be prima facie evidence of the representation on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation, or waste that there may be from the time a package or container is filled by a vendor until he sells the same. A slight variation from the stated weight, measure or quantity for individual packages not to exceed three per cent is permissible; provided, that the variation is as often above as below the weight, measure or quantity stated.

Any person, who by himself, or his employee or as a proprietor or manager, shall refuse to exhibit any article, commodity or the container of any commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the state sealer of weights and measures, or his deputies, for the purpose of allowing the same to be tested and proved as to the quantity contained therein as in this act provided, shall be guilty of a misdemeanor.

The term container used in this act is hereby defined to be ANY receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put up for sale, or to be offered or exposed for sale. No containers, boxes, or baskets wherein food products or other commodities are packed shall have a false bottom, false side walls, false lid or covering, or be otherwise so constructed as to facilitate the perpetration of deception or fraud. The state sealer of weights and measures, or his deputies, may seize any container which facilitates the perpetration of deception or fraud. By order of a court having jurisdiction the containers seized shall be condemned and destroyed or released upon such conditions as the court in its discretion may impose, to insure against their use in violation of this section.

There are hereby established the following standard net weights for all berry containers, or hallocks in which strawberries, red or black raspberries, blackberries, currants, gooseberries, or any other berries are sold or offered for sale in this state:

(a) Pint hallocks or containers shall be 33.6 cubic

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inches in capacity and the contents thereof shall have a net minimum weight of twelve (12) ounces.

(b) Quart hallocks or containers shall be 67.2 cubic inches in capacity and contents thereof shall have a net minimum weight of twenty-four (24) ounces. The sale of, or having in possession for sale, any strawberries, red or black raspberries, blackberries, currants, gooseberries or any other berries in containers or hallocks not complying with the provisions of this act shall be a misdemeanor punishable, upon conviction, by a fine of not less than ten dollars (\$10.00), nor more than twenty-five dollars (\$25.00). [1913; last amended 1939.]

Sec. 4247. State sealer: Records and reports.

The state sealer of weights and measures shall keep a complete record of all work done under his direction, and shall make a biennial report to the governor not later than the first of January of each year preceding the meeting of the legislative assembly. [1911; last amended 1939.]

Sec. 4248. False sealing; penalty.

Any person authorized to seal weights and measures in accordance with this act [Secs. 4235-4264.2] who shall, without duly verifying the weights and measures or any weighing device of any person by comparison with the standards of weights and measures, stamp any such weighing device or measure, or attach thereto a seal that said weighing device or measure has been duly tested, is hereby declared, upon conviction thereof, to be guilty of a misdemeanor.¹ [1913; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4249. Trade devices to be marked and stamped; exceptions; apothecaries' weights and measures to be tested and sealed.

Every weight for use in trade, except when the small size of the weight renders it impracticable, shall have the denomination of such weight permanently marked on the top side thereof in legible figures or letters; and every measure of capacity for use in trade shall have the denomination and kind thereof permanently marked on the outside of such measure in legible figures or letters. A weight or measure not in conformity with this section shall not be sealed by the state sealer of weights and measures, or his deputies.

(a) Apothecaries and all other persons dealing in drugs, medicine and merchandise, commonly sold by apothecaries' weight or by apothecaries' liquid measure, shall at least once in two years cause such weights and measures so used to be tested and sealed by officers authorized under this act [Secs 4235-4264.2] to inspect weights and measures. [1911; last amended 1939.]

Sec. 4250. Sealer to adjust weights or forbid use; penalty.

If any weights, measures, scales or balances can be readily adjusted by such means as the sealer of

weights and measures, or his deputies, may have at hand, he, or they may adjust and seal them, but if they cannot be readily adjusted he, or they, shall affix to such weights, measures, scales or balances a notice forbidding their use until he, or they are satisfied they have been so adjusted as to conform with the standard. It shall be unlawful for any person to remove such notice, without the written consent of the officer affixing the same, unless proper repairs have first been made. And in case said notice is removed without such written consent, before proper repairs have been made, the owner, manager, proprietor, lessee or anyone in active control of the business in connection with which said weights, measures, scales or balances are used after such removal of said notice, shall be deemed guilty of a misdemeanor¹ and shall be punished accordingly. [1911; last amended 1941.] * * *

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4251. Condemning or confiscating scales; family scales; damages not allowed.

All weights, measures, and balances which cannot be made to conform to the standard weights and measures as herein provided shall be stamped "condemned" or "C. D." by the state sealer of weights and measures, or his deputies, or the state sealer of weights and measures, or his deputies, may confiscate and seize, without warrant, any incorrect weight, measure, weighing or measuring device or part thereof which does not conform to the state standards or specifications, and which in his or their best judgment cannot be repaired. It shall be unlawful to offer or expose for sale, sell, use or possess a faulty scale, weight or measure, or any scale or measure used in buying or selling of any commodity or things and which has been rejected by the state sealer of weights and measures or his deputies. Scales commonly known as "family scales" or scales marked when sold "not legal in trade" shall not be deemed standard and shall be subject to such seizure. The state sealer of weights and measures, or his deputies, shall not be liable to the owner of the property for damages caused by such seizure. All persons owning coin weight scales shall place their name and address on the back of the scale. In all cases where inspection fees are not paid on coin weight scales, the same may be confiscated by the state sealer of weights and measures, or his deputies. [1911; last amended 1945.]

Sec. 4252. Seizure as evidence; return or forfeiture.

The state sealer of weights and measures, or his deputies, may seize, without warrant, such weights, measures, or balances as may be necessary to be used as evidence in case of violation of any act relative to the sealing of weights and measures. They shall be returned to the owners or forfeited as the court may direct. [1913; last amended 1939.]

Sec. 4253. Itinerant vendors' scales to be tested annually.

All itinerant peddlers and hawkers, using scales, balances, weights, or measures, shall take the same to the office of the state sealer of weights and measures, or his deputies, before any use is made thereof, and have the same sealed and adjusted at least once a year. [1911; last amended 1939.]

Sec. 4254. Milk to be sold by wine measure; remedy for short measure.

All milk, cream, and skimmed milk shall be sold only by standard wine measure, and by or in measures, cans, jars, bottles, or other vessels or receptacles, the standard measure or capacity of which shall be the gallon containing two hundred thirty-one (231) cubic inches, the half gallon containing one-half as much as the gallon, and the quart one-fourth as much as the gallon and the pint one-half as much as the quart. Any purchaser of milk, cream or skimmed milk, having reason to believe that any measure, can, jar, bottle, or other vessel or receptacle, in which milk, cream, or skimmed milk is sold and delivered to him, is not of sufficient size or capacity to contain, by standard wine measure, the amount thereof purchased, may apply to the sealer of weights and measures, or his deputies, who shall test the capacity of the same and issue to such purchaser his certificate stating the capacity thereof; and if such capacity, according to such certificate, shall be less than the amount purchased, such purchaser may make complaint to any court having jurisdiction. [1911; last amended 1939.]

Sec. 4255. Milk containers: Capacity indelibly marked; testing; penalty.

No person or corporation shall, after the passage of this act [Secs. 4235-4264.2], sell or offer for sale within the state of Montana, any milk or cream in bottles or glass jars, unless each of said bottles or glass jars in which said milk or cream is sold or offered for sale shall have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, the capacity thereof, and the state sealer of weights and measures, or his deputies, shall have the right, at any time, to examine any such bottle or glass jar, in order to ascertain whether such bottle or jar is of a capacity not less than that which it purports to be; and if any such bottle or jar is of less capacity than that which it purports to be, or if any such bottle or jar shall not have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, its capacity as aforesaid, the person or corporation selling or offering for sale milk or cream in any such bottle or jar, or having in his possession any such bottle or jar, to be used or which has been used for the purpose of containing milk or cream to be sold or offered for sale in said state of Montana shall be deemed guilty of a misdemeanor.¹ [1911; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4256. Penalty for use or possession of false weighing or measuring devices.

A person who uses, or has in his possession for use in trade, any weight, measure, scale, balance, steel-yard, or weighing device, which is false or incorrect, shall be guilty of a misdemeanor,¹ and any contract made by any person based upon such false or incorrect devices shall be void and such devices shall be liable to be forfeited by any court having jurisdiction. [1911; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4257. Certain weights and measures legal throughout state.

A weight or measure duly stamped by the state sealer of weights and measures, or his deputies, or by the national bureau of standards, shall be a legal weight or measure throughout the state, unless found to be false or incorrect, and shall not be liable to be resealed because used in any other place than that in which it was originally stamped. [1911; last amended 1939.]

Sec. 4258. False selling; misdemeanor.

Whoever sells or offers for sale a less quantity than represented, or sells in a manner contrary to law, shall be guilty of a misdemeanor.¹ [1911; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4259. Tolerances to be established by state sealer.

The state sealer of weights and measures shall, after consultation with, and with the advice of the national bureau of standards, establish tolerances for use in the state of Montana, and said tolerances shall be the legal tolerances in the state of Montana. [1911]

Sec. 4260. Obstructing sealer; misdemeanor.

Any person who neglects or refuses to produce for the state sealer of weights and measures, or his deputies, all weights, measures, or balances in his possession and used in trade, or on his premises, or refuses to permit the said officers to examine the same, or obstructs the entry of said officers, or otherwise obstructs or hinders any official under this law shall be guilty of a misdemeanor.¹ [1911; last amended 1939.]

¹ See Sec. 4264.1, page 568, penalty for violations.

Sec. 4261. Rules and regulations for deputies promulgated by state sealer.

The state sealer of weights and measures is hereby authorized to make such rules and regulations for the guidance and direction of his deputies in conformity with this act [Secs. 4235-4264.2] as may be proper and necessary to carry out the provisions of this act in a uniform manner. Such rules and regulations when adopted by the state sealer of weights and measures shall have the same force and effect as is provided for in this act. [1911; last amended 1939.]

Revised Codes 1935, Vol. 2, Political Code, Ch. 330—
Weights and Measures—Continued.

Sec. 4263. Power of sealer and deputies to make arrests.

The state sealer of weights and measures and his deputies shall be, by virtue of their respective offices, deputy sheriffs, and as such shall have power to arrest and detain any person violating the provisions of this act [Secs. 4235-4264.2], without warrant. [1911; last amended 1939.]

Sec. 4264. Disposition of fines collected.

All fines collected for violation of the provisions of this act [Secs. 4235-4264.2] shall be paid to the state treasurer for support and maintenance of the department of weights and measures. All justices of the peace and clerks of district court who may collect any fine imposed for the violation of the provisions of this act must, not later than the fifth of each month, transmit to the state sealer of weights and measures all moneys so collected, after deducting therefrom all costs in each case, and the state sealer of weights and measures shall pay the same to the state treasurer, taking his receipt therefor. [1911; last amended 1939.]

Sec. 4264.1. Penalty for violation of act.

Any person violating any of the provisions of this act [Secs. 4235-4264.2] shall be deemed guilty of a misdemeanor and where no other penalty is herein provided, upon conviction shall be fined not more than five hundred (\$500.00) dollars. [1939]

Revised Codes 1935, Vol. 2, Political Code, Ch. 346—
County Public Scales.

Sec. 4471. County commissioners may establish public scales.

The board of county commissioners of any county is hereby authorized, in its discretion, when petitioned by twenty-five or more residents and freeholders of the county, to establish and locate public scales at any suitable location selected by the county commissioners within the county. [1905]

Sec. 4472. Capacity of scales.

Such scales shall be purchased by the county, and be of not less than five tons' weighing capacity, and shall be provided with glass or open front which can be observed by the one weighing, without dismounting from wagon, and shall be the property of the county, and at all times be under its control and subject to the will of the county commissioners. [1905]

Sec. 4473. Public weigher: Appointment; bond.

The board of county commissioners shall appoint at each place where public scales are established by them a public weigher, who shall have the custody and care of such property, and who shall give a bond to the county in the sum of five hundred dollars, conditioned for the safe-keeping of the same, and for the faithful and impartial discharge of the duties incident to his trust in office. [1905]

Sec. 4474. Same: Duties.

It shall be the duty of each public weigher to keep a stub record of all weighing done by him, which record and the receipt issued by such public weigher shall show for whom property was weighed, and the character and kind thereof, and shall constitute prima facie evidence of the facts therein contained; and all such stub records, or other records which the county commissioners may require him to keep, shall at all times be open to public inspection during business hours, between seven a. m. and six p. m. of any day, save and except Sundays and legal holidays, and such public weigher shall file a sworn statement with the county recorder of the county, as prescribed by the county commissioners thereof, which statement shall show the date and character or kind of property weighed, for whom weighed, and a complete statement of all fees collected. [1905]

Sec. 4475. Same: Governed by rules and regulations of board of county commissioners.

Such public weigher shall receive not to exceed ten cents for each receipt issued by him, and shall be governed by such rules and regulations as may be from time to time prescribed or adopted by the board of county commissioners, and he may be removed at any time by such board. [1905]

Sec. 4476. Same: Issuance of false receipts; penalty.

Any public weigher, under the provisions of this act [Secs. 4471-4476], who shall make any false or fraudulent receipt of any weighing done by him, or shall be guilty of any collusion with any other person or persons for the purpose of deceiving any person or persons in regard to the correctness of weights, or who shall fail to comply with the requirements of the preceding section, is guilty of a misdemeanor.¹ [1905]

¹ See Sec. 10725, page 581, punishment for misdemeanor.

Revised Codes 1935, Vol. 2, Political Code, Ch. 346—
County Public Markets.

Sec. 4490. Market master; powers and duties; enforcement of weights and measures laws.

In each of the counties of this state wherein the office of county auditor exists the county auditor shall be ex-officio the county market-master, and in all counties of this state hereinbefore enumerated, and in all other counties which may avail themselves of the provisions of this act [Secs. 4488-4494], wherein no office of county auditor is maintained, the county clerk of such county shall be ex-officio market-master, and as such market-master shall, under the supervision and approval of the board of county commissioners, make all necessary rules and regulations for the establishment, maintenance, operations, and control of the markets established hereunder in the respective counties of the state; and it shall be the duty of such market-

master * * * to see that the laws in the state of Montana in reference to weights and measures are enforced and observed * * *. [1917]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 383—
Cities and Towns.**

Sec. 5039.22. Weighing, measuring and inspecting.

The city or town council has power: To regulate the inspection, weighing, and measuring of wood, coal, stone, corn, or other grain, and hay, within the city or town. [1921; last amended 1927.]

Sec. 5039.55. Standards and sealer of weights and measures.

The city or town council has power: To establish standard weights and measures to be used in the city or town, and to provide for a sealer of standard weights and measures, who has jurisdiction within the city or town. [1921; last amended 1927.]

Sec. 5039.56. Inspection and measuring of building materials.

The city or town council has power: To provide for the inspection and measuring of lumber and other building materials. [1921; last amended 1927.]

Sec. 5040. Inspection and measurement of gas and electricity.

The council of any incorporated city or town shall have power, by ordinance, to provide for and regulate the inspection and the measurement of gas, electric, or other light, and electric or other power, sold within its limits or brought into or carried through any such city or town. [1907]

**Revised Codes 1935, Vol. 1, Political Code, Ch. 170—
Scaling of Logs.**

Sec. 1830.8. Log rule.

It shall be the duty of the state forester to supervise all the state timber sales, * * *. He shall require that each merchantable log be scaled by the Scribner Decimal C. log rule inside the bark at the small end, and that the deduction be made for all visible cull. He shall fix and determine converting factors and units of measure for all forest products other than saw logs, which shall be as nearly as practical equivalent to the Decimal C. log scale. He shall require that all merchantable logs sold be numbered consecutively on at least one end, and that the corresponding numbers and the scale therefor be entered in a scale book, which shall be retained as a permanent public record showing date of scale, the designation of the sale, and the name of the scaler or scalers who did the work. He shall also require that each merchantable saw log, stull, tie, post, pole or other piece of timber be stamped on one or both ends with the official state timber mark, which is hereby authorized and designated thus, "S-T", signifying "State Timber"; provided, however, in the event of small sales of timber to individuals or others, where the volume of

timber involved is not in excess of one million board feet (1,000,000) log scale, the state forester is authorized to designate each tree to be cut and make a tree scale measurement of all trees to be sold. [1925; last amended 1945.]

**Revised Codes 1935, Vol. 1, Political Code, Ch. 209—
Coal Retailers' License Tax.**

Sec. 2336. Coal: Full weight to be given; ton.

In all sales of coal the person selling the same must give to the purchaser full weight at the rate of two thousand pounds to the ton. [1921]

Sec. 2338. Same: Revocation of license.

The state board of equalization shall have the power to revoke the license of any person upon the conviction of such person of the violation of any of the provisions contained in [Sec. 2336] * * *. [1921]

Sec. 2342. Same: Penalty for violations.

Any violation of any of the provisions of this act [Secs. 2327-2343] shall be deemed a misdemeanor, and shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. [1921]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 237—
"Pure Food and Drug Act."**

Sec. 2578. Unlawful to sell, etc. misbranded articles.

It shall be unlawful for any person, persons, firm, or corporation, within this state, to manufacture for sale, within this state sell, offer for sale, or have within his or their possession, with the intent to sell within this state, any drugs or article of food which is adulterated or misbranded within the meaning of this act [Secs. 2578-2599]. * * * [1911]

Sec. 2582. Food sold by weight or measure; size of gallon, ounce and pound.

In case of food sold by weight or measure, all measures shall be in gallons or fractions thereof, a gallon to contain two hundred and thirty-one cubic inches, and each fraction of a gallon to contain its corresponding fraction of two hundred and thirty-one cubic inches. Where weights or measures are stated in pounds and ounces, they shall be exclusive of the wrapper or other container, and each pound shall contain sixteen ounces, each ounce containing four hundred and thirty-seven and one-half grains. Any person, persons, firm, or corporation selling or offering for sale any article of food as a pound, or any multiple thereof, except by actual weight, the net weight of which is less than sixteen ounces, or the proper multiple thereof to represent the number of pounds sold or offered for sale, and any person, persons, firm, or corporation selling or offering for sale any quantity of food as a gallon, or any fraction thereof, which does not con-

Revised Codes 1935, Vol. 2, Political Code, Ch. 237—
"Pure Food and Drug Act"—Continued.

tain two hundred and thirty-one cubic inches net measure, or the fraction thereof represented by the fraction of a gallon offered for sale or sold, shall be guilty of a misdemeanor. [1911]

Sec. 2587. Misbranded food.

The term "misbranded", as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food or drugs, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, * * *. That for the purpose of this act [Secs. 2578-2599], an article shall be deemed to be misbranded; * * *

In the case of foods:

* * * * *

Third. If in the package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. [1911]

* * * * *

Sec. 2588. Guaranty protection.

No dealer shall be prosecuted under the provisions of this act [Secs 2578-2599] for selling or offering for sale any article of food or drugs, as defined herein, when the same is found to be adulterated or misbranded within the meaning of this act, in the original, unbroken package in which it was received by said dealer, when he can establish a guarantee, signed by the wholesaler, jobber, or agent, or other party residing in the United States from whom he purchased such article, or if a proper printed guarantee of the manufacturer with his address be upon the package or container, to the effect that the same is not adulterated or misbranded in the original unbroken package in which the said article was received by said dealer, within the meaning of this act, designating it, or within the meaning of the food and drug act, enacted by the senate and house of representatives of the United States of America in Congress assembled June 30, 1906.¹ Said guarantee to afford protection must contain the name and address of the party or parties making the sale of such article to such dealer, or of the manufacturer thereof as herein specified, and in such case said party shall be amenable to prosecution, fines, and other penalties which would attach in due course to the dealer under the provisions of this act. [1911]

¹ Superseded by Act of 1938, 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.

Sec. 2591. Enforcement.

It shall be the duty of the state board of health to enforce the provisions of this act [Secs. 2578-2599] * * *. [1919]

Sec. 2598. Food defined.

The term "food," as used in this act [Secs. 2578-2599] shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. [1921]

Sec. 2599. Penalty for violation of act.

Any person who violates provisions of this act [Secs. 2578-2599] shall be guilty of a misdemeanor and upon conviction, for the first offense, shall be punished by a fine of not less than twenty-five dollars nor more than seventy-five dollars, and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, and for the third and subsequent offenses by a fine of not more than one hundred dollars and imprisonment in the county jail for not less than thirty days nor more than ninety days. * * *. [1921]

Revised Codes 1935, Vol. 2, Political Code, Ch. 240—
Milk, Cream, and Other Dairy Products.

Sec. 2620.10. Babcock test: Adopted as official test.

The Babcock Test is hereby adopted as the official dairy test for use in the state of Montana. * * * [1927]

Sec. 2620.13. Same: Revocation of license as penalty.

The commissioner of agriculture, labor and industry is hereby authorized and empowered to revoke the license of any Babcock Test operator for failure to comply with the provisions of this act [Secs 2620.1-2620.69] or with any of the rules, or regulations of the department relating to said test. * * * [1929]

Sec. 2620.14. Same: Method of operation.

The following is the method which shall be adopted as the standard for the operation of the Babcock Test for the state of Montana and shall be used by persons, firms, or corporations paying for milk or cream on the basis of the butter fat content of such commodity or commodities.

TESTING MILK. The milk from which the sample to be tested is taken shall be thoroughly mixed by pouring from one vessel to another three (3) times. The sample to be tested shall consist of eighteen (18) grams by weight or seventeen and six-tenths ($17\frac{6}{10}$) cubic centimeters, as measures in a standard pipette. The standard strength of the acid used for all testing of milk or cream shall be indicated by the specific gravity, which shall not be less than one and eighty-two hundredths, ($1\frac{82}{100}$) nor more than one and eighty-three hundredths, ($1\frac{83}{100}$) as determined by a standard hydrometer. * * *

TESTING CREAM. The method of testing cream shall be the same as for milk, except that all sam-

ples of cream tested shall be weighed by either the nine (9) or eighteen (18) gram method, and the reading of the fat column in the neck of the test bottle shall be from the bottom of the lower meniscus to the bottom of the upper meniscus. Glymol must be used to destroy the upper meniscus, and must be added just before reading, and the reading shall be from the bottom of the lower meniscus to the bottom of the glymol on the top of the fat column. [1929]

Sec. 2620.29. Cheese containers: Marking requirements.

All cheese offered or exposed for sale, when placed in packages, jars or other containers, in the state of Montana, shall be full marked weight and each package, jar or other container shall have the net weight marked thereon by the manufacturer, which weight shall be exclusive of the package, jar or other container. [1931]

Sec. 2620.32. Standard measures for milk.

The standard measure, or capacity for milk shall be the gallon containing two hundred thirty-one cubic inches, the half gallon shall contain one hundred fifty and five-tenths cubic inches, and the quart one-fourth as much as the gallon, and the pint one-half as much as the quart. [1929]

Sec. 2620.33. Butter: Standard measure; exception; penalty.

The standard measure for the sale of butter, in the state of Montana, shall be sixteen (16) ounces, (avoirdupois weight) to the pound, exclusive of the wrapper or container, no tolerance in deficiency being allowed. All butter sold, offered or exposed for sale in paper containers or wrappers, shall be in packages of one (1) or two (2) pounds, net standard avoirdupois weight, no tolerance for deficiency being allowed; provided, however, that packages of the weight herein specified may be made up of smaller component packages of wrapped butter in multiples of four (4) or eight (8) ounces each. Any violation of the provisions of this section shall constitute a misdemeanor and be punishable as provided in section 2620.54. [1929; last amended 1933.]

Sec. 2620.34. Same: How wrapped; net weight on package.

All creamery butter sold, offered or exposed for sale at retail in the state of Montana, wherever manufactured, must be wrapped in parchment paper and must have the wholesalers or manufacturers name clearly printed in a conspicuous place on the outside of the package in which it is sold. On each pound package of butter so sold or offered for sale the words "16 ounces net weight" or "1 lb. net weight" shall appear. [1929; last amended 1937.]

Sec. 2620.43. Oleomargarine to be sold in packages of certain net weight.

* * * * *

Oleomargarine shall be sold in packages or car-

tons containing net weight of sixteen (16) ounces or one (1) or two (2) pound packages. [1929; last amended 1941.]

Sec. 2620.54. Penalty for violations.

Any person, firm or corporation who either directly or indirectly, or by his or its servant, agent or employee, shall violate any of the provisions of the preceding five sections¹ of this act [Secs. 2620.1-2620.69], shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both fine and imprisonment. [1929]

¹ However, see Sec. 2620.33, this page.

Sec. 2620.60. General penalty.

Any person who shall violate any of the provisions of this act [Secs. 2620.1-2620.69], or who shall fail to comply with the regulations prescribed in this act, or who shall fail or neglect to obey any lawful order of the department of agriculture, labor and industry of the state of Montana or the commissioner or any other officer thereof, made pursuant to the authority of this act, shall be deemed guilty of a misdemeanor and shall, unless a specific penalty is otherwise provided in this act for such offense, be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. [1929]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 255—
"State Liquor Control Act of Montana."**

Sec. 2815.67. Liquor packages: Board to determine the nature, form and capacity of.

The board [liquor control board] shall have the following functions, duties and powers:

* * * * *

(i) To determine the nature, form and capacity of all packages to be used for containing liquor kept or sold under this act [Secs. 2815.60-2815.163]; * * *. [1933]

1939 Supplement to the Revised Codes 1935, Political Code, Ch. 272A—"Uniform Drug Act," Narcotics.

Sec. 3202.23. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package, in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity * * * of narcotic drug contained therein. * * * [1937]

1939 Supplement to the Revised Codes 1935, Political Code, Ch. 272A—"Uniform Drug Act," Narcotics—Continued.

Sec. 3202.37. Enforcement.

It is hereby made the duty of the secretary of the state board of health, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this act [Secs. 3202.14-3202.43] * * * [1937]

Sec. 3202.38. Penalties for violations.

Any person violating any provision of this act [Secs. 3202.14-3202.43] shall upon conviction be punished, by a fine not exceeding one thousand dollars (\$1000.00) or by imprisonment in the county jail for not exceeding six (6) months or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding five thousand dollars, (\$5,000.00) or by imprisonment in the state prison for not exceeding five (5) years, or by both such fine and imprisonment. * * * [1937]

Revised Codes 1935, Vol. 2, Political Code, Ch. 302—Mine Scales.

Sec. 3450. Coal mine inspector: Powers and duties.

The state coal mine inspector shall * * * have the right and it is his duty to make inquiry into the conditions of such mine, workings, machinery, scales, * * * and especially to make inquiry whether or not the provisions of the laws providing for the regulation of coal mines, or other acts which may hereafter be enacted governing coal mines, have been complied with. * * * [1911; last amended 1949.]

Sec. 3454. Same: Ex-officio sealer of weights and measures.

The state coal-mine inspector is hereby made, equally with the secretary of state, ex-officio sealer of weights and measures, in so far as the same relates to coal mines and coal mining, and as such is empowered to test and compare all weights and measures used in weighing and measuring coal at any coal mines, or used in measuring air-passages or other openings in coal mines, with the standards of weights and measures kept by the state sealer of weights and measures. Upon the written request of any coal-mine owner or operator, or ten coal miners employed at any one mine, it shall be his duty to test and prove any scale or scales at such mine against which complaint is directed, and if he shall find that they or any of them do not weigh correctly, he shall call the attention of the mine owner, lessor, or operator to the fact, and direct that said scale or scales be at once overhauled and readjusted so as to indicate only true and correct weights, and he shall forbid the further operation of such scale until such scales are adjusted. In the event that such test shall conflict with any test made by any other sealer of weights and measures, or under and by virtue of any municipal ordinance

or regulation, then the test by such state coal-mine inspector shall prevail. [1911]

Sec. 3455. Same: Standard test weights to be furnished.

For the purpose of carrying out the provisions of this act [Secs. 3447-3546], the state coal-mine inspector shall be furnished by the state with such sets of standard weights suitable for testing the accuracy of track-scales, and of all smaller scales at mines, as may in the judgment of the state coal-mine inspector be necessary; said test weights shall remain in the custody of the state coal-mine inspector for use at any point within the state, and for any amounts expended by him for the storage, transportation, or the handling of the same, he shall be fully reimbursed upon making proper entry of the proper items in his expense voucher. [1911]

Sec. 3487. Weighman; checkweighman; oath; penalty against weigher for violations; penalty against owner or operator for hindering employment of or discharge of duty by checkweighman.

The weighman employed at any mine shall subscribe to an oath or affirmation before some officer authorized to administer oaths, to do justice between employer and employee, and to truly and correctly weigh the output of coal from the mines as herein provided. The miners employed by or engaged in working for any mine owner, operator, or lessee of any mine in this state shall have the privilege, if they desire, of employing at their own expense a check weighman, who shall have like equal rights, powers, and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weigh office, and any weigher of coal or person so employed, who shall knowingly violate any of the provisions of this section, or any owner, operator, or agent of any coal mine in this state, who shall forbid or hinder miners employing or using a check weighman as herein provided, or who shall prevent or wilfully obstruct any such check weighman in the discharge of his duty, shall be deemed guilty of an offense against this act [Secs. 3447-3546]. * * * [1911]

Sec. 3488. Use of false scales forbidden.

Any person or persons having or using any scale or scales for the purpose of weighing the output of coal at mines must not arrange or construct them so that fraudulent weighing may be done thereby, and must not knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed and reported in accordance with the provisions of this act [Secs. 3447-3546]. [1911]

Sec. 3545. Penalties for violations.

If any operator, company, or corporation neglects to comply with or violates the requirements of this act [Secs. 3447-3546], either in part or in whole, or if any owner, operator, manager, superintendent,

mine foreman, or his assistant coerces, intimidates, or causes any employee to do the things prohibited, or causes them to do as provided against in this act, such operator, company, corporation, manager, superintendent, mine foreman, or his assistant shall be liable to a penalty of one hundred (\$100.00) dollars for each and every day during which the offense continues; * * *

Any employee engaged at work in or around any coal mine in the state of Montana, who violates any part of this act, shall for each offense be liable to a penalty not exceeding twenty-five dollars (\$25.00), or in default of payment shall be imprisoned in the county jail for a period of time not exceeding ten (10) days. * * *. [1911; last amended 1945.]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 303—
Coal.**

Sec. 3546.3. Sale of full weight required.

In the sales of coal within the state of Montana, the seller must give to the purchaser full weight at the rate of two thousand (2,000) pounds per ton, * * *. [1927]

Sec. 3546.4. Inspection of books.

* * * all papers, records and files of any person, firm or corporation transporting, producing, shipping, exchanging or selling any coal within the state of Montana shall, at all times, be open to inspection by the attorney general, the county attorneys and the state sealer of weights and measures for the purposes of enforcing this act [Secs. 3546.1—3546.6]. [1927]

Sec. 3546.5. Penalty for violations; revocation of license.

Every person, firm or corporation violating any of the provisions of this act [Secs. 3546.1—3546.6] shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five (\$25.00), nor more than five hundred dollars (\$500.00), or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. Any person, firm or corporation convicted of a second violation of any of the provisions of this act shall be punished as above provided, and the license of any retail coal dealer shall, thereby, be automatically revoked, and it shall be unlawful for any person, firm or corporation, so convicted, thereafter to engage in said retail business, either directly or indirectly, for a period of six (6) months next after such second conviction. [1927]

Sec. 3546.6. Enforcement.

It shall be the duty of the state sealer of weights and measures to enforce the provisions of this act [Secs. 3546.1—3546.6] and the duty of the attorney general and the county attorneys of the counties of the state to prosecute all cases arising under the provisions hereof. [1927]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 306—
Containers for Farm Products.**

Sec. 3561. Department of agriculture to establish standards.

The department of agriculture, labor, and industry shall have power and it shall be its duty:

* * * * *

4. To establish and promulgate standards for open and closed receptacles for farm products * * *. [1921]

Sec. 3633.5. Marking requirements.

(a) It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation, to expose for sale, or sell, transport, deliver or consign, or have in possession farm products prepared for market unless each container has been legibly and conspicuously tagged, branded, labeled or stenciled before being moved from the premises of the person or persons responsible for the grading and packing, and the name of the grade, together with the true net contents expressed in weight. [1933]

* * * * *

Sec. 3633.7. Enforcement.

The commissioner of agriculture is hereby charged with the enforcement of this act [Secs. 3633.1—3633.12] and is given power unto himself and to his duly appointed representatives to enter into and upon the premises where farm products are graded or packed or stored, to inspect the same as to grade, pack and condition. [1933]

Sec. 3633.8. Rules and regulations.

The commissioner of agriculture may promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this act [Secs. 3633.1—3633.12]. [1933]

Sec. 3633.10. Penalty for mislabeling containers.

Whoever violates this act [Secs. 3633.1—3633.12] * * * by not tagging or branding containers as herein required, * * * shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than thirty (30) days nor more than three (3) months, or by both such fine and imprisonment in accordance with the discretion of the court. [1933]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 306—
Milk and Cream.**

Sec. 3572.1. Deceit in grade, measure or test unlawful.

No person, firm or corporation selling or delivering milk or cream, and no person, firm, or corporation receiving or purchasing milk or cream by

Revised Codes 1935, Vol. 2, Political Code, Ch. 306—
Milk and Cream—Continued.

weight, grade or Babcock test, or either, or by measure, grade or Babcock test, or either, shall with intent to deceive or defraud as to the weight, grade, measure or Babcock test thereof; manipulate, change or alter such measure, Babcock test, grade or weight, or make or return to any person any false, inaccurate or untrue statement of such weight, grade, Babcock test or measure, or use any measure, grading or testing apparatus which does not comply with the standards of the department of agriculture or which has been condemned as inaccurate. [1931; last amended 1933.]

Sec. 3572.2. Penalty for violation of preceding section; revocation of license.

Any person, firm or corporation who violates any of the provisions of this act [Secs. 3572.1-3572.2] shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment in the county jail for not more than two (2) months, or by both such fine and imprisonment. The commissioner of agriculture is also authorized and empowered to revoke any license issued by his department to any person, firm or corporation upon his or their conviction for violation of the provisions of this act. [1931; last amended 1933.]

Revised Codes 1935, Vol. 2, Political Code, Ch. 306—
Weighing of Grain.

Sec. 3573. Enforcement.

The department of agriculture, labor and industry, through the division of grain standards and marketing, shall enforce all the laws of the state of Montana concerning the handling, weighing, grading, inspection, storage and marketing of grain, and the management of public warehouses. [1921]

Sec. 3576. Appointment of chief inspector of grain, weighers, etc.

The commissioner of agriculture shall appoint a chief inspector of grain for the state, and such number of inspectors, samplers and weighers as may be necessary * * *. [1921; last amended 1929.]

Sec. 3577. Misconduct of weighers, etc.; penalty.

Any inspector, sampler, or weigher, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect, sample, or weigh any grain, or who shall, directly or indirectly, accept any money or other consideration for any neglect of duty or any improper performance of duty as such inspector, sampler, or weigher, or any person, persons, corporation, or agent, who shall improperly influence, or attempt to improperly influence, any inspector, sampler, or weigher in the performance of his duties, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be

fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court. [1921]

Sec. 3578. Designation of inspection points.

Such cities and towns where grain is received in carload lots may be designated by the commissioner of agriculture as inspection points, and be provided with state inspection and weighing; provided, that the expenditures for the inspection and weighing at the points designated by the commissioner shall not exceed the receipts of fees at such point or points. * * *. [1921]

Sec. 3580. Deputy inspectors; appointment during grain-marketing season; investigation of weighing and dockage.

* * * The commissioner of agriculture shall, during the grain-marketing season, appoint such deputy inspectors as they deem necessary to visit the grain-growing districts for the purpose of investigating grain grading, dockage, and weighing, and enforcing the rules and regulations laid down by the commissioner. [1921]

* * * * *

Sec. 3581. Fees for inspection and weighing; lien.

The commissioner of agriculture shall fix the fees for inspection and weighing of grain, and such fees shall be a lien upon such grain until paid. [1921; last amended 1929.]

* * * * *

Sec. 3582. Records of weighing and grading; certificate of weight.

The inspectors, samplers and weighers shall, at places provided for state inspection, have exclusive control of the weighing and grading of grain to be inspected, and the certificates of such officers relative to such weighing and grading, shall be conclusive upon all parties interested. Suitable books and records shall be kept, in which shall be entered a faithful and true record of every carload of grain inspected or weighed by them, and showing the number of and initial or other designation of the car containing such carload, its weight, the kind of grain and its grade, * * *. They shall also furnish the agent of the railroad company, or other carrier over which such commodity was shipped or carried, a certificate showing the weight thereof, if requested to do so. * * * [1921]

Sec. 3583. Removal of inspectors, samplers or weighers upon proper complaint.

Upon written complaint filed with the commissioner of agriculture, charging an inspector, sampler, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the commissioner of agriculture shall investigate such charges, and, if it be found sustained, shall remove such officer. [1921]

Sec. 3592. Inspecting grain cars at destination; license required for grain weighers; penalty for weighing without license.

All inspectors, samplers and weighers, before opening the doors of any car containing grain, upon arrival at any of the places designated by the commissioner of agriculture for inspection, shall first ascertain the condition of such cars, and determine whether any leakages have occurred while said cars were in transit, whether or not the doors were properly secured and sealed at point of shipment, and shall make a record of such facts in all cases, giving seal numbers.

After such examinations have been made, the state officials shall securely close and re-seal such doors as have been opened by them, using the special seal of the commissioner of agriculture for the purpose.

A record of all original seals broken by said officials and the date when broken, and also a record number of said seals, shall be made by them. An inspector, weigher, or sampler shall break the seal, weigh and superintend the unloading of all cars of grain subject to inspection, and it shall be unlawful for any other person, or persons, to break the seal or weigh such cars of grain.

The commissioner of agriculture shall have power to require all persons, firms, corporations, or warehousemen engaged in weighing grain within the state of Montana to obtain a license, and prescribe rules and regulations governing the application for and the issuance of such licenses, but no fee shall be charged therefor, and any person, firm, corporation, or warehouseman, who shall weigh any grain without first having obtained said license, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars. [1921]

* * * * *

Revised Codes 1935, Vol. 2, Political Code, Ch. 306—
Scale Inspection.

Sec. 3575.2. Scale inspection service; fees.

It shall be the duty of each person, firm, co-partnership, or corporation owning or in possession of a scale or scales to pay to the state sealer of weights and measures or his deputies at the time of inspection of such scale or scales, the following inspection fees: For each railroad track scale the sum of ten (\$10.00) dollars; grain shipping hopper scale with a capacity of forty thousand (40,000) pounds or over, twenty (\$20.00) dollars; wagon scale, truck scale, coal scale, dump scale, automatic or hopper shipping scale, beet scale, and stock scale, up to and including ten (10) ton capacity, five (\$5.00) dollars, from fifteen (15) ton up to and including thirty (30) ton capacity, eight (\$8.00) dollars, and forty (40) ton capacity and over, fifteen (\$15.00) dollars; for each dormant platform scale and dial scale with a capacity of five hundred (500) pounds to one

thousand (1,000) pounds, two (\$2.00) dollars; each portable scale, meat track scale, hanging scale and commercial person weighing scale, one (\$1.00) dollar; grain testers and other small scales used for weighing and testing grain in grain elevators, or warehouses, fifty (50c) cents; all counter scales with a capacity of one (1) to ten (10) pounds, twenty-five (25c) cents; all counter scales with a capacity of over ten (10) pounds, seventy-five (75c) cents. The sealer of weights and measures, shall by proper regulation, fix inspection fees for any scales, weights, measures, weighing and computing devices not covered by the foregoing schedule of fees. [1927; last amended 1947.]

Sec. 3575.3. Bills and accounts of state sealer of weights and measures and his deputies.

All bills and accounts incurred by the state sealer of weights and measures and his deputies shall be presented to the board of examiners and allowed by said board in the same manner as provided for other claims contracted for and in behalf of the state of Montana. And to expedite the handling of the work in the field there shall be set aside a contingent revolving fund of two thousand dollars (\$2,000.00) out of which the expenses of the field men shall be paid each week, together with other emergency cash claims. [1927; last amended 1939.]

Sec. 3575.8. Scale testing equipment transferred to department of agriculture.

All equipment in possession of the secretary of the state of Montana, for the purpose of calibrating test weights, shall be transferred to the department of agriculture, for use in the scale testing department. [1933]

Revised Codes 1935, Vol. 2, Political Code, Ch. 309—
Erection of Scales on Railroad Platforms.

Sec. 3797. Enforcement.

The board [board of railroad commissioners] shall have the general supervision of all railroads * * * and shall investigate any alleged neglect or violation of the laws of the state by any railroad * * *. [1907]

Sec. 3825. Erection of scales.

Every railroad company shall allow suitable scales to be erected either upon the platform or upon the grounds adjacent thereto, if upon their right of way, for weighing and shipping purposes. [1913]

Sec. 3826. Penalty for violations.

Every railroad company neglecting or refusing to comply with the requirements of this act [Secs. 3822-3826] shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than five hundred dollars for every thirty days such failure shall continue after notice as aforesaid. [1913]

Revised Codes 1935, Vol. 2, Political Code, Ch. 313—
Public Utilities.

Sec. 3890. Commercial units of product or service; rules and regulations for testing; inspection of appliances; fees.

The commission [public service commission] shall ascertain and prescribe for each kind of public utility [those furnishing heat, light, power, water, etc.] suitable and convenient commercial units of product or service. These shall be lawful units for the purposes of this act [Secs. 3879—3913].

The commission shall * * * prescribe reasonable regulations for examination and testing of such product or service and for the measurement thereof.

The commission shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility. Any consumer or user may have any such appliances tested upon payment of the fees fixed by the commission. The commission shall establish and declare reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, which fees, however, shall be paid by the public utility and repaid to the complaining party, if the quality or quantity of the product, or the character of the service, be found by the commission defective or insufficient in a degree to justify the demand for testing; or the commission may apportion the fees between the parties as justice may require. [1913]

* * * * *

Revised Codes 1935, Vol. 2, Political Code, Ch. 314—
Petroleum Products.

Sec. 3913.1. Dealers license.

All persons, firms, co-partnerships, corporations, trusts or agencies engaged, directly or indirectly, in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale within the state of Montana any gasoline, kerosene, distillate, road oil, fuel oil, or any oil or gas products, lubricating oil and greases, for use in motor vehicles or in internal combustion engines, shall make application to the public service commission of Montana, upon such blank forms as may be provided by said commission for the right to do business in the state of Montana and the making of such application shall be a condition precedent to the right of any such person, firm, co-partnership, corporation, trust or agency to transact any such business within the state of Montana and upon the making and filing of such application and the payment of the proper fee, a license shall issue to the applicant. [1927]

* * * * *

Sec. 3913.20. Inspection and classification of measuring devices.

The commission [public service commission] shall have power to inspect and classify all meters

and measuring, gauging or testing devices and apparatus used in connection with the wholesale or retail distribution of the products enumerated herein, and may prescribe suitable standards of accuracy for such meters and measuring devices, conformable to the standards fixed by the United States bureau of standards for such devices. [1927]

Sec. 3913.24. Penalty for violations.

If any person, firm, co-partnership or corporation coming within the provisions of this act [Secs. 3913.1—3913.24] shall violate any of the provisions of this act or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for every such violation, failure or refusal such person, firm, co-partnership or corporation, shall, in addition to the forfeiture of license as hereinbefore provided, be for the first offense punished by a fine of not less than ten dollars (\$10.00) and not to exceed one thousand dollars (\$1,000.00), and shall be punished for any subsequent offense by a fine of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000.00), or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment. [1927]

Revised Codes 1935, Vol. 2, Political Code, Ch. 327—
Commercial Fertilizer.

Sec. 4208.1. Definition.

The term "commercial fertilizer" shall be held to include any and every substance, imported, manufactured, prepared or sold for fertilizing, manuring, soil enriching or soil corrective purposes, the retail price of which is ten dollars (\$10.00), or more per ton: provided, however, that this act [Secs. 4208.1—4208.11] shall not apply to any stocks that may be in the hands of dealers in the state of Montana at the time this act goes into effect, nor shall it apply to animal manure which has not been artificially treated, to activated sludge which has been heat treated and which is sterile, or to materials sold to each other by manufacturers or importers. [1931; last amended 1947.]

Sec. 4208.2. Marking requirements.

Each lot or parcel of mixed commercial fertilizer sold, offered or exposed for sale, or distributed within this state shall have on each package or container, in a conspicuous place on the outside, a legible or plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel. [1931; last amended 1939.]

* * * * *

Sec. 4208.3. Marking requirements for unmixed fertilizer.

All bags or containers of unmixed materials, such as nitrate of soda, sulphate of ammonia, sulphates and muriates of potash, limestone, gypsum or other

fertilizer or soil correcting substances shall have stamped thereon a plain statement in the English language, of * * * the net weight of the contents of the package, lot or parcel; * * *. [1931; last amended 1935.]

Sec. 4208.11. Penalties for violations.

Any corporation, co-partnership or person who shall sell, or offer for sale, any commercial fertilizer in this state without first having complied with the provisions of this act [Secs. 4208.1-4208.11], * * * shall be guilty of a misdemeanor and shall upon conviction thereof be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00) for each offense, * * *. [1931]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 331—
Containers for Apples.**

Sec. 4265.2. Marking requirements.

Any box, barrel, crate or carton used in packing apples for sale shall be marked or branded in plain legible letters on one (1) end with:

* * * * *

d. With the approximate number of apples contained therein, or with the net weight of contents. [1931]

Sec. 4265.4. Standard apple box.

There is hereby created and established a standard size for apple boxes for the state of Montana. The standard size of an apple box shall be of the following dimensions, when measured without distention of its parts: Depth of end, ten and one-half inches ($10\frac{1}{2}$ ""); width of end, eleven and one-half inches ($11\frac{1}{2}$ ""); length of box, eighteen inches (18") inside measurements; and representing as nearly as possible two thousand one hundred and seventy-three and one-half cubic inches ($2,173\frac{1}{2}$ "). [1931]

Sec. 4265.5. Short boxes to be marked.

Any box in which apples shall be packed and offered for sale that contains less than the required number of cubical inches, as prescribed in the preceding section, shall be plainly marked on one (1) side and one (1) end with the words "Short Box", or with the words or figures showing the practical relation which the actual capacity of the box bears to the capacity required by the preceding section. The marking required by this paragraph shall be in black letters of not less than one-half ($\frac{1}{2}$) inches in size. [1931]

Sec. 4265.6. Penalty for violation of act.

No person, firm, company or corporation shall sell or offer for sale or shipment within or without the state of Montana, apples branded or packed in containers in violation of the provisions of this act [Secs. 4265.1-4265.6]. Any person, firm, company or corporation who shall knowingly sell or offer for

sale or shipment within or without the state of Montana, apples in violation of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). [1931; last amended 1935.]

**Revised Codes 1935, Vol. 2, Political Code, Ch. 332—
Standard Weight of Bread.**

Sec. 4273. Weight requirements for sale of bread.

From and after the passage of this act [Secs. 4273-4276] it shall be unlawful for any person or persons, association, co-partnership, or corporation to manufacture for retail or wholesale trade, or to sell bread, unless the same shall be of the following weights, which shall be net weights eight hours after baking: One pound, one and one-half pounds, two pounds, three pounds, four pounds, five pounds, six pounds, or other multiple pound weights; variation at the rate of one ounce per pound over and one ounce per pound under the above specified units weights are to be permitted in individual loaves, but the average weight of not less than twenty-five loaves of any one unit of any one kind shall be not less than the weight prescribed for such unit, and if twin or multiple loaves are wrapped at the place where baked or sold to the consumer wrapped and undivided, the loaf must conform to the above weight requirements, and if the twin or multiple loaf is unwrapped or divided before being sold to the consumer, each unit of the loaf must conform to the above weight requirements; provided, that this act shall not apply to persons, firms, or corporations who do not hold themselves out to the public, and engaging in a general and established business of manufacturing or selling bread and bread products. [1919]

Sec. 4274. Definitions; conditions under which bread may be sold.

In construing provisions of the preceding section the following definitions shall be had: A twin or multiple loaf is one that is made of two or more portions of dough baked in one pan; single units weighing less than one pound must not be baked; a manufacturer or seller of loaves of the weights prescribed may cut and sell a portion of a loaf to a consumer; bread may be sold at any time after baking, and it shall not be required that bread shall remain unwrapped for any specified length of time after baking. [1919]

Sec. 4276. Penalty for violations.

Any such manufacturer or seller violating any of the provisions herein contained shall be liable to a fine of not less than ten dollars nor more than one hundred dollars for each and every offense, and each separate sale or violation of any of the provisions of this act [Secs. 4273-4276] shall constitute a separate offense. [1919]

Revised Codes 1935, Vol. 3, Civil Code, Ch. 81—
Measurement of Water.

Sec. 7107. Cubic foot.

Hereafter a cubic foot of water (7.48 gallons) per second of time shall be the legal standard for the measurement of water in this state. [1899]

Sec. 7108. Miner's inch.

Where water rights expressed in miner's inches have been granted, one hundred miner's inches shall be considered equivalent to a flow of two and one-half cubic feet (18.7 gallons) per second; two hundred miner's inches shall be considered equivalent to a flow of five cubic feet (37.4 gallons) per second, and this proportion shall be observed in determining the equivalent flow represented by any number of miner's inches. [1899]

Sec. 7132. Statutory inch.

Where water rights have been decreed in statutory or miner's inch measurement, the measurement shall be in cubic feet per second, and one hundred miner's or statutory inches shall be equivalent to a flow of two and one-half cubic feet per second, and this proportion shall be observed in determining the equivalent flow of any number of miner's or statutory inches. [1907]

Laws 1941, Ch. 35—Mustard Seeds.

Sec. 1. Standard classes.

The standard classes of mustard seed for the State of Montana shall be as follows:

Fancy—Cultivated tame yellow mustard seed.

Class 1—Cultivated tame yellow mustard seed.

Class 2—Cultivated tame brown mustard seed.

Class 3—Cultivated tame Montana oriental mustard seed.

Class 4—Mixed cultivated tame mustard seed,
* * *. [1941]

Sec. 3. Test weights per bushel.

The following shall be the legal test weights per bushel, namely: The weight per Winchester bushel as determined by the testing apparatus and the method of use thereof described in Bulletin 1065 U. S. D. A. dated May 18, 1922, or as determined by any device and method which give equivalent results in the determination of test weight per bushel:

Weight per bushel for tame yellow mustard seed shall be:

Fancy -----	56 lbs.
# 1 -----	54 lbs.
# 2 -----	52 lbs.
# 3 -----	50 lbs.

Weight per bushel for tame brown and tame Montana oriental mustard seed shall be:

# 1 -----	53 lbs.
# 2 -----	52 lbs.
# 3 -----	50 lbs.

All seeds weighing less than the above per bushel shall be graded as sample weight, provided that the percentage of damage, heat damage, sound cultivated mustard seed, foreign material and determinations of all other factors not otherwise provided for shall be on the basis of a portion cut from the original sample and separated by hand picking. [1941]

Sec. 6. Enforcement; rules and regulations; fees for weighing.

It is hereby made the duty of the Commissioner of Agriculture, Labor and Industry of the State of Montana to administer and enforce this act [Secs. 1-8], and for such purposes he is hereby empowered to make all proper necessary rules and regulations, and he is also empowered to and he shall fix the fees for inspection and weighing of mustard seed and such fees shall be a lien upon such mustard seed until paid, and such fees shall be collected by the commissioner of agriculture or his duly authorized representatives, and the commissioner of agriculture shall deposit such fees with the state treasurer in a fund known as the "department of agriculture revolving appropriation fund", for grain grading, out of which all operating expenses of this act shall be paid. [1941]

Sec. 7. Penalty for violations.

Any one violating any of the terms of this act [Secs. 1-8] shall upon conviction be guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars [\$100.00]. [1941]

Laws 1943, Ch. 228—Commercial Feeds.

Sec. 1. Definition.

The term "Commercial Feeds" shall be held to include all materials used for feeding animals or poultry, except the following:

(a) Unmixed whole seeds or grains;

(b) The mixed or unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo, feeds from oil seeds, and other seeds or grains;

(c) Whole, chopped or ground hays, straws, corn stover and silage, when unmixed with other materials;

(d) Feeds sold in small quantities and used solely for household pets except dogs;

(e) Wet beet pulp, barley sprouts, and whole screenings. [1943]

Sec. 2. Marking requirements.

All manufacturers, importers, jobbers, firms, associations, corporations or persons shall before selling or offering for sale in this state any brand of commercial feed, including wheat bran and wheat middlings straight or mixed, have printed on, or attached to each bag, package, carton or delivered with each bulk lot a plainly printed statement, hereafter referred to as the label, in a conspicuous

place on the outside, containing a legible and clearly printed statement in the English language clearly and truly stating:

(a) The net weight of the contents of the package, bag, carton or bulk lot; [1943]

* * * * *

Sec. 4. Bulk sales.

* * * When feed is sold in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person so selling shall furnish the purchaser with a card or cards upon which appears the statement required by the provisions of Section 2. [1943]

* * * * *

Sec. 9. Offenses and penalties.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state, any commercial feeds without having attached thereto or furnished therewith such labels as required by the provisions of this act [Secs. 1-13], or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said commissioner or his authorized agent in the performance of his duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this state any commercial feeds as defined in Section 1, without complying with the requirements of the provisions of this act, * * * or if the number of net pounds set forth upon the package is not correct, or who shall violate any other provision of this act, shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than twenty-five (\$25.00) dollars for the first violation and not less than one hundred (\$100.00) dollars for each subsequent violation. * * * [1943]

Sec. 10. Enforcement.

The commissioner of agriculture, labor and industry is hereby empowered to enforce the provisions of this act [Secs. 1-13], and to prescribe and enforce administrative rules and regulations which shall be in harmony with the provisions of this act and the official pronouncements of the association of American feed control officials. [1943]

Laws 1947, Ch. 263—Economic Poisons.

Sec. 2. Definitions.

(a) The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living man or other animals, which the director of the agricultural experiment station of Montana state college, shall declare to be a pest.

* * * * *

(n) The term "director" means the director of the food and drugs division of the state board of health.

* * * * *

(p) The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison.

(q) The term "labeling" means all labels and other written, printed, or graphic matter,

(1) upon the economic poison or any of its containers or wrappers;

(2) accompanying the economic poison at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison, * * *

(s) The term "misbranded" shall apply:

(1) to any economic poison if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; [1947]

* * * * *

Sec. 3. Prohibited acts.

(a) It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

* * * * *

(2) Any economic poison unless it is the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container can not be clearly read, a label bearing:

* * * * *

(c) the net weight or measure of the content subject, however, to such reasonable variations as the director [of the food and drug division of the State board of health] may permit.

* * * * *

(5) Any economic poison which is adulterated or misbranded. [1947]

* * * * *

Sec. 6. Enforcement.

(a) The examination of economic poisons shall be made under the direction of the director [of the food and drug division of the state board of health] for the purpose of determining whether they comply with the requirements of this act [Secs. 1-14]. * * * [1947]

Laws 1947, Ch. 263—Economic Poisons—Continued.

Sec. 8. Penalties for violations.

* * * * *

(b) Any person violating any provision of this act [Secs. 1-14] other than Section 3 a (1) shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars (\$50.00) for the first offense and upon conviction for any subsequent offense shall be fined not more than two hundred fifty dollars (\$250.00), nor less than fifty dollars (\$50.00), provided, that any offense committed more than five (5) years after a previous conviction shall be considered a first offense; * * * [1947]

Sec. 9. Seizures.

(a) Any economic poison that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any district court in any county of the state where it may be found and seized for confiscation by process of libel for condemnation:

(1) in the case of economic poison,

(a) if it is adulterated or misbranded;

* * * * *

(c) if it fails to bear on its label the information required by this act [Secs. 1-14]; [1947]

* * * * *

[ED. NOTE.—Sec. 7 (not included herein) of this Act provides for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

Laws 1949, Ch. 138—"Oleomargarine Law."

Sec. 2. Definitions.

(a) For the purpose of this act [Secs. 1-23] the following manufactured substances, mixtures, and compounds with or without butter, milk, skim milk, or cream are and shall be considered "oleomargarine":

(1) All substances heretofore known as oleomargarine, oleo, margarine, oleomargarine oil, butterine, lardine, suine and neutral.

(2) All mixtures and compounds containing any edible oils or fats other than milk fat, and all mixtures and compounds containing milk fat, if (A) made in imitation or semblance of butter, or (B) calculated or intended to be sold as butter or for butter or as butter substitutes, or (C) churned, emulsified, or mixed in cream, milk, skim milk, water, or other liquid and containing moisture in excess of one per centum (1%) with or without common salt.

(b) For the purposes of this act "yellow oleomargarine" is "oleomargarine" as defined in subsection (a) of this section, having a tint or shade

containing more than one and six-tenths degrees (1.6°) of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in terms of Lovibond tintometer scale or its equivalent. [1949]

* * * * *

Sec. 3. Prohibited acts.

The following acts and the causing thereof within the state are hereby prohibited: The manufacture, sale, offering or exposing for sale, transportation, serving in a public eating place, having in possession with intent to sell of yellow oleomargarine. [1949]

Sec. 4. Penalty for violations.

Any person, firm or corporation, and any officer, agent, or employee of any such person, firm or corporation, who violates any of the provisions of section 3 or 6 shall be deemed guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than ten (10) days, or a fine of not more than fifty dollars (\$50.00), or both such imprisonment and fine; but if a violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than sixty (60) days, or a fine of not more than three hundred dollars (\$300.00), or both such fine and imprisonment. [1949]

Sec. 11. Standard measure.

The standard measure for the sale of oleomargarine, in the State of Montana, shall be sixteen (16) ounces, (avoirdupois weight) to the pound, exclusive of the wrapper or container, no tolerance in deficiency being allowed. All oleomargarine sold, offered or exposed for sale shall be in packages, paper containers or wrappers of one (1) or two (2) pounds, net standard avoirdupois weight, no tolerance for deficiency being allowed; provided, however, that packages of the weight specified may be made up of smaller component packages of wrapped oleomargarine in multiples of four (4) or eight (8) ounces each. [1949]

Sec. 13. Wrapping and marking requirements.

All oleomargarine sold or exchanged, or offered or exposed for sale or exchange at retail in the State of Montana, wherever manufactured, must be wrapped in parchment paper, cellophane, plastic material, or other suitable wrapping material, and must have the wholesaler's or manufacturer's name clearly printed in a conspicuous place on the outside of the package in which sold. Further, on the outside of each such package shall be plainly marked, stamped, labeled or printed in plain bold-faced letters, one-half (1/2) inch high, the word "oleomargarine". * * * On the outside of each package of oleomargarine so sold or exchanged or offered for sale or exchange shall appear, in addition to the foregoing words "16

ounces net weight," "1 lb. net weight," "32 ounces net weight," or "2 lbs. net weight" as are appropriate identification of the weight of the contents of such package. [1949]

Sec. 18. General penalty.

Any person, firm or corporation who either directly or indirectly, or by his or its servant, agent or employee, shall violate any of the provisions of this act [Secs. 1-23], shall be deemed guilty of a misdemeanor, and where no specific penalty is provided, shall be punished by a fine of not more than two hundred dollars (\$200.00) or by imprisonment in the county jail for not more than sixty (60) days, or by both fine and imprisonment. [1949]

Sec. 19. Rules and regulations.

The commissioner of agriculture, labor and industry shall have power, and it shall be his duty, to promulgate all reasonable rules and regulations in aid of and consistent with this act. Such rules and regulations, immediately upon publication, shall have the force and effect of law, and violation of any of such rules and regulations shall constitute a misdemeanor, punishable as provided in Section 18 of this act. [1949]

Sec. 20. Construction of act.

Nothing herein shall be construed as applying to or including peanut butter, salad dressings, mayonnaise products, pharmaceutical preparations, oil meals, cleansing and flavoring compounds, liquid preservative and illuminating oils. [1949]

Revised Codes 1935, Vol. 5, Penal Code, Ch. 1—
Misdemeanors.

Sec. 10725. Punishment of misdemeanor when not otherwise prescribed.

Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or both. [1895]

Revised Codes 1935, Vol. 5, Penal Code, Ch. 36—
Fraudulent Increase of Weight.

Sec. 11240. Putting extraneous substances in packages of goods usually sold by weight to increase weight; penalty.

Every person who, in putting up in any bag, bale, box, barrel, or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels, or packages, by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel, or package, with intent thereby to sell the goods therein, or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars for each offense. [1895]

Revised Codes 1935, Vol. 5, Penal Code, Ch. 43—
False Measuring Devices for Gas, Water, or Electricity.

Sec. 11387. Use of false measuring devices; altering measurement; penalty.

Every person or persons, or officer or officers, or employee or employees of any corporation or corporations who with intent to injure, or defraud, uses or causes to be used any false registering or false measuring device or meter for the measuring of any water, gas or electric current that is sold to any other person or persons, corporation or corporations, or who shall alter or change the record or measurement of any such meter or measuring device with intent to injure or defraud, shall be guilty of a misdemeanor and on conviction thereof shall be fined in the sum of not less than one hundred dollars nor more than five hundred dollars. In prosecutions for offenses under this section, proof of the use of such false registering meter or proof of an attempt to collect payment from any consumer for any falsified amount or quantity of gas, water, or electricity, shall be prima facie evidence of the guilt of such defendant. [1897]

Revised Codes 1935, Vol. 5, Penal Code, Ch. 47—
False Weights and Measures.

Sec. 11428. False weight and measure defined.

A false weight or measure is one which does not conform to the standard established by the laws of the United States of America. [1895]

Sec. 11429. Using false weights or measures; penalty.

Every person who uses any weight or measure, knowing it to be false, by which another is defrauded or otherwise injured, is guilty of a misdemeanor.¹ [1895]

¹ See Sec. 10725, this page, punishment for misdemeanor.

Sec. 11430. Stamping false weight, etc., on casks and packages; penalty.

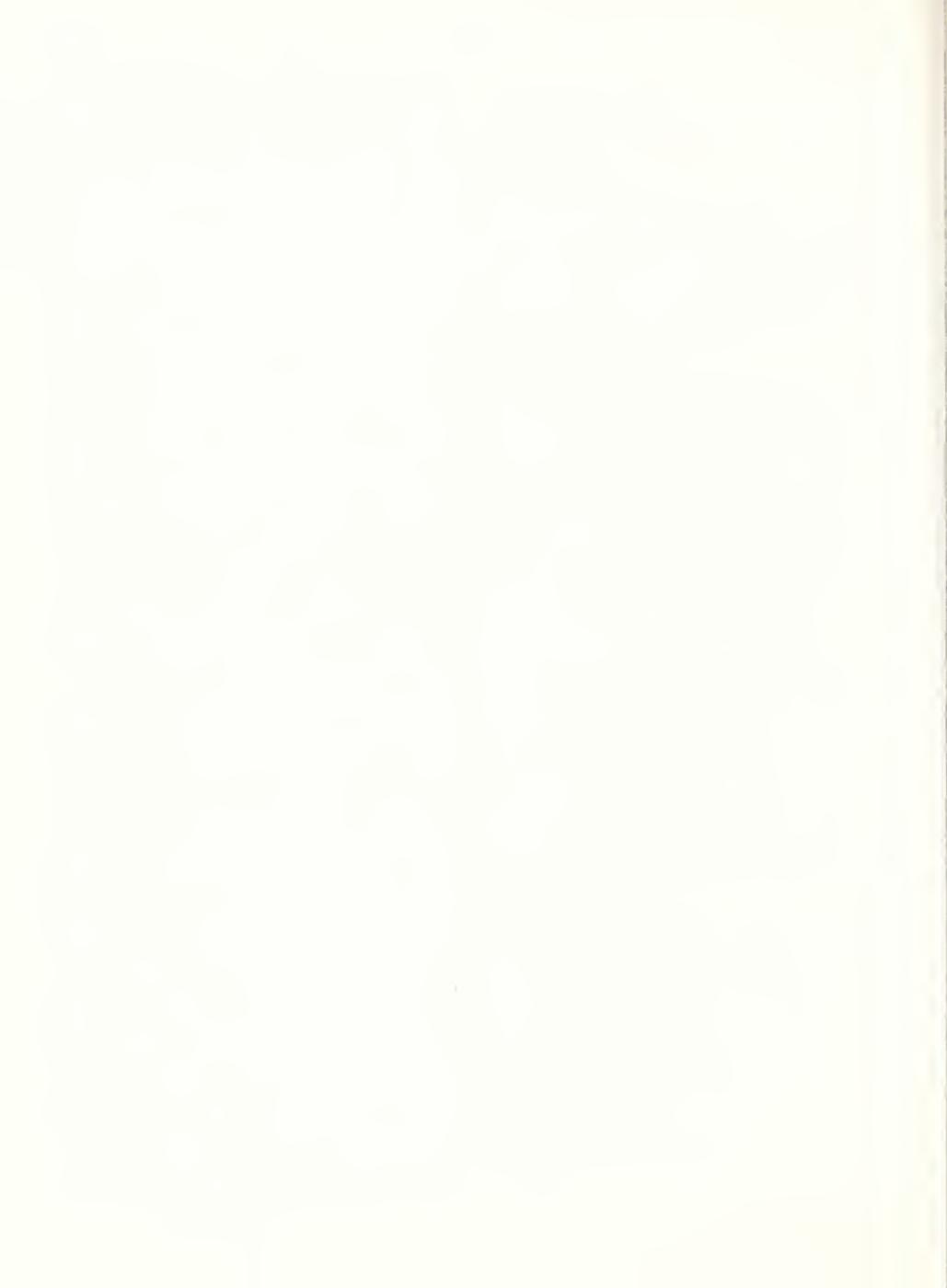
Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale, any cask or package so marked, is guilty of a misdemeanor.¹ [1895]

¹ See Sec. 10725, this page, punishment for misdemeanor.

Sec. 11431. Weight by ton or pound; penalty.

In all sales of coal, hay and other commodities, usually sold by the ton or fractional part thereof, the seller must give to the purchaser full weight, at the rate of two thousand pounds to the ton; and in all sales of articles which are sold in commerce by avoirdupois weight, the seller must give to the purchaser full weight, at the rate of sixteen ounces to the pound; and any person violating this section is guilty of a misdemeanor.¹ [1895]

¹ See Sec. 10725, this page, punishment for misdemeanor.



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Revised Statutes 1943, Vol. 4, Ch. 89—Weights and Measures.

Sec. 89-101. Enforcement; powers of department of agriculture.

The Department of Agriculture and Inspection shall enforce the provisions of sections 89-101 to 89-141. It shall make, or cause to be made, all inspections, and shall have authority to promulgate such rules and regulations as may be necessary to promptly and effectively enforce the provisions of said sections. It shall have authority to adopt such additional standards as are not specifically provided for in said sections. It shall have authority to establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State of Nebraska similar to the tolerances and specifications recommended by the United States Bureau of Standards, and may make reasonable

regulations regarding the varieties or kinds of devices, attachments or parts entering into the construction or installation of weights and measures or weighing or measuring appliances, which shall have for their object the tendency to secure correct results in the use of such appliances. [1921]

Sec. 89-102. Standards.

Such standard weights and measures as have been furnished to this state by the government of the United States, in accordance with a joint resolution of Congress, approved June 14, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances and measuring devices, in addition thereto, or in renewal thereof, shall be authorized standards of the State of Nebraska. [1921]

Sec. 89-103. Standard bushel; subdivisions thereof.

A bushel shall consist of two thousand one hundred and fifty and forty-two hundredths cubic inches. The half-bushel, peck and half peck shall consist of the proper division and subdivision of the bushel. [1921; last amended 1923.]

Sec. 89-104. Standard gallon.

A gallon shall consist of two hundred and thirty-one cubic inches. [1921]

Sec. 89-105. Standard pound.

A pound avoirdupois shall consist of seven thousand grains in Troy weights. [1921]

Sec. 89-106. Length and surface; units.

The units of standard, and measures of length and surface from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, are the standards of length designated in sections 89-101 to 89-141. The yard is divided into three equal parts called "feet," and each foot into twelve equal parts called "inches." For measures of cloth and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths and sixteenths. The rod, pole or perch contains five and one-half yards, and the mile seventeen hundred and sixty yards. The chain for measuring land is twenty-two yards long, and is divided into one hundred equal parts called "links." The acre for land measure shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten in breadth, six hundred and forty acres being contained in a square mile. [1921]

Sec. 89-107. Standard weights; hundred weight; ton; pound.

The units of standard of weight, from which all other weights shall be derived and ascertained, shall be the standard weights designated in sections 89-101 to 89-141. The hundred weight consists of one hundred avoirdupois pounds, and a ton contains twenty hundred weights. Wherever in said sections the word "pound" is used, it shall mean the avoirdupois pound unless otherwise distinctly specified. [1921]

Sec. 89-108. Standard dry measures.

The units of standards of measure of capacity for commodities not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designated in sections 89-101 to 89-141. The peck, half-peck, quarter-peck, quart, pint, and half-pint measures, for measuring commodities which are not liquids, shall be derived from the half-bushel by successively dividing the measure by two. [1921]

Sec. 89-109. Standard liquid measure.

The units of standards of measure of capacity for liquids, from which all other measures shall

be derived and ascertained, shall be the standard liquid measures designated in sections 89-101 to 89-141. The liquid gallon shall be divided by continual division by the number two so as to make half-gallons, quarts, pints, half-pints and gills. [1921]

Sec. 89-110. Standard electrical measures.

The standards of electrical measures recognized by the national Bureau of Standards, when procured by the state, shall be the standard of electrical measures in the State of Nebraska. [1921]

Sec. 89-111. Metric system official.

The weights and measures of the metric system shall be legal weights and measures in the State of Nebraska. [1921]

Sec. 89-112. Standard weight of commodities per bushel.

Whenever any of the articles or commodities mentioned in this section shall be sold by the bushel or fractional part thereof and no special agreement shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight and be computed as follows:

	<i>Pounds</i>
Apples	48
Apples, dried	24
Alfalfa seed	60
Barley	48
Beans, green unshelled	56
Beans, dried	60
Beans, lima	56
Beets	56
Blue grass seed	18
Bran	20
Bromus Inermis	14
Broom corn seed	50
Buckwheat	50
Carrots	50
Castor Beans, shelled	50
Charcoal	20
Cherries	40
Clover seed	60
Coal	80
Coke	40
Corn in ear, husked (field)	70
Corn in ear, unhusked (field)	75
Corn shelled (field)	56
Cornmeal	48
Cucumbers	48
Emmer	48
Grapes with stems	40
Hemp seed	44
Hickory nuts, hulled	50
Kaffir Corn	56
Lime	80
Millet seed	50
Oats	32
Onions	57
Onion top sets	28
Onion bottom sets	32
Orchard grass seed	14
Osage Orange seed	32
Parsnips	50
Peaches	48
Peaches, dried	33
Peanuts	22
Pears	45

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	<i>Pounds</i>
Peas green, unshelled	50
Peas, dried	60
Plums	48
Popcorn on the ear	70
Popcorn, shelled	56
Potatoes	60
Quinces	48
Rape seed	50
Red top seed	14
Rutabaga	60
Rye	56
Rye grass seed	22
Salt	80
Sand	130
Shorts	20
Sorghum saccharatum seed	50
Spelt (emmer)	48
Sweet Corn	50
Sweet potatoes	50
Timothy seed	45
Tomatoes	56
Turnips	55
Walnuts, hulled	50
Wheat	60
All root crops not specified above	50

[1921; last amended 1943.]

Sec. 89-113. Flour and corn meal: Standard weight containers; exception.

The net weight per barrel, per sack, per container, per package, or divisible merchantable quantities, shall be as follows, and no packages other than these sizes shall be permitted for sale in the State of Nebraska: Wheat flour, per barrel, two hundred pounds; per half-barrel, one hundred pounds; per quarter-barrel sack, fifty pounds; per one-eighth barrel sack, twenty-five pounds; and in smaller containers of ten pounds, five pounds or less if the net weight is plainly marked thereon; rye flour, rye graham, wheat graham, whole wheat flour and cornmeal in sacks of the following weights: one hundred pounds, fifty pounds, twenty-five pounds, ten pounds, five pounds, or less if the net weight is plainly marked thereon. Nothing in sections 89-101 to 89-141 shall be construed to prohibit the sale of flour prepared for special purposes in other sized packages. [1921; last amended 1943.]

Sec. 89-114. Measurement of hay in stack.

Unless otherwise agreed to between the contracting parties, the following shall constitute the legal method for measuring hay in the stack, and determining the tonnage of the same: The distance from the ground against one side of the stack to the ground against the other side of the stack, directly over and opposite, shall be taken in feet and inches; from this measurement shall be subtracted the average width of the stack and the result divided by two, to obtain the average height of the stack; the width shall then be multiplied by the height, and the result by the average length of the

stack, to determine the cubic feet of hay in the stack. [1921]

Sec. 89-115. Contracts to be in terms of standards.

All contracts, sales or purchases made for work to be done, or for anything to be sold or delivered or done, by weight or by measure, within this state, shall be taken and construed in terms of and according to the standards of weights and measures adopted by sections 89-101 to 89-141, except where parties have agreed in writing upon any other calculations or measurements. All statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. [1921]

Sec. 89-116. Dry commodities: Sold by standard weight or measure only; exceptions.

All dry commodities, not otherwise specified in sections 89-101 to 89-141, shall be sold only by standard weight, numerical count, linear or surface measure, except where the parties shall have a written agreement, specifying some other unit of measure, or in the case of fruits and vegetables in containers, other than as specified in section 89-117 where the container is labeled or stamped designating the minimum weight or the minimum numerical count. [1921]

Sec. 89-117. Berry containers; onions, sales one peck or less; dry measure.

All sales of blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in a package of one peck or less, may be sold by the quart, pint or half-pint, dry measure; and all berry boxes sold, used, or offered for sale, within the state, shall be of an interior capacity of one quart, pint or half-pint, dry measure. Any berry boxes not conforming to this section shall be confiscated by the inspector. [1921]

Sec. 89-118. Standard milk and cream containers; liquid commodities sold only by standard liquid measure or weight; exception.

All milk or cream sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties shall have a written agreement specifying some other unit or measure. [1921]

Sec. 89-119. Standard butter print or package.

A print or package of butter shall contain one pound avoirdupois. [1921]

Sec. 89-120. Weighing and measuring devices; sealing; fraudulent use; penalty.

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 buying or selling of any commodity or thing for hire or award, 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 Department of Agriculture and Inspection within two years, or who shall sell or offer or expose for sale less than the quantity he represents, 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 the commodity 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 sell or offer to sell, or use, or have in his possession for the purpose of selling or using, any device or instrument to be used, or calculated to falsify any weight or measure, shall be guilty of a misdemeanor. The possession of such weight, measure, scale, balance or beam shall be prima facie evidence that the same was intended to be used in violation of law, except as provided for in section 89-123. [1921]

Sec. 89-121. Scales and weights; inspection; powers of director of department.

When not otherwise provided by law, the Director of the Department of Agriculture and Inspection, or his inspectors, shall have the power, and it shall be his or their duty to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing and measuring devices, kept, offered, or exposed for sale, sold or used or employed by any proprietor, agent, lessee or employee in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce or articles of distribution or consumption purchased, offered or submitted by such person or persons for sale, hire or award; 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, 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 may for the purposes above mentioned and in general performance of his official duties, enter and go into or upon, without formal warrant, any stand, place, building or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the Director or his inspectors may specify, for the purpose of making proper tests. Whenever the director, or his inspectors, finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. He shall at

least once annually test all scales, weights and measures used in checking the receipts or disbursements or supplies in every institution for the maintenance of which moneys are appropriated by the Legislature. [1921]

Sec. 89-122. Same: Inspection; sealing.

Whenever the Director of the Department of Agriculture and Inspection, or his inspectors, compares weights, measures, or weighing or measuring devices, and finds that they correspond or causes them to correspond with the standard in his possession, he shall seal or mark such weights, measures or weighing or measuring devices with the appropriate seals or marks. [1921]

Sec. 89-123. Same: Condemnation, when authorized; repairs.

The Director of the Department of Agriculture and Inspection, or his inspectors, may confiscate and seize without warrant any incorrect weight, measure, weighing or measuring device, or part thereof, which does not conform to the state standards or specifications, and which in his or his inspector's best judgment is not susceptible to repair. He or his inspectors may also confiscate and seize any device required to be licensed by the department upon which the license fee has not been paid and which does not bear the license tag of the current year. Any such inspector who shall make any such seizure shall not be liable to the owner of the property seized for damages caused by such seizure. Any property so seized, if not returned to the owner within one year from the date of seizure, shall be destroyed. Such weights, measures, or weighing or measuring devices as are incorrect and may be repaired, they 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 or corrected within thirty days, and they may neither use nor dispose of the same in any way, nor remove or deface any such "condemned for repairs" tag or other mark or tag affixed by the director or his inspectors, until they shall have received from the department written permission to do so. Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, or have been used or disposed of in any way, shall be confiscated by the department. The removal or defacing of such tag shall be prima facie evidence that the same was removed or defaced by and with the consent of the owner or user of the scale. [1921]

89-124. Interference with inspection; penalty.

Except as otherwise provided in sections 89-101 to 89-141 any person, firm or corporation preventing, attempting to prevent, obstructing, hindering, or in any way interfering with the Director

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of the Department of Agriculture and Inspection, or his inspectors or agents, in the performance of his or their official duties, or knowingly failing or neglecting to observe any reasonable rule or regulation of the director adopted for the enforcement of said sections, shall be deemed guilty of a misdemeanor.¹ [1921]

¹ See Sec. 89-141, page 590, penalty for violation.

Sec. 89-125. Inspectors: Police powers.

The Director of the Department of Agriculture and Inspection or his inspectors are made special policemen, and are authorized and empowered to arrest any violator of the statutes in relation to weights and measures, to enter complaint before any court of competent jurisdiction, 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 commodities, found to be used, retained, or offered or exposed for sale or sold in violation of law. [1921]

Sec. 89-126. Municipal inspection and sealing.

Any city or municipality in the state may establish a department of public inspection of weights and measures, and shall have the power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances, not in conflict with the state laws, as may be deemed necessary. If a city or municipality shall establish such a department, it shall provide the sealer with suitable quarters, a set of standards as hereinafter specified in sections 89-101 to 89-141, and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the Department of Agriculture and Inspection, and shall be returned to it for verification at least once in every five years. [1921]

Sec. 89-127. Municipal standards enumerated.

Sets of standards for municipal sealers, if procured, shall include the following weights, measures and balances, and they shall be of a type approved for such use by the Department of Agriculture and Inspection:

One yard measure divided into feet and inches, and at least one of the inches divided into thirty-seconds of an inch;

Dry capacity measures: One-half bushel, one peck, one quart and one pint;

Liquid capacity measures: One gallon, one quart and one pint;

Avoirdupois pound weights in the following number and denomination: One fifty-pound, one twenty-pound, two ten-pound, one five-pound, two two-pound, and one one-pound;

Avoirdupois ounce and fractional ounce weights in the following number and denomination: One eight-ounce, one four-ounce, one two-ounce, two one-ounce, one one-half ounce, one one-quarter ounce, one one-eighth ounce, and two one-sixteenth ounce;

Twenty test weights, each of fifty pounds, for testing platform scales and other large scales, if the same are to be tested;

One equal arm balance of a capacity of fifty pounds to one-sixteenth of an ounce. [1921]

Sec. 89-128. Inspection of work of local sealers: Supervision by director of department; reports.

The Director of the Department of Agriculture and Inspection, or his inspectors by his direction, shall at least once in each two years, or oftener if he feels it is for the best interest of the public, visit the various cities of the state in order to inspect the work of the local sealers; and in the performance of such duties, he, or his inspectors by his direction, may inspect the weights, measures, balances, or any weighing or measuring appliance of any person, firm, or corporation, and shall have the same powers as the local sealer of weights and measures. He shall require a semi-annual report of the work done by the municipal sealer, and shall issue from time to time, regulations for the guidance of all sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1921]

Sec. 89-129. Authority to make immediate examination.

Any inspector who may have reason to believe that any weight, measure, balance, weighing or measuring device, used in trade, is inaccurate or not according to the standard, shall have the authority to make an immediate examination of the same, and require that the same be tried and tested, and conform to the standards herein required. [1921]

Sec. 89-130. Fees.

The Department of Agriculture and Inspection shall receive fees as follows:

(1) For inspecting and sealing platform scales:

(a) Each scale over nineteen thousand pounds capacity, six dollars and fifty cents; (b) each scale over four thousand pounds capacity up to and including nineteen thousand pounds capacity, four dollars and fifty cents; (c) each scale over six hundred pounds capacity up to and including four thousand pounds capacity, two dollars and fifty cents; (d) each scale over one hundred pounds capacity up to and including six hundred pounds capacity, seventy-five cents; (e) each scale over five pounds capacity up to and including one hundred pounds capacity, fifty cents; and (f) each scale of five pounds capacity or less, twenty-five cents;

(2) For hopper or grain shipping scales, except

automatic scales: (a) Each scale of over ten thousand pounds capacity, ten dollars; (b) each scale over five thousand pounds capacity up to and including ten thousand pounds capacity, five dollars; (c) each scale of five thousand pounds capacity or less, three dollars and fifty cents; (d) for each automatic scale up to and including six hundred pounds capacity, three dollars and fifty cents; and (e) each automatic scale over six hundred pounds capacity, five dollars, and the department shall be entitled to collect from the owner or custodian of such scales herein mentioned an amount sufficient to cover the cost of transporting all necessary test weights to and from the location of said scales;

(3) For sealing and marking each beam, ten cents; for sealing or marking measures of extension, ten cents per yard or fraction thereof, not exceeding fifty cents for any one measure;

(4) For sealing or marking liquid or dry measures, ten cents for each measure; for measuring pumps or automatic tanks of one gallon or less, twenty-five cents; for measuring pumps or automatic tanks of over one gallon, fifty cents; and for linear measuring devices, fifty cents; for sealing or marking each weight, five cents; for the inspection of any weighing or measuring device not listed in this section, the director of the department shall have the authority and power to fix a fee.

The department shall have a reasonable compensation for making weights and measures conform to the standard in its possession. It shall not require any fee from any county or city. All fees collected by it, or such part as is necessary, shall be used in the proper enforcement of sections 89-101 to 89-141, the balance to be paid to the State Treasurer and credited to the General Fund. The inspection and sealing fees herein provided for shall be and constitute a lien on the weights, scales, measures, weighing or measuring devices inspected until said fees are paid, and the director may sue therefor in the name of the state. [1921; last amended 1947.]

Sec. 89-131. Public scales: Erection; counties under township organization.

Scales may be erected in the State of Nebraska for public use at public expense. In counties under township organization, a township may at the annual meeting provide for the erection and determine the location and number of scales for the township, and levy a tax to pay for the same. [1921]

Sec. 89-132. Same: Weighmaster; appointment; term.

When such public scales are provided for, the township board shall appoint a weighmaster, upon petition of the electors living in the immediate vicinity of the scales so located, who shall, under oath, promise to perform the duties of his office faithfully and honestly, and the weighmaster so

appointed shall continue in office until removed by the township board or by resignation. [1921]

Sec. 89-133. Same: Testing.

The township board shall from time to time, as in its judgment seems necessary, test the scales as to their accuracy and properly adjust same. [1921]

Sec. 89-134. Same: Weighmaster's receipt conclusive in dispute.

Whenever disputes arise between two parties, within the limits of the township where such scales are located, over the first weighing of any articles, the same shall be weighed a second time on the public scales, and the weighmaster's receipt therefor shall be final. [1921]

Sec. 89-135. Same: Weighmaster's compensation.

The township board shall fix and regulate the fee or salary of the weighmaster, and the fees, if any, for weighing. [1921]

Sec. 89-136. Same: Counties under commissioner plan.

Townships in counties under the commission organization, desiring to adopt the provisions of sections 89-131 to 89-135, shall petition to the county board of such county, and where a majority of the electors so petition, the same shall be granted. All duties and powers imposed upon township officers by said sections where counties are under township organization shall be performed by the county board of counties under commission organization. [1921]

Sec. 89-137. Standard brick.

The standard size of brick sold in the State of Nebraska shall be eight and one-fourth inches long, four inches wide, and two and one-half inches thick. [1921]

Sec. 89-138. Same: Notice to purchaser if otherwise than standard.

No person shall sell any brick of any size other than that specified in the section 89-137 without, at the time of the sale, notifying the purchaser, in writing, of the size of such brick. [1921]

Sec. 89-139. Sale of coal, coke, charcoal by weight; delivery ticket; re-weighing.

It shall be unlawful to sell or offer to sell in this state any coal, charcoal or coke in any other manner than by weight. No person, firm or corporation shall deliver any coal, charcoal or coke, without each such delivery being accompanied by a delivery ticket and duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivering vehicle, and the net amount in weight of coal, charcoal or coke contained in the cart, wagon or other vehicle used in such deliveries, with the name of

Revised Statutes 1943, Vol. 4, Ch. 89—Weights and Measures—Continued.

the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be surrendered by the person in charge of the load to the inspector upon demand, for his inspection, and a ticket or weight slip issued by the inspector, when the inspector desires to retain the original, shall be delivered to the purchaser of said coal, charcoal or coke, or his agent or representative, at the time of the delivery of the fuel; and the other ticket shall be retained by the seller. When the buyer carries away the purchase, a delivery ticket, showing the actual number of pounds delivered, must be given to the purchaser at the time delivery is made. The Director of the Department of Agriculture and Inspection or any of his inspectors or assistants are empowered to compel the party or parties having charge of such coal, charcoal or coke to bring same on demand to a scale, designated by the director or his assistant or inspector, and weighed, for the purpose of proving the true net weight of the article or commodity. [1921]

Sec. 89-140. Automatic pay scales; license; fee.

It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent, or employee of any person, firm, or corporation, to operate, or use or display for use any scale or scales, known as "money-in-the-slot," or automatic scale or scales, or any weighing device, apparatus or machine, which is used or intended for use to determine the weight of any person or persons, where compensation is derived, or any public or custom scale for which a fee is charged or accepted for weighing, unless said scale or device is licensed by the Department of Agriculture and Inspection. Upon payment of the license fee of three dollars, the department shall issue a metal license tag. All tags shall be numbered consecutively, and bear the year for which the license is valid. The tag shall be displayed prominently on the front of the weighing device, and the defacing or wrongful removal of such tag shall be deemed a misdemeanor. Absence of the license tag shall be prima facie evidence that the weighing device is being operated contrary to law. No license shall be issued until the annual fee of three dollars is paid to the department for each scale or weighing device operated or used. Any person desiring to secure said license shall make application therefor upon a blank to be furnished by the department. The department may withhold or revoke any license for cause. All licenses issued under this section shall expire December 31 of each year. [1921]

Sec. 89-141. Penalty for violating Secs. 89-101 to 89-141.

Any person, firm or corporation violating any of the provisions of sections 89-101 to 89-141, shall

be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days; *Provided, however*, that upon the second conviction for the violation of any of the provisions of said sections, such offender shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days. [1921]

Sec. 89-154. Cotton duck or canvas: Label.

Any person or corporation who shall manufacture for sale, or who may offer or expose for sale any cotton duck or canvas made in whole or in part of cotton duck or canvas, shall distinctly and durably stamp, brand or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard; also the true grade, single filling, double filling, army, roll or wide duck, together with a description by name of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture. [1919]

Sec. 89-155. Same: Sale without proper labels; penalty.

It shall be unlawful for any person or corporation either individually or in any representative capacity to carry for sale, sell or endeavor to sell, any cotton duck or canvas as herein defined, or any article, other than clothing and wearing apparel, composed of, made in whole or in part of any cotton duck or canvas, without having marked thereon the true and correct weight of said canvas or cotton duck by ounces per yard, also the true grade, single filling, double filling, army, roll or wide duck, together with a description by name of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture, or to misstate, misrepresent or conceal the true weight of the canvas or cotton duck by ounce per yard, or the true grade, single filling, double filling, army, roll or wide duck, or the existence of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture. [1919]

Sec. 89-156. Same: Concealing size or dimension; penalty.

It shall be unlawful for any person or corporation, either individually or in a representative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tents, grain and hay covers, stable or tent tops, to misstate or misrepresent, or conceal, the true and correct size and dimensions thereof. [1919]

Sec. 89-157. Same: Defacing labels; penalty.

It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel or remove any mark provided for by section 89-154, or cause or permit the same to be done with intent to mislead or deceive, or to violate any of the provisions of sections 89-154 to 89-160. [1919]

Sec. 89-158. Same: Definitions.

For the purpose of sections 89-154 to 89-160 cotton duck or canvas shall be deemed to include all cotton duck or canvas, whether single filling, double filling, army, roll or wide duck. [1919]

Sec. 89-159. Same: Yard; ounce.

For the purpose of sections 89-154 to 89-160, the equivalent of thirty-six inches in length by twenty-nine inches in width, or seven and one-fourth square feet of cotton duck or canvas, shall constitute a yard, and an ounce shall be one-sixteenth part of a pound avoirdupois. [1919]

Sec. 89-160. Same: Penalty for violating Secs. 89-154 to 89-160.

Any person, company or corporation violating any of the provisions of sections 89-154 to 89-160 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for the first offense be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, and for each subsequent offense by a fine of not less than fifty dollars nor more than one hundred dollars. [1919]

Sec. 89-161. Grain: Carlot shipments federally inspected; sale; standard weights.

Carlots of grain that have been inspected by any licensed inspector who has a license from the United States Department of Agriculture under the provisions of the Grain Standards Act, may be sold to be paid for on the basis of shippers' weights, or on the basis of destination weights or on the basis of the official weights on the market where the grain is inspected, as agreed by the buyer and seller in the trade. [1930]

Sec. 89-162. Same: Diversion or reshipments.

Grain inspected by licensed inspectors, as provided in section 89-161, may be diverted or reshipped without having to be unloaded and weighed where inspected. [1930]

Sec. 89-163. Same: Carlot shipments; right of diversion protected.

No person or persons shall be deprived of this diversion right by any rule, regulation, by-laws or custom of any market, board of trade, chamber of commerce exchange, inspection department, or similar organization operating within the State of Nebraska; *Provided*, nothing in this section shall be construed to prohibit any of the aforesaid organizations from adopting rules regulating the weighing of grain offered for sale or sold on the trading floor of any such organization. [1930; last amended 1937.]

Sec. 89-164. Bread: Standard weight of loaf; enforcing agency.

It shall be the duty of the Department of Agriculture and Inspection to enforce all of the provisions of sections 89-164 to 89-167. It shall make

or cause to be made all necessary examinations, and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of said sections. [1931]

Sec. 89-165. Same: Standard weights authorized.

Every loaf of bread made for sale in the State of Nebraska shall be of the following weights avoirdupois: One-half pound, one pound, one and one-fourth pounds, one and one-half pounds, and exact multiples of one pound and no other weights. Whenever twin or multiple loaves are baked, the weights herein specified shall apply to each unit of the twin or multiple loaf; *Provided*, that a twin one and one-half pound loaf may be made and sold, but units of said loaf must not be sold separately. There shall be printed upon the wrapper of each loaf of bread, in plain conspicuous type, the weight of the loaf in terms of one of the standard weights herein specified. None of the provisions of sections 89-164-89-167 shall apply to fancy breads. [1931; last amended 1943.]

Sec. 89-166. Same: Tolerances.

The Director of the Department of Agriculture and Inspection shall prescribe reasonable tolerances or variations in excess of, but not under, the weights mentioned in section 89-165, within which all loaves shall be baked, and also the time for which said weights shall be maintained. [1931]

Sec. 89-167. Same: Penalty for violating Secs. 89-164 to 89-167.

Any person, firm or corporation violating any of the provisions of sections 89-164 to 89-167, or rules and regulations promulgated thereunder, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. [1931; last amended 1935.]

Revised Statutes 1943, Vol. 1, Ch. 14, Art. 1—Cities of the Metropolitan Class.

Sec. 14-101. Definition; general powers.

All cities in this state which shall have attained a population of one hundred thousand inhabitants or more, shall be cities of the metropolitan class and governed by this act [Secs. 14-101-14-816]. * * * The powers hereby granted shall be exercised by the mayor and council of such city, as hereinafter set forth, except when otherwise especially provided. [1921; last amended 1941.]

Sec. 14-102. Additional powers.

In addition to the powers granted in section 14-101, metropolitan cities, as therein defined, shall have power by ordinance:

* * * * *

7. To regulate the weighing and measuring of hay, wood, and other articles exposed for sale, and

Revised Statutes 1943, Vol. 1, Ch. 14, Art. 1—Cities of the Metropolitan Class—Continued.

of all coal sold or delivered within the city; to provide for, license, and regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city; and to prescribe the weight and quality of bread exposed or offered for sale in the loaf; and to provide for the inspection of weights and measures or weighing apparatus; [1921]

* * * * *

Revised Statutes 1943, Vol. 1, Ch. 15, Art. 2—Cities of Primary Class.

Sec. 15-213. General powers: Weights and measures.

A primary city¹ shall have power, by ordinance, to establish standard weights and measures, regulate the weights and measures to be used in the city, regulate the measuring of every commodity sold in the city, in all cases not otherwise provided by law, and prohibit the use of imperfect weights, measures and weighing apparatus. [1901]

¹ A city having more than 40,000 and less than 150,000 inhabitants.

Sec. 15-214. Same: Weighing of fuel and feed; sale; regulation.

A primary city shall have power, by ordinance, to provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel to be used in the city, determine the place or places of the same, and regulate and prescribe the place or places of exposing for sale hay, coal and wood. It may fix the fees and duties of persons authorized to perform such duties. [1901]

Revised Statutes 1943, Vol. 1, Ch. 16, Art. 2—Cities of the First Class.

Sec. 16-223. General powers: Weights and measures.

A city of the first class¹ by ordinance may establish standard weights and measures, regulate weights, meter and measures to be used in the city, and regulate the weighing and measuring of every commodity sold in the city, including water, gas and electric light, in all cases not otherwise provided by law. It may prohibit and punish the use of imperfect weights, measures, weighing apparatus, and meters. [1901; last amended 1905.]

¹ A city having more than 5,000 and not more than 40,000 inhabitants.

Sec. 16-224. Same: Inspection of meters; weighing of fuel and feed; sale; regulation.

A city of the first class by ordinance may provide for the inspection of electric light, water and gas meters, the inspection and weighing of hay, grain and coal, and the measuring of wood and fuel to be used in the city, and determine the place or places of the same. It may regulate and prescribe

the place or places of exposing for sale of hay, coal and wood, provide for the appointment of an inspector, and fix the fees and duties of the inspector and of other persons authorized to perform such duties. [1901; last amended 1905.]

Revised Statutes 1943, Vol. 1, Ch. 17, Art. 5—Cities of the Second Class and Villages.

Sec. 17-553. General powers: Weights and measures.

Second class cities and villages¹ shall have power to establish standard weights and measures, to regulate the weights and measures to be used in the city or village, and to regulate the weighing and measuring of every commodity sold in the city or village in all cases not otherwise provided by law. [1879; last amended 1887.]

¹ All cities, towns, and villages containing more than 1,000 and not more than 5,000 inhabitants are cities of the second class.

Sec. 17-554. Same: Weighing of fuel and feed; sale; regulation.

Second-class cities and villages shall have power to provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel to be used in the city or village, and to determine the place or places of the same, and to regulate and prescribe the place or places of exposing for sale hay, coal and wood; and to fix the fees and duties of persons authorized to perform the duties named in this section. [1879; last amended 1887.]

Revised Statutes 1943, Vol. 2, Ch. 28, Art. 4—Narcotic Drugs.

Sec. 28-460. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which the drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1935]

Sec. 28-469. Enforcement.

It is hereby made the duty of the Department of Health of the State of Nebraska, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of sections 28-451 to 28-476 pertaining to narcotic drugs * * * and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs and barbital and other hypnotic and other somnifacient drugs. [1935; last amended 1941.]

Sec. 28-470. Penalty for violations.

Any person violating any of the provisions of sections 28-451 to 28-469, * * * shall upon conviction thereof be punished (1) for the first of-

fense, by a fine not exceeding three thousand dollars, or by imprisonment in the penitentiary for one year, or by both such fine and imprisonment and (2) for any subsequent offense, by a fine not exceeding five thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than five years, or by both such fine and imprisonment. [1935; last amended 1947.]

Revised Statutes 1943, Vol. 2, Ch. 28, Art. 12—False Brands and Marks.

Sec. 28-1223. Sales by false weights and measures; penalty.

Any person or persons who shall knowingly and willfully sell, or direct, or permit any person or persons in his or their employ to sell any commodity or article of merchandise, and make or give any false or short weight or measure, or any person or persons owning or keeping or having charge of any scales or steelyards for the purpose of weighing live stock, hay, grain, coal or other articles, who shall knowingly and willfully report any false or untrue weight, whereby any other person or persons may be defrauded or injured, shall be fined in any sum not exceeding fifty dollars, or be imprisoned in the jail of the county not exceeding thirty days, and also be answerable to the party defrauded or injured in double damages. [1893]

Sec. 28-1224. Articles packed in kegs, barrels, etc.; weighing and marking requirements.

Any person, agent, or clerk who shall put up, or shall order or procure any other person to put up or pack sugar, rice, tobacco, soap, starch, candles, cheese or any goods or articles sold by weight, packed in kegs, barrels, tierces, casks, boxes, hogsheads, or any case whatever, shall in every instance first weigh the entire box or cask or whatever it may be, and plainly cut or mark upon the head or convenient part thereof, the exact number and fractions of pounds it weighs, and when packed or filled shall again ascertain the whole weight, and place the same immediately above the cut or marked tare weights, and subtract the one from the other, showing the net weight of the contents, which calculation shall not be obliterated while the bulk remains unbroken; and such articles, until the bulk is broken, shall be sold by the net weight; *Provided, however*, nothing in this section shall be so construed as to release any person from the obligation of allowing the actual tare at the time of sale on all kegs, barrels, tierces, casks, boxes, hogsheads or cases containing articles which by their nature are liable to change their original tare. [1893]

Sec. 28-1225. Same: Marks not to be changed.

Any brand, mark or stamp, put upon any keg, barrel, box, cask, hogshead or case by the manufacturer, indicating the articles, its quality, quantity or the manufacturer's name or any one of

them, shall be considered the manufacturer's certified brand, stamp or mark, and shall be put thereon in such manner as to be identified by the manufacturer or his authorized agent, which shall be subject to no erasure or obliteration; and such box lids, keg, barrel, hogshead, tierce or cask heads, shall not be transferred from one to the other, for the purpose of taking advantage of such brands, stamps or marks, to sell an inferior article, nor shall repacking take place, putting an inferior article into a superior branded keg, barrel, cask, hogshead, box or case, to accomplish the same design, or marking or remarking anything containing pound bulk, so as to hide from view the original manufacturer's mark, stamp or brand. [1893]

Sec. 28-1226. Same: Penalty for violating two preceding sections.

Whoever, directly or indirectly, transgresses any of the provisions enumerated in the sections 28-1224 and 28-1225 shall, in all cases, pay to the party aggrieved double the value of the differences between the actual quantity contained in such keg, barrel, cask, tierce, box or hogshead or in whatever the same may be contained, and the net quantity or weight for which the same may have been sold; and for the first offense be subject to a fine not less than twenty nor more than sixty dollars, or imprisonment in the county jail not less than thirty days nor more than sixty days; and for the second and every subsequent offense shall be subject to a fine not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail not less than thirty nor more than ninety days. [1893]

Revised Statutes 1943, Vol. 3, Ch. 46, Art. 2—Measurement of Water.

Sec. 46-228. Standards of measurement; "miner's inch."

The standard of measurement for flowing water, both for determining the flow of water in natural streams and for the purpose of distributing it therefrom when appropriations shall have been made for direct flow, shall be one cubic foot per second of time. The standard of measurement of the volume of water shall be one acre foot, equivalent to forty-three thousand five hundred and sixty cubic feet, and when water is stored in any natural or artificial reservoir, this standard shall be used for determining the capacity of storage reservoirs, the amount stored and the amount used therefrom. One "miner's inch" shall be one-fiftieth of one cubic foot per second. [1919]

Revised Statutes 1943, Vol. 3, Ch. 53—Alcoholic Liquors.

Sec. 53-118. Containers: Commission to fix capacity; marking requirements.

The rules and regulations established by the commission [Nebraska Liquor Control Commis-

Revised Statutes 1943, Vol. 3, Ch. 53—Alcoholic Liquors—Continued.

sion] shall include, among such other things as the commission may determine, the following: (1) Fixing and determining the nature, form and capacity of all containers used for alcoholic liquors; (2) determining the nature of and the representations to be shown upon the labels attached to the containers; *Provided*, that the commission shall require that the labels attached to all original containers or packages of alcoholic liquors sold or offered for sale in this state shall set forth in plain and legible print in the English language the quantity of such liquors in full gallons, quarts, pints or half-pints, exclusive of the package or cask containing it, or in fractions or in multiples thereof; *and provided further*, that no original package of alcoholic liquor sold or offered for sale in the original package in this state shall contain less than one half pint; * * *. [1935; last amended 1945.]

Revised Statutes 1943, Vol. 3, Ch. 54, Art. 5—Stock-yards.

Sec. 54-501. Definition.

The term "stockyards" as used herein, shall mean and embrace all corporations, individuals, associations of individuals, their lessees, trustees or receivers appointed by any court of lawful authority whatsoever, that now or hereafter may own, operate, manage or control any yards and pens, railroad tracks, switches, engines, or other motive power, for the purpose of handling livestock in transit and for sale. All stockyards are hereby declared to be common carriers. [1911]

Sec. 54-505. Scales to be furnished.

Every stockyard shall furnish scale facilities sufficient to weigh all livestock without unreasonable delay. * * * [1911]

Revised Statutes 1943, Vol. 3, Ch. 54, Art. 8—Commercial Feeding Stuff.

Sec. 54-801. Definition.

The term "commercial feeding stuff" shall be held to include all the feeding stuffs used for feeding livestock and poultry, except (1) whole seeds or grains, (2) whole unground hays, straws, cottonseed hulls and corn stover when unmixed with other materials, (3) all other materials containing sixty per cent or more of water, and (4) unmixed meals or chops made from the whole grain to which nothing has been added and from which nothing has been abstracted, when such unmixed meals or chops are exchanged for whole grain of a like kind or when such unmixed meals or chops are manufactured, sold, and delivered on the premises of the manufacturer, direct to the ultimate consumer. [1927]

Sec. 54-803. Marking requirements.

Every lot or parcel of commercial feeding stuff sold, offered or exposed for sale, or distributed within this state at retail, shall have a label affixed thereto, in a conspicuous place on the outside thereof, bearing a legible and plainly printed statement in the English language clearly and truly certifying the following: * * * (2) the minimum net weight of the contents of the package, lot or parcel; * * * [1927; last amended 1949.]

Sec. 54-809. Rules and regulations; enforcement.

The Department of Agriculture and Inspection is hereby empowered to enforce the provisions of sections 54-801 to 54-818 and to prescribe the form of labels to be used and to prescribe and enforce such rules, regulations and standards as it may deem necessary to carry into effect the full intent and meaning of said sections. [1927]

Sec. 54-815. Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person * * * who shall sell, offer, or expose for sale, or distribute in this state, or who shall take or receive from any firm, association, corporation, or person in this state any order for any commercial feeding stuff, as defined in section 54-801, which is not labeled in accordance with the provisions of section 54-803 when delivered in this state by common carrier or otherwise, * * * shall be deemed guilty of a violation of the provisions of sections 54-801 to 54-818, and upon conviction thereof shall be fined not less than one hundred dollars for the first violation and not less than five hundred dollars for each subsequent violation. [1927]

Revised Statutes 1943, Vol. 3, Ch. 54, Art. 9—Livestock Remedy.

Sec. 54-901. Definition.

The term "livestock remedy" as used in sections 54-901 to 54-906, shall be held to include all condimental feeds, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, proprietary medicines, and all preparations of like nature designed for any animal, except man, to be administered internally for their stimulating, invigorating, curative or other powers. [1915; last amended 1919.]

Sec. 54-902. Marking requirements.

Every barrel, bag, pail, parcel or package of livestock remedy as defined in section 54-901 shall have affixed thereto in a conspicuous place on the outside thereof, distinctly printed in the English language in legible type, not smaller than eight point heavy Gothic caps, or plainly written, a statement certifying (1) the net weight or measure in the package, * * * [1915; last amended 1919.]

Sec. 54-906. Penalty for violations.

Any person who shall violate any of the provisions of sections 54-901 to 54-905 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars or be imprisoned in the county jail not exceeding three months. [1915; last amended 1919.]

Revised Statutes 1943, Vol. 3, Ch. 54, Art. 11—Livestock Sales Rings.**Sec. 54-1101. Definitions.**

When used in sections 54-1101 to 54-1126: (1) the term "livestock" shall mean and include horses, mules, cattle, swine, sheep and goats; and (2) the term "livestock sales ring" shall mean a place where a person, partnership, association or corporation shall assemble livestock for either private or public sale; *Provided*, the provisions of sections 54-1101 to 54-1126 shall not apply to farm sales, or sales conducted by livestock breeders associations, or by 4-H Clubs, or by exposition societies where there is maintained either state or federal inspection. [1937]

Sec. 54-1110. Licensed weighmasters required.

No license or renewal license to establish or operate a livestock sales ring within the State of Nebraska shall be issued, nor shall any duly licensed livestock sales ring within the state continue to operate, unless the livestock handled by such livestock sales ring shall be weighed by a weighmaster duly licensed by the Director of the Department of Agriculture and Inspection to weigh livestock in livestock sales rings in the State of Nebraska. [1937; last amended 1941.]

Sec. 54-1111. Weighmasters: License; fee.

Upon application in writing to the Director of the Department of Agriculture and Inspection, accompanied by a permit fee of one dollar, the director shall issue annual licenses to such weighmasters. Subject to the conditions of sections 54-1114 to 54-1117, the director may summarily dismiss any weighmaster employed at any livestock sales ring at any time. The moneys arising from permit fees of weighmasters shall be deemed and considered occupation tax and not license money. [1937; last amended 1941.]

1 Secs. 54-1114 to 54-1117, not included herein, provide for the procedure to be followed in connection with the suspension and revocation of licenses.

Sec. 54-1118. Rules and regulations for enforcement.

The Director of the Department of Agriculture and Inspection may adopt and publish rules and regulations necessary for the administration of sections 54-1101 to 54-1126. [1937]

Sec. 54-1120. Scales: Must conform to regulations.

All scales used in the operation of livestock sales rings must conform with the rules and regulations

of the Director of the Department of Agriculture and Inspection. [1937]

Sec. 54-1126. Penalty for violations.

Any person, association, partnership or corporation, their agents, servants or employees, who shall violate any provision or requirement of sections 54-1101 to 54-1126, or any rule or regulation adopted by the Director of the Department of Agriculture and Inspection pursuant to said sections, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both. [1937]

Revised Statutes 1943, Vol. 3, Ch. 56, Art. 2—Toll Mills.**Sec. 56-201. Toll mills deemed public mills.**

All mills within this state, for grinding wheat, rye, corn or other grain, and which shall grind for toll, shall be deemed public mills. [1873]

Sec. 56-205. Measures and toll dishes.

Every owner or occupier of any public mill shall keep in his mill an accurate half-bushel measure and an accurate set of toll dishes. [1873]

Revised Statutes 1943, Vol. 4, Ch. 66, Art. 2—Paint.**Sec. 66-201. "Paint" defined.**

The term "paint" as used in sections 66-201 to 66-208 shall include white lead, basic carbonate or sublimate in any kind of oil, or any compound intended for the same use, paste or semi-paste, and liquid or mixed paint ready for use. [1919]

Sec. 66-202. Deceptive labels.

No person shall expose for sale or sell within this state any paint, linseed or flaxseed oil which is labeled or marked in any manner so as to tend to deceive the purchaser as to its nature or composition, or which is not accurately labeled as required by sections 66-203 * * *. [1919]

Sec. 66-203. Marking requirements.

The label on paint shall be printed in the English language, in clear, legible type, and shall clearly and distinctly state * * * with substantial accuracy * * * the quantity contained in the package, which, in the case of liquid or mixed paints, shall be designated in standard gallons or fractions thereof, and in the case of paste or semi-paste paints, such as are commonly sold by weight, the avoirdupois weight. [1919]

Sec. 66-207. Possession of mislabeled paint; evidence of violation.

Possession by any person dealing in said articles, of any article or substances hereinbefore described not properly labeled, as provided in sections 66-

Revised Statutes 1943, Vol. 4, Ch. 66, Art. 2—Paint
—Continued.

202 to 66-204, shall constitute prima facie evidence that the same is kept by such person, in violation of the provisions of sections 66-201 to 66-208. [1919]

Sec. 66-208. Penalty for violations.

Any person violating any of the provisions of sections 66-201 to 66-208 shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months. [1919]

Revised Statutes 1943, Vol. 4, Ch. 69—Binder Twine.

Sec. 69-509. Marking requirements.

A stamp or label shall be placed on every ball of binder twine sold, exposed or offered for sale in this state, giving the name of the manufacturer or importer, the number of feet to the pound in such ball, the material from which it is made, the tensile strength, the percent of oil it contains, and the date of manufacture. The deficiency in length shall not exceed five per cent of the amount as stated on the label or stamp. [1901; last amended 1909.]

Sec. 69-510. Penalty for violations.

Every manufacturer, importer or dealer who fails to comply with the provisions of section 69-509 shall upon conviction be liable to a fine of twenty-five cents for each and every such ball sold, offered or exposed for sale. [1901]

Revised Statutes 1943, Vol. 4, Ch. 74, Art. 5—Railroads. Weighing.

Sec. 74-542. Weighing of cars and freight: Enforcement.

The State Railway Commission shall have power, and it shall be its duty, to enforce reasonable regulations for the weighing of cars and of freight offered for shipment or transported within this state. [1911]

Sec. 74-543. Track scales: Enforcement.

All track scales used by common carriers for the purpose of weighing freight shipped in carload lots within this state, shall be under the control and direction and jurisdiction of the State Railway Commission, and subject to inspection by it or under its direction. [1911]

Sec. 74-544. Same: Power to condemn.

The State Railway Commission shall have power, either on its own motion or on complaint being made, to determine whether any such track scale is defective or inefficient, or whether the time, manner or method of using it is unreasonable, ineffective or unjust. It shall have power to condemn any such scale found to be defective or inefficient, and prohibit its use while in that condition and to render such decision and to make such order,

rule or regulation as may be deemed necessary or advisable. [1911]

Sec. 74-545. Same: Penalty for violating two preceding sections.

Any officer, agent or representative of any railway company or common carrier, who shall violate any of the provisions of sections 74-540 and 74-544, or who shall fail or refuse to obey and carry out any decision, order, rule or regulation of the State Railway Commission, duly entered in conformity with the provisions of such sections, shall be guilty of a misdemeanor, and upon conviction shall be fined for each offense a sum of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than ten days nor more than thirty days, or both. [1911]

Sec. 74-546. Same: Duty to provide; maintenance; weight certificates.

Every person, firm or corporation, engaged in operating any railroad within the State of Nebraska, over which coal and other commodities in carload lots shall be transported for hire, shall equip the line of its track and thereafter maintain thereon in good order track scales of sufficient capacity to weigh full carloads of any and all kinds of merchandise, coal, grain or other property, that may be transported over such railroad, and to weigh the same at the request of any owner, consignor or consignee of such property, and furnish written certificates of such weights to such owner, consignor and consignee provided in section 74-548. [1907]

Sec. 74-547. Same: Where installed.

Such track scales shall be so installed and maintained at all division stations along the line of such railroads within the State of Nebraska, and at such other stations as the State Railway Commission shall from time to time direct. [1907]

Sec. 74-548. Same: Merchandise weighed on request; certificates.

The owner, consignor or consignee of any carload lots of grain, coal, merchandise, or other property in course of transportation over any railway within the state, transporting the same for hire, may request in writing any agent of the operators of such railway to weigh any such carloads of grain, coal, merchandise, or other property in course of transportation and, upon such request being received, it shall become the duty of the operators of such railroad to weigh the car or cars designated in such written request, together with their contents, upon such track scale as may be designated in such written request, over which such car or cars in the regular course of transit will thereafter pass, and deliver to the person making such request a written certificate showing the name and number of the car so weighed, the date of

the taking of such weight, and the place where weighed, with the number of pounds of gross and net weights, after deducting the tare marked on the car from such gross weight. The certificate so executed and delivered shall be admissible evidence against such railway company in any legal proceeding, thereafter instituted or then pending against any such carrier weighing and transporting the property contained in such car or cars, of all the facts stated in such certificate. [1907]

Sec. 74-549. Same: Stations without scales; weighing.

Wherever any carload lot of merchandise, coal, grain, or other property shall be delivered for transportation for hire to any carrier by railroad within this state, consigned to any person at a station on the line of the railroad of such carrier, or upon any other railroad within this state, where no track scale is located and maintained, and such car in the course of transit will not pass a track scale on the line of such connecting carrier, it shall immediately become the duty of such initial carrier to cause the same to be weighed in the manner required by section 74-548 on the track scale located nearest the station to which such car is consigned, and to stamp upon the waybill for such car all of the matters required to be set out in the certificate provided for in such section. Where coal, grain, merchandise, or other property in carload lots is consigned to stations where track scales are located and the consignee requests the same weighed, such weights shall be taken, both gross and tare, with the car uncoupled, on such track scales at the point of destination. [1907]

Sec. 74-550. Same: Failure to weigh; penalty.

Any railroad company operating in this state and violating any of the provisions of sections 74-546 to 74-549, by neglecting or refusing to furnish weights as provided in section 74-549, shall upon conviction thereof be fined in the sum of one hundred dollars for each and every such violation. The fine shall be recovered by the state in an action in its name upon complaint of any owner, consignor or consignee of the property which such carrier may refuse to weigh, made before any court of competent jurisdiction. [1907]

Sec. 74-567. Livestock Shipments: "Mixed shipments" defined.

"Mixed shipments" of livestock, as used in section 74-568, include car lots containing two or more of the following classes of livestock: cattle, sheep, hogs and goats. [1921]

Sec. 74-568. Same: Carload, minimum weights.

Seventeen thousand pounds shall be the minimum weight for a carload of such mixed stock shipped in a single deck standard car of approximately thirty-six feet in length. Such minimum weight shall be more or less than seventeen thousand pounds in proportion as such car is more or

less than thirty-six feet long. In a mixed shipment of livestock the rate of the species having the highest rate may be the rate of such shipment. [1921]

Sec. 74-569. Same: Penalty for violating preceding section.

Any railroad company failing to comply with the provisions of section 74-568 shall be subject to a penalty of not less than twenty dollars nor more than one hundred dollars for each and every violation thereof. The penalty may be recovered for the use of the county in a civil action in the name of the state by the county attorney of any county through which such railroad may pass. [1921]

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—Food.

Sec. 81-203. Rules and regulations; enforcement.

The Department of Agriculture and Inspection shall enforce the provisions of sections 81-203 to 81-215. It shall make or cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to enforce promptly and effectively the provisions of said sections. [1919; last amended 1921.]

Sec. 81-206. When deemed misbranded.

The term "misbranded," as used in sections 81-203 to 81-215, shall apply to all articles of food, or articles which enter into the composition of food * * *. An article shall also be deemed to be misbranded, in the case of food:

* * * * *

(2) If it is labeled or branded so as to deceive or mislead the purchaser * * * or if it is in a container so made, formed or shaped as likely to deceive or mislead the purchaser as to quantity, quality, size, kind or origin of the food therein;

(3) If in package form, if each package does not have a correct statement, clearly printed on the outside of the package, of the contents and the quantity of the contents in terms of weight, measure, or numerical count; and in case of wheat flour the name of the manufacturer and the place where manufactured; *Provided*, that the provisions of this subdivision shall not apply to packages put up by the retailer at the time of sale;

(4) If the true quantity in the container, in case of liquids other than medicines, is not correctly stated thereon; * * *. [1913; last amended 1941.]

Sec. 81-209. Definition.

The term "food," as used in sections 81-203 to 81-215, shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound. [1913; last amended 1941.]

Sec. 81-212. Guaranty protection.

No dealer shall be prosecuted under the provisions of section 81-215 when he can establish a

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—Food
—Continued.

bona fide guaranty signed by the wholesaler, jobber or manufacturer in this state, from whom he purchased such articles, that they are not adulterated or misbranded within the meaning of sections 81-205 to 81-207, designating them, and that he had no knowledge of such adulteration or misbranding at the time they were purchased. Such guaranty shall contain the name and address of the vendor, who shall be amenable to the prosecutions, fines and other penalties to which the purchaser would otherwise be amenable. [1913; last amended 1919.]

Sec. 81-213. Condemnation.

Any article of food which is adulterated or misbranded within the meaning of sections 81-205 to 81-207, and which is sold, offered for sale or delivered within this state, shall be liable to be proceeded against where the same is found and seized for confiscation by a process of libel for condemnation. * * * [1913; last amended 1941.]

Sec. 81-214. Possession of misbranded articles prohibited.

No person shall, within this state, manufacture for sale therein or have in his possession with intent to sell, offer or expose for sale, or sell any liquors, beverages or articles of food which are adulterated or misbranded within the meaning of sections 81-205 to 81-207. [1919; last amended 1941.]

Sec. 81-215. Penalty for violations.

Any person, firm or corporation, violating any of the provisions of sections 81-203 to 81-215 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than ten dollars nor more than one hundred dollars, or imprisoned in the county jail not exceeding three months. [1913; last amended 1919.]

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—Milk and Cream.

Sec. 81-229. Bureau of dairies, foods and drugs; supervision and control by director of department.

The Governor is authorized and empowered to appoint a Chief of the Bureau of Dairies, Foods and Drugs, and such deputies and assistants as in his judgment may be deemed necessary to carry out fully the provisions of sections 81-229 to 81-275, and to fix their compensation. The Director of the Department of Agriculture and Inspection shall have full and complete control and supervision over the office of the Chief of the Bureau of Dairies, Foods and Drugs, and is authorized to make all necessary examinations and to formulate and promulgate such reasonable rules and regulations as may be deemed necessary to enforce promptly and

effectively the provisions of said sections. [1919; last amended 1937.]

Sec. 81-253. Babcock test required; regulations governing weighing and testing.

In determining the value of cream or milk by the use of the Babcock Test, it shall be unlawful to give any false reading, or in any way manipulate the test, so as to determine and pay for a higher or lower per cent of butter fat than the milk or cream actually contains, or to cause any inaccuracy in reading the true and correct percent of butterfat by securing an inaccurate sample for the test from any quantity of milk or cream to be tested; and it shall be unlawful to underweigh or overweigh or give any false weight to any quantity of milk or cream bought or sold. * * * None other than the Babcock method may be employed when testing cream the test of which is to be used as a basis for making payment for the milk or cream thus tested. None other than a single-bottle torsion balance scale, or such scale as may be approved by the Chief of the Bureau of Dairies, Foods and Drugs, may be used when weighing a cream sample for testing, when such test or tests are to be used as a basis for making payment for such cream. In establishing new cream stations or replacing condemned scales, single-bottle scales must be installed. It shall be unlawful, and a violation hereof, to use adjustable scale weights in determining the weight of cream used in the Babcock Test. Only such centrifuge shall be used as shall meet the approval of the chief of such bureau. [1919; last amended 1937.]

Sec. 81-254. Standardized glassware required.

Every person, firm, corporation or association buying or paying for such milk or cream on a basis of the amount of the butterfat contained therein as determined by the Babcock Test, shall use standard Babcock Test bottles, pipettes, weights and scales as hereinbefore provided. All test bottles, pipettes and weights shall, in addition to other inspection herein provided, be inspected by the Department of Dairy Husbandry of the University of Nebraska, and if found accurate, shall be legibly marked by that department with the letters "S. G. N." (Standard Glassware Nebraska). The fee for such standardization shall be three cents for each piece of glassware and each weight so tested and marked, and the fee shall be paid to the Department of Dairy Husbandry. It shall be unlawful to use or have in the place of business of any such person, firm, corporation or association, any other than such standard and marked test bottles, pipettes or weights. It shall be unlawful for any person or persons to use any test tube, bottle, pipette or instrument, in connection with the Babcock Test, which is not perfectly clean. For the purpose of this test, any unclean test tube, bottle or pipette is declared inaccurate. [1919; last amended 1937.]

Sec. 81-256. Standards for scales and test bottles.

For the purpose of sections 81-229 to 81-263, the scales used in the performance of the Babcock Test for the purchase of milk or cream on a butterfat basis shall be of the one-bottle type and sensitive to at least twenty-five milligrams at full lead. The standard milk test bottle shall have a total per cent graduation of eight or ten. The graduated portion of the neck of the eight per cent bottle shall have a length of not less than two and one-half inches, the graduated portion of the neck of the ten per cent bottle shall have a length of not less than three inches, and each shall be graduated to tenths per cent. The error at any point of the scale shall not exceed one-tenth per cent; total height of bottle shall be between five and seven-eighths and six and one-half inches. The standard cream test bottle shall be a fifty per cent, nine gram bottle; the total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than three inches and shall be graduated to five-tenths per cent. The error at any point of the scale shall not exceed five tenths per cent. The total height of the bottle shall be between five and seven-eighths and six and one-half inches. The standard Babcock milk pipette shall be graduated to deliver seventeen and six-tenths cubic centimeters of water at twenty degrees centigrade in five to eight seconds. The standard weight shall be nine grams. [1919; last amended 1921.]

Sec. 81-257. Penalty for violations.

Any person, firm, association, corporation, tester, independent cream buyer or owner of any cream station, their agents, servants or employees, violating any of the provisions of sections 81-229 to 81-263, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding three months. [1919; last amended 1937.]

Sec. 81-262. Enforcement.

It shall be the duty of the Chief of the Bureau of Dairies, Foods and Drugs:

* * * * *

(3) To enforce fully all of the provisions of [sections 81-229 to 81-267]; * * * [1937]

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—Commercial Fertilizer.

Sec. 81-2,158. Marking requirements.

Any person, firm, or corporation, their agent or employee, who shall offer, sell or expose for sale by sample or otherwise in the State of Nebraska any commercial fertilizer or fertilizer material, the selling price of which is more than three dollars per ton, shall attach to each bag or package in a

conspicuous place on the outside thereof or furnish to the purchaser of goods sold in bulk a plainly printed certificate giving the items as listed below and in the following order:

(1) The number of pounds net in the package sold; [1919; last amended 1929.]

* * * * *

Sec. 81-2,160. Enforcement of act.

The Department of Agriculture and Inspection shall enforce the provisions of sections 81-2,158 to 81-2,162, and may publish annually a report of all analyses made and certificates filed. The department shall exercise, in the enforcement of said sections, all the authority and powers now granted under the food, drug, dairy, and oil laws of the State of Nebraska. The department is authorized to take for analysis a sample from any lot or package of commercial fertilizer in this state, not exceeding two pounds in weight. [1919]

Sec. 81-2,162. Penalty for violations.

Any person, firm or corporation, their agent or employee, who shall offer or expose for sale or sell any commercial fertilizer in the State of Nebraska without complying with the provisions of sections 81-2,158 to 81-2,162, * * * or who shall obstruct or interfere with the department in the discharge of its duties, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense. [1919]

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—“Nebraska Anti-Freeze Law.”

Sec. 81-2,186. Definitions.

As used in sections 81-2,186 to 81-2,197 unless the context or subject matter otherwise requires: (1) “Anti-freeze” shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; and (2) “person” shall include individuals, partnerships, corporations, companies and associations. [1947]

Sec. 81-2,188. When deemed misbranded.

An anti-freeze shall be deemed to be misbranded: (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1947]

Sec. 81-2,190. Enforcement.

The Department of Agriculture and Inspection shall enforce the provisions of sections 81-2,186 to 81-2,197 * * * [1947]

Revised Statutes 1943, Vol. 4, Ch. 81, Art. 2—
"Nebraska Anti-Freeze Law"—Continued.

Sec. 81-2,191. Rules and regulations.

The Department of Agriculture and Inspection shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of sections 81-2,186 to 81-2,197. [1947]

Sec. 81-2,196. Penalty for violations.

If any person, partnership, corporation or association shall violate the provisions of sections 81-2,186 to 81-2,197, such person, partnership, corporation or association shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than fifty dollars and not exceeding five hundred dollars for each offense. [1947]

Revised Statutes 1943, Vol. 2, Ch. 28, Art. 12—
False Advertising.

Sec. 28-1235. Unlawful acts.

Hereafter, in this state it shall be unlawful for any person, firm, corporation or association, with intent to sell or in any way dispose of merchandise, secur-

ities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, containing any assertion, representation or statement of fact which is untrue, deceptive or misleading. [1913]

Sec. 28-1236. Penalty for violations.

Any person, firm, corporation or association violating the provisions of section 28-1235 shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court. [1913]

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Laws 1945, Ch. 169—Weights and Measures.

Sec. 1. State standards.

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, and 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. [1945]

Sec. 2. State and working standards to be compared once a year; standards to be sealed.

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 sealer, 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 [Secs. 1-30], to be known as working standards. Such weights, measures, and apparatus shall be verified by the state sealer, 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 letters "NEV." and, in the case of working standards, the last two figures of the year, with seals which the state sealer 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 state sealer, and the state standards shall be used only in verifying the office standards for scientific purposes. [1945]

Sec. 3. Safe-keeping of standards.

The state sealer of weights and measures shall take charge of the standards adopted by this act [Secs. 1-30] as the standards of the state, and cause them to be kept in a safe and suitable place in the office of the state sealer, 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. [1945]

Sec. 4. Standard units of various weights and measures.

Standard units of weights and measures in this state shall be:

a. The standard avoirdupois and troy weights are the units of weight from which all other weights are derived and ascertained.

b. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand (7,000) to five thousand seven hundred and sixty (5,760), is divided into sixteen (16) equal parts, called avoirdupois ounces; the hundred weight consists of one hundred (100) avoirdupois pounds, and two hundred weight constitutes a ton. The avoirdupois ounce is divided into sixteen (16) equal parts called avoirdupois drams.

c. The troy ounce is equal to the twelfth part of the troy pound. The troy pennyweight is equal to the twentieth part of the troy ounce, and the troy grain is equal to the twenty-fourth part of the troy pennyweight.

d. The apothecary's pound is equal to the troy pound. The apothecary's ounce is equal to the twelfth part of the apothecary's pound. The apothecary's dram is equal to the one-eighth part of the apothecary's ounce. The scruple is equal to the one-third part of the apothecary's dram, and the grain is equal to one-twentieth of the scruple.

e. In all sales of coal, hay, and other commodities, usually sold by the ton or fractional parts thereof, the seller shall give to the purchaser full weight, at the rate of two thousand (2,000) pounds to the ton.

f. The standard gallon and its parts are the units of capacity for liquids, from which all other measures of liquids are derived and ascertained. The liquid quart is equal to the one-fourth part of the standard gallon. The pint is equal to the one-eighth part of the gallon. The gill is equal to the one-fourth part of the pint. The fluid ounce is equal to the one-sixteenth part of the pint. The fluid dram is equal to the eighth part of the fluid ounce, and the minim is equal to the sixtieth part of the fluid dram.

g. The barrel is equal to thirty-one and one-half (31½) gallons. Two barrels constitute a hoghead.

h. The standard half-bushel is the unit of capacity of substances other than liquids, from which all other measures of such substances are derived and ascertained. The peck, half-peck, quarter-peck, quart, and pint measures for measuring commodities other than liquid are derived from the half-bushel by successively dividing that measure by two.

i. Whenever wheat, rye, shelled Indian corn, barley, buckwheat, flaxseed, or oats are sold by the bushel, and no special agreement as to the weight or measurement is made by the parties, the bushel consists of sixty (60) pounds of wheat, of fifty-six (56) pounds of rye, of fifty-six (56) pounds of shelled Indian corn, of forty-eight (48) pounds of barley, of forty-eight (48) pounds of buckwheat, of fifty-six (56) pounds of flaxseed, and thirty-two (32) pounds of oats.

j. The standard yard is the unit or standard measure of length and surface from which all other measures of extension, whether lineal, superficial, or solid are derived and ascertained.

k. The yard is divided into three equal parts, called feet, and each foot into twelve equal parts, called inches. For measures of cloths and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths, and sixteenths.

l. The rod, pole, or perch contains five and one-half (5½) yards, and the mile one thousand seven hundred and sixty (1,760) yards. The chain for measuring land is twenty-two (22) yards long, and divided into one hundred (100) equal parts, called links.

m. The acre for land measure shall be measured horizontally, and contains ten (10) square chains, and is equivalent in area to a rectangle sixteen (16) rods in length and ten (10) in breadth. Six hundred forty (640) acres constitute a square mile. [1945]

Sec. 5. Designation of weights and liquid measure.

Designation by weight shall be in terms of avoirdupois pounds and ounces and designation by liquid measure shall be in terms of the standard gallon, quarts, pints, or fluid ounces. In lieu thereof, these designations may be in terms of the metric system of weight or measure. [1945]

Sec. 6. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person to pack for sale, sell, offer, or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy, and

hominy grits; *provided, however*, that the provisions of this act shall not apply to (a) the retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy, and hominy grits packed in cartons, the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 7. Standard weight of bread loaf.

The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, sold, or offered for sale, 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 reasonable variations in excess and deficiency, as determined by the state sealer, 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." [1945]

Sec. 8. Butter and oleomargarine must be sold by weight; size of prints; marking requirements.

It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or processed 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, and 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. [1945]

Sec. 9. Meat to be sold by weight.

It shall be unlawful to sell, or offer to sell, except for immediate consumption on the premises, any meat, meat products, or dressed poultry in any other manner than by weight. [1945]

Sec. 10. Capacity of milk bottles; marking requirements; exceptions.

Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, 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 in

Laws 1945, Ch. 169—Weights and Measures—Continued.

the side or bottom of the bottle the name, initials, or trade mark of the manufacturer; *provided, however*, that certain bottle sizes not specified above, may, with the written approval of the state sealer, be used by restaurants for service of milk with meals. [1945]

Sec. 11. Fruit to be sold by weight or in standard containers.

It shall be unlawful to sell or offer to sell any berries or small fruits in any other manner than by weight, or in containers of the following capacities, when level full: One quart, one pint, or one-half pint, standard dry measure. [1945]

Sec. 12. Standard cord of firewood; loose cord loads.

A standard cord of firewood sold or offered for sale in this state shall be and contain one hundred and twenty-eight (128) cubic feet, well stowed and packed; *provided*, that nothing in this section shall prevent the selling or offering for sale of wood in loosely packed loads of one hundred and twenty-eight (128) cubic feet where the average length of the separate pieces is less than eighteen (18) inches. Such loads shall be known as loose cord loads or standard loads. [1945]

Sec. 13. Commodities in containers under federal regulations not violations.

The sale of any commodity in a container complying with any act of Congress or the opinions and regulations issued by the secretary of agriculture and appertaining to net weight or measure does not violate the provisions of this act [Secs. 1-30]. [1945]

Sec. 14. Packages or containers: Marking requirements; exceptions.

It shall be unlawful for any person to put up any commodity or article of merchandise into a package or container, and sell or offer for sale in this state such commodity or article of merchandise in that form without having such package or container labeled in plain, intelligible English words and figures with a correct statement of the net weight, measure, or numerical count of its contents; *provided*, that nothing in this section shall prevent the putting up of commodities or articles of merchandise, which have been previously sold by net weight, measure, or numerical count, into packages or containers for the purpose of delivering or transporting such commodities or articles of merchandise; *provided*, nothing in this section shall apply to packages or containers in which soap in any form is sold or offered for sale. [1945]

Sec. 15. Containers to be free of deception.

No container wherein commodities are packed shall have a false bottom, false side walls, false lid

or covering, or be otherwise so constructed, wholly or partially, as to facilitate the perpetration of deception or fraud. [1945]

Sec. 16. False or short weight or measure unlawful.

It shall be unlawful for any person, in buying or selling any commodity or article of merchandise, to make or give false or short weight or measure, or to sell or offer for sale any commodity or article of merchandise less in weight or measure than he represents, or to use a weight, measure, balance, or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, or to have a weight, measure, balance, or measuring device adjusted for the purpose of giving false or short weight or measure, or to use in buying or selling of any commodity or article of merchandise a computing scale or device indicating the weight and price of such commodity or article of merchandise upon which scale or device the graduations or indications are falsely or inaccurately placed, either as to weight or price. [1945]

Sec. 17. Penalties for violation of act; treble damages; prima facie evidence.

Any person who shall violate any of the provisions of this act [Secs. 1-30] shall be deemed guilty of a misdemeanor, and upon conviction thereof before the justice of the peace having jurisdiction of the offense, shall be fined in a sum not to exceed two hundred (\$200) dollars, or by imprisonment in the county jail for not more than sixty (60) days, or by both such fine and imprisonment. He shall also be liable in damages to the party injured by his violation in treble the amount of the property wrongfully taken or not given, and twenty (§20) dollars in addition thereto, to be recovered in a court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of the representation on the part of the vendor than the quantity sold and delivered was the quantity bought by the vendee. [1945]

Sec. 17a. Unavoidable leakage, shrinkage, etc., not a violation.

There shall be no violation under the act [Secs. 1-30], for any discrepancy between actual weight or volume at the time of sale to the consumer, and the weight marked on the container, or between the fill of the container and the capacity of the container, if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or to causes beyond the control of the seller acting in good faith. [1945]

Sec. 18. District attorney to prosecute.

It shall be the duty of the district attorney to prosecute all violations of the provisions of this act [Secs. 1-30] occurring within his county. [1945]

Sec. 19. State sealer of weights and measures; deputies.

The commissioner of food and drugs appointed by the president and board of regents of the University of Nevada is hereby designated and constituted ex officio sealer of weights and measures, and shall be charged with the proper enforcement of the provisions of this act [Secs. 1-30], and he may appoint, subject to the approval of the board of regents, such deputy or deputies as he may deem necessary therefor. [1945]

Sec. 20. Same: Powers and duties.

The state sealer 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 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 once 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 the nearest authorized place which the state sealer may specify for the purpose of making the proper tests. [1945]

Sec. 21. Same: Sealing.

Whenever the state 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. [1945]

Sec. 22. Same: Condemnation of faulty weights and measures.

The state 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." 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 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. [1945]

Sec. 23. Duties of sealer imposed upon deputies.

The powers and duties given to and imposed upon the state sealer of weights and measures by sections twenty (20), twenty-one (21), and twenty-two (22), are hereby given to and imposed upon his deputy, and inspectors also, when acting under his instructions, and at his direction. [1945]

Sec. 24. Hindering state sealer or inspectors; penalty.

Any person who shall hinder or obstruct in any way the sealer 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 twenty (\$20) nor more than two hundred (\$200) dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. [1945]

Sec. 25. Sealer to render biennial report.

The sealer shall keep a record of all weights, measures, balances, or other devices calibrated or tested as provided for in this act [Secs. 1-30], and such record or any parts thereof shall be included in the biennial report which the sealer is hereby authorized and directed to make to the president of the University of Nevada. [1945]

Sec. 26. Sealer may make rules and regulations.

The sealer is authorized to promulgate rules and regulations for the efficient enforcement of this act [Secs. 1-30], and to make such rules and regulations comply insofar as practicable with specifications, tolerances, and regulations recommended by the national bureau of standards. [1945]

Sec. 27. Terms "package" and "container" defined.

The terms "package" and "container" as used in this act [Secs. 1-30] shall include any carton, box, barrel, bag, keg, drum, bundle, jar, crock, demijohn, bottle, crate, basket, hamper, pail, can, parcel, package, or paper wrapper; *provided*, that a box or carton used for shipping purposes, containing a number of packages which are individually marked as hereinbefore provided, will not

Laws 1945, Ch. 169—Weights and Measures—Continued.

be required to bear the weight or measure of the contents thereof. [1945]

Sec. 28. Term "person" defined.

The term "person" as used in this act [Secs. 1-30] shall be construed to impart both singular and plural as the case demands, and shall include corporation, company, society, and association. When construing and enforcing the provisions of this act, omission or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association within the scope of his employment or office, shall in every case be also deemed omission or failure of such corporation, company, society, or association as well as that of the person. [1945]

Compiled Laws 1929, Vol. 3—Public Weighmasters.

Sec. 8307. Office created; bond; seal.

Any persons, firms, corporations, copartners, or individuals engaged in the business of public weighing for hire, or any person, firm or corporation who shall weigh or measure any commodity, produce, article or articles, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce, article or articles is based, may, upon application as hereinafter described, be known as a public weighmaster, and shall file a bond with the state sealer of weights and measures in the sum of one thousand dollars (\$1,000) for the faithful performance of his duties, and shall obtain from the state sealer of weights and measures a seal for the stamping of weight certificates hereinafter provided; the said seals shall be the property of the state, and shall be forfeited and returned to the state sealer of weights and measures upon termination of the appointment herein prescribed of the public weighmaster. Said seal shall be of a form and design prescribed by the state sealer and furnished by him to the weighmaster. Said seal shall be recognized authority of accuracy when applied to weight certificates. [1923]

Sec. 8308. Weight certificates.

The state sealer of weights and measures shall prescribe a form of weight certificates to be used by all public weighmasters, which certificates shall be known as the "State Certificate of Weights and Measures", and shall state thereon the kind of product, the owner, agent or consignee, the total weight of the product, the number of units of same, the date of receipt of the product, the railroad, team or other means by which the product was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the product from a like kind.

No certificate other than the one herein prescribed shall be used by public weighmasters. [1923]

Sec. 8309. Records of public weighings.

All public weighmasters shall keep and preserve correct and accurate records of all public weighings, as provided by this act [Secs. 8307-8319], which records shall at all times be open for inspection by the state sealer of weights and measures, or his deputy. [1923]

Sec. 8310. State sealer to promulgate rules and regulate fees.

The state sealer of weights and measures shall make uniform rules for carrying out the provisions of this act [Secs. 8307-8319], and shall designate a reasonable fee to be charged by public weighmasters for weighing, such fee to be retained by the public weighmaster as compensation for his services. [1923]

Sec. 8311. False weight certificate; penalty.

All state certificates of weights and measures, as provided by this act [Secs. 8307-8319], shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weighmaster. Any public weighmaster who shall issue a state certificate of weights and measures giving a false weight or measure of any article or commodity weighed or measured by him, or his representative, to any person, firm or corporation, shall be guilty of a misdemeanor,¹ and the state sealer may direct and compel the return to him of the state seal, or declare his bond as public weighmaster forfeited, or both. [1923]

¹ See Sec. 8317, page 607, punishment.

Sec. 8312. Request for false certificate; penalty.

Any person, firm, or corporation who shall request the public weighmaster, or any person employed by him to weigh any product, commodity, article or articles falsely, or incorrectly, or who shall request a false or incorrect state certificate of weights and measures, or any person issuing a state certificate of weights and measures who is not a public weighmaster, as provided for in this act [Secs. 8307-8319], shall be guilty of a misdemeanor.¹ [1923]

¹ See Sec. 8317, page 607, punishment.

Sec. 8313. Reweighing; procedure.

When doubt or difference arises as to the correctness of the net or gross weight of any amount, or part of any commodity, produce, article or articles for which a state certificate of weights and measures has been issued by a public weighmaster, the owner, agent or consignee may, upon complaint to the state sealer of weights and measures, or his deputy, have said amount or part of the amount of any commodity, product, article or articles re-

weighed by the state sealer of weights and measures, or a public weighmaster designated by him, upon depositing a sufficient sum of money to defray the actual cost of reweigh with the state sealer of weights and measures. If, on reweighing, a difference in the original weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of such faulty state certificate of weights and measures. All public weighmasters employing or designating any person to act for them as deputy public weighmaster shall be responsible for all acts performed by such person, and the public weighmaster shall forward to the state sealer of weights and measures the name and address of persons so appointed. [1923]

Sec. 8314. Net weight defined.

When any product is sold subject to public weighmaster weights, such weight shall be the true net weight of the product. Net weight, within the meaning of this act [Secs. 8307-8319] shall be the correct or actual weight of the commodity, excluding the weight of the container. [1923]

Sec. 8315. State sealer to appoint public weighmaster; testing of apparatus.

The state sealer of weights and measures shall appoint public weighmasters; *provided*, that he or his deputy shall test all weighing apparatus to be used, inspect the premises intended for such use and satisfy himself that the applicant is in every way equipped, qualified, competent and of such character that he should be appointed a public weighmaster. The state sealer of weights and measures, if satisfied with the applicant's qualifications, shall issue a certificate of appointment as public weighmaster, for which there shall be a charge of ten dollars (\$10), paid to the state sealer of weights and measures, which amount shall be used by said state sealer of weights and measures in the costs incurred under the premises of this act [Secs. 8307-8319]. The state sealer of weights and measures has the right to suspend or revoke the authority or appointment of any public weighmaster at any time for cause or upon complaint filed. [1923]

Sec. 8316. Person defined.

The term "person", as used in this act [Secs. 8307-8319], shall be construed to imply both singular and plural as the case demands, and shall include corporations, company, society, and association. When construing and enforcing the provisions of this act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society, or association within the scope of his employment or office shall, in every case, be also deemed omission or failure of such corporation, company, society or association, as well as that of the person. [1923]

Sec. 8317. Penalty for violations.

Any person violating any of the provisions of this act [Secs. 8307-8319] shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction shall be fined in the sum not exceeding two hundred dollars (\$200), or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. [1923]

Compiled Laws 1929, Vol. 3—University of Nevada.

Sec. 7765. Public service division of the University of Nevada.

It is hereby provided that the several public-service departments of the University of Nevada be consolidated into a "Public Service Division" of the University of Nevada. [1915]

Sec. 7766. Same: Departments included.

The public service division of the University of Nevada shall consist of the following public-service departments, which have been conducted heretofore by authority of statutes of the State of Nevada, enumerated as follows:

* * * * *

4. Weights and measures, provided for in sections 4792-4823, inclusive, of the Revised Laws of the State of Nevada, 1912; as amended by chapter 228, Session Laws of the State of Nevada, Twenty-sixth session, 1913; [1915]

* * * * *

[ED NOTE.—Secs. 4792-4823 of the Revised Laws of the State of Nevada 1912 appear as Secs. 8275-8306 of Nevada Compiled Laws 1929. However, Secs. 8275-8306 were repealed and superseded by Laws 1945, Ch. 169. See Secs. 1-28, pages 602-606.]

Sec. 7767. Board of regents to appoint department heads.

The board of regents of the University of Nevada, upon recommendation of the president, shall designate and appoint a qualified individual to conduct each of these various departments of the public service division, and shall grant him such assistants as they deem necessary, and the powers and duties of these individuals appointed as herein provided shall be as stated in the statutes establishing each of these several departments of the public service division; *provided, however*, that in those instances wherein the statutes concerned impose upon the individual appointed as herein provided any police power, the appointment shall receive the approval of the governor of the state. [1915]

Sec. 7768. Rules and regulations.

All rules and regulations necessary for the proper administration and enforcement of the statutes establishing the departments comprehended in this public service division of the University of Nevada shall be made by the president and board of regents of the University of Nevada. [1915]

Compiled Laws 1929, Vol. 3—University of Nevada
—Continued.

Sec. 7769. Words substituted.

Wherever in any of these statutes establishing the departments comprehended in the public service division of the University of Nevada any individual, official, or department of the university is mentioned, there shall be substituted the words "President and Board of Regents of the University." [1915]

Compiled Laws 1929, Vol. 1—Cities.

Sec. 1106. Classification.

Municipal incorporations organized under the provisions of this act [Secs. 1100-1212], shall be, and the same are hereby, divided into three classes. Those cities having twenty thousand or more inhabitants shall be known as cities of the first class; those cities having more than five thousand and less than twenty thousand inhabitants shall be known as cities of the second class; and all other cities shall be known as cities of the third class. [1907]

Sec. 1128. Powers of city council.

The city council shall have the following powers:

* * * * *

49. To provide for the inspection, measurement, or graduation of any merchandise, manufacture or commodity, and to appoint the necessary officers therefor.

50. To provide for the inspection and sealing of weights and measures.

51. To enforce the keeping and use of proper weights and measures, by vendors. [1907]

* * * * *

Laws 1947, Ch. 78—Public Livestock Auction.

Sec. 1. Definitions.

When used in this act [Secs. 1-12] "person" means any person, firm, or corporation.

"Board" means the state board of stock commissioners of the State of Nevada.

"Livestock" means cattle, sheep, goats, horses, mules, asses, hogs, or poultry.

"Public livestock auction" means any sale or exchange of livestock held by any person at an established place of business or premises where the livestock is assembled for sale or exchange, and is exchanged or sold at auction or upon a commission basis, at regular or irregular intervals. [1947]

* * * * *

Sec. 2. License; bond.

On and after July 1, 1947, no person shall hold, operate, conduct, or carry on a public livestock auction in this state without first securing a license therefor from the board [State board of stock commissioners]. * * *

Such application shall be accompanied by a bond and the required fee as hereinafter provided. [1947]

Sec. 6. Revocation of license.

The board [State board of stock commissioners] may decline to grant or to renew a license or may suspend or revoke a license already granted if the board, after due notice and hearing, finds:

* * * * *

(f) That the licensee, in the case of livestock weighed on the licensee's scales and sold by weight, has knowingly quoted incorrect weights, or has failed to have his scales regularly inspected and tested.

In the case of any hearing held hereunder, there shall be filed in the office of the board a memorandum briefly stating the reasons of the board for the denial, suspension, or revocation of the license, but formal findings of fact shall not be required to be made or filed. [1947]

Sec. 8. Scales must be inspected.

* * * * *

In case any public livestock auction shall sell livestock by weight, the scales upon which such livestock is weighed shall be regularly inspected and tested. [1947; last amended 1949.]

Sec. 9. Rules and regulations; right of entry.

The board [State board of stock commissioners] may make reasonable rules and regulations for carrying out the provisions of this act [Secs. 1-12].

For the purpose of carrying out the provisions of this act, and making inspections hereunder, the board or any duly authorized representative thereof, shall have the right to enter the establishment or premises where any public livestock auction is held and to inspect the records thereof at all reasonable times. [1947]

Sec. 10. Penalty for violations.

Any person who shall operate a public livestock auction without a license, as herein required, or who shall violate any of the provisions of this act [Secs. 1-12] or of any rules or regulations lawfully issued hereunder, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$300. Each day upon which livestock is sold or exchanged at any public livestock auction shall constitute a separate offense. [1947]

Compiled Laws Supplement 1931-1941, Vol. 1—
Standard Containers for Agricultural Products.

Sec. 451. Enforcement; "agricultural products" defined.

The state quarantine officer is hereby designated as the authority to administer this act [Secs. 451-451.14]. "Agricultural products," shall include horticultural, viticultural, dairy, bee, and any and all farm products; * * *. [1931]

Sec. 451.01. State quarantine officer to fix standards.

In order to promote, protect, further and develop the agricultural interests of this state, the state quarantine officer is hereby authorized and empowered, after investigation and public hearing, * * * to fix and promulgate official standards for containers of farm products and to change any of them from time to time. [1931; last amended 1949.]

Sec. 451.02. Public notice of standards to be given.

In promulgating the standards or any alterations or modifications of such standards, the state quarantine officer shall specify the date or dates when the same shall become effective and shall give public notice not less than thirty (30) days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. [1931]

Sec. 451.03. Cooperation with federal government.

The state quarantine officer is authorized to fix and promulgate as the official standard for this state for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this act the state quarantine officer is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein. [1931]

Sec. 451.10. Use of unlawful container; penalty.

* * * Whenever any standard for a container for an agricultural product becomes effective under this act [Secs. 451-451.14], no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, in a container, any such agricultural product to which the standard is applicable, unless the container conform to the standard, subject to such variations therefrom as may be allowed in the regulations made under this act, unless such product be brought from outside the state and offered for sale, consigned for sale or sold in the original package. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or be imprisoned not more than one year, or both. [1931]

Compiled Laws 1929, Vol. 1—Milk and Cream.

Sec. 2275. Method of weighing and testing regulated.

It shall be unlawful for any hauler of milk or cream, other than a common carrier, or any person, firm or corporation receiving or purchasing milk or cream by weight or test or both, or by

measure or test or both, to fraudulently manipulate the weight, measure or test of milk or cream, or to take unfair samples thereof, or to fraudulently manipulate such samples. Such hauler or other agent shall weigh or measure the milk or cream of each patron accurately and correctly and shall report such weights and measurements accurately and correctly to the creamery or factory. * * * When the weighing or sampling is done at the creamery, shipping station or factory, the same rule shall apply. [1921]

Sec. 2276. False tests unlawful; licensed testers required.

It shall be unlawful for any person, firm or corporation, by himself or as the agent, servant, employee or officer of any person, firm or corporation, receiving or purchasing milk or cream on the basis of the amount of butterfat contained therein, to underread, overread or otherwise fraudulently manipulate the Babcock test used for determining the per cent of butter-fat in milk or cream, or to falsify the records thereof, or to read the test at any other temperature than the correct one, which is one hundred thirty degrees to one hundred forty degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream; *provided*, that in all tests for cream the cream shall be weighed into the test-bottle. All testing of milk or cream purchased on the basis of the amount of butter-fat contained therein shall be done by licensed tester, who shall supervise and be responsible for the operation of the Babcock test of milk or cream. A license shall be issued to such person by the Commissioner of food and drugs, * * *. [1921]

Sec. 2279. Rules and regulations for enforcement.

* * * The commissioner of food and drugs shall make uniform rules and regulations for the proper enforcement of this act [Secs. 2275-2285] * * *. [1921]

Sec. 2282. Glassware, measures, scales, etc.: Inspection; glassware supplied at cost; sealing; testing; fee.

The commissioner of food and drugs shall, from time to time, inspect and examine as to their accuracy, or their adaptability to give accurate results, all glassware, measures, scales, weights and other apparatus used in creameries and factories of dairy products, where milk and cream are purchased, to determine the amount of percentage of fat in milk or cream. Said commissioner of food and drugs shall supply at cost, and not oftener than once a year, to every creamery, or other factory of dairy products where milk and cream, or either, are purchased, on application not more than two tubes or bottles and one pipette of the forms used with the Babcock test, which he shall

Compiled Laws 1929, Vol. 1—Milk and Cream—Continued.

first examine as to accuracy, and if accurate, or adapted to give accurate results under the usual method of operating the Babcock test, said commissioner of food and drugs shall certify to this by marking durably and permanently upon each and every piece of apparatus supplied the letters "C.F.D." Said commissioner of food and drugs shall also, upon payment at the rate of one dollar for each dozen, test or examine into the accuracy of all test-bottles or tubes and pipettes sent to it direct from any creamery, or other factory of dairy products, where milk or cream is purchased, and, if found accurate, or adapted to give accurate results, the letters "C.F.D." shall be marked upon each piece of apparatus examined. [1921]

Sec. 2283. State's standard measure specified; Babcock test for all cream sold; details of requisites.

That state's standard measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test-tubes or bottles for milk shall have a capacity of one cubic centimeter of mercury at a temperature of 65 degrees Fahrenheit between "zero" and "five" on the graduated scale on the neck thereof; the scale to have a length of not less than six and five-tenths (6.5) millimeters for each per cent, or six and five-tenths centimeters between zero and ten on the graduated scale on the neck thereof, said scale to be graduated to at least two-tenths of one per cent. The milk-fat in the neck of said bottle to be read from the lower line separation between the fat and the water to the top of the fat column at a temperature not lower than 130 degrees Fahrenheit and not higher than 140 degrees Fahrenheit.

All cream sold in the State of Nevada on the basis of the richness or the percentage of milk-fat contained therein shall be tested by the Babcock test, using a weighed sample of eighteen grams, or a weighed sample of nine grams (results to be doubled), weighed on a balance sensitive to 10 milligrams, and tested in a test-bottle with a scale graduated to at least five-tenths of one per cent, said scale to be of a length of at least one centimeter to every five percent where an eighteen-gram sample is used. Where a nine-gram sample is used in a bottle graduated for eighteen grams, the test-bottle must have a scale graduated to at least two-tenths of one per cent, said scale to be a length of at least two centimeters to every five per cent. Where a nine-gram sample is used in a bottle graduated for nine grams, the test-bottle shall have a scale graduated to five-tenths of one per cent and shall be of a length not less than seven centimeters for every fifty per cent. The milk-fat in the test-bottle shall be read at a temperature not lower than 130 degrees Fahrenheit and not higher than 140 degrees

Fahrenheit. The fat column must be read from the bottom of the lower meniscus to the bottom of the upper meniscus; *provided, however*, that no test-bottles now in use in any creamery or other factory of dairy products or by any private party in this state shall be condemned or declared unfit for use prior to the expiration of one year from the taking effect of this act [Secs. 2275-2285], if the scale thereof is correctly calibrated. [1921]

Sec. 2284. Penalty for violations.

Any person violating any provisions of this act [Secs. 2275-2285] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of not less than thirty days nor more than six months, or by both such fine and imprisonment. [1921]

Compiled Laws Supplement 1931-1941, Vol. 1—
"Uniform Narcotic Drug Act."

Sec. 5091.10. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1937]

Sec. 5091.19. Enforcement and cooperation.

It is hereby made the duty of the state board of health, its officers, agents, inspectors and representatives, and of all peace officers within the state and of all county attorneys to enforce all provisions of this act [Secs. 5091.01-5091.26], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs. [1937]

Sec. 5091.20. Penalty for violations.

Any person violating any provision of this act shall be deemed guilty of a felony, and upon conviction thereof shall be punished, for the first offense, by imprisonment in the state prison of the State of Nevada for not less than two years nor more than ten years; and for any subsequent offense, a prior conviction having been had at any time in any court in this or any other state or federal court, for a violation of either the provisions of this act or of any statute or ordinance dealing with or regulating the use, supply or possession of any or all narcotic drugs, shall, upon conviction, be punished by imprisonment in the state prison of the State of Nevada for not less than ten years. [1937]

Compiled Laws 1929, Vol. 3—Public Utilities.

Sec. 6100. Commission created.

The public service commission is hereby created whose duty it shall be to supervise and regulate the operation and maintenance of public utilities, as hereinafter named and defined, in conformity with the provisions of this act [Secs. 6100-6146]. [1919]

Sec. 6112. Regulations for examining and testing; fees.

The commission may, when necessary, * * * prescribe reasonable regulations for the examination and testing of such products or service and for the measurement thereof [heat, light, power in any form or by any agency, water for business manufacturing, agricultural or household use]. Any consumer, user or party served may have the quality or quantity of the product or the character of any service rendered by any public utility tested upon the payment of fees fixed by the commission, which fees, however, shall be paid by the public utility and repaid to the complaining party if the quality or quantity of the product or the character of the service be found by the commission defective or insufficient in a degree to justify the demand for testing; or the commission may apportion the fees between the parties as justice may require; * * *

The commission may, in its discretion, purchase such materials, apparatus, and standard measuring instruments for such examination and tests as it may deem necessary. The commission shall have the right and power to enter upon any premises occupied by any public utility for the purpose of making the examination and tests provided for in this act and set up and use on such premises any necessary apparatus and appliances and occupy reasonable space therefor. * * * [1919; last amended 1931.]

Sec. 6123. Weighing of railroad cars and freight.

* * * * *

(a) The commission shall have the power to enforce reasonable regulations for furnishing cars to shippers, and switching the same, and for the loading and unloading thereof, and the weighing of the cars and freight offered for shipment over any line of railroad. [1919]

Compiled Laws Supplement 1931-1941, Vol. 2—
"Nevada Food, Drug, and Cosmetic Act."

Sec. 6206.01. Definitions.

For the purpose of this act [Secs. 6206-6206.20]—

(a) The term "commissioner" means the commissioner of food and drugs as hereinafter provided for.

(b) The term "person" includes individual, partnership, corporation, and association.

(c) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

* * * * *

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.

* * * * *

(h) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

(k) If any article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or

Compiled Laws Supplement 1931-1941, Vol. 2—
"Nevada Food, Drug, and Cosmetic Act"—Con-
tinue.

under such conditions of use as are customary or
usual.

(p) The provisions of this act regarding the
selling of foods, drugs, devices or cosmetics shall
be considered to include the manufacture, produc-
tion, processing, packing, exposure, offer, posses-
sion, and holding of any such article for sale; and
the sale, dispensing, and giving of any such article;
and the supplying or applying of any such articles
in the conduct of any food, drug, or cosmetic es-
tablishment.

(q) The term "Federal Act" means the federal
food, drug and cosmetic act approved on June 25,
1938 [21 U.S.C. 301 et seq.; 52 Stats. 1040, et seq.].
[1939]

Sec. 6206.02. Prohibited acts.

The following acts and the causing thereof with-
in the State of Nevada are hereby prohibited:

(a) The manufacture, sale, or delivery, holding
or offering for sale of any food, drug, device, or
cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any
food, drug, device or cosmetic.

(f) The giving of a guaranty or undertaking,
which guaranty or undertaking is false, except by
a person who relied on a guaranty or undertaking
to the same effect signed by and containing the
name and address of the person residing in the
State of Nevada from whom he received in good
faith the food, drug, device or cosmetic.

(g) The removal or disposal of a detained or
embargoed article in violation of section 4. [Sec.
6206.03].

(h) The alteration, mutilation, destruction, ob-
literation, or removal of the whole or any part of
the labeling of or the doing of any other act with
respect to a food, drug, device, or cosmetic, if such
act is done while such article is held for sale and
results in such article being misbranded. [1939]

Sec. 6206.03. Quarantine.

(a) Whenever the commissioner [of food and
drugs] or any of his authorized agents finds, or has
probable cause to believe, that any food, drug,
device or cosmetic is adulterated, or so misbranded
as to be dangerous or fraudulent, within the mean-
ing of this act, he shall affix to such article a tag
or other appropriate marking, giving notice that
such article is, or is suspected of being, adulterated
or misbranded and has been quarantined, and
warning all persons not to remove or dispose of
such article by sale or otherwise until permission
for removal or disposal is given by such agent or

the court. It shall be unlawful for any person to
remove or dispose of such quarantined article by
sale or otherwise without such permission. [1939]

Sec. 6206.06. Food: When deemed misbranded.

A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any
particular.

(d) If its container is so made, formed, or filled
as to be misleading.

(e) If in package form, unless it bears a label
containing * * * (2) an accurate statement of
the quantity of the contents in terms of weight,
measure, or numerical count; *provided*, that under
clause (2) of this paragraph reasonable variations
shall be permitted, and exemptions as to small
packages shall be established by regulation pre-
scribed by the commissioner [of food and drugs].

(f) If it purports to be or is represented as a
food for which a definition and standard of iden-
tity, quality, and fill of container has been pre-
scribed, unless it conforms to such standards of
identity, quality and fill. [1939]

Sec. 6206.08. Drugs: When deemed misbranded.

A drug or device shall be deemed to be mis-
branded—

(a) If its labeling is false or misleading in any
particular.

(b) If in package form unless it bears a label
containing * * * (2) an accurate statement of
the quantity of the contents in terms of weight,
measure or numerical count; *provided*, that under
clause (2) of this paragraph reasonable variations
shall be permitted, and exemptions as to small
packages shall be established, by regulations pre-
scribed by the commissioner.

(f) (1) If it is a drug and its container is so
made, formed, or filled as to be misleading;
* * * [1939]

Sec. 6206.11. Cosmetics: When deemed misbranded.

A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any
particular.

(b) If in package form unless it bears a label
containing * * * (2) an accurate statement of
the quantity of the contents in terms of weight,
measure, or numerical count; *provided*, that under
clause (2) of this paragraph reasonable variations
shall be permitted, and exemptions as to small
packages shall be established by regulations pre-
scribed by the commissioner [of food and drugs].

(c) If its container is so made, formed or filled
as to be misleading. [1939]

Sec. 6206.13. Appointment of commissioner and agents for enforcement.

The president and board of regents of the University of Nevada shall designate and appoint, for the enforcement of this act [Secs. 6206-6206.20], a commissioner and such other agent or agents as they may deem necessary. [1939]

Sec. 6206.14. Rules and regulations.

(a) The authority to promulgate regulations for the efficient enforcement of this act [Secs. 6206-6206.20] is hereby vested in the commissioner [of food and drugs]. The commissioner is hereby authorized to make the regulations promulgated under this act conform, insofar as practicable, with those promulgated under the federal act. [1939]

* * * * *

Sec. 6206.17. Penalty for violations.

Any person violating any of the provisions of this act [Secs. 6206-6206.20] shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. [1939]

Laws 1949, Ch. 303—Commercial Fertilizer.

Sec. 2. Definition.

The term "commercial fertilizer" shall be held to include alumite, gypsum, lime phosphate in its natural form, and any other commercial fertilizer, imported, manufactured, prepared or sold for fertilizer, manurial, soil enriching or soil corrective purposes; providing, however, that this act [Secs. 1-12] shall not apply to any stocks of commercial fertilizers that may be in the hands of dealers in the State of Nevada at the time this act goes into effect, nor shall it apply to animal manure which has not been artificially treated, or to materials sold to manufacturers or importers. [1949]

Sec. 3. Marking requirements.

Every lot or parcel of mixed commercial fertilizer sold, offered, or exposed for sale, or distributed within this state or if stockpiled at the site of the stock pile, within the State of Nevada shall have on each bag or container, in a conspicuous place on the outside, a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1949]

* * * * *

Sec. 7. Enforcement.

The state department of agriculture of the State of Nevada shall at least once a year, direct a qualified chemist, or his agent, to obtain in open market at least one sample of each brand of commercial

fertilizer offered for sale in this state and to make proper analysis and tests to determine (1) the net weight of the contents of each package examined; * * * and to inspect labels on each parcel, container, or stock pile and determine whether or not they conform to the provisions of this act [Secs. 1-12]. * * * [1949]

Sec. 12. Penalties for violations.

Any corporation, copartnership, or person who shall sell, or offer for sale, any commercial fertilizer in this state without first having complied with the provisions of this act, * * * shall be guilty of a misdemeanor, and shall upon conviction thereof be fined not less than twenty-five dollars, nor more than three hundred dollars for each offense, and such offender shall also be liable to the purchaser of such fertilizer for all damages sustained by such purchaser on account of said misrepresentation; provided, however, that for any deficit less than five percent in weight, or in one or more of the constituents or ingredients of such fertilizer the manufacturer or seller shall not be liable to any penalty or for damages hereunder. [1949]

Laws 1949, Ch. 308—"Nevada Antifreeze Act."

Sec. 1. Definitions.

As used in this act [Secs. 1-12], unless the context or subject matter otherwise requires: (1) "Antifreeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; and (2) "person" shall include individuals, partnerships, corporations, companies and associations. [1949]

Sec. 3. Marking requirements.

An antifreeze shall be deemed to be misbranded: (1) If its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing the name and place of business of the manufacturer, packer, seller, or distributor and an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1949]

Sec. 5. Enforcement.

The state sealer shall enforce the provisions of this act [Secs. 1-12] * * * [1949]

Sec. 11. Penalties for violations.

If any person, partnership, corporation or association shall violate the provisions of this act, such person, partnership, corporation or association shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not less than fifty dollars and not exceeding five hundred dollars for each offense. [1949]

Compiled Laws 1929, Vol. 3—Measurement of Water.

Sec. 7898. Standards of measurement; acre-foot; miner's inch.

A cubic foot of water per second of time shall be the legal standard for the measurement of water in this state. The unit of volume shall be an acre-foot defined as 43,560 cubic feet. Where necessary to transpose miners inches to cubic feet per second, one cubic foot per second shall be considered equal to forty miners inches; but the term "miners inch" shall not be used henceforth in any permit or adjudicated right issuing from the office of the state engineer without first naming the amount in cubic feet per second or in acre-feet. [1913]

Compiled Laws 1929, Vol. 5, Ch. 5—Misdemeanors.

Sec. 9968. Punishment of gross misdemeanor when not fixed by statute.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not less than six months or more than one year, or by a fine of not less than five hundred dollars or more than one thousand dollars, or by both. [1911]

Sec. 9969. Punishment of misdemeanor when not fixed by statute.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both. [1911]

Sec. 9970. Penalty for misdemeanor by corporations when not fixed by statute.

In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable as for a misdemeanor, and there is no other punishment prescribed by law, such corporation is punishable by a fine not exceeding five hundred dollars. [1911]

Sec. 9972. Prohibited acts are misdemeanors.

Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor. [1911]

Compiled Laws 1929, Vol. 5, Ch. 24—False Weights and Measures.

Sec. 10396. Buying or selling by false weight; penalty.

If any person or persons shall knowingly buy or sell any goods, wares, or merchandise, or any valuable thing by false weight or measure, or shall knowingly use any false measure or false weight at any mill in taking toll for grinding corn, wheat,

rye, or other grain, or shall knowingly use any false weight or weights, or false scales, or false steel-yards, or false balances, or false measures for any purpose in buying or selling or trading any article whatever, he or she shall be deemed a common cheat, and on conviction shall be punished by fine in any sum not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both. [1911]

Sec. 10397. Misrepresentation of merchandise; penalty.

Every person who makes any misrepresentation regarding the weight, amount, measure, quantity, quality, or ingredients of any goods, wares or merchandise, or personal property, for the purpose of selling the same, or while selling or offering the same for sale, is guilty of a misdemeanor¹; and if the value of any goods, wares, merchandise, or personal property sold under such misrepresentation shall exceed fifty dollars, the party so making the misrepresentation is guilty of a gross misdemeanor². [1911]

¹ See Sec. 9969, page 614; punishment for misdemeanor.

² See Sec. 9968, page 614; punishment for gross misdemeanor.

Compiled Laws 1929, Vol. 5—False Advertising.

Sec. 10529. Unlawful acts.

It shall be unlawful for any person, firm, corporation or association, who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this state, in a newspaper or other publication or in form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or any thing so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading. [1917]

Sec. 10530. Penalty for violations.

Any person, firm, or any officer or managing agent of any corporation or association, who shall violate the provisions of this act [Secs. 10529-10530] shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. [1917]

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Revised Laws 1942, Vol. 1, Title XVII, Ch. 192—Weights and Measures.

Sec. 1. Standards.

The weights and measures received from the United States under joint resolutions of congress approved June 14, 1836, and July 27, 1866, and 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 such as shall be supplied by the state in conformity therewith and certified by the National Bureau of Standards, shall be the state standards, by which all municipal standards of weights and measures shall be tried, proved and sealed. [1843; last amended 1917.]

Sec. 2. Commissioner of weights and measures: Appointment; term.

There shall be a state commissioner of weights and measures, appointed by the governor, with the advice and consent of the council, for a term of five years and until his successor is appointed and qualified. [1917; last amended 1919.]

[ED. NOTE.—Laws 1943, Ch. 39, Sec. 3, p. 48, provides as follows: "Vacancies in the office of * * * commissioner of weights and measures as established by section 2 of chapter 192 of the Revised Laws, shall be filled for the unexpired term of such offices."]

Sec. 3. Inspectors of weights and measures.

There shall be not exceeding three inspectors of weights and measures, who shall be appointed by the commissioner, with the advice and consent of the governor and council. * * * [1917; last amended 1927.]

Sec. 5. Commissioner's bond.

The commissioner shall give a bond in the sum of five thousand dollars, with sureties to be approved by the governor, for the faithful performance of the duties of his office and for the safety of the standards intrusted to his care, and for the surrender thereof to his successor or to the person appointed by the governor to receive them. [1917]

Sec. 6. Inspector's bond.

Each inspector shall give a bond in the sum of one thousand dollars, with sureties, to be approved by the secretary of state, for the faithful performance of the duties of his office and for the safety of any apparatus intrusted to his care. [1917]

Sec. 7. Commissioner's duties.

The commissioner shall take charge of the standards of the state, and cause them to be kept in a safe and suitable place in his office, 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 the same from his successor in office. [1917]

Sec. 8. Testing standards.

He shall, at least once in five years, try and prove by the state standards all standard weights, measures and other apparatus which may belong to any

city, and shall seal the same when found to be accurate, by stamping on them the letters N. H. and the last two figures of the year with seals which he shall have and keep for that purpose, and shall keep a record of such inspections. He shall, upon the written request of any citizen, firm, corporation or educational institution in the state, test or calibrate weights, measures, weighing and measuring devices, and instruments or apparatus used as standards in the state. [1917]

Sec. 9. Testing at state institutions.

He, or the inspectors by 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 commissioner shall appoint in writing one or more employees then in the actual service of such institution, who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies. [1917]

Sec. 10. Bi-annual inspections.

The commissioner, or his inspectors at his direction, shall at least once in two years visit the various cities of the state in order to inspect the work of the local sealers, and in the performance of his duties he may inspect the weights, measures, balances or any other weighing appliances of any citizen, firm or corporation, and shall have the same powers as the local sealer of weights and measures. [1917]

Sec. 11. Duty of supervision.

He shall have and keep a general supervision of the weights, measures and weighing and measuring devices offered for sale, sold or in use in the state. [1917]

Sec. 12. Promulgation of regulations.

The commissioner shall issue from time to time regulations for the guidance of city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. [1917]

Sec. 13. Inspectors: Powers.

When not otherwise provided by law the inspectors shall have the power, under the direction of the commissioner, to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, weighing or measuring instruments, or mechanical devices for measuring, and tools, appliances or accessories connected with any and all such instruments or measures kept, offered or exposed for sale, sold, used or employed

within the state by any proprietor, agent, lessee or employe in proving the size, quantity, extent, area or measurements of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, hire or reward; and they shall have like power to, and shall from time to time, weigh or measure packages or amounts of commodities of whatever kind kept for the purpose of sale, offered for sale or sold, or in the process of delivering, in order to determine whether the same contain the amounts represented, and whether they are offered for sale or sold in a manner in accordance with the laws relative to weights and measures. [1917; last amended 1919.]

Sec. 14. Same: Duties.

They shall at least once each year, and as much oftener as the commissioner may deem necessary, see that the weights, measures and all apparatus used in the state are correct. They may for the purposes mentioned, and in the general performance of their official duties, stop any vendor, peddler, junk dealer, or the driver of any coal wagon, ice wagon or delivery wagon, or any dealer whatever, and require him to proceed to such place as the inspector may specify, for the purpose of making the proper tests, and for that purpose they may, without formal warrant, enter any stand, place, building or premises. Whenever an inspector finds a violation of the statutes relating to weights and measures he shall report the same to the commissioner, who shall cause the violator to be prosecuted. [1917; last amended 1919.]

Sec. 15. Sealing.

Whenever an inspector compares weights, measures or weighing or measuring instruments and finds that they correspond with the standards in his possession and conform to the specifications and regulations of this department, or causes them to correspond with said standards and to conform to said specifications and regulations, he shall seal or mark such weights, measures, weighing or measuring instruments with appropriate devices to be approved by the commissioner. [1917; last amended 1919.]

Sec. 16. Condemning.

He shall condemn and seize to hold as evidence, and may, upon order of the court, destroy, incorrect weights, measures, or weighing or measuring instruments which, in his judgment, are not susceptible of satisfactory repair; but such as are incorrect and may be repaired he shall mark or tag as condemned for repairs in a manner prescribed by the commissioner. [1917; last amended 1919.]

Sec. 17. Correcting condemned scales.

The owners or users of any weights, measures or weighing or measuring instruments, of which such disposition is made, shall have the same repaired

Revised Laws 1942, Vol. 1, Title XVII, Ch. 192—
Weights and Measures—Continued.

or corrected within the time prescribed by the commissioner, and they may neither use nor dispose of the same, except as permitted by the commissioner, but shall hold the same at his disposal. [1917; last amended 1919.]

Sec. 18. Confiscating condemned apparatus.

Any apparatus which has been condemned for repairs, and has not been repaired as herein required, shall be confiscated as provided in section 16. [1917; last amended 1919.]

Sec. 19. Records and reports.

The inspectors and city sealers shall keep a complete record of all their official acts, and shall make reports to the commissioner of weights and measures as he may direct, on blanks approved by him. [1917; last amended 1919.]

Sec. 20. City sealers.

There shall be a sealer of weights and measures in cities of not less than ten thousand population, according to the latest United States census, to be appointed by the mayor, with the consent of the city council. He shall, in said city, have the same powers and duties as the state inspectors have elsewhere. [1917; last amended 1919.]

Sec. 21. City apparatus.

The common council of each city required to appoint a sealer shall procure at the expense of the city, and shall keep at all times, a complete set of weights and measures and other apparatus of such materials and construction as the commissioner may direct. All such weights, measures and other apparatus, having been tried and accurately proven by him, shall be sealed and certified to by the commissioner as hereinbefore provided, and shall be then deposited with and preserved by the city sealer as public standards for the city. Whenever the common council of such city shall neglect for six months to provide such standards the city clerk of said city, on notification and request by the commissioner, shall provide the same and cause them to be tried, sealed and deposited at the expense of the city. [1917; last amended 1919.]

Sec. 22. Authority as police.

The commissioner of weights and measures, his inspectors, and the city sealers of weights and measures, are 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, and without warrant, any false or unsealed weight, measure or weighing or measuring device, or package or amounts of commodities found to be used, retained or offered or exposed for sale or

sold in violation of this chapter [Secs. 1-53]. [1917; last amended 1919.]

Sec. 23. Use of false weights, etc.; penalties.

Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall offer or expose for sale, sell, use or retain in his possession for use, 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 commissioner or an inspector, or by a sealer of weights and measures within one year, for the purpose or the apparent purpose of buying or selling of any commodity or thing, or for hire or reward; or shall dispose of any condemned weight, measure or weighing or measuring device contrary to law, or remove any tag placed thereon by the commissioner or inspector, or by a sealer of weights and measures, without his permission; or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall sell or offer or expose for sale less than the quantity he represents, or shall keep in the salesroom of a store any weighing device except prescription scales not in full view of a customer, or sell or offer or expose for sale any commodity in a manner contrary to the laws relative to weights and measures, or, in purchasing, misrepresents the amount purchased, shall be fined not less than twenty nor more than two hundred dollars, or imprisoned not more than three months, or both, upon a first conviction; upon a second or subsequent conviction he shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than one year, or both. [1917; last amended 1933.]

Sec. 24. Obstructing officials; penalty.

Any person who shall hinder or obstruct in any way the commissioner, any inspector or any city sealer in the performance of his official duties shall be fined not less than twenty nor more than two hundred dollars, or imprisoned not more than ninety days, or both. [1917; last amended 1919.]

Sec. 25. Impersonating official; penalty.

Any person who shall impersonate in any way the commissioner, any inspector or city sealer, by use of his seal or counterfeit of his seal or otherwise, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned not more than one year, or both. [1917; last amended 1919.]

Sec. 26. Provisions governing weights and measures for certain commodities.

In proceedings under section 23, for false or insufficient weights or measures in connection with the sale of any article, the following weights and provisions shall govern:

1. Bushel by Weight. Except where the parties shall expressly agree to sale by some other standard

than by weight, a bushel shall contain the number of pounds hereinafter set forth:¹

	<i>Pounds</i>
Dried apples	25
Beets	60
Small white beans	60
Soy beans (glycine hispida)	58
Barley	48
Bran	20
Buckwheat	48
Indian corn	56
Corn meal	50
Cracked corn	50
Cranberries	32
Carrots	50
Clover seed	60
Flaxseed	56
Herds grass or timothy seed	45
Japanese barnyard millet, (<i>P. crusgalli</i>)	35
Lime	70
Oats	32
Onions	52
Pears	58
Peaches	48
Dried peaches	33
Peas	60
Parsnips	45
Roasted peanuts	20
Green peanuts	22
Irish potatoes	60
Sweet potatoes	54
Quinces	48
Rye	56
Rye meal	50
Coarse salt	70
Fine salt	50
Shorts	20
Tomatoes	56
Turnips	55
Wheat	60
String beans	24
Shell beans	24
Unshelled green peas	28
Beet greens	12
Dandelions	12
Parsley	8
Spinach	12
Cucumbers	48

and for fractional parts of a bushel like fractional parts of the above weights shall be required.

II. Dry Measure. All fruits, nuts and vegetables, if sold by measure, shall be sold by dry measure, United States standard.

III. Heaping Measures. Commodities, the individual units of which are determined by the commissioner as large in size, shall be measured by heaping measures; that is: The measure shall be heaped up in the form of a cone, the outside rim of the measure to be the base of the cone and the cone to be as high as the commodity will admit; other commodities shall be measured by struck or level measure.

IV. Baskets. Baskets or other receptacles holding one quart or less, which are used in the sale of berries, cherries or currants, shall be of the capacity of one quart, one pint, or half-pint, United States standard dry measure. Said baskets or other receptacles shall not be required to be tested and sealed, but any sealer or health officer may test

the capacity of any basket or other receptacle in which such fruit is sold or intended to be sold; and if the same is found to contain less than the standard measure, or if the quantity of such fruit is otherwise less than as herein provided, he shall seize the same and make complaint against the vendor. [1917; last amended 1945.]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 27. Baskets of berries, cherries, or currants: Posting notice.

The proprietor of any place where articles named in paragraph IV of the preceding section are sold or kept for sale shall post conspicuously, in a place ordered by the commissioner and where patrons may easily read the same, a printed notice to be furnished by the commissioner, containing said paragraph and such other information as the commissioner may direct. [1917; last amended 1919.]

Sec. 28. Same: Penalty for violations.

Whoever sells or offers for sale, or has in possession with intent to sell, any such fruit in any receptacle holding one quart or less which does not conform to said standard, or, conforming thereto, is not at least level measure, or fails to keep posted the notice hereinbefore provided, shall be punished as provided in section 23. [1917; last amended 1919.]

Sec. 29. Packaged commodities: Marking requirements; tolerances.

It shall be unlawful for any person to sell or offer for sale any commodity in package form unless the contents thereof is expressed in terms of net weight, measure or numerical count in a conspicuous place on the outside of the package, in a plainly printed statement in large type. Reasonable variations or tolerances shall be permitted, and these variations or tolerances as provided in section 51 and also exemptions as to small packages shall be established by rules and regulations made by the commissioner. [1917; last amended 1919.]

Sec. 30. Package defined.

When used in laws relative to weights and measures the word "package" shall mean any commodity in a box, basket, barrel, bottle, bag, bale, crate, carton, case, can, cask, crock, drum, demi-john, firkin, hamper, hogshead, half-barrel, jar, jug, keg, lug, phial, pail, sack, tube, tub, tank, vessel or any other receptacle or container of whatsoever material or nature which can be used for enclosing any commodity or in coverings or wrappings of any kind making one complete package of the commodity, provided, however, the definition herein shall not apply to the sale of articles by the retailer from bulk and by him put up at the time of actual delivery to his customers. [1937]

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Weights and Measures—Continued.

Sec. 30-a. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two, five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this section shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred pounds, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 31. Penalty for violations of Sections 29 and 30-a.

Any person violating section 29 or section 30-a shall be fined not less than twenty nor more than two hundred dollars. [1917; last amended 1945.]

Sec. 32. Sale of coal: By weight only; exception.

It shall be unlawful to sell or offer to sell in the state any coal or coke in any other manner than by weight, except by agreement of the parties to the contrary. [1917; last amended 1919.]

Sec. 33. Same: Certificate of weight.

Except as provided in the preceding section no person shall sell or deliver any coal or coke without such delivery being accompanied by a certificate of weight distinctly expressing in ink or other indelible substance the gross weight of the load, the tare of the delivery vehicle, the net weight of the coal or coke contained in the vehicle used in such delivery, the name of the dealer from whom purchased, the name of the party to whom it is to be delivered, the name of the weigher, the name of the driver and the date of weighing. [1917; last amended 1919.]

Sec. 34. Same: Duplicate certificate.

Said certificate shall be made in duplicate by the weigher at the time and place of weighing. One copy shall be given to the purchaser or his agent or representative at the time of delivery of the fuel, or shall be surrendered to the inspector or sealer of weights and measures upon his demand for inspection, whereupon the inspector or sealer shall issue in exchange his certificate of weighing, which shall be delivered to the purchaser, his agent or

representative at the time of delivery of the fuel. [1917; last amended 1919.]

Sec. 35. Same: Delivery at yard.

When the buyer takes the coal or coke at the dealer's place of business a certificate showing the actual number of pounds delivered to the purchaser must be given to him at the time the sale is made. [1917; last amended 1919.]

Sec. 36. Sale of wood: By cord only; exceptions.

It shall be unlawful to sell or offer to sell in this state any wood for fuel purposes, except standing trees, wood not exceeding sixteen inches in length, edgings, bobbin wood, clippings, slabs and other waste, in any other manner than by the cord or fraction thereof, unless the parties to the transaction otherwise agree; but no person, firm or corporation dealing in wood, or having or offering wood for sale, shall refuse to sell it by the hereinafter defined load or fractional part thereof, or by the cord or fractional part thereof. [1919]

Sec. 37. Same: Cord; load.

No cord of any length wood shall contain less than the equivalent of one hundred and twenty-eight cubic feet of compactly piled wood. Wood not exceeding sixteen inches in length, edgings, bobbin wood, clippings, slabs and other waste may be sold by the load in the loose; provided, that a load shall contain 80 cubic feet, three quarters of a load 60 cubic feet, one half of a load 40 cubic feet, and one quarter of a load 20 cubic feet. No wood shall be sold by the load in any other dimensions. [1919]

Sec. 38. Same: Sale by basket.

Wood not exceeding twelve inches in length, edgings, bobbin wood, clippings, slabs and other waste may be sold by the bushel; provided, that the baskets or similar receptacles used shall be of one bushel or multiple thereof, New Hampshire standard dry measure, and shall be filled at least level full when well shaken. [1919]

Sec. 39. Same: Markings on delivery truck.

Whoever sells or offers for sale such wood by the load in the loose shall specify upon the outside of the delivery vehicle the cubic contents thereof, in figures at least one inch high. [1919]

Sec. 40. Inspection of wood carts.

The commissioner shall require the inspectors and sealers to measure the cart bodies or containers used in the delivery of wood by the standard load, to see if they contain the contents specified. [1917; last amended 1919.]

Sec. 41. Sale of bread: Marking requirements.

It shall be unlawful for any person to make for sale, sell, offer to sell or procure to be sold any bread unless each loaf is enclosed in a wrapper plainly showing its weight and the name of the

manufacturer thereof, the size of stamp and type used to be specified by the commissioner. [1917]

Sec. 42. Sale of meat, fish and fowl: By weight only; exception.

All dressed meat, fresh and salt, meat products, fish, and dressed fowl shall not be sold or offered for sale except by weight. Provided, however, that the provisions of this section shall not apply to the sale of these articles where both buyer and seller in writing agree to other methods of sale. [1937]

Sec. 43. Public weighers: Appointment in towns.

Any town or city may appoint one or more public weighers of coal or other merchandise. Such weighers shall be appointed in towns by the board of selectmen and in cities by the body which appoints the city sealers of weights and measures, and shall hold office during the pleasure of the body by which they are appointed, or until their successors are chosen and qualified. [1927]

Sec. 44. Same: Issuance of certificates.

All coal and hay sold by weight in any city or town adopting the provisions hereof shall be weighed by one of such public weighers, at the expense of the seller. The weigher shall deliver to the seller, or his agent, a certificate of the weight of all merchandise weighed by him, which certificate shall be delivered by the seller to the buyer or his agent at the time of the delivery of such merchandise. No person shall act as a public weigher of coal, hay or other merchandise of which he is either the buyer or seller, or a servant or agent of the buyer or seller, or in the sale whereof he has any interest, except when such servant or agent is acting in behalf of the town or city. The weigher shall keep a record of all such certificates, which record shall at all times be open to inspection by any person interested therein. [1927]

Sec. 45. Sales to cities or towns.

Every person selling to any city or town by weight any merchandise, the weight whereof is more than one hundred pounds, shall furnish therewith, at his own expense, the certificate of a public weigher of said city or town. [1927]

Sec. 46. Sales to persons other than cities or towns.

Any person, not a city or town, purchasing by weight any merchandise, the weight whereof is more than one hundred pounds, other than coal or hay, may require therewith the certificate of a public weigher of the city or town in which such purchaser resides, such certificate to be delivered with said merchandise at the expense of the seller. [1927]

Sec. 47. Fees.

Public weighers shall be paid such fees, not exceeding fifteen cents for each weighing, as shall be prescribed by the body by which they are ap-

pointed, which shall be in full for the use of the scales, the certificates furnished, the recording thereof and all official services performed. [1927]

Sec. 48. Erection and maintenance of public scales.

Any city or town may erect and maintain public scales within the limits of any public highway, or on any other lands and may appropriate money therefor. In case of the failure of the owner of lands to sell the property required for the erection and maintenance of public scales, proceedings may be had for the acquisition of such property by a town or city in the same manner as for the taking of land for highway purposes. [1927]

Sec. 49. Selling merchandise without public weigher's certificate; refusal by public weigher to perform duty; penalty.

Any person who shall sell any merchandise without furnishing therewith the certificate of a public weigher as required by the provisions hereof, or any public weigher who, on tender to him of his lawful fees, shall refuse to perform any duty imposed upon him by the provisions of this subdivision [Secs. 43-50], shall be fined not more than twenty dollars. [1927]

Sec. 50. Adoption of laws regarding public weighers by cities or towns.

The provisions of this subdivision [Secs. 43-50] when adopted by lawful vote of any city or town shall continue in force until said vote is rescinded. [1927]

Sec. 51. Specifications and tolerances.

The commissioner shall, after consultation with and with the advice of the National Bureau of Standards, establish specifications and tolerances for weights and measures and weighing and measuring devices, and said specifications and tolerances shall be legal specifications and tolerances in this state, and shall be observed in all inspections and tests. [1917]

Sec. 52. Hawkers, etc., required to have certificate issued by sealer of weights and measures.

No license shall be issued to any hawker, peddler or itinerant vendor unless he presents a certificate from the sealer of weights and measures, showing that the weights or measures used by him have been properly inspected, tested and sealed immediately preceding the issuance of such license. Upon conviction of any hawker, peddler or itinerant vendor of any violation of the provisions of this chapter [Secs. 1-53], such license shall be revoked. [1917]

Sec. 53. Disposal of fines.

The justice or judge of any court, before whom a complaint for violation of this chapter [Secs. 1-53] is prosecuted, shall, within sixty days after any fine is paid, remit the amount thereof to the state treasurer. [1917; last amended 1919.]

Revised Laws 1942, Vol. 1, Title VIII, Ch. 66—Cities.

Sec. 13. Powers of city councils.

The city councils shall have power to make all such salutary and needful by-laws as towns and the police officers of towns and engineers or firewards by law have power to make, and to annex penalties, not exceeding twenty dollars, for the breach thereof; and may make, establish, publish, alter, modify, amend, and repeal ordinances, rules, regulations, and by-laws for the following purposes:

* * * * *

XII. To establish markets and market-places; regulate the place and manner of selling and weighing hay, selling pickled and other fish, and salted and fresh provisions; selling and measuring wood, lime, coal, and other heavy articles; and to appoint suitable persons to superintend and conduct the same; to prevent and punish forestalling and regrating; and to restrain every kind of fraudulent device and practice. [1846; last amended 1941.]

* * * * *

Revised Laws 1942, Vol. 1, Title XV, Ch. 164—Food.

Sec. 1. Sale of misbranded food forbidden.

No person shall, within the state, manufacture for sale, offer for sale, have in possession with intent to sell or sell, any adulterated or misbranded article of food or substance to be used in the manner of food or drink, or any adulterated or misbranded drug or substance to be used in the manner of medicine. Provided that nothing in this section shall prevent the manufacture, or the possession by a wholesale dealer, of any article not in violation of the laws of another state, where satisfactory evidence is furnished that such article is manufactured or possessed exclusively for shipment to and consumption within that state. [1907; last amended 1929.]

Sec. 2. Definitions.

As used in this chapter [Secs. 1-19] the following words shall have the following meanings:

I. The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

* * * * *

III. The term "label" means a display of written, printed or graphic matter upon the immediate container of any articles; and a requirement made by or under authority of this chapter [Secs. 1-19] that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through

the outside container or wrapper. The term "immediate container" does not include package liners.

IV. The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

V. The term "board" means the state board of health.

* * * * *

IX. The provisions of this chapter regarding the selling of foods or drugs, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any food or drug establishment.

X. The term "federal act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.). [1907; last amended 1947.]

Sec. 7. When food deemed misbranded.

Foods shall be deemed to be misbranded in the following cases:

I. If its labeling is false or misleading in any particular.

* * * * *

IV. If its container is so made, formed, or filled as to be misleading.

V. If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board [state board of health]. [1907; last amended 1947.]

* * * * *

Sec. 10. Guaranty protection.

No dealer shall be convicted of a violation of the provisions of this chapter [Secs. 1-19] when he can establish a guaranty signed by a wholesaler, jobber, manufacturer or other party residing in the United States, from whom he received in good faith such articles, to the effect that the same in original or unbroken packages is not adulterated or misbranded within the meaning hereof, unless it shall appear that such dealer knew the same to be in fact adulterated or misbranded within the meaning hereof. The provisions of this section shall not apply in the case of food and drugs subject to deterioration if the court finds that the adulteration has occurred after delivery to, and has resulted from negligence on the part of, the dealer. [1907; last amended 1949.]

Sec. 12. Enforcement; rules and regulations.

The state board of health is charged with the enforcement of this chapter [Secs. 1-19]. Said board may make rules and regulations for the proper enforcement thereof, including as a part of said rules and regulations, when not inconsistent with existing laws, the adoption of such definitions and standards of identity as may from time to time be promulgated under the federal food, drug, and cosmetic act, * * *. [1907; last amended 1941.]

Sec. 14. Penalty for violations.

Whoever violates any of the provisions of this chapter [Secs. 1-19] shall be fined not less than ten nor more than one hundred dollars upon a first conviction; upon a second or subsequent conviction he shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than one year, or both. [1907; last amended 1929.]

**Revised Laws 1942, Vol. 1, Title XVI, Ch. 170—
Spiruous Liquor.****Sec. 14. Liquor to be free from misbranding.**

It shall be the duty of the commission [state liquor commission] to buy and have in, its possession liquor for sale in the manner provided herein. Such liquors shall be free from * * * misbranding within the meaning of the provisions of chapter 164¹ * * *. [1934]

¹ See Ch. 164, Secs. 1-14, pages 622-623.

**Revised Laws 1942, Vol. 1, Title XVII, Ch. 193—
Sale of Certain Articles.****Sec. 11. Standard boxes and half-boxes for farm produce: Dimensions; marking requirements; sale by weight, measure or numerical count, when.**

Farm produce may be sold in, or shipped from, New Hampshire at either wholesale or retail in standard boxes, in original or unbroken form, and such standard boxes shall contain two thousand one hundred sixty-two and eighty-nine one hundredths cubic inches and shall be of the following dimensions by inside measurements: Seventeen and one half inches in length by seventeen and one half inches in width and seven and one sixteenth inches in depth. The New Hampshire standard half-box for farm produce shall contain one thousand eighty-one and fifty-five one hundredths cubic inches, and shall be of the following dimensions by inside measurements: Twelve and three eighths inches in length by twelve and three eighths inches in width and seven and one sixteenth inches in depth. When the above specified boxes are made of wood the ends shall not be less than five eighths of an inch, and the sides and bottom not less than three eighths of an inch, in thickness. All such boxes and half-boxes of the dimensions specified herein shall be marked on at least one

outer side in bold, uncondensed capital letters, not less than one inch in height: "Standard Box Farm Produce" and "Standard Half-Box Farm Produce", respectively. Except as above provided, farm produce shall be sold at wholesale or retail by avoirdupois weight, measure or numerical count. [1923]

Sec. 12. Same: Penalty for violations.

Whoever represents, by marking or otherwise, any box or half-box to be standard box or standard half-box for the sale of farm produce, unless it conforms to the foregoing requirements, shall be fined not more than fifty dollars. [1923]

Sec. 13. Same: Enforcement.

The commissioner and inspectors of weights and measures shall enforce the provisions of this subdivision [Secs. 11-13]. [1923]

Sec. 16. Cord wood and bark: Dimensions.

All cord wood exposed for sale shall be either four feet, three feet or two feet long, including half the kerf, and, being well and closely laid together, a quantity measuring eight feet in length, four in width and four in height shall constitute a cord. [1843]

Sec. 17. Same: Measurers; certificates; compensation.

It shall be the duty of measurers of wood and bark to measure any wood or bark whenever requested, and to give a certificate thereof; and they shall be paid for the service, by the party requesting the same, forty cents for each hour or fractional part of an hour necessarily spent by them when the quantity to be measured exceeds twenty cords, and four cents a cord when it is twenty cords or less. [1843]

Sec. 18. Same: Refusal to measure; giving false certificate; penalty.

If any measurer, upon tender of his fees, shall unreasonably neglect or refuse to measure or certify any wood or bark brought to him for that purpose, or shall give any false certificate, he shall for each offense forfeit five dollars. [1843]

Sec. 19. Raw cotton: Contracts; net weight.

All contracts for the sale and purchase of raw or unmanufactured cotton, made within this state, shall be taken and deemed to be contracts for sale and purchase at actual weights, exclusive of the weight of bagging, rope, iron ties or straps, or any other material in which cotton may be packed. [1870]

Sec. 20. Same: Weight markings.

Where there is no special agreement as to the amount of tare to be allowed on each bale, every bale of raw or unmanufactured cotton sold or offered for sale within this state shall have legibly marked upon it, or upon some tag securely fixed

Revised Laws 1942, Vol. 1, Title XVII, Ch. 193—
Sale of Certain Articles—Continued.

thereto, the gross weight of such bale and the aggregate weight of the bagging, rope and ties, or other materials in which the cotton is packed, together with the name of the weigher. [1870]

Sec. 21. Same: Weighing by sample.

For the purpose of ascertaining the weight of the packing material upon cotton, according to the provisions of this subdivision [Secs. 19-21], and in the absence of a special agreement as to tare, it shall be lawful to weigh by sample; but there shall be an actual weighing of the packing materials of at least one bale in ten of each lot, after the same shall have been stripped or removed from the bale. [1870]

Sec. 38. Ice: Refusal to weigh; giving false weight; penalty.

A dealer in ice who, on request of the purchaser, refuses or neglects to weigh the same when delivered, or gives a false weight, shall be fined not more than fifty dollars. [1907]

Sec. 39. Same: Delivery from vehicle; refusal to weigh; giving false weight; penalty.

Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses to weigh the same on the request of the purchaser when it is delivered, or gives a false weight, shall be fined not more than ten dollars. [1907]

Sec. 40. Coal: Standards.

The commissioner of weights and measures shall fix reasonable standards with respect to the amount of bone, slate, or other foreign substances which may be contained in anthracite coal or coke sold as standard coal or coke within this state. Such standards shall be set forth in an order or orders, and shall take effect at such time as shall be stated therein and remain in force until modified by the commissioner. In fixing such standards due regard shall be had for the custom of the trade as carried on by reputable dealers, and the orders of the commissioner shall be designed to protect the public from imposition. [1923; last amended 1937.]

Revised Laws 1942, Vol. 1, Title XVII, Ch. 194—
Milk and Cream.

Sec. 12. Glassware or instruments: Testing; sealing; fee.

Every instrument or piece of glassware used for testing or measuring milk or cream, at any creamery, butter factory, cheese factory or condensed milk factory in determining the value of milk or cream received from different persons, or by any milk inspectors in any city or town in this state, shall be tested for accuracy of measurement, and for the accuracy of the per cent scale marked thereon, by said superintendent [of the dairy department of the New Hampshire College of Agri-

culture and the Mechanic Arts] or by some competent person designated by him. The superintendent or person thus designated shall mark such instruments or glassware with such marks or characters as cannot be erased, which marks or characters shall stand as proof that they have been so tested; and no incorrect instruments or glassware shall be thus marked. The superintendent shall receive for such service the actual cost incurred and no more, the same to be paid by the person for whom the test is made. [1901]

Sec. 13. Record of certificates and tests.

He shall keep a record of all persons to whom certificates are issued, with the dates thereof, and of the number and description of all instruments and pieces of glassware inspected and marked, and for whom each was inspected. [1901]

Sec. 14. Testing with uninspected appliances; penalty.

Any person who tests milk or cream contrary to the provisions of this subdivision, or who tests milk or cream to determine or apportion its value with appliances that have not been inspected and marked by the authorities herein named, shall be fined not less than five dollars for each week that he serves or that such unmarked and untested appliances are used. [1901]

Sec. 27. Measure of milk.

Milk shall be bought and sold by wine measure, the standard for which shall be two hundred and thirty-one cubic inches to the gallon, and for subdivisions of the gallon in the same proportion. [1860; last amended 1869.]

Sec. 28. Same: To be tried and proved by standard of wine measure; markings; penalty for selling by any other measure.

All measures or vessels used in the sale of milk shall be tried and proved by the standard of wine measure, and the quantity they hold agreeably to such standard shall be marked thereon. Any person selling any milk by any other than measures so tried, sealed and marked shall be fined ten dollars. [1860; last amended 1869.]

Sec. 29. Sealing of cans.

All milk cans used by persons engaged in the business of purchasing milk at wholesale shall be sealed annually by the sealer of weights and measures in the city or town where the purchaser resides; and no milk can shall be sealed which does not contain one or more quarts, and the capacity of the can shall be legibly marked upon it by the sealer. [1873]

Sec. 30. Capacity of cans.

When milk is purchased by the can, such can shall hold eight quarts of milk and no more. [1873]

Sec. 31. Penalty for violating two preceding sections.

Any person violating the provisions of the two preceding sections shall be fined not more than fifty dollars. [1873]

Sec. 55. Receiving stations for milk: Weight certificate; penalty for refusing to furnish weight certificate; enforcement by commissioner of weights and measures.

Every person who shall receive any milk or cream at a receiving station shall upon receipt of said milk or cream furnish to the producer a certificate of weight which shall contain the name and address of the receiving station, the name or account number of the producer, the weight of the milk or cream received, and the date of its receipt. Any person who refuses or fails to furnish such weight certificate shall be fined not less than twenty nor more than two hundred dollars. It shall be the duty of the commissioner of weights and measures to enforce the provisions hereof. [1937]

Revised Laws 1942, Vol. 1, Title XVII, Ch. 197—Standard Packages for Apples.

Sec. 1. "Closed" package defined.

The term "closed" package when used in this chapter [Secs. 1-20] shall mean a barrel, box, or other container, the contents of which cannot be sufficiently inspected without opening it. [1927]

Sec. 2. Standard barrel; dimensions; standard bushel; marking requirements.

The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: length of stave, 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 bushel for apples shall be a container having a capacity of not less than one United States standard bushel or 2150.42 cubic inches. Containers for apples other than the standard box as defined in section 11 of chapter 193¹ and the standard barrel or bushel shall be marked in terms of cubical capacity or count with designation of minimum size of each apple. [1917; last amended 1933.]

¹ See page 623.

Sec. 6. Exception as to label.

If apples are packed in diagonal or layer pack in a standard farm produce or standard western apple box the count or number of apples may be stated in place of minimum size. * * * [1931]

Sec. 7. Marking requirements on closed packages.

Each closed package of apples packed or repacked within the state and intended for sale

within or without the state shall be marked or branded at the time of packing, repacking or closing with a statement of (a) the quantity of the contents except as otherwise provided, * * *. [1917; last amended 1933.]

Sec. 11. When apples deemed misbranded.

For the purposes of this chapter [Secs. 1-20], apples packed in an open or closed package shall be deemed to be misbranded unless conforming to the official standards for the inspection of apples promulgated by the secretary of the United States Department of Agriculture or to the statements required in sections 7, * * *, or to uniform rules and regulations of the commissioner of agriculture; provided that no package shall bear any statement, design or device regarding such article or its contents which in any particular shall be false or misleading or falsely branded. [1917; last amended 1933.]

Sec. 12. Rules and regulations; right of entry; enforcement.

The commissioner of agriculture shall make and may modify uniform rules and regulations for carrying out the provisions of this chapter [Secs. 1-20]. He shall, in person, or by his deputy or agent, have free access at all reasonable hours to any place, building, or vehicle in which apples are packed, stored, sold, offered, or exposed for sale or held for transportation. He shall also have power, in person or by his deputy or agent, to open any box, barrel, or other container, and may upon tendering the market price, take such container and its contents or samples therefrom. He shall have general authority to administer and enforce the provisions of this chapter and the rules and regulations made hereunder, and to prosecute violations thereof. [1917; last amended 1927.]

Sec. 14. Misbranding or packing fraudulently; penalties.

Whoever himself or by his servant or agent misbrands apples within the meaning of this subdivision [Secs. 1-15] or packs, sells, distributes, offers, or exposes for sale or distribution apples which are misbranded, or otherwise packs, sells, distributes, offers, or exposes for sale or distribution, apples in violation of any provision hereof, shall be fined for the first offense not exceeding fifty dollars and for a subsequent offense not exceeding two hundred dollars. Whoever violates any rule or regulation made by the commissioner under this chapter [Secs. 1-20], or obstructs or hinders the commissioner or his deputy or agent in the performance of his duties hereunder, shall be fined not less than ten nor more than one hundred dollars. [1917; last amended 1931.]

Sec. 15. Exemptions from penalties.

No person shall be deemed to have violated any provision hereof if he can establish by satisfactory evidence that he acted in good faith solely as a dis-

Revised Laws 1942, Vol. 1, Title XVII, Ch. 197—
Standard Packages for Apples—Continued.

tributor, and that he was not a party to the packing and grading of the apples in question, or if he can furnish a guaranty signed by the person from whom he received such apples to the effect that the same are not misbranded within the meaning of this subdivision [Secs. 1-15]. Such guaranty, to afford protection, shall contain the name and address of the person making the sale or shipment of such apples to said distributor, and in such a case such person shall be subject to the penalties to which the distributor would otherwise be liable hereunder. [1917; last amended 1927.]

Revised Laws 1942, Vol. 1, Title XVII, Ch. 198, Secs. 1 to 11—Eggs.

[ED. NOTE.—These sections deal with the grading of eggs, weights per dozen, and tolerances therefor. The pertinent sections are omitted as they relate primarily to quality.]

Revised Laws 1942, Vol. 1, Title XVII, Ch. 201—
Lumber Inspection and Measurement.

Sec. 1. Duties of surveyors.

Surveyors of lumber shall survey all plank, boards, spars, slit work, shingles, clapboards and timber previous to the sale thereof, and shall measure the same if necessary, having due consideration for drying and shrinking, making reasonable allowance for rot, knots and splits. They shall mark the same anew according to the just contents thereof, if requested by the seller or purchaser, and give a certificate of the quantity and sorts, if required, on payment therefor. [1843]

Sec. 3. Standard thickness of plank.

The standard of thickness of merchantable plank shall be two inches, and when any plank of a different thickness shall be purchased it shall be admeasured and calculated by that standard. [1843]

Sec. 4. Ship timber, how measured.

All round ship timber shall be measured according to the following rule: a stick of timber sixteen inches in diameter and twelve inches in length shall constitute one cubic foot, and in the same ratio for any other size and quantity; forty feet shall constitute one ton. [1843]

Sec. 5. Round timber: Rules for measurement.

Unless the parties shall otherwise agree in writing the following shall be the rule for measuring round timber, where quantity is estimated by the thousand: A stick of timber sixteen inches in diameter and twelve inches in length shall constitute one cubic foot, and the same ratio shall apply to any other size and quantity. Each cubic foot shall constitute ten feet of a thousand. [1866; last amended 1945.]

Sec. 6. Marking round timber.

Any person measuring round timber, the quantity of which is estimated by the thousand, shall mark upon each log surveyed by him the contents thereof, unless it is otherwise agreed by the parties contracting. [1900]

Sec. 7. Shingles, sizes of.

All shingles offered for sale in this state shall be straight, four inches wide, free from shakes and worm holes; shall be split or sawed in a longitudinal direction crosswise the grain, and shall be designated and known, according to their quality as No. 1, No. 2, No. 3 or refuse.

Shaved shingles No. 1 shall be eighteen inches long, seven sixteenths of an inch thick at the butt end, shall be free from knots and sap, and shall be breasted.

No. 2 shall be at least seventeen inches long, three eighths of an inch thick at the butt end and clear of knots and sap.

No. 3 shall be at least fifteen inches long, and three eighths of an inch thick at the butt end. [1901]

* * * * *

Sec. 8. Same: Admeasurement; number in bundle.

No shingles shall pass inspection unless so packed as to contain by admeasurement one quarter of a thousand in each round bunch, and either one thousand or one half or one quarter of a thousand in each square bunch. Each bunch or bundle shall be branded upon the butt, No. 1, No. 2, No. 3, Refuse or 0, according to the quality; and also with the abbreviation N. H., which brand last mentioned shall be furnished by the town. [1900]

Sec. 9. Clapboards.

All shaved pine clapboards shall be made of good sound timber, clear of sap; and all shaved clapboards shall be free from shakes and worm holes, straight, well shaved and of the following dimensions: full five eighths of an inch thick on the back, five inches wide and four feet six inches long.

All sawed clapboards shall be of the following descriptions, and shall be known as clear, sap-clear or merchantable.

Clear clapboards shall be sawed from good timber, and shall not be less than four feet two inches in length, five inches in width and half an inch thick on the back, and shall be free from knots, worm holes, shakes and rot. Pine clapboards shall also be free from sap.

Sap-clear clapboards shall be of the same dimensions and quality as the clear clapboards, but need not be free from sap.

Merchantable clapboards shall be of the same length, from four to five inches wide and shall be free from rot, shakes, worm holes and broken or loose knots.

Two pieces of either of the above descriptions, neither of which shall be less than thirty inches long, or three pieces, neither of which shall be less than two feet long, shall be allowed and counted as one clapboard; but there shall be at least ninety whole clapboards in every hundred. [1900]

Sec. 10. Staves, hoops, etc.

All white oak butt staves shall be at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge and every part thereof.

All white oak hogshead staves shall be at least forty-two inches long, four inches broad in the narrowest part and not less than one inch thick on the heart or thinnest edge.

All white oak hogshead staves shall be at least forty-two inches long and not less than three quarters of an inch thick on the heart or thinnest edge.

All white oak barrel staves for foreign market shall be thirty-two inches long, and for home use shall be thirty inches long, and all shall be half an inch thick on the heart or thinnest edge.

All white oak hogshead and barrel staves shall be, one with another, four inches in breadth, and none less than three inches in breadth in the narrowest part, and those of the last breadth shall be clear of sap.

All red oak hogshead and barrel staves shall be of the same length, width and thickness with the white oak hogshead and barrel staves aforesaid.

All staves shall be well and proportionably split. All shooks shall be forty inches long, and not less than two and a half inches wide at the ends, and full half an inch thick when dressed.

All white oak hogshead heading shall be one inch thick, thirty inches long and not more than five pieces to one head.

All hogshead hoops shall be made of white oak, brown ash or walnut, of good and sufficient substance, well shaved and either ten, twelve or fourteen feet in length; the oak and ash hoops shall not be less than one inch broad, and the walnut hoops not less than three quarters of an inch broad; all hoops of ten, twelve and fourteen feet respectively shall be made up in distinct bundles by themselves, containing twenty-five hoops each; and each bundle intended for exportation shall be branded on the band thereof with the brand of the town whence exported.

All hoops and staves shall hereafter be counted and sold by the decimal hundred. [1900]

Revised Laws 1942, Vol. 1, Title XIX, Ch. 226—Stock Foods.

Sec. 1. Commercial feeding stuffs: Marking requirements.

Every person who shall sell, offer or expose for sale or for distribution in this state any concentrated commercial feeding-stuff shall furnish with

each car or other quantity shipped in bulk, and shall affix to every package of such feeding-stuff, in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly certifying the number of net pounds in the package sold or offered for sale, * * *. [1901; last amended 1949.]

Sec. 3. Same: Definition.

The term "concentrated commercial feeding-stuff," or "feeding-stuff" as used in this chapter [Secs. 1-18], shall include all commercial feeding-stuffs used for feeding wild animals and birds kept in captivity, domestic animals and poultry, except hay, straw, whole seed, unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, broom corn, buckwheat, and mixed grains the ingredients of which may be readily determined. [1901; last amended 1949.]

Sec. 11. Same: Penalty for violations.

Any person who shall sell, offer or expose for sale or for distribution in this state any concentrated commercial feeding-stuff, without complying with the requirements of this subdivision [Secs. 1-12], * * *, shall be fined not more than one hundred dollars for the first offense, and not more than two hundred dollars for each subsequent offense. [1901]

Sec. 12. Enforcement.

Whenever said commissioner [commissioner of agriculture] becomes cognizant of the violation of any of the provisions of this or the next succeeding chapter [ch. 227, insecticides and fungicides] he shall prosecute the offender if he otherwise fails to secure proper compliance with the law. [1901; last amended 1925.]

Sec. 13. Grain for feeding livestock: Marking requirements.

Every person who shall sell, offer or expose for sale in this state any corn, whole, ground or cracked, oats, rye, barley, wheat or buckwheat, used for feeding wild animals and birds kept in captivity, domestic animals or poultry, shall furnish with each car or other quantity shipped in bulk a plainly printed statement showing net weight * * * and shall affix to each bag of grain a plainly printed statement or tag, showing the * * * net weight contained therein, * * *. [1923; last amended 1949.]

Sec. 17. Same: Penalty for violations.

Any person who shall sell, offer or expose for sale or distribution in this state any of the grain herein mentioned, without complying with the foregoing requirements, shall be fined not more than one hundred dollars for the first offense, and not more than two hundred dollars for each subsequent offense. [1923]

Revised Laws 1942, Vol. 1, Title XIX, Ch. 227—
"New Hampshire Economic Poisons Law."

Sec. 1. Definitions.

* * * * *

I. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest.

* * * * *

XIII. The term "commissioner" means the commissioner of agriculture.

XIV. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison.

* * * * *

XVII. The term "misbranded" shall apply (1) to any economic poison if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; [1949]

* * * * *

Sec. 2. Marking requirements.

I. It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following: * * *

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing * * * (c) the net weight or measure of the content subject, to such reasonable variations as the commissioner may permit. [1949]

* * * * *

Sec. 12. Enforcement.

The examination of economic poisons shall be made under the direction of the commissioner for the purpose of determining whether they comply with the requirements hereof. If it shall appear from such examination that an economic poison fails to comply with the provisions hereof, and the commissioner contemplates instituting criminal proceedings against any person, the commissioner

shall cause appropriate notice to be given to such person. * * * [1949]

Sec. 15. Penalties for violations.

I. Any person violating any of the provisions hereof shall be fined not more than one hundred dollars for the first offense and for a second offense within a period of three years shall be fined not less than one hundred dollars nor more than five hundred dollars. [1949]

* * * * *

Sec. 16. Seizures; forfeiture.

Any economic poison that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any court in any county of the state where it may be found and seized for forfeiture as provided by chapter 432, Revised Laws, (1) if it is adulterated or misbranded; * * * (3) if it fails to bear on its label the information required hereby; * * * [1949]

[ED. NOTE.—Secs. 13 and 14 (not included herein) provide for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

Revised Laws 1942, Vol. 1, Title XIX, Ch. 228—
Commercial Fertilizer.

Sec. 1. Marking requirements.

Every lot or parcel of commercial fertilizer or fertilizer materials sold or offered or exposed for sale within this state shall be accompanied by a plainly printed statement, clearly and truly certifying the number of net pounds of fertilizer in the package, * * *. [1901; last amended 1933.]

Sec. 7. Penalty for violations.

Any person selling, or offering or exposing for sale, any commercial fertilizer without the statement required by section 1; * * * or if the tags, stencils or labels attached to or printed upon the containers in which fertilizer or fertilizer material is sold or offered for sale do not agree with the certified registration; or respecting the sale of which all the provisions of the foregoing sections have not been fully complied with; * * * shall be fined fifty dollars for the first offense and one hundred dollars for each subsequent offense. [1901; last amended 1933.]

Sec. 8. Exceptions.

This chapter [Secs. 1-8] shall not apply to parties manufacturing or importing fertilizers for their own use and not for sale in this state. [1901]

[ED. NOTE.—The commissioner of agriculture "shall cooperate with the attorney-general and county solicitors in enforcing the laws relating to * * * the fertilizer laws * * *." Revised Statutes 1942, Ch. 223, Sec. 19.]

Revised Laws 1942, Vol. 2, Title XXV, Ch. 295—
Service Equipment of Public Utilities.

Sec. 2. Rules and regulations for examining and testing.

The commission [public service commission] may * * * prescribe reasonable regulations for examination and testing of such service, product or commodity, and for the measurement thereof [gas, electricity, water, etc.]. [1913]

Sec. 3. Meters.

The commission [public service commission] may ascertain, determine and fix reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [1913]

Sec. 4. Service inspections.

The commission [public service commission] may provide for the inspection of the manner in which every public utility conforms to the reasonable regulations prescribed by the commission for examination and testing of its service, product or commodity, and for the measurement thereof, and may supplement such inspections by examinations and testing. [1913]

Sec. 5. Inspection of meters.

The commission [public service commission] may provide for the inspection of the manner in which every public utility has carried into effect the reasonable rules, regulations, specifications and standards fixed by orders of the commission relative thereto, and may examine and test any meters and appliances for measurement under such reasonable rules and regulations as it may prescribe. [1913]

Sec. 6. Testing appliances.

The commission may provide for the examination and testing of any appliances used for the measuring of any service, product or commodity of a public utility. [1913]

Sec. 7. Test on consumer's request; fee.

Any consumer or user may have any such appliance tested by the commission [public service commission]. The commission may declare and estab-

lish reasonable fees to be paid for examining and testing such appliances on the request of consumers or users, the fee to be paid by the consumer or user at the time of his request; but, if the measuring appliance be found unreasonably defective or incorrect to the disadvantage of the consumer or user, the commission shall repay such fee to the consumer or user and collect the same from the public utility. [1913]

Sec. 8. Apparatus for testing.

The commission [public service commission] may purchase such materials, apparatus and standard measuring instruments for such examinations and tests, and for the calibration and standardization of the measuring instruments used by any public utility, as it may deem necessary. [1913]

Sec. 9. Fees.

The commission [public service commission] shall fix and collect reasonable fees for examining and testing meters and other measuring apparatus and appliances and the product of any public utility offered to the public for use or consumption, and such fees shall be paid by the public utility owning the same, or offering the same to the public, except as provided in section 7. * * * [1913]

Revised Laws 1942, Vol. 2, Title XXV, Ch. 301—
Weighing of Freight Cars.

Sec. 29. Regulations for weighing of freight cars.

The public service commission shall have power to make reasonable regulations for * * * the weighing of cars and property offered for shipment or transportation by any common carrier. [1911]

Revised Laws 1942, Vol. 2, Title XXXVII, Ch. 450—
False Advertising.

Sec. 9. Unlawful acts; penalty.

Whoever with intent to sell or in any wise dispose of or to increase the demand for merchandise, securities, services, or anything offered by him directly or indirectly for sale or distribution, shall make or cause to be disseminated in any manner any printed advertisement containing a statement known by him to be false, shall be fined not more than three hundred dollars, or imprisoned not more than ninety days, or both. [1925]

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Statutes Annotated, Title 51, Ch. 1, Art. 1—Weights and Measures, Definitions and Construction.

Sec. 51:1-1. Municipal power not impaired.

Nothing in this title [Secs. 51:1-1—51:9-21] shall be construed to abrogate or impair the power of the governing body of any municipality or of the courts to enforce any provision now existing or hereafter adopted in any municipal charter, ordinance or regulation, not inconsistent with this chapter [Secs. 51:1-1—51:1-133], or to prevent or punish violations thereof. [1908]

Sec. 51:1-2. Definitions.

As used in this chapter [Secs. 51:1-1 to 51:1-133]:

"Assistant superintendent" means assistant superintendent of weights and measures;

"Superintendent" means in all instances superintendent of weights and measures;

"Weight and measure" or "weights and measures" includes any weight, measure, scale beam, patent balance, spring scale, person-weighing machine operated for profit, steelyard, tape, counter measure, receptacle of any kind, or any other instrument or apparatus and accessories connected therewith used in weighing or measuring any commodity, fluid, or article of merchandise or person. [1911; last amended 1932.]

Statutes Annotated, Title 51, Ch. 1, Art. 2—Weights and Measures, Standards.

Sec. 51:1-3. Standards to be U. S. standards.

The standards of weights and measures in this state shall be those recognized or furnished by the United States. [1911]

Sec. 51:1-4. Yard.

The standard yard shall contain three feet of thirty-six inches. [1908]

Sec. 51:1-5. Chain for measurement of land.

The standard chain for the measurement of land shall consist of four rods of sixty-six feet. [1908]

Sec. 51:1-6. Surveyor's tape.

The state geologist shall preserve in his office a surveyor's hardened steel tape, fifty feet in length, of United States standard measurement, graduated in feet and hundredths, with proper adjustment for temperature and with a spring balance attachment to pull not less than six pounds nor more than seven pounds. This tape shall be the standard of measurement for surveying land. The standard tape shall be subject to the use in the office of the state geologist or under his supervision, of any surveyor of this state for the purpose of testing chains or tape used by such surveyor. [1908]

Sec. 51:1-7. Standard ton.

The standard gross ton shall consist of two thousand, two hundred and forty pounds. The standard net ton shall consist of two thousand pounds. [1911]

Sec. 51:1-8. Standard pound; avoirdupois; troy.

The standard avoirdupois pound, which shall be the standard for all commodities usually sold by weight, except gold, silver, jewels and drugs, shall contain seven thousand grains troy. The standard pound used in the sale of gold, silver, jewels and drugs, shall contain five thousand seven hundred and sixty grains troy. [1908]

Sec. 51:1-9. Standard gallon; quart.

The standard gallon shall contain two hundred and thirty-one cubic inches. The standard liquid quart shall contain fifty-seven and seventy-five one-hundredths cubic inches. [1908]

Sec. 51:1-10. Milk or cream: Sale of by liquid measure.

All milk, skimmed milk or cream, except such as may be bought or sold either by weight or on the butter fat basis, shall be sold, offered for sale or received for the purpose of sale by the liquid gallon, or the liquid quart or the proper and complete liquid subdivisions thereof. [1907]

Sec. 51:1-11. Same; Non-standard cans; label.

Each can originally containing more or less than forty quarts of milk or cream shall bear a label

or tag naming in quarts its original capacity of liquid measure but no can originally containing forty quarts, liquid measure, shall be labeled or tagged. [1907]

Sec. 51:1-12. Same: Penalty for violations.

A person violating any provision of sections 51:1-10 or 51:1-11 of this title [Secs. 51:1-1—51:9-21] shall be liable to a penalty of fifty dollars to be recovered in an action at law before the small cause court or district court by any person who may sue therefor and who shall be designated in the state of demand and summons as plaintiff. Such penalty when recovered shall be paid to the county treasurer of the county in which the violation occurred. * * * [1907]

Sec. 51:1-13. Butter and cheese packages: Branding by manufacturer; penalty against manufacturer for not branding or falsely branding.

Every firkin, tub or other vessel for the package of butter or cheese shall be branded in legible letters and characters by the cooper or manufacturer with his name and the actual and true weight of the firkin, tub or vessel.

A cooper or manufacturer who shall dispose of any such firkin, tub or vessel without such brand or who shall falsely brand the same shall forfeit and pay to such person as shall prosecute for the same the sum of twenty-five dollars to be recovered by action at law in any court of competent jurisdiction. [1877]

Sec. 51:1-14. Same: Use of unbranded package; defacing or altering brand; penalty.

Any person who shall sell or dispose of butter or cheese in a firkin, tub or vessel manufactured for such purpose in this state which is not branded as required by section 51:1-13 of this title [Secs. 51:1-1—51:9-21] and any person who shall alter or purposely deface such brand shall forfeit and pay the sum of twenty-five dollars to such person as shall sue for the same in an action at law in any court of competent jurisdiction. [1877]

Sec. 51:1-15. Liquids only to be sold by liquid measure.

No person shall use a liquid measure in the purchase or sale of other than liquid commodities. [1911]

Sec. 51:1-16. Standard bushel.

The standard bushel shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches which capacity shall apply to all articles usually sold by the bushel and not weighed. [1908]

Sec. 51:1-17. Food to be sold only by weight or numerical count; exceptions; penalty.

All articles of food, other than liquids, which are capable of being measured by dry capacity

measure and which heretofore have been sold by dry capacity measure in this state shall, except as hereinafter provided, be offered for sale or sold upon the basis of avoirdupois net weight or by numerical count only, and it shall be unlawful for anyone to use or employ any dry capacity measure, basket, barrel or container of any kind as a means of determining the amounts or quantities of any such articles of food offered for sale or sold. The provisions of this section shall not be construed to apply to:

a. Fruits and vegetables offered for sale or sold in closed or covered original standard containers; or

b. Articles of food offered for sale by bona fide farmers in any farmers' public market, in open or uncovered original standard containers; or

c. Vegetables which by common custom are offered for sale or sold by the bunch; or

d. Fresh berries and other small fruits, which are customarily offered for sale and sold by the box, basket or other receptacle, except, however, when such fresh berries and other small fruits are offered for sale or sold in bulk, in which case the provisions of this section shall apply to the extent that such fresh berries and other small fruits shall be offered for sale and sold by avoirdupois net weight only, but all fresh berries and such other small fruits, when offered for sale or sold shall be so offered for sale or sold in boxes, baskets or receptacles of uniform size to hold one quart or one pint dry measure only, uniformly and evenly filled throughout.

As used in this section:

"Dry capacity measure" means only bushel, half-bushel, peck, half-peck, quarter-peck, quart, pint, half-pint and similar measures.

"Original standard container" means only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is established by law of this state or by act of congress, the contents of which have not been removed or repacked, and upon which is plainly and conspicuously marked the net quantity of contents thereof in terms of weight, measure or numerical count.

"Bona fide farmers" means agriculturists or growers of fruits and vegetables who actually produce the commodities they sell and who are registered as such either with the state department of agriculture or with any county agent or board of agriculture.

Any person violating any of the provisions of this section shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars, for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1924; last amended 1935.]

Statutes Annotated, Title 51, Ch. 1, Art. 2—Weights and Measures, Standards—Continued.

Sec. 51:1-18. Bread to be sold by weight; specification of weight to purchaser.

All bread shall be sold by weight. The weight of all loaves of bread offered for sale shall be specified by the baker or dealer to the consumer, if the consumer require it. [1896]

Sec. 51:1-19. Pounds per bushel.¹

All commodities hereinafter named in this section shall be sold either by the bushel or by weight. When sold by the bushel, the bushel shall consist of the number of pounds hereinafter stated, which shall be the true and legal standard. When any of such commodities are sold in the subdivisions of the bushel, the number of pounds in such subdivisions shall consist of the fractional part of the number of pounds as hereinafter set forth for the bushel, namely:

	<i>Pounds per bushel</i>
Alfalfa seed -----	60
Castor beans -----	46
Charcoal -----	20
Clover seed -----	60
Coke -----	40
Cotton seed, upland -----	30
Cotton seed, sea island -----	44
Flaxseed -----	56
Grass seed, Hungarian -----	50
Grass seed, native blue -----	14
Grass seed, orchard -----	14
Hemp seed -----	44
Herds grass seed -----	45
Millet seed -----	50
Red Top seed -----	14
Shorts -----	20
Timothy seed -----	45

[1908; last amended 1918.]

¹ The above section has been superseded by Sec. 51:1-17, page 635, and Sec. 51:1-38, page 640.

Sec. 51:1-20. Barrel for cranberries; marking.

The standard barrel to be used for buying or selling cranberries in this state or for transporting the same outside of this state shall be of the following size when measured without distention of its parts: head, sixteen and one-quarter inches diameter; staves, twenty-eight and one-half inches long, and not more than four-tenths of an inch thick; bilge, fifty-eight and one-half inches outside circumference; distance between heads, twenty-five and one-quarter inches. Such barrels shall be branded or stenciled in a durable manner "standard". [1911; last amended 1914.]

Sec. 51:1-21. Bushel and crate for cranberries.

The standard measure for a bushel of cranberries shall be thirty-two quarts, rounded measure. The standard crate or box to be used for buying or selling cranberries in this state or for transporting the same outside of this state shall be twenty-two inches in length, twelve inches in depth and seven and one-half inches in width inside clear measure. [1911]

Sec. 51:1-22. Climax baskets: Size and capacity; markings.

Standards for climax baskets for grapes and other fruits and vegetables shall be the twelve-quart basket, four-quart basket and two-quart basket, the respective dimensions of which, in inches, shall be as follows:

	12-quart	4-quart	2-quart
	<i>Inches</i>	<i>Inches</i>	<i>Inches</i>
Length of bottom piece-----	16	12	9 $\frac{1}{2}$
Width of bottom piece-----	6 $\frac{1}{2}$	4 $\frac{1}{2}$	3 $\frac{1}{2}$
Thickness of bottom piece-----	7 $\frac{1}{16}$	8 $\frac{3}{8}$	3 $\frac{3}{8}$
Height of basket (outside measurement)-----	7 $\frac{1}{16}$	4 $\frac{11}{16}$	3 $\frac{7}{8}$
Top of basket, length, (outside measurement)-----	19	14	11
Top of basket, width, (outside measurement)-----	9	6 $\frac{3}{4}$	5
Cover (when used)-----	19 x 9	14 x 6 $\frac{3}{4}$	11 x 5

No person shall sell or deliver, or have in possession with intent to sell or deliver, any fruit, berries or vegetables contained in any climax basket, unless such climax basket shall have legibly marked on the outside thereof, by the manufacturer thereof, in English letters or Arabic numerals, the exact capacity of such climax basket, and unless such climax shall also contain the name and address of the manufacturer thereof, painted or written thereon, legibly in the English language, or, in lieu of such name and address, a sign or symbol furnished him by the state superintendent. [1924]

Sec. 51:1-23. Nonstandard climax baskets: Manufacture forbidden.

No person shall manufacture for shipment or sell for shipment any climax basket for fruits, berries or vegetables, filled or unfilled which does not conform to section 51:1-22 of this title [Secs. 51:1-1—51:9-21]. [1924]

Sec. 51:1-24. Same: Sale or possession forbidden.

No person shall sell or deliver, or have in possession with intent to sell or deliver any fruits, berries or vegetables, contained in any climax basket which does not conform to section 51:1-22 of this title [Secs. 51:1-1—51:9-21]. [1924]

Sec. 51:1-24.1. Penalties for violations of sections 51:1-22—51:1-24.

Any person violating any of the provisions of sections 51:1-22, 51:1-23 or 51:1-24 of this title [Secs. 51:1-1—51:9-21] shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars, for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1924]

Sec. 51:1-25. Standard peach basket; marking; penalty.

The standard peach basket shall be sixteen quarts Winchester half-bushel measure. It shall be of the following dimensions: Height, twelve and one-quarter inches; width across the top, thirteen and one-half inches; inside measurement, one thousand and seventy-five and ten one-hundredths cubic inches. Each basket shall be marked "Standard N. J." upon the staves just below the rim in Roman letters, not less than one inch in length and not less than one-half inch in width. Such letters shall be burned on or printed with permanent red paint in a straight line.

All persons who shall manufacture for sale or who shall offer or expose for sale any nonstandard basket to be used for selling or shipping peaches shall distinctly and durably stamp, brand or mark upon such basket upon the stave just below the rim, the number of quarts such basket contains.

Any person who shall manufacture, sell or offer or expose for sale, or have in his possession with intent to sell or use any peach basket not stamped, branded or marked as by this section required shall for each offense forfeit and pay a fine of not less than twenty-five dollars nor more than fifty dollars to be recovered with costs in any court of competent jurisdiction in an action to be prosecuted by the prosecutor of the pleas in the name of the state. One-half of such recovery shall be paid to the informer and the residue shall be applied to the support of the poor in the county where such recovery is had. [1908]

Sec. 51:1-26. Sale of fruits or vegetables in non-standard containers forbidden.

Except as standards are otherwise provided by law, no person shall sell or deliver, or have in possession with intent to sell or deliver any fruits, berries or vegetables contained in any box, basket or other container, unless such box, basket or other container shall be of the capacity, in standard dry measure, of thirty-two, twenty, sixteen, eight, four or two quarts, or one quart or one pint.

This section shall not be construed to apply to the sale or delivery, or the possession with intent to sell or deliver, of any fruits, berries or vegetables contained in any sealed can, jar or bottle, or which are sold by the barrel, except cranberries, which may be sold in standard crates or barrels of the standard measure prescribed by sections 51:1-20 and 51:1-21 of this title [Secs. 51:1-1—51:9-21]. [1914]

Sec. 51:1-27. Capacity of container to be marked thereon.

No person shall sell or deliver, or have in possession with intent to sell or deliver, any fruit, berries or vegetables contained in any basket, box or other container, unless such basket, box or other container shall have legibly marked on the outside thereof, by the manufacturer thereof, in

English letters or Arabic numerals, the exact capacity of such basket, box or other container, and the name and address of the manufacturer thereof, legibly printed or written thereon in the English language, or in lieu of such name and address, a sign or symbol furnished him by the state superintendent. [1914]

Sec. 51:1-27.1. Penalty for violating sections 51:1-26 and 51:1-27.

Any person violating any of the provisions of either section 51:1-26 or section 51:1-27 of this title [Secs. 51:1-1—51:9-21] shall be liable to a penalty of not less than five nor more than one hundred dollars for each offense. Such penalty may be sued for and recovered by the state superintendent or by the county or municipal superintendent of weights and measures of the county or municipality in which such violation occurred. The proceedings for the collection of such penalty shall be in all respects the same as the proceedings for the collection of penalties under and by virtue of article 4 of this chapter (Sec. 51:1-89 et seq.). [1914]

Sec. 51:1-28. Marking of containers; packer's name; penalty.

Any person who shall pack, or cause to be packed for the purpose of selling, offering or exposing for sale any fruits or vegetables, in crates, covered baskets, carriers, sacks or other containers shall plainly and conspicuously mark in lettering not less than three-eighths of an inch in size, on the outside or top of such container, or on a tag firmly affixed thereto, his name and address. Before so doing he shall remove from the container all names and addresses, excepting the name and address of the manufacturer of the container.

Any person violating any of the provisions of this section shall for the first offense be liable to a penalty of not less than twenty-five nor more than fifty dollars, for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred, nor more than two hundred dollars. [1920; last amended 1929.]

Sec. 51:1-29. Sale of food in package form: Marking requirements; permissible tolerances and exemptions; penalty.

No person shall distribute or sell, or have in his possession with intent to distribute or sell, any article of food 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.

Reasonable variations, tolerances and exemptions as to small packages shall be permitted. The state superintendent shall by order fix such tolerances and exemptions as to small packages as shall have been or may hereafter be fixed by the secretary of the treasury, the secretary of agricul-

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ture and the secretary of commerce of the United States of America.

Such tolerances and exemptions shall be published at the end of the session laws of the legislature next thereafter published after the making of said order and shall take effect when so published.

If any such tolerance or exemption, so adopted, shall be changed by the three secretaries above named, it shall not continue in effect in this state after such change has become effective. Any such order may be prima facie proven in any court by the mere production of the volume of such laws containing the publication thereof.

Any person violating any of the provisions of this section shall for the first offense be liable to a penalty of not less than twenty-five nor more than fifty dollars, and for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1916; last amended 1921.]

Sec. 51:1-30. Milk and cream bottles: Capacity and tolerances.

Bottles used for the sale of milk and cream shall be of the capacity of half gallon, three pints, one quart, one pint, half pint, and one gill, filled to the bottom of the cap, ring or stopple. The following variations on individual bottles or jars may be allowed: Six drams above and six drams below on the half gallon; five drams above and five drams below on the three pints; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the half pint; and two drams above and two drams below on the gill. [1912]

* * * * *

Sec. 51:1-31. Same: Penalty for violating preceding section.

Any manufacturer who shall sell milk and cream bottles to be used in this state that do not comply with section 51:1-30 of this title [Secs. 51:1-1—51:9-21] shall be liable to a penalty of five hundred dollars, to be recovered in an action at law to be brought by the state superintendent in the name of the state.

Any dealer, who shall knowingly use for the purpose of sale milk or cream jars or bottles, that do not comply with said section 51:1-30, shall be guilty of a misdemeanor.¹ [1912]

¹ See Secs. 51:1-89, 51:1-96, 51:1-99—51:1-101, pages 646-647, penalties for violations.

Sec. 51:1-31.1. Ice cream and frozen products: Definitions.

As used herein, the term "frozen desserts" shall be deemed to mean and include "ice cream", "cus-

tard ice cream", "French ice cream", "French custard", "frozen custard", "sherbet", "ice", and "fruit ice". Fancy form shall be deemed to mean "an individual portion or container which simulates a special form or design to be sold for special occasions in units of not less than four and which are not normally sold in retail trade". Molded form shall be deemed to mean "a special form or design of eight or more fluid ounces which does not conform to the container in which it is packed". [1941]

Sec. 51:1-31.2. Same: Containers; sizes; marking requirements.

Frozen desserts shall be sold in containers of the following capacities only: one quart, one pint, one-half pint and multiples of the half pint. The net contents of the container shall be marked on the side or top thereof in a plain and conspicuous manner. Containers may be of capacities of less than eight fluid ounces if the net contents of the container, in terms of fluid ounces, is indicated on the side or top thereof in a plain and conspicuous manner. [1941]

Sec. 51:1-31.3. Same: Sale by unit; molded forms.

When frozen desserts are in individual units of fancy form, and each unit is less than eight fluid ounces, they may be sold by the unit without being marked as to net contents. Molded forms may be sold in containers that do not comply with the provisions of paragraph two [Sec. 51:1-31.2]; *provided*, the net contents in fluid ounces is plainly marked on the container as provided in paragraph nine [Sec. 51:1-31.9] of this act [Secs. 51:1-31.1—51:1-31.10]. [1941]

Sec. 51:1-31.4. Same: Weight.

Frozen desserts shall weigh not less than four and five-tenths pounds per gallon. [1941]

Sec. 51:1-31.5. Same: Name of manufacturer or dealer on containers.

The name of the manufacturers or dealer shall be plainly and conspicuously marked on each container of frozen desserts. A number assigned by the State Superintendent of the Department of Weights and Measures, upon the written application of a manufacturer, may be used by such manufacturer in lieu of his name as required by this regulation. This regulation as to designating number, in lieu of a name, shall not apply to retail sales. [1941]

Sec. 51:1-31.6. Same: Expressing contents of containers.

The contents of frozen desserts containers shall be expressed in terms of the U. S. standard gallon and as follows: one quart, one pint, one-half pint or multiples of the one-half pint, and containers of less than eight fluid ounces in terms of fluid ounces. [1941]

Sec. 51:1-31.7. Same: Sale for consumption on premises exempted.

Frozen desserts sold for consumption on the premises are exempt from the marking provisions. [1941]

Sec. 51:1-31.8. Same: Indication of net contents.

All containers of whatsoever size, must have an indication of the net contents except in the case of fancy forms of less than eight fluid ounces, in which case the containers must be marked as to the number of forms contained therein. [1941]

Sec. 51:1-31.10. Same: Tolerances.

Reasonable tolerances or variations as to quantity shall be permitted. There is no tolerance permitted with reference to the minimum weight per gallon requirement for frozen desserts. [1941]

Sec. 51:1-32. Thread marked as to weight and length; tolerances; penalties.

No person shall sell or offer for sale sewing, bast- ing, darning, crochet, tatting, knitting, or embroidery thread, made of cotton, flax, silk or any similar fibre, put up on spools, tubes, cones, bobbins, or in balls, skeins or other similar packages, unless there is affixed to or impressed upon a conspicuous part of each of such spool, tube, cone, bobbin, ball, skein, or other similar package, a label or stamp which shall be plain and conspicuous, and which shall plainly indicate either the net weight in avoirdupois pounds and ounces, or the length in yards of such thread. When, however, the net weight of such thread on any such spool, tube, cone, bobbin, or in any such ball, skein or other similar package is less than two avoirdupois ounces, such label or stamp shall indicate the length of such thread in yards, before such packages or any thereof are offered for sale; and, further, where, from the shape, size or character of the spool, tube, cone, bobbin, ball, skein or other similar package it is impossible so to affix or impress such label or stamp, a label or stamp shall be affixed to the box or other container in which such packages are put up, stating the number of units contained therein and the net weight or yardage of each such unit as hereinbefore prescribed.

If any person shall sell or offer for sale such thread on any such spool, tube, cone, bobbin, or in any such ball, skein or other similar package or box, or other container, without a label or stamp specifying the net weight or number of yards of thread contained thereon, as herein provided, or shall sell or offer for sale such thread on any such spool, tube, cone, bobbin, or in any such ball, skein or other similar package, or box or other container, weighing or measuring more than five per cent less than the net weight or number of yards that the label or stamp thereon specifies, such person shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars,

and for a second offense to a penalty of not less than fifty nor more than one hundred dollars and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1924]

Sec. 51:1-33. Laundry: Definitions.

As used in sections 51:1-34 and 51:1-35 * * * :
"Laundries" and "laundry establishment" means and includes all persons, conducting or operating power laundry plants, hand laundries and agencies thereof;

"Laundry" means and includes all articles of clothing or wearing apparel, bed and table linen, rugs, draperies and any and all materials capable of being washed or cleaned by laundering process. [1927]

Sec. 51:1-34. Same: Tested scales.

All commercial laundries, performing, selling, or offering for sale, laundry service on the basis of weight, shall have legal scales of approved type and design, properly tested and sealed. [1927]

Sec. 51:1-35. Same: Delivery tickets; marking; alteration of ticket prohibited; tolerances.

Each delivery of laundry, which is charged for on the basis of weight, shall be accompanied by a delivery ticket, which shall have indelibly marked, perforated, stamped or impressed thereon, the name and address of the laundry establishment, the net avoirdupois weight of the laundry, determined prior to washing, the price per pound, the amount of the total charge, and in clear, concise language the method by which said charge is computed. Reasonable tolerances and variations in weight, determined by the state superintendent, shall be permitted. Such ticket shall also bear the true name and address of the customer, except if the customer be a transient.

Such delivery tickets shall in all cases be made out in duplicate, or a record thereof kept as part of the office records of said laundry establishment.

No person shall alter or deface any such delivery tickets or in any manner misrepresent the weight of the laundry so delivered.

The net weight determined prior to washing shall be marked on the ticket in all cases whether in excess or in deficiency of a minimum weight contract or agreement as may be fixed by the laundry establishment. [1927]

Sec. 51:1-35.1. Same: Penalties for violating sections 51:1-34 and 51:1-35.

Any person violating any of the provisions of either section 51:1-34 or section 51:1-35 of this title [Secs. 51:1-1-51:9-21], or who alters or defaces delivery tickets as specified in said section 51:1-35, or who in any manner misrepresents the weight of the laundry so delivered, shall for the first offense be liable to a penalty of not less than

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twenty-five nor more than fifty dollars, for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1927]

Sec. 51:1-36. Ice: Sale by avoirdupois weight; scales.

Every person, selling or offering for sale ice shall, at the time of the delivery thereof, weigh by avoirdupois weight the quantity of ice delivered, and shall have for this purpose a properly tested and sealed scale. [1919]

Sec. 51:1-37. Same: Weight of tongs deducted.

Each set of tongs, used for the delivery of ice, shall have permanently stamped thereon by the state department of weights and measures or by a county or municipal superintendent, its exact avoirdupois weight. Such weight shall be deducted from the total weight of ice, as determined on the scale by which the same is weighed. [1919]

Sec. 51:1-37.1. Same: Penalties.

Any person engaged in the business of selling ice who shall deliver any ice without first having weighed the same, or who shall sell less than the quantities represented shall be liable to a penalty of twenty-five dollars for the first offense, fifty dollars for the second offense, and one hundred dollars for each subsequent offense. [1919]

Sec. 51:1-38. Grain, coal, charcoal, etc.: Sold by weight; duplicate delivery tickets; exceptions; penalties.

All grain, coal, coke, charcoal, coal briquettes or other patent fuel, regardless of quantity, shall be sold by weight, and the said commodities shall be weighed on accurate scales tested, approved and sealed as provided by this chapter [Secs. 51:1-1—51:1-133]. No person shall deliver, start out for delivery or cause to be delivered any coal, coke, charcoal, coal briquettes or other patent fuel, in amounts exceeding one hundred pounds, without the same first being weighed by a certified weighmaster appointed by the state superintendent, and such sale or delivery being accompanied while in transit by a delivery ticket and duplicate thereof. A delivery ticket and duplicate thereof shall be delivered with each load or part of load of grain, coal, coke, charcoal, coal briquettes or other patent fuel offered, exposed or intended for sale or sold or delivered, including loads or parts of loads weighing less than one hundred pounds. On both tickets there shall be distinctly and indelibly expressed, in ink or otherwise, the net quantity or quantities in pounds of each load or portion of load contained in the delivery of grain, coal, coke,

charcoal, coal briquettes or other patent fuel, together with the number of bags or sacks of any commodity specified in this section, when bags or sacks are representative of the quantity contained in the cart, wagon, truck or other vehicle or container used in such delivery, the name and address of the purchaser thereof, the name and address of the dealer from whom purchased, and when the amount exceeds one hundred pounds, except in the case of grain, the signature and official number of the weighmaster who performed the weighing, together with an impress of the official seal of the said weighmaster. One of such tickets shall be delivered to the person receiving such grain, coal, coke, charcoal, coal briquettes or other patent fuel, and the other ticket shall be retained by the seller of the grain, coke, coal, charcoal, coal briquettes or other patent fuel for a period of one year and shall be subject to inspection by any superintendent or assistant superintendent, within this time.

This section shall not apply to any grain, coal, coke, charcoal, coal briquettes or other patent fuel sold to be delivered by the entire railroad car or cargo direct from the vessels, boats or railroad cars containing the same to one destination and consigned to one person and accepted by the purchaser on the original bill of lading or invoice as proof of weight. Grain, coal, coke, charcoal, coal briquettes or other patent fuel sold or offered for sale in this state in quantities of thirty pounds or less, in paper bags, sacks, or similar containers, where the name and address of the dealer and the net contents in terms of avoirdupois weight are distinctly and indelibly marked, in ink or otherwise, on such paper bags, sacks or similar containers, in Gothic type not less than one-half inch in height, shall be exempt from the provisions of this section requiring delivery tickets and duplicates thereof.

Any person violating any of the provisions of this section shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars, and for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1911; last amended 1935.]

Sec. 51:1-39. Charcoal: Sale by bag; marking; standard size; penalties.

No person shall sell charcoal in any bag which contains less than four pounds net weight. All charcoal sold or offered for sale in paper bags, when sold in quantities of less than one hundred pounds, shall have the contents by weight plainly marked on the outside thereof in solid Roman capital letters at least one-half inch in height.

No paper bag or sack used or intended to be used in the sale of charcoal shall be less than twenty-two inches in height nor less than eleven

inches in width and the bottom shall not be less than four inches in breadth.

Any person violating any of the provisions of this section shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars, and for a second offense to a penalty of not less than fifty nor more than one hundred dollars. [1928; last amended 1933.]

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Sec. 51:1-42. Department; composition.

The department of weights and measures, created and established by an act entitled "An act to establish a uniform standard of weights and measures in this state, to establish a department of weights and measures, and to provide penalties for the use of other than standard or legal weights and measures", approved April twenty-fourth, one thousand nine hundred and eleven (L. 1911, c. 201, p. 414), is continued. It shall consist of a state superintendent, and assistant state superintendents, county superintendents, municipal superintendents and their respective assistant superintendents, each of whom shall, before entering upon his duties, take an oath of office as provided by law. [1911]

Sec. 51:1-43. Appointment of weights and measures officials.

The governor, by and with the advice and consent of the senate, shall appoint a state superintendent for a term of five years. The governing bodies of the respective counties shall appoint a county superintendent. The governing body of any municipality having a population of sixty thousand or over shall, and the governing body of any other municipality may, by ordinance, provide for the office of, and appoint, a municipal superintendent. A certified copy of the ordinance and appointment shall be filed forthwith by the clerk of the municipality with the state superintendent. The person so appointed shall be entered upon the records of the state superintendent as the municipal superintendent. [1911; last amended 1920.]

Sec. 51:1-44. Assistant state superintendents; clerical assistants.

The state superintendent may appoint three assistant state superintendents. He may temporarily appoint honorary or special assistant superintendents who shall have all the powers of county or municipal superintendents, and who shall serve without compensation. He may also appoint not more than two clerical assistants. [1911; last amended 1921.]

Sec. 51:1-45. Assistant county and municipal superintendents; Number; appointment; powers.

The governing body of each county and municipality shall fix the number of assistant super-

intendents therein, and by resolution may authorize the superintendent to appoint them. Such assistants shall be under the direct control of their respective superintendents. They shall have all the powers of a superintendent in making inspections and measurements. [1911]

Sec. 51:1-46. Full time employment only.

The officers and employees designated to enforce this chapter [Secs. 51:1-1-51:1-133] shall devote all their time to such duties. [1911]

Sec. 51:1-47. Only bona fide officials to act.

No person, other than a superintendent, assistant superintendent or honorary or special assistant superintendent appointed in accordance with the provisions of this article [Secs. 51:1-42-51:1-88], shall be engaged, or act, in any capacity as superintendent or assistant superintendent, sealer or inspector of weights and measures. [1911]

Sec. 51:1-48. Qualifications of officials.

The state superintendent shall possess scientific and technical knowledge of the construction and use of standards of weights and measures. All county and municipal superintendents and all assistant superintendents shall be persons of sufficient scientific knowledge to properly inspect, examine and report on the technical conditions of said standards. [1911; last amended 1925.]

Sec. 51:1-50. Salary of county and municipal superintendents and assistants.

The salaries of county and municipal superintendents and their assistant superintendents shall be fixed by the governing body of such county or municipality. [1911; last amended 1920.]

Sec. 51:1-51. Expenses of county superintendents.

Each county superintendent shall receive the actual necessary expenses incurred by him personally in performing the duties of his office, such as transportation, livery, telephone, telegraph and postal charges to be paid by the board of chosen freeholders of his respective county on bills itemized and properly sworn to. [1912]

Sec. 51:1-52. County and municipal superintendents under civil service.

All county and municipal superintendents in counties and municipalities operating under the provisions of subtitle 3 of the title Civil Service (Sec. 11:19-1 et seq.), shall be placed in the classified service and shall continue in such positions subject to the provisions of said subtitle 3. [1911; last amended 1925.]

Sec. 51:1-53. County and municipal superintendents not under civil service.

The county superintendents and municipal superintendents and the secretaries and assistant superintendents appointed by the respective county,

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municipal or other governing bodies or by the respective county or municipal superintendents upon resolution of said governing bodies, shall hold office during good behavior. In counties not operating under subtitle 3 of the title Civil Service (Sec. 11:19-1 et seq.), they shall not be removed, discharged or reduced in pay or position, except after due hearing by the governing body of the respective county or municipality, and for just cause. Said officials shall be furnished with written statements of the reasons for such proposed action and shall be given a reasonable time to make written answer thereto. Reasonable notice of the hearing shall be given to the person charged. He may be represented at the hearing by counsel and offer testimony of witnesses or any other evidence in his own behalf. [1912; last amended 1920.]

Sec. 51:1-54. State superintendent: To exercise general supervision.

The state superintendent shall have general supervision of the administration of the provisions of this chapter [Secs. 51:1-1—51:1-133]. He shall have general supervision over the work of county and municipal superintendents. He shall make such rules for the administration of the affairs of his office and of the offices of the county and municipal superintendents as may be necessary for its proper enforcement. Assistant state superintendents shall be under his direct control. [1911]

Sec. 51:1-55. Same: Custodian of standards.

The state superintendent shall be the custodian of all standards of weight and measure. He shall procure, at the expense of the state, a set of standards properly certified by the national bureau of standards. He shall submit all standards of the state once in ten years to the national bureau of standards for certification. He shall correct the standards of the several counties and municipalities and shall at least once in five years compare them with the standards in his possession. [1911]

Sec. 51:1-56. Same: To establish standards for containers for farm products.

The state superintendent may in cooperation with the state department of agriculture from time to time establish and promulgate standards for containers for agricultural or horticultural products, fresh or salt water food products and products designed for food purposes, manufactured or prepared principally from any agricultural or horticultural products. [1921; last amended 1923.]

Sec. 51:1-57. Same: To fix tolerances.

The state superintendent shall fix, and may change from time to time, tolerances and allowable

deviations for weights, measures and containers, of not less than one-half of one per cent from the standards prescribed in this chapter [Secs. 51:1-1—51:1-133]. [1911]

Sec. 51:1-58. Same: To provide official seals and certificates.

The state superintendent shall provide a suitable official seal to be used by him during his term of office and to be surrendered by him to his successor. He shall provide for himself and for the use of the county and municipal superintendents, seals or certificates of proper form and wording to be attached to duly approved standards of weights and measures. [1911]

Sec. 51:1-59. Same: To test annually weights and measures in state institutions.

The state superintendent or one of his assistants shall, at least once annually, test all weights and measures used in checking the receipt or disbursement of supplies in all departments or institutions maintained wholly or in part by the state. [1911; last amended 1918.]

Sec. 51:1-60. Same: Records.

The state superintendent shall keep a complete record of all the orders and rules of his department, of all the standards, balances and other apparatus in his custody belonging to the state and shall take an itemized receipt from his successor in office for all such standards, balances and other apparatus. [1911; last amended 1918.]

Sec. 51:1-61. Same: To make rules for sale of commodities.

The state superintendent may make rules and regulations, which shall govern the sale of commodities. [1911]

Sec. 51:1-62. Same: To disseminate information.

The state superintendent shall disseminate such information to the citizens of this state as will tend to protect them from the use of false weights and measures. [1911; last amended 1918.]

Sec. 51:1-63. Superintendents and assistants: Enforcement of laws; power to weigh commodities.

All superintendents and all assistant superintendents are hereby charged with the enforcement of the provisions of this chapter [Secs. 51:1-1—51:1-133]. They shall have full power to weigh or have weighed any grain, coal or other commodities while in transit from dealer to purchaser. They shall have authority to bring actions or proceedings in their official capacities within their respective jurisdictions to enforce penalties. [1911; last amended 1935.]

Sec. 51:1-64. Same: Badges.

Each superintendent and assistant superintendent shall be furnished with a badge displaying his official number and shall exhibit the same when demanded at any time during the performance of

his duties. The state superintendent shall design, number, register and issue such badges. [1911]

Sec. 51:1-65. County and municipal superintendents: To procure standards; custodians of standards; annual inspections of weights and measures.

Each county or municipal superintendent shall procure, at the expense of said county or municipality, a set of legal standards, properly certified by the state superintendent, and the necessary testing and sealing apparatus. He shall take charge of said standards and of all copies thereof and of all testing and sealing apparatus and shall take all precautions necessary for their safe-keeping and for their maintenance in good order. He shall cause an inspection of the weights and measures used in trade within his jurisdiction to be made at least once in each year. The state superintendent and his assistant superintendents shall direct and assist the county and municipal superintendents in making inspections. [1911; last amended 1918.]

Sec. 51:1-66. Exclusive use of standards.

No standards, whether furnished by the United States or duly certified by it, or by the state superintendent shall be used by any superintendent for any other purpose than proving or adjusting standards of weights and measures as provided for in this chapter [Secs. 51:1-1-51:1-133]. [1911]

Sec. 51:1-67. Standards or copies to be furnished to assistants.

All assistant superintendents shall be provided with suitable standards, or copies thereof for use in the performance of their duties. [1911]

Sec. 51:1-68. County and municipal superintendents: Jurisdiction.

The jurisdiction of county superintendents and their assistant superintendents shall extend throughout the county for which they were appointed except that it shall not extend to municipalities where a municipal superintendent has been appointed. The state superintendent may, however, designate any county or municipal superintendent or assistant superintendent to make official inspections in any municipality. [1911]

Sec. 51:1-69. State Superintendent may send assistants into any county.

The state superintendent shall send an assistant state superintendent into any county where a county superintendent has not been appointed. He may, however, send such assistant into any county. The expenses of such assistant superintendent while making said tour of inspection shall be paid out of the fund provided by law for the department of weights and measures. [1911]

Sec. 51:1-70. Superintendents to keep records; monthly reports.

Every superintendent shall keep a complete record of all standards examined by him. Every mu-

nicipal and county superintendent shall, not later than the fifth day of each month, send to the state superintendent, upon blanks furnished by him, a report. Such report shall contain:

a. The number of tests made since the preceding report;

b. The number of weights, measures and balances found to be correct;

c. The number of weights, measures and balances found to be false;

d. The number of prosecutions instituted by him since the preceding report, together with the name and address of the accused, the name of the court where proceedings were instituted, and the result thereof; and

e. Such other matters as the state superintendent may from time to time prescribe. [1911; last amended 1918.]

Sec. 51:1-71. County and municipal superintendents: Annual report.

Every municipal and county superintendent shall also make an annual report in writing, duly subscribed and sworn to by him of his work to the state superintendent. Said report shall be forwarded to the state superintendent within ten days after the last day of the fiscal year. It shall contain a transcript of the reports of all inspections. [1911; last amended 1918.]

Sec. 51:1-72. State superintendent: Annual report.

The state superintendent shall within thirty days after the last day of the state fiscal year make a report to the legislature which shall contain any recommendations or suggestions deemed necessary or desirable and a digest of the reports of the municipal and county superintendents. [1911; last amended 1918.]

Sec. 51:1-73. Weighmasters: Public weighmaster defined; private weighmaster.

The words "public weighmaster" as used in this title [Secs. 51:1-1-51:1-133], shall be deemed to mean and include all firms, corporations, copartners or individuals who shall, for hire, weigh or measure any commodity, produce or article and issue therefor a weight certificate, which shall be accepted as the accurate weight, upon which the purchase or sale of such commodity is based.

Any firm, corporation or individual not engaged in the business of weighing for hire, who requires the services of a certified weigher in his business may on application to the state superintendent have one or more of his employees or other suitable persons designated by the state superintendent to act as such weighmaster. [1920]

Sec. 51:1-74. Same: Term; fees; certificate of appointment.

All public weighmasters and certified weighers shall be appointed by the state superintendent of

Statutes Annotated, Title 51, Ch. 1, Art. 3—Weights and Measures, Department of Weights and Measures—Continued.

weights and measures for the term of three years. The said state superintendent shall issue a certificate of such appointment and shall keep a record thereof. Upon appointment or any renewal thereof a fee of ten dollars shall be paid to the said state superintendent and by him paid to the state treasurer.

The state superintendent may on request of a state officer, commission, board, institution or agency of the state government and without payment of any fee designate and appoint an officer or employee of any such officer, commission, board, institution or agency as weighmaster and issue to him a weighmaster's certificate. [1920; last amended 1935.]

Sec. 51:1-74.1. Same: Appointment of persons between ages of 17 and 21; term.

The state superintendent may, in his discretion, appoint as public weighmasters and certified weighers persons under the age of twenty-one years and at least of the age of seventeen years, which appointments shall be for terms of three years but shall be inoperative and of no effect upon the expiration of this act. [Secs. 51:1-74.1—51:1-74.2. [1943]]

Sec. 51:1-74.2. Same: Termination of act.

This act [Secs. 51:1-74.1—51:1-74.2] shall take effect immediately and shall continue in effect so long only as the United States of America continues in the present wars with the governments of Japan, Germany and Italy, or any of them, and until the expiration of six months following the making of a treaty or treaties of peace concluding all of said wars. [1943]

Sec. 51:1-75. Same: Oath of office; no compensation from state; duties.

Each public weighmaster and certified weigher shall, before entering upon his duties, make oath to execute faithfully his duties. He shall not receive compensation from the state for the duties performed. The state superintendent of weights and measures shall prescribe the rights and duties of all weighmasters and certified weighers. [1920; last amended 1931.]

Sec. 51:1-76. Same: Seal.

Every weighmaster and certified weigher shall, at his own expense, provide himself with a seal. His name and the words "New Jersey", shall be inscribed on the outer margin and the words "public weigher", in the center thereof. The seal shall be impressed upon each weight certificate issued by him. [1920]

Sec. 51:1-77. Same: Certificate; contents; as prima facie evidence.

The state superintendent of weights and measures shall prescribe the sole form of certificate of weight and measure to be used by public weighmasters. It shall state the kind of commodity, produce or article, the number of units thereof, the date of receipt, the name of the owner, agent or consignee, the accurate weight of the commodity, produce or article, the vessel, railroad, team, truck or other means by which it was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the commodity, produce or article from others of like kind. Such certificate, when so made and properly signed and sealed, shall be prima facie evidence of such weights. [1920; last amended 1933.]

Sec. 51:1-78. Same: Reweighing on complaint.

When the correctness of the net or gross weight of any commodity, for which a certificate of weight or measure has been issued by a public weighmaster, is questioned, the owner, agent, or consignee may, upon complaint to the state superintendent of weights and measures, or to one of his assistant superintendents, have said commodity reweighed by them gratis. A public weighmaster designated by the state superintendent may reweigh said commodity. [1920]

Sec. 51:1-79. Same: Records.

All public weighmasters shall keep and preserve accurate records of all public weighings, which records shall be open at all times for inspection by the state superintendent of weights and measures or his assistant superintendents. [1920]

Sec. 51:1-80. Same: Request for false weighing; false certificate or other violation by weighmaster; penalty.

Any person, who shall request a weighmaster to weigh any product, commodity, or article falsely or incorrectly, or who shall request a false or incorrect certificate of weight and measure, or any person who shall issue a certificate of weight and measure who is not a weighmaster as defined in section 51:1-73 of this title [Secs. 51:1-1—51:9-21] shall, upon conviction thereof, pay a fine of not less than one hundred dollars nor more than five hundred dollars.

Any weighmaster who shall issue a false certificate of weight or measurement, or who shall delegate his authority to any person not certified as a weighmaster, or who shall pre seal a certificate of weight or measure with his official seal before performing the work of weighing or measuring or who shall conduct his office as weighmaster in any manner at variance with this chapter [Secs. 51:1-1—51:1-133] shall, upon conviction thereof, pay a fine of not less than one hundred dollars nor more than five hundred dollars and, in addition, shall

forfeit his weighmaster's certificate. The certificate shall then be turned over to the state superintendent. [1920; last amended 1933.]

Sec. 51:1-80.1. Same: Weighing on scales outside state authorized.

The state superintendent of weights and measures may designate any weighmaster duly appointed under the provisions of sections 51:1-73 to 51:1-80 of this title [Secs. 51:1-1—51:9-21], to weigh commodities on approved scales at points located not more than one mile outside of the state, and certificates of weight issued by such weighmasters shall have the same force and effect as certificates issued under the provisions of said sections 51:1-73 to 51:1-80; provided, that any weighmaster designated under this section shall at all times continue to be a resident of the state of New Jersey. [1937]

Sec. 51:1-81. Same: Weighing of livestock, hay and grain; report to owner; record.

Any weighmaster who shall for hire or reward weigh any live stock, hay or grain, shall on demand of the party interested, report the weight of such article in writing to the owner thereof and shall keep a record thereof in a suitable book to be kept for that purpose. [1908]

Sec. 51:1-82. Fraudulent report of weight; penalties; double damages; exemption.

Any person who owns, operates, keeps, or has in his possession, control or charge any scales, steel-yards or weights who shall certify, declare, represent, render or report any false weight whereby any other person may be defrauded, deceived or injured, shall, upon conviction thereof, be subject to a penalty in a sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for a first offense, and not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for a second offense and not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for each subsequent offense. The court shall cause any defendant, who refuses or neglects to forthwith pay the amount of the judgment rendered against him and all the costs and charges incident thereto, to be committed to the county jail for a period of not less than ten days and not exceeding thirty days for a first offense and not less than thirty days nor more than ninety days for any subsequent offense. Such person shall also be answerable to the party defrauded in double damages, to be collected in an action at law in any court of competent jurisdiction. The provisions of this section shall not apply to interstate common carriers by railroad subject to the rules and regulations from time to time issued by the Interstate Commerce Commission. [1908; last amended 1943.]

Sec. 51:1-83. Testing and sealing; Only sealed weights and measures to be used; penalty; violation resulting in injury voids contract.

No person shall buy or sell goods or service based on weight or measurement by the use of any weight or measure which has not been tested and sealed according to the provisions of this chapter [Secs. 51:1-1—51:1-133] under penalty of twenty-five dollars. No contract shall, however, be declared void unless one of the contracting parties has been injured by the use of such weight or measure. [1911; last amended 1933.]

Sec. 51:1-84. Same: Commercial weights and measures to be tested and sealed annually; testing upon request; seal of correctness; disposal.

All weights and measures used in trade shall be tested and sealed at least once in each year. Any superintendent shall also upon the request of any citizen, corporation, firm or other interested party cause a test to be made of any weight or measure. If it be found correct or be made correct the superintendent or assistant superintendent shall properly seal it. He shall cause it to conform as nearly as possible to the standard before sealing. If it shall not be found correct, or it shall not be possible to make it correct, it shall not be used, but shall be disposed of as hereinafter provided in this article [Secs. 51:1-42—51:1-88]. [1911; last amended 1918.]

Sec. 51:1-85. Same: Tests made at request of owner; defective weights or measures; penalty.

Whenever any inspection of weights and measures has been made upon the request of the owner thereof, if they shall be found not to conform to the legal standard, the superintendent, or assistant superintendent shall serve such owner with a notice in writing that the use thereof is illegal. Within fifteen days thereafter, the owner shall either have such weight or measure corrected or another substituted therefor, and notify the said superintendent in writing to that effect, or deliver the defective weight or measure to such superintendent for confiscation; and for his failure so to do, he shall be liable to a fine of twenty-five dollars. [1911]

Sec. 51:1-86. Same: Defective weights; penalty.

Upon the first official inspection of any weight or measure, except where the inspection is made upon the request of the owner thereof, if the deviation from the legal standard shall be of such nature as not to be easily ascertained by the owner thereof, the owner may correct it. Upon his failure to do so within two days after such inspection, the superintendent may take possession of and destroy such weight or measure. If the said deviation, or the causes thereof, shall be patent or easily ascertainable by the owner thereof, the superintendent or assistant superintendent shall immediately

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take possession of and destroy such weight or measure, and the owner thereof shall be liable to a penalty of five dollars in addition to any other penalties and punishments herein provided. [1911]

Sec. 51:1-87. Same: Refusal to seal weight, etc. when so constructed as to facilitate fraud; review.

Any superintendent or assistant superintendent may decline to seal any weight or measure which is so constructed as to facilitate the perpetration of fraud. He shall report such act to the state superintendent who, if satisfied upon investigation that its use is prejudicial to the best interests of the public, shall order that such weight or measure shall be treated as an unlawful one. Such order may be reviewable both as to law and fact upon application to the supreme court. [1911]

Sec. 51:1-88. Same: Refusal to exhibit weights, etc.; penalty.

No person shall refuse to exhibit any weights, measures or containers to any superintendent or assistant superintendent for the purpose of being inspected and examined, nor shall any person refuse to admit such officer to his place of business, during the usual hours for business, nor shall any person who may be buying, selling or delivering goods, liquids or commodities from any conveyance refuse to permit such officer to examine any weights, measures or containers which may be in or about such conveyance, under a penalty of twenty-five dollars for every such offense. [1911]

Statutes Annotated, Title 51, Ch. 1, Art. 4—Weights and Measures; Penalties, Evidence, and Enforcement.

Sec. 51:1-89. General penalty.

Any person violating any of the provisions of this chapter [Secs. 51:1-1—51:1-133] for which a specific penalty has not been provided shall be liable to a penalty of not less than twenty-five dollars. [1911; last amended 1931.]

Sec. 51:1-90. Hindering official; penalty.

No person shall in any way or manner hinder or molest any superintendent or assistant superintendent in the performance of the duties imposed upon him by any of the provisions of this chapter [Secs. 51:1-1—51:1-133] under penalty of one hundred dollars for each offense. [1911]

Sec. 51:1-91. Altering sealed and tested weights or measures; penalty.

No person shall alter or change in any manner any weight or measure, or allow the same to be done, after the same has been tested and sealed by any officer or inspector under authority of law, so that the same shall weigh or measure in-

correctly, under penalty of one hundred dollars for each offense. [1911]

Sec. 51:1-92. Incorrectness after sealing; penalty.

If any weights or measures theretofore duly tested and sealed shall be found thereafter to be incorrect the owner shall be liable to a penalty of ten dollars for each offense. [1911]

Sec. 51:1-93. Weights and measures to be standard; sale or lease; report; penalty.

Every weight or measure sold, leased or delivered after sale to any person within the state for use in the purchase or sale of commodities or service shall be of the legal standard as provided in this chapter [Secs. 51:1-1—51:1-133].

Every person selling, leasing or delivering, or buying, renting or receiving any such weight or measure shall furnish to the local superintendent of the county or municipality in which such weights or measures are installed, a statement in writing, showing the sale or lease and location of such weights and measures.

Any person who shall sell or lease a false weight or measure or a weight or measure that has not been approved as to type, construction and operation by the state superintendent, or who otherwise violates this section shall be liable to a penalty of fifty dollars. [1911; last amended 1932.]

Sec. 51:1-94. Retention of false weights, etc.; misdemeanor; exception.

Any person who shall retain in his possession any weight, measure or container, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it to defraud or permit it to be so used, shall be guilty of a misdemeanor. [1911]

Sec. 51:1-95. Marking of short weights and tares; misdemeanor.

Any person who shall knowingly mark false or short weights or false tare on any container, or who shall knowingly sell or offer for sale any container so marked shall be guilty of a misdemeanor. [1911]

Sec. 51:1-96. False weights or measures; selling short quantities; penalties; recovery.

Any person who injures or defrauds another by using, or causes to be used, or has in his possession a false weight, measure or other apparatus for determining the quantity of any commodity or article of merchandise, or sells or exposes for sale less than the quantity he represents, shall for the first offense be liable to a penalty of not less than twenty-five nor more than fifty dollars, and for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars, or imprisonment for not less than thirty days nor

more than ninety days, or both, the amount of such penalty to be determined, as aforesaid, in the discretion of the district court or police magistrate having jurisdiction. If any person shall fail to pay the penalty or penalties as imposed, together with the cost of prosecution, such court or police magistrate shall issue execution against the goods and chattels and body or bodies of the defendant or defendants as provided in section 51:1-105 of this title [Secs. 51:1-1—51:9-21], with the same force and effect; but the period of detention of ten days provided in said section 51:1-105 shall in this case be extended to a period not exceeding ninety days. [1911; last amended 1918.]

Sec. 51:1-97. Sale or delivery of less than quantity represented; penalty.

Any person who knowingly sells or exposes for sale or delivers or causes to be delivered less than the quantity represented of any commodity commonly sold by weight or measure or other apparatus for determining quantity shall be liable to the penalties set forth in section 51:1-96 of this title. [Secs. 51:1-1—51:9-21]. [1919; last amended 1933.]

[ED. NOTE.—In New Jersey Statutes Annotated, following the foregoing section, it is stated: "Baled hay or straw, selling less than weight marked, misdemeanor, see Sec. 2:149-3."]

Sec. 51:1-98. Deviation in excess of tolerances; scale of penalties.

Any deviation from the standards prescribed in this chapter [Secs. 51:1-1—51:1-133], either in weights or measures or in containers in which any commodity is sold or offered for sale, which shall exceed by more than three times the allowable error determined by the state superintendent in accordance with the provisions of sections 51:1-29 and 51:1-57 of this title, shall be subject to a penalty double that otherwise provided. Should such deviation exceed by more than five times such allowable error, the penalty shall be three times that otherwise provided. No penalty shall be imposed for allowable deviations, nor for any deviation which shall be to the disadvantage of the owner of said weight, measure or container. [1911]

Sec. 51:1-99. Second offenses after conviction; additional penalty.

The penalty or punishment for a violation of any of the provisions of this chapter [Secs. 51:1-1—51:1-133] not punishable under sections 51:1-89 or 51:1-96 of this title [Secs. 51:1-1—51:9-21] shall be double that otherwise prescribed herein, upon its being shown that such person has theretofore been fined, punished or convicted, under the same or any other section of this chapter, provided the act or omission upon which such second penalty or offense is based shall have occurred after the conviction or recovery for such first offense. [1911]

Sec. 51:1-100. Each weight, measure or container held in violation of act constitutes a separate offense.

The use, ownership or possession of each separate weight, measure or container in violation of any of the provisions of this chapter [Secs. 51:1-1—51:1-133] shall be deemed as separate violations thereof. [1911]

Sec. 51:1-101. Presence of weights, constitutes presumptive evidence of use.

Proof of the existence of weights or measures in or about any place or vehicle, in or from which it is shown trade is commonly carried on shall be presumptive evidence of their regular use for such purpose and of their ownership by the person so using or possessing them and such facts shall be deemed to remain established until disproved beyond reasonable doubt. [1911]

Sec. 51:1-102. Authenticity of standards; certificate; presumptive evidence.

Each weight or measure used by any superintendent or assistant superintendent as a standard for testing the weights and measures used in trade shall be marked by the superintendent in such manner as he may determine. A certificate to the correctness thereof designating it by number and giving the date of its comparison with any of the standard weights and measures shall be presumptive evidence that such weight or measure has continuously since the date of such comparison conformed with the said standards and the national and state standards. Such certificate shall be signed by the state superintendent or the superintendent of such county or municipality.

Any certificate substantially setting forth the above facts and purporting to be signed by such a superintendent, shall upon its production be admitted as such presumptive evidence without further proof of its authenticity. [1911]

Sec. 51:1-105. Summary proceeding to recover penalty.

A penalty incurred for the violation of any of the provisions of this title [Secs. 51:1-1—51:9-21] may be enforced in a summary proceeding brought in the name of the State by a superintendent, assistant superintendent, or inspector by filing a complaint in writing duly verified by him or by the complaining witness. Verification by a superintendent, assistant superintendent, or inspector may be made on information and belief.

The complaint shall be filed with the court alleging the violation of law and stating the section violated.

The court may issue a summons or warrant. The summons shall be returnable in from one to ten days from its date and shall be served not less than two days prior to its return. The warrant or summons may be directed to any superintendent, assistant superintendent, inspector or to any constable or police officer, commanding him to cause

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the person complained of to be arrested and brought before the court. A summons or warrant issued by a court under this article [Secs. 51:1-89—51:1-112] shall be valid throughout the State. An officer who may serve the summons or warrant in the county in which it was issued may also serve the summons or warrant and make arrest on the warrant in any county of the State. Where a corporation is the defendant the summons shall be served on any officer thereof, its registered agent or the person in charge of its place of business in this State, at least five days before the return date.

On the return of the summons or warrant the court shall forthwith in a summary way hear and determine the guilt or innocence of the defendant and upon conviction shall impose the penalty prescribed by law for the offense together with the costs of prosecution.

If any person shall fail to pay the penalty or penalties imposed together with the costs of the proceedings, the court shall commit him to the common jail of the county where the conviction is had, for a period not exceeding thirty days, except where the period of imprisonment is otherwise provided for, or until the penalty and costs are sooner paid. [1911; last amended 1939.]

* * * * *

Sec. 51:1-106. Arrest without warrant; summary hearing and determination.

A superintendent, assistant superintendent, or inspector on the violation of any of the provisions of this title [Secs. 51:1-1—51:9-21] within his view may without warrant arrest the offender and conduct him before the court having jurisdiction in the municipality where the arrest is made or the offense committed. Such court on the filing of written verified complaint setting forth the nature of the offense shall hear and determine in a summary manner, the guilt or innocence of the defendant and inflict the penalties provided by law. [1913; last amended 1939.]

Sec. 51:1-107. Appeal to court of common pleas.

Any party may appeal from a judgment rendered or sentence imposed pursuant to section 51:1-105 * * * to the court of common pleas of the county in which the proceedings were had. * * * [1913; last amended 1939.]

Sec. 51:1-112. Certain actions to have precedence.

Actions instituted for the recovery of penalties for selling less than the quantity represented of any commodity shall be given precedence over all other cases set for hearing on the same day. [1919; last amended 1921.]

Statutes Annotated, Title 51, Ch. 1, Art. 5—Weights and Measures, Second-Hand Weighing or Measuring Devices.

Sec. 51:1-113. Definitions.

For the purpose of this act [Secs. 51:1-113—51:1-133], the following words shall be deemed to have the meaning herein given them:

(a) "Department" shall mean the State Department of Weights and Measures.

(b) "Person" or "persons" shall be construed to include any individual, partnership, association, corporation or other form of business enterprise.

(c) "Weights and measures officer" shall be construed to mean and include the State Superintendent of Weights and Measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.

(d) "Weighing or measuring devices" as used in this act shall be deemed to mean and to include any scale, weight, scale beam, patent balance, computing scale, spring scale, person weighing scale operated for profit, steel-yard, liquid measure, gasoline dispensing device, grease dispensing device, counter measure, or any other instrument or apparatus, and accessories connected therewith used in trade and commerce in the State of New Jersey in weighing or measuring any commodity, fluid, or article of merchandise, or person; provided, the term shall not include any meter, measure or scale used by a public utility subject to the jurisdiction of the Board of Public Utility commissioners of this State for measuring any commodity or service furnished or sold by such public utility.

(e) "Repair", "repairing", and "repaired", shall be construed to mean any partial or complete construction or reconstruction, repair, alteration, installation or adjustment of any weighing or measuring devices used in trade and commerce in the State of New Jersey.

(f) "Repairman" shall mean any person engaging in the partial or complete constructing or reconstructing, repairing, altering, installing or adjusting of any weighing or measuring devices used in trade and commerce in the State of New Jersey.

(g) "Adjustment and adjusting". The moving of any part of a weighing or measuring device to obtain a correct zero indication only shall not be construed to come within the meaning of these terms.

(h) "Magistrate" shall be deemed and understood to mean and include all justices of the peace, judges of the city criminal courts, police judges, recorders, mayors, and other officers having powers of a committing magistrate; *provided, however*, that no justice of the peace shall sit as magistrate under this act within the corporate limits of any municipi-

pality within this State having a police judge, police justice, recorders' court or city criminal court.

(i) "Engaging in business" or "engaged in business" shall be deemed and understood to mean and include any single transaction, act, or sale. [1938]

Sec. 51:1-114. License and registration necessary to engage in business.

It shall be unlawful for any person to engage in the business of selling, trading-in, receiving, installing or repairing condemned, rebuilt or used weighing or measuring devices in this State without first obtaining from the State Superintendent of Weights and Measures a license and registration to so engage in any said business. [1938]

Sec. 51:1-115. Application for license and registration.

Application for the said license and registration shall be made to the department upon the form prescribed and furnished by the State Superintendent of Weights and Measures, and shall be verified by the applicant under oath, or if the applicant shall be a partnership, association, or corporation, under the verification and oath of a duly elected officer or official representative thereof. [1938]

Sec. 51:1-116. Issuance of license; examination.

Upon the application being filed, the State Superintendent of Weights and Measures shall examine into the same and cause an inquiry to be made concerning the person making such application, and if it should appear satisfactory to him therefrom, he shall issue to the applicant a license and registration; it being provided, however, that any person engaging in the practical operations of repairing any device subject to the provisions of this act [Secs. 51:1-113-51:1-133], shall, upon the approval of his application by the State Superintendent of Weights and Measures, be notified to report at a place and time to be designated by the said State Superintendent of Weights and Measures, and to there undergo an examination into his technical qualifications to engage in such business. [1938]

Sec. 51:1-117. Conduct of examinations.

Examinations shall be conducted by the State Superintendent of Weights and Measures, his duly authorized assistants, or by any competent weights and measures officer or officers of this State, whom the said State Superintendent of Weights and Measures may designate or assign to conduct such examinations. [1938]

Sec. 51:1-118. Rules and regulations.

The State Superintendent of Weights and Measures shall issue rules and regulations governing the examination of applicants for licenses to repair weighing and measuring devices. The regulations shall specify the qualifications for limited and unlimited licenses, and shall declare the conditions under which licenses will be revoked. [1938]

Sec. 51:1-119. License to repair limited classes or kinds of devices.

The State Superintendent of Weights and Measures may, at his discretion, issue to any applicant, under the terms of the regulations authorized by this act [Secs. 51:1-113-51:1-133] a license to repair limited classes or kinds of weighing and measuring devices. [1938]

Sec. 51:1-120. Issuance of licenses to repair devices.

Any person who qualifies in the form and manner prescribed by the regulations authorized under the terms of this act [Secs. 51:1-113-51:1-133] to repair weighing or measuring devices shall receive a license to repair the classes or kinds of weighing devices for which he qualifies. Applicants who do not qualify shall not receive a license, it being provided, however, that the denial of a license at any time shall not prejudice the issue of a license at any later examination. [1938]

Sec. 51:1-121. Licenses and registrations; term; renewal; contents.

Licenses and registrations shall be issued for a term of one year from the date of issue and shall be renewable at the expiration thereof. Each license issued shall state the name, business address of the person to whom it is issued, whether it is a limited or unlimited license, and if limited, the classes or kinds of weighing or measuring devices the licensee is authorized to repair, and shall continue in effect for the prescribed period unless revoked or suspended for reasons hereinafter specified in this act [Secs. 51:1-113-51:1-133]. [1938]

Sec. 51:1-122. Revocation or suspension of license; hearing.

The State Superintendent of Weights and Measures may revoke or suspend the license of any person convicted of any violation of this act [Secs. 51:1-113-51:1-133] or for any of the following reasons: Willful fraud or misrepresentation practiced in procuring any such license or renewal of the same; dishonesty; gross incompetency; and conduct of a character likely to deceive or defraud the public; the loaning of his license or registration by the licensee to any person; the obtaining of a fee or compensation by fraud or misrepresentation; the willful advertising or publishing by the licensee of grossly false, fraudulent or misleading statements of his business, skill, knowledge or methods of operation; and for any conduct or practice at variance with the purpose of this act. No certificate of license shall be revoked or suspended until after a hearing before the State Superintendent of Weights and Measures of which hearing the holder of said certificate of license shall have at least ten days' notice, either personally or by registered mail, sent to the holder at his or her address as contained in the records of the department. [1938]

Statutes Annotated, Title 51, Ch. 1, Art. 5—Weights and Measures, Second-Hand Weighing or Measuring Devices—Continued.

Sec. 51:1-123. Report of repair work done by licensee.

Any person licensed to repair weighing or measuring devices shall report to the department or to the weights and measures officer of his county or municipality, work for which compensation was received or is receivable. The report shall contain the name and address of the person for whom the work was done, identification of the weighing or measuring device, nature of the work performed and the date the work was completed. [1938]

Sec. 51:1-124. Report of repair, sale, delivery or alteration of devices; contents.

Every person engaged as in this act [Secs. 51:1-113—51:1-133] provided shall within ten (10) days, after the making of a repair, or the sale and delivery of a repaired, rebuilt, exchanged, or used weighing or measuring device, in writing, notify the department or the county or municipal superintendent of weights and measures in whose jurisdiction the said device is located, giving the name and address of the person for whom such repair has been made or to whom a repaired, rebuilt, exchanged, or used weighing or measuring device has been sold or delivered, and a statement shall be made by the licensee that the same has been so altered, rebuilt, or repaired as to conform to the standard specifications and regulations of the department. [1938]

Sec. 51:1-125. Report of disposition of condemned devices; contents.

Any person who accepts any weighing or measuring device which has been condemned by any weights and measures officer, in trade for a new or used weighing or measuring device, and which is intended to be repaired, rebuilt, dismantled or destroyed, shall upon receipt thereof remove the condemned tags and such condemned tags shall be returned to the department or to a weights and measures officer within ten (10) days thereafter, with a statement describing the weighing or measuring device, giving the number of the device if obtainable, and the name and address of the person from whom it was received together with a statement of what disposition has been made of the weighing or measuring device. [1938]

Sec. 51:1-126. Annual inspection of testing equipment.

Every person engaged in any business covered by the provisions of this act [Secs. 51:1-113—51:1-133] shall submit their testing equipment at least once a year to a weights and measures officer for comparison and calibration with the standards maintained by such officer. After comparison and calibration with such standards, the weights and measures officer shall issue to such person a statement or a certificate of his findings. [1938]

Sec. 51:1-127. Licensee to keep record or register; contents.

Every person licensed and registered pursuant to the provisions of this act [Secs. 51:1-113—51:1-133] shall maintain a record or register in which the following information shall be kept:

(a) The name and address of every person for whom weighing or measuring devices are repaired.

(b) The name and address of every person to whom a repaired, rebuilt, exchanged, or used weighing or measuring apparatus or device has been sold or delivered.

(c) Such records shall at all times be open for inspection by any weights and measures officer. [1938]

Sec. 51:1-128. License and registration fees.

Every person who maintains or carries on the business of selling, trading-in, receiving, or engaging in the repairing of condemned, rebuilt, or used weighing and measuring devices, shall for the license and registration prescribed by this act [Secs. 51:1-113—51:1-133], pay license fee of twenty-five dollars (\$25.00) per annum. Every person engaging only in the repairing of weighing and measuring devices shall for the license and registration prescribed in this act pay a fee of five dollars (\$5.00) per annum, which fees shall be paid to the State Superintendent of Weights and Measures, and by this officer shall be turned over to the State Treasurer. [1938]

Sec. 51:1-129. Administration of act; rules and regulations.

The State Superintendent of Weights and Measures shall have general supervision of the administration of this act [Secs. 51:1-113—51:1-133] and shall make such rules and regulations as he may deem necessary for its enforcement. [1938]

Sec. 51:1-130. Enforcement.

The State Superintendent of Weights and Measures, his duly authorized assistants and inspectors, county and assistant county superintendents of weights and measures and inspectors, and municipal and assistant municipal superintendents of weights and measures and inspectors, are hereby charged with the enforcement of this act [Secs. 51:1-113—51:1-133]. [1938]

Sec. 51:1-131. Penalties for violations of act.

Any person violating any of the provisions of this act [Secs. 51:1-113—51:1-133], shall, upon being found guilty of a first offense, pay a fine of not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00), and shall, upon being found guilty of a second offense pay a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and shall, upon being found guilty of any subsequent offense pay a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00); pro-

vided, however, that any person unable to pay a fine imposed under the provisions of this act shall be committed to jail for a period of not less than ten (10) days nor more than ninety (90) days. [1938]

Sec. 51:1-132. Action to recover penalty; practice and procedure; disposition of fines and penalties; offenses within view of weights and measures officer; appeal from judgment or sentence.

An action to recover any penalty incurred under the provisions of this act [Secs. 51:1-113-51:1-133] may be brought in the name of the State of New Jersey by any duly appointed weights and measures officer by complaint in writing, duly verified by such weights and measures officer, which verification may be upon information and belief, or may be verified by the complaining witness to be filed with any magistrate of any municipality in this State alleging the violation in said municipality of any of the provisions of this act or acts supplementary thereto or amendatory thereof, who is hereby authorized to issue a summons returnable in from one to ten days from the date thereof, same to be served not less than two days prior to the return thereof, or a warrant directed to any weights and measures officer, or to any constable or police officer, commanding him to cause the person or persons so complained of to be summoned or arrested and brought before such magistrate, who shall at the return of the said summons or warrant forthwith in a summary way hear and determine the guilt or innocence of such person or persons, and upon conviction shall impose upon such person or persons so convicted the penalty or penalties prescribed for such offense, together with the costs of prosecution of the proceedings before such magistrate, and if any person or persons shall fail to pay the penalty or penalties, so imposed, together with the costs of prosecution, execution shall be issued against his or their goods and chattels, body or bodies without any order of the court for that purpose first had and obtained. If the officer executing any such writ shall be unable to find sufficient goods and chattels of said defendant or defendants in his bailiwick to make the amount of said judgment and costs, he shall take the body of the defendant or defendants and deliver him or them to the keeper of the common jail of said county for a period not to exceed ten days, except as may be otherwise in this act in this respect provided; or until said penalty and costs are sooner paid; provided, however, that the defendant or defendants may be released upon order of the magistrate before the expiration of any imprisonment, prescribed in default of payment, upon the written order of the committing magistrate or a justice of the Supreme Court, in the discretion of said judicial officer, after one day's notice of time and place of application for such order to the State Superintendent of Weights

and Measures. It shall be the duty of the city attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section 51:1-43 of the Revised Statutes, in which case the public prosecutor of the county wherein such violation shall take place shall assist in such prosecution. All fines and penalties collected from persons offending against the provisions of this act shall be paid by the magistrate receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county collector of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents. For violation of any of the provisions of this act, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before any magistrate having jurisdiction in such county wherein such arrest is made and offense committed, and such magistrate is hereby authorized and required on verified complaint in writing, setting forth the nature of the offense for which said arrest was made, to be filed then and there with such magistrate, before the commencement of the hearing, to hear and determine in a summary way the guilt or innocence of such person or persons, and inflict the penalties provided by law.

Any party to any proceeding instituted under this act may appeal from the judgment or sentence of the magistrate to the court of common pleas of the county in which the said proceedings take place; * * * [1938]

Sec. 51:1-133. Exceptions to application of act.

The provisions of this act [Secs. 51:1-113-51:1-133] shall not be applicable to any person or to a bona fide employee solely and exclusively employed by such person, who repairs or installs any weighing or measuring device owned, operated or used by the said person in connection with his business in the sale of commodities in trade and commerce in the State of New Jersey. [1938]

Statutes Annotated, Title 51, Ch. 4, Art. 3—Weights and Measures, Lumber and Lumber Products.

Sec. 51:4-17. Standards established.

Grade, measure and trade name of lumber and lumber products heretofore or hereafter approved, adopted and issued by manufacturers' associations covering specie and kind shall be the authorized standards for lumber and lumber products by which all county and municipal standards of weights and measures in this state shall be tried, proved and sealed. [1935]

Statutes Annotated, Title 51, Ch. 4, Art. 3—Weights and Measures, Lumber and Lumber Products—Continued.

Sec. 51:4-18. Duplicate delivery tickets required.

No person, firm or corporation shall deliver or cause to be delivered any lumber or lumber product without each delivery being accompanied by a delivery ticket and duplicate thereof. On both tickets there shall be distinctly and indelibly expressed in ink or otherwise, the specie, grade, quantity and trade name of the lumber or lumber product contained in the truck or other vehicle used in such delivery, the name of the purchaser thereof, the destination at which delivery is to be made, and the name of the dealer from whom purchased. One of such tickets shall be delivered to the person, firm or corporation receiving such lumber or lumber products or to his representative and the other ticket shall be retained by the seller of the lumber or lumber products. [1935]

Sec. 51:4-19. Inspectors; appointment and removal; oath; certificate.

The trade association of the retail lumber and lumber products dealers, known as the New Jersey Lumbermen's Association, a New Jersey corporation, shall by its secretary and under its seal certify to the state superintendent, the names, addresses and qualification of inspectors appointed by it for the purpose of inspection of lumber and lumber products under the terms of this act [Secs. 51:4-17—51:4-22]. The state superintendent shall thereupon appoint all such persons, lumber inspectors in and for his department. Each lumber inspector shall, before entering upon his duties, make oath faithfully to execute his trust as a lumber inspector. The state superintendent shall issue a certificate of such appointment or designation and shall keep a record of the same. When the New Jersey Lumbermen's Association shall by its secretary and under its seal certify to the state superintendent that any lumber inspector is no longer employed by it, the state superintendent shall notify such lumber inspector of such fact and shall strike his name from his list of lumber inspectors and require the return of the credentials issued to such lumber inspector. [1935]

Sec. 51:4-20. Compensation of inspectors.

The state superintendent shall not be called upon to pay and shall not be responsible for any salary, fees, wages or expenses of lumber inspectors, but the same shall be paid by the New Jersey Lumbermen's Association. [1935]

Sec. 51:4-21. Powers of inspectors.

Lumber inspectors shall have full power and authority to inspect and measure any lumber or lumber products while in transit from the dealer to the purchaser, after the same have been deliv-

ered to the purchaser, or after they have been incorporated in the building or structure in which they have become a part. They shall also have full power and authority to inspect the delivery slips issued with any shipment and all records of the person, firm or corporation selling or delivering such lumber or lumber products, in connection with the lumber or lumber products so delivered. [1935]

Sec. 51:4-22. Deviations from standards; penalties; enforcement.

Any deviation from the authorized standards herein or hereafter adopted, where said deviation indicates an intention to defraud shall for the first offense be liable to a penalty of not less than twenty-five dollars or more than fifty dollars and for a second offense be liable for a penalty of not less than fifty dollars or more than one hundred dollars and for each subsequent offense shall be liable to a penalty of not less than one hundred dollars or more than two hundred dollars or imprisonment for not less than thirty days or more than ninety days or both, the amount of said penalty to be determined as aforesaid in the discretion of the district court or police magistrate having jurisdiction and if any person shall fail to pay the penalty imposed, together with the cost of prosecution, the said court or police magistrate shall issue execution against the goods and chattels and body or bodies of the defendant or defendants as provided in section 51:1-105 of this title [Secs. 51:1-1—51:9-21] with the same force and effect; but the period of detention of ten days provided in said section 51:1-105 shall in this case be extended to a period of not exceeding ninety days. An action to recover any penalty under this article [Secs. 51:4-17—51:4-22] may be brought in the name of the state of New Jersey by a lumber inspector appointed as herein above set forth, with the same procedure as if brought by any duly appointed superintendent. [1935]

Statutes Annotated, Title 51, Ch. 7—Weights and Measures, Anthracite.

Sec. 51:7-1. Definitions.

For the purpose of this chapter [Secs. 51:7-1—51:7-9] the following words shall be deemed to have the meaning herein given:

a. "Department" shall mean the state department of weights and measures.

b. "Person" shall be construed to include any individual, partnership, unincorporated association, corporation or other form of business enterprise.

c. "Weights and measures officers" shall be construed to include the state superintendent of weights and measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal

or assistant municipal superintendents of weights and measures or inspectors. [1937]

Sec. 51:7-2. Transportation into state over highways by motor vehicle; certificate of origin required.

It shall be unlawful for any person to transport over the highways of this State any anthracite brought into this State by motor vehicle from outside of this State unless such anthracite when it crosses any boundary line of this State and at all times thereafter during the transportation thereof over the highways of this State is accompanied by an original certificate of origin signed by the person who is the owner or operator of the breaker, colliery, yard or other place of production or storage, or his duly authorized agent, where the anthracite to which the certificate of origin refers was produced or stored and also signed by the person driving or operating the motor vehicle on which said anthracite is transported into this State. [1937; last amended 1938.]

Sec. 51:7-3. Contents of certificate of origin.

The certificate of origin shall contain the following:

a. The name or names and location of, and the name or names of the owners or operators of, the breaker, colliery, yard or other place of production or storage where the anthracite to which the certificate refers has been produced or stored.

b. The kind, size and weight of the anthracite.

c. The name and address of person claiming ownership of said anthracite.

d. The name and address of the driver of the motor vehicle transporting said anthracite and the state motor vehicle registration number of said vehicle.

e. The name and address of the person or persons to whom said anthracite is to be delivered. [1937]

Sec. 51:7-4. Issuance of certificates; non-transferable; false certificate.

The certificates of origin as herein provided shall be issued only on forms to be supplied, on application therefor, by the superintendent of the department, shall be serially numbered and issued consecutively. A nominal charge to cover the cost of supplying such forms may be made by the superintendent. Said certificates of origin shall be non-transferable and any person who has in his possession or who files with a weighmaster or forwards to the superintendent a false certificate of origin shall be deemed guilty of a violation of this chapter. [1937; last amended 1938.]

* * * * *

Sec. 51:7-5. Duplicate certificate filed with weighmaster.

Any person bringing anthracite into this State from outside of this State and said anthracite is

to be sold or delivered within the boundaries of this State shall file a duplicate of the required certificate of origin with the weighmaster in charge of the scales where said person has said anthracite weighed in accordance with the requirements of the laws of this State, and such duplicates of said certificates of origin shall be retained at such scales for a period of one year, unless the superintendent directs the forwarding of the same to his office, and shall be subject and open to inspection by any weights and measures officer; after storage or sale of said anthracite in this State the original certificates of origin shall be forwarded to the superintendent at his office within ten days from the date of such sale or storage and the triplicate copy shall be kept by the person who sells or stores said anthracite. [1937; last amended 1938.]

Sec. 51:7-6. License to sell solid fuel revoked for violation.

The superintendent of the department shall revoke the license of any person licensed to sell solid fuel in this State who buys, sells or transports stolen anthracite within this State or who buys, sells or transports anthracite which has been acquired at a place of production, storage or source where stolen anthracite is handled or distributed, and shall issue to such person no further license to sell solid fuel in this State for a period of at least one year from the date of revocation. * * *

The superintendent shall void all certificates of origin where the person who obtains the same buys, sells or transports stolen anthracite or deals in or handles stolen anthracite. Any person using voided certificates knowingly shall be deemed guilty of a violation of this chapter [Secs. 51:7-1—51:7-9]. Five days' notice by registered mail of the proposed voiding of said certificates shall be given to the person who obtained the same and upon the request of said person he shall be given an opportunity to show cause why said certificates should not be voided. [1937; last amended 1938.]

Sec. 51:7-7. Enforcement of chapter.

All weights and measures officers in this State, in addition to their various duties now provided for by law, are hereby charged with the duty of enforcing and executing the provisions of this chapter [Secs. 51:7-1—51:7-9], and the superintendent of the department shall make such rules and regulations as he may deem necessary for its enforcement. [1937; last amended 1938.]

Sec. 51:7-8. Penalty for violations.

Any person who violates any of the provisions of this chapter [Secs. 51:7-1—51:7-9] shall upon being found guilty of such offense pay a fine of not less than one hundred dollars nor more than five hundred dollars or if unable to pay such fine shall be committed to a county jail for a period not to exceed ninety days. [1937]

Statutes Annotated, Title 51, Ch. 7—Weights and Measures, Anthracite—Continued.

Sec. 51:7-9. Procedure for recovery of penalties; jurisdiction.

The procedure for the recovery of any penalty incurred under the provisions of this chapter [Secs. 51:7-1—51:7-9] shall be the same as the procedure specified in sections 51:1-105 to 51:1-111 of this title [Secs. 51:1-1—51:9-21]. All actions shall be instituted in the name of the State of New Jersey by any weights and measures officer who shall have the same powers in connection with the enforcement of this chapter as are vested in them in sections 51:1-105 to 51:1-111 of this Title. Jurisdiction of all cases arising out of violations of the provisions of this chapter is hereby conferred upon all justices of the peace, judges of the city criminal courts, police judges and recorders located in the county in which such violations are committed. [1937; last amended 1938.]

Statutes Annotated, Title 51, Ch. 8—Weights and Measures, Solid Fuel.

Sec. 51:8-1. Definitions.

For the purpose of this chapter [Secs. 51:8-1—51:8-19] the following words shall be deemed to have the meaning herein given them:

a. "Department" shall mean the state department of weights and measures.

b. "Solid fuel" shall mean any anthracite, semi-anthracite, bituminous, semibituminous, or lignite coal, briquettes, boultctes, coke, gas house coke, petroleum coke, petroleum carbon or any other manufactured or patented fuel not sold by liquid or metered measure.

c. "Ton" shall mean the net ton of two thousand pounds avoirdupois.

d. "Vehicle" shall mean any truck, wagon, cart or other conveying device using the streets, alleys or other thoroughfares in this state, but not including railroad cars.

e. "Equipped dealer" shall mean any person who is regularly engaged in the sale, or sale and delivery of solid fuel; maintains unloading, storage and service facilities commensurate with the nature of the business; is equipped with and using wagon or truck scales, or other approved weighing or measuring devices, of sufficient size and capacity and maintained in condition accurately to weigh the maximum load for which they are utilized; maintains an office accessible to the public with a competent person on duty, and regularly carries a stock of solid fuel.

f. "Unequipped dealer" shall mean all other persons engaged in the sale, delivery, or sale and delivery of solid fuel.

g. "Person" shall be construed to include any individual, partnership, unincorporated associa-

tion, corporation or other form of business enterprise.

h. "Weights and measures officers" shall be construed to include the state superintendent of weights and measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.

i. "Magistrate" shall be deemed and understood to mean and include all justices of the peace, judges of the city criminal courts, police judges, recorders, mayors, and other officers having powers of a committing magistrate; but no justice of the peace shall sit as magistrate under this chapter within the corporate limits of any municipality within this state having a police judge, police justice, recorder's court or city criminal court. [1937]

Sec. 51:8-2. Sale, etc. not in accordance with chapter unlawful.

It shall be unlawful for any person to sell, deliver, or sell and deliver, or weigh or issue weight certificates for, solid fuel in this state except in accordance with the provisions of this chapter [Secs. 51:8-1—51:8-19]. [1937]

Sec. 51:8-3. Enforcement; jurisdiction over inspectors.

All weights and measures officers in this state, in addition to their various duties now provided for by law, are hereby charged with the duty of enforcing and executing the provisions of this chapter [Secs. 51:8-1—51:8-19]. Inspectors shall report to and work under the jurisdiction of the county or municipal superintendents; but if any county or municipal superintendent is not available or deems it inadvisable to sign a complaint, inspectors shall have the power to sign such complaints. [1937]

Sec. 51:8-4. General supervision by superintendent; rules and regulations.

The superintendent of the department shall have general supervision of the administration of this chapter [Secs. 51:8-1—51:8-19] and shall make such rules and regulations as he may deem necessary for its enforcement. [1937]

Sec. 51:8-5. License to sell or deliver; plates; certificates of license; revocation of license; penalty.

It shall be unlawful for any person to engage in the business of selling, delivering or selling and delivering solid fuel in this State unless he shall have obtained from the department a license to engage in said business and a license plate for each vehicle owned and used by him for the delivery of solid fuel; *provided, however*, where any person engages in the business of selling, delivering, or selling and delivering solid fuel in this State at more than one place of business or establishment,

it shall be necessary for said person to obtain a separate license for each such place of business or establishment where said solid fuel is so sold, delivered, or sold and delivered; *provided, further*, that it shall not be necessary for any person who sells or delivers solid fuel at retail in quantities of not more than one hundred pounds, and does not sell or deliver more than one hundred pounds to the same person on the same day, to obtain such license. * * * it shall be the duty of said superintendent [upon payment of fee and application] to issue * * * a license plate for each vehicle so owned and used by the applicant, together with a certificate of the issuance of such license plate * * *. The holder of such certificate or the operator of such vehicle, when requested to do so by any weights and measures officer, shall exhibit such certificate, in order that such weights and measures officer may determine the correctness of said certificate.

It shall be unlawful for any person to engage in the business aforesaid without having on display in his place of business a certificate of such license, which shall be issued by said superintendent, and no person shall use any vehicle to deliver solid fuel without such license plate being securely and conspicuously attached to said vehicle and no such license plate shall be transferable or interchangeable.

* * * The superintendent of the department shall designate county and municipal superintendents of weights and measures as issuing agents through whom the license, license plates and certificates herein provided may be issued to applicants in their respective counties or municipalities. * * *

The superintendent may revoke the license of or refuse to issue a license to any person, after a hearing, upon due notice, which may be served personally upon or sent by registered mail to such person, for any dishonest, deceptive or fraudulent practice.

* * * Any person violating this provision shall pay a penalty of not more than ten dollars and for failure to forthwith pay such penalty, shall be imprisoned in the county jail for a period not exceeding five days. [1937; last amended 1939.]

Sec. 51:8-6. Sale by weight only; pounds to ton; weighmaster to weigh.

All solid fuel shall be sold by weight. It shall be unlawful for any person to sell or deliver or start out for delivery less than two thousand pounds by weight to the ton of solid fuel or a proper proportion thereof when the quantity to be delivered is less than a ton, and such solid fuel shall, except as otherwise herein provided, be duly weighed by a weighmaster designated to weigh solid fuel, on stationary scales suitable for weighing solid fuel,

which have been tested and sealed by any authorized weights and measures officer. [1937]

Sec. 51:8-7. Weighing of fuel of unequipped dealers on scales of equipped dealer.

Unequipped dealers engaged in the sale, or sale and delivery of solid fuel in this state purchased from and weighed over the scales of an equipped dealer or wholesale pocket dealer in this state shall be furnished with weight certificates signed by the weighmaster of such equipped dealer or wholesale pocket dealer as provided in section 51:8-9 of this title [Secs. 51:1-1—51:9-21], on forms of such unequipped dealers. [1937]

Sec. 51:8-8. Weighing fuel of unequipped dealer on approved scales; procedure.

Unequipped dealers engaged in the sale and delivery of solid fuel in this state, except as provided in section 51:8-7 of this title [Secs. 51:1-1—51:9-21], shall have such solid fuel weighed on scales tested and approved by the proper weights and measures officers. The owner of the scales on which such weighing is made shall furnish each unequipped dealer with a weight certificate, as provided in section 51:8-9 of this title, for each load or for each separate part of a load, on forms of such unequipped dealers, signed by the weighmaster of such owner, and a copy of each such weight certificate shall be retained at the scales where such weighing is done for a period of one year and shall be subject to inspection by any weights and measures officer. The owner of the scales shall keep, on forms approved by the superintendent of the department, an accurate record of all weighings made and such record shall be open to inspection by any weights and measures officer, for a period of one year. [1937]

Sec. 51:8-9. Weight certificates: Necessity of; contents; delivery tickets; exceptions.

It shall be unlawful for any person to deliver or cause to be delivered or to be started out for delivery any solid fuel without each lot in each separate compartment of any vehicle being accompanied by a weight certificate issued by a certified weighmaster duly designated to weigh solid fuel under the provisions of this chapter [Secs. 51:8-1—51:8-19] on which shall be distinctly expressed:

- a. In pounds the gross weight of the solid fuel and the vehicle in which it is contained.
- b. In pounds the tare weight or the weight of the vehicle without load.
- c. In pounds the net weight of the solid fuel.
- d. The kind and size of the solid fuel.
- e. The name and address of the purchaser.
- f. The name and address of the seller.
- g. The plate number of the vehicle as provided in section 51:8-5 of this title [Secs. 51:1-1—51:9-21].
- h. The signature and seal of the weighmaster

Statutes Annotated, Title 51, Ch. 8—Weights and Measures, Solid Fuel—Continued.

designated to weigh solid fuel, by whom weighed and the date weighed.

i. The number of bags or sacks, when bags or sacks are representative of the quantity contained in the vehicle.

The tare and gross weights as certified on the weight certificate shall be taken on the same scales.

The weight certificate as herein defined may be issued on the sellers' forms, which shall be known as "delivery tickets". Each such delivery ticket shall be issued in triplicate, shall be serially numbered and shall be used only in consecutive order. One copy of said delivery ticket shall be left with the purchaser of the solid fuel or his agent, and the third copy shall be retained at the scales during the time when the solid fuel represented by such ticket is in course of actual delivery, and all voided delivery tickets in triplicate and one copy of each delivery ticket issued under the provisions of this chapter shall be kept on file at the place of business of the seller for a period of one year from date of issuance and shall be subject to inspection by any weights and measures officer. When the impression of the official seal of any weighmaster appears on a delivery ticket or weight certificate it shall be prima facie evidence that such impression was made by said weighmaster.

Any person issuing or directing the issuance of, or possessing delivery tickets showing different weights or sizes for the same delivery, or persons appearing at the place of delivery, each with a delivery ticket for the same delivery, which tickets have different weights or sizes appearing thereon, shall be deemed guilty of a violation of the provisions of this chapter.

When solid fuel is sold in packages of one hundred pounds or less the provisions of this section shall not apply if the solid fuel is delivered in closed containers or closed bags and the net contents of such bags or container expressed in pounds is plainly and conspicuously stamped or printed thereon, together with the name and address of the person packaging said solid fuel.

When solid fuel is sold in bulk in lots of one hundred pounds or less, the provisions of this section shall not apply when such solid fuel is weighed upon scales which have been tested and sealed by any weights and measures officer and a delivery ticket is left with the purchaser showing the date of sale, name and address of the seller and the weight of the solid fuel expressed in pounds.

This section shall not apply to the sale of a boatload or railroad carload of solid fuel delivered direct from the boat or car to one purchaser and accepted as to weight by the purchaser on the bill of lading or other voucher issued by the carrier. [1937]

Sec. 51:8-10. Name of second purchaser on weight certificate.

Where any person shall be unable to deliver solid fuel to the purchaser originally designated in the weight certificate, he may, by direction of any weighmaster, designated to weigh solid fuel, substitute the name and address of another purchaser; provided, that report of such substitution is made within twenty-four hours to the weighmaster who issued the original weight certificate. [1937]

Sec. 51:8-11. Weighing in process of delivery.

Any weights and measures officer who finds any quantity of solid fuel ready for or in process of delivery may direct the person in charge of the solid fuel to convey the same to the nearest available accurate scales designated by said officer. Such officer shall thereupon determine the weight of the solid fuel and the vehicle on which it is carried and shall direct such person in charge to return to such scales forthwith upon unloading the solid fuel and upon such return the officer shall determine the weight of the vehicle without load. It shall be unlawful for any person in charge of a vehicle containing such solid fuel or from which such solid fuel has been unloaded to fail to take the vehicle upon the direction of said officer to the scales as aforesaid or refuse to permit the solid fuel or vehicle to be weighed by such officer. [1937]

Sec. 51:8-12. Who may issue weight certificates; certificate of designation as weighmaster; application; period; revocation; substitution of weighmaster.

It shall be unlawful for any person to make or issue a weight certificate for solid fuel unless certified as a weighmaster by the superintendent of the department under the provisions of sections 51:1-73 to 51:1-80 of this title [Secs. 51:1-1—51:9-21], and duly designated by said superintendent to weigh solid fuel in accordance with the provisions of this chapter [Secs. 51:8-1 to 51:8-19], and a public weigher shall not be permitted to weigh solid fuel unless designated to do so under the provisions of this chapter.

Application for a certificate of designation shall be made upon a form prescribed by the superintendent; the applicant shall furnish satisfactory evidence of good moral character and of ability to weigh accurately, and to make correct weight certificates, and shall indicate the place where the applicant shall perform his function as a weighmaster designated to weigh solid fuel and the type and capacity of the scale or scales to be used by the applicant.

When the applicant is an equipped dealer or an employee of an equipped dealer having two or more yards, he may be designated to weigh upon any or all of the scales in the said yard or yards. No certificate of designation shall be issued to any

applicant unless he is the owner or lessee of the scales at the place designated in his application, or a bona fide employee of the owner or lessee of such scales; *provided, however*, that not more than three certificates of designation shall be issued for the same scale, unless the superintendent in his discretion deems it advisable that more than three persons shall be designated to weigh solid fuel on said scale.

The period of the certificate of designation to weigh solid fuel shall run concurrently with the term of the applicant as weighmaster and shall expire on the date of the expiration of said term. Each certificate of designation shall be kept at the place where the weighmaster is engaged in weighing solid fuel and shall be open to inspection, and shall state the type, capacity and location of the scale or scales upon which he is designated to weigh solid fuel.

Upon notice to a weighmaster, his certificate of designation may be revoked by the superintendent of the department, after hearing, for dishonesty, incompetency, inaccuracy or for any violation of the provisions of this chapter, or for any misrepresentation in his application for said certificate; and the said certificate shall become invalid when for any reason he is no longer employed at the place of weighing for which the certificate was issued.

In any case where a certificate of designation has been revoked any person shall be authorized to substitute, at the place for which said revocation was made, another weighmaster in his employ and duly designated as such under the provisions of this chapter, pending disposition by the superintendent of the department of a new application for designation of a new applicant as weighmaster to weigh solid fuel at the place for which the certificate of designation has been revoked; *provided*, that the said new application must be forwarded to the superintendent of the department within five days of the substitution of another weighmaster designated to weigh solid fuel.

In case of the death, absence or inability to act of a weighmaster designated to weigh solid fuel, any person may substitute for such deceased or absent weighmaster another weighmaster in his employ and duly designated as such under the provisions of this chapter; *provided*, that immediate notice of such substitution be reported by said person to the superintendent of the department and that any such substitute shall not be authorized to continue as weighmaster at the place of substitution for a period in excess of thirty days unless with the written consent of the superintendent of the department. [1937; last amended 1938.]

Sec. 51:8-13. Disposition of license fees.

All license fees required to be collected by the superintendent of the department under the provisions of this chapter [Secs. 51:8-1—51:8-19]

shall be turned over to the treasurer of the state of New Jersey who shall itemize and report separately in his annual report all income so received. During the months of January and July of each year, commencing in the month of January, one thousand nine hundred and thirty-eight, the treasurer shall determine from the superintendent of the department the total amount of moneys collected under the provisions of this chapter in each county and each municipality in which there is established a municipal department of weights and measures in accordance with the provisions of article 3 of chapter 1 [Secs. 51:1-42—51:1-88], * * * and shall thereupon during said months disburse and pay to the fiscal officer of each such county or municipality fifty per cent of such total amount of moneys collected therein. The counties and municipalities shall appropriate the moneys so received for the sole and exclusive use of the respective departments of weights and measures. [1937]

Sec. 51:8-14. Violations; penalties.

It shall be unlawful:

a. For any weighmaster to issue a false or incorrect weight certificate or for any person to solicit him so to do.

b. For any weighmaster to permit any weight certificate to be issued or used which purports to bear his signature or seal but which was not in fact signed or sealed by him or which expresses a weight not ascertained by him.

c. For any person to use a false or incorrect weight certificate or to use a certificate not bearing the signature and seal of a weighmaster designated to weigh solid fuel.

d. For any person to deliver solid fuel in any vehicle not having securely and conspicuously attached thereto a license plate as provided in this act [Secs. 51:8-1—51:8-19].

e. For any person to deliver solid fuel without a weight certificate.

f. For any person to fail, neglect, or refuse to deliver a correct and lawful weight certificate to the purchaser of solid fuel.

g. For any person to permit any diminution of the load of solid fuel after the weight thereof has been certified by a weighmaster designated to weigh solid fuel and before its delivery to the purchaser or purchasers thereof.

h. For any person to deliver or cause to be delivered less than the quantity of solid fuel represented in the weight certificate accompanying such solid fuel as provided in this chapter [Secs. 51:8-1—51:8-19].

Any person violating any of the provisions of paragraphs "a", "b", or "c" of this section shall, upon being found guilty of such offense, pay a fine of not less than one hundred dollars, nor more than five hundred dollars.

Statutes Annotated, Title 51, Ch. 8—Weights and Measures, Solid Fuel—Continued.

Any person violating any of the provisions of paragraphs "d", "e", or "f" of this section shall, upon being found guilty of such offense, pay a fine of not less than twenty-five dollars, nor more than fifty dollars.

Any person violating any of the provisions of paragraphs "g" or "h" of this section shall, upon being found guilty of such offense, pay a fine of not less than twenty-five dollars, nor more than fifty dollars, and shall, upon being found guilty of a second similar offense, pay a fine of not less than fifty dollars, nor more than one hundred dollars, and shall, upon being found guilty of any subsequent similar offense, pay a fine of not less than one hundred dollars, nor more than two hundred dollars.

Any person who violates any provision of this chapter not specified in this section shall, upon being found guilty of such offense, pay a fine of not less than twenty-five dollars, nor more than fifty dollars. Any person unable to pay a fine imposed under the provisions of this chapter shall be committed to jail for a period of not to exceed sixty days. [1937]

Sec. 51:8-15. Procedure for recovery of penalties.

An action to recover any penalty incurred under the provisions of this chapter [Secs. 51:8-1—51:8-19] may be brought in the name of the state of New Jersey by any duly appointed weights and measures officer by complaint in writing, duly verified by such weights and measures officer, which verification may be upon information and belief, or may be verified by the complaining witness to be filed with any magistrate of any municipality in this state alleging the violation in said municipality of any of the provisions of this chapter, who is hereby authorized to issue a summons returnable in from one to ten days from the date thereof, same to be served not less than two days prior to the return thereof, or a warrant directed to any weights and measures officer, or to any constable or police officer, commending him to cause the person or persons so complained of to be summoned or arrested and brought before such magistrate, who shall at the return of the said summons or warrant forthwith in a summary way hear and determine the guilt or innocence of such person or persons, and upon conviction shall impose upon such person or persons so convicted the penalty or penalties prescribed for such offense, together with the cost of prosecution of the proceedings before such magistrate, and if any person or persons shall fail to pay the penalty or penalties, so imposed, together with the costs of prosecution, execution shall be issued against his or their goods and chattels, body or bodies without any order of the court for that purpose, first had and obtained. If

the officer executing any such writ shall be unable to find sufficient goods and chattels of said defendant or defendants in his bailiwick to make the amount of said judgment and costs, he shall take the body of the defendant or defendants and deliver him or them to the keeper of the common jail of said county for a period not to exceed ten days, except as may be otherwise in this chapter in this respect provided; or until said penalty and costs are sooner paid. The defendant or defendants may be released upon order of the magistrate before the expiration of any imprisonments, prescribed in default of payment of any judgment, upon the written order of the committing magistrate or a justice of the supreme court, in the discretion of said judicial officer, after one day's notice of time and place of application for such order to the state superintendent of weights and measures.

It shall be the duty of the city attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section 51:1-43 * * *, in which case the public prosecutor of the county wherein such violation shall take place shall assist in such prosecution. [1937]

Sec. 51:8-16. Arrest without warrant.

For violation of any of the provisions of this chapter [Secs. 51:8-1—51:8-19], done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before any magistrate having jurisdiction in such county wherein such arrest is made and offense committed, and such magistrate is hereby authorized and required on verified complaint in writing, setting forth the nature of the offense for which said arrest was made, to be filed then and there with such magistrate, before the commencement of the hearing, to hear and determine in a summary way the guilt or innocence of such person or persons, and inflict the penalties provided by law. [1937]

Sec. 51:8-17. Appeal.

Any party to any proceeding instituted under this chapter [Secs. 51:8-1—51:8-19] may appeal from the judgment or sentence of the magistrate to the court of common pleas of the county in which the said proceedings take place; * * * [1937]

Sec. 51:8-19. Disposition of penalties.

All fines and penalties collected from persons offending against the provisions of this chapter [Secs. 51:8-1—51:8-19] shall be paid by the magistrate receiving the same, when recovered by a state weights and measures officer, to the state treasurer; when recovered by a county weights and

measures officer, to the county collector of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents. [1937]

Statutes Annotated, Title 51, Ch. 9—Weights and Measures, Liquid Fuel.

Sec. 51:9-1. Definitions.

As used in this chapter [Secs. 51:9-1—51:9-21]:

a. The word "magistrate" shall be construed to mean and to include all justices of the peace, judges of the city criminal courts, police judges, recorders, mayor and other officers having powers of a committing magistrate.

b. The words "liquid fuels" shall be deemed to mean and to include fuel in liquid form, which can or may be used for heating purposes; provided, however, that oils shall not be included if they possess a flash point of 105° F. or lower, as determined by the Tagliabue closed cup tester or a Saybolt Universal Viscosity at 100° F. higher than 55 seconds.

c. The words "weights and measures official" shall be deemed to mean and to include any State, county or municipal superintendent, or assistant superintendent of weights and measures. [1937; last amended 1938.]

Sec. 51:9-2. Measuring devices; certificate of test.

It shall be illegal to use or to employ any measuring device for use in the purchase or sale of any liquid fuel without the same first being approved as to type and construction by the state superintendent of weights and measures and calibrated, tested and sealed by any weights and measures official. The state superintendent of weights and measures shall provide a form of certificate to be issued by a weights and measures official after the approval, testing, calibration and sealing of any measuring device, which certificate shall expire one year from the date thereof following issuance thereof and shall be renewed annually. It shall be unlawful to sell or deliver or have in possession with intent to deliver any liquid fuel unless such certificate shall be in possession at all times or carried on the vehicle to which it applies. [1937]

Sec. 51:9-3. Sale by volume; unit of volume.

All liquid fuel shall be sold by volume. The unit of volume shall be the standard United States gallon. [1937]

Sec. 51:9-4. Calculating volume by weight; tables for conversion.

If the volume be calculated by weight, the net weight shall be determined by means of a scale of approved type and capacity, tested and sealed by any weights and measures official. For the conversion of weight to volume and for temperature corrections, the National Standard Petroleum Oil

Tables as approved by the United States Bureau of Standards shall be used. [1937]

Sec. 51:9-5. Measuring quantities between 50 and 3,000 gallons; exception.

Each sale or delivery of liquid fuel exceeding fifty gallons but not exceeding three thousand gallons shall be measured by means of a positive displacement liquid flow meter which has been tested and sealed as to its adjusting and recording elements by any weights and measures official; but this section shall not apply to liquid fuel sold in barrels or other containers upon which the quantity in terms of liquid measure is plainly and conspicuously marked. [1937]

Sec. 51:9-6. Measuring quantities over 3,000 gallons.

Deliveries of quantities in excess of three thousand gallons may be measured through a meter or from compartments which have been calibrated and whose indicators have been sealed by any weights and measures official. [1937]

Sec. 51:9-7. Delivery tickets; duplicates; contents; exceptions.

A delivery ticket and duplicate thereof shall be prepared upon the completion of delivery of each sale or delivery of liquid fuel exceeding ten gallons. On each ticket there shall be distinctly and indelibly expressed the date, the name and address of the seller, the name and address of the purchaser, the number of gallons sold or delivered, the grade of liquid fuel, and the signature of the person making such sale or delivery or his agent. One of such tickets shall be given to the purchaser and the other shall be retained by the seller for a period of one year, such retained tickets being subject to inspection by any weights and measures official. Delivery tickets shall be serially numbered. No duplicate or retained ticket shall be destroyed but may be voided and kept on file. The provisions of this section shall not apply to liquid fuel sold to be delivered by the entire railroad tank car or cargo direct from the vessels, boats, or railroad tank cars or bulk tank trucks or compartments thereof containing the same to one destination and consigned to one person and accepted by the purchaser on the original bill of lading or invoice as proof of measurement or weight. [1937]

Sec. 51:9-8. Adjustment, repair or alteration of measuring device; removing meter from tank.

It shall be unlawful after the approval, testing and sealing of any measuring device and equipment used in delivering liquid fuel, to adjust, repair or alter the same or to cause said measuring device and equipment to be adjusted, repaired or altered, unless approval of a weights and measures official is first obtained; and it shall be unlawful to remove any meter from the tank to which it is affixed at the time of testing and sealing to any

Statutes Annotated, Title 51, Ch. 9—Weights and Measures, Liquid Fuel—Continued.

other tank, unless immediate written notification is given to a weights and measures official advising of necessity of alterations or change. [1937]

Sec. 51:9-9. Delivery measured by approved device only; full quantity.

No person shall deliver any liquid fuel without the same having been measured by a measuring device approved, tested and sealed in accordance with the provisions of this chapter [Secs. 51:9-1—51:9-21], nor shall any person sell or deliver less than the quantity represented to be sold and delivered. [1937]

Sec. 51:9-10. Rules and regulations.

The state superintendent of weights and measures shall make such rules and regulations governing the type of all measuring devices and equipment used in the delivery of liquid fuel, and the manner of approval, testing, or calibrating of the same, as he may deem necessary, in order to prevent the perpetration of fraud in the sale of liquid fuel. [1937]

Sec. 51:9-11. Penalties; disposition.

Any person violating any of the provisions of this chapter [Secs. 51:9-1—51:9-21] shall, upon conviction thereof, pay a penalty of not less than twenty-five dollars nor more than fifty dollars, for the first offense, or for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding twenty days; and for a second offense, shall, after conviction, pay a penalty of not less than fifty dollars nor more than one hundred dollars, and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding forty days; and for a third or each subsequent offense, shall, after conviction, pay a penalty of not less than one hundred dollars nor more than two hundred dollars, and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding sixty days.

All penalties collected from persons violating the provisions of this chapter shall be paid by the magistrate receiving the same, when recovered by the state superintendent of weights and measures, or his assistants, to the state treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, into the treasury of the municipality which such officer represents.

It shall be the duty of the municipal attorney of any municipality wherein any violation takes place to assist in the prosecution of the same and to assist in the trial of any appeal, where a complaint is made by a municipal weights and measures official. [1937]

Sec. 51:9-12. Recovery of penalties; issuance of summons or warrant.

A complaint having been made by any weights and measures official in writing, and duly verified, that any person has violated any of the provisions of this chapter [Secs. 51:9-1—51:9-21], which complaint may be made to any magistrate, as defined in section 51:9-1 of this title, any such magistrate may issue either a summons or a warrant directed to any weights and measures official or to any constable or police officer for the appearance or arrest of the person so charged. * * * [1937]

Sec. 51:9-18. Arrest without warrant.

Any constable or police officer, or weights and measures official is hereby authorized to arrest, without warrant, any person violating, in the presence of such constable, or police officer, or weights and measures official any of the provisions of this chapter [Secs. 51:9-1—51:9-21], and to bring the defendant before any magistrate of the county where such offense is committed. The person so offending shall be detained until the officer making such arrest shall make oath, which he shall do declaring that the person under arrest has violated one or more of the provisions of this chapter, and specifying the provision or provisions violated, whereupon said magistrate, shall issue a warrant, and the said magistrate shall proceed to hear or postpone the case. [1937]

[ED. NOTE.—Secs. 51:9-13—51:9-17 and 51:9-19—51:9-21, not included herein, deal primarily with formal procedure of service, hearing, filing of bond, appeal and verification of complaint.]

Statutes Annotated, Title 2, Ch. 149—Baled Hay.

Sec. 2:149-3. Selling under weight; wood allowed per bale; marking requirements; penalty.

Any person who shall sell or offer for sale in this state:

a. Any baled hay or straw with more than ten pounds of wood to a bale weighing two hundred pounds or upwards, or more than five pounds of wood to a bale weighing less than two hundred pounds, without having the gross weight of all hay and straw sold or offered for sale plainly marked on each bale; or

b. Any of such hay or straw so marked, which shall weigh less than such gross weight after deducting ten pounds from each bale for shrinkage—
Shall be guilty of a misdemeanor.¹ [1898]

¹ See Sec. 2:103-6, page 668; punishment for misdemeanor.

Statutes Annotated, Title 4, Ch. 4, Art. 1—Commercial Feeding Stuffs.

Sec. 4:4-1. Definitions.

As used in this article [Secs. 4:4-1—4:4-20]:
“Commercial feeding stuffs” includes all feeding stuffs used for feeding live stock and poultry excepting the following: Whole seeds or grains sold

as such, the unmixed meals made directly from and composed of the entire grains of corn, wheat, rye, barley oats, buckwheat, flaxseed, kafir and milo; whole hays, straws, cottonseed hulls and corn stover when unmixed with other materials; and wet brewers' grains.

"State chemist" means the chemist of the state agricultural experiment station. [1912; last amended 1931.]

Sec. 4:4-2. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed in this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

a. The net weight of the contents of the package, lot or parcel; [1912]

* * * * *

Sec. 4:4-17. Penalties for violations.

Any manufacturer, importer, jobber or other person who shall:

* * * * *

d. Sell, offer or expose for sale or distribute in this state any commercial feeding stuff as defined in section 4:4-1 of this title [Secs. 4:1-1—4:24-38], without complying with the requirements of this article [Secs. 4:4-1—4:4-20];

* * * * *

shall be guilty of a violation of this article, and upon conviction thereof shall pay a penalty of not less than twenty-five nor more than one hundred dollars for the first offense, and not less than one hundred nor more than two hundred dollars for each subsequent offense. [1912; last amended 1938.]

Sec. 4:4-20. Enforcement; rules and regulations.

The state chemist shall enforce the provisions of this article [Secs. 4:4-1—4:4-20] and may prescribe such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this article. [1912; last amended 1916.]

Statutes Annotated, Title 4, Ch. 9, Art. 1—Commercial Fertilizer.

Sec. 4:9-1. Definitions.

As used in this article [Secs. 4:9-1—4:9-15]:

* * * * *

"Commercial fertilizers" include all materials containing nitrogen, phosphoric acid or potash that are sold for a price exceeding five dollars (\$5.00) per ton, except lime, limestone, marl, plaster, peat

and peat muck in their natural or cultivated state without the addition of chemical fertilizers, and the excrements and litter from domestic animals when sold in their natural state.

* * * * *

"Fertilizer" means commercial fertilizer.

* * * * *

"Package" includes sacks, bags and all other receptacles.

* * * * *

"State chemist" means the chemist of the New Jersey agricultural experiment station, such chemist being under the general supervision of the director of the experiment station. [1912; last amended 1940.]

Sec. 4:9-2. Marking requirements.

A person before selling or offering for sale any commercial fertilizer, in this state shall brand or attach to each bag, barrel or package in a conspicuous place on the outside thereof a plainly printed statement giving the following particulars and no others:

a. The number of pounds of fertilizer contained in the package,

* * * * *

If distributed in bulk, a written or printed statement of the information required in this section shall accompany delivery and be supplied to the purchaser. [1912; last amended 1949.]

Sec. 4:9-13. Penalties for violations.

A person who:

* * * * *

d. Having sold any quantity of a commercial fertilizer:

* * * * *

2. Shall render a false statement;

* * * * *

e. Shall violate any of the provisions of this article [Secs. 4:9-1—4:9-15]—

Shall be liable to a penalty of one hundred dollars for the first offense and not less than one hundred nor more than one thousand dollars for each subsequent offense, to be sued for and recovered by and in the name of the director of the experiment station * * *.

In case a defendant shall after conviction of any violation of this article be again convicted and shall fail to pay forthwith the amount of the penalty imposed, the court shall commit him to jail in the manner above set forth for any number of days not exceeding two hundred. [1912; last amended 1938.]

Statutes Annotated, Title 4, Ch. 9, Art. 1—Commercial Fertilizer—Continued.

Sec. 4:9-14. Construction of act in relation to farmers, manufacturers and experiment station.

Nothing in this article [Secs. 4:9-1—4:9-15] shall prevent a farmer from mixing fertilizer materials for his own use which have been sold under the provisions of this article, or prevent manufacturers who have complied with sections 4:9-2 * * * from having in stock raw or manufactured materials, or prevent the experiment station or any person deputized by it from making experiments with agricultural chemicals for the advancement of the science of agriculture. [1912; last amended 1932.]

Sec. 4:9-15. Rules and regulations.

The state chemist may establish such rules and regulations, in regard to the inspection, analysis and sale of commercial fertilizer as shall not be inconsistent with the provisions of this article [Secs. 4:9-1—4:9-15], and, in his judgment, shall best carry out the requirements thereof. [1912]

Statutes Annotated, Title 4, Ch. 9, Art. 2—Agricultural Lime.

Sec. 4:9-16. Definitions.

As used in this article [Secs. 4:9-16—4:9-21]: "Agricultural lime" includes all the various forms of lime used for agricultural purposes. "State chemist" means the chemist of the New Jersey agricultural experiment station. [1913]

Sec. 4:9-17. Marking requirements.

No agricultural lime shall be sold or offered for sale in this state without a plainly printed statement attached to each package, or if it is sold or offered for sale in bulk the statement accompanying the shipment, giving the following information:

a. The number of pounds of agricultural lime contained in each package. If the shipment is in bulk, the number of pounds in the shipment; [1913]

* * * * *

Sec. 4:9-19. Right of entry.

The state chemist, or his deputy may enter upon any premises where agricultural lime is sold or offered for sale to ascertain whether the provisions of this article [Secs. 4:9-16—4:9-21] are complied with and to take samples for analysis. [1913]

Sec. 4:9-21. Penalty for obstructing state chemist.

A manufacturer or person * * * who shall oppose the state chemist, or his deputy, in the discharge of his duty shall be guilty of a misdemeanor.¹ [1913]

¹ See Sec. 2:103-6, page 668; punishment for misdemeanor.

Statutes Annotated, Title 4, Ch. 9, Art. 4—Unmanufactured Horse Manure.

Sec. 4:9-29. Sale or delivery unadulterated.

Whenever unmanufactured horse manure is furnished, sold, or delivered in this State, such manure shall be only the natural product as the same is produced by horses in the stable, together with the straw bedding, without the intentional addition of water, any other manure, or any other foreign substance whatsoever. [1944]

Sec. 4:9-30. When deemed adulterated.

For the purposes of this act [Secs. 4:9-29—4:9-37], unmanufactured horse manure shall be deemed to be adulterated if it contains any water, intentionally or deliberately added, or if any other manure, or any other foreign substance is intentionally mixed therewith, whether such added water, manure, or other substance is added thereto, or becomes a part thereof, by permitting water or any other substance to flow or seep into, or otherwise become a part of such unmanufactured horse manure while standing in a manure pit or any other place. [1944]

Sec. 4:9-31. Sale of adulterated manure prohibited.

No person, copartnership, association, or corporation shall furnish, sell or offer for sale, or deliver in this State any unmanufactured horse manure that is adulterated as defined in this act [Secs. 4:9-29—4:9-37]. [1944]

Sec. 4:9-32. Representation on sale or delivery.

No person, copartnership, association, or corporation in connection with any sale, furnishing, or delivery of manure, shall represent the same as being unmanufactured horse manure if such manure is adulterated within the meaning of this act [Secs. 4:9-29—4:9-37]. [1944]

Sec. 4:9-33. Sale by weight; adulteration unlawful.

Whenever any unmanufactured horse manure is or has been sold by weight, and the price to be paid therefor is to be fixed by weighing the same at any point within this State, it is unlawful for any person, copartnership, association, or corporation to deliver for weighing, or to cause or permit to be weighed, any unmanufactured horse manure to which has been added, intentionally, any water, any other manure, or any other substance whatsoever, which increases the weight of such unmanufactured horse manure. [1944]

Sec. 4:9-34. Importation of adulterated manure prohibited.

No person, copartnership, association, or corporation shall import or bring into this State any manure for the purpose of sale or delivery in this state, which manure is adulterated within the meaning of this act [Secs. 4:9-29—4:9-37]. [1944]

Sec. 4:9-35. Penalties for violations.

Any person, copartnership, association, or corporation who or which by himself or itself, or by his or its agents, servants, or employees, violates any of the provisions of this act [Secs. 4:9-29-4:9-37] shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000.00), or in the case of an individual, or the members of a partnership, or the responsible officers of an association or corporation to undergo imprisonment not exceeding six months, or both. [1944]

Sec. 4:9-36. Enforcement of law by department of weights and measures; disposition of fines and penalties.

It shall be the duty of the Department of Weights and Measures to enforce the provisions of this act [Secs. 4:9-29-4:9-37], * * * [1944]

Statutes Annotated, Title 4, Ch. 10—Receptacles for Farm Products.

Sec. 4:10-1. Definitions.

As used in this chapter [Secs. 4:10-1-4:10-25]: "Department" means the department of agriculture.

"Secretary" means the secretary of agriculture. "Farm products" means any agricultural, dairy, poultry or horticultural product, or any product designed for food purposes, manufactured, derived or prepared principally from any agricultural, dairy, poultry or horticultural product or products; and * * * includes any fresh or salt water food product. [1921; last amended 1932.]

Sec. 4:10-3. Establishment of standards.

The department of agriculture may, from time to time, establish and promulgate standards that may be used by producers and distributors under the provisions of this chapter [Secs. 4:10-1-4:10-25] for the grading and other classification of farm products, and in cooperation with the department of weights and measures establish and promulgate standards for receptacles for farm products. [1921; last amended 1923.]

Sec. 4:10-13. Regulations.

The secretary may make and promulgate such regulations as may be necessary to carry out the provisions of this chapter [Secs. 4:10-1-4:10-25]. [1921]

Sec. 4:10-14. Penalties for violations.

A person who shall:

a. Violate any provision of this chapter [Secs. 4:10-1-4:10-25] or the regulations made under this chapter for carrying out such provision;

* * * * *

Shall for the first offense be liable to a penalty of not more than fifty dollars and for any subsequent offense be liable to a penalty of not more

than one hundred dollars, to be sued for and recovered in an action at law by and in the name of the secretary; * * * The penalty when recovered shall be paid into the state treasury. [1921; last amended 1928.]

Statutes Annotated, Title 4, Ch. 11, Art. 3—Poultry.

Sec. 4:11-35. Definitions.

As used in this act [Secs. 4:11-35-4:11-49]:

(a) "Dealer" means any person engaged in the business of buying or receiving any live poultry from poultry raisers for the purpose of sale, resale or manufacture.

(b) "Broker" means any person engaged in the business of soliciting or negotiating the sale or exchange of live poultry on behalf of poultry raisers.

(c) "Agent" means any person buying, receiving, soliciting or negotiating the sale of live poultry from poultry raisers on behalf of any dealer or broker.

(d) "Department" means the State Department of Weights and Measures.

(e) "Weights and Measures officer" means the State Superintendent of Weights and Measures or his assistants or inspectors, county superintendents of weights and measures or their assistants or inspectors, and municipal superintendents of weights and measures or their assistants and inspectors.

(f) "Person" means any individual, association, firm, partnership or corporation.

(g) "Poultry" means domestic fowl, such as chickens, turkeys, ducks, geese and guineas not sold for show or breeding purposes.

(h) "Poultry raiser" means any person engaged in the business of raising poultry or any legally incorporated agricultural cooperative association. [1942]

Sec. 4:11-36. Purchase by weight required; scales.

All live poultry shall be bought by avoirdupois net weight and it shall be unlawful for any person to buy or receive or cause to be bought or received for the purpose of resale or manufacture, as dealer, broker, agent or otherwise, any poultry unless the same is weighed on suitable scales which have been tested and sealed by an authorized weights and measures officer; and the purchase of live poultry by the lot, the pen or by the flock is prohibited under the terms of this act [Secs. 4:11-35-4:11-49]; *provided, however*, that where special circumstances exist and are shown, the State superintendent or a county or municipal superintendent may, upon request, give approval to a sale of live poultry by the lot, pen or flock and such sale shall not come within the provisions of this act. [1942]

Sec. 4:11-37. Weight tickets.

It shall be unlawful for any person to buy or receive or cause to be bought or received, as dealer,

Statutes Annotated, Title 4, Ch. 11, Art. 3—Poultry
—Continued.

broker or agent, any live poultry unless at the time of purchase the seller or poultry raiser is given a weight ticket on a form to be furnished by the buyer on which is distinctly expressed the name and address of the buyer or dealer, the quantity of the poultry in terms of avoirdupois net weight, the number of units of the poultry, and where crates or other containers are used in connection with the purchase of said poultry, the number of crates and containers so used, together with the tare weight of such crates or containers; where a broker or agent is a party to or negotiates the sale or receipt of poultry his name and address shall also be distinctively expressed on the ticket. The ticket shall be made out in duplicate, one copy to be given to the seller or poultry raiser and the other to be retained by the buyer for a period of one year during which period it shall be subject at any time to inspection by a duly authorized weights and measures officer. [1942]

Sec. 4:11-38. Necessity of license.

It shall be unlawful for any person to engage in business as dealer or broker or act as agent for a dealer or broker unless licensed as provided in this act [Secs. 4:11-35—4:11-49]. * * * [1942]

Sec. 4:11-39. Application for license; vehicle license plates and certificate of issuance.

Application for a license shall be made upon a form to be supplied by the superintendent of the department * * *

Every vehicle used in the business of the licensee for the transportation of live poultry shall bear a license plate. The superintendent shall issue such plate upon application therefor together with a certificate of issuance thereof, upon the payment of one dollar (\$1.00) for each vehicle owned and used by a licensee, in excess of one vehicle, and said certificate shall contain the name and address of the owner of the vehicle, together with a description of the character of the vehicle and the motor number. The holder of such certificate or the operator of such vehicle shall exhibit such certificate whenever requested to do so by a weights and measures officer, and it shall be unlawful to use or operate any such vehicle without such license plate being securely and conspicuously attached thereto and unless such certificate of issuance shall be carried at all times on the vehicle to which it applies. No such license plate shall be interchangeable or transferable. Every license plate and the certificate of issuance thereof shall expire and become void on the thirty-first day of December of each year.

No license plate shall be issued to any person for a vehicle not owned by him; *provided, however,*

that liens or encumbrances on any vehicle shall not be deemed to deprive the owner of a right to a license plate for such vehicle. [1942]

Sec. 4:11-40. Card to be carried by licensee.

In addition to the license, the superintendent of the department shall deliver to each licensee a pocket card of such size as shall be designated by the said superintendent of the department, which card shall contain the name and address of the licensee, and, in case of an agent's license, the name and address of the employer of the licensed agent, and such other information as the superintendent of the department shall prescribe. The card shall certify that the person whose name appears thereon has been duly licensed as a dealer, broker or agent, as the case may be. The licensee shall carry such card at all times when buying, receiving, exchanging, transporting or soliciting or negotiating the sale of poultry. [1942]

Sec. 4:11-41. Investigations; grounds for refusing or revoking license.

The superintendent of the department may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any dealer, broker or agent, or any person who assumes to act in such capacity within this State; and the superintendent may refuse to grant or may revoke a license for the following causes:

* * * * *

(b) Where inaccurate or false weights are given;

(c) Failure to keep records required by the superintendent or by law or when there has been a failure to produce such records and other documents when called upon to do so by the superintendent;

(d) Continued failure to comply with the provisions of this act [Secs. 4:11-35—4:11-49] or for any dishonest, deceptive or fraudulent practice. [1942]

Sec. 4:11-44. Enforcement; rules and regulations.

The superintendent of the department shall have general supervision of the administration of this act [Secs. 4:11-35—4:11-49] and shall make such rules and regulations as he may deem necessary for its enforcement and all weights and measures officers in this State, in addition to their various powers and duties now provided for by law, are hereby charged with the duty of enforcing and executing the provisions of this act. [1942]

Sec. 4:11-45. Weight tickets for crates being transported; tags on crates; removal of poultry in transit.

Where crates or other containers containing live poultry as originally purchased by the buyer are transferred from one vehicle to another for the purpose of transportation, the weight ticket covering each crate or container so transferred shall ac-

company the same; each crate or container shall be marked by means of a tag firmly fixed or attached thereto with the name and address of the person from whom the poultry in such crate or container was bought.

It shall be unlawful for any dealer, broker or agent of such dealer or broker to transfer or cause the transfer of poultry from one crate or container to another before returning to a warehouse, established place of business or distribution point; *provided, however*, if part of the live poultry is sold before returning to any of the said locations it shall be lawful if at the time of sale, a sales slip or ticket is made out, in duplicate, showing his name and address, the name and address of the person to whom the poultry is sold, the number of units of poultry and the avoirdupois net weight of the same, together with identification of the crate or container from which the poultry was taken. The original copy of the sales ticket shall be given to the person buying the said poultry and the duplicate copy shall be retained by the seller for a period of one year and shall be subject at all times to inspection by a duly authorized weights and measures officer. [1942]

Sec. 4:11-46. Exceptions.

The provisions of this act [Secs. 4:11-35-4:11-49] shall not apply to any legally incorporated agricultural cooperative association in dealings with its members, nor to storekeepers having not more than two stores where poultry is bought in small quantities and foods of all kinds are sold at retail, nor to any hotel, restaurant or establishment where poultry is bought for consumption on the premises. [1942]

Sec. 4:11-47. Fines; jurisdiction; process; arrest.

Any person who violates any of the provisions of this act [Secs. 4:11-35-4:11-49], upon being found guilty, shall pay a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for the first offense, nor less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the second offense, and not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for the third or subsequent offense; if unable to forthwith pay any fine the violator shall be committed to the county jail for a period not exceeding ninety days. The procedure for the recovery of any fine shall be the same as the procedure specified in sections 51:1-103 to 51:1-108 of the Revised Statutes. Jurisdiction of all cases arising out of violations of the provisions of this act is hereby conferred upon all justices of the peace, judges of the city criminal courts, police judges and recorders located in the county in which such violations are committed. In any proceeding process shall be the same as that provided for in said sections 51:1-103 to 51:1-108,

and any weights and measures officer shall have the power to arrest any violator without warrant where there is a violation within his view and conduct him to a court having jurisdiction in the municipality where the arrest is made or the violation committed. [1942]

Sec. 4:11-48. Issuing agents; disposition of moneys collected.

The superintendent of the department shall designate county and municipal superintendents of weights and measures as issuing agents through whom the licenses, license plates and certificates provided for in this act [Secs. 4:11-35-4:11-49] may be issued to applicants in their respective counties and municipalities. All moneys collected by the said county or municipal superintendents shall be transmitted to the State superintendent, on or before the twenty-fifth day of the month following the date of issue. The moneys shall thereupon be turned over to the State Treasurer who shall make distribution thereof on the dates and in the manner provided for in section 51:8-13 of the Revised Statutes. [1942]

Statutes Annotated, Title 4, Ch. 12, Art. 2—Milk and Cream.

Sec. 4:12-41.2. Test glassware; inspection charge; markings; methods; approval of installation of laboratory equipment.

No person, nor any employee of such person, shall use in the determination of the butter fat content of milk or cream any test glassware, or centrifuges except such as conform to the requirements of the United States Bureau of Standards and which have been inspected, tested and approved by the director [director of New Jersey agricultural experiment station.¹]. For each inspection the director shall have the right to make a reasonable charge, not in excess of five cents (\$0.05) per item. Every piece of test glassware inspected by the director and found to be correct shall be marked by the director with the letters "S. G. N. J." (Standard Glassware New Jersey) and promptly returned to the owner or disposed of as directed, and the use of such glassware not bearing the letters "S. G. N. J." shall constitute a violation of this act [Secs. 4:12-41.1-4:12-41.24]. No method other than the "Babcock" test or the "Gerber" test shall be used in determining the butter fat percentage of milk or cream until such test has been approved by the director. Every installation of laboratory equipment to be used in determining the butter fat content of milk or cream shall be inspected and approved by the director. The use of an unapproved installation is a violation of this act. [1943]

¹ Now Secretary of Agriculture. See Sec. 4:12-41.25, page 667; powers and duties of Director transferred to Secretary of Agriculture.

Statutes Annotated, Title 4, Ch. 12, Art. 2—Milk and Cream—Continued.

Sec. 4:12-41.5. Persons weighing, approval of; record; duplicate statements and records.

No sample of milk or cream taken for the purpose of making a butter fat test, and no weight or measure of milk or cream to be used as a basis of payment under the provisions of this act [Secs. 4:12-41.1—4:12-41.24] shall be taken by any person nor any employee of such person who has not first been approved by the director¹ to be competent to weigh and sample milk and cream. Immediately after the milk or cream has been measured a record shall be made showing the date, the producer's name or number, and the weight or volume of milk or cream received, and such record shall be available to the director at all reasonable times and each producer of said milk or cream shall upon request within twenty-four hours following each daily delivery be furnished a duplicate statement giving the date and the weight or volume of milk or cream delivered, and in addition the person receiving the milk shall furnish to each producer a record of the daily weight or volume of milk or cream received and the test thereof for each period of delivery. Such period of delivery shall not exceed sixteen days and the statement required to be furnished to producers shall be furnished within six days after the end of such period of delivery. If in the opinion of the director it will effectuate the purpose of this act he may require an individual licensee to furnish each producer with a duplicate record of the weight or volume of milk or cream received immediately following each delivery of such milk or cream. [1943]

¹ See footnote following Sec. 4:12-41.2, page 665.

Sec. 4:12-41.9. Type of weigh tank or container.

No person receiving or purchasing milk or cream on the basis of its butter fat content shall use a weigh tank or container from which the butter fat sample is taken, that has any partition, division or strainer which may divide, in any way either vertically or horizontally, into more than one section or compartment the volume of milk or cream from which such sample is taken. The contents of such weigh tank or container shall be agitated prior to sampling in a manner approved by the director¹ to insure the taking of an accurate and representative sample. [1943]

¹ See footnote following Sec. 4:12-41.2, page 665.

Sec. 4:12-41.11. Underreading, overreading or manipulating test; falsifying records.

No person, nor any employee of such person, shall underread, overread or in any way manipulate any approved butter fat test so that other than the true butter fat percentage is obtained; and it shall also be unlawful for any person or any em-

ployee of such person to falsify the record of any such butter fat test. [1943]

Sec. 4:12-41.12. Underreading, overreading or manipulating weighing or measuring device; falsifying records.

No person, nor any employee of such person, shall underread, overread or in any way manipulate any weighing or measuring device so that other than the true weight or measure of the milk or cream purchased is obtained; and it shall also be unlawful for any person, or any employee of such person to falsify the record of any such weight or measure. [1943]

Sec. 4:12-41.13. Correct weights, measures and test required.

No person purchasing milk or cream on the basis of its butter fat content shall use any weight, measure or butter fat test thereof other than the correct weight, measure, or butter fat test; nor shall such person have in his possession any inaccurate, defective or untrue weighing or measuring device; nor shall any such person make any misrepresentation as to any weight, measure or test. If investigation discloses tampering with samples taken for butter fat testing, the license of the sampler or tester charged with the proper care of such samples shall immediately be revoked or suspended by the director.¹ [1943]

¹ See footnote following Sec. 4:12-41.2, page 665.

Sec. 4:12-41.15. Rules and regulations.

The director¹ is hereby empowered to promulgate such rules and regulations not inconsistent with the provisions of this act [Secs. 4:12-41.1—4:12-41.24] as he may deem necessary for its enforcement. [1943]

¹ See footnote following Sec. 4:12-41.2, page 665.

Sec. 4:12-41.19. Penalties for violations.

Any employee of any person buying milk or cream on the basis of the amount of butter fat contained therein, or any person testing milk or cream for percentage of butter fat violating any of the provisions of this act [Secs. 4:12-41.1—4:12-41.24], upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) or more than five hundred dollars (\$500.00) or be imprisoned in the county jail for not less than ten days or more than ninety days. Any person buying or paying for milk or cream on the basis of the butter fat contained therein, violating any provisions of this act, upon conviction thereof shall be fined in the sum of one hundred dollars (\$100.00) or be imprisoned in the county jail for not less than ten nor more than ninety days for the first offense and in the sum of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or be imprisoned in the county jail for not less than sixty days nor more than six months for each subsequent offense. [1943]

Sec. 4:12-41.25. Powers and duties of director of New Jersey Agricultural Experiment Station transferred to Department of Agriculture.

The functions, powers and duties charged to the director of the New Jersey Agricultural Experiment Station by "An act concerning the purchasing, buying or receiving of milk or cream on the basis of the butter fat content thereof; regulating the testing, sampling and weighing of the same; requiring permits and licenses and the keeping of records in connection therewith, defining the powers and duties of the director of the New Jersey Agricultural Experiment Station; providing penalties for violation of the provisions thereof, supplementing Title 4 of the Revised Statutes, and repealing article two of chapter twelve of Title 4 of the Revised Statutes," approved April seventh, one thousand nine hundred and forty-three (P.L. 1943, c. 100),¹ all appropriations made or to be made available to him and the personnel employed by him in the performance of such functions, powers and duties are transferred to the Department of Agriculture and shall be exercised by the Secretary of Agriculture. [1948]

¹ Sections 4:12-41.1 to 4:12-41.24.

Statutes Annotated, Title 24, Ch. 10, Art. 12—Goat's Milk.

Sec. 24:10-128. Containers for retail sales.

No milk shall be shipped or sold * * * (4) unless sold (as to retail sales) in standard half pint, pint and quart containers * * *. [1938]

Sec. 24:10-129. Containers for wholesale or quantity sales; retail sales.

Cans for wholesale or quantity sale of goat milk may be the standard ten gallon cans prescribed by law for cow milk or may be of similar type of one, three or five gallon capacity. Retail or small quantity sales may be made in glass bottles or in sound, durable, single use wood pulp containers. [1938]

Sec. 24:10-133. State board of health to approve rules and regulations of municipalities or any board.

No municipality or any board or other authority thereunder shall adopt or enact any rule, regulation or ordinance with respect to the production, handling or sale of goat milk without first submitting such matter, in the form prepared for passage, to the State Board of Health and receiving its written approval. [1938]

Sec. 24:10-135. Penalties for violations.

Any person violating any of the provisions of this act [Secs. 24:10-104—24:10-136] shall be liable to a penalty of not less than twenty-five dollars (\$25.00) for the first offense and fifty dollars (\$50.00) for any subsequent offense, which penalty shall be recovered in an action of debt in the name of the Department of Health of the State of New

Jersey or other body exercising the powers thereof, as the case may be. * * * [1938]

Statutes Annotated, Title 24, Ch. 18—"Uniform Narcotic Drug Law."

Sec. 24:18-10. Enforcement.

It is hereby made the duty of the state department of health, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of all county prosecutors, to enforce all provisions of this chapter [Secs. 24:18-1 to 24:18-49], except those specifically delegated, and to co-operate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1933]

Sec. 24:18-34. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. [1933]

* * * * *

Sec. 24:18-47. Penalty for violations.

Any person * * * violating any of the provisions hereof shall be guilty of a high misdemeanor.¹

¹ See Sec. 2:103-5, page 668; punishment for high misdemeanor.

Statutes Annotated, Title 48, Ch. 2, Art. 2—Public Utilities.

Sec. 48:2-20. Testing appliances; fees.

The board [board of public utility commissioners] may:

a. Provide for the examination and test of any and all appliances used for the measuring of any product or service [gas, electricity, water, etc.] of a public utility;

b. By its agents, experts or examiners, enter upon any premises occupied by a public utility for the purpose of making the examinations and tests provided for in this chapter [Secs. 48:2-1—48:2-52] and to set up and use on such premises any apparatus and appliances necessary therefor;

c. Fix the fees to be paid by any consumer or user of any product or service of a public utility who may apply to the board for such examination or test to be made. Any consumer or user may have any such appliance tested upon the payment of the fees fixed by the board. If the appliance be found defective or incorrect to the disadvantage of the consumer or user such fees shall be repaid to him by the public utility. [1911]

Statutes Annotated, Title 48, Ch. 2, Art. 2—Public Utilities—Continued.

Sec. 48:2-25. Rules and regulations; standards; meters.

The board [board of public utility commissioners] may, after hearing, by order in writing:

a. Fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed, and followed thereafter by any public utility;

b. * * * prescribe reasonable regulations for examination and test of the product or service and for the measurement thereof;

c. Establish reasonable rules, regulations, specifications and standards, to secure the accuracy of all meters and appliances for measurements. [1911]

Statutes Annotated, Title 2, Ch. 103—Misdemeanors.

Sec. 2:103-5. High misdemeanors; punishment when not otherwise prescribed.

Any person found guilty of any crime which by any statute is declared to be a high misdemeanor, and for which no punishment is specifically provided, shall be punished by a fine not exceeding two thousand dollars, or by imprisonment, with or without hard labor, as the court may direct, for a term not exceeding seven years, or both. [1898]

Sec. 2:103-6. Misdemeanors; punishment when not otherwise prescribed.

Any person found guilty of any crime which by any statute is declared to be a misdemeanor, and

for which no punishment is specifically provided, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment, with or without hard labor, as the court may direct, for a term not exceeding three years, or both. [1898]

Statutes Annotated, Title 2, Ch. 107—False Advertising.

Sec. 2:107-1. Unlawful acts; penalty.

Any person who, with intent to sell or otherwise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or to acquire title thereto, or an interest therein, shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding the merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and punished by a fine not exceeding one thousand dollars, or imprisonment in the county jail for a period not exceeding one year, or both. [1913]

NEW MEXICO

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Weights and Measures.

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sures adopted.

All the weights and measures accepted and used
by the government of the United States at the
present time, except as herein provided, shall be
deemed the lawful standard weights and measures
of the people of this state. [1913]

Sec. 78-102. Same: Yard substituted for vara.

The vara measure is suppressed, substituting in
lieu thereof as the legal measure in this state, the
yard, this being the measure generally approved in
the United States. [1866-67]

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Sec. 78-103. Same: Secretary of state to be custodian.

The secretary of state shall procure and keep
in his office the following standards of weights,
which shall conform in every particular to the
United States standards of weights: One fifty [50]
pound weight, one twenty-five [25] pound weight,
one ten [10] pound weight, one five [5] pound
weight, one one [1] pound weight, one one-half
[1/2] pound weight, one one-quarter [1/4] pound
weight, one one-eighth [1/8] pound weight, one
one-sixteenth [1/16] pound or one ounce weight,
one set of apothecaries weights from one [1]
pound to one [1] grain, which weights are hereby
declared to be the legal standards of weights for
this state. Said secretary of state shall be charged

Pounds per bushel

Timothy seed	45
Tomatoes	50
Turnips	56
Wheat	60

[1913]

with the custody and be accountable to the state for the proper use and care of the same. Such standards shall be used only for testing the standards provided for in this chapter [Secs. 78-101-78-314]. [1866-67]

Sec. 78-104. Same: Duplicates to counties.

The secretary of state shall procure, test, and deliver to each county duplicates of said standard weights. [1913]

Sec. 78-105. Same: Commodity bushel weights.

Whenever the articles hereinafter named shall be sold by the bushel, and no special contract or agreement shall be made to the contrary, the bushel shall consist of the following number of pounds, viz.:

	Pounds per bushel
Alfalfa seed	60
Apples	45
Apples, dried	24
Barley	48
Beans	60
Beets	56
Bermuda grass seed	40
Blue grass seed	14
Bran	20
Buckwheat	52
Carrots	50
Castor beans	46
Cement	80
Charcoal	20
Clover seed	60
Coal, mineral	80
Coke	40
Corn in the cob	70
Corn in the ear, unhusked	72
Corn meal	50
Corn, shelled	56
Cotton seed	32
Cucumbers	48
Flax seed	56
Hemp seed	44
Hungarian grass seed	50
Indian corn	56
Kaffir corn	56
Lime, unslacked	80
Millet seed	50
Oats	32
Onions	57
Onion bottom sets	32
Onion top sets	30
Orchard grass seed	14
Parsnips	42
Peaches	48
Peaches, dried	33
Peanuts	22
Pears	48
Peas	60
Pop corn in the ear	70
Pop corn, shelled	56
Potatoes	60
Potatoes, sweet	50
Quinces	48
Rape	50
Rutabagas	50
Rye	56
Sand	130
Sorghum seed	50

Sec. 78-106. Same: Mason work measure.

A perch of mason work, or stone, is hereby declared to consist of sixteen and one-half [16½] feet cubic measure. [1913]

Sec. 78-107. Same: Ton; short weight; penalty.

When any commodity is sold by the ton, unless otherwise agreed upon, a ton shall consist of two thousand (2,000) pounds.

Whoever shall sell or deliver a less quantity than prescribed in section 5836 [Sec. 78-108] for a ton shall be deemed guilty of a misdemeanor.¹ [1913]

¹ See Sec. 41-106, page 687; punishment for misdemeanor.

Sec. 78-108. Same: Ton of hay.

Unless otherwise agreed upon, a ton of hay, when sold by weight, shall consist of two thousand (2,000) pounds; or, when sold by measurement, when loose upon a wagon or freshly stacked, five hundred twelve (512) cubic feet; when stacked thirty [30] days and less than sixty [60] days four hundred twenty-two (422) cubic feet; and when stacked over sixty [60] days three hundred and eighty (380) cubic feet. [1913]

Sec. 78-109. Measurement of loose hay in stack.

The following rule and method of measuring loose hay in the stack, and specifying the cubical contents of a ton of loose hay, is hereby established. [1901]

Sec. 78-110. Same: Method of measurement; computation of tonnage.

Measure the stack for length, width, and the "over," to get the "over," throw a tape line over the stack at an average place, from ground to ground, drawing it tightly.

Multiply the width by the over and divide this result by four [4].

Multiply result of division by the length, for approximate cubical contents of stack.

To reduce to tons, for hay that has stood in stack less than 20 [30] days, divide cubical contents by 512, for more than 20 [30] and less than 60 days divide cubical contents by 422, for more than sixty days divide cubical contents by 380.

Example. Stack measures 17 feet wide, 58 feet wide, 58 feet long, 36 feet over. Stack has stood 15 days.

Multiply 17 by 36 equals 612.

Divide 612 by 4 equals 153.

Multiply 153 by length 58 equals 8,874 which gives the cubical contents in feet.

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Weights and Measures—Continued.

Divide 8,874 by 512 equals 17 3/10 tons in stack.
[1901]

[ED. NOTE.—In New Mexico Statutes Annotated, following the foregoing section, it is stated: "The bracketed numbers '30' were inserted by the compiler to conform to Sec. 78-108 which is a later enactment, although both were included as they are in the 1915 Code."]

Sec. 78-111. Baled hay or straw to be sold by weight; short weight; penalty.

Hay and straw sold in bundles or bales shall be sold by weight, and any person who shall charge or receive pay for a greater number of pounds than is contained in any such bundle or bale at the time of delivery thereof shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). [1913]

Sec. 78-112. Adding extraneous matter to increase weight; penalty.

Every person selling any hops, cotton, hay or other goods sold in bags, bales, boxes, barrels or packages, by weight, who puts into or conceals therein anything whatever for the purpose of increasing the weight or adulterating the contents of such bag, bale, box, barrel or package, is punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each such offense. [1913]

Sec. 78-113. Commodity gallon weight; short measure; penalty; test samples of gasoline.

Whenever any of the following named articles shall be sold or delivered by wholesale or in the original package within the state of New Mexico, unless otherwise provided by contract, such sale and all computations for payment and settlement therefor shall be by weight. The weight per gallon shall be not less than as follows:

Naphtha -----	61/3	pounds
Kerosene oil -----	61/2	"
Paraffine oil -----	71/2	"
Castor oil -----	8	"
Olive oil -----	75/8	"
Linseed oil, raw -----	71/2	"
Linseed oil, boiled -----	71/2	"
Menhaden oil -----	71/2	"
Cod liver oil -----	71/2	"
Whale oil -----	71/2	"
Lard oil -----	71/2	"
Neat's foot oil -----	71/2	"
Sperm oil -----	71/4	"
Turpentine -----	7	"
Miner's oil -----	71/2	"
Gasoline -----	61/25	"

Whoever in selling by retail or wholesale any of the said articles shall sell or deliver any less number of pounds to the gallon than is prescribed in this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) and not more than five

hundred dollars (\$500.00) for each offense, and shall be liable to the injured party in double the amount of the damages sustained to be recovered in any court of competent jurisdiction.

The public weighmaster of each county shall procure by purchase, in the open market of his county, once each year, a sample of gasoline, not less than four [4] ounces, which he shall immediately transmit to one of the public inspectors. The expense of the purchase and transmission of said samples shall be paid by the county wherein they are procured. [1913]

Sec. 78-114. Dry measure.

All dry commodities not otherwise specified in this chapter [Sec. 78-101—78-314] shall be sold only by standard dry measure, standard weight, or numerical count, except where parties otherwise agree. [1913]

Sec. 78-115. Apple and pear boxes; size.

The standard size of an apple box shall be eighteen (18) inches long, eleven and one-half (11½) inches wide, ten and one-half (10½) inches deep, inside measurement.

The standard size of a pear box shall be eighteen (18) inches long, eleven and one-half (11½) inches wide, and eight (8) inches deep, inside measurement. [1913]

Sec. 78-116. Containers for small berries and fruits; label.

Berries and small fruits whenever sold in boxes shall be sold in boxes each containing a standard liquid quart or liquid pint, and, if any such box contains less than this quantity, the information must be given to the purchaser by such package being labeled with a statement of the net contents. [1913]

Sec. 78-117. Milk containers; liquid commodities.

All milk or cream that shall be sold in bottles shall be sold only in bottles containing quarter pints, half pints, pints, quarts, half-gallons or gallons. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. [1913]

Sec. 78-118. Butter containers.

A print or package of butter shall contain sixteen [16] ounces avoirdupois, and when a print or package of butter containing less than sixteen [16] ounces avoirdupois shall be sold, its net weight shall be disclosed by the seller to the buyer, by such package being labeled with a statement of the net weight. [1913]

Sec. 78-119. Penalty for violating five preceding sections.

Any violation of the five preceding sections shall be deemed a misdemeanor, and upon conviction shall subject any such offender to a fine not less than ten dollars (\$10.00) nor more than one hundred

dollars (\$100.00) for each offense, or by imprisonment of not less than thirty [30] days nor more than ninety [90] days or both such fine and imprisonment. [1913]

Sec. 78-120. Mill products: Marking requirements; violations; penalty.

The correct name and true weight of the contents of each and every barrel, sack, bale, cask, box or package of any and all mill products, whether sold in single packages or lots, shall be plainly marked, branded or stenciled in letters and figures not less than one [1] inch in length and not less than one-sixteenth [1/16] of an inch in width, upon the exterior of such barrel, box, sack, bale, cask or package, in a conspicuous place on the head in case of barrel, and the front or branded side in case of sacks, bales, boxes or packages, and it shall be unlawful for any person, to sell or exchange any such product so packed or contained until the provisions hereof have been complied with.

If any person shall violate the provisions of this section, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), and each violation shall be deemed a separate offense. [1913]

Sec. 78-121. Loaves of bread: Standard weight; tolerances; defense to violation; label.

Loaves of bread offered for sale or sold within this state, shall be of the following standard weights and no other, namely: A loaf weighing one [1] pound and a loaf weighing one and one-half [1½] pounds, and/or some multiple thereof. These shall be the standard weights for loaves of bread offered for sale or sold by the loaf, and such bread shall not be offered for sale or sold of other weights. Allowable tolerances and variations shall not exceed one-half ounce per pound over or one-half ounce per pound, per loaf, under the standard unit weight. Any person charged with a violation of this act [Secs. 78-121-78-123] may demand that the officers serving the warrant upon him shall immediately weigh a dozen or more loaves of fresh bread in the possession of defendant, and if their aggregate weight equals the total of the indicated weight on such loaves, such fact shall be a defense to the alleged violations. Each and every loaf of bread offered for sale or sold shall have affixed thereon, in a conspicuous place, a label upon which shall be plainly and distinctly printed the weight of the loaf stated in pounds or fractions of pounds, or both, as the case may be, together with the business name of the baker or manufacturer. In case of wrapped bread, such information shall be stated upon the wrapper of each loaf in a conspicuous position unobscured by the folds of the wrapper; in the case of unwrapped bread said information shall be stated upon a label no larger than one

[1] by one and one-half [1½] inches in size and not smaller than one [1] inch by three-quarters [¾] of an inch and such label affixed to an unwrapped loaf shall not be affixed in any manner or with any gums or paste which are unsanitary or unwholesome. The weight declaration of the loaf shall be printed on clear, plain background of a distinctly contrasting color in uncondensed Gothic capital letters of not less than ten [10] point size. [1935]

Sec. 78-122. Same: Penalty for violation of bread standards.

Any person, firm or corporation who shall violate any of the provisions of this act [Secs. 78-121-78-123] shall be subject to a fine of not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100], and each day's continuance of any practice, act or condition prohibited therein shall constitute a separate offense within the meaning of this act. [1935]

Sec. 78-123. Same: Exception to bread standards.

This act [Secs. 78-121-78-123] shall not apply to fancy bread made in part with ingredients other than wheat and/or rye flour, milk, water, salt and yeast. [1935]

Sec. 78-124. Ice weighed on delivery; scales; false weight; penalty.

Any dealer in ice who neglects to provide scales for each wagon used by him for the delivery of ice, or who refuses or neglects to weigh the same when delivering to purchaser, or gives false weight, shall for each such offense be punished by a fine of not more than fifty dollars (\$50.00). [1913]

Sec. 78-125. Coal: Weight ticket; penalty for short weight.

All retail dealers of coal shall furnish to the person to whom any sale of coal has been made a ticket or certificate stating the exact number of pounds of coal so sold and, in the event that the number of pounds of coal delivered by said retail dealer to the purchaser thereof is less than the amount stated in said ticket or certificate, said retail dealer shall be punished for each such offense by a fine of not more than fifty dollars (\$50.00). [1913]

Sec. 78-126. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals,

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Weights and Measures—Continued.

hominy and hominy grits; provided, however, that the provisions of this act [Secs. 78-126—78-127] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 78-127. Same: Penalty for violations.

Any violation of this act [Secs. 78-126—78-127] shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars for each offense. [1945]

Statutes Annotated 1941, Vol. 5, Ch. 78, Art. 2—
Public Weighmasters.

Sec. 78-201. Public weighmasters: Office established; sheriff serves as; deputies; appointment; records; oath.

The office of public weighmaster is hereby established, and the sheriffs are hereby declared to be ex officio public weighmasters for their respective counties.

The public weighmaster shall appoint one [1] or more deputy weighmasters for his county, who may be regular deputy sheriffs, which deputies shall have all the powers conferred upon the public weighmaster, and shall be liable to all the penalties to the same extent as the public weighmaster for violation of the provisions of this chapter [Secs. 78-101—78-314]. All such deputies shall keep a record of their transactions as herein prescribed for the public weighmaster, which record shall be open at all times to public inspection, and all deputy weighmasters appointed under the provisions of this chapter shall, before entering upon the duties of their offices, take and subscribe to an oath for the faithful performance of their duties. [1913]

Sec. 78-202. Same: Office and records.

The public weighmaster shall keep his office at the county seat of his county, and the county shall provide record books and blanks, and actual expenses incurred in connection with his office shall be paid out of the county current expense fund, upon warrants drawn by the county commissioners, supported by verified itemized statements of the weighmaster. All books, reports or other records in the office of such public weighmaster shall be delivered to his successor in office. [1913]

Sec. 78-203. Same: Certificate of conformity to standards.

It shall be the duty of the public weighmaster to procure a record book for his office and a record

book for each deputy weighmaster, such book to contain blank certificates, and upon the inspection of any scales herein required to be inspected, it shall be the duty of the weighmaster or the deputy, in case said scales be found to conform to the standard of weights for this state, to deliver to the owner thereof a certificate to that effect. A copy of such certificate shall be preserved as a permanent record in the office of the public weighmaster. [1913]

Sec. 78-204. Same: Inspecting and testing scales; report.

It shall be the duty of the public weighmaster of each county, in person or by his deputy, to inspect and test all scales used by any and all merchants or persons engaged in the business of buying and selling commodities, and such scales shall be tested with the standard weights of this state. Such test shall be made once each six [6] months upon all scales so used, and said public weighmaster or deputy shall make a report in writing, setting forth the date of such test, the result thereof, and specifying the scales so tested. Such report shall be filed in the office of the public weighmaster within thirty [30] days after such inspection. Said public weighmaster or the deputy making such test shall verify each report so filed, stating that the same is a correct, true and exact report of the condition of the scales mentioned therein. [1913]

Sec. 78-205. Same: County commissioners to procure duplicate state standards; delivery to weighmaster.

The board of county commissioners of each county shall procure from the secretary of state a sufficient number of such duplicates of weights as may be necessary for the use of the public weighmaster and deputies in such county, which duplicate weights shall be paid for by the county, and be delivered to the public weighmaster. Any failure upon the part of the county commissioners to comply with the provisions of this section shall be deemed a misdemeanor, and upon conviction shall subject any such offending official to a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00). [1913]

Sec. 78-206. Same: Duplicate standards to be delivered to deputies.

The public weighmaster is hereby required to deliver to each deputy such duplicate weights as may be necessary for making the tests required by this chapter [Secs. 78-101—78-314], and shall be responsible under his bond as sheriff for their delivery to his successor in office. [1913]

Sec. 78-207. Same: Inspection of scales upon request of citizens; altered scales.

Whenever as many as five [5] citizens sign a written request to the public weighmaster for an official inspection of any such scales, such public weighmaster shall forthwith comply with such re-

quest and make or have made such inspection and test, nor oftener however than once each thirty [30] days; or, if the public weighmaster has reasonable cause to believe that any such scales have been altered after inspection, he shall thereupon inspect the same, but if found unaltered no charge for such inspection shall be made. [1913]

Sec. 78-208. Same: Misfeasance or nonfeasance of duty; penalty.

Any public weighmaster or deputy making a misstatement of facts, or who reports any scale to be in a condition other than its true condition, or who knowingly omits from inspection any scale or violates any of the provisions of this chapter [Secs. 78-101—78-314], shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not less than thirty [30] days nor more than ninety [90] days or both such fine and imprisonment. [1913]

Sec. 78-209. Same: Fees to deputy.

The deputy public weighmaster shall be entitled to demand and receive to his own use for the inspection provided for in this chapter [Secs. 78-101—78-314] the following fees:

For inspecting railroad and track scales of capacity of 20 tons and upwards, each -----	\$1.50
For inspecting scales of from 3 to 20 tons capacity, each -----	1.00
For inspecting dormant scales, each -----	1.00
For inspecting movable platform scales, each -----	.25
For inspecting beams weighing 100 lbs. and upwards, each -----	.25
For inspecting hopper scales, each -----	1.00
For inspecting counter scales, each -----	.25
For inspecting each balance, beam, steelyard or other instrument used for weighing other than those above enumerated -----	.25

[1913]

Sec. 78-210. Same: Testing warehouse scales; penalty for use after condemnation.

All scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly authorized public weighmaster, the expense of such tests to be paid by such warehouseman, and no scales shall be used for the weighing of grain or any other article after having been found incorrect, until put in order and found accurate and approved for further use by an authorized public weighmaster, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). [1913]

Sec. 78-211. Same: Owners and possessors of uninspected scales owe duty to notify; penalty.

Any person owning or having in his possession any scale used for weighing, which scale has not

been inspected as provided in this chapter [Secs. 78-101—78-314], shall immediately notify the public weighmaster that he owns or has in his possession such a scale which has not been inspected as herein provided. Should any person fail to so notify the public weighmaster when owning or having in his possession such a scale, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00) or by imprisonment for not less than thirty [30] days nor more than ninety [90] days, or by both such fine and imprisonment. [1913]

Sec. 78-212. Same: Penalty for hindering weighmaster, concealing scales, and/or giving false weights and measures.

Any person who shall impede, obstruct, hinder or interfere with any public weighmaster or other person in the performance of his duties as prescribed by this chapter [Secs. 78-101—78-314]; who shall conceal from the public weighmaster any scales in his possession; who shall knowingly mark or stamp false or short weight or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so falsely marked or which contains less than the quantity which he represented [it] to contain, or who shall knowingly use any false balance or weight or measure in the weighing or measuring of anything whatever that is purchased, sold, bartered, shipped or delivered for sale or barter, or that is pledged or given in payment shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than twenty-five dollars (\$25.00), nor more than five hundred dollars (\$500.00) or by imprisonment for not less than thirty [30] days nor more than ninety [90] days, or by both such fine and imprisonment. [1913]

Sec. 78-213. Same: Authorized to arrest; seizure of false scales, weights and measures; test by magistrate; destruction authorized.

Every public weighmaster or his deputy is authorized and required to arrest any person violating any of the provisions of this chapter [Secs. 78-101—78-314], and to seize any false scales, weights or measures being used by any such person and to deliver the same to the magistrate before whom the person so arrested is taken.

The magistrate to whom any scale, weight or measure is delivered pursuant to this section shall cause the same to be tested by comparison with standards required by this chapter; and, if he finds it to be false, he shall cause it to be destroyed, if the case against the person accused of using the same has been disposed of, otherwise to be delivered to the district attorney of the county in which the accused is liable to indictment or trial.

Upon conviction of the accused, such district attorney shall cause any scale, weight or measure in

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Public Weighmasters—Continued.

respect whereof the accused stands convicted, and which remains in the possession or under the control of such district attorney, to be destroyed. [1913]

Sec. 78-214. Same: "Person" defined.

The word "person" as used in this chapter [Secs. 78-101—78-314] shall be construed to include a person, firm, company, corporation or association, whether acting as principal, agent or employee. [1913]

Sec. 78-215. City, town, or village weighmaster.

The office of the public weighmaster be, and the same is hereby, established in such cities, towns and villages of the state of New Mexico, as shall by ordinance avail themselves of the provisions of this act [Secs. 78-215—78-221]. [1921]

Sec. 78-216. Same: Appointment.

Such public weighmaster shall be nominated by the mayor and confirmed by the city council or board of trustees of the several municipalities of said state, which avail themselves of the provisions of this act [Secs. 78-215—78-221], as provided in section 1 [Sec. 78-215] hereof, as other appointive officers are nominated and confirmed in the municipal corporations of said state. [1921]

Sec. 78-217. Same: Powers, duties and fees.

The powers and duties of such municipal public weighmaster shall be the same as those now provided by law in chapter CXVI¹ of the New Mexico Statutes, Codification of 1915, for public weighmasters, and he shall receive the same fees as are therein provided for public weighmasters. [1921]

¹Chapter 116 of the Code of 1915 is compiled as Secs. 14-3806, 78-101 through 78-120, 78-124 through 78-214, 78-314. That portion of Ch. 116 relating to public weighmasters is compiled as Secs. 78-201 through 78-214.

Sec. 78-218. Same: Location of office.

The municipal public weighmaster shall keep his office at such place in the municipality as may be provided by the city council or board of trustees of such municipality. [1921]

Sec. 78-219. Same: Duplicate standards to be procured.

The city council or board of trustees of such municipality shall procure from the secretary of state such duplicates of standard weights as may be necessary for the use of such public weighmaster in such municipality, which duplicate weights shall be paid for by the municipality and delivered to the municipal public weighmaster. [1921]

Sec. 78-220. Same: Jurisdiction within municipality supercedes county public weighmaster.

The municipal public weighmaster shall have exclusive jurisdiction in the matter of testing

weights and measures within such municipality, to the exclusion of the public weighmaster, provided for in said chapter CXVI.¹ [1921]

¹ See footnote following Sec. 78-217.

Sec. 78-221. Same: Appointment of deputy weighmasters.

Said municipal public weighmaster may appoint such deputies as may be needed, by and with the consent of the city council or board of trustees of such municipality, which has availed itself of the provisions of this act [Secs. 78-215—78-221] as provided in section 1 [Sec. 78-215] hereof. [1921]

Statutes Annotated 1941, Vol. 5, Ch. 78, Art. 3—
Public Weighers.

Sec. 78-301. "Office of public weigher."

The office treated of in * * * [Secs. 78-301—78-314] shall be styled the "Office of Public Weigher." [1921]

Sec. 78-302. Petition for appointment; number.

The board of county commissioners of any county in the state of New Mexico, when presented by a petition signed by twenty (20%) per cent of the qualified voters of any justice precinct in the county praying for the appointment of a public weigher or public weighers for said precinct, shall appoint one [1] or more suitable persons for public weighers for said justice precinct; the number of public weighers shall be determined by said board. [1921]

Sec. 78-303. Qualifications.

No person shall be appointed a public weigher, unless he shall be a qualified elector in the justice precinct for which he is appointed. [1921]

Sec. 78-304. Persons ineligible for appointment.

No person shall be appointed public weigher, or deputy weigher, who is interested in the purchase or sale of live stock, cotton, wool, grain, or coal to be weighed, either as principal, agent, factor, commission merchant or employee. [1921]

Sec. 78-305. Procedure to abolish office.

After the office of public weigher has been established for two [2] years, the board of county commissioners of said county shall upon petition to abolish said office signed by qualified voters at least one-half in number of the whole vote cast for governor at the last preceding election in the public weigher's precinct, declare such office abolished to be effective within thirty (30) days after presentation of such petition; and no public weigher shall be appointed in such precinct for two [2] years thereafter. [1921]

Sec. 78-306. Oath; bond.

Every person appointed public weigher, shall take the oath of office prescribed by the constitution for other officers, and shall execute a bond

with good and sufficient sureties in the sum of two thousand (\$2,000.00) dollars, to be approved by the board of county commissioners of such county, and payable to the state of New Mexico, conditioned upon the faithful and impartial performance of the duties of the office. [1921]

Sec. 78-307. Duties; weight certificates; records; certified copies of certificates; application to private weighers.

When a person is appointed public weigher and shall have qualified as provided in section 3 [Sec. 78-303], he shall enter upon the duties of his office and weigh, without unnecessary delay, all grain, cotton, wool, hay, coal, live stock or other commodities required to be weighed by him. He shall provide suitable and convenient place or places of easy access to the public in which to perform his duties. He shall deliver to the owner, a certificate or statement, written in ink or indelible pencil, setting forth the gross and net weight of such grain, hay, wool, live stock or other commodities weighed by him, over his official signature. He shall keep in a well bound book a record of all articles weighed by him, giving the name of owner and weight of article or load, which book shall be open at all reasonable hours for the inspection of the public; and he shall, upon application therefor by anyone, issue certified copies of such certificates, for which he may charge the sum of ten (\$.10) cents, including certificate thereto. The provisions of this article [Secs. 78-301—78-313] shall also apply to private weighers who are engaged in weighing for the public, as well as public weighers. [1921]

Sec. 78-308. Appointment of deputies; responsibility for acts of deputies; bond.

The public weigher shall have the power and authority to appoint as many deputies for his weighers precinct as may be necessary to enable them to expeditiously weigh all grain, wool, live stock, coal or other commodities offered to be weighed in the weigher's or justice precinct, for which they are appointed. The public weigher shall be responsible to the county for the faithful performance of the duties of deputies appointed by him. He may require of them a bond with good and sufficient surety in the sum of one thousand (\$1,000.00) dollars, and conditioned for the faithful performance of their duties; and the public weigher shall have the right to recover in any court having jurisdiction satisfaction on said bonds for any damage sustained by reason of said deputy or deputies for any failure to properly perform the duties of the office. [1921]

Sec. 78-309. Maintenance of scales, etc.; liability for acts of deputies; continuous nature of bonds.

All public weighers appointed under the provisions of this chapter [Secs. 78-301—78-313] shall keep accurate and well adjusted scales and balances and give accurate weights, and shall keep the same

tested and certified to as provided by law. Each public weigher shall be held responsible for the official acts of the deputies, and shall be liable to suits for all damages that may be accrued to any person or persons by reason of the failure to perform the official duties, or the violation of any of the provisions of this chapter; and the bonds shall not be void upon the first recovery, but may be sued on from time to time, in the name of the person or persons injured until the whole thereof is recovered. [1921]

Sec. 78-310. Right to damages where another assumes duties.

It shall not be lawful for any factor, commission merchant, or other person or persons, to employ any other [than a] public weigher or his deputies, to weigh any hay, grain, wool or any other product sold or offered for sale in any city or justice precinct having a public weigher duly qualified; and any person or persons violating the provisions of this section shall be liable to the suit of the public weigher of such city or justice precinct, to damages in any sum not less than five (\$5.00) dollars for each ton of hay, grain, coal, sack of wool, bale of cotton, so unlawfully weighed to be recovered in any court having jurisdiction thereof. [1921]

Sec. 78-311. Persons may weigh own produce; bond of weighers where no public weigher appointed.

Nothing in this chapter [Secs. 78-301—78-313] shall prevent any person, firm, or corporation from weighing his own produce in person, provided, that in places where there are no public weighers appointed any person who shall weigh cotton, wool, grain, hay and other products for compensation shall be required before weighing such product to enter into a bond with at least two [2] good and sufficient sureties in the sum of two thousand (\$2,000.00) dollars, approved and payable as in the case of the public weigher referred to in this section, and conditioned that he will faithfully perform the duties of his office and turn over all property weighed by him on demand of the owner; provided, that this section shall not apply to merchant flouring mills. [1921]

Sec. 78-312. Violation by private weighers; liable on bond.

Any weigher who qualifies under the preceding section and shall violate any of the provisions or fail to comply with any of such provisions, shall be liable at the suit of any person injured upon his bond for damages that may have accrued to such person by such violation or failure. [1921]

Sec. 78-313. Fees of public weighers.

Public weighers shall receive the following fees:

For each bale of cotton, not exceeding	\$0.10
For each load of wool, not exceeding .....	.10
For each load or part of load of hay or grain .....	.10
For each bale of hides .....	.10

Statutes Annotated 1941, Vol. 5, Ch. 78, Art. 3—
Public Weighers—Continued.

For each loose hide -----	\$0.02
For each load or part of load of coal -----	.10
For each barrel -----	.05
For each load or part of load of broom corn -----	.10
For each load or part of load of live stock -----	.10

And he shall not be obliged to deliver any such article so weighed until the same therefor shall have been paid. [1921]

Sec. 78-314. Regulation of public weighing in municipalities; council failing to comply; penalty.

The council of every incorporated city, town or village shall prescribe rules for the weighing of commodities upon any scales operated therein by any person, firm or corporation for the use of the public, and shall regulate the charges therefor, and shall designate the place or places where hay and wood may be exposed for sale by persons having no fixed place of business in such city, town or village. And any failure upon the part of the council to comply with the provisions of this section shall be deemed a misdemeanor and upon conviction shall subject any such offending official to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). [1913]

Statutes Annotated 1941, Vol. 1, Ch. 14—Cities, Towns, and Villages.

Sec. 14-101. Population.

Every municipal corporation having a population of three thousand [3,000] and upwards shall be a city, and every municipal corporation having a population of fifteen hundred [1,500] shall be deemed an incorporated town. [1884]

Sec. 14-1803. Powers.

The city council and board of trustees in towns shall have the following powers: [1884]

Sec. 14-1815. Regulation of sale of food.

To regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions and to provide for place and manner of selling the same.

To regulate the sale of bread in the city or town, prescribe the weight and quality of the bread in the loaf. [1884]

* * * * *

[ED. NOTE.—In New Mexico Statutes Annotated, following the foregoing section, it is stated: "This section, in so far as it relates to the weight of bread, is superseded by Sec. 78-121. For a section identical to the second paragraph of this section, see Sec. 14-3806."]

Sec. 14-1816. Weights and measures.

To regulate the inspection, weighing and measuring of brick, lumber, fire-wood, coal, hay and any article of merchandise.

To provide for the inspection and sealing of weights and measures.

To enforce the keeping and use of proper weights and measures by vendors. [1884]

[ED. NOTE.—In New Mexico Statutes Annotated, following the foregoing section, it is stated: "The provisions of this section may be affected by Secs. 78-101 et seq."]

Sec. 14-3806.¹ Power to regulate sale of bread.

The council of any city, town or village shall have power to regulate the sale of bread and prescribe the weight and quality in the loaf. [1913]

¹ See Secs. 78-121—78-123, page 673; weight and size of loaf.

Sec. 14-3808. Power to license and regulate public scales.

The legislative or governing bodies of cities, towns and villages shall have the power to license and regulate * * * public scales * * *. [1937; last amended 1947.]

Statutes Annotated 1941, Vol. 3, Ch. 41, Art. 21—
False Weighing of Ore.

Sec. 41-2132. False scales or weights; penalty.

Any person, association or corporation, or the agent of any person, association or corporation engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores, as aforesaid, who shall keep or use any false or fraudulent scales or weights for weighing ore, or who shall keep or use any false or fraudulent assay scales or weights for ascertaining the assay value of ore, knowing them to be false, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one thousand dollars [\$1,000], nor less than one hundred dollars [\$100], or imprisonment not more than [1] year, or both, at the discretion of the court. [1889]

Sec. 41-2133. False weight certificates; penalty.

Any person, corporation or association, or the agent of any person, corporation or association engaged in the milling, sampling, concentrating, reducing, shipping or purchasing of ores in this state, who shall in any manner knowingly * * * issue any bill of sale or certificate of purchase that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding or agreement with another, shall issue a bill of sale or certificate of purchase that does not truthfully and correctly set forth the weight, assay value and total amount paid for any lot or lots of ore purchased by him or them, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one thousand dollars [\$1,000], nor less than one hundred dollars [\$100], or imprisonment not more than one [1] year, or both, at the discretion of the court. [1889]

Statutes Annotated 1941, Vol. 4, Ch. 48, Art. 12—
Commercial Fertilizer.

Sec. 48-1201. Definition; exceptions from act.

Any substance shall be deemed to be a commercial fertilizer if by reason of its chemical composition or other quality, it is sold, offered or exposed for sale, or distributed in this state for the purpose of increasing the crops produced by land. The provisions of this act [Secs. 48-1201—48-1210] shall not apply to raw materials in the hands of manufacturers, nor to salt (sodium chloride), limestone (calcium carbonate), dolomite (calcium magnesium carbonate), lime (calcium oxide), slaked lime (calcium hydroxide), gypsum (calcium sulphate), other materials of a like nature, or the dung of domestic animals when each is sold as such, and unmixed with anything else. Nothing in this law shall be construed as preventing anyone from mixing fertilizing materials for his own use only. * * * [1929]

Sec. 48-1203. Marking requirements.

Every package of commercial fertilizer sold, offered or exposed for sale or distributed in New Mexico, by sample or otherwise, shall bear a distinctly printed label in the English language on the back of the tax tag hereinafter mentioned, or on a separate tag, unless a tax stamp is used to show payment of the tax in which case the required label may be distinctly printed on the container. The presence of said tax or stamp on any package of commercial fertilizer shall be evidence that the brand of commercial fertilizer contained therein is registered in New Mexico. The label shall state: * * * ; third, the number of net pounds in the package; * * * Nothing other than herein specified shall be stated on the label. [1929; last amended 1949.]

Sec. 48-1208. Violations; penalty.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state any commercial fertilizer as defined in section 1 [Sec. 48-1201] of this act [Secs. 48-1201—48-1210], or who shall take or receive from any firm, association, corporation or person in this state any order for such commercial fertilizer, or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation or person in this state for the sale of such commercial fertilizer, to be delivered in this state by common carrier or otherwise, without there being affixed thereto, when delivered in this state, such labels and tax tags or stamps as are required by the provisions of this act, or who shall use such required tax tags or stamps a second time, or use or possess a counterfeit of such required tax tag or stamps, or who shall impede, obstruct, hinder or otherwise

prevent, or attempt to prevent, said regents [of College of Agriculture and Mechanic Arts] or their authorized agents, in the performance of his duty in connection with the provisions of this act, or without complying with any requirement or provision of this act, shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) for each subsequent violation. Penalties recovered under this act shall be converted into the school fund of the county wherein the offense was committed. [1929]

Sec. 48-1209. Enforcement.

* * * The said regents [of the College of Agriculture and Mechanic Arts] are hereby empowered to enforce the provisions of this act [Secs. 48-1201—48-1210], * * * and to prescribe and enforce such rules and regulations relating to the sale of commercial fertilizer as they may deem necessary to carry into effect the full intent and meaning of this act. * * * [1929]

Statutes Annotated 1941, Vol. 4, Ch. 48, Art. 17—
Cotton Gins.

Sec. 48-1704. Marking bales.

Each and every ginner shall well and truly mark each bale with the initials of the owner and weight and number of the bale; furthermore each and every ginner shall be required to securely attach to each bale of cotton, when ginned, one [1] metal tag or seal securely fastened with metal attachment showing license number, serial number of bale and the name and address of the ginner. This tag shall be prima facie evidence that the ginner has been properly licensed under the provisions of this act [Secs. 48-1701—48-1712]. * * * [1923]

Sec. 48-1705. Plaiting of or adding foreign substance to bales prohibited.

Each and every ginner and any officer, servant or employee of a corporation, person or gin company conducting the ginning business under the provisions of this act [Secs. 48-1701—48-1712], or any other person, persons or corporation who shall fraudulently, wilfully or knowingly "plait" or pack a bale of cotton, which is to say, who shall wilfully and knowingly place on the outside of said bale a better grade and quality of cotton than on the inside of said bale or who shall gin cotton when it is wet or who shall in the process of ginning said bale of cotton or thereafter add water or any foreign substance to said cotton shall be guilty of an offense hereunder. [1923]

Sec. 48-1707. Ginners' records.

All ginners operating within the state shall keep permanent records of all cotton ginned in a man-

Statutes Annotated 1941, Vol. 4, Ch. 48, Art. 17—
Cotton Gins—Continued.

ner approved by the board of regents, which records shall show the name of the ginner, bonded gin number, name of person for whom cotton was ginned, weight of the bale, weight of the seed, marks and numbers placed on bales and name of person to whom bale and seed was delivered, which records shall at all times be open to inspection by officers, agents or employees of the regents of the Agricultural College of New Mexico. [1923]

Sec. 48-1708. Enforcement of act.

The regents of the Agricultural College of New Mexico is [are] hereby given supervision of the administration and enforcement of this act [Secs. 48-1701—48-1712] and shall have full power and authority to delegate inspectors and agents to assist in the enforcement of such act and shall have full power and authority to make such rules and regulations as may be necessary to a full and complete enforcement thereof. [1923]

Sec. 48-1709. Penalty for violations.

From and after July 1st, 1923, it shall be unlawful for any person to do or cause to be done any act or anything prohibited by this act [Secs. 48-1701—48-1712], or fail to do anything required of him under it, [and] the person or persons so offending shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars, or may have his license suspended or revoked, unless a different offense and a different penalty is provided for by this act. [1923]

Statutes Annotated 1941, Vol. 4, Ch. 48, Art. 18—
"The New Mexico Fruit and Vegetable Standardization Act."

Sec. 48-1803. Application of act.

No fruit or vegetable shall be considered to come within the meaning of this act [Secs. 48-1802—48-1823] except those which are shipped from the state, and for which specific standards and standard containers are herein established or may be established as hereinafter provided. [1941]

Sec. 48-1804. Enforcement.

The board of regents of the College of Agriculture and Mechanic Arts shall immediately after the effective date of this act [Secs. 48-1802—48-1823] appoint a Supervisor of Inspection, whose duty it shall be, under the supervision, direction and control of the said board of regents, to administer this act and be charged with the enforcement of its provisions. * * * [1941]

Sec. 48-1810. Penalty for violations.

Any person who shall violate any of the provisions of this act [Secs. 48-1801—48-1823], shall be

guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred (\$500.00) dollars or be imprisoned not more than one [1] year, or both. [1941]

Sec. 48-1812. Rules and regulations.

The board of regents of the New Mexico College of Agriculture and Mechanic Arts is empowered to promulgate and enforce such rules and regulations, not in conflict herewith, as he [they] may deem necessary to carry out the provisions of this act [Secs. 48-1801—48-1823]. [1941]

Sec. 48-1813. Power to establish standards; standard packages; appeal from standards fixed.

The board of regents is empowered to establish and enforce such grades, grading rules and regulations, as may be deemed necessary on fruits and vegetables, which shall not conflict with any provision of this act [Secs. 48-1801—48-1823], after a thorough investigation has been made of the needs of the particular fruit or vegetable for which grades, grading rules and regulations must be submitted before they become effective. Grades, grading rules and regulations, established in accordance with the provisions of this section, shall not be modified during the current shipping season of the fruit or vegetable for which they are established, except as hereinafter provided. In like manner the supervisor of inspection may provide for standard packages other than those established in this act, but no standard packages shall be eliminated or changed without due notice to the industry involved.

On receipt of a written appeal by at least twenty-five [25] representative growers and shippers of the commodity for which grades, grading rules, regulations or standard packages have been established under the provisions of this act, protesting against the grades, grading rules, regulations or standard packages so established, the supervisor of inspection shall call a hearing. Due notice shall be given by the supervisor of inspection to all interested parties of the date and place of such hearing, and the grades, grading rules, regulation or standard packages shall be sustained, modified or revoked, in the discretion of the supervisor of inspection, approved by the board of regents, on the basis of the evidence presented. If such grades, grading rules, regulations or standard packages are not changed or modified by the supervisor of inspection, in accordance with the provisions of this section, they shall continue to be in full force and effect. Grades, grading rules, regulations and standard packages, established under the provisions of this section, shall be promulgated by the supervisor of inspection and published in one [1] or more newspapers or farm journals of general circulation in the state. [1941]

Sec. 48-1814. Definitions.

When used in this act [Secs. 48-1801—48-1823], the words hereinmentioned shall be defined as follows: "Containers" or "packages" shall mean any containers used for packing, shipping or selling fruits or vegetables. "Subcontainers" shall mean any basket or other receptacle used within a container. * * * [1941]

Sec. 48-1819. Exempted transactions.

No provision of this act shall be construed to prevent a grower of fruits or vegetables in the state from selling or delivering the same unpacked and unmarked, to a dealer or other person for resale or to a packer for grading, packing or storage; or to prevent a grower or packer from manufacturing the same into any by-product, or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used in the state in the manufacture of a by-product for resale. [1941]

Sec. 48-1821. Enumeration of products specifically subject to control.

The board of regents of the New Mexico College of Agriculture and Mechanic Arts, shall prescribe rules and regulations relating to the grading, packing, storage and shipment, where shipment is to be out of the state, of the following products, and such other products as in the opinion of such board of regents should be governed by rules and regulations as to grading, packing, and shipping: peanuts, cantaloupes, honey ball melons, honey dew melons, head lettuce, carrots, green beans, hot and sweet peppers, Irish potatoes, cabbage, apples, and other products. [1941]

Sec. 48-1823. Application to carload lots only; exception.

The provisions of this act [Secs. 48-1801—48-1823] shall apply only to sales in carload lots in interstate commerce. The words "dealer," "packer," "shipper," or similar words used in this act shall not apply to those persons, firms, associations or corporations, purchasing, trucking or handling the products hereinbefore in this act mentioned otherwise than by the carload, unless the shipper or dealer elects to be governed by the provisions of this act. [1941]

Statutes Annotated 1941, Vol. 4, Ch. 49, Art. 10—Live Stock Sales Rings.

Sec. 49-1001. Definitions.

As used in this act [Secs. 49-1001—49-1010], (a) The term "live stock" means neat cattle, horses, mules, donkeys and swine, or any thereof; (b) The term "sales ring" means any place, establishment or facility conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures, barns, stables, sheds,

and their appurtenances, including saddle and work stock, and vehicles used in connection therewith or in the operation thereof, where live stock not owned by the operator for at least three [3] months next preceding the receipt thereof is received, held or kept for any purpose other than (1) immediate shipment by rail, or immediate slaughter, or (2) for grazing, feeding or breeding, or (3) for the sale and exchange of breeding stock by a bona fide live stock association;

(c) The term "operator" means any person in control of the management or operation of a sales ring;

(d) The term "person" means and includes natural person, firm, association and corporation;

(e) The term "board" means the cattle sanitary board of New Mexico; [1937]

* * * * *

Sec. 49-1002. License required.

It shall be unlawful for any person to operate a sales ring in this state unless he be the holder of an unexpired, uncanceled license issued by the board [cattle sanitary board]. * * * [1937]

Sec. 49-1007. Scales: Inspection and certification.

All scales maintained by the operator shall be regularly inspected and certified as is required of scales used by merchants.¹ [1937]

¹ See Sec. 78-204, page 674.

Sec. 49-1010. Penalty for violations.

Violation of this act [Secs. 49-1001—49-1010] or of any rule or regulation of the board made in pursuance of this act shall constitute a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and each day's violation shall constitute a separate offense. [1937]

Statutes Annotated 1941, Vol. 4, Ch. 49, Art. 19—Commercial Feeding Stuffs.

Sec. 49-1901. Definitions.

The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except the following: (a) Whole seeds or grain. (b) Whole hays, straws, cottonseed hulls and corn stover, when unmixed with other materials. (c) All other materials consisting of 60 per centum or more of water. [1929]

Sec. 49-1902. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement clearly and truly certifying: (a) the net weight of the contents of the package, lot or parcel; * * * [1929]

Statutes Annotated 1941, Vol. 4, Ch. 49, Art. 19—
Commercial Feeding Stuffs—Continued.

Sec. 49—1910. Violations; penalty.

Any manufacturer, importer, jobber, firm, association, corporation or person * * * who shall sell, offer, or expose for sale or distribute in this state any commercial feeding stuffs as defined in Section 1 [Sec. 49—1901], without complying with the requirements of the provisions of this act [Secs. 49—1901—49—1912] * * * shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) for each subsequent violation. * * * [1929]

Sec. 49—1912. Enforcement; rules and regulations.

The said regents [of College of Agriculture and Mechanic Arts] are hereby empowered to enforce the provisions of this act [Secs. 49—1901—49—1912] and to prescribe the form of tags, stamps or labels to be used to show that inspection tax or fee has been paid, and to adopt standards or definitions for commercial feeding stuffs and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as they may deem necessary to carry into effect the lawful intent and meaning of this act. Such standards or definitions and rules and regulations when adopted and published by said regents shall have the same force and effect as the provisions of this act, and violation of said rules and regulations shall be subject to the same penalties as violations of the provisions of this act. [1929]

Statutes Annotated 1941, Vol. 4, Ch. 49, Art. 21—
Milk and Cream.

Sec. 49—2105. Babcock test; apparatus; testing; violations; penalties; specifications.

A. It shall be unlawful for any person or persons engaged in buying, selling, testing, or handling, or engaged in determining the value of milk, cream or other dairy products by the use of the Babcock test, to give any false readings or in any way manipulate the test so as to give a higher or lower per cent of butter fat than the milk, cream or other dairy products actually contain, or to cause any inaccuracy in reading the per cent of butter fat by securing inaccurate samples from any quantity of milk, cream or other product for the test. It shall be unlawful for any person or persons to use any test tubes, bottle, pipette or instrument in connection with such test which is not perfectly clean; and for the purpose of this act [article] [Secs. 49—2101—49—2110], any unclean test bottle, tube or pipette is declared inaccurate. All tests shall be maintained at a temperature of 120 F. for at

least ten [10] minutes before reading of the per cent of butter fat is made and recorded.

B. All bottles and pipettes used in measuring milk or milk products for making determination of the per cent of fat in said milk or milk products shall be made in accordance with the revised specifications formulated by the U. S. bureau of standards, Washington, D. C., and shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed," and in the side of the pipette or the side or bottom of the bottle the name, initials, or trade-mark of the manufacturer and his designating number, which designating number shall be different for each manufacturer and may be used in identifying bottles. The designating number shall be furnished by the state dairy commissioner upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of one thousand dollars (\$1,000.00) with sureties to be approved by the attorney-general, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished, shall be kept in the office of the board of regents at state college [Agricultural College of New Mexico].

C. Any manufacturer who sells Babcock milk, cream or butter test bottles or milk pipettes, to be used in this state, that do not comply with the provisions of this section shall suffer the penalty of five hundred dollars [\$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 determining the per cent of milk fat in milk or milk products, any bottles or pipettes purchased after this law takes effect that do not comply with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than ten [10] days nor more than three [3] months.

D. The state dairy commissioner shall prescribe specifications with which the glassware mentioned in this section shall comply. The unit of graduation for all Babcock glassware shall be the true cubic centimeter or the weight of one [1] gram of distilled water at four [4] degrees centigrade. [1927; last amended 1929.]

Sec. 49—2106. Accuracy of testing.

It shall be the duty of the dairy commissioner and his deputies and they are hereby authorized to test milk, cream and other dairy products for the purpose of ascertaining the percentage of butter fat or other ingredients contained therein; and if said dairy commissioner, or any of his deputies shall find upon test that there is variance of more

than one [1] per cent between his test and that made by any person engaged in testing, buying or selling milk, cream or other dairy products, said commissioner or deputy commissioner shall cause his test to be verified and substantiated by the chemist of the New Mexico Agricultural College, and if such chemist shall find that the test made by such commissioner or deputy commissioner is correct, the test thus made and verified shall, in all prosecutions for violations of the provisions of this act [article] [Secs. 49-2101-49-2110], be prima facie evidence that the test made by the person engaged in testing, buying or selling such milk, cream or other dairy products was falsely and fraudulently made. [1927; last amended 1929.]

Sec. 49-2110. Penalty for violations.

Any person, company or corporation, or any agent of any company or corporation violating any of the provisions of this act [article] [Secs. 49-2101-49-2110], shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five [\$25.00] nor more than two hundred dollars [\$200] for each offense. [1927; last amended 1929.]

Statutes Annotated 1941, Vol. 5, Ch. 61—Alcoholic Liquors.

Sec. 61-903. Marking requirements.

No alcoholic liquors shall be sold in this state unless the immediate container thereof bears the label, amount of contents, trade-mark, brand or name of the maker, bottler, or wholesale distributor thereof; * * * [1939; last amended 1941.]

Sec. 61-1019. Penalties for violations.

The violation of any provision of this act [Secs. 61-101-61-524, 61-601-61-1019, 61-1101-61-1104] or of any valid rule or regulation promulgated under the provisions of this act which is not herein declared to be a felony, shall be a misdemeanor, and upon conviction thereof, any person shall be punished by a fine of not more than three hundred dollars [\$300] or by confinement in jail not more than seven [7] months or by both such fine and imprisonment: Provided that if a corporation be convicted of such a violation it shall be punished by a fine of not more than one thousand dollars [\$1,000]. [1939]

* * * * *

Sec. 61-1102. Container labels; rules and regulations.

As soon as practicable after this act [Secs. 61-101-61-524, 61-601-61-1019, 61-1101-61-1104] becomes effective, it shall be the duty of the chief of division [chief of division of liquor control] * * * to ascertain the highest practicable degree of accuracy with which bottles and containers of alcoholic liquors can be labeled as to amount

of fluid contents, and then to establish and promulgate reasonable rules and regulations * * * to prevent the deception of the public by labels inaccurately stating the amount of liquid contents of bottles and packages of alcoholic liquors.

Any person who shall violate any of the valid rules and regulations established and promulgated under this section shall be liable and punishable as for the violations of this act. [1939]

Statutes Annotated 1941, Vol. 5, Ch. 62, Art. 2—Itinerant Vendors.

Sec. 62-201. Definition.

The term "itinerant vendor," for the purpose of this article [Secs. 62-201-62-222] shall mean and include any person, either principal or agent, who engages in either a temporary or transient business in this state, either in one locality or in traveling about the country, or from place to place, selling manufactured goods, jewelry, wares or merchandise, and it shall include peddlers and hawkers, and also those who for the purpose of carrying on their temporary or transient business, hire, lease or occupy a building, structure, tent, car, vehicle, store room or place of any kind, for the exhibition and sale of any manufactured goods, jewelry, wares or merchandise. [1905]

Sec. 62-202. Exemptions.

The provisions of this article [Secs. 62-201-62-222] shall not apply to commercial travelers or agents selling to merchants in the usual course of business, and it shall not apply to the sale of goods, wares, jewelry or merchandise in original packages from other states as permitted by the laws of the United States applicable to interstate commerce between the states: And, provided, further, that the provisions of this article shall not apply to the sale of books, papers, school supplies or household machinery. [1905]

Sec. 62-219. Fraud in sales of merchandise; penalty.

If any licensed "itinerant vendor" or any assistants of any licensed "vendor" shall commit any fraud in the sale of any manufactured goods, jewelry, wares or merchandise, by any false or short weight, or measure, * * * he shall be punished by a fine of not less than twenty dollars [\$20.00] nor more than five hundred dollars [\$500], or by imprisonment in the county jail of not less than thirty [30] days nor more than one [1] year, or by both such fine and imprisonment. [1905]

Statutes Annotated 1941, Vol. 5, Ch. 67, Art. 6—Mine Scales.

Sec. 67-608. Mine owner to provide scales.

The owner or agent of each coal mine within this state, at which the miners are paid by weight,

Statutes Annotated 1941, Vol. 5, Ch. 67, Art. 6—
Mine Scales—Continued.

shall provide at or near such mine suitable scales of standard make for the weighing of all coal mined. [1889]

Sec. 67-609. Weighman: Oath; record; duties.

The owner or agent of such mine shall require the person authorized to weigh the coal delivered from said mine to be sworn, before some person having authority to administer an oath, to keep the scales correctly balanced; to accurately weigh and to record a correct account of the amount weighed of each miner's car of coal delivered from such mine, and such oath shall be kept conspicuously posted at the place of weighing. The record of the coal mined by each miner shall be kept separate and shall be open to his inspection at all reasonable hours, and also for the inspection of all other persons pecuniarily interested in such mines. [1889]

Sec. 67-610. Check-weighman: Employment; duties; selection; compensation; oath.

In all coal mines in this state, the miners employed and working therein on a tonnage basis shall, at the option of the majority thereof, be permitted by the owners of said mines to employ from among the employees of said mines, one [1] or more check-weighmen, whose wages shall be paid by all miners employed or working on a tonnage basis in said mines.

The duties of such check-weighman shall be to see that all coal mined in the mine at which he is employed, is correctly weighed and accredited, and for that purpose every such aforesaid owner shall give to such check-weighman access to all scales and weights used for that purpose and to the records of such weights of coal at each scales [sic]. The owner shall provide a convenient and suitable office on the tippel for weighing coal which said office shall be kept in a comfortable and sanitary condition.

Said check-weighman shall be selected by a majority secret vote of those miners who produce coal on a tonnage basis in said mines and who contribute to the wages of such check-weighman. Said check-weighman shall continue in such employment at the will of the majority of said miners working on a tonnage basis.

Said check-weighman shall be paid in either of the following manners at the option of said miners, namely, by running a coal check and deducting a sufficient and equal amount from each ton of coal weighed to guarantee him the wages agreed upon by the said check-weighman and said miners, and shall be paid therefor by the owners of said mines in the same manner and at the same rate per ton as other employees running coal checks are paid; or, said check-weighman may be paid

on a percentage basis as agreed upon by the said check-weighman and said miners, in which event the owner shall deduct the agreed percentage from the wages of said miners and pay the same to said check-weighman.

Said check-weighman shall before entering upon his duties make and subscribe to an oath before some officer duly authorized to administer oaths, that he is duly qualified and will faithfully discharge the duties of the check-weighman. Such oath shall be kept conspicuously posted at the place of weighing. [1889; last amended 1937.]

Sec. 67-611. Fraudulent weighing; penalty.

Any person, company or firm having or using any scale or scales for the purpose of weighing the output of coal at mines so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed or reported in accordance with the provisions of the three preceding sections, or any weighman or check-weighman who shall fraudulently weigh or record the weights of such coal, or receive at or connive at, or consent to such fraudulent weighing, shall be deemed guilty of a misdemeanor, and shall upon conviction for each such offense be punished by a fine of not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500), or by imprisonment in the county jail for a period not to exceed sixty [60] days, or by both such fine and imprisonment, proceedings to be instituted in any court of competent jurisdiction. [1889]

Sec. 67-612. Operators' offenses; penalties; application of weighing provisions.

Any person, owner or agent operating a coal mine in this state who shall fail to comply with the provisions of Sections 3498 to 3501 [Secs. 67-608-67-611] inclusive, or who shall obstruct or hinder the carrying out of their requirements shall be fined for the first offense not less than fifty dollars (\$50), nor more than two hundred (\$200) dollars; for the second offense not less than two hundred (\$200), nor more than five hundred (\$500), and for the third offense not less than five hundred dollars (\$500): Provided, that the provisions of said sections shall apply only to coal mines whose products are shipped by rail and shall not apply to mines where suitable scales of standard make furnished by any railroad or transportation company or through which the coal is shipped or used for such weighing. [1889]

Sec. 67-613. Testing.

The state inspector of mines is hereby made the legal examiner of all scales, measures or other mechanical devices by which coal is weighed or measured for the purpose of determining or ascertaining the compensation which shall be paid coal

mine employees and shall examine and balance said scales, measures or devices at any time that he may consider it necessary in his official visit to the mines and in no event shall he neglect or fail to inspect or examine the same for a period of more than six (6) months. [1937]

Sec. 67-614. Marking condemned scales.

If the inspector shall find that any scales not complying with the standards now fixed and provided by law for weights and measures, or if he shall find that any measures or mechanical devices do not comply with the recognized standard for such instruments, he shall:

(a) If said instruments are capable of repair, label the same "condemned for repairs"; (b) In the event said scales, measures or mechanical devices are incapable of repair, he shall mark the same "condemned" and order the owner and/or operator of the mines to dispose of the same or to cease using them. [1937]

Sec. 67-615. Use of condemned scales prohibited.

It shall be unlawful for any mine owner or operator to use any such scales, measures or mechanical devices after the same have been condemned by the state mine inspector unless the same have been repaired as required by said state mine inspector. [1937]

Sec. 67-616. Right of entry for scale examination and testing; interference prohibited.

In the general performance of the duties imposed upon said state mine inspector, he may enter or go into and/or upon any land, place, buildings or premises for the purpose of making [examinations] and testing said scales, measures or other mechanical devices and it shall be unlawful for any person to hinder, delay or impede in any manner such state mine inspector, in the discharge of his duties. [1937]

Sec. 67-618. Penalty for violations.

Any person, firm or corporation violating any provision of this act [Secs. 67-613-67-618], shall upon conviction thereof be fined in a sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). [1937]

Statutes Annotated 1941, Vol. 5, Ch. 69, Art. 5—Petroleum Products.

Sec. 69-501. "Person" defined.

The term "person" as used in this act [Secs. 69-501-69-516] shall include every natural person, firm, copartnership, association or corporation, and if any firm, copartnership, association or corporation violate any of the provisions of this act, every director, officer, agent, employee or member participating in, aiding or authorizing the act or acts constituting a violation of this act, shall be

guilty of violating this act, and shall be subject to the punishment herein provided. [1937]

Sec. 69-502. Deceiving purchasers in regard to product.

No person shall store, sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other petroleum products in any manner whatsoever, which may deceive, tend to deceive or has the effect of deceiving the purchaser of said products, as to the nature, quality or quantity of the products so stored, sold, exposed or offered for sale. [1937]

Sec. 69-513. Testing equipment.

The gasoline tax division of the bureau of revenue, state of New Mexico, shall establish at locations to be determined by it, checking stations or gauging racks for the purpose of gauging and determining the capacity of all tank wagons, tank trucks, or other equipment used for transporting motor fuel or other petroleum products into the state of New Mexico, or from a refinery or tank farm located within the state to a point within or without the state. Every person owning or operating any such vehicle or equipment shall present such vehicle or equipment to the nearest checking station or gauging rack when notified so to do, by the gasoline tax division of the bureau of revenue, upon ten [10] days notice by said division to him.

After any such vehicle and equipment has been checked and gauged at such checking station, the owner or operator thereof shall carry or display such signs and symbols and identifying marks on such vehicle and equipment as may be reasonably required by the bureau of revenue, in order to show that it has been checked, the capacity thereof, date of checking, and other pertinent matter. [1937]

Sec. 69-514. Standards for scales, measures and measuring devices.

It shall be unlawful for any person to use any scales, measure or measuring device in the handling or sale of petroleum products, unless the same is true and accurate, and the standard of weights and measures applied to said scale, measure or measuring device, shall be those now used by the United States bureau of standards. [1937]

Sec. 69-515. Inspecting of measuring and dispensing equipment; faulty equipment.

The bureau of revenue shall have the right, and it shall be its duty, to make periodic inspection of all equipment used in measuring or dispensing for sale, gasoline and all other refined petroleum products in this state, for the purpose of ascertaining that correct volume measurements are being dispensed from all such equipment. In the event that any such equipment is inaccurate, the person inspecting same shall forbid its use until such time as the defect is corrected, and if not corrected shall seal the same. The breaking of said

Statutes Annotated 1941, Vol. 5, Ch. 69, Art. 5—
Petroleum Products—Continued.

official seal shall be prima facie evidence of a violation of this law [Secs. 69-501—69-516] and no person shall refuse to permit the duly authorized state agent of the bureau of revenue to inspect and seal as deemed necessary, any such measuring device, nor shall any person break the seal without permission after it has been placed by such duly authorized agent of the bureau of revenue. [1937]

Sec. 69-516. Penalties for violations.

Any person who shall violate any of the provisions of this act [Secs. 69-501—69-516] shall be punished upon conviction of the first offense by a fine of not more than one hundred fifty dollars (\$150.00), or by imprisonment of not more than nine (9) months, or both; for the second offense, a fine of not less than one hundred dollars (\$100.00) and not more than three hundred dollars (\$300.00), or by imprisonment for not more than six (6) months or by both such fine and imprisonment; for each subsequent offense, by a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. [1937; last amended 1941.]

Statutes Annotated 1941, Vol. 5, Ch. 71, Art. 7—
"Uniform Narcotic Drug Act."

Sec. 71-703. Rules and regulations for enforcement.

The state board of public welfare [state board of public health] is hereby authorized, empowered and directed to make such rules and regulations consistent with the provisions of this act [Secs. 71-701—71-748] * * * as it may deem proper to promote the enforcement of the same, * * * [1935]

Sec. 71-719. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 71-746. General penalty.

Any violation of the provisions of this act [Secs. 71-701—71-748], the punishment for which is not specified herein, and of the rules and regulations of the board made under authority of this act, shall be punished by a fine of not more than one thousand dollars [\$1,000], or by imprisonment for a term not exceeding one [1] year, or by both such fine and imprisonment. [1935]

Statutes Annotated 1941, Vol. 5, Ch. 72, Art. 5—
Public Utilities.

Sec. 72-519. Standard of service and measurement thereof.

The commission [New Mexico Public Service Commission] may prescribe reasonable and adequate service regulations and standards of service rendered or to be rendered by any utility, and may prescribe such regulations for the examination and testing of such service and for the measurement thereof [gas, electricity, water, etc.]. [1941]

Sec. 72-520. Meter accuracy.

The commission [New Mexico Public Service Commission] may prescribe reasonable rules, regulations, and standards to secure the substantial accuracy of all meters and appliances for measurement which shall be complied with by the utility and consumer. [1941]

Sec. 72-521. Inspection of meters.

The commission [New Mexico Public Service Commission] may provide for the inspection of the manner in which any utility complies with the rules, regulations and standards fixed by the commission to secure the accuracy of all meters and appliances for measurement, and the commission may examine and test any and all meters and appliances for measurement under such rules and regulations as it may prescribe; and at all inspections and tests made in pursuance of complaints, representatives of the utility complained of and of the complainant may be present. [1941]

Sec. 72-522. Testing measuring appliance at consumer's request.

Any consumer or user may have any meter or appliance for measuring tested by the commission [New Mexico Public Service Commission] upon payment of fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers, the fee to be paid by the consumer or user at the time of his request, but to be paid by the utility and refunded to the consumer or user if the measuring appliances be found unreasonably defective or incorrect to the substantial disadvantage of the consumer or user. [1941]

Sec. 72-523. Authority to enter premises of utility.

The commission [New Mexico Public Service Commission] and its officers and employees of the commission may during all reasonable hours, after reasonable notice to the utility, enter upon any premises occupied by any utility for the purpose of making examinations and tests and exercising any power provided for in this act [Secs. 72-301—72-1105], and may set up and use on such premises any apparatus and appliances necessary therefor. Such public utility shall have the right to be repre-

sented at the making of such examination, tests and inspections, and shall be given sufficient time before the making thereof to secure the presence of a representative of its selection. [1941]

Statutes Annotated 1941, Vol. 5, Ch. 77, Art. 5—
Standards for Measuring Flow and Volume of Water.

Sec. 77-518. Cubic foot; acre-foot; miner's inch.

The standard of measurement of the flow of water shall be the cubic foot per second of time; the standard of measurement of the volume of water shall be the acre-foot, being the amount of water upon an acre covered one [1] foot deep, equivalent to forty-three thousand five hundred and sixty [43,560] cubic feet. The miner's inch shall be regarded as one-fiftieth of a cubic foot

per second in all cases, except when some other equivalent of the cubic foot per second has been specifically stated by contract, or has been established by actual measurement or use. [1907]

Statutes Annotated 1941, Vol. 3, Ch. 41, Art. 1—
Misdemeanors.

Sec. 41-106. Punishment when not otherwise prescribed.

When a criminal is found guilty in any of the courts of this state of any crime which is not a felony, for which no punishment has been prescribed by law, the said criminal shall be punished by a fine not exceeding two hundred dollars [200] or by imprisonment in the county jail for a period not exceeding three [3] months, or both at the discretion of the court. [1871; last amended 1872.]

NEW YORK

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agriculture, horticulture, farm and dairy products, and the production, transportation, storage, marketing and distributing of food; enforce and carry into effect the provisions of the laws of the state relative to weights and measures.

* * * * *

23. Investigate deceptions in the quality, quantity or character of foods produced, stored, sold or

offered for sale within the state, including the adulteration and misbranding thereof.

* * * * *

26. Investigate and take action to prevent illegal acts or practices in the sale or distribution of food or of fertilizers, feeding stuffs, materials, apparatus and machinery or other instrumentalities used or needed for the production, marketing and distribution of food.

* * * * *

30. Investigate, inspect and supervise the sale and exposure for sale of meat and meat preparations and enforce the provisions of sections four hundred thirty-five,¹ four hundred thirty-five-a, four hundred thirty-five-b and four hundred thirty-five-c of the penal law relating thereto and to make such rules and regulations imposing such additional requirements and restrictions upon such sale and exposure for sale as may be deemed necessary in connection with or in aid of the proper administration and enforcement of such provisions and of any other applicable laws. [1922; last amended 1940.]

¹ See page 710.

Sec. 17. Delegation of commissioner's power.

The commissioner may delegate any of his powers to, or direct any of his duties to be performed by, an assistant commissioner or the director of a bureau and, except where it is otherwise provided in this chapter [Secs. 1-355] or the context otherwise requires, may delegate any of such powers to any officer or employee of the department. [1922; last amended 1935.]

* * * * *

Sec. 18. Rules; tolerances for food containers; enforcement of laws.

Subject and in conformity to this chapter [Secs. 1-355] and the constitution and laws of the state, the commissioner may enact, amend and repeal necessary rules which shall

1. Regulate and control the transaction of business by the department, provide for the exercise of the powers and the performance of the duties of the department and prescribe the powers and duties of the bureaus and of the directors of bureaus and other officers and employees thereof;

* * * * *

5. Establish uniform tolerances or amounts of reasonable variation for containers of food and provide uniform regulations for carrying out the provisions of this chapter in relation to such containers.

6. Provide generally for the exercise of the powers and performance of the duties of the department as prescribed in this chapter and the laws of the state and for the enforcement of their

provisions and the provisions of the rules enacted as herein provided.

The rules of the department in force at the time this chapter takes effect shall continue as the rules of the department, until amended or repealed by the commissioner. [1922; last amended 1935.]

Sec. 19. Same: Publication of rules.

Every rule or regulation enacted by the commissioner pursuant to the provisions of this chapter [Secs. 1-355] and intended to have the force of law shall be promptly published once in the New York state bulletin, published by the department of state pursuant to section eighty-two of the executive law. A copy of every such rule or regulation certified by the commissioner, an assistant commissioner or the secretary of the department shall be promptly filed with the secretary of state. Every such rule or regulation shall take effect twenty days after such filing, unless some other date of taking effect shall be prescribed by the commissioner. [1922; last amended 1941.]

Sec. 20. Access to place of business.

The commissioner, each assistant commissioner and the directors, counsel, experts, chemists, agents and other officers and employees of the department shall have full access to all places of business, factories, farms, buildings, carriages, cars and vessels used in the production, manufacture, storage, sale or transportation within the state of any dairy products or any imitation thereof, or of any article or product with respect of which any authority is conferred by this chapter [Secs. 1-355] on the department. They may examine and open any package or container of any kind containing or believed to contain any article or product, which may be manufactured, sold or exposed for sale in violation of the provisions of this chapter, or of the rules of the department, and may inspect the contents therein, and take therefrom samples for analysis. [1922; last amended 1935.]

Agriculture and Markets Law, Art. 3 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B) —Penalties.

Sec. 39. Penalties for violation of chapter or other laws.

Every person violating any of the provisions of this chapter [Secs. 1-355], or of any other law the enforcement of which is within the jurisdiction of the department [of agriculture and markets] shall, except where other penalties are hereinafter prescribed, be subject to a penalty in the sum of not less than twenty-five dollars nor more than one hundred dollars for the first violation, nor more than two hundred dollars for the second and each subsequent violation; provided, however, that for a violation by a retail merchant of section two hundred and twelve of this chapter, or of article thirteen-a [relative to eggs] of this chapter, the

Agriculture and Markets Law, Art. 3 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Penalties—Continued.

minimum penalty shall be ten dollars. When such violation consists of the manufacture or production of any prohibited article, each day during which or any part of which such manufacture or production is carried on or continued, shall be deemed a separate violation. When the violation consists of the sale, or the offering or exposing for sale or exchange of any prohibited article or substance, the sale of each one of several packages shall constitute a separate violation, and each day on which any such article or substance is offered or exposed for sale or exchange shall constitute a separate violation. If the sale be of milk and it be in cans, bottles or containers of any kind and if the milk in any one of such containers be adulterated, it shall be deemed a violation whether such vendor be selling all the milk in all of his containers to one person or not. When the use of any such article or substance is prohibited, each day during which or any part of which such article or substance is so used or furnished for use, shall constitute a separate violation, and the furnishing of the same for use to each person to whom the same may be furnished shall constitute a separate violation. When the storage of any article is prohibited beyond a certain period, each day during which or any part of which any article is so stored beyond the period provided for by this chapter, shall constitute a separate violation. A right of action for the recovery of, or a liability for, penalties incurred as provided in this chapter, or in any other law the enforcement of which is within the jurisdiction of the department, may be released, settled or compromised before the matter is referred to the attorney-general as provided in section forty-four of this chapter, and thereafter may be released, settled or compromised by the attorney-general, either before or after an action is brought to recover such penalties. [1923; last amended 1932.]

Sec. 40. Violations of rules or orders; penalty.

Every person, association or corporation and all agents, officers and employees thereof, shall obey every order made as provided in this chapter [Secs. 1-355], so long as such order shall be in force. A person, association or corporation who shall fail by himself, itself or through his or its agents, officers and employees, to obey any order of the commissioner [of agriculture and markets], or who shall violate any rule of the department [of agriculture and markets] shall be subject to a penalty not exceeding the sum of two hundred dollars for each and every offense. Every violation of such order, or of the rules of the department, shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance

thereof shall be a separate and distinct offense. [1922]

Sec. 41. General penalty.

Except as otherwise provided by the penal law, a person who by himself or another violates any of the provisions of this chapter [Secs. 1-355] or of any other law the enforcement of which is within the jurisdiction of the department, is guilty of a misdemeanor, and upon conviction shall, except as otherwise provided in this chapter, be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment for not less than one month, nor more than six months, or by both such fine and imprisonment, for the first offense; and by not more than one year's imprisonment for the second offense. [1922; last amended 1932.]

Agriculture and Markets Law, Art. 16 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Weights and Measures.¹

¹ For penalties for violations of the Agriculture and Markets Law, see Secs. 39-41, pages 691-692. For penal provisions relating to weights and measures, see Penal Law, Sec. 2410 et seq., page 711; Sec. 434, page 710; Sec. 435, page 710.

[ED. NOTE.—The Agriculture and Markets Law was enacted by Laws 1922, Ch. 48, constituting Chapter 69 of the consolidated laws. The bulk of its provisions was derived from three primary sources: Namely, Agricultural Law of 1909, Ch. 9; Farms and Markets Law of 1917, Ch. 802; and General Business Law of 1909, Ch. 25, Articles 2, 2-a, 13, 14, 15, 25a, and sections 390, 392-395, and 397.

Art. 16. Weights and Measures, was derived mainly from General Business Law of 1909, Ch. 25, Art. 2, as amended, and said Art. 2 in turn was derived from Laws 1896, Ch. 376, originally revised from Laws 1851, Ch. 134, as amended, and Laws 1829, Ch. 297.]

Sec. 176. State standards.

The standard weights and measures that were furnished to this state by the government of the United States, in accordance with a joint resolution of congress, approved June fourteen, eighteen hundred and thirty-six, and consisting of one standard yard measure and one set of standard weights, comprising one Troy pound, and nine avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five and fifty pounds respectively; one set of standard Troy ounce weights, divided decimally from ten ounces to the one ten-thousandth of an ounce; one set of standard liquid capacity measures, consisting of one wine gallon of two hundred and thirty-one cubic inches, one-half gallon, one quart, one pint and one-half pint measure; and one standard half bushel, containing one thousand and seventy-five cubic inches and twenty one-hundredths of a cubic inch, according to the inch hereby adopted as standard, and such new weights, measures, balances and other apparatus as may be received from the United States as standard weights, measures, balances and apparatus in addition thereto or in renewal thereof as

well as such weights, measures, balances and apparatus as may be added by the state department of weights and measures and verified by the national bureau of standards shall be the standards of weights and measures throughout this state. [1922]

Sec. 177. Unit of length and surface.

The units or standard measures of length and surface, from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, are the standards of length designated in this article [Secs. 176-197]. For measures of cloths and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths, and sixteenths. The rod, pole or perch, contains five and one-half yards; the mile, one thousand seven hundred and sixty yards. The chain for measuring land is twenty-two yards long and is divided into one hundred equal parts called links. The acre for land measure, shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten in breadth; six hundred and forty acres being contained in a square mile. [1922]

Sec. 178. Units of weights.

The units or standards of weight from which all other weights shall be derived and ascertained, shall be the standard weights designated in this article [Secs. 176-197]. The hundred-weight consists of one hundred avoirdupois pounds and twenty hundred weight are a ton. In all transactions relating to the sale or delivery of coal¹ two thousand avoirdupois pounds in weight shall constitute a legal ton. [1922]

¹ For weighing and selling of coal, see Sec. 197-a et seq., pages 700-702.

Sec. 179. Units of capacity.

The units or standards of measure of capacity for liquids from which all other measures shall be derived and ascertained shall be the standards designated in this article [Secs. 176-197]. The barrel is equal to thirty-one and one-half gallons and two barrels are a hoghead. The parts of the liquid gallon shall be derived from the gallon by continual division by the number two, so as to make half gallons, quarts, pints, half pints and gills. The peck, half peck, quarter peck, quart, pint and half pint measures for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing that measure by two. [1922]

Sec. 180. Duties of commissioner of agriculture and markets.

The commissioner [of agriculture and markets] shall take charge of the standards adopted by this article [Secs. 176-197] as the standards of the

state; cause them to be kept in the principal office of the department in the city of Albany, from which they shall not be removed, except for repairs or for certification, and take all other necessary precautions for their safekeeping. He shall maintain the state standards in good order and shall submit them once in ten years to the national bureau of standards for certification. He shall correct the standards of the several cities and counties and, as often as once in five years, compare the same with those in his possession, and shall keep a record of the same, and where not otherwise provided by law he shall have a general supervision of the weights, measures and measuring and weighing devices sold or offered for sale in the state or in use in the state. He shall upon the written request of any citizen, firm, corporation or educational institution of the state, test or calibrate weights, measures, weighing or measuring devices and instruments used as standards in the state. He shall from time to time cause to be tested all weights and measures, and weighing and measuring devices used in checking the receipt or disbursement of supplies in every state institution and report in writing to the executive officer of the institution concerned; and at the request of said officers the commissioner shall appoint in writing one or more employees, then in actual service, of each institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. He shall keep a complete record of the standards, balances and other apparatus belonging to the state and take receipt for the same from his successor in office. The commissioner shall inspect all standards used by the counties or cities at least once in two years and shall keep a record of the same. He shall as often as he shall deem necessary visit the various cities and counties of the state in order to inspect the work of the local sealers and in the performance of his duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any person, firm or corporation. He shall establish specifications, amounts of tolerance, or reasonable variations allowable for weights, measures and weighing and measuring devices, and shall make rules and regulations for the purpose of making clear and effective the provisions of this chapter [Secs. 1-355] relative to weights, measures and weighing and measuring devices, which rules and regulations shall have the force and effect of law, and he shall issue instructions to the county and city sealers and these shall be binding upon and govern said sealers in the discharge of their duties. [1922; last amended 1933.]

Sec. 181. Office standards.

The state shall have a complete set of copies of the original standards of weights and measures adopted by this article [Secs. 176-197], which shall

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be used for adjusting county standards, and the original standards shall not be used except for the adjustment of this set of copies and for scientific purposes.

The commissioner [of agriculture and markets] shall see that the foregoing provisions of this section are complied with and procure such apparatus and fixtures, if the same have not already been procured, as are necessary in the comparison and adjustment of the county standards.

He shall cause all the city and county standards to be impressed with the emblem of the United States, the letters "N.Y.," and such other devices as he shall direct for the particular county. [1922]

Sec. 182. County sealer of weights and measures; duties; salary; bond.

There shall be a county sealer of weights and measures in each county, except where such county is wholly embraced within a city, who shall be a resident of such county and who shall be appointed by the board of supervisors. He shall be paid a salary determined by the board of supervisors and shall be provided by them with the necessary working equipment of standard weights and measures. He shall take charge of and safely keep the county standards, and at least once in every five years shall submit such standards to the commissioner [of agriculture and markets], at the place where the standards of the state are kept, for calibration and certification. Where not otherwise provided by law, the county sealer shall have the power within his county to inspect, test, try and ascertain if they are correct and are being correctly used, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement and the tools, appliances or accessories connected with any or all such instruments or measurements used or employed within the county by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, article for distribution or consumption offered or submitted by such person or persons for sale, for hire or award. He shall at least twice in each year and as much oftener as he may deem necessary see that the weights, measures and all apparatus used in the county are correct. In the general performance of his official duties, he shall have the powers and perform the duties of a peace officer, and may enter or go into or upon and without formal warrant, any stand, place, building or premises or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon or any dealer whatsoever, for the purposes of making the proper tests. Whenever the county sealer finds a violation of the statutes relating to weights and measures he shall, as he deems necessary, cause cor-

rection to be made or cause the violator to be prosecuted. The county sealer shall keep a complete record of the work done by him and shall make an annual report to his board of supervisors, and an annual report, duly sworn to, not later than the first of December to the commissioner. The county sealer of weights and measures shall forthwith on his appointment give a bond, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office and for the safety of the local standards and such appliances for verification as are committed to his charge and for the surrender thereof immediately to his successor in office or to the person appointed by the proper authority to receive them. The board of supervisors of the county of Westchester may appoint and fix the compensation of such deputy county sealers of weights and measures as it may determine necessary, who shall be residents of such county and shall have the powers and perform the duties provided for county sealers of weights and measures by this section. The county sealer of weights and measures and the deputy county sealers of weights and measures shall, in the county of Westchester, have jurisdiction within the entire county, including the cities and villages therein. [1922; last amended 1939.]

Sec. 183. City sealer: Appointment; salary; duties.

There shall be a city sealer of weights and measures, or an officer having similar duties, to be appointed by the mayor with the approval of the common council of each city, or in such other way as the city charter shall designate. He shall be paid a salary to be fixed and determined by the board or body authorized to determine salaries of city officials, and no fees shall be charged or received by him or by the city for the inspection or testing of weights, measures or weighing or measuring devices. He shall perform in his city the duties of and have like powers as a county sealer in a county. [1922]

Sec. 183-a. County and city deputy and assistant sealers of weights and measures.

Subject to the provisions of this article [Secs. 176-197] governing the qualifications, appointment, powers and duties of county or city sealers of weights and measures, as the case may be, each county and city may provide for such county or city deputy and assistant sealers of weights and measures as may be deemed necessary. Wherever used in this article, the term "sealer" shall be deemed to mean and include deputy and assistant county or city sealers of weights and measures in any county or city where such officers exist.

County sealers and city sealers, and deputies and assistants, if any, may be reimbursed for actual and necessary expenses incurred in the discharge of their duties. Such expenses may be county charges in the case of county sealers and their deputies and

assistants and city charges in case of city sealers and their deputies and assistants, to be audited and paid in the same manner as other county and city charges, respectively. [1940]

Sec. 184. Sealing of approved weighing and measuring devices; semi-annual inspection of certain scales; offenses.

Whenever a city or county weights and measures official inspects any weighing or measuring device and finds that it corresponds or causes it to correspond with the standards in his possession he shall seal or mark the same with an appropriate device. All pressers of hay and straw for market, hucksters, peddlers and junk dealers shall submit the scales used in their business to the weights and measures official at least twice annually for inspection. No person shall remove any such seal or mark from any such weighing or measuring device or obliterate, cover, obstruct or deface any such seal or mark. [1922; last amended 1939.]

Sec. 184-a. Gasoline pumps to be inspected and sealed.

No gasoline pump here after installed shall be used for the purpose of dispensing and measuring gasoline until inspected by an inspector of the department or by a city or county weights and measures official and found to have been properly installed and to be properly adjusted so as to measure accurately the gasoline to be dispensed by it. If the inspection shows that such pump has been properly installed and is properly adjusted to deliver accurate measure, the pump shall be sealed or marked with an appropriate device by such inspector or weights and measures official. If not correctly installed or adjusted, it shall be corrected or shall be condemned by the placing thereon of a condemning tag or mark by such inspector or weights and measures official. [1929; last amended 1939.]

Sec. 185. Condemning of false weights and measures.

Whenever any city or county weights and measures official inspects any weighing or measuring device and finds that it does not correspond and does not cause it to correspond with the standards in his possession he shall condemn the same.

No person shall use or attempt to use any weighing or measuring device to which there has been affixed or upon which there has been placed any condemning tag, mark or device, for the purpose of determining the weight or quantity of any commodity or article of merchandise, unless such condemning tag, mark or device shall have been removed therefrom by a city or county weights and measures official.

No person except a weights and measures official, or with his consent or at his direction, shall remove from any such weighing or measuring device any condemning tag or mark which has been affixed thereto, or placed thereon by a city or county weights and measures official or obliterate, cover,

obstruct or deface the same. [1922; last amended 1939.]

Sec. 186. Disposition of condemned weighing and measuring devices.

A city or county sealer may condemn and seize any weighing or measuring device found by him to fail to conform to the standards in his possession and which is not caused by him to conform to such standards and cause the same to be destroyed or disposed of under such regulations as the commissioner [of agriculture and markets] may prescribe. [1922; last amended 1931.]

Sec. 187. Keeping false weighing and measuring devices.

No person shall retain in his possession any weighing or measuring device, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it or permit it to be used for determining the quantity of any commodity or article of merchandise. [1922; last amended 1931.]

Sec. 188. Use of false weights and measures; responsibility of seller or buyer; charge for service.

For the purpose of purchase, sale or service, no person shall use a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise.

If he be the seller, he shall not sell or deliver less of any such commodity or article of merchandise than the quantity represented to be sold; or, if he be the buyer, he shall not receive or accept more of any such commodity or article of merchandise than the quantity he represented to purchase.

No person shall determine a service charge on an amount in excess of the quantity of any such commodity or article of merchandise serviced. Nothing in this provision, however, shall prohibit the person or persons rendering the service from establishing a minimum charge therefor, such minimum charge to apply to all quantities up to and including a fixed limit, regardless of the actual weight or measure of the merchandise involved. In the event of the establishment of a minimum charge, the dispenser of the service shall inform the person receiving the service, by advertisement or otherwise, of the terms of such minimum charge. [1922; last amended 1944.]

Sec. 189. False labels; offense.

No person shall, with intent to defraud, put upon an article of merchandise or upon a cask, bottle, stopper, vessel, case, cover, wrapper, package, band, ticket, label or other thing, containing or covering such an article, or with which such an article is intended to be sold, or is sold, any false description or false indication of or respecting the number, quantity, weight or measure of such article or any part thereof; or sell or offer or ex-

Agriculture and Markets Law, Art. 16 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
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pose for sale an article which to his knowledge is falsely described or indicated in any of the manners or in any of the particulars above specified. [1922]

Sec. 190. Sale of fruits, vegetables, grains and nuts by weight or numerical count only; original package; marking requirements.

Except when sold in the original container, fruits, vegetables, grains and nuts shall be sold at retail by avoirdupois weight or numerical count.

The words "original container" as used in this section shall mean any container or integral thereof, which integral is a smaller container, the contents of which have not been removed or re-packed by the retailer. Any such original container must be plainly and conspicuously marked to show the net quantity of the contents thereof in terms of net weight, standard measure or numerical count. [1939]

Sec. 191. Standard milk and cream containers; tolerances; offenses.

Bottles, jars or other containers used for the sale of milk and cream shall be of the capacity of half gallon, three pints, one quart, one pint, half pint and one gill, filled full to the bottom of the cap ring or stopper; except that the commissioner [of agriculture and markets] may approve milk or cream bottles or jars or other containers with other filling points; provided, that the net contents in sizes prescribed in this section shall be permanently marked on the outside as prescribed by the commissioner. Bottles, jars or other containers used for milk for sale to hotels, restaurants, lunch counters, soda fountains, or any eating establishment where such milk is to be consumed on the premises of such eating establishment, shall be of the capacities mentioned, or one-third of a quart, filled full to the bottom of the cap ring or stopper; except that the commissioner may approve milk or cream bottles or jars or other containers with other filling points; provided, that the net contents in sizes prescribed in this section shall be permanently marked on the outside as prescribed by the commissioner. The following variation on individual bottles, jars or other containers may be allowed: six drams above and six drams below on the half gallon; five drams above and five drams below on the three pint; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the one-third of a quart; two drams above and two drams below on the half pint, and two drams above and two drams below on the gill. Bottles, jars or other containers used for the sale of milk shall have clearly blown,

or otherwise permanently marked, in or on the sides or bottom of the bottle, jar or other container the name, initials or trade-mark of the manufacturer and a designating number, letter or letters which may be used in identifying the bottles, jars or other containers. The designating number, letter or letters shall be approved by the commissioner upon application by the manufacturer, and a record of the designating numbers, letter or letters and their approval shall be kept in the office of the commissioner. No manufacturer shall sell milk or cream bottles, jars or other containers to be used in this state that do not comply as to size and marking with the provisions of this section. No dealer shall knowingly use, for the purpose of selling milk or cream, jars, bottles or other containers that do not conform to the provisions of this section. [1922; last amended 1947.]

Sec. 192. Container: Definition.

"A container," as used in the following sections of this article [Secs. 176-197], shall include any carton, box, crate, barrel, half-barrel, hamper, keg, drum, jug, jar, crock, bottle, bag, basket, pail, can, wrapper, parcel or package. [1922]

Sec. 192-a. Same: Standard for lettuce and celery.

A standard container to be used for the sale of any commodity hereinafter named shall be one having the dimensions specified in this section for that particular commodity. No container used for the sale of such commodity shall be marked or otherwise represented as a standard container unless it shall have the dimensions hereinafter given for a standard container for such commodity; nor shall any such non-standard container be sold or offered for sale as a standard container, nor shall the commodity in question, if packed in such non-standard container, be represented as being packed in a standard container when offered for sale or sold. But the commissioner [of agriculture and markets] shall have authority to, and may, approve as a standard container any type of container for any commodity which shall have the same cubic capacity as the one hereafter provided for such commodity. Any container so approved shall be deemed a standard container for such commodity.

1. A standard container for lettuce shall have a capacity of two thousand two hundred and eighty cubic inches, and shall have the following inside dimensions: length nineteen inches, width sixteen inches, depth seven and one-half inches, and shall be marked "standard lettuce container". When lettuce is sold or offered for sale either in a standard or non-standard container, the contents of such container shall be plainly marked thereon, or on a label or tag attached thereto, in terms of numerical count, anything to the contrary in section one hundred and ninety-four of this chapter [Secs. 176-197] notwithstanding.

2. A standard container for celery shall have a capacity of seven thousand three hundred and ninety-two cubic inches, including space occupied by inside corner posts, if any are used, and shall have the following inside dimensions, including space occupied by inside corner posts, if any are used: length twenty-one inches, width sixteen inches, depth twenty-two inches. If inside corner posts are used they shall not be larger than one and one-half inches square. Such container shall be marked "standard celery container." When celery is sold or offered for sale either in a standard or non-standard container, the contents of such container shall be plainly marked thereon, or on a label or tag attached thereto, in terms of numerical count, anything to the contrary in section one hundred and ninety-four of this chapter notwithstanding; and there shall be painted, printed or stenciled on the container, in letters not less than one inch high, the name and business address of the packer or distributor. [1926; last amended 1943.]

Sec. 192-b. Same: Used.

When farm products of the same kind as the original contents are packed in used containers by others than the original packers and sold, offered for sale or transported for sale, any markings pertaining to the original contents shall be erased, obliterated or such container shall be conspicuously marked or labeled and in the case of bags or sacks tagged on the outside with the words "Not Original Contents" in letters at least one inch in height. [1939]

Sec. 192-c. Same: Malt beverages; tolerances; rules and regulations.

No person, firm or corporation shall sell, offer or expose for sale beer, ale, porter or other maltous beverages in any manner other than by liquid measure. When so sold, offered or exposed for sale, it shall be in containers of the following standard contents—barrel, half-barrel, one-quarter barrel and one-eighth barrel and such a container need not be marked or labeled to indicate its net contents.

A barrel, when used for the sale, offer or exposure for sale of beer, ale, porter and other maltous beverages, shall mean thirty-one gallons; multiples or sub-multiples of a barrel shall have proportionate contents.

Beer, ale, porter and other maltous beverages may be sold in containers with contents of less than one-eighth barrel, provided the container is so marked or labeled, clearly and conspicuously, indicating its net contents.

The commissioner [of agriculture and markets] shall adopt and promulgate rules, regulations and tolerances to make clear and effective the provisions of this section. [1939; last amended 1940.]

Sec. 193.¹ Sale of commodities by weight, etc.

All meat, meat products and butter shall be sold or offered for sale by net weight; all other commodities not in containers shall be sold or offered for sale by standard net weight, standard measure or numerical count as may be prescribed by the commissioner [of agriculture and markets]; and such net weight, measure or count shall be marked thereon, or on a label or tag attached thereto; provided, however, that vegetables may be sold by the head or bunch.¹ [1922; last amended 1939.]

¹ See Sec. 195, page 700, exceptions.

Sec. 193-a. Bread standards; exceptions; label; tolerances.

Except as hereinafter otherwise provided, bread shall not be manufactured for sale, sold or offered or exposed for sale otherwise than by weight, and shall be manufactured for sale, sold, or offered or exposed for sale only in units of one pound, one and one-half pounds, or multiples of one pound. When multiple loaves are baked, each unit loaf shall conform to the weight required by this section. The weights herein specified shall mean net weights not more than twelve hours after baking, or not more than twelve hours after sale and delivery by the manufacturer for resale. Such weights shall be determined by the average weight of not less than six loaves; provided, that such average weights shall be determined by the weight of at least twelve loaves, whenever such number of loaves is available at the time and place of such weighing; and provided further, that bread found upon any premises occupied for the manufacture of bread for sale, or any bread found in the wagons, trucks, baskets, boxes or other delivery vehicle or receptacles owned or controlled by the manufacturer of such bread, and being transported or delivered for sale, shall for the purposes of this section be deemed to have been baked within twelve hours unless such bread is marked, designated or segregated as stale bread. Such unit weights shall not apply to rolls; nor to stale bread when sold as such; nor to restaurant or sandwich bread sold for consumption and use on the premises and not for resale; nor to fancy bread such as fruit breads, nut breads, sugar-coated breads and gluten breads, and such other breads as shall be defined as fancy bread; nor to bread sold by the piece cut from the loaf, provided such bread be weighed in the presence of the buyer upon tested scales kept for that purpose; nor to loaves bearing in plain and conspicuous position a plain statement of the net weight of the loaf and the name of the manufacturer thereof upon the wrapper of each loaf, if the bread is wrapped, or, if unwrapped, upon a label, which label or that portion representing the weight shall be not larger than one by one and three-quarter inches and not smaller than one by one and one-half inches in size affixed to the loaf in

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a sanitary manner, provided, however, that in the case of loaves sold at retail, or offered or exposed for retail sale, direct from manufacturer to consumer upon or in the premises of the manufacturer, the information as to the weight of such loaves may be given upon a notice printed in English and, if different language is spoken, also the language or languages of the neighborhood, conspicuously posted in plain view of the buyer and in close proximity to the bread offered for sale in such premises, setting forth the weight of each size and variety of such loaves. When an inspection of bread is made at any bakery by or under the direction of the commissioner [of agriculture and markets] or by or under the direction of any city or county sealer, the manufacturer of such bread or his servants or agents shall, upon the request of the official making such inspection, inform him whether such bread is manufactured for sale in any of the standard unit weights prescribed by this section and, if not so manufactured for sale in such standard units, shall furnish such official with samples of the labels or wrappers intended to be used on all such loaves of other than standard unit weights, or the notices intended to be posted with respect to such loaves. The commissioner shall make such uniform rules and regulations as are necessary to enforce this section, including reasonable tolerances or variations within which all weights shall be kept; provided, however, that the variation between the standard or represented weight and the true or actual weight shall not exceed one ounce per pound. The requirements of section one hundred and ninety-four of this chapter [Secs. 176-197] shall not apply to the sale of bread. [1924; last amended 1936.]

Sec. 193-aa. Re-use of containers for bread; offense.

It shall be unlawful for any person, other than the owner thereof, to make use of any container or package in which bread has been packed for delivery for the packing or shipment of bread. Violation of the provisions of this section shall constitute a misdemeanor. [1936]

Sec. 193-b. Method of sale of fuel wood.

All wood for fuel purposes shall be sold or offered for sale by the cord or fractional part thereof, unless some other unit of measure is specifically agreed upon. A cord of wood shall measure and contain one hundred and twenty-eight cubic feet, well stacked. With the exception of kindling, when such fuel wood is sold, it shall be accompanied by a bill of sale bearing the name and address of the seller, the name and address of the purchaser, and the quantity of wood contained in the delivery in terms of cords or fractional parts

thereof or the unit of measurement specifically agreed upon. At the time of delivery, such bill of sale, signed by the seller, shall be given to the purchaser specified thereon. [1926; last amended 1947.]

Sec. 193-c. Standard log rule.

The international log rule, based upon one-fourth inch saw kerf, as expressed in the formula $(D^2 \times 0.22) - 0.71D) \times 0.904762$ for four foot sections (D represents top diameter of log in inches; taper allowance, one-half inch per four feet lineal), is hereby adopted as the standard log rule for determining the board foot content of saw logs and all contracts hereafter entered into for the purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule, unless some other method of measurement is specifically agreed upon. [1930]

Sec. 193-d. Frozen desserts: Definition; containers.

1. As used in this section, the term "frozen desserts" shall be deemed to mean and include "ice cream," "frozen custard," "milk sherbet," "ice" and "ice sherbet" as those terms are defined in section seventy-one-a of this chapter [Secs. 1-355].

2. Frozen desserts shall be sold in containers of the following capacities only: one quart, one pint, one-half pint and multiples of the half pint. The net contents of the container shall be marked on the outside or top thereof in a plain and conspicuous manner. Containers may be of capacities of less than eight fluid ounces if the net contents of the container, in terms of fluid ounces, is indicated on the outside or top thereof in a plain and conspicuous manner.

3. When frozen desserts are in individual units of fancy form, which term shall be defined by the commissioner [of agriculture and markets], and each unit is less than eight fluid ounces, they may be sold by the unit without being marked as to net contents.

4. Ice cream shall weigh not less than four and five tenths pounds per gallon, and when sold in smaller units, proportionate minimum weights shall be required. [1939; last amended 1945.]

Sec. 193-e. Flour and corn meals: Standard weight containers; exceptions.

No person, firm, corporation or association shall pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of five pounds, ten pounds, twenty-five pounds, fifty pounds, or one hundred pounds, or multiples of one hundred pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour and corn meals. The provisions of this section shall not apply, however, to (a) flours or meals packed in containers, the net

contents of which are less than three pounds; (b) the retailing of flours and meals direct to the consumer from bulk stock; (c) the sale of flours and meals to commercial bakers or blenders; (d) the sale of flours and meals for export or (e) the exchange of wheat for flour by mills grinding for toll. [1945; last amended 1947.]

Sec. 193-f. Sale of lawn dressings and fertilizers by net weight or standard measure; bill of sale.

Any person, firm or corporation soliciting, peddling and/or selling from bulk any commodity represented as a lawn dressing, fertilizer or material to be used as such, must offer for sale and/or sell such material by net weight or by standard measure. A bill of sale shall be delivered to the purchaser or his agent at the time of delivery of such material. Such bill of sale shall include the name and address of the seller and of the purchaser, and a statement of the quantity of fertilizer, lawn dressing or material delivered, in terms of net weight or standard measure, and the signature of the person making the delivery. [1947]

Sec. 194-1. Net content label; variations.

When commodities are sold or offered for sale in containers whose sizes are not otherwise provided by statute, the net quantity of the contents of each container shall be plainly and conspicuously marked, branded or otherwise indicated on the outside or top thereof or on a label or a tag attached thereto in terms of weight, measure or numerical count as may be prescribed by the commissioner [of agriculture and markets]; provided, however, that reasonable variations shall be permitted. [1922; last amended 1939.]

¹ See Sec. 195, page 700, exceptions.

Sec. 194-a. Hay and straw: Presser defined; correct scales to be used; bale marks.

The term "presser" as used in this and the following sections of this article [Secs. 176-197] shall mean the person, firm, association or corporation owning or having possession of and operating the hay press. A presser who presses hay or straw for market shall use correct scales, properly sealed. Every presser of hay or straw for market shall mark each bale of any of such commodities pressed by him with his name and business address and the correct weight of the bale. These markings shall be made upon a tag, of not less than one and one-half inches in width and three inches in length, securely fastened to the bale.

The foregoing provisions shall not apply to hay or straw pressed or baled in the field by a pickup baler. Before being sold, such baled hay or straw shall be plainly marked with the name and business address of the presser or owner.

For the purposes of this article, the term "hay or straw pressed or baled in the field" shall mean freshly cut and unstacked hay or straw pressed or

baled in the field where produced. [1939; last amended 1944.]

Sec. 194-b. Same; Method of sale by bale or lot.

The net weight shall be plainly marked on each bale of hay or straw sold or offered for sale in this state, and no baled hay or straw shall be sold or offered for sale which weighs less than such net weight; except when hay or straw pressed or baled in the field, as defined in section one hundred ninety-four-a, is sold other than by the bale, the individual bales need not be marked as to net weight, but a bill of sale from and by the seller stating the number of bales involved in the sale and the total net weight thereof at the time of sale shall accompany the delivery. [1939; last amended 1944.]

Sec. 194-c. Same; Concealment of inferior products.

No person shall put or conceal in any such bundle of hay any wet or damaged hay, or other materials, or hay of any inferior quality to that which plainly appears upon the outside of such bundle. [1939]

Sec. 194-d. Measure of thread; label; offense.

No person, firm or corporation shall sell or offer for sale, sewing, basting, darning, crochet, tatting, hand-knitting or embroidery thread made of cotton, linen, silk, rayon, nylon, or any synthetic material or any combination thereof put up on spools, tubes, cones, bobbins or in balls, skeins or other similar units, unless there is affixed to or impressed upon a conspicuous part of each such spool, tube, cone, bobbin, ball, skein or other similar unit of such thread a label or stamp which shall be plain and conspicuous, and which shall plainly and definitely indicate, either its net weight in avoirdupois pounds and ounces, or its length in yards; provided that when any such spool, tube, cone, bobbin, ball, skein or other similar unit of such thread containing a net weight of less than two avoirdupois ounces, is sold or offered for sale, then such label or stamp shall indicate its length in yards; provided further that where from the shape, size or character of the spool, tube, cone, bobbin, ball, skein or other similar unit it is impossible so to affix or impress such label or stamp, a label or stamp shall be affixed to the box or other container in which such units are put up, stating the number of units contained therein and the net weight or yardage of each as hereinbefore prescribed. If any such person, firm, or corporation shall sell or offer for sale such thread on any such spool, tube, cone, bobbin, or in any such ball, skein or other similar unit or box, without a label or stamp specifying the net weight or number of yards of thread contained thereon, as provided in this section, or if any such person, firm or corporation shall knowingly sell or offer for sale such thread on any such

Agriculture and Markets Law, Art. 16 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Weights and Measures—Continued.

spool, tube, cone, bobbin, or in any such ball, skein or other similar unit or box, weighing or measuring more than five per centum less than the net weight or number of yards that the label or stamp thereon specified, then such person, firm or corporation shall be guilty of a misdemeanor. [1939; last amended 1947.]

Sec. 195. Exceptions to Secs. 193 and 194.

The provisions of sections one hundred and ninety-three and one hundred and ninety-four shall not apply to containers or commodities in containers with ornamentations or decorations exclusively for gifts or social favors or to commodities dispensed for consumption on the premises, or to commodities or containers put in receptacles used merely for the purpose of carrying or delivering of commodities or containers complying with the provisions of such sections, or when the numerical count of the individual units is six or less, or in the case of liquids when the contents is two fluid ounces or less, or when the weight of the contents is three avoirdupois ounces or less. [1922; last amended 1939.]

Sec. 196. Guaranty as exemption from prosecution.

No person shall be prosecuted under the provisions of sections one hundred and ninety-two-a, one hundred and ninety-three, one hundred and ninety-three-a, and one hundred and ninety-four, when he can show a guaranty signed by a wholesaler, jobber or manufacturer, residing in the state of New York from whom he purchased the commodity in containers to the effect that they were not incorrectly marked within the meaning of such sections. The person making the sale and guaranty shall then be amenable to the prosecution, fines, and other penalties which would in due course attach to the dealer under the provisions of such sections. The name appearing on the container and the marking as provided by section one hundred and ninety-four shall be deemed to constitute a guaranty. [1922; last amended 1931.]

Sec. 196-a. Promulgation of rules and regulations.

The commissioner [of agriculture and markets] may adopt and promulgate such rules and regulations to supplement and give full effect to the provisions of this article [Secs. 176-197] as he may deem necessary. Such rules and regulations shall be filed with the secretary of state, shall be open for public inspection at the principal office of the department, and shall have the force and effect of law. [1939]

Sec. 197. Construction of contracts.

All contracts made within the state for work to be done, or for the sale or delivery of personal

property by weight or measure, shall be taken and construed according to the standards of weights and measures adopted in this article [Secs. 176-197]. [1922]

Agriculture and Markets Law, Art. 16-A (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Coal, Coke and Charcoal.

Sec. 197-a. Coal and coke: Sold by weight; ton; licensed weighmaster; scales to be tested and sealed; tolerance.

Coal and coke shall be sold by weight. No person shall sell or deliver, or attempt to sell or deliver, or offer to sell or deliver, or start out for delivery less than two thousand pounds by weight to the ton of coal or coke, or a proper proportion thereof in quantities less than a ton, and such coal or coke shall be duly weighed by a licensed weighmaster of the state of New York, on stationary scales, suitable for weighing the tare and gross weights of the vehicles transporting the coal or coke, located in the state of New York which have been tested and sealed by the official charged with such testing. A tolerance at the rate of thirty pounds to the ton shall be allowed for unavoidable wastage and unavoidable variation in scales. [1933; last amended 1937.]

Sec. 197-b. Same: Weight tickets; charge; coal sold in less than 100 pound lots excepted; marking requirements.

No person, upon the sale of coal or coke shall deliver or cause to be delivered or to be started out for delivery any coal or coke without each lot being accompanied by a weight ticket of a licensed weighmaster of the state of New York, and a duplicate thereof, on each of which in ink, typewriting or indelible pencil, there shall be distinctly expressed in pounds, the net weight of the delivery, including the net weight of each size or kind of coal and coke, the name and address of the purchaser, the name and address of the seller, the date when weighed and the full signature of the licensed weighmaster by whom weighed.

The tare and gross weights of the vehicle transporting coal or coke and the net weight of the delivery must be determined by the same licensed weighmaster on the same scales on the same day. One of such tickets shall be delivered to the purchaser specified thereon at the time of delivery, and the other retained by the seller for a period of ninety days. The weighmaster may charge a sum not exceeding twenty-five cents for each delivery of coal or coke requiring a separate weight ticket, weighed by him under the provisions of this article [Secs. 197-a-197-m]. When coal or coke is sold in lots of less than one hundred pounds, the provisions of this section shall not apply, provided the coal or coke is delivered in a bag or other container plainly and conspicuously marked with the correct weight of the contents. [1933; last amended 1940.]

Sec. 197-c. Same: Exception to weight certificate provision.

Section one hundred and ninety-seven-b shall not apply to the sale of an entire boat load or railroad car load of coal or coke delivered direct from the boat or car to one purchaser and accepted as to weight by the purchaser on the bill-of-lading or other voucher issued by the carrier. [1933]

Sec. 197-d. Same: Reweighing.

Any weights and measures official or any peace officer of the state or of any city, county or other municipality, who finds any quantity of coal or coke ready for or in process of delivery may direct the person in charge of the coal or coke to convey the same to an available stationary scale suitable for weighing the vehicle transporting the coal or coke, located in the state of New York which have been tested and sealed by the official charged with such testing. Such official shall thereupon determine the gross weight of the coal or coke and the vehicle in which it is carried, and shall direct such person in charge to return to such scales forthwith upon unloading the coal or coke, and upon such return the official shall determine the tare weight of the vehicle without load. No seller or driver or other person in charge of the vehicle containing such coal or coke, or from which such coal or coke has been unloaded, shall fail to take the vehicle, upon the direction of the weights and measures official or peace officer, to scales as aforesaid or refuse to permit the coal, coke or vehicle to be weighed by him. [1933; last amended 1942.]

Sec. 197-e. Same: Licensing of weighmaster; revocation.

No person shall make or issue a weight ticket for coal or coke unless licensed by the commissioner [of agriculture and markets]. Application for a license shall be made upon a form prescribed by the commissioner. The applicant shall furnish satisfactory evidence of good moral character and of ability to weigh accurately and to make correct weight tickets. He shall also furnish evidence that he owns or leases a stationary scale suitable for weighing the tare and gross weights of a vehicle transporting coal or coke or that he is regularly employed by the owner or lessee of such a scale. The applicant shall pay a license fee of three dollars to the commissioner for remittance to the state treasury. A license shall be for a period not exceeding three years and may be renewed, in the discretion of the commissioner, for successive periods of not exceeding three years each, upon payment of a license fee of three dollars to the commissioner for remittance to the state treasury. Each license shall be kept at the place where the weighmaster is engaged in weighing and shall be open to inspection. A license may be revoked by the commissioner, after a hearing upon due notice to the licensee, for dishonesty, incompetency, inaccuracy, or a violation of the provisions of this

chapter [Secs. 197-a—197-m]. No person shall sign the name of the licensed weighmaster except the person to whom the weighmaster's license is issued. [1933; last amended 1937.]

Sec. 197-f. Same: Marking of delivery truck.

All vehicles used in transportation of coal or coke shall have conspicuously marked with permanent letters on the exterior of the right and left side thereof, in plain view and easily discernible, the name of the owner, together with the words coal and/or coke. The letters of the words coal and/or coke shall be at least seven inches in height and not less than one-half inch in width. [1936; last amended 1937.]

Sec. 197-g. Same: Weighing out of state vehicles.

Every driver of a motor truck bringing coal or coke into the state of New York from outside the state, shall upon entering the state, proceed forthwith, before delivery of the load of coal or coke, to the nearest available stationary scales suitable for weighing the tare and gross weights of the vehicle, to the place or places of each delivery, to have the coal or coke weighed by a duly licensed weighmaster in accordance with the requirements of this article [Secs. 197-a—197-m]. [1937]

Sec. 197-h. Same: Certificate of origin when transported into state by motor vehicle.

1. The words "certificate of origin," when used in this section, mean a signed certificate containing the following:

(a) The name and location of, and the name of the owner or operator of the breaker, colliery or other place of production where the coal to which it refers, is produced; or if the coal to which it refers comes from a yard, pocket or other place of storage where coal is commingled and stored outside the state other than a colliery, breaker or other place of production, then the name of the owner or operator of the yard, pocket or other place of storage.

(b) The kind, size and weight of the coal.

(c) The name and address of the person claiming ownership of said coal.

(d) The name and address of the driver of the truck hauling said coal and the state registration number of the truck.

(e) The name and address of the person or persons to whom said coal is to be delivered, or in the event that said coal is not intended for delivery to any particular person, or persons, the name and address of the owner and yard to which it is to be taken.

The certificate shall be signed in ink or indelible pencil by the person who is operating the truck at the time it crosses the boundary line of the state and by the person who is the owner or operator of the breaker, colliery or other place of produc-

**Agriculture and Markets Law, Art. 16-A (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Coal, Coke and Charcoal—Continued.**

tion or of the yard, pocket or other place of storage, as the case may be, where the coal to which the certificate refers is loaded on the truck outside the state, or by a duly authorized agent of such person.

2. It shall be unlawful for any person to haul, transport, purchase, sell or deliver in the state of New York, any coal brought into the state from outside the state by motor truck, except in accordance with the provisions of this section.

3. Such coal shall be accompanied at all times until delivery by a certificate of origin and a duplicate original of such certificate of origin shall be filed as hereinafter provided.

4. Every driver of a truck bringing coal into the state of New York shall, after crossing any boundary line of the state, proceed forthwith before delivery of the load, to the nearest available stationary scales to the place or places of delivery, to have the coal weighed by a duly licensed weighmaster in accordance with the requirements of this article [Secs. 197-a—197-m] and shall, then and there, file a duplicate original of the required certificate of origin.

5. No weighmaster shall weigh up any such load of coal and sign a weight ticket therefor, unless and until a duplicate original of the certificate of origin for such coal shall be filed with the weighmaster in the form required by subdivision one of this section. Such weighmaster, upon signing such weight ticket, shall make a notation thereon of the number, if any, and the date of the certificate of origin and shall also sign and date the certificate of origin accompanying the load of coal. Nothing herein contained shall be construed to require the weighing in the state of New York of any load of coal which is merely being transported through the state of New York for sale and delivery outside the state without being unloaded within the state, but the driver of any truck transporting such a load of coal shall in any event file a duplicate original of the required certificate of origin with a duly licensed weighmaster at the nearest available scales after entering the state.

6. Any person directly interested in the sale, distribution, hauling or transportation of coal in the state of New York and any association composed of persons who are so interested shall be entitled to sue for and to have injunctive relief in any court of the state of New York having jurisdiction over the parties against actual or threatened violations of the provisions of this section. [1936; last amended 1940.]

Sec. 197-i.¹ Same: Prohibited acts.

No licensed weighmaster shall make or issue a false or incorrect weight ticket, nor shall any person solicit him to do so. No person shall know-

ingly use a false or incorrect weight ticket. No person shall use a weight ticket not bearing the signature of a licensed weighmaster. No licensed weighmaster shall knowingly permit any weight ticket to be issued or used which purports to bear his signature and was not in fact signed by him, or which expresses a weight not ascertained by him. [1933; last amended 1937.]

¹ See Sec. 889-a, Penal Law, page 710, forging weight certificates.

Sec. 197-j. Same: Penalties.

Any person violating any provisions of this article [Secs. 197-a—197-m] shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars, or by imprisonment for not less than one month, nor more than six months, or by both such fine and imprisonment for the first offense, and by not more than one year's imprisonment for the second offense. Any court of special sessions or any police court having jurisdiction shall have jurisdiction to try without a jury, convict, and sentence any person violating any provisions of this article. [1937]

Sec. 197-k. Same: Reciprocity of weight certificates.

Whenever in any bordering state, requiring weighing licenses and weight certificates for coal and coke, the administrative officer in charge thereof is authorized by statute to recognize and accept weighing licenses and weight certificates thereof of this state, the commissioner of agriculture and markets of this state in his discretion is authorized to recognize and accept such licenses and certificates of such state within a zone not exceeding five miles in width from such border provided such certificates shall have been issued by a licensed weighmaster whose scales are located not more than five miles distant from such border in such other state. [1942]

Sec. 197-l. Charcoal: Sold by weight or measure; marking requirements.

Charcoal shall be sold by weight or by standard dry measure, and each bag or other container in which charcoal is sold or delivered shall be plainly and conspicuously marked to show the net quantity of the contents of the container. Charcoal in quantities less than one hundred pounds may be sold by standard dry measure, and in such case the bags, baskets or pails shall have marked on the outside thereof the capacity in terms of standard dry measure in solid roman capital letters at least one inch in height. [1933; last amended 1942.]

Sec. 197-m. New York City exempt.

The provisions of this article [Secs. 197-a—197-m] shall not apply to the city of New York. [1933]

Second Class Cities Law, Art. 3 (McKinney's Consolidated Laws Annotated, Ch. 53, Book 52)—Sealer of Weights and Measures.

Sec. 12. Appointment.

There shall be appointed by the mayor a * * * sealer of weights and measures. * * * [1909]

Sec. 13. Term of office.

* * * The term of office of the * * * sealer of weights and measures shall be two years, unless sooner removed by the mayor. * * * [1909]

Second Class Cities Law, Art. 14 (McKinney's Consolidated Laws Annotated, Ch. 53, Book 52)—Sealer of Weights and Measures.

Sec. 211. Powers; duties; salary.

The sealer of weights and measures shall, within the city, have the powers and perform the duties of sealers of weights and measures of towns under the general laws of the state. He shall supervise the weighing of coal and perform such other duties as may be prescribed by law or ordinance of the common council. He shall receive a salary, to be fixed by the board of estimate and apportionment, and no fees shall be charged or collected by him or by the city for his services. [1909]

Village Law, Art. 3 (McKinney's Consolidated Laws Annotated, Ch. 64, Book 63)—Classification.

Sec. 40. Classification according to population.

Villages are divided into classes according to their population, as shown by the last enumeration, village, state or federal, as follows:

First class. Villages containing a population of five thousand or more.

Second class. Villages containing a population of three thousand and less than five thousand.

Third class. Villages containing a population of one thousand and less than three thousand.

Fourth class. Villages containing a population of less than one thousand. [1909]

Village Law, Art. 4 (McKinney's Consolidated Law Annotated, Ch. 64, Book 63)—Powers of Board of Trustees.

Sec. 89. Establishment and maintenance of village scales.

The board of trustees of a village.

* * * * *

13. May establish and maintain a village clock and scales for the public convenience; and fix the fees for the use of such scales. [1909; last amended 1949.]

* * * * *

Agriculture and Markets Law, Art. 4 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Milk and Cream.

Sec. 56. Determination of milk fat; standard bottles or pipettes; sealing; offense.

In milk-receiving or manufacturing plants and other places using any volumetric method for determining the fat content of milk and/or cream, where the result of such determination is to be used wholly or in part as a basis for payment or settlement for such milk and/or cream, or where the proceeds of co-operative creameries or such milk-receiving or manufacturing plants are allotted on the basis of the determination of milk fat, or where the result of such test is used for the purpose of official inspection or for public record, no bottle or pipette shall be used in such determination unless such bottle or pipette has been legibly and indelibly marked with the letters "N.Y." by the director of the New York state agricultural experiment station or by his duly authorized representative. No such bottle or pipette shall be so marked unless it has been found upon examination to be so constructed and graduated as to show accurately the amount of milk fat contained in milk and/or cream. Any such bottles or pipettes which upon examination are found to conform to the standard specifications promulgated by the national bureau of standards shall be deemed to be so constructed and graduated. The provisions of this article [Secs. 46-71], however, shall not preclude the use of a bottle or a pipette already marked "S. B." by the director of the New York state agricultural experiment station.

* * * * *

* * * The commissioner [of agriculture and markets] or persons employed by him for that purpose may at any time inspect the equipment and assist in making tests of milk and/or cream received at any milk-receiving or manufacturing plant or other place of testing for the purpose of determining the accuracy of tests so made.

Any person or persons using other than the properly marked bottles or pipettes, * * * or crediting any patron delivering milk and/or cream with a greater or lesser percentage or average percentage of milk fat than is actually contained in such milk and/or cream so delivered and as determined by the method or methods herein provided shall be deemed to have violated the provisions of the agriculture and markets law.¹ [1941]

¹ See Secs. 39-41, pages 691-692, penalties for violations.

Sec. 56-b. Determination of bacterial count; standard pipettes; sealing; offenses.

In milk-receiving or manufacturing plants and other places using methods approved by the commissioner [of agriculture and markets] for determining the bacterial count in milk and/or

Agriculture and Markets Law, Art. 4 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Milk and Cream—Continued.

cream, where the result of such determination is to be used wholly or in part as a basis for payment or settlement for such milk or cream, or where the proceeds of cooperative creameries or such milk-receiving or manufacturing plants are allotted on the basis of the bacterial count, no pipette shall be used in such determination unless the same has been legibly and indelibly marked with the letters "N.Y." by the director of the New York state agricultural experiment station or by his duly authorized representative. No such pipette shall be so marked unless it has been found upon examination to be so constructed and graduated as to deliver accurately the amount of liquid required for the determination. The provisions of this article [Secs. 46-71], however, shall not preclude the use of a pipette already marked "S.B.", by the director of the New York state agricultural experiment station.

* * * * *
* * * The commissioner or persons employed by him for that purpose may at any time inspect the equipment and assist in making bacterial counts of milk and/or cream received at any milk-receiving or manufacturing plant or other place where counts are made for the purpose of determining the accuracy of the counts so made.

Any person or persons using other than the properly marked pipettes or crediting any patron delivering milk and/or cream with a larger or smaller bacterial count than that obtained by the actual count of the bacteria in the milk and/or cream so delivered and as determined by the method or methods approved by the commissioner shall be deemed to have violated the provisions of the agriculture and markets law.¹ [1941]

¹ See Secs. 39-41, pages 691-692, penalties for violations.

Agriculture and Markets Law, Art. 8 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)
—Concentrated Commercial Feeding Stuffs.

Sec. 128. Definition.

The term "concentrated commercial feeding stuffs" as used in this article [Secs. 128-135] shall apply to no materials other than those known as concentrates, and shall include linseed meals, cottonseed meals, pea meals, bean meals, peanut meals, cocoanut meals, gluten meals, velvet bean meals, soya bean meals, dried yeast grains, dried vinegar grains, corn germ meal, feeding molasses, gluten feeds, cottonseed feeds, maize feeds, velvet bean feeds, peanut feeds, dried distillers' grains, dried brewer's grains, malt sprouts, except as hereinafter provided, hominy feeds, rice meals, corn and oat chops, corn feed meal, corn bran, corn and cob meal, wheat bran, wheat middlings, wheat feed, rye feed, rye middlings, buckwheat middlings and

buckwheat feed, ground beef or fish scraps, meat meals, meat and bone meals mixed, dried blood, milk by-products, mixed feeds, compounded feeds, condimental stock and poultry feeds, proprietary or trade-marked stock and poultry feeds, and all other materials of a similar nature; but shall not include the materials defined in this article as roughages, the whole seeds nor pure whole grains ground together nor the unmixed meals, made directly from the entire grains of wheat, rye, barley, oats, corn, buckwheat and broom corn, nor malt sprouts, when sold as such by the malster at retail, nor ground or cracked bone not mixed with any other substance, nor shall it include poultry feeds consisting of whole or whole and cracked grains mixed together, with or without grit, oyster shells or charcoal, when all the ingredients may be identified by the naked eye. [1922]

Sec. 131. Marking requirements.

No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale or for distribution in this state, any concentrated commercial feeding stuffs used for feeding live stock unless such concentrated commercial feeding stuffs shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof and near the top, a tag, the form of which shall be prescribed by the commissioner [of agriculture and markets] and which shall bear a plainly printed statement which shall certify as follows:

1. The net weight of the contents of the package, except in the case of malt sprouts sold in packages containing uneven weights.

* * * * *

The statement to be placed upon the tag or sacks as herein provided shall be the same statement as that upon the application filed in the office of the commissioner by the applicant when applying for a license as required by section one hundred and thirty-two of this chapter [Secs. 128-135].

Metal fasteners with sharp points shall not be used to attach a tag to the container if in the container there is a feeding stuff, irrespective of whether it be a concentrate as defined in this article or a feeding stuff exempt from the provisions of this article.

Where the feeding stuff is in white or light colored paper or cloth sacks, or in new sacks, the tag may be omitted, but the statement herein provided for shall be plainly and conspicuously printed upon each sack. If any such concentrated commercial feeding stuffs be sold, offered or exposed for sale in bulk, such printed statement shall accompany every car or lot. Any such feeding stuffs purchased in bulk and thereafter placed in sacks for the purpose of sale shall have tags attached to each sack giving the information as provided herein be-

fore being sold, offered or exposed for sale. Whenever any feeding stuffs are sold at retail in bulk or in sacks or other containers belonging to the purchaser, the seller, upon request of the purchaser, shall furnish the said purchaser the information contained in the certified statement provided herein. Whenever any dealer shall mix a concentrated commercial feeding stuff to a customer's order, he shall, upon request, give to the customer at the time of delivery of the feeding stuff a printed or written statement of all of the materials used and the weight of each. * * * [1922; last amended 1928.]

Sec. 133-a. Misrepresentations prohibited.

No person shall sell or offer for sale or advertise for sale any concentrated commercial feeding stuffs, if the package containing it, or the label or tag attached thereto, or any advertising relative to it, shall bear any statement or device regarding such concentrated commercial feeding stuffs which is false or misleading in any particular. [1928]

[ED. NOTE.—The provisions of this article [Secs. 128-135 are enforced by the Commissioner of Agriculture and Markets, see Secs. 16-20, pages 690-691.]

For penalties for violations, see Secs. 39-41, pages 691-692.]

Agriculture and Markets Law, Art. 10 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Commercial Fertilizer.

Sec. 143. Marking requirements.

No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale in this state any commercial fertilizer or any material to be used as fertilizer, except animal manures which have not been artificially treated or manipulated, unless such commercial fertilizer or material to be used as a fertilizer shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof, a plainly printed statement which shall certify as follows:

1. The net weight of the contents of the package.

* * * * *

If any commercial fertilizer or material to be used as a fertilizer, be sold, offered or exposed for sale in bulk such printed statement shall accompany every lot and parcel so sold, offered or exposed for sale. [1922; last amended 1941.]

* * * * *

Sec. 144. False label regarding net weight a violation.

It shall be a violation of the provisions of this article [Secs. 143-147] if the statement required by the last preceding section shall be false in regard to the net weight of the contents of the package sold, offered or exposed for sale, * * * [1922; last amended 1941.]

[ED. NOTE.—The provisions of this article [Secs. 143-147] are enforced by the Commissioner of Agriculture and Markets, see Secs. 16-20, pages 690-691.]

For penalties for violations, see Secs. 39-41, pages 691-692.]

Agriculture and Markets Law, Art. 11 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Economic Poisons.

Sec. 148. Definitions.

As used in this article [Secs. 148-151-e]:

1. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animal, which the commissioner [of agriculture and markets] shall declare to be a pest.

* * * * *

14. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison.

* * * * *

17. The term "misbranded" shall apply:

(1) to any economic poison if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison: * * *

(e) if any word, statement, or other information required by or under the authority of this article to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, * * * [1947; last amended 1948.]

Sec. 149.¹ Prohibited acts; marking requirements.

1. It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

* * * * *

(2) Any economic poison unless there is affixed to the container or to the immediate outside wrapper, if there be one, a label bearing:

* * * * *

(c) the net weight or measure of the content; subject, however, to such reasonable variations as the commissioner [of agriculture and markets] may permit.

(5) Any economic poison which is adulterated or misbranded. [1947; last amended 1948.]

* * * * *

¹ For penalties for violations of the Agriculture and Markets Law, see Secs. 39-41, pages 691-692.

Agriculture and Markets Law, Art. 11 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Economic Poisons—Continued.

Sec. 151-b. Seizures.

* * * * *

2. Whenever the commissioner [of agriculture and markets] or his duly authorized representative shall find distributed, sold, exposed or offered for sale within this state any economic poison which is adulterated or misbranded as defined in this article, or which fails to bear on its label the information required by this article, * * * he may seize or destroy such economic poison.

Whenever the commissioner finds, or has probable cause to believe, that any such economic poison is adulterated or misbranded or improperly labeled, * * * he may affix to such economic poison a tag or other appropriate marking giving notice that such economic poison is or is suspected of being adulterated or misbranded, or improperly labeled, * * * and has been quarantined, and warning all persons not to remove or dispose of such economic poison, by sale or otherwise, until permission for removal or disposal is given by the commissioner or his duly authorized representative. It shall be a violation of this article for any person to remove or dispose of such seized or quarantined economic poison by sale or otherwise without such permission. [1947]

* * * * *

[ED. NOTE.—This Act includes exemptions with respect to economic poisons used officially by State or Federal officials, used experimentally, and intended for export, Sec. 151-a, not included herein.]

Agriculture and Markets Law, Art. 13 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Apples.

Sec. 157. Closed packages defined.

The term "closed package", wherever used in this article [Secs. 158-160], shall mean a barrel, box or other container, the contents of which cannot be adequately inspected without opening it. [1927]

Sec. 158. Marking requirements.

* * * * *

Each closed package of apples, packed or repacked within this state, when sold, exposed for sale or transported for sale, shall be plainly and conspicuously branded to show:

* * * * *

(4) Quantity of contents.

(5) Name and address of packer or repacker. [1927; last amended 1930.]

* * * * *

Sec. 159.¹ Offenses; presumption; rules and regulations.

1. No person shall sell, expose for sale, or transport for sale, apples in closed packages packed or repacked within the state which are not branded as required by section one hundred and fifty-eight.

2. No person shall sell, expose for sale, or transport for sale, apples, either in open or closed packages, if the package containing them or the label on them shall bear any statement, design or device regarding the apples which shall be false or misleading in any particular.

* * * * *

4. When apples in closed packages are delivered to a common carrier for shipment, or delivered to a storage house for storage, such delivery shall be presumptive evidence that the apples are intended for sale.

The commissioner [of agriculture and markets] shall adopt and promulgate such rules and regulations to supplement and give full effect to the provisions of this article [Secs. 158-160] as he may deem necessary. [1927]

¹ For penalty for violations of Agriculture and Markets Law, see Secs. 39-41, pages 691-692.

Agriculture and Markets Law, Art. 13-A (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B, Secs. 160-a to 160-e)—Eggs.

[ED. NOTE.—These sections provide for the sale of eggs by grades or standards of quality and size or weight of eggs, to be enforced by the department of agriculture and markets. As they relate primarily to quality, the pertinent sections are omitted.]

Agriculture and Markets Law, Art. 13-b (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Grapes.

Sec. 160-h. Definitions.

The term "package," wherever used in this article [Secs. 160h-160k], shall mean a basket, box or other container the contents of which can be adequately inspected. The terms "shipment," or "ship for sale," wherever used in this article, shall mean movement to market in a railroad car, motor truck or other medium of transportation, but shall not be construed to include the process of delivery to a local warehouse, shipping station or processor. [1928; last amended 1937.]

Sec. 160-j. Marking requirements.

Grapes in packages, if not definitely marked as ungraded as hereinbefore provided, shall, prior to shipment, be marked in a plain and conspicuous manner with the name and address of the person or association under whose authority the grapes are packed and on an irremovable part of the container with a statement of (1) the grade, and (2) the net quantity or weight of contents. [1928; last amended 1937.]

Sec. 160-k.¹ Offenses; presumption; rules and regulations.

1. No person shall sell, expose for sale, or transport for sale grapes in open or closed packages if the package containing them, the label on them, or any advertising accompanying them shall bear any statement, design or device regarding the grapes which shall be false or misleading in any particular.

* * * * *

3. When grapes in packages are delivered to a common carrier for shipment, such delivery shall be presumptive evidence that the grapes are intended for sale.

The commissioner [of agriculture and markets] shall adopt and promulgate such rules and regulations to supplement and give full effect to the provisions of this article [Secs. 160-h—160-k] as he may deem necessary. [1928; last amended 1937.]

¹ For penalties for violations of the Agriculture and Market Law, see Secs. 39-41, pages 691-692.

Agriculture and Markets Law, Art. 17 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Food.

Sec. 198. Definitions.

1. The terms "food" and "food product" shall include all articles of food, drink, confectionery or condiment, whether simple, mixed or compound, used or intended for use by men or animals, and shall also include all substances or ingredients to be added to food for any purpose. This definition shall be construed as including chewing gum.

* * * * *

4. The term "labeling" means all labels and other written, printed, or graphic matter (a) upon an article or any of its containers or wrappers, or (b) accompanying such article.

5. The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of a food or food product. [1939]

* * * * *

Sec. 199. Application of article.

The provisions of this article [Secs. 198—214-c] regarding the selling of food shall be considered to include the manufacture, production, processing, packing, transportation, exposure, offer, possession, and holding of any such article for sale; the sale, dispensing, and giving of any such article; and the supplying or applying of any such articles in the conduct of any food establishment. Provided that the word "transportation" as herein used shall not be deemed to include common carriers. [1939]

Sec. 199-a.¹ Prohibition as to misbranded food.

No person or persons, firm, association or corporation shall within this state manufacture, compound, brew, distill, produce, process, pack, transport, possess, sell, offer or expose for sale, or serve in any hotel, restaurant, eating house or other place of public entertainment any article of food which is adulterated or misbranded within the meaning of this article [Secs. 198—214-c]. [1940]

¹ For penalties for violations of Agriculture and Markets Law, see Secs. 39-41, pages 691-692.

Sec. 201.¹ When food deemed misbranded.

Food shall be deemed to be misbranded: 1. If its labeling is false or misleading in any particular.

* * * * *

4. If its container is so made, formed, colored or filled as to be misleading. [1939]

* * * * *

¹ See Sec. 194, page 699, net content label.

Sec. 202-a. False advertising.

1. An advertisement concerning a food or food product shall not be false or misleading in any particular. [1939]

* * * * *

Sec. 202-b. Quarantine.

* * * * *

Whenever the commissioner [of agriculture and markets] finds, or has probable cause to believe, that any food or food product is adulterated or misbranded within the meaning of this article [Secs. 198—214-c], he may affix to such food or food product a tag or other appropriate marking, giving notice that such food or food product is, or is suspected of being, adulterated or misbranded and has been quarantined, and warning all persons not to remove or dispose of such food or food product by sale or otherwise until permission for removal or disposal is given by the commissioner or his duly authorized representative. It shall be a violation of this article for any person to remove or dispose of such quarantined food or food product by sale or otherwise without such permission. [1939]

* * * * *

Sec. 212. Oysters: Amount of free liquor allowed; quantity marking.

Oysters when sold or offered for sale in this state shall contain not more than ten per centum of free liquor. Every person engaged in putting up oysters for sale in kegs or cans, or offering them for sale in kegs or cans, not previously marked or branded, shall mark or brand such kegs or cans with the true quantity of oysters in pints, quarts or gallons which

Agriculture and Markets Law, Art. 17 (McKinney's Consolidated Laws Annotated, Ch. 69, Book 2-B)—Food—Continued.

they may respectively hold. [1922; last amended 1929.]

Sec. 214. Guaranty protection.

1. No dealer shall be prosecuted under the provisions of this article [Secs. 198—214-c] when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing or having a place of business within the state from whom he purchased the articles to the effect that the same are not adulterated or misbranded within the meaning of this article. Said guaranty to afford protection shall contain the name and address of the guarantor and in such case the guarantor shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article.

2. It shall be the duty of the commissioner [of agriculture and markets] immediately upon the discovery of evidence that any article of food is adulterated or misbranded within the meaning of this chapter [Secs. 198—214-c], to notify in writing the dealer selling the same and no guaranty shall exempt any dealer from prosecution if he shall continue to sell such article after having received such written notice. [1922]

Sec. 214-b. Rules and regulations for enforcement.

The authority to promulgate regulations for the efficient enforcement of this article [Secs. 198—214-c] is hereby vested in the commissioner [of agriculture and markets]. This article and the regulations promulgated thereunder shall be so interpreted and construed, however, as to effectuate its general purpose to enact state legislation uniform with the federal act approved June twenty-fifth, nineteen hundred thirty-eight, and all acts amendatory thereof and supplemental thereto. [Federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; 52 Stats. 1040 et seq.] [1939]

* * * * *

General Business Law, Art. 26 (McKinney's Consolidated Laws Annotated, Ch. 20, Book 19)—Standard Lime Barrels.

Sec. 393. Standard lime barrels established; marking requirements; violations; penalty.

There is hereby established a large and a small barrel of lime, the large barrel to consist of two hundred and eighty pounds and the small barrel to consist of one hundred and eighty pounds, net weight. It shall be unlawful for any person to sell or offer for sale lime, unless there shall be stencilled or otherwise clearly marked on one or

both heads of the small barrel the figures "180 lbs. net" and of the large barrel the figures "280 lbs. net," and on either barrel in addition the name of the manufacturer of the lime and where manufactured. When lime is sold in containers of less capacity than the standard small barrel, it shall be sold in fractional parts of said standard small barrel, and the net weight of lime contained in such container shall by stencil or otherwise be clearly marked thereon, together with the name of the manufacturer thereof, and the name of the brand, if any, under which it is sold. It shall be unlawful to pack, sell, or offer for sale any barrels or other containers of lime which are not marked as provided in this act [Sec. 393], or to sell, charge for, or purport to deliver as a large or small barrel or a fractional part of said small barrel of lime, any less weight of lime than is established by the provisions of this section. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.¹ [1923]

¹ See Sec. 1937. Penal Law, page 710, punishment for misdemeanor.

Public Health Law, Art. 22 (McKinney's Consolidated Laws Annotated, Ch. 45, Book 44)—"Uniform Narcotic Drug Act."

Sec. 431. Marking requirements.

1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1933]

Sec. 443. Enforcement; cooperation.

It is hereby made the duty of the department [state department of health], its officers, agents, inspectors and representatives, and of all peace officers within the state, and of the judicial and police authorities of the state and of the political subdivisions thereof to enforce all provisions of this article [Secs. 420-448], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to narcotic drugs. Such authorities and their agents shall have access at all times to all orders, prescriptions or records to be kept under this article. [1933]

Sec. 444. Penalties for violations.

A violation of any provision of this article [Secs. 420-448] shall be punishable as provided in the penal law.¹ [1933]

¹ See Sec. 1751-a, Penal Law, page 710.

Public Service Law, Art. 4 (McKinney's Consolidated Laws Annotated, Ch. 48, Book 47)—Gas and Electric Meters.

Sec. 67. Inspection; sealing; inspection upon request; fee; tolerances; rules and regulations.

1. The commission [public service commission] shall appoint inspectors of electric and gas meters whose duty it shall be, when required by the commission, to inspect, examine and ascertain the accuracy of any and all electric and gas meters used or intended to be used for measuring and ascertaining the quantity of electric current or gas furnished for light, heat or power by any person, corporation or municipality to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric and gas meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No corporation, person or municipality shall furnish, set or put in use any electric or gas meter the type of which shall not have been approved by the commission.

2. Every gas corporation, electric corporation and municipality shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas and electric meters furnished for use by it, and by which apparatus every meter may be tested.

3. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same on being so tested shall be found to be more than two per centum if an electric meter, or more than two per centum if a gas meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the corporation or municipality, if the same on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this subdivision, the expense of such inspection and test shall be borne by the consumer.

4. The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. [1910; last amended 1940.]

Public Service Law, Art. 4-B (McKinney's Consolidated Laws Annotated, Ch. 48, Book 47)—Water Meters.

Sec. 89-d. Inspection; sealing; inspection on request; fee; tolerances; rules and regulations.

1. The commission [public service commission] shall appoint inspectors of water meters whose

duty it shall be, when required by the commission, to inspect, examine, prove and ascertain the accuracy of any and all water meters used or intended to be used for measuring or ascertaining the quantity of water furnished by any water-works corporation to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of water meters, and, when found to be made to be correct, the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No water-works corporation shall furnish, set or put in use any water meter the type of which shall not have been approved by the commission.

2. Every water-works corporation shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of water meters furnished for use by it, and by which apparatus every meter may be tested.

3. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; if the same on being so tested shall be found to be more than four per centum defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the water-works corporation, if the same on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this subdivision, the expense of such inspection and test shall be borne by the consumer.

4. The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix uniform reasonable charges for the inspection and testing of meters upon complaint. [1931; last amended 1941.]

Penal Laws, Art. 40 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 1)—Business and Trade.

Sec. 421. False advertising.

Any person, firm, corporation or association, or agent or employee thereof who, with intent to sell or in any wise dispose of merchandise, real estate, securities, service or anything offered by such person, firm, corporation, or association, or agent or employee thereof, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, or to make any loan, makes, publishes, disseminates, circulates, or places before

Penal Laws, Art. 40 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 1)—Business and Trade—Continued.

public or causes, directly or indirectly to be made, disseminated, circulated, or placed before the public, in this state, in a newspaper, magazine or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over any radio station, or in any other way, an advertisement, announcement or statement of any sort regarding merchandise, securities, service or anything so offered, or the interest, terms or conditions upon which such loan will be made to the public which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor.¹ [1915; last amended 1941.]

¹ See Sec. 1937, page 710, punishment for misdemeanor.

Sec. 434.¹ Concealing foreign matter in merchandise.

A person who, with intent to defraud, while putting up in a barrel, bag, bale, box, or other package, cotton, hops, hay, or any other article of merchandise whatever, usually sold by weight in such packages, places or conceals therein any other substance or thing whatever, in a case where special provision for the punishment thereof is not otherwise made by statute, is guilty of a misdemeanor.²

¹ See Sec. 2410 et seq., page 711, false weights and measures.
² See Sec. 1937, page 710, punishment for misdemeanor.

Sec. 435.¹ False labels and misrepresentations in the sale of food products; penalty.

A person, who, with intent to defraud:

1. Puts upon an article of merchandise, or upon a cask, bottle, stopper, vessel, case, cover, wrapper, package, band, ticket, label, or other thing containing or covering such an article, or with which such an article is intended to be sold, or is sold, any false description or other indication of or respecting the kind, number, quantity, weight or measure of such article, or any part thereof, or the place or country where it was manufactured or produced or the quality or grade of any such article, if the quality or grade thereof is required by law to be marked, branded or otherwise indicated on or with such article; or,

2. Sells or offers for sale an article, which to his knowledge is falsely described or indicated upon any such package, or vessel containing the same, or label thereupon, in any of the particulars specified;

* * * * *

Is guilty of a misdemeanor.² [1909; last amended 1922.]

¹ See Agriculture and Markets Law, Sec. 197-a, et seq., pages 700-702, coal, coke and charcoal; Sec. 212, page 707, oyster

kegs and cans, markings; Sec. 176 et seq., pages 692-700, weights and measures. Also see Penal Law, Sec. 2410 et seq., page 711, false weights and measures.

² See Sec. 1937, page 710, punishment for misdemeanor.

Penal Law, Art. 84 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 1)—Weight Tickets.

Sec. 889-a. Forgery in certain weights.

A person who with intent to injure or defraud shall falsely make or forge or counterfeit, or shall cause, aid, abet, assist or otherwise connive at, or be a party to the making, or forging, or counterfeiting of any weight ticket or certificates of weight showing the weight of coal or coke sold, offered for sale, transported for sale, or delivered as, or as a part of, a sales transaction, by which making, or forging, or counterfeiting any other person shall be in any manner injured or defrauded is guilty of forgery in the third degree. [1949]

Penal Law, Art. 116 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 2)—Narcotic Drugs.

Sec. 1751. Violations as felonies of public health law with respect to narcotic drugs.

Any person who shall peddle, sell, barter, or exchange any narcotic drug, as defined in section four hundred twenty-one of the public health law, in violation of article twenty-two of such law, shall be guilty of a felony, punishable by imprisonment for a term not exceeding ten years. [1929; last amended 1938.]

Sec. 1751-a. Violations as misdemeanors of public health law with respect to narcotic drugs.

Any person who shall violate any provision of article twenty-two of the public health law, other than as above specified in section seventeen hundred fifty-one, shall be guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both such fine and imprisonment. [1938]

Penal Law, Art. 174 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 2)—Misdemeanors.

Sec. 1937. Punishment of misdemeanors when not fixed by statute.

A person convicted of a crime declared to be a misdemeanor, for which no other punishment is specially prescribed by this chapter [Secs. 1-2500], or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment in a penitentiary, or county jail, for not more than one year, or by a fine of not more than five hundred dollars, or by both. [1909]

Penal Law, Art. 216 (McKinney's Consolidated Laws Annotated, Ch. 40, Book 39, Part 2)—Weights and Measures.

[Ed. NOTE.—The Penal Law was enacted by Laws 1909, Ch. 88, constituting Ch. 40 of the consolidated laws. This article [Secs. 2410—2416] of said Penal Law was derived from Laws 1881, Ch. 676.]

Sec. 2410. Requiring more than legal weight for a bushel.

Where potatoes, grains or other agricultural products are sold by the bushel, without agreement as to the weight, any person requiring a greater number of pounds for a bushel than as prescribed by section eight of the general business law [Agriculture and Markets Law, Sec. 190¹] is guilty of a misdemeanor.² [1909]

¹ Sec. 190 of the Agriculture and Markets Law, providing for bushel weights of certain commodities, was repealed by Laws 1939, Ch. 739. For present Sec. 190, see page 696.

² See Sec. 1937, page 707, punishment for misdemeanor.

Sec. 2411.¹ Use of false weights and measures.

A person who injures or defrauds another by using, with knowledge that the same is false, a false weight, measure, or other apparatus, for determining the quantity of any commodity, or article of merchandise, or by knowingly delivering less than the quantity he represents, is guilty of a misdemeanor.² [1909]

¹ See Sec. 188, page 695, Agriculture and Markets Law.

² See Sec. 1937, page 710, punishment for misdemeanor.

Sec. 2412.¹ Keeping false weights and measures.

A person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the last section, is guilty of a misdemeanor.² [1909]

¹ See Sec. 187, page 695, Agriculture and Markets Law.

² See Sec. 1937, page 710, punishment for misdemeanor.

Sec. 2413. Authorization to seize false weights and measures.

A person who is authorized or enjoined by law to arrest another person for a violation of the last

two sections, is equally authorized and enjoined to seize any false weights or measures found in the possession of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken. [1909]

Sec. 2414. Weights and measures may be tested by magistrate and destroyed or delivered to district attorney.

The magistrate to whom any weight or measure is delivered pursuant to the last section, must, upon the examination of the defendant, or if the examination is delayed or prevented, without awaiting such examination, cause the same to be tested by comparison with standards conformable to law; and if he finds it to be false, he must cause it to be destroyed, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice in his judgment require. [1909]

Sec. 2414-a. Possession as presumption of knowledge.

The possession or use by any person of any false weight, measure or other apparatus for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure or other apparatus. [1911]

Sec. 2415. Destruction of faulty apparatus after conviction of offender.

Upon the conviction of the defendant, the district attorney must cause any weight or measure in respect whereof the defendant stands convicted, and which remains in the possession or under the control of the district attorney, to be destroyed. [1909]

Sec. 2416. Stamping false weight or tare.

A person who knowingly marks or stamps false or short weights, or false tare on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.¹ [1909]

¹ See Sec. 1937, page 710, punishment for misdemeanor.



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General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 1—Weights and Measures, Supervision.

Sec. 81-1. Superintendent of weights and measures; office created.

In order to protect the purchasers or sellers of any commodity and to provide one standard of weight and measure of length and surface throughout the State, which must be in conformity with the standard of measure of length, surface, weight and capacity established by Congress, the office of the Superintendent of Weights and Measures for the State of North Carolina is hereby established as hereinafter provided. [1927; last amended 1945.]

Sec. 81-2. Administration of weights and measures laws.

The provisions of this article [Secs. 81-1—81-22] shall be administered by the State Department of Agriculture through a suitable person to be selected by the Commissioner of Agriculture and known as the Superintendent of Weights and Measures. For the purpose of administering and giving effect to the provisions of this article, the rules and codes of specifications and tolerances as adopted by the National Conference of Weights and Measures and recommended by the United States Bureau of Standards and approved by the North Carolina Department of Agriculture are hereby adopted; however, the Department of Agriculture is empowered to make such further rules and regulations as may be necessary to make effective the purposes and provisions of this article, and to fix and prescribe reasonable charges and fees for examining, testing, adjusting and certifying the correct, or incorrect, equipment used in the buying or selling of any commodity or thing, or any equipment used 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. Such rules and regulations and fees and

charges shall be published thirty days before such rules, regulations, fees and charges become effective. [1927; last amended 1949.]

Sec. 81-2.1. Board of agriculture authorized to establish standards of weights and measures for commodities having none; exception.

The board of agriculture is authorized, directed and empowered to establish by order (after public notice as may be determined by it), standards of weights and measures on any commodity in any instance where no standard has been established by the congress of the United States, or by the laws of the state of North Carolina, provided, however, that when a standard is established by congress, or by the laws of the state of North Carolina, such standard shall supersede the standard or standards established by the board of agriculture. Provided, that this section does not authorize the board of agriculture to establish a standard log rule measure. [1945; last amended 1949.]

Sec. 81-3. Superintendent of weights and measures; duties; salary; bond.

The Commissioner of Agriculture shall have authority to employ a superintendent of weights and measures and necessary assistants, local inspectors and such other employees as may be necessary in carrying out the provisions of this article [Secs. 81-1—81-22], and fix and regulate their duties.

The person named as superintendent of weights and measures shall give bond to the state of North Carolina in the sum of ten thousand dollars to guarantee the faithful performance of his duties, the expense of said bond to be paid by the State and said bond to be approved as other bonds for the State officers. The superintendent of weights and measures shall, to safeguard the interests of the buyer and seller, require bond from other employees authorized under the first paragraph of this section in the amounts of not less than one thousand dollars for each employee designated as a local inspec-

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 1—
Weights and Measures, Supervision—Continued.

tor or sealer of weights and measures. [1927; last amended 1949.]

Sec. 81-4. Salaries and expenses.

All salaries and necessary expenses shall be paid as now provided for the other departments and agencies of the State government. [1931; last amended 1949.]

Sec. 81-5. Local standard-keeper; duties.

When any town or county wishes to appoint a local standard keeper or inspector or sealer of weights and measures, the appointment and regulation of his work must be in keeping with the rules and regulations of the State Department of Agriculture and his work subject to supervision of the State Superintendent of Weights and Measures. [1927; last amended 1949.]

Sec. 81-6. Sealing weights and measures apparatus; fees; receipt.

The State Superintendent of Weights and Measures, or his deputies, or inspectors on his direction, shall, after examining any standards of weights or measures or other equipment used for determining the weight or measure of anything, issue to the owner of such measuring device or equipment a receipt for any fees collected and, when such measuring device or equipment is found to be accurate, stamp upon, or tag, the measuring instrument with the letters "N.C." and two figures representing the year in which the inspection was made. [1927; last amended 1949.]

Sec. 81-7. Issuance of working standards.

There shall be issued to each deputy inspector, or local sealer of weights and measures, such standard equipment as may be necessary. [1927]

Sec. 81-8. Standards of weights and measures.

The weights and measures received from the United States under joint resolution of Congress, approved June fourteenth, one thousand eight hundred and thirty-six, and July twenty-seventh, one thousand eight hundred and sixty-six, and such new weights and measures as shall be received from the United States as standards of weights and measures in addition thereto, or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards shall be the State standards of weights and measures, and in addition thereto shall be supplied from time to time such copies of these as may be deemed necessary. The Superintendent of Weights and Measures shall take charge of the standards adopted by this article [Secs. 81-1—81-22] as the standards of the State and cause them to be kept in a fire proof building belonging

to the State, 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 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 July, make to the Commissioner of Agriculture a report of all work done in his office. [1927; last amended 1949.]

Sec. 81-8.1. Milk and cream: Rules and regulations relating to standards or units of weights or measures.

The Board of Agriculture is hereby authorized and empowered to adopt and promulgate, after due notice and hearing, rules and regulations prescribing standards or units of weight or measurement by which milk, cream or other fluids containing milk or milk products may be sold at retail in bottles or other capped or sealed containers, and the sale thereof by any other standards or units of weight or measurement shall be unlawful. [1949]

Sec. 81-9. Supervision of devices.

The State Superintendent of Weights and Measures shall have and keep 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 deputies or inspectors at his direction, shall, upon written request of any citizen, 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. [1927; last amended 1949.]

Sec. 81-10. Authority of deputy or local inspector.

Each deputy or local inspector shall have the power, and it shall be his duty, under the direction of the State Superintendent of Weights and Measures, to inspect, test, try and ascertain if they are correct all weights and measures and weighing and measuring devices kept, offered, or exposed for sale, sold, or used or employed within the State by any proprietor, agent, lessee, or employee in proving the size, quantity, extent, area, or measurement of quantities, things produced, or articles for distribution or consumption, purchased or offered or submitted by any person or persons for sale, hire, or award, and he shall have the power, 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 amount represented, or whether they be kept, offered or exposed for sale, or sold in a manner in accordance with law. He may, for the purpose above mentioned and in the

general performance of his duties, enter and go into, or open, 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 whomsoever and require him, if necessary, to proceed to some place which the sealer may specify for the purpose of making the proper test. [1927]

Sec. 81-11. Same: Condemning and/or destruction of devices.

The deputy or local inspector shall condemn, seize, and may destroy incorrect weights and measures or weighing and 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 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 ten days and they may neither use nor dispose of 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 shall be confiscated by the sealer. [1927]

Sec. 81-12. Police powers of weights and measures officials.

The Superintendent of Weights and Measures, his deputies 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 as use for evidence without formal warrant any false or unsealed weights, measures, or weighing or measuring devices or package or amount of commodity found to be used, retained, or offered or exposed for sale, or sold in violation of law. [1927]

Sec. 81-13. Obstructing weights and measures official; penalty.

Any person who shall hinder or obstruct in any way the Superintendent of Weights and Measures, his deputies or inspectors, in the performance of his official duties shall be guilty of a misdemeanor and, upon conviction in any court of competent jurisdiction, shall be punished by fine of not less than ten dollars or more than two hundred dollars, or by imprisonment in the county jail for not more than three months, or by both fine and imprisonment. [1927]

Sec. 81-14. Impersonation of weights and measures official; penalty.

Any person who shall impersonate in any way the Superintendent of Weights and Measures, his deputies or inspectors, by the use of his seal or counterfeit of his seal or otherwise, shall be guilty

of a misdemeanor and upon conviction therefor in any court of competent jurisdiction, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. [1927]

Sec. 81-14.1. Weighing livestock sold at public livestock market; weight certificates.

Whenever livestock is offered or exposed for sale, or sold by weight at a public livestock market, the livestock shall be weighed by a public weighmaster and each individual sale shall be accompanied with a weight certificate in duplicate on which shall be expressed in ink or other indelible substance, the name and address of seller, the kind, number and weight of livestock being offered for sale, or sold, the time of day and date of weighing and the name of weighmaster. The information expressed on said certificate shall be announced or otherwise made known immediately preceding the sale, if said sale be by auction. [1943]

Sec. 81-14.2. Commodities to be sold by weight, measure, or numerical count.

It shall be unlawful to sell except for immediate consumption by the purchaser, on the premises of the seller, liquid commodities in any other manner than by weight or liquid measures, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count. When a commodity is sold by numerical count in excess of one unit, the units which constitute said numerical count shall be uniform in size and/or weight, and be so exposed as to be readily observed by the purchaser: Provided, however, that nothing in this section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in standard containers defined by acts of the United States congress known as "Standard Container Acts," and the rules and regulations promulgated in accordance therewith; or of fruits or vegetables sold by the head, or bunch, or of any other commodity which is especially provided for by some other section of this chapter [Secs. 81-1—81-70]. [1945; last amended 1949.]

Sec. 81-14.3. Unlawful for package to mislead purchaser.

It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form when said package is so made, or formed, or filled, or wrapped, or exposed, or marked, or labeled as to mislead, or deceive the purchaser as to the quantity of its contents. [1945]

Sec. 81-14.4. Flour, meal, hominy and hominy grits: Standard weight containers; nonstandard weight containers; marking requirements; exception; definitions.

All flour and meal packed for sale, offered or exposed for sale, or sold in this state shall be in one of the following standard weight packages and

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Weights and Measures, Supervision—Continued.

no other, namely: five pounds, ten pounds, twenty-five pounds, fifty pounds, one hundred pounds, and multiples of one hundred pounds. However, nonstandard weight packages may be packed for sale, offered or exposed for sale, or sold in this state, weighing three pounds or less, if said nonstandard weight packages shall be plainly and conspicuously marked showing net contents in avoirdupois weight: Provided, that nothing in this section shall be construed to prevent the retail sale of any amount of flour or meal direct to the consumer from bulk, upon order and weight at time of delivery to the consumer.

The term "flour" as used herein shall be construed to mean any finely ground product of wheat, or other grain, corn, peas, beans, seeds or other substance, with or without added ingredients, intended for use as food for man.

The term "meal" as used herein shall be construed to mean any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted, or unbolted, including grits and hominy, intended for use as food for man. [1945; last amended 1949.]

Sec. 81-14.5. Weight and measure terms defined.

(a) Whenever the term "pound" is used in connection with weight, it shall be understood to be the avoirdupois pound as declared by act of the United States congress, except in those cases where it is common practice to use the "troy" pound or "apothecaries" pound, and the "ounce" is one-sixteenth part of an avoirdupois pound.

(b) The term "ton" shall be understood to mean a unit of two thousand (2000) pounds, avoirdupois weight.

(c) Whenever the term "gallon" is used in connection with liquid measure, it shall be understood to mean a unit of two hundred and thirty-one (231) cubic inches of which the liquid quart, liquid pint, and the gill are respectively, the quarter, the one eighth and the one-thirty-second parts.

(d) The term "bushel" when used in connection with dry measure and standard containers shall be understood to mean a unit of two thousand one hundred and fifty and forty-two one hundredth (2150.42) cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and one-sixty-fourth parts.

(e) The term "barrel" when used in connection with beer, ale, porter, and other similar fermented liquor, shall be understood to mean a unit of thirty-one liquid gallons, and fractional parts of a barrel shall be understood to mean like fractional parts of thirty-one gallons.

(f) Whenever wood is solicited, bought or sold in this state on the basis of ricked or stacked measurement, as is customarily the case in transactions involving such forest products as, for example, pulp wood and fuel wood, the unit of said measurement shall be the cord and no other; except that until June first, one thousand nine hundred and forty-six, same may be purchased on the basis of a unit of one hundred and sixty cubic feet or of the cord of one hundred and twenty-eight cubic feet. The term "cord" when used in connection with such purchases of wood, shall be understood to mean a quantity of wood consisting of any number of sticks, bolts or pieces laid parallel and together so as to form a rick or stack occupying a space four feet wide, four feet high and eight feet long, or such other dimensions that will, when multiplied together, equal one hundred and twenty-eight cubic feet by volume, construed as being seventy per cent solid and thirty per cent air space or ninety solid cubic feet. [1945]

Sec. 81-14.6. Sale of masonry units.

In order to protect the purchasers of concrete block, cinder block, and other concrete masonry units and to provide for a minimum load bearing strength, on and after July 1st, 1947, all concrete block, cinder block, and other concrete masonry units offered for sale or sold in this state shall have a load bearing strength of not less than 700 pounds per square inch of gross bearing area, or the minimum load bearing strength approved by the National Underwriters Laboratory or by the American Society of Testing Materials, whichever is less. The manufacturer shall furnish proof, acceptable to the board of agriculture, that the concrete block, cinder block, or other concrete masonry units being offered for sale or sold complies with the minimum load bearing strength required by this section; and each and every sale shall be accompanied with a bill of sale or invoice on which shall be printed or stamped in ink or other indelible substance, a statement guaranteeing that the products covered by said bill of sale or invoice meets the minimum load bearing strength as required by this section signed by a duly authorized official or agent of the manufacturer; provided, however, that the provisions of this section shall not prohibit the sale or offer for sale of cement block, cinder block, or other concrete masonry units, known as "seconds" or "rejects" due to size, shape, or less than minimum load bearing requirement, if and when said sale is accompanied with a bill of sale or invoice on which is printed or stamped in ink or other indelible substance in bold letters a statement that the cement block, cinder block, or other concrete masonry units so billed or invoiced are inferior in quality and do not comply with minimum load bearing requirement signed by a duly authorized official or agent of the manufacturer. [1947]

Sec. 81-14.7. Approval of heating units, etc., for curing tobacco.

All heating units and/or curing assemblies offered for sale or sold in this state, intended for use in curing the so-called flue cured tobacco, shall bear a label or seal of approval, authorized by the board of agriculture, and be accompanied with a statement, including drawings and instructions, signed by the manufacturer thereof, specifying how said heating unit shall be installed, operated, and/or used, so as to reduce to a minimum the fire hazard involved. Such expense as incurred in obtaining the label or seal of approval referred to in this section shall be borne by the manufacturer or distributor of the heating unit involved. [1947]

Sec. 81-14.8. Coal, coke and charcoal: Sale by weight only; ton; scales; testing; weight certificate.

(a) All coal, coke, or charcoal sold in this State shall be sold by weight only. The standard unit of weight shall be the avoirdupois pounds, and a ton shall be two thousand (2000) pounds.

(b) All coal, coke, or charcoal sold or offered for sale in this State, or which is being transported on any public street or highway in North Carolina, shall be weighed on scales suitable for such weighing, which have been tested and sealed by a State inspector of weights and measures. It shall not be lawful to transport such coal, coke, or charcoal to the nearest such scale for the purpose of having same weighed, but no sale or delivery of same shall take place until the load shall have been weighed.

(c) Each and every sale or delivery of coal, coke, or charcoal to the consumer shall be accompanied by a weight certificate on which shall be expressed in ink or other indelible substance the name and address of the seller or dealer, name and address of purchaser or receiver, the kind and size of coal being delivered and the gross tare and net weights, the date of weighing, the signature of the weighmaster, a place for signature of receiver, the name of delivery man, and the number or license number of delivery vehicle. The weight certificate shall be made with an original and two (2) carbon copies, one (1) going to the purchaser or receiver, one to be held by the delivery man, and the third (3rd) to be held by the weighmaster: *Provided, however*, that when coal, coke or charcoal is delivered in this State in railway carload lots, the railway bill of lading may be used in lieu of the weight certificate required by this section. [1949]

Sec. 81-14.8.¹ Bread: Standard loaf established.

When loaves of bread are offered for sale or sold in this State, each loaf shall be of one of the following weights and lengths and no other, to-wit: 1 pound, 11½ inches maximum length, 5 inches maximum width at bottom; 1½ pounds, 15 inches maximum length, 5 inches maximum width at bottom; 2 pounds, 15 inches maximum length, 5 inches maximum width at bottom; 2½ pounds,

15 inches maximum length, 5 inches maximum width at bottom. The term loaf as used in this Section shall be construed to mean a loaf which is baked in a pan of rectangular shape, either with straight up or flared side, either with or without cover, and shall be known hereafter as the standard loaf. [1949]

¹ This section has been numbered 81-14.8 by the General Assembly as has preceding section.

Sec. 81-15. Packaged commodities; quantity label; tolerances; definitions.

It shall be unlawful to keep for the purpose of sale, or expose for sale, or sell any commodity in package form unless the net quantity of the contents are plainly or 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 and published with other rules and regulations approved by the department of agriculture.

The words "in package form," as used in this section, shall be construed to include a commodity in a package, carton, case, can, box, bundle, barrel, bottle, phial, or other receptacle, on a spool or similar holder, in a container or band, or in a bolt or roll or in a ball, coil or skein 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 for either or both wholesale or retail, whether sealed or unsealed, closed or open. The words "plainly and conspicuously marked" as used in this section shall be construed to mean that the principal label shall indicate the net weight contents by legend as plain and conspicuous as any other legend thereon and as likely to be read as any other legend, and shall not be obscured by crowding or by color or by other legend. [1927; last amended 1945.]

Sec. 81-15.1. Statement to be furnished seller of pulp wood by purchaser.

Upon delivery of pulp wood to a purchaser, from a seller in this state, the purchaser shall furnish the seller with a statement, showing the kind and amount of wood, the price paid, and the amount of wood refused, if any. [1945]

Sec. 81-17. Net weight basis of sales by weight.

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 article [Secs. 81-1-81-22], it shall be understood and construed to mean the net weight of the commodity. [1927]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 1—
Weights and Measures, Supervision—Continued.

Sec. 81-18. Offenses; penalty.

Any person who, by himself, or his servant or agent, or as the servant or agent of any other 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, 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 the tag placed thereon by the State Superintendent, or his deputy, or inspectors, or who shall sell or offer or expose for sale less than the quantity he represents on 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, rule, regulation, code or order made and/or adopted as provided for by this article [Secs. 81-1—81-22] 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 fine of not less than ten dollars or more than two hundred dollars, 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 fifty dollars or more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [1927; last amended 1949.]

Sec. 81-19. "Person" defined.

The word "person" as used in this article [Secs. 81-1—81-22] shall be construed to impart both the plural and singular as the case demands and shall include corporations, companies, societies and associations. [1927]

Sec. 81-20. "Weights, measures, weighing or measuring devices" defined.

The words "weights, measures, or (and) weighing or (and) measuring devices" as used in this article [Secs. 81-1—81-22], shall be construed to include all weights, scales, beams, measures of every kind, instruments, mechanical devices for weighing or measuring any other appliances and accessories connected with any or all such instruments. The words "sale or sell" as used in this act shall be construed to include barter and exchange. [1927]

Sec. 81-22. Bushel and subdivisions thereof regulated.

Whenever any commodity now named in section 81-23, shall be quoted or sold by the bushel, the bushel shall consist of the number of pounds stated in said section; and whenever quoted or sold in subdivisions of the bushel, the number of pounds shall consist of the fractional part of the number of pounds as set forth therein for the bushel; and when sold by the barrel shall consist of the number of pounds constituting 3.281 bushels. [1933; last amended 1949.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 2—
Weights and Measures, Establishment and Use of
Standards.

Sec. 81-23. Standard weight of commodities; offenses; penalty.

The standard weight of the following seeds and other articles named shall be as stated in this section, viz:¹

	<i>Pounds per bushel</i>
Alfalfa	60
Apples, dried	24
Apple seed	40
Barley	48
Beans, castor	46
Beans, dry	60
Beans, green, in pod	30
Beans, soy	60
Beets	50
Blackberries	48
Blackberries, dried	28
Bran	20
Broom corn	44
Buckwheat	50
Cabbage	50
Canary seed	60
Carrots	50
Cement	80
Charcoal	22
Cherries, with stems	56
Cherries, without stems	64
Clover, burr	8
Clover, German	60
Clover, Japan, Lespedeza, in hull	25

	<i>Pounds per bushel</i>		<i>Pounds per barrel</i>
Clover seed, red and white	60	Beef, net	200
Coal, stone	80	Pork, net	200
Coke	40		
Corn, Kafir	50		<i>Pounds per half barrel</i>
Corn, pop	70	Fish	100
Corn, shelled	56		
Cottonseed	30		<i>Gallons per barrel</i>
Cottonseed, Sea Island	44	Liquids	42
Cucumbers	48		
Flaxseed	56		<i>Pounds per Gallon</i>
Gooseberries	48	Sorghum molasses	12
Grapes, with stems	48		
Grapes, without stems	60		
Grass, redtop	14		
Grass seed, all meadow and fescue except tall	14		
Grass seed, Bermuda	14		
Potatoes, sweet, green	56		
Potatoes, sweet, dry	47		
Quinces, matured	48		
Raspberries	48		
Rice, rough	44		
Rye seed	56		
Sage	4		
Salads, mustard, spinach, turnips, kale	10		
Grass seed, blue	14		
Grass seed, Hungarian	48		
Grass seed, Italian rye	20		
Grass seed, Johnson	25		
Grass seed, orchard	14		
Grass seed, perennial rye	14		
Grass seed, tall meadow and tall fescue	24		
Grass seed, timothy	45		
Grass seed, velvet	7		
Hair, plastering	8		
Hemp seed	44		
Hominy	62		
Horseradish	50		
Land plaster	100		
Lime, unslaked	80		
Lime, slaked	40		
Meal, corn, whether bolted or unbolted	48		
Melon, cantaloupe	50		
Millet	50		
Mustard	58		
Nuts, chestnuts	50		
Nuts, hickory, without hulls	50		
Nuts, walnuts, without hulls	50		
Oats, seed	32		
Onions, button sets	32		
Onions, top buttons	28		
Onions, matured	57		
Osage Orange seed	33		
Parsnips	50		
Peaches, dried	25		
Peaches, matured	50		
Peach seed	50		
Peanuts	22		
Peanuts, Spanish	30		
Pears, dried	26		
Pears, matured	50		
Peas, dry	60		
Peas, green, in hull	30		
Pieplant	50		
Plums	64		
Potatoes, Irish	56		
Salt	50		
Sorghum seed	50		
Strawberries	48		
Sunflower seed	24		
Teosinte	59		
Tomatoes	56		
Turnips	50		
Wheat	60		

It shall be unlawful to purchase or sell, or barter or exchange, any article named in this section on any other basis than as stated herein: Provided, however, that any and/or all such articles may be sold by weight, avoirdupois standard.

If any person shall take any greater weight than is specified for any of the items named herein, he shall forfeit and pay the sum of twenty dollars for each separate case to any person who may sue for same. [1885; last amended 1937.]

1 A slight rearrangement has been made for convenience of reference.

Sec. 81-23.1. Standard rule for measurement of logs.

The standard rule for determining the number of board feet in a tree or log shall be the so-called "International $\frac{1}{4}$ inch Log Rule." None of the provisions of this section shall apply to contracts entered into prior to the ratification of this section, nor to the measure of damage in any action in tort. This section shall not prevent the buyer and the seller from agreeing that some other log rule shall be used to determine the number of board feet in trees or logs covered by the contract between them. [1917]

Sec. 81-25. Area of acre.

The measure of an acre of land shall be equal to a rectangle of sixteen poles or perches in length and ten in breadth, and shall contain one hundred and sixty square perches or poles, or four thousand eight hundred and forty square yards, six hundred and forty such acres being contained in a square mile. [1741; last amended 1866.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 4—Weigh Masters.

Sec. 81-36. Definition.

Any person, either for himself or as a servant or agent of any other person, firm, or corporation, or who is elected by popular vote, who shall weigh, or measure, or count, or who shall ascertain from, or record the indications or readings of, a weighing, or measuring, or recording, device or apparatus for any other person, firm, or corporation, and declare the weight, or measure, or count, or reading or recording to be the true weight, or measure, or count, or reading, or recording of any commodity, thing, article, or product upon which the

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 4—
Weigh Masters—Continued.

purchase, or sale, or exchange, is based, and make a charge for, or collect pay, a fee, or any other compensation for such act, shall issue a certificate of weight, or measure, or count, in accordance with the provisions of this article [Secs. 81-36—81-49], shall be licensed and shall be known as a public weighmaster in the state of North Carolina. [1939; last amended 1945.]

Sec. 81-36.1. Administration of article.

The provisions of this article [Secs. 81-36—81-49] shall be administered by the state department of agriculture through the state superintendent of weights and measures. [1945]

Sec. 81-37. Application for license permit.

Any person desiring to be a public weighmaster in this state shall apply for and obtain license permit from the state of North Carolina through the state superintendent of weights and measures by filing formal application under oath as follows: [1939; last amended 1949.]

* * * * *

Sec. 81-38. Issuance of weight certificates.

It shall be the duty of every public weighmaster licensed by this article [Secs. 81-36—81-49] to issue a certificate of weight, measure, count, reading, or recording on forms approved by the state superintendent of weights and measures, and to enforce the provisions of this article, together with rules and regulations relating thereto. Said public weighmaster shall not receive compensation from the state for the duties so performed. [1939]

Sec. 81-39. Official seal.

It shall be the duty of every public weighmaster so licensed by this article [Secs. 81-36—81-49], to obtain from the state department of weights and measures an official seal, which seal shall have inscribed thereon the following words: "North Carolina Public Weighmaster" and such other design and/or legend as the state superintendent of weights and measures may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, numerical count, reading or recording certificate issued by such public weighmaster, and when so applied the certificate shall be recognized and accepted as a declaration of the official, true, and accurate and undisputed weight, measure, count, reading or recording of the commodity, product, or article weighed, or measured, or counted within the tolerance allowed by the "Uniform Weights and Measures Act" [Secs. 81-1—81-22] of this state: Provided, however, that the weighers of tobacco in "leaf tobacco warehouses" may use, in lieu of said seal, a signature,

which signature shall also appear, in ink or other indelible substance on the weighmaster's formal application, and again, posted in a conspicuous and accessible place in the tobacco warehouse where he is acting as weighmaster. [1939; last amended 1941.]

Sec. 81-40. Violations by weighmasters; penalty.

Any public weighmaster who shall refuse to issue a certificate as prescribed by this article [Secs. 81-36—81-49], or who shall issue a certificate giving a false weight, or measure, or count, or reading, or recording, or who shall misrepresent the weight, or measure, or count, or reading or recording of the quantity of any commodity, produce or article to any person, firm or corporation, or who shall otherwise violate any of the provisions of this article shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court, and, in addition thereto, his license shall be revoked and he shall forfeit his seal which, when so forfeited, shall be turned over to the state superintendent of weights and measures or his agents. [1939]

Sec. 81-41. Requesting weighmaster to falsify weights; impersonation of weighmaster; alteration of certificate, etc.

Any person, firm, or corporation who shall request a public weighmaster to weigh, measure, count, read, or record any commodity, product or article falsely or incorrectly, or who shall request a false or inaccurate certificate of weight, measure, count, reading or recording, or any person issuing a certificate of weight, or measure, or count, or reading, or recording within the meaning of this article [Secs. 81-36—81-49], who is not a public weighmaster as provided for by this article, or who shall act as, or for, or in any way impersonate, a public weighmaster, or who shall erase, change, or alter any certificate issued by a public weighmaster, or who shall make incorrect the certificate by increasing or decreasing the weight or measure or count of the commodity, product or article certified to for the purpose of deception, or who shall violate any provision of this article for which a special penalty has not been provided, shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court. [1939]

Sec. 81-42. Certificate presumed correct.

When a public weighmaster certificate is used in the sale, or purchase, or barter, or exchange of

any commodity, produce, or article, the certified weight, or measure, or count or reading or recording shall be deemed to be the true, accurate and undisputed weight, or measure, or count, or reading or recording at time said commodity, produce, or article is put into the natural channels of trade, which is, at the time of sale or purchase or barter or exchange: Provided, however, that reasonable variations, or tolerances shall be permitted as established by rules and regulations as provided for by Uniform Weights and Measures Act [Secs. 81-1—81-22]. [1939; last amended 1941.]

Sec. 81-43. Duty of custodian of product.

If any commodity, product or article is to be offered for sale, or sold and is weighed or measured or counted by any public weighmaster and a certificate issued prior to sale, or acceptance of such commodity, product or article by the purchaser, his agent, or consignee or, if any commodity, product or article is offered for sale, sold, and/or delivered pending the weighing or measuring or counting of such commodity, product, or article by a public weighmaster and the issuance of a certificate, the person, firm or corporation in whose custody said commodity, product or article is, shall keep, protect and prevent any increase or decrease in weight, measure or count, in the interim so that the declaration of weight, or measure, or count shall be true in accordance with section 81-42. The term "interim" as used in this section shall be construed to mean the time intervening between the weighing and issuance of certificate and the sale or purchase; and the time intervening between the sale or purchase and the presentation of such commodity, product, or article to the public weighmaster for weighing, or measuring or counting, and the issuance of certificate. Any loss sustained in the weight or measure or count of any commodity, produce, or article while in custody shall be borne by the person, firm or corporation in whose custody said commodity, produce, or article is. [1939]

Sec. 81-43.1. Weighing tobacco in sales warehouses.

All leaf tobacco offered for sale in a leaf tobacco warehouse in this state shall be weighed by a public weighmaster, shall be accompanied by a public weighmaster certificate, and shall be and remain in custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bid is rejected by the owner thereof. [1945]

Sec. 81-44. Complaint to commissioner; reweighing.

When doubt or difference arises as to the correctness of the weight, or measure, or count, or reading, or recording of any amount or part of any commodity, product, or article for which a certificate of weight, measure, count, reading or

recording has been issued by a public weighmaster, the owner, agent or consignee shall make complaint before moving said commodity, produce, or article from city, town or community where weight certificate was issued, to the public weighmaster issuing said certificate or to the state superintendent of weights and measures setting forth cause or causes for such doubt and/or difference, and have said amount, or part of the amount, or any commodity, product, or article reweighed, or re-measured, or recounted by the weighmaster issuing the certificate or by the state superintendent of weights and measures or his agents: Provided, the commodity, produce or article is kept and protected as is required during the interim period provided for in section 81-43. If, on reweighing, remeasuring or recounting, a difference in original weight, or measure or count, is sustained the difference thus sustained shall be that, and that only, which is in excess of tolerance allowed by section 81-42, and any desired adjustment as a result of such difference shall be made accordingly, and the cost of reweighing or remeasuring or recounting shall be borne by the public weighmaster responsible for the issuance of such faulty certificate; otherwise, the cost shall be borne by the complainant. [1939; last amended 1941.]

Sec. 81-45. Use of approved devices only.

It shall be unlawful for any public weighmaster to use any weights or measures, or weighing or measuring or reading or recording device, which has not been tested and/or approved by the state superintendent of weights and measures, or his assistant or deputy or inspector in accordance with the "Uniform Weights and Measures Act" [Secs. 81-1—81-22] and/or the rules and regulations governing same. [1939]

Sec. 81-46. Annual license; fee.

Public weighmasters shall be licensed for a period of one year beginning on the first day of July and ending on the thirtieth day of June, next, and a fee of five dollars (\$5.00) shall be paid by each person so licensed to the state superintendent of weights and measures at time of filing application, as set forth in section 81-37, which fee shall be deposited with the state treasurer of North Carolina by the said state superintendent of weights and measures, and shall be kept in a separate and distinct fund designated as a special uniform weights and measures fund by said treasurer, and shall be disbursed by him under the terms of the Executive Budget Act: Provided, that a similar fee, as provided in this section, shall be required of all renewals of license as a public weighmaster, which fee shall also be turned into the treasurer of the state by the state superintendent of weights and measures, to be expended in the manner herein set out. [1939; last amended 1943.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 4—
Weigh Masters—Continued.

Sec. 81-47. Use of fees collected.

All monies collected by this article [Secs. 81-36—81-49] shall be used exclusively for the enforcement of this and the Uniform Weights and Measures Act [Secs. 81-1—81-22]. [1939]

Sec. 81-48. Issuance of seal.

Each public weighmaster licensed under this article [Secs. 81-36—81-49] shall obtain from the state superintendent of weights and measures the seal, as provided for by this article, and pay the sum of two dollars and fifty cents (\$2.50), which sum shall be for the use of said seal, and no additional charges shall be made as long as the public weighmaster is licensed in accordance with the provisions of this article. Monies collected under this section shall be deposited with the state treasurer of North Carolina and expended for the purposes of this article under the terms of the Executive Budget Act. The state superintendent of weights and measures shall issue to the public weighmaster the said seal upon receipt of said sum. All seals as issued to the public weighmaster shall be paid for out of the special uniform weights and measures fund. [1939]

Sec. 81-49. Seal property of state; offenses; penalty.

The seal herein provided for shall be the property of the state of North Carolina and shall be forfeited and returned to the state superintendent of weights and measures upon termination of the performance of duties herein described as being the duties of a public weighmaster. Failure or refusal of a person licensed as a public weighmaster under this article [Secs. 81-36—81-49] to return, turn over, or surrender the official seal furnished by the state superintendent of weights and measures upon expiration of term of license or for malfeasance in office, shall be a misdemeanor and any person convicted thereof shall forfeit the amount paid for use of such seal and shall be punished by a fine of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00), or by imprisonment for not more than three months, or both such fine and imprisonment, in the discretion of the court. [1939]

Sec. 81-50. Cotton weighing.

If any weigher or purchaser of cotton shall make any deduction from the weight of any bag, bale, or package of lint cotton, for or on account of the draft, turn, or break of the scales, steelyards, or other implement used in weighing the same, or for any other cause except as herein allowed, the person so offending shall be guilty of a misdemeanor, and fined three hundred dollars or imprisoned, in the discretion of the court: Provided,

however, that deductions may be made by the weigher for water, dirt, or other foreign substances on such bag, bale, or package of cotton, or for other just cause; but, if such deductions are made, the nature of such deductions shall be indicated upon the principal weight ticket which shall also show the gross weight of the cotton, the amount deducted as tare, and the net weight of said cotton [1874; last amended 1943.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 5—
Weights and Measures, Scale Mechanics.

Sec. 81-53. Definitions.

The definition of certain terms used in this article [Secs. 81-52—81-58] shall be as follows:

(a) The term "scale mechanic" is defined as meaning any person who, for hire or award, renders service involving adjustment, installation, repair, or maintenance of a scale or weighing device, either used or intended to be used in determining weight value, or values, by either physical act, instruction, or supervision.

(b) The term "adjustment" is defined as meaning an act involving the tightening or loosening or lengthening or shortening, or movement, of any part of a scale or weighing device, or the coordination of mechanical action of parts with or upon each other, so as to make the scale or weighing device give correct indications of applied weight values within legal tolerance, and the correctness of indications shall be determined by test provided for under definition of the term "service" as defined in this article.

(c) The term "installation" is defined as meaning an act involving the erection, or building, or assembling of parts, or the placing or setting up of a scale or weighing device so as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under definition of the term "service" as defined in this article.

(d) The term "repair" is defined as meaning an act involving the replacement or mending of a broken or nonadjustable part or parts and the restoration of a scale or weighing device to such working condition as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under the term "service" as defined in this article.

(e) The term "maintenance" is defined as meaning an act pursuant to the retention of a scale or weighing device in such working condition as to give correct applied weight value indications within legal tolerance when used as intended, which may involve either or both adjustment or repair before or after inaccuracy develops in fact, and the

correctness of indications shall be determined by test provided for under the term "service" as defined in this article.

(f) The term "service" is defined as meaning activity involving adjustment, installation, repair, or maintenance or a combination of two or more of these activities with respect to a scale or weighing device, and, in addition thereto, a test for determination of the accuracy of weight value indication. Said determination is to be accomplished by applying a series of loads of standard weight on a platter or platform up to capacity on a scale of 30 pounds capacity, and up to $\frac{1}{4}$ scale capacity, applied to the respective corners, on a scale having a capacity in excess of 30 pounds. [1947]

Sec. 81-54. Prerequisites for scale mechanic.

It shall be unlawful for any scale mechanic to render service as a scale mechanic until after he or she has complied with the following requirements:

(a) Obtain from the office of state superintendent of weights and measures a copy of Scale Mechanic Act, a copy of regulations pertinent to said act, and an application form for registration.

(b) Obtain a bond in the sum of one thousand dollars (\$1,000.00) issued by a corporate surety company licensed to do business in North Carolina.

(c) File bond with clerk of superior court of the county in which said applicant resides, unless he or she be a resident of some other state, in which event such bond shall be filed with clerk of superior court in Wake county, North Carolina.

(d) Obtain receipt in duplicate for such bond filed with clerk of superior court and mail or deliver one copy of such receipt together with the application form for registration, completely filled out, to office of state superintendent of weights and measures, Raleigh, North Carolina.

(e) Obtain a registration card or certificate from state superintendent of weights and measures and a model form of service certificate.

The provisions of this section shall not apply to a full time employee who renders service only on a scale or weighing device, or on scales or weighing devices, owned solely by his or her employer unless additional pay or compensation is received for such service. [1947]

Sec. 81-55. Registration.

The state superintendent of weights and measures shall register any person who has complied with the requirements stipulated under this article [Secs. 81-52-81-58] by making a record of receipt of application and of bond, and the issuing of a certificate or card of registration to applicant, whereupon the applicant becomes a registered scale mechanic and shall be known thereafter as such. Such registration shall be in effect from date of registration until July 1st next and shall be re-

newed on the 1st day of July of each year thereafter. [1947]

Sec. 81-56.1. Service certificate.

Whenever any service is rendered on any scale or weighing device used or intended to be used in this state by a scale mechanic, a certificate shall be issued by such scale mechanic who rendered said service, which shall be known as a "service certificate." The size and form of said service certificate will be determined by the state superintendent of weights and measures. Inclusive of other pertinent information or statements, the said certificate shall bear a statement expressed in ink or other indelible substance naming the kind of service rendered, whether adjustment, installation, repair, or maintenance, and stating that a service test as defined under the term "service" has been made, and that the service rendered is guaranteed to be as represented. The service certificate shall be made out in triplicate, with original going to the owner of such scale or weighing device or his agent, and a duplicate shall be sent to office of state superintendent of weights and measures if service is upon a scale or weighing device which has been condemned by a weights and measures inspector, and the triplicate copy shall be retained by the scale mechanic issuing such certificate. [1947]

Sec. 81-56.2. Bond.

The bond required by this article [Secs. 81-52-81-58] shall underwrite the guarantee of a refund or compensation, covering any claim by owner of scale or weighing device for damage or injury, which claim is sustained by the court, resulting in misrepresentation of service rendered, or failure to comply with all the provisions of this article, by the scale mechanic, regardless of his or her intent; provided, however, that the aggregate liability of the surety to all claimants sustained by the court shall in no event exceed the amount of said bond. [1947]

Sec. 81-56.3. Scale removal.

When a scale or weighing device is removed from the premises where located by a scale mechanic, the scale mechanic or his servant or agent shall issue a receipt for said scale or weighing device, on which shall be written in ink or other indelible substance the name and address of the owner, the name and address of receiving agent, date of receipt, anticipated date of return, name or make of scale, and such other information pertinent to its identification. The form of receipt shall be approved by the state superintendent of weights and measures. [1947]

Sec. 81-56.4. Condemned scale.

It shall be unlawful for any owner of a scale or weighing device which has been condemned by a

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 5—
Weights and Measures, Scale Mechanics—Continued.

weights and measures inspector to either use or dispose of same in any manner but shall hold same at the disposal of the state superintendent of weights and measures, his deputy, or inspector; provided, however, said scale or weighing device may be removed from the premises for scale service only. [1947]

Sec. 81-56.5. Secondhand scale.

It shall be unlawful for any person to sell, or offer for sale, or put into use, a secondhand or rebuilt or reconditioned scale or weighing device unless said scale shall have been tested and approved by the superintendent of weights and measures, or his deputy, or inspector, or shall be accompanied by a service certificate as provided for in this article [Secs. 81-52—81-58]. Said service certificate shall be retained by the purchaser or user of said scale until an inspector of weights and measures has tested and approved such secondhand scale. The said certificate shall serve as proof of the accuracy of scale at the time scale was purchased or put into service. A secondhand or rebuilt or reconditioned scale or weighing device as referred to in this section shall be considered as being a scale or weighing device in the channels of trade which does not belong to the previous user. [1947]

Sec. 81-56.6. Scale location.

It shall be unlawful for any scale or weighing device to be installed, set up, put into service, or used on a foundation or support that aids in giving false indication of weight values applied to platter, platform, or other load receiving element. [1947]

Sec. 81-57. Exemption.

The provisions of this article [Secs. 81-52—81-58] shall not prohibit the user of a scale or weighing device from employing some person other than a scale mechanic to render service as defined by this article upon his or her scale or weighing device, nor apply to the person so employed, who does not solicit such employment, provided that said user shall not be relieved of his or her responsibility or liability concerning the accuracy of the scale or weighing device after service has been rendered. [1947]

Sec. 81-57.1. Rules and regulations.

Such rules and regulations as are necessary to carry out the purpose and intent of this article [Secs. 81-52—81-58] shall be made and published by the state superintendent of weights and measures, by and with the advice of his advisory board. [1947]

Sec. 81-58. Violations; penalty.

Any person who violates any of the provisions of this article [Secs. 81-52—81-58], or who for hire or award renders service as a scale mechanic on a scale or weighing device without registering as a scale mechanic, or who shall fail to issue a service certificate or who shall issue a service certificate bearing false statements regarding service rendered, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not more than three months or by both fine and imprisonment upon conviction in any court of competent jurisdiction; and in addition, if the defendant be a scale mechanic, he or she shall forfeit any charges or remuneration for service rendered, if service be involved, and he or she and/or the bonding company shall, at the discretion of the court, reimburse or compensate the owner of the scale or weighing device in question for such damage, or injury, sustained; and upon a subsequent conviction in any court of competent jurisdiction, the penalty shall be the same as for first conviction and in addition, at the discretion of the court, if defendant be a scale mechanic, his or her privilege to act as or in the capacity of a scale mechanic may be revoked for a specified length of time, his or her registration card or certificate seized and turned over to the state superintendent of weights and measures with instructions concerning reinstatement or renewal. [1947; last amended 1949.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 81, Art. 6—
Weights and Measures, Surveyor's Chain.

Sec. 81-59. Standard; tests.

The standard measure for a surveyor's chain shall be twenty-two standard yards, a standard half or two-pole chain shall be eleven standard yards, a standard quarter or one-pole chain shall be five and one-half standard yards; but every person using a surveyor's chain, half-chain, or quarter chain for measuring land shall every two years test the same in the manner hereinafter provided. [1889; last amended 1899.]

Sec. 81-60. Use of untested chain; penalty.

If any person who shall use any chain for measuring land without having the same first measured and sealed by the state superintendent of weights and measures, his deputy or inspector, or shall use the same for a longer period than two years without bringing it to the state superintendent of weights and measures, his deputy or inspector, and having the same measured and sealed by him, he shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding ten dollars. [1889; last amended 1943.]

General Statutes 1943, Vol. 3, Div. XVII, Ch. 153,
Art. 2—Powers of County Boards.

Sec. 153-9. County commissioners to procure weights and measures.

The boards of commissioners of the several counties have power—

* * * * *

33. To procure for each county sealed weights and measures, according to the standard prescribed by Congress; and to elect a standard keeper, who shall qualify before the board, and give bond approved by the board, as prescribed by law. [1741; last amended 1949.]

General Statutes 1943, Vol. 3, Div. XVII, Ch. 160,
Art. 4—Municipal Corporations, Establishment and Regulation of Markets and Scales.

Sec. 160-53. Powers.

The board of commissioners may establish and regulate their markets, and prescribe at what place, within the corporation, shall be sold marketable things; in what manner, whether by weight or measure, may be sold grain, meal or flour (if flour be not packed in barrels), fodder, hay, or oats in straw; may erect scales for the purpose of weighing the same, appoint a weigher, fix his fees, and direct by whom they shall be paid. But it shall not be lawful for the commissioners or other authorities of any town to impose any tax whatever on wagons or carts selling farm products, garden truck, fish and oysters on the public streets thereof. [1879]

General Statutes 1943, Vol. 3, Div. XVII, Ch. 160,
Art. 10—Municipal Corporations, Inspection of Meters.

Sec. 160-106. Inspectors appointed.

In every city or town in the state of North Carolina where is furnished, for pay, electricity, gas or water by meter measure, the governing body of the city or town may appoint some competent person to act as inspector of meters, whose duty it shall be to inspect and test such meters and to carry out the provisions of this article [Secs. 160-106—160-114] as herein provided. [1909]

Sec. 160-108. Apparatus for testing meters provided.

Every person, firm, corporation or municipality furnishing for pay electricity, gas or water by meter measure in any city or town having appointed an inspector of meters, as aforesaid, shall provide and keep a suitable and proper apparatus for testing and proving the accuracy of the meters to be so furnished for use, by which apparatus all such meters shall be tested at their rated capacity. [1909]

Sec. 160-109. Meters tested before installation.

No person, firm, or corporation or municipality furnishing for pay electricity, gas or water by meter

measure shall hereafter furnish, install and put in use any such meter in any city or town having appointed an inspector of meters as aforesaid, until such meter shall first have been inspected and found correct by such inspector, and it shall be the duty of such inspector to test the same upon the written request of such proposed furnisher. No meter now in service shall be required to be taken out for test, except where there is doubt as to its accuracy and upon the written request of the consumer, as herein provided. [1909]

Sec. 160-110. Meter inspection made upon complaint.

When any consumer, by meter, of electricity, gas or water in any city or town having appointed an inspector of meters, as aforesaid, doubts the accuracy of such meter and desires to have the same tested, such consumer may file with the inspector of meters a written complaint of the meter and request that the same be tested, and shall at the same time deposit with the furnisher the sum of one dollar to cover the expense of taking out and replacing such meter, and thereupon it shall be the duty of such inspector as soon as practicable to accurately test said meter in the presence of and jointly with the authorized agent of the furnisher, and also in the presence of the complainant, if he so desires, and shall give to both the complainant and to the furnisher a written report of such test and the result thereof. [1909]

Sec. 160-111. Meter tolerances; charge of testing.

If upon such test the meter is found to be incorrect, in that it registers more than two and one-half per cent too fast—that is, more than two and one-half per cent more electricity, gas or water than it should, then and in that event the furnisher shall return to the complainant the one dollar deposit and shall promptly properly adjust and repair the meter or furnish a correctly adjusted meter; but if upon such test the meter shall not register more than two and one-half per cent too fast—that is, more than two and one-half per cent more than it ought to—the one dollar deposit shall be retained by the furnisher to cover the expense of taking out and replacing the meter. [1909]

Sec. 160-113. Sealing of meters.

Any such meter having been tested and found to be not more than two and one-half per cent too slow nor more than two and one-half per cent too fast, as above defined, shall be considered correct, and such inspector shall so mark or stamp such meter and report the same to the governing body of the city or town. [1909]

Sec. 160-114. Free access to meters.

Nothing in this article [Secs. 160-106—160-114] shall be so construed as to prevent any furnisher of electricity, gas or water from having free access to the meters. [1909]

General Statutes 1943, Vol. 3, Div. XVII, Ch. 160, Art. 18—Municipal Corporations, Weights and Measures.

Sec. 160–200. Additional powers.

In addition to and coordinate with the power granted to cities in subchapter 1 [Secs. 160–1–160–191] of this chapter [Secs. 160–1–160–443], and any acts affecting such cities, all cities shall have the following powers:

* * * * *

30. To require any or all articles of commerce or traffic to be gauged, inspected, measured, weighed, or metered, and to require every merchant, retail trader or dealer in merchandise of property of any description which is sold by weight or measure to have such weights and measures sealed and to be subject to inspection. [1917; last amended 1947.]

* * * * *

General Statutes 1943, Vol. 2, Div. X, Ch. 60, Art. 13—Carload Shipments of Watermelons.

Sec. 60–125. Common carriers to furnish weight of carload shipments; penalty.

It shall be the duty of all common carriers to furnish the weights of all carload shipments of watermelons originating within the state to the shippers thereof within forty-eight hours after receipt of the same. Any common carrier violating the provisions of this section shall upon conviction be fined ten dollars for each offense. [1913]

General Statutes 1943, Vol. 2, Div. X, Ch. 62, Art. 4—“Public Utilities Act of 1933.”

Sec. 62–75. Rules and regulations; testing accuracy of meters.

The commission [utilities commission] may, after hearing upon reasonable notice had upon its own motion or upon complaint, * * * prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof [gas, electricity, steam, water, etc.]; establish or approve reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement; and provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any public utility. [1933]

Sec. 62–78. Visitorial and inspection powers of commission.

The commissioners and the officers and employees of the commission [utilities commission] may during all reasonable hours enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any power provided for in this article [Secs. 62–65–62–100], and may set up and use on such premises any apparatus and appliances necessary therefor. Such public utility shall have the right to

be represented at the making of such examination, tests and inspections. [1933]

General Statutes 1943, Vol. 2, Div. XI, Ch. 66, Art. 1—Firewood in Towns.

Sec. 66–8. Sale by cord only; penalty.

All firewood sold in incorporated towns shall be sold by the cord and not otherwise; and each cord shall contain eight feet in length, four feet in height and four feet in breadth; and shall be corded by the seller, under the penalty of two dollars for each offense, to the use of the informer. [1784; last amended 1880.]

General Statutes 1943, Vol. 2, Div. XI, Ch. 66, Art. 2—Match Containers.

Sec. 66–15. Shipping containers; weight.

All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case shall not exceed the following number:

Number of Boxes	Nominal Number of Matches per Box
1/2 gross	700
1 gross	500
2 gross	400
3 gross	300
5 gross	200
12 gross	100
20 gross over 50 and under	100
25 gross under	50

No shipping container or case constructed of fiber board, corrugated fiber board, or wood, nailed or wirebound, shall exceed a weight, including its contents, of seventy-five pounds; and no lock-cornered wooden case containing matches shall have a weight, including its contents, exceeding eighty-five pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such containers and cases in which matches are packed shall have plainly marked on the outside of the container or case the words “Strike-anywhere Matches” or “Strike-on-the-Box Matches”. [1915]

Sec. 66–16. Penalties for violations.

Any person, association, or corporation violating any of the provisions of this article [Secs. 66–12–66–16] shall be fined for the first offense not less than five dollars nor more than twenty-five dollars, and for each subsequent violation not less than twenty-five dollars. [1915]

General Statutes 1943, Vol. 2, Div. XI, Ch. 73, Art. 1—Public Mills.

Sec. 73–1. Definition.

Every grist or grain mill, however powered or operated, which grinds for toll is a public mill. [1777; last amended 1947.]

Sec. 73-3. Measures to be kept; tolls by weight or measure.

All millers shall keep in their mills the following measures, namely, a half-bushel and peck of full measure, and also proper toll-dishes for each measure; but the toll allowed by law may be taken by weight or measure at the option of the miller and customer. [1777; last amended 1885.]

Sec. 73-4. Keeping false toll-dishes misdemeanor.

If any owner, by himself or servant, keeping any mill, shall keep any false toll-dishes, he shall be guilty of a misdemeanor. [1777]

[Ed. Note.—In General Statutes of North Carolina, following the foregoing section, it is stated: "False Toll Dishes." Defined.—The words 'false toll dish,' as used in the statute, mean a toll dish measuring more than one-eighth of a half bushel. State v. Perry, 50 N. C. 252. The measure kept need not be averred in the indictment. Id.]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 2—"North Carolina Fertilizer Law of 1947."

Sec. 106-50.2. Enforcing official.

This article [Secs. 106-50.1—106-50.22] shall be administered by the commissioner of agriculture of the state of North Carolina, hereinafter referred to as the "commissioner". [1947]

Sec. 106-50.3. Definitions.

When used in this article [Secs. 106-50.1—106-50.22]:

(a) The term "person" includes individuals, partnerships, associations, firms and corporations.

* * * * *

(c) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any other recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(f) The term "mixed fertilizers" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

(g) The term "commercial fertilizer" includes both mixed fertilizer and/or fertilizer materials.

* * * * *

(k) The term "ton" means a net ton of two thousand pounds avoirdupois. [1947]

* * * * *

Sec. 106-50.5. Marking requirements.

(a) Any commercial fertilizer offered for sale, sold, or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container the net weight * * * printed either (1) on tags to be affixed to the end of the package or (2) directly on the package. * * *

(b) If transported in bulk, the net weight * * *

in written or printed form, as required by paragraph (a), * * * shall accompany delivery and be supplied to the purchaser. [1947; last amended 1949.]

* * * * *

Sec. 106-50.15. Rules and regulations; weight of bags regulated.

The board of agriculture is authorized, after public hearing, to prescribe such rules and regulations as may be found necessary for the enforcement of this article [Secs. 106-50.1—106-50.22]. * * * The board of agriculture is also authorized to regulate the weight of bags and/or packages in which fertilizer may be sold or offered for sale. [1947; last amended 1949.]

Sec. 106-50.16. Short weight; tolerances.

If any commercial fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant of said commercial fertilizer shall within thirty days after official notice from the commissioner pay to the consumer a penalty equal to four times the value of the actual shortage. The commissioner may in his discretion allow reasonable tolerance for short weight due to loss through handling and transporting. [1947]

Sec. 106-50.18. "Stop sale" orders.

It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the commissioner finds said commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this article [Secs. 106-50.1—106-50.22] until the law has been complied with and said commercial fertilizer is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the commercial fertilizer so withdrawn when the requirements of the provisions of this article have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal. [1947]

Sec. 106-50.20. Penalty for violations.

Each of the following offenses shall be a misdemeanor and any person upon conviction thereof shall be punished as provided by law for the punishment of misdemeanors: ¹

* * * * *

(i) Selling or offering for sale in this state commercial fertilizer without marking the same as required by Section 106-50.5. [1947]

* * * * *

¹ See Sec. 14.3, page 717.

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 4A—"Insecticide, Fungicide and Rodenticide Act of 1947."

Sec. 106-65.2. Definitions.

For the purpose of this article [Secs. 106-65.1-106-65.12]—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner [of agriculture] shall declare to be a pest.

* * * * *

n. The term "person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

o. The term "board of agriculture" or "board" means the North Carolina board of agriculture.

p. The term "commissioner" means the commissioner of agriculture.

* * * * *

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, or relating to the economic poison or device when employed for commercial purposes.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

* * * * *

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

* * * * *

(f) if any word, statement, or other information required by or under the authority of this article to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; * * * [1947]

Sec. 106-65.3. Prohibited acts.

a. It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

* * * * *

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing

* * * * *

(c) the net weight or measure of the content subject, however, to such reasonable variations as the board of agriculture may permit.

* * * * *

b. It shall be unlawful—

* * * * *

(3) for any person to give a guaranty or undertaking provided for in Section 106-65.8 which is false in any particular, except that a person who receives and relies upon a guaranty authorized under Section 106-65.8 may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; [1947]

* * * * *

Sec. 106-65.4. Injunctions.

In addition to the remedies herein provided the commissioner of agriculture is hereby authorized to apply to the superior court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Section 106-65.3, irrespective of whether or not there exists an adequate remedy at law. [1947]

Sec. 106-65.6. Rules and regulations.

* * * * *

c. The board of agriculture is authorized to prescribe, after public hearing following due public notice, such rules, regulations, and standards relating to the sale and distribution of economic poisons as they may find necessary to carry into effect the full intent and meaning of this article. [1947]

* * * * *

Sec. 106-65.7. Penalty for violations; exceptions.

* * * Any person convicted of violating any provisions of this article [Secs. 106-65.1-106-

65.12] or the rules and regulations issued thereunder shall be adjudged guilty of a misdemeanor and shall be punished in the discretion of the court.

b. Nothing in this article shall be construed as requiring the commissioner to report for the institution of proceedings under this article, minor violations of this article, whenever the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1947]

Sec. 106-65.8. Guaranty protection.

a. The penalties provided for violations of subsection a of Section 106-65.3 shall not apply to—

* * * * *

(4) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this article [Secs. 106-65.1—106-65.12], designating this article. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this article. [1947]

[ED. NOTE.—The above section also exempts economic poisons used officially by State or Federal officials, used experimentally, or transported by carrier.]

Sec. 106-65.9. Short weight.

If any economic poison in the possession of consumers is found by the commissioner to be short in weight, the registrant of said economic poison shall within thirty days after official notice from the commissioner pay to the consumer a penalty equal to four times the value of the actual shortage. [1947]

Sec. 106-65.10. "Stop sale" orders.

It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of economic poison and to hold at a designated place when the commissioner finds said economic poison is being offered or exposed for sale in violation of any of the provisions of this article [Secs. 106-65.1—106-65.12] until the law has been complied with and said economic poison is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the economic poison so withdrawn when the requirements of the provisions of this article have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal. [1947]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 6—Cotton-Seed Meal.

Sec. 106-68. Definition.

Cotton-seed meal is a product of the cotton seed only, composed principally of the kernel with such portion of the fiber or hull and oil as may be left in the course of manufacture of cotton-seed oil, and when sold for use as fertilizer or feed shall be subject to an inspection tax of twenty-five cents per ton and be subject to inspection as other fertilizers or fertilizing materials, unless sold to manufacturers for use in manufacturing fertilizers or feed. [1917; last amended 1939.]

Sec. 106-69. Marking requirements.

All cotton-seed meal offered for sale, unless sold to manufacturers for use in manufacturing fertilizers or feed, shall have plainly branded on the bag containing it, or on the tag attached thereto, the following data:

* * * * *

2. Weight of package. [1917]

* * * * *

Sec. 106-71. Rules and regulations; penalty.

The board of agriculture is empowered and directed to make such rules and regulations as are necessary to a proper carrying into effect of the provisions of this article [Secs. 106-68—106-78], and to provide for all such tags as manufacturers may demand, upon paying the tax therefor. Any person wilfully violating any of the regulations made by the board of agriculture in connection with the provisions of this article shall be guilty of a misdemeanor. [1917]

Sec. 106-72. Sales without tag; penalty; forfeiture.

Every merchant, trader, manufacturer, or agent who shall sell or offer for sale any cotton-seed meal without having attached thereto such labels, stamps, and tags as are required by law, or who shall use the required tag a second time to avoid the payment of the tonnage charge, and every person who shall aid in the fraudulent selling or offering for sale of any cotton-seed meal, shall be liable to a penalty of the price paid the manufacturer for each separate bag, barrel, or package sold, offered for sale, or removed, to be recovered by the commissioner of agriculture by suit brought in the name of the state, and any amount so recovered shall be paid one-half to the informant and one-half to the state treasurer for the use of the department of agriculture. * * * [1917]

Sec. 106-73. General penalty.

Any person, firm or corporation who shall sell or offer for sale or shall act as agent of or broker for the manufacturer of or dealer in any cotton-seed meal contrary to the provisions above set forth shall be guilty of a misdemeanor. [1903; last amended 1919.]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106,
Art. 8—Agricultural Liming Material.

Sec. 106-81. Regulation of sale.

All agricultural liming material, agricultural liming material with potash, and land plaster, hereinafter named either as the aforesaid separate items, or collectively as "materials coming under this article", or as "said materials", to be sold, offered, or exposed for sale in this state, shall be subject to regulation as provided by the following sections of this article [Secs. 106-81—106-92]. [1941]

Sec. 106-82. Registration.

Every manufacturer or vendor proposing to sell, offer or expose for sale in this state, the materials coming under this article [Secs. 106-81—106-92] shall, annually on or before the first day of January of each year, or before offering said materials for sale in this state, register with the commissioner of agriculture, on forms to be furnished by said commissioner, each brand of the said materials that he proposes to offer for sale during the next ensuing calendar year, or remainder thereof, giving for each brand the information prescribed in the following subsections:

(a) Net weight when sold in packages. [1941]

* * * * *

Sec. 106-83. Marking requirements.

All of the said materials sold, offered, or exposed for sale in this state shall have attached thereto, or be accompanied by a plainly printed statement giving the information as required under section 106-82, subsection (a). * * *. In case of materials sold in packages, the said information shall be plainly printed upon the package, or upon a tag or label attached thereto, of such quality and in such manner that it shall withstand normal handling, and, in case of material sold in bulk, the said statement shall be delivered to the purchaser either with the material, or with the invoice therefor. [1941]

Sec. 106-86. Administration.

It shall be the duty of the commissioner of agriculture to institute the necessary proceedings and have prepared the necessary equipment to put into effect the provisions of this article [Secs. 106-81—106-92]. * * * [1941]

Sec. 106-88. Penalty for violations.

Any person or persons selling, offering or exposing for sale in this state any of the materials covered in this article [Secs. 106-81—106-92], without first having registered said materials, paid the fees required, secured the required license, and otherwise complied with the requirements of this article; or who shall have caused to be submitted, or to be associated with said registrations or ma-

terials, false, fraudulent, or misleading statements; * * * shall be guilty of a misdemeanor, and on conviction shall be sentenced to pay a fine not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for the first offense and not less than one hundred dollars for each subsequent offense. [1941]

Sec. 106-92. Exemptions.

Nothing in this article [Secs. 106-81—106-92] shall be construed to restrict or avoid sales or exchanges of the materials coming under this article to each other by importers, manufacturers or manipulators who mix said materials for sale, or as preventing the free and unrestricted shipments of said materials to manufacturers or manipulators who have registered their brands as required by the provisions of this article. [1941]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106,
Art. 9—Commercial Feeding Stuffs.

Sec. 106-93. Marking requirements.

Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale within this state shall have affixed thereto or printed thereon, in a conspicuous place on the outside thereof, a legible and plainly printed statement in the English language clearly and truly certifying the weight of the package; * * * [1909; last amended 1949.]

Sec. 106-94. Standard weight packages.

All concentrated commercial feeding stuffs, except that in bags or packages of five pounds or less, shall be in standard weight bags or packages of ten, twenty-five, fifty, seventy-five, one hundred, one hundred twenty-five, one hundred fifty, one hundred seventy-five, and two hundred pounds. [1909; last amended 1943.]

Sec. 106-95. Definition.

The term "commercial feeding stuffs" shall be held to include the so-called mineral feeds and all feeds used for live stock, domestic animals and poultry, except cottonseed hulls, whole unground hays, straws and corn stover, when the same are not mixed with other materials, nor shall it apply to whole unmixed, unground and uncrushed grains or seeds when not mixed with other materials. [1909; last amended 1949.]

Sec. 106-102.1. Short weight; penalty.

* * * * *

If any feed is found by an inspector of the department of agriculture to be short in weight, the manufacturer or guarantor of said feed shall, within ten days of official notice from the department of agriculture, make good such deficiency and pay to the consumer a penalty equal to four times the value of the actual shortage. The commissioner, in

his discretion, may allow reasonable tolerances for short weight due to loss through handling and transporting. [1943]

Sec. 106-103. Rules and regulations for enforcement.

The board of agriculture is empowered to adopt * * * such rules and regulations as may be necessary for the enforcement of this article [Secs. 106-93-106-110], and a violation of such rules and regulations shall be a misdemeanor. [1909]

Sec. 106-106. Penalty for violations.

Any manufacturer, importer, jobber, agent, or dealer who violates any of the provisions of this article [Secs. 106-93-106-110], shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court. [1909; last amended 1943.]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 12—"North Carolina Food, Drug and Cosmetic Act."

Sec. 106-121. Definitions.

For the purpose of this article [Secs. 106-120-106-145]—

(a) The term "commissioner" means the commissioner of agriculture; the term "department" means the department of agriculture, and the term "board" means the board of agriculture.

(b) The term "person" includes individual, partnership, corporation, and association.

(c) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clauses (1), (2), or (3); but does not include devices or their components, parts, or accessories.

* * * * *

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such terms shall not include soap.

* * * * *

(h) The term "label" means a display of written,

printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

* * * * *

(p) The provisions of this article regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such article in the conduct of any food, drug or cosmetic establishment.

(q) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.). [1939]

Sec. 106-122. Prohibited acts.

The following acts and the causing thereof within the state of North Carolina are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the state of North Carolina from whom he received in good faith the food, drug, device or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of Sec. 106-125. [1939]

* * * * *

Sec. 106-123. Injunctions.

In addition to the remedies hereinafter provided the commissioner of agriculture is hereby author-

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 12—"North Carolina Food, Drug and Cosmetic Act"—Continued.

ized to apply to the superior court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provisions of section 106-122; irrespective of whether or not there exists an adequate remedy at law. [1939]

Sec. 106-124. Penalty for violations; exceptions.

(a) Any person who violates any of the provisions of section 106-122 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment in county jail for not more than six months or a fine of not more than two hundred dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment in county jail for not more than twelve months, or a fine of not more than four hundred dollars, or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated Section 106-122, subsection (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of North Carolina from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this article [Secs. 106-120-106-145], designating this article. [1939]

Sec. 106-125. Embargo.

(a) Whenever a duly authorized agent of the department of agriculture finds or has probable cause to believe, that any food, drug, device or cosmetic is * * * so misbranded as to be * * * fraudulent within the meaning of this article [Secs. 106-120-106-145], he shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being, * * * misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. * * * [1939]

Sec. 106-127. Treatment of minor violations.

Nothing in this article [Secs. 106-120-106-145] shall be construed as requiring the commissioner of agriculture to report for the institution of proceedings under this article, minor violations of this article, whenever the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1939]

Sec. 106-128. Establishment of standard fill of food container; regulations.

Whenever in the judgment of the board of agriculture such action will promote honesty and fair dealing in the interest of consumers, the board shall promulgate regulations fixing and establishing for any food or class of food a * * * reasonable standard of * * * fill of container. * * * [1939]

Sec. 106-130. When food deemed misbranded.

A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(d) If its container is so made, formed or filled as to be misleading.

(e) If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board of agriculture.

(h) If it purports to be or is represented as * * * (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by Section 106-128, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1939]

Sec. 106-134. When drug deemed misbranded.

A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board of agriculture.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1939; last amended 1949.]

Sec. 106-137. When cosmetic deemed misbranded.

A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity, of the contents in terms of weight, measure, or numerical count: Provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board of agriculture.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading. [1939]

Sec. 106-139. Rules and regulations.

(a) The authority to promulgate regulations for the efficient enforcement of this article [Secs. 106-120-106-145] is hereby vested in the board of agriculture, * * *. The board is hereby authorized to make the regulations promulgated under this article conform, in so far as practicable with those promulgated under the federal act [Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.]. [1939]

Sec. 106-144. Exemptions.

Meats and meat products subject to Federal Meat and Inspection Act approved March four, one thousand nine hundred and seven, as amended, are exempted from the provisions of this article [Secs. 106-120-106-145] so long as such meats and meat products remain in possession of the processor. [1939]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 13—Canned Dog Food.

Sec. 106-146. Marking requirements.

Every can of dog food sold, offered or exposed for sale within this state shall have printed thereon, in a conspicuous place on the outside thereof, a legible and plainly printed statement in the English language clearly and truly certifying the net weight of the can (provided, that all canned dog foods shall be in cans of one-half pound, or one pound, or multiples of one pound); * * * [1939; last amended 1941.]

Sec. 106-147. Definition.

The term "canned dog food" shall be held to include any article of food, packed in cans or hermetically sealed containers, and used for food for dogs or cats. [1939]

Sec. 106-152. Rules and regulations.

The board of agriculture is empowered to adopt standards for canned dog foods and such rules and regulations as may be necessary for the enforcement of this article [Secs. 106-146-106-158]. [1939]

Sec. 106-155. Offenses.

Any manufacturer, importer, jobber, agent or dealer who refuses to comply with the requirements of the provisions of this article [Secs. 106-146-106-158], or any manufacturer, importer, jobber, agent or dealer [or] person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of this article, shall be guilty of a violation of the provisions of this article. [1939]

Sec. 106-156. Penalties for violations.

Any manufacturer, importer, jobber, agent or dealer or who shall violate any of the provisions of this article [Secs. 106-146-106-158] shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding one hundred dollars for the first offense, nor more than two hundred dollars for each subsequent offense. [1939]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 17—Standard Packages for Farm Products.

Sec. 106-186. Enforcement.

The board of agriculture is charged with the execution of the provisions of this article [Secs. 106-185-106-196], * * * [1919]

Sec. 106-188. Promulgation of standards.

After investigation, and from time to time as may be practical and advisable, the board [of agriculture] shall have authority to establish and promulgate standards of opened and closed receptacles for, and standards for the grade and other classification of farm products, by which their quantity, quality, and value may be determined, and prescribe and promulgate rules and regulations governing the marks, brands, and labels which may be required for receptacles for farm products, for the purpose of showing the name and address of the producer or packer; the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto, and for the purpose of establishing a state brand for any farm product produced in North Carolina: Provided, that any standard for any farm product or receptacle therefor, or any requirement for marking receptacles for farm products, now or hereafter established under authority of the congress of the United States, shall forthwith, as far as applicable, be established or prescribed and promulgated as the official standard or requirement in this state: Provided, that no standard established or requirement for marking prescribed under this article [Secs. 106-185-106-196] shall become effective until the expiration of thirty days after it shall have been promulgated. [1919]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 17—Standard Packages for Farm Products—Continued.

Sec. 106-189. Receptacles must conform to standards; tolerances; exceptions.

* * * * *

Whenever any standard for an open or closed receptacle for a farm product shall be made effective under this article [Secs. 106-185—106-196] no person shall pack for sale in and deliver in a receptacle, or sell in and deliver in a receptacle, any such farm product to which such standard is applicable, unless the receptacle conforms to the standard, subject to such variations therefrom as may be allowed in the rules and regulations made under this article, or unless the receptacle be of a capacity twenty-five per cent less than the capacity of the minimum standard receptacle for the product: Provided, that any receptacle for such farm product of a capacity within twenty-five per cent of, or larger than, the minimum standard receptacle for the product may be used if it be specifically described as not a standard size, or be conspicuously marked with the phrase, "Not standard size," in addition to any other markings which may be prescribed for such receptacles under authority given by this article.

Whenever any requirement for marking a receptacle for a farm product shall have been made effective under this article no person shall sell and deliver in this state any such farm product in a receptacle to which such requirement is applicable unless the receptacle be marked according to such requirements. [1919; last amended 1943.]

Sec. 106-195. Rules and regulations.

The board of agriculture is authorized to make and promulgate such rules and regulations as may be necessary to carry out the provisions of this article [Secs. 106-185—106-196]. Such rules and regulations shall be made to conform as nearly as practicable to the rules and regulations of the secretary of agriculture of the United States, prescribed under any act of congress of the United States relating to the marketing of farm products. [1919]

Sec. 106-196. Penalties for violations.

Any person who violates any provision of this article [Secs. 106-185—106-196], or of the rules and regulations made under the article for carrying out its provisions, or fails or refuses to comply with any requirement thereof, or who willfully interferes with agents or employees in the execution, or on account of the execution, of his or their duties, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under this article shall be punished by a fine of not more than one hundred dollars, or by imprisonment in

the county jail for not more than thirty days, or by both in the discretion of the court. [1919]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 29—Milk and Cream.

Sec. 106-267. Babcock test; supervision; inspection of glassware and scales; condemnation; tests for settling disputes.

The state department of agriculture shall have full power to make and promulgate rules and regulations for the dairy division of the department of agriculture in its inspection and control of the purchase and sale of milk and other dairy products in North Carolina; to make and establish definitions, not inconsistent with the laws pertaining thereto; to qualify and determine the grade and contents of milk and of other dairy products sold in this state; to regulate the manner of testing the same not inconsistent with the standard methods as promulgated by the American public health association, and of all inspections which may be lawfully made except those relating to public health and sanitation, in the handling, treatment, and sale of the said milk products, and such other rules and regulations not inconsistent with the law as may be necessary in connection with the authority hereby given to the commissioner of agriculture on this subject, and may license Babcock testers and revoke license.

The commissioner of agriculture shall be given authority to inspect all Babcock testers, glassware, and scales, as provided for in these regulations, and condemn such as are not found accurate and in good repair. He shall visit either in person, or by a deputy, all creameries, cheese factories, milk depots, etc., where milk and cream, and milk products are sold in this state, as often as may be necessary, and shall supervise in any practical way, the work of all licensed testers as provided for in this section.

The commissioner of agriculture and his deputies shall be authorized and empowered to make such tests as are necessary to settle disputes when called upon by either buyer or seller of milk, cream, or other dairy products where such disputes arise over dissatisfaction regarding weight or tests of dairy products. Such tests shall be regarded as correct, and shall be used as a basis for settlement in such disputes. [1933]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 35—Public Livestock Markets.

Sec. 106-408. Scales; approval; records.

All public livestock markets operating under this article [Secs. 106-406—106-418] shall have proper facilities for handling livestock, which shall include * * * satisfactory scales if animals are bought, sold, or exchanged by weight, said scales to be approved by the North Carolina division of weights and measures; * * *. Said

market shall keep a complete permanent record showing from whom all animals are received and to whom sold, the weight, if purchased or sold by weight, the price paid and the price received, such record to be available to the commissioner of agriculture or his authorized representative. [1941; last amended 1949.]

* * * * *

Sec. 106-416. Rules and regulations.

The commissioner of agriculture, by and with the consent of the state board of agriculture, shall have full power to promulgate and enforce such rules and regulations that may hereafter be necessary to carry out the provisions of this article [Secs. 106-406—106-418]. [1941]

Sec. 106-417. Penalties for violations.

Any person, firm, or corporation who shall knowingly violate any provisions set forth in this article [Secs. 106-406—106-418] or any rule or regulation duly established by the state board of agriculture, or any officer or inspector who shall wilfully fail to comply with any provisions of this article shall be guilty of a misdemeanor, and shall be fined or imprisoned, or both, in the discretion of the court. * * * [1941; last amended 1943.]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 39—Leaf Tobacco, Warehouses.

Sec. 106-452. Weighing; Fees.

The charges and expenses of handling and selling leaf tobacco upon the floor of tobacco warehouses shall not exceed the following schedule of prices, viz.: * * * for weighing and handling, ten cents per pile for all piles less than one hundred pounds, for all piles over one hundred pounds at the rate of ten cents per hundred pounds; * * * [1895; last amended 1941.]

Sec. 106-453. Oath of weigher.

All leaf tobacco sold upon the floor of any tobacco warehouse shall first be weighed by some reliable person, who shall have first sworn and subscribed to the following oath, to wit: "I do solemnly swear (or affirm) that I will correctly and accurately weigh all tobacco offered for sale at the warehouse of * * *, and correctly test and keep accurate the scales upon which the tobacco so offered for sale is weighed." Such oath shall be filed in the office of the clerk of the superior court of the county in which said warehouse is situated. [1895]

Sec. 106-454. Bill for weighing; penalty for violations of article.

The proprietor of each and every warehouse shall render to each seller of tobacco at his warehouse a bill plainly stating the amount charged for weighing * * *. For each and every violation of the provisions of this article [Secs. 106-

452—106-455] a penalty of ten dollars may be recovered by any one injured thereby. [1895]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 40—Leaf Tobacco, Sales.

Sec. 106-463. Allowance for weight of baskets and trucks.

It shall be unlawful for any person, firm or corporation in weighing tobacco for sale to permit or allow the basket and truck upon which such tobacco is placed for the purpose of obtaining such weight to vary more than two pounds from the standard or uniform weight of such basket and truck. [1933]

Sec. 106-464. Penalty for violating preceding section.

Any person, firm or corporation violating the provisions of section * * * 106-463 shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars or imprisoned not more than thirty days. [1933]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106, Art. 51—Antifreeze.

Sec. 106-569. Definition.

* * * * *

(a) The term or word "antifreeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point. [1949]

* * * * *

Sec. 106-571. When deemed misbranded.

An antifreeze shall be deemed to be misbranded:

(1) If its labeling is false or misleading in any particular.

(2) If in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure, and they are not plainly and correctly stated on the outside of the package or container. [1949]

Sec. 106-573. Enforcement; stop sale order; seizure.

The Commissioner of Agriculture shall administer and enforce the provisions of this Article [Secs. 106-569—106-579] * * *. If it appears that any of the provisions of this Article have been violated the Commissioner of Agriculture, acting through his authorized agents, inspectors or representatives, is hereby authorized to issue a "stop-sale" order which shall prohibit further sale of any antifreeze being sold, exposed for sale or held with intent to sell within this State in violation of this Article, until the law has been complied with or said violation has otherwise been legally disposed of. Any antifreeze not in compliance with the provisions of this Article shall be subject to seizure

General Statutes 1943, Vol. 3, Div. XVI, Ch. 106,
Art. 51—Antifreeze—Continued.

upon complaint of the Commissioner of Agriculture or any of his agents, inspectors or representatives to a court of competent jurisdiction in the area in which said antifreeze is located. * * * [1949]

Sec. 106-574. Administration of article; rules and regulations.
* * * The Commissioner of Agriculture shall administer this Article [Secs. 106-569—106-579] and shall execute all orders, rules and regulations established by the Board of Agriculture. * * * [1949]

Sec. 106-577. Penalties for violations.

Any person, firm, association or corporation violating or failing to comply with any of the provisions of this Article, or any rule, regulation or standard issued pursuant thereto, shall be deemed guilty of a misdemeanor, and upon plea of guilty or conviction shall be punished in the discretion of the court and each day that any violation of this Article shall exist shall be deemed to be a separate offense. * * * [1949]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 113,
Art. 16—Oysters.

Sec. 114-194. Oyster measure.

All oysters measured in the shell shall be measured in a circular tub with straight sides and straight, solid bottom, with holes in the bottom not more than one-half inch in diameter. The said measures shall have the following dimensions: A bushel tub shall measure eighteen inches from inside to inside across the top, sixteen inches from inside to inside chimb to the bottom and twenty-one inches diagonal from inside chimb to top. All measures found in the possession of any dealer not meeting the requirements of this section shall be destroyed by the commissioner of commercial fisheries, assistant commissioner or inspector. [1903; last amended 1913.]

Sec. 113-195. Illegal measures prohibited; penalty.

If any person shall in buying or selling oysters use any measure other than that prescribed by law for the measurement of oysters, or if any dealer in oysters shall have in his possession any measure for measuring oysters other than that prescribed by law, he shall be guilty of a misdemeanor and be fined not exceeding fifty dollars or imprisoned not exceeding thirty days. [1903]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 113,
Art. 20—Salt Fish.

Sec. 113-229. Salt fish: Inspectors; duties.

The board of county commissioners of every county where fish are packed for sale or shipment

shall appoint and qualify one or more sworn inspectors of fish at or near all packing localities, whose duty it shall be to inspect all salt fish packed for sale or shipment; and all barrels, half-barrels and packages of fish inspected and approved by them shall be branded with the word "inspected" and the name of the inspector. Said board shall regulate and prescribe the duties, powers and fees of said inspector, which fees shall not exceed five cents per barrel of two hundred pounds net and two and one-half cents per half-barrel of one hundred pounds net and smaller packages, to be paid by the shipper. This section shall not apply to fishermen who may sell their fish to packers and shippers by weight or otherwise, as they may agree: * * * [1909; last amended 1911.]

Sec. 113-230. Same: Sold by weight; package marking; offenses; penalty.

All salt fish packed for market shall be sold at their net weight, which shall be marked on every package; and any person packing or offering for sale salt fish, fraudulently marking the net weight on the package, shall for each offense be guilty of a misdemeanor and fined not more than fifty dollars or imprisoned not more than thirty days, or both, at the discretion of the court. [1909]

Sec. 113-231. Salt mullet: Special marking; offenses; penalty; exceptions.

Each package of salt mullets packed and offered for sale shall be marked or stamped "large", "medium" or "small," and all packages containing any other kind of fish shall be marked plainly with the name of the fish contained, and any person who shall pack as principal or shall have the same done by others for him shall be deemed the packer and shall stamp his name and place of packing, together with net weight and size of fish, as prescribed in this section, on the head of each package before offering for sale or shipment, and on failure to pack and stamp as herein prescribed, or if any person shall pack or stamp said package falsely, so as to misrepresent the weight or size of the fish in said package, shall be guilty of a misdemeanor and fined not less than five nor more than fifty dollars for each offense, and may be imprisoned at the discretion of the court, not to exceed thirty days: Provided, this section shall not apply to packages containing less than fifty pounds net fish: Provided further, this section shall not apply to fishermen themselves, but shall apply only to merchants and others who may be classed as packers or brokers, within the proper meaning of the term. [1909]

Sec. 113-232. Standard measure for fish scrap and oil; offense; penalty.

For the purpose of uniformity in the trade of manufacturing fish scrap and oil in the state of North Carolina, there is hereby established a stand-

ard measure of twenty-two thousand cubic inches for every one thousand fish. Any person, firm, corporation or syndicate buying or selling menhaden fish for the purpose of manufacturing within the borders of this state, who shall measure the fish by any other standard (more or less) than is prescribed in this section, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars or imprisoned not to exceed thirty days. Each day said measure is unlawfully used shall constitute a separate and distinct offense. [1911]

General Statutes 1943, Vol. 3, Div. XVI, Ch. 119, Art. 3—"Gasoline and Oil Inspection Act."

Sec. 119-23. Functions of department of revenue and commissioner of agriculture.

Gasoline and oil inspection fees or taxes shall be collected by, and reports relating thereto shall be made to, the Department of Revenue. The administration of the Gasoline and Oil Inspection law shall otherwise be administered by the Commissioner of Agriculture. * * * [1937; last amended 1949.]

Sec. 119-26. Enforcement.

In order to more fully carry out the provisions of this article [Secs. 119-14—119-47] there is hereby created a gasoline and oil inspection board of five members, to be composed of the commissioner of agriculture, the director of the gasoline and oil inspection division, and three members to be appointed by the governor, who shall serve at his will. * * * The * * * Board shall have the power, in its discretion, after public notice and provision for the hearing of all interested parties, * * * to pass all rules and regulations necessary for enforcing the provisions of the laws relating to the transportation and inspection of petroleum products; * * * [1937; last amended 1949.]

Sec. 119-33. Inspection of measuring equipment; tolerances; condemnation; sealing; penalties.

The gasoline and oil inspectors shall be required to investigate and inspect the equipment for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. Said inspectors shall be under the supervision of the commissioner of agriculture, and are hereby vested with the same power and authority now given by law to inspectors of weights and measures, in so far as the same may be necessary to effectuate the provisions of this article [Secs. 119-14—119-47]. The rules, regulations, specifications and tolerance limits as promulgated by the national conference of weights and measures, and recommended by the United States bureau of standards, shall be observed by said inspectors in so far as it applies to the inspection of equipment used in measuring gasoline, kerosene,

lubricating oil and other petroleum products. Inspectors of weights and measures appointed and maintained by the various counties and cities of the state shall have the same power and authority given by this section to inspectors under the supervision of the commissioner of agriculture. In all cases where it is found, after inspection, that the measuring equipment used in connection with the distribution of such products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his best judgment are not susceptible of satisfactory repair, but such as are incorrect, and in his best judgment may be repaired, he shall mark or tag as "condemned for repairs" in a manner prescribed by the commissioner of revenue. After notice in writing the owners or users of such measuring devices which have been condemned for repairs shall have the same repaired and corrected within ten days, and the owners and/or users thereof shall neither use nor dispose of said measuring devices in any manner, but shall hold the same at the disposal of the gasoline and oil inspector. The inspector shall confiscate and destroy all measuring devices which have been condemned for repairs and have not been repaired as required by this article. The gasoline and oil inspectors shall officially seal all dispensing pumps or other dispensing devices found to be accurate on inspection, and if, upon inspection at a later date, any pump is found to be inaccurate and the seal broken, the same shall constitute prima facie evidence of intent to defraud by giving inaccurate measure, and the owner and/or user thereof shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two hundred dollars nor more than one thousand dollars, or be imprisoned for not less than three months, or both, in the discretion of the court. Any person who shall remove or break any seal placed upon said measuring and/or dispensing devices by said inspectors until the provisions of this section have been complied with shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars nor more than two hundred dollars, or be imprisoned for not less than thirty days nor more than ninety days, or both, in the discretion of the court. Any person, firm, or corporation who shall sell or have in his possession for the purpose of selling or using any measuring device to be used or calculated to be used to falsify any measure shall be guilty of a misdemeanor, and shall be fined or imprisoned in the discretion of the court. [1937; last amended 1949.]

Sec. 119-39. General penalty.

Unless another penalty is provided in this article [Secs. 119-14—119-47], any person violating any of the provisions of this article or any of the rules and regulations of the commissioner of revenue or the commissioner of agriculture and/or the

General Statutes 1943, Vol. 3, Div. XVI, Ch. 119, Art. 3—"Gasoline and Oil Inspection Act"—Continued.

gasoline and oil inspection board shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars or be imprisoned for not more than twelve months, or both, in the discretion of the court. [1937; last amended 1949.]

Sec. 119-42. Carrier to have invoice in possession; contents of invoice.

Every person hauling, transporting or conveying into, out of, or between points in this state any motor fuel and/or any liquid petroleum product that is or may hereafter be made subject to the inspection laws of this state over either the public highways or waterways of this state, shall, during the entire time he is so engaged, have in his possession an invoice, or bill of sale, or bill of lading showing the true name and address of the person from whom he has received the motor fuel and/or other liquid petroleum products, the kind, and number of gallons so originally received by him, and the true name and address of every person to whom he has made deliveries of said motor fuel and/or other liquid petroleum products or any part thereof and the number of gallons so delivered to each said person. * * * [1937; last amended 1949.]

General Statutes 1943, Vol. 1, Div. III, Ch. 14, Art. 1—Misdemeanors.

Sec. 14-3. Punishment when not otherwise prescribed.

All misdemeanors, where a specific punishment is not prescribed shall be punished as misdemeanors at common law; but if the offense be infamous, or done in secrecy and malice, or with deceit and

intent to defraud, the offender shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a felony and punished by imprisonment in the county jail or state prison for not less than four months nor more than ten years, or shall be fined. [1883; last amended 1927.]

General Statutes 1943, Vol. 1, Div. III, Ch. 14, Art. 20—False Advertising.

Sec. 14-117. Unlawful acts; penalty.

It shall be unlawful for any person, firm, corporation or association, with intent to sell or in anywise to dispose of merchandise, securities, service or any other thing offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make public, disseminate, circulate or place before the public or cause directly or indirectly to be made, published, disseminated, circulated or placed before the public in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or any other thing so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading: Provided, that such advertising shall be done willfully and with intent to mislead. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars or imprisoned not exceeding thirty days. [1915]

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Revised Code of 1943, Vol. 5, Title 64, Ch. 1—Weights and Measures, General Units.

Sec. 64-0101. Dry measure.

The standard measure of capacity for commodities sold by dry measure shall be the bushel containing two thousand one hundred fifty and forty-two hundredths cubic inches. The half bushel, peck, half peck, quarter peck, quart, and pint shall be derived by successively dividing that measure by two. [1919]

Sec. 64-0102. Liquid measure.

The standard measure of a capacity for liquids shall be the wine gallon containing two hundred thirty-one cubic inches. A barrel shall contain thirty-one and fifty hundredths gallons and a hogshead shall contain sixty-three gallons. [1919]

Sec. 64-0103. Lineal measure.

The standard measure of length, from which all other measures of extension, lineal, superficial, or solid shall be derived, is the yard of three feet or thirty-six inches. [1919]

Sec. 64-0104. Hundredweight.

In contracts for the sale of goods or commodities the term "hundredweight" shall mean one hundred pounds avoirdupois. [1919]

Sec. 64-0105. Standard weight of bushel.

In contracts for the sale of any of the following articles, the term "bushel" shall mean the number of pounds avoirdupois herein stated:¹

	Pounds
Alfalfa	60
Apples	50
Apples, dried	28
Barley	48
Beans	60
Beans, broad Windsor	47
Beans, Lima	55
Beans, white runner pole	50
Beets	60
Blue grass seed	14
Bran	20
Bromus inermis	14
Broom corn seed	30

	Pounds
Buckwheat	42
Corn, in the ear ²	70
Corn, shelled	56
Corn, sweet	48
Carrots	45
Chestnuts	50
Clover seed	60
Coal, stone	80
Cranberries	36
Cucumbers	48
Flaxseed	56
Hempseed	50
Hickory nuts	50
Hungarian grass seed	48
Lime	80
Millet	50
Oats	32
Onions	52
Onions, bottom sets	32
Onions, top sets	28
Orchard grass seed	14
Parsnips	42
Peaches, dried	28
Peanuts	22
Pears	45
Peas	60
Plastering hair, unwashed	8
Plastering hair, washed	4
Potatoes, Irish	60
Potatoes, sweet	46
Rapeseed	50
Rhubarb	50
Rutabagas	52
Rye	56
Salt	80
Sorghum seed	57
Speltz	40
Timothy seed	45
Turnips	60
Tomatoes	50
Walnuts	50
Wheat	60

[1895; last amended 1919.]

¹ A slight change has been made in the arrangement for convenience of reference.

² See Sec. 60-0226, p. 763, providing exception as follows: During October and November, not exceeding 82 pounds, and during December and January not exceeding 76 pounds may be used as standard weight per bushel of new ear corn.

Sec. 64-0106. Ton of hay; cubic measure.

By weight a ton of hay shall consist of two thousand pounds, and by measurement, of three hun-

Revised Code of 1943, Vol. 5, Title 64, Ch. 1—Weights and Measures, General Units—Continued.

dred and forty-three cubic feet after the same shall have been stacked thirty days or such other time as may be agreed upon between the parties. [1895]

Sec. 64-0107. Standard measurement of wood.

In all contracts for the sale of wood, the term "cord" shall mean one hundred twenty-eight cubic feet of wood, in four-foot lengths. If the sale is of "sawed wood", a cord shall mean one hundred ten cubic feet when ranked, or one hundred sixty cubic feet when thrown irregularly or loosely into a conveyance for delivery to the purchaser. If the sale is of "sawed and split" wood, a cord shall mean one hundred twenty cubic feet when ranked and one hundred seventy-five cubic feet when thrown irregularly and loosely into a conveyance for delivery. [1919]

Sec. 64-0108. Standard weight of coal, charcoal, and ice.

In all contracts for the sale of coal, charcoal, and ice the term "ton" shall mean two thousand pounds. A sale of coal, charcoal, or ice in any other manner except by weight is prohibited. [1919]

Sec. 64-0109. Standard weight of flour.

In all contracts for the sale of flour, the term "barrel" shall mean one hundred ninety-six net pounds avoirdupois. [1919]

Sec. 64-0110. Perch of stone.

A perch of mason work or stone shall consist of twenty-five feet, cubic measure. [1895]

Sec. 64-0111. Fractional parts of weights and measures.

All contracts for the sale of a fractional part of a bushel, barrel, ton, or cord of any article or commodity on which the legal weight or measurement per bushel, barrel, ton, cord, gallon, or fractional part has been established, shall require and mean a like fractional part of the legal and established weight or measurement per bushel, barrel, ton, or cord. [1919]

Revised Code of 1943, Vol. 5, Title 64, Ch. 2—Weights and Measures, Department of Weights and Measures.

Sec. 64-0201. Definitions.

In this title [Secs. 64-0101—64-0312], unless the context or subject matter otherwise requires:

1. "Commission" shall mean the public service commission;

2. "Department" shall mean the department of weights and measures under the public service commission;

3. "Gasoline pump" shall include any pump, meter, or similar device used for measuring gasoline for sale;

4. "Person" shall import both the singular and

the plural, as the case demands, and shall include individuals, partnerships, stock companies, or the agents or employees thereof;

5. "Public scale" shall include any scale or weighing device for the use of which a charge is made or compensation is derived. [1905; last amended 1933.]

Sec. 64-0202.¹ Supervision of weights and measures by public service commission.

All weights, weighing devices, gasoline pumps, coin-weighing machines or scales, and measures in this state shall be supervised and controlled by the commission. [1905; last amended 1933.]

¹ See Sec. 19-0118, page 752; duties of state laboratories department as to weights and measures.

Sec. 64-0203. Commission shall prescribe rules and regulations.

The commission shall prescribe, adopt, amend, and modify rules, regulations, and schedules, as may be deemed necessary. Any rules, regulations, and schedules so prescribed and adopted shall have the force and effect of law. [1929; last amended 1931.]

Sec. 64-0204. Tolerances and variations to be established by commission.

The commission shall establish uniform tolerance or reasonable variances to take care of unavoidable shrinkage or of scale variances in the handling or weighing [sic] of any commodity [1929; last amended 1931.]

Sec. 64-0205. Chief inspector and other employees: Employment of; compensation.

The commission shall appoint and fix the compensation of a chief inspector of weights and measures who shall be the head of the department and shall hold his office for a term of two years or until his successor is appointed and qualified and shall be removable for cause only. The commission shall employ such expert scalemen or other employees as may be necessary to carry out the provisions of this title [Secs. 64-0101—64-3012] and shall fix their compensation. [1929; last amended 1931.]

Sec. 64-0206. Employees shall give bond.

The chief inspector, expert scalemen, and other employees shall be bonded in the state bonding fund in the penal sum of one thousand dollars each. [1929; last amended 1931.]

Sec. 64-0207. Duties of chief inspector.

The chief inspector shall:

1. Have charge of, keep, and maintain in good order the standards of weights and measures of the state and submit them to the bureau of standards at Washington, D. C. for certification when he deems it necessary;

2. Keep a seal so formed as to impress the let-

ters "N.D." and the date of sealing upon the weights and measures that are sealed;

3. At least once every year, and as much oftener as may be necessary, test, correct, and seal, when found to be accurate, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state, and keep a record thereof;

4. Have general supervision of the weights, measures, and weighing or measuring devices, and instruments or apparatus used as standards in the state;

5. Upon the written request of any person, test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the state;

6. Keep a complete record of the standards, balances, and all testing and sealing apparatus owned by the state.

7. Make reports to the commission of his activities in such manner and at such times as the commission may require. [1905; last amended 1931.]

Sec. 64-0208. Purchase, lease, or disposal of apparatus and equipment by chief inspector.

The chief inspector, with the approval of the commission, shall purchase or lease any apparatus or equipment necessary for carrying out the provisions of this title [Secs. 64-0101—64-0312] and may sell any and all standards of weights and measures, balances, testing apparatus, and sealing equipment which may come into his custody and possession in the performance of his duties imposed by this title, whenever he, with the approval of the commission, shall determine that any of such standards of weights and measures, balances, testing apparatus, and sealing equipment are obsolete or unsuitable for the performance of the duties imposed upon the inspector. Any moneys derived by the commission from any sale or disposal shall be paid into the general fund of the state treasury. [1929; last amended 1931.]

Sec. 64-0209. Standards of weights and measures to be kept by chief inspector; use of; record of county standards tested.

The chief inspector shall keep and maintain in his office the following standards of weights and measures, which shall conform to the United States standards of weights and measures:

1. One bushel;
2. One-half bushel;
3. One peck;
4. One-half peck;
5. One quart;
6. One wine gallon;
7. One wine half-gallon;
8. One wine quart;
9. One wine pint;
10. One wine gill;
11. One surveyor's chain, thirty-three standard feet in length;
12. One yard measure;
13. One foot measure;

14. One inch measure;
15. One one hundred pound weight;
16. One fifty pound weight;
17. One twenty-five pound weight;
18. One ten pound weight;
19. One one pound weight;
20. One half-pound weight;
21. One quarter-pound weight;
22. One one-eighth of a pound weight;
23. One one-sixteenth of a pound weight or one ounce weight;
24. One set of apothecaries' weights from one pound to one grain and one set of troy weights from one pound to one grain; and
25. Such other scales, beams, and balances as shall be necessary to test other weights by these standards.

Weights, measures, scales, beams, and balances are declared to be the legal standards of weights and measures for this state, and shall be used only for testing the copies thereof used in testing weighing and measuring devices. The measures mentioned in subsections 1 to 10, inclusive, shall be made of copper or other suitable and substantial material. The department shall keep a record of all county weights, measures, beams, and balances marked and tested by its employees. [1905; last amended 1923.]

Sec. 64-0210. Fee schedule for inspection of weighing and measuring devices.

The chief inspector or other employee of the department of weights and measures shall charge and collect fees in accordance with the following schedule:

For inspecting railroad and track scales of capacity of twenty tons and upwards	\$ 8.00
For inspecting vehicle scales and livestock scales of eight thousand pounds capacity and over	6.00
For inspecting dormant scales, less than eight thousand pounds capacity, or hopper scales, each	2.00
For inspecting movable platform scales .....	.50
For inspecting all counter or computing scales, each .....	.50
For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each .....	.50
For inspecting any two bushel or one bushel measure ..	.25
For inspecting any other dry measure, each .....	.10
For inspecting any liquid measure or computing pump ..	.50
For inspecting liquid measures of five gallons or less capacity, each .....	.25
For inspecting any board of cloth measure, each .....	.10
For calibrating truck tanks of one thousand gallon capacity and under	5.00
For calibrating truck tanks over one thousand gallon capacity	20.00

Where a rejected weighing and measuring device has been reconditioned or replaced by new equipment, the same must be reinspected and a certificate issued before being put into use and the fees charged for such reinspection and certification shall be the same as for the first inspection and certification. When the inspector or other employee of the department of weights and measures shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted or out of repair, it shall be his duty to correct such scale or measure and he shall collect for such service one

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dollar and twenty-five cents per hour for the actual time consumed in making such corrections, and shall receive reasonable compensation for any material used in such corrections. [1905; last amended 1947.]

Sec. 64-0211. Payment of service fee before using weighing or measuring device.

No scale, weight, measure, or weighing or measuring device that has been sealed by any one of the employees of the department shall be used, sold, or exposed for sale until the fee charged for the service has been paid. [1905; last amended 1931.]

Sec. 64-0212. Fees collected paid into treasury.

All fees and charges collected by the commission under the provisions of section 64-0210 shall be paid into the general fund of the state treasury. [1919; last amended 1929.]

Sec. 64-0213. Employees to test weights and measuring devices annually.

The chief inspector or any other employee of the department may test:

1. Any scale, weight, beam, or measure of any kind;
2. Any instrument or mechanical device for measurement; or
3. Any tool, appliance, or accessory connected with any instrument for measuring, if the same is kept, offered, used, or employed, or is offered for sale or sold for the purpose of being used or employed, by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which may be offered or submitted by any person for sale, hire, or reward. Weights, measures, and all other apparatus herein-before described used in the state shall be inspected at least once in each year and if upon inspection they correspond with the standards in the possession of the department, they shall be sealed with the proper devices to be approved by the chief inspector. [1895; last amended 1931.]

Sec. 64-0214. Incorrect weighing or measuring devices; power to seize, condemn, and destroy.

The chief inspector or any other employee of the department shall condemn, seize, or destroy any incorrect weight, measure, or weighing or measuring device which in his judgment cannot be satisfactorily repaired. Those weighing or measuring devices which are incorrect but which are capable of being repaired shall be marked as "condemned for repair" in the manner to be prescribed by the inspector. The owner or user of any scale, weight, measure, or weighing or measuring

instrument which has been so marked shall have the same repaired or corrected within thirty days, and such device shall not be used or disposed of in any way without the consent of the inspector. [1907; last amended 1931.]

Sec. 64-0215. Vendor's and peddler's measuring and weighing apparatus subject to test.

The chief inspector or any other employee of the department may enter into or upon any land, place, building, or premises to stop any vendor, peddler, or junk dealer, or the driver of any coal wagon, ice wagon, or delivery vehicle, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the inspector or employee of the department may specify for the purpose of making a proper test of weighing apparatus used by such vendor, driver, or dealer. [1907; last amended 1931.]

Sec. 64-0216. Licensing coin-weighing machine or scale and public gasoline pump required; fee.

Every person who shall use or display for use any public coin-weighing machine or scale or public gasoline pump shall secure a license for such scale or pump from the department. The license fee shall be one dollar per annum for each such gasoline pump and two dollars and twenty-five cents per annum for each such scale. Each license shall expire on June thirtieth of the year following its issuance. The proceeds from such fees shall be paid into the general fund of the state treasury. [1931]

Sec. 64-0217. Form of application for licensing coin-weighing machines, scales, and public gasoline pumps.

On or before July first of each and every year, the owner, proprietor, or managing agent operating, conducting, and maintaining a public gasoline pump or a public coin-weighing machine or scale, shall make application to the commission for an annual license. Such application shall state the name of the owner, manager, or proprietor of the pump or scale to be licensed, a general description of the location of such pump or scale, and that such pump or scale will be operated, if licensed by the commission, in accordance with the laws of this state. This application shall be made upon a blank authorized and issued by the commission, and such application shall be accompanied by the license fee prescribed in section 64-0216 of this chapter [Secs. 64-0201-64-0220]. [1931]

Sec. 64-0218. Form of license for coin-weighing machines, scales, and public gasoline pumps; license displayed; unlicensed machine confiscated.

The license shall be in the form of a metal plate bearing the words "Licensed by the state of North Dakota, No." Plates shall be numbered consecutively and shall bear the year for which the license was granted. The license plate shall be displayed prominently on the front of a

coin-weighing machine or pump. Absence of the license plate shall be prima facie evidence that the weighing machine or device is being operated contrary to law. After August first of each year, the chief inspector or other employee of the department shall seize, confiscate, or seal all unlicensed coin-weighing machines and shall lock and seal any unlicensed gasoline pump. [1931]

Sec. 64-0219. Salaries of employees.

The salaries of all employees of the department shall be fixed by the public service commission within the limitations of the appropriations made by the legislative assembly for such purposes. [1929; last amended 1933.]

Sec. 64-0220. Departmental expenses.

The commission may purchase supplies and equipment and may incur necessary expenses in carrying out the provisions of this title [Secs. 64-0101—64-0312] within legislative appropriations made for such purpose. Traveling expenses shall be allowed the chief inspector and other employees of the department as provided in section 54-0610. [1929; last amended 1933.]

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Weights and Measures, General Provisions.

Sec. 64-0301. False weights and measures; penalty.

Any person who shall:

1. Offer or expose for sale, sell, use, or have in his possession a false scale, weight, measure, or weighing or measuring device, for use in buying or selling any commodity or thing, or any weight, measure, or weighing or measuring device which has not been sealed within one year as provided by section 64-0213;

2. Dispose of any condemned weight, measure, or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the department;

3. Sell, offer, or expose for sale less than the quantity represented;

4. Sell, offer for sale, or have in his possession for the purpose of selling, any device or instrument to be used or calculated to falsify any weight or measure;

5. Refuse to pay any fee charged for testing and sealing or condemning any scale, weight, measure, or weighing or measuring device, shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, and the costs of such proceedings. [1905; last amended 1931.]

Sec. 64-0302. False weights; penalty for public use.

Any person who knowingly uses a weight, measure, scale, balance, or beam for the purpose of

purchase or sale, or who keeps such device for public use, which does not conform to the legal standard of weights and measures of the state, or who alters a weight, measure, scale, balance, or beam after it has been adjusted and sealed so that it does not conform to such standard, and fraudulently makes use thereof, shall be punished by a fine of fifty dollars for each offense. [1905; last amended 1923.]

Sec. 64-0303. Fraudulently increasing weight; penalty.

Any person who puts or conceals in any bag, bale, box, barrel, or other package containing goods usually sold by weight any foreign substance for the purpose of increasing the weight of such container or package, is punishable by a fine of twenty-five dollars for each offense. [1895]

Sec. 64-0304. Baled hay: Correct weight to be marked on bundle; violation; penalty.

Every person who puts up or presses any bundle of hay for market and in so doing omits putting the number of pounds in each bundle or bale for which he sells or offers to sell it is guilty of a misdemeanor.¹ [1895]

¹ See Sec. 64-0309, page 748.

Sec. 64-0305. Fuel required to be weighed: Correct scale weight; slip delivered; violation; penalty.

Any person selling or delivering any coal, lignite, or briquette fuel within any city or village in this state, where adequate weighing facilities exist, without first having the same weighed or without delivering to the purchaser a duplicate scale weight slip showing the true weight thereof, is guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days. [1941]

Sec. 64-0306. Stamping false weight or tare; penalty.

Every person who knowingly marks or stamps false or short weight or false tare on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.¹ [1895]

¹ See Sec. 64-0309, page 748.

Sec. 64-0307. Penalty for violating provisions relating to standard measurements and weights.

Any person who, in buying, shall take any greater number of pounds or cubic feet to the bushel, barrel, ton, cord, gallon, or fractional part, as the case may be, than is provided by the standards established in this title [Secs. 64-0101—64-0312], or who, in selling shall give any less number, shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days. [1919]

Revised Code of 1943, Vol. 5, Title 64, Ch. 3—Weights and Measures, General Provisions—Continued.

Sec. 64-0308. Penalty for hindering an inspector in his official duties.

Any person who shall hinder, impede, restrict, or mislead in any way any employee of the department while in the performance of his official duties shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days for each offense. [1905; last amended 1931.]

Sec. 64-0309. General penalty.

Any person who shall violate any of the provisions of this title [Secs. 64-0101—64-0312] wherein a special penalty has not been provided shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. [1931]

Sec. 64-0310. Duty of officer to seize persons violating provisions relating to false weights and measures.

When an officer shall arrest any person for a violation of any provision of this title [Secs. 64-0101—64-0312], he shall seize any false weight or measure found in the possession of the person so arrested and shall deliver the same to the magistrate before whom the person so arrested is required to be taken. [1895]

Sec. 64-0311. Duty of state's attorney.

Upon the conviction of any person for violating any provision of this title [Secs. 64-0101—64-0312], the state's attorney shall cause to be destroyed any weight or measure in respect whereof the accused stands convicted and which remains in the possession or under the control of such state's attorney. [1895]

Sec. 64-0312. Duty of magistrate.

The magistrate to whom any weight or measure is delivered, pursuant to section 64-0310, shall request an inspector of the department to test the same, and if he finds it to be false, the inspector shall cause it to be destroyed or to be delivered to the state's attorney of the county in which the accused is subject to prosecution or trial, as the interests of justice in his judgment may require. [1895]

Revised Code of 1943, Vol. 4, Title 40, Ch. 5—Municipal Corporations.

Sec. 40-0501. Powers of all municipalities.

The governing body of a municipality shall have the power:

* * * * *

51. To license, tax, and regulate * * * public scales. [1895; last amended 1913.]

* * * * *

Sec. 40-0502. Additional powers.

The city council in a city operating under the council form of government and the board of city commissioners in a city operating under the commission system of government, in addition to the powers possessed by all municipalities, shall have power:

* * * * *

3. To regulate the inspecting, weighing, and measuring of lumber, firewood, coal, hay, and other articles of merchandise, to establish or purchase one or more city scales and to require dealers in hay, coal, firewood, or any other commodity, which, in the judgment of the governing body, should be weighed upon the city scales, to use such scales in the sale of such commodity, and to charge a reasonable fee for the use of such scales; [1895; last amended 1901.]

* * * * *

Revised Code of 1943, Vol. 1, Title 4, Ch. 10—Potatoes.

Sec. 4-1001. Definitions.

In this chapter [Secs. 4-1001—4-1022], unless the context or subject matter otherwise requires:

1. "Potatoes" shall mean what is commonly called and known as white or Irish potatoes; * * *

3. "Closed container", or its plural form, shall mean any container which shall be sewed, tied, sealed, glued, nailed, or otherwise closed in a practical or secure manner for handling;

* * * * *

6. "Label", and its various grammatical forms, when used as a noun shall mean any tag, label, brand, or device attached to, or written, stamped, printed, or stenciled on, any container and carrying a term or terms setting forth the grade, condition, quality, weight, variety, or class of the potatoes or other produce therein contained, and when used as a verb shall mean the act or the fact of the use of the aforesaid labeling items and methods in connection with potatoes or other produce, and when used as an adjective, its descriptive meaning shall be interpreted from its use and meaning as a noun and verb as herein prescribed; and

7. "Commissioner" shall mean the state seed commissioner. [1929; last amended 1941.]

Sec. 4-1005. Marking requirements for closed containers.

Every closed container packed with potatoes grown in North Dakota, being transported, or offered for sale or consignment shall bear upon the outside thereof, either by brand, tag or label, in plain letters and figures, the net weight when packed * * *.

When an individual shipment is made from such towns or stations at which regular inspection service is not maintained, and when such shipments cannot be so routed as to be stopped in transit for inspection at a town or station at which inspection service can be provided, or when due to unforeseen circumstances which make it physically impossible for an inspector to perform such inspection, or when definite or sufficient evidence followed by proof if demanded is presented to establish the fact that the shipment will be re-processed and when inspection service is available officially inspected in transit, then the commissioner, or his agent, may waive, by a special written permit, the inspection and labeling requirements provided in this section for such individual shipment.

The commissioner [state seed commissioner] shall, by regulation, prescribe the general location of the labeling on the container and the minimum and maximum size of the letters and figures used in the labeling of the potatoes as herein provided. [1931; last amended 1947.]

* * * * *

Sec. 4-1014. Mislabeling prohibited.

No person, either for himself or while acting as agent or servant for any other person, shall sell, consign for sale, offer or expose for sale, have in possession or storage for sale, deliver within this state, or convey or cause to be conveyed out of this state, any potatoes or other produce which are mislabeled within the meaning of this chapter [Secs. 4-1001—4-1022] or the regulations thereunder, or which are labeled, represented, or advertised falsely in any respect, whether they are in closed containers, open containers, or in bulk regardless of the quantity. [1931]

Sec. 4-1019. Enforcement.

The commissioner [state seed commissioner] shall enforce the provisions of this chapter [Secs. 4-1001—4-1022] and the regulations made thereunder. Whenever he shall be of the opinion that a violation of this chapter or of the regulations made thereunder exists, he shall designate a time and place for a hearing and give notice thereof to the person involved. * * * [1931]

Sec. 4-1022. Penalty for violations of chapter.

Any person who violates any of the provisions, or who fails or refuses to comply with any of the requirements, of this chapter [Secs. 4-1001—4-1022] or of any regulation made thereunder, or who willfully interferes with the commissioner [state seed commissioner] or any of his agents in the execution or on account of the execution of his or their duties under this chapter, shall be punished by a fine of not more than one hundred dollars and costs of prosecution for the first offense and by a fine of not more than five hundred dol-

lars and costs of prosecution for each subsequent offense. [1929; last amended 1931.]

Revised Code of 1943, Vol. 1, Title 4, Ch. 18—Milk and Cream.

Sec. 4-1817. Babcock test to be used.

Testing of milk or cream to determine the percentage of butterfat contained therein shall be made by the standard Babcock test. [1905; last amended 1927.]

Sec. 4-1818. Specifications of bottles and glassware for use in Babcock test.

The following bottles or glassware conforming to the standard Babcock test bottles and having the following specifications shall be used in testing milk and cream to determine the butterfat content thereof:

1. Eight percent, eighteen gram, six inch milk test bottle. Graduation: The total percent graduation shall be eight. The graduated portion of the neck shall have a length of not less than 63.5 mm. (2.5 inches). The graduation shall represent whole percent, five-tenths percent, and tenths percent. The tenths percent graduation shall be not less than 3 mm. in length; the five-tenths percent graduations shall be 1 mm. longer than the tenths percent graduations, projecting 1 mm. to the left; the whole percent graduations shall extend one-half way around the neck to the right, projecting 2 mm. to the left of the tenths percent graduations. Each percent graduation shall be numbered, the number being placed on the left of the scale. The maximum error of the total graduation or any part thereof shall not exceed the volume of the smallest unit of graduation. Neck: The neck shall be cylindrical for at least 5 mm. below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 mm. Bulb: The capacity of the bulb up to the junction of the neck shall be not less than 45 ml. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 mm. If conical, the outside diameter of the base shall be between 31 and 33 mm., and the maximum diameter between 35 and 37 mm. The charge: The charge of the bottle shall be 18 gram. Height: The total height of the bottle shall be between 150 and 165 mm. (5 $\frac{7}{8}$ and 6 $\frac{1}{2}$ inches). Identification number: Each bottle shall bear a permanent identification number.

2. Fifty percent, nine gram, short neck (six inch) cream test bottle. Graduation: The total percent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63.5 mm. (2.5 inches). The graduation shall represent 5 percent, 1 percent, and 0.5 percent. The 0.5 percent graduations shall be at least 3 mm. in length; the 1 percent graduations shall be 2 mm.

Revised Code of 1943, Vol. 1, Title 4, Ch. 18—Milk and Cream—Continued.

longer than the 0.5 percent graduations, projecting 2 mm. to the left; the 5 percent graduation shall extend halfway around the neck to the right. Each 5 percent graduation shall be numbered, the number being placed on the left of the scale. The maximum error of the total graduation or any part thereof shall not exceed the volume of the smallest unit of the graduation. Neck: The neck shall be cylindrical for at least 5 mm. below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 mm. Bulb: The capacity of the bulb up to the junction of the neck shall not be less than 45 ml. The shape of the bulb may be either cylindrical or conical, with the smallest diameter at the bottom. If cylindrical, the outside diameter of the base shall be between 31 and 33 mm. and the maximum diameter between 35 and 37 mm. The charge: The charge of the bottle shall be 9 gram. All bottles shall bear on top of the neck above the graduations in plainly legible characters a mark denoting the weight of the charge to be used, (9 gram). Height: The total height of the bottle shall be between 150 and 165 mm. ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches). Identification number: Each bottle shall bear a permanent identification number.

3. Fifty percent nine gram, long neck (nine inch) cream test bottle. The same specifications in every detail as specified for the 50 percent 9 gram, 6 inch cream test bottle shall apply to the 9 inch bottle, with the exception, however, that the total height of this bottle shall be between 210 and 229 mm. ($8\frac{1}{4}$ and 9 inches) and the graduated portion of the neck shall have a length of not less than 120 mm.

4. Fifty percent, eighteen gram, long neck (nine inch) cream test bottle. The same specifications in every detail as specified for the 50 percent, 9 gram, 6 inch cream test bottle shall apply, except that the charge shall be 18 gram. All bottles shall bear on top of the neck above the graduations in plainly legible characters a mark denoting the weight of the charge to be used, (18 gram).

5. Fifty percent, eighteen gram, short neck (six inch) cream test bottle. The same specification in every detail as specified for the 50 percent, 9 gram, 6 inch cream test bottle shall apply, except that the charge shall be 18 gram and the flare at the top of the neck of the bottle shall be at least 15 mm. in diameter.

THE STANDARD BABCOCK PIPETTE

Total length of pipette not more than	330 mm.
Outside diameter of suction tube	6-8 mm.
Length of suction tube	130 mm.
Outside diameter of delivery tube	4.5-5.5 mm.
Length of delivery tube	100-120 mm.
Distance of graduation mark above bulb	15-45 mm.
Tolerance	0.05 ml.

Nozzle straight.

To contain 17.6 ml of water at 20° C.

Delivery in 5 to 8 seconds.

[1905; last amended 1927.]

Sec. 4-1819. Sale of bottles and glassware used in Babcock test; trade-marks; bond.

Any manufacturer desiring to sell bottles and glassware for use in testing milk and cream for butterfat in this state may make application to the dairy commissioner for the registration of a trade-mark adopted by the manufacturer. At the time of making the application, the manufacturer shall file with the commissioner a bond in the sum of one thousand dollars payable to the state of North Dakota with sureties. The sureties, if personal, shall be residents of this state and if the surety is a company, it shall be authorized to do a surety business in this state. The bond shall contain the condition that the manufacturer will sell in this state only such bottles and glassware as shall conform to the standard Babcock test, and as shall have blown clearly or otherwise marked permanently in the side thereof the capacity of the same and the word "sealed", and in the side or bottom, the trade-mark and the designating number of the manufacturer. Upon the making of the application and the filing of the bond, the dairy commissioner shall assign to the applicant a designating number and cause a record to be made thereof in his office, together with a record of the trade-mark. The bond shall be valid for a period of three years from the date of its execution, unless prior to that time it shall appear to the dairy commissioner that the surety or sureties thereon have become insolvent or nonresidents of the state. If a surety company has ceased to do business in this state, the commissioner may cancel the bond and require a new bond to be filed. The trade-mark and designating number shall be different for each manufacturer. [1905; last amended 1927.]

Sec. 4-1820. Use of bottles and glassware not conforming to Babcock test requirements a misdemeanor; exception.

Any person within this state who shall test milk or cream for butterfat by the use of any bottles or glassware which do not conform to the standard Babcock test bottles for milk and cream, is guilty of a misdemeanor.¹ Testing milk and cream for butterfat by the use of bottles or glassware purchased from a manufacturer who has filed a bond and been assigned a designating number as provided in section 4-1819 shall not be deemed a violation of this chapter [Secs. 4-1801-4-1854]. [1905; last amended 1927.]

¹ See Sec. 4-1853, page 751; penalties for violations.

Sec. 4-1821. Penalty for sale of nonconforming bottles or glassware.

Any manufacturer complying with the provisions of section 4-1819 who shall sell any bottles or glassware in this state which do not conform to the

standard Babcock test and which are not marked as provided in section 4-1819 shall forfeit to this state the sum of five hundred dollars, to be recovered in an action for that purpose brought in the name of this state by the attorney general against the surety or sureties upon such bond. Any manufacturer, merchant, dealer, or agent in this state who shall offer for sale or sell any milk or cream test bottle which is not in compliance with the above specifications, is guilty of a misdemeanor.¹

¹ See Sec. 4-1853, this page; penalty for violations.

Sec. 4-1822. Sampling; inspection by dairy commissioner; weighing; violations; penalty.

Every person operating a creamery, cream station, cheese factory, ice cream factory, renovating or process butter factory, or condenser in this state, buying or receiving milk or cream on the basis of the amount of butterfat contained therein, before emptying each container or containers of any part of the milk or cream contained therein and before adding any other substance thereto, shall mix thoroughly the entire contents and procure by the use of a thoroughly cleaned and dried sampling device, a representative sample of the milk or cream. Not less than two ounces of the sample taken shall be transferred immediately to a thoroughly clean and dry sample jar or bottle which shall be fitted properly and securely with a cover to prevent the escape of any of the contents. Every sample jar of every sample of milk or cream so taken shall be labeled, marked, or numbered indelibly to correspond with a record kept of the net weight of milk or cream, the percentage and amount of butterfat credited as being present in each container received, and the amount of money paid for the same. If more than one container is used by the owner or owners in the delivery of a quantity of milk or cream, the entire contents of such containers may be emptied into a tank or vat free from other substances, where it shall be mixed thoroughly and a representative sample of not less than two ounces shall be procured and transferred to a sample jar or bottle and labeled to correspond with a record kept as herein provided. All samples shall be protected from the extremes of temperature and shall be retained until five o'clock p. m. of the day following the receiving of the milk or cream, and all samples taken on Saturday shall be retained until five o'clock p. m. of the following Monday, during which time the receptacles containing such samples shall not be opened except by the dairy commissioner, his deputy or legal agent who may inspect the same officially for the purpose of determining the percentage of butterfat contained therein according to section 4-1817. All cream held over from one shipment to another shall be weighed, and a record of such weight shall be kept on hand and a true and correct sample thereof shall be taken and held, the same as other samples are taken and held, and

dated, and shall be labeled "hold-over sample." Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period of not more than thirty days, or by a fine of not more than fifty dollars, or by both such fine and imprisonment. [1919; last amended 1929.]

Sec. 4-1825. False reading of Babcock test; penalty.

Any person who shall manipulate, underread, overread, or alter in any other manner the true reading of the Babcock test, or any other instrument, contrivance, or method that legally is or can be used to determine the quality or value of butterfat in milk or cream or the products of either or both combined, is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. [1905; last amended 1927.]

Sec. 4-1826. Defective or inaccurate weights, measures, scales; repairing or discontinuing use of.

The dairy commissioner or an assistant dairy commissioner may order any defective or inaccurate weights, measures, scales, or apparatus used in determining the amount of butterfat in a quantity of milk or cream repaired or the use thereof discontinued. [1919]

Sec. 4-1827. Unreasonable variations between tests cause for revocation of license.

Any unreasonable variation between an official test made by the dairy commissioner, his deputy, or his agent, and any test made by any licensed milk or cream tester in this state shall be cause for the revocation of, or refusal to reissue, a license. [1919]

Sec. 4-1830. Complaints regarding weights, measures, scales.

The dairy commissioner, upon receipt of a complaint from any buyer of milk or cream regarding methods, weights, measures, scales, or any apparatus used by any other buyer in determining the percentage and amount of butterfat present in any quantity of milk or cream, may require that any sample or samples taken in compliance with section 4-1822, together with the record corresponding to such sample or samples, be forwarded to his office for official test. The dairy commissioner shall give notice to that effect within twenty-four hours of the time when the sample or samples in question are taken. [1919]

Sec. 4-1853. Penalties for violations.

Any person violating any of the provisions of this chapter [Secs. 4-1801-4-1854] for which another penalty is not specifically provided is guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by im-

Revised Code of 1943, Vol. 1, Title 4, Ch. 18—Milk and Cream—Continued.

prisonment for not more than thirty days, or by both such fine and imprisonment. Upon conviction for a first offense, the license of the person, corporation, association, or partnership so convicted shall be suspended for thirty days, and such license shall be revoked upon a conviction for a second offense. [1899; last amended 1937.]

Revised Code of 1943, Vol. 2, Title 19, Ch. 1—State Laboratories Department.

Sec. 19-0116. Enforcement of title.

The department [state laboratories department] shall enforce the provisions contained in this title and may prevent the manufacture or sale of products, articles, compositions or things not complying with any provisions of this title applicable thereto. * * * [1923; last amended 1937.]

Sec. 19-0118. Duties as to weights and measures.

When requested so to do by the public service commission, the director of the department [state laboratories department], when it is possible and practicable to do so, shall direct one or more of the employees of the department to perform such duties as may be required relating to the inspection and licensing of weights and measures. Each employee of the department, when engaged in the performance of such duties, shall have the same powers and shall charge and collect the same fees for the services he may perform as are provided in the case of an inspector in chapter 2 of the title Weights, Measures, and Grades. All fees, licenses, and other charges collected by the department in performing such additional duties shall be considered as collections made by the department to be accounted for and disposed of as provided in this chapter [Secs. 19-0101—19-0118]. [1939]

Revised Code of 1943, Vol. 2, Title 19, Ch. 2—Foods and Drugs.

Sec. 19-0201. Definitions.

In this chapter [Secs. 19-0201—19-0233], unless the context or subject matter otherwise requires:

1. "Food" shall mean all articles, whether simple, mixed, or compound, used for, entering into the composition of, or intended for use in, the preparation of food, drink, confectionery, or condiment for man or other animals;

2. "Drug" shall mean all substances and preparations recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, and any substance or mixture of substances intended or designed to be used for the cure, mitigation, prevention, or treatment of disease of man or other animals, and all substances and preparations, other

than food, intended to affect the structure or any function of the body. Soap shall be included as a drug only when medicinal or curative qualities are claimed therefor;

* * * * *

4. "Sale" and "sell" shall mean the keeping, offering, or exposing for sale, use, transportation, or exchange of any restricted, regulated, or prohibited article, the having of any such article in possession with intent to sell, use, transport, or exchange the same, and the storing, carrying, or handling thereof in aid of traffic therein, whether done or permitted in person or through others. [1923; last amended 1937.]

Sec. 19-0202. Rules and regulations.

The department [state laboratories department] shall fix, adopt, publish, and enforce definitions, rules, regulations, * * * of articles of food and drugs for which no definitions, rules, regulations, and standards are prescribed by law, * * *. Definitions, rules, regulations, and standards fixed, adopted, and published under the provisions of this chapter [Secs. 19-0201—19-0233] shall have the force and effect of law. [1915; last amended 1923.]

Sec. 19-0203. Unlawful to sell misbranded foods and drugs.

No person shall manufacture, sell, offer, or expose for sale or delivery, or have in his possession for sale or delivery, any article of food or drugs which is adulterated or misbranded, or which otherwise violates any provisions of this chapter [Secs. 19-0201—19-0233] or any rule or regulation issued pursuant thereto. [1901; last amended 1923.]

Sec. 19-0207. When foods deemed misbranded.

For the purposes of this chapter [Secs. 19-0201—19-0233], a food shall be deemed to be misbranded:

* * * * *

2. If it is labeled or branded so as to deceive or mislead the purchaser, * * *

5. When the article is in package form, if the name of the article together with the quantity of the contents in terms of weight, measure, or numerical count are not plainly and conspicuously marked on the outside of the package;

6. When the article is in package form, if the package is not filled with the food it purports to contain, irrespective of whether the quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: [1901; last amended 1937.]

* * * * *

Sec. 19-0208. When drugs deemed misbranded.

For the purpose of this chapter [Secs. 19-0201—19-0233], a drug shall be deemed to be misbranded:

* * * * *

2. If its container is made, formed, or filled so as to mislead the purchaser;

* * * * *

6. When the article is in package form, if the name of the article together with the quantity of the contents thereof in terms of weight, measure, or numerical count are not plainly marked on the outside of the package; [1923; last amended 1937.]

* * * * *

Sec. 19-0214. Deceptive packages prohibited; rules relating to size and weight of packages.

No person, firm, or corporation shall manufacture, sell, or expose for sale, any article of food or drug in any package or container, the size or shape of which may deceive or tend to deceive the purchaser of such product as to the contents of said package or container. In order to prevent fraud and deception, the department [state laboratories department] may establish, publish, and enforce rules and regulations relative to the size, weight, or style of package of all drug and food commodities, except lard and bread, and such rules and regulations shall have the force and effect of law. [1923]

Sec. 19-0215. Lard: Quantities which may be sold.

Every lot of lard, lard compounds, or lard substitutes, unless sold in bulk, shall be sold in pails or other containers holding one, three, or five pounds net weight or some whole multiple of these numbers and not any fractions thereof. [1923]

Sec. 19-0216. Bread: How sold.

No person shall sell, offer, or expose for sale, or have in his possession with intent to sell or transport, any bread, the loaf of which does not weigh either sixteen ounces or twenty-four ounces avoirdupois or a whole multiple of sixteen ounces avoirdupois. The weights shall apply alike to each unit of twin or multiple loaves. A loaf shall be of the required weight at any period from the time of baking the same until twelve hours thereafter. The required weight standards shall apply alike to wheat bread, white bread, milk bread, rye bread, raisin bread, currant bread, brown bread, graham bread, whole wheat bread, and other similar kinds of farinaceous substances baked in loaves and known and designated as bread. The average weight of loaves shall be as often above as below permissible weights. The weight standards defined in this section shall not be construed to apply to cakes, buns, biscuits, and similar small unit products. [1923]

Sec. 19-0229. Penalties for violations of chapter.

Any person violating or failing to comply with any provision of this chapter [Secs. 19-0201—19-0233] or with any rule, regulation, definition, or standard issued pursuant thereto, is guilty of a

misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. [1901; last amended 1923.]

Revised Code of 1943, Vol. 2, Title 19, Ch. 3—Narcotic Drugs.

Sec. 19-0315. Marking requirements.

Labels shall be affixed to all packages or receptacles containing narcotic drugs sold or dispensed under the provisions of this chapter [Secs. 19-0301—19-0332] as follows:

1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1917]

Sec. 19-0324. False labels prohibited.

No person shall:

* * * * *

4. Affix any false or forged label to a package or receptacle containing narcotic drugs. [1917]

* * * * *

Sec. 19-0327. Enforcement and cooperation.

It is hereby made the duty of the department [state laboratories department] its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all state's attorneys to enforce all provisions of this chapter [Secs. 19-0301—19-0332], except those specifically delegated and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1917]

Sec. 19-0331. Penalties for violations.

Any person violating any provision of this chapter [Secs. 19-0301—19-0332], if another penalty is not specifically prescribed, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than three years, or in the county jail for not more than one year, or by both such fine and imprisonment. [1917]

Revised Code of 1943, Vol. 2, Title 19, Ch. 5—Oleomargarine.

Sec. 19-0508. Size of packages.

* * * Oleomargarine shall not be sold in this state in packages containing less than one pound nor more than thirty pounds. * * * [1931]

Revised Code of 1943, Vol. 2, Title 19, Ch. 5—Oleomargarine—Continued.

Sec. 19-0514. Enforcement.

Every officer who has the duty of enforcing the laws of this state shall be charged with the enforcement of the provisions of this chapter [Secs. 19-0501—19-0516], and for failure to enforce the same, shall be subject to removal from office. [1931]

Sec. 19-0516. Penalty for violations.

Unless it is otherwise provided in this chapter [Secs. 19-0501—19-0516] any person violating any of the provisions of this chapter is guilty of a misdemeanor, and for the first offense shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. For the second and each subsequent offense, he shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment. [1931]

Revised Code of 1943, Vol. 2, Title 19, Ch. 8—Beverages.

Sec. 19-0801. Unlawful to sell misbranded beverages.

No person shall sell, offer, or expose for sale, or have in his possession with intent to sell within this state, any beverage of whatever nature that * * * is adulterated, misbranded or insufficiently or improperly labeled within the meaning of chapter 2 of this title [Secs. 19-0101—19-1610], or that is not licensed as provided in this chapter [Secs. 19-0801—19-0807]. [1923]

Sec. 19-0802. Definition.

The term "beverage" as used in this chapter [Secs. 19-0801—19-0807] shall include intoxicating liquors, carbonated and noncarbonated soda water, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, tomato juice, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made, and mineral or spring water sold under private label. [1923; last amended 1939.]

Sec. 19-0803. Marking requirements.

The requirements for labeling * * * of all beverages included in this chapter [Secs. 19-0801—19-0807] shall be the same as those required under chapter 2 of this title [Secs. 19-0101—19-1610], together with such other standards, rules, and regulations as the department [state laboratories department] may establish to carry out the intent of this chapter. Such standards, rules, and regulations shall have the force and effect of law. [1923]

Sec. 19-0806. Penalties for violations.

Any person violating any of the provisions of this chapter [Secs. 19-0801—19-0807] or any rule or regulation issued pursuant thereto is guilty of a misdemeanor and, if another penalty is not prescribed, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. [1923]

Revised Code of 1943, Vol. 2, Title 19, Ch. 9—Cosmetics.

Sec. 19-0901. Definition.

As used in this chapter [Secs. 19-0901—19-0907], the term "cosmetic" shall mean all substances and preparations intended for cleansing or altering the appearance or promoting the attractiveness of the person, except that such term shall include soaps only when medicinal or curative qualities are claimed therefor. [1937]

Sec. 19-0903. When deemed misbranded.

A cosmetic shall be deemed to be misbranded if:

1. Its labeling is false or misleading in any particular;
2. It is in package form, unless it bears a label containing the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents of the package in terms of weight, measure, or numerical count; or
3. Any word, statement, or other information required on the label under any provision of this chapter [Secs. 19-0901—19-0907] is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by the purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package. [1937]

Sec. 19-0904. Unlawful to sell if misbranded.

No person shall manufacture, sell, offer, or expose for sale or delivery, or have in his possession for sale or delivery, any cosmetic which is adulterated or misbranded or which otherwise violates any provision of this chapter [Secs. 19-0901—19-0907] or any rule or regulation issued pursuant thereto. [1937]

Sec. 19-0906. Rules and regulations.

The department [state laboratories department] shall adopt, publish, and enforce rules and regulations for the enforcement of this chapter [Secs. 19-0901—19-0907], * * *. [1937]

Sec. 19-0907. Penalties for violations.

Any person violating or failing to comply with any of the provisions of this chapter [Secs. 19-0901—19-0907], or with any rule, regulation, defini-

tion, or standard issued pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. [1937]

Revised Code of 1943, Vol. 2, Title 19, Ch. 10—Petroleum Products.

Sec. 19-1002. Enforcement.

The provisions of this chapter [Secs. 19-1001—19-1023] shall be enforced by the department [state laboratories department]. * * * [1895; last amended 1923.]

Sec. 19-1015. Heating oil: How volume determined.

In case of dispute, heating oil shall be sold on the basis of the United States gallon containing 231 cubic inches at 60 degrees F. The volume of the delivered oil, however, may be calculated from its weight and gravity degrees API in accordance with the national standard petroleum oil tables prepared by the national bureau of standards. [1939]

1947 Supplement to the Revised Code of 1943, Title 19, Ch. 13—Concentrated Commercial Feeding Stuffs.

Sec. 19-1301. Definition.

The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding livestock and poultry, except the following:

- a. Whole seeds or grains.
- b. The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat and broom corn.
- c. Whole hays, straws, ensilage and corn stover, when unmixed with other materials. [1945]

Sec. 19-1303. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- a. The net weight of the contents of the package, lot or parcel; [1945]

* * * * *

Sec. 19-1307. Rules and regulations.

The State Food Commissioner and Chemist is hereby empowered to promulgate standards and definitions for concentrated commercial feeds, and to subscribe and enforce such rules and regulations as he may deem necessary to carry into effect the full intent and meaning of this act [Secs. 19-1301—19-1309] * * *. [1945]

Sec. 19-1309. Penalties for violations.

Any person, company, corporation or agent who shall offer for sale, sell or expose for sale any package or sample or quantity of any concentrated commercial feeding stuffs which has not been registered with the State Laboratories Department, as required by the provisions of this act [Secs. 19-1301—19-1309], or which does not have affixed to it a tag or label required by this act, * * * or who shall prevent or strive to prevent the State Food Commissioner and Chemist or persons deputized by him from inspecting and obtaining samples of concentrated feeding stuffs, as provided for in this act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in the sum of fifty dollars for the first offense and in the sum of one hundred dollars for each subsequent offense. * * * [1915]

Revised Code of 1943, Vol. 2, Title 19, Ch. 14—Livestock Medicine.

Sec. 19-1401. Definition.

The term "livestock medicine" as used in this chapter [Secs. 19-1401—19-1408] shall include all devices, remedies, cures, tonics, powders, proprietary medicines, medicated stock foods, and similar preparations for the treatment or prevention of any disease of livestock, poultry, or other domestic animals which are administered internally for their stimulating, invigorating, curative, or other than nutritive powers, and also all powders, sprays, dips, and other preparations for external use in the curing of scab or the eradication of ticks, lice, and other mites and parasites on livestock, poultry, or other domestic animals. The term shall not include medicines which are manufactured, sold, or recommended primarily for human use. [1937]

Sec. 19-1403. Marking requirements.

No person shall sell, offer, or expose for sale, have in his possession with intent to sell, any livestock medicine:

* * * * *

- 4. Which does not have printed or written upon the label of each package sold at retail, in type not less than one-fourth the size of the largest type on the package;

* * * * *

- d. The net contents, by weight, measure, or numerical count of such package; [1937; last amended 1945.]

* * * * *

Sec. 19-1407. Enforcement.

The department [state laboratories department] shall enforce the provisions of this chapter [Secs. 19-1401—19-1408] by inspection, chemical analysis, and any other appropriate method. * * * [1937]

Revised Code of 1943, Vol. 2, Title 19, Ch. 14—Live-
stock Medicine—Continued.

Sec. 19-1408. Penalties for violations.

Any person who shall sell, offer, or expose for sale, or have in his possession with intent to sell, any livestock medicine in violation of any of the provisions of this chapter [Secs. 19-1401—19-1408], or who shall willfully and falsely represent that any livestock medicine is registered for sale in this state when in fact it is not so registered, shall be punished by a fine of not more than two hundred dollars for the first offense, and for any subsequent offense, by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [1937]

Laws 1949, Ch. 172—"North Dakota Fertilizer Law
of 1949."

Sec. 2. Enforcement.

This act [Secs. 1-19] shall be administered by the state laboratory department of the state of North Dakota, hereinafter referred to as the "department." [1949]

Sec. 3. Definitions.

* * * * *

3. "Commercial fertilizer" includes both mixed fertilizer and fertilizer materials;

4. "Fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures;

5. "Mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth, with or without inert materials; [1949]

* * * * *

Sec. 5. Marking requirements.

1. Any commercial fertilizer offered for sale or sold or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container the net weight * * * either on tags to be affixed to the end of the package midway between the ears or on the sewed end, or directly on the package * * *

2. If transported in bulk, the net weight * * * shall accompany delivery and be supplied to the purchaser. [1949]

Sec. 14. Stop sale order.

It shall be the duty of the department to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the department finds said com-

mercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this act [Secs. 1-19] or any regulation issued thereunder, until the law has been complied with and said commercial fertilizer is released in writing by the department or said violation has been otherwise legally disposed of by written authority. [1949]

Sec. 15. Seizure.

Any lot of commercial fertilizer not in compliance with the provisions of this act [Secs. 1-19] shall be subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which said commercial fertilizer is located. * * * [1949]

Sec. 16. Penalties for violations; minor violations.

(1) Any person violating any of the provisions of this act [Secs. 1-19] or any rule or regulation issued thereunder shall be guilty of a misdemeanor; and

(2) Nothing in this act shall be construed as requiring the department or its representatives to report for prosecution or for the institution of seizure proceedings minor violations of the act when it believes that the public interest will be best served by a suitable notice of warning in writing; [1949]

* * * * *

Revised Code of 1943, Vol. 2, Title 19, Ch. 16—
Anti-Freeze.

Sec. 19-1601. Definition.

As used in this chapter [Secs. 19-1601—19-1610], unless the context or subject matter otherwise requires:

1. "Anti-freeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; [1943]

* * * * *

Sec. 19-1603. When deemed misbranded.

An anti-freeze shall be deemed to be misbranded: 1. If its labeling is false or misleading in any particular;

2. If in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure, and these facts are not stated plainly and correctly on the outside of the package. [1943; last amended 1949.]

* * * * *

Sec. 19-1605. Enforcement.

The state laboratories department shall enforce the provisions of this chapter [Secs. 19-1601—19-1610] * * *. [1943]

Sec. 19-1610. Penalty for violations.

Any person violating or failing to comply with any of the provisions of this chapter [Secs. 19-1601—19-1610], or any rule, regulation, definition, or standard issued pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days, or by both such fine and imprisonment. [1943]

1947 Supplement to the Revised Code of 1943, Title 19, Ch. 17—Flour and Meal Containers.

Sec. 19-1706. Flour, corn meal, and grits: Standard weight containers; exceptions; penalties for violations.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this State any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this Act (section) shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. Any violation of this Act (section) shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars for each offense. [1945]

1947 Supplement to the Revised Code of 1943, Title 19, Ch. 18—"Insecticide, Fungicide, and Rodenticide Act of 1947."

Sec. 19-1802. Definitions.

For the purpose of this Act [Secs. 19-1801—19-1811], unless the context or subject otherwise requires:

1. "Economic poison" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest;

* * * * *

15. "Commissioner" shall mean the state food commissioner and chemist;

* * * * *

17. "Label" shall mean the written, printed, or graphic matter on, or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device;

18. "Labeling" shall mean all labels and other written, printed, or graphic matter;

a. Upon the economic poison or device or any of its containers or wrappers;

b. Accompanying the economic poison or device at any time;

* * * * *

20. The term "misbranded" shall apply:

a. To any economic poison or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

b. To any economic poison;

* * * * *

6. If any word, statement, or other information required by or under the authority of this Act to appear on the labeling is not prominently placed thereon [with] such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1947]

* * * * *

Sec. 19-1803. Marking requirements.

No person shall distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

* * * * *

2. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container can not be clearly read, a label bearing:

* * * * *

c. The net weight or measure of the content subject, however, to such reasonable variations as the commissioner may permit. [1947]

* * * * *

Sec. 19-1806. Enforcement.

The examination of economic poisons or devices shall be made under the direction of the commissioner [state food commissioner and chemist] for

1947 Supplement to the Revised Code of 1943, Title 19, Ch. 18—"Insecticide, Fungicide, and Rodenticide Act of 1947"—Continued.

the purpose of determining whether they comply with the requirements of this Act [Secs. 19-1801—19-1811]. * * * Nothing in this Act shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings minor violations of the Act whenever he believes that the public interests will be best served by a suitable notice of warning in writing. * * * [1947]

Sec. 19-1808. Penalties for violations.

* * * * *

2. Any person violating any provision of this Act [Secs. 19-1801—19-1811] other than subsection 1 of section 3 (19-1803) shall be guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars for the first offense and upon conviction of a subsequent offense shall be fined not more than three hundred dollars. Any offense committed more than five years after a previous conviction shall be considered a first offense. In any case where a registrant was issued a warning by the commissioner pursuant to the provisions of this Act, such registrant shall upon conviction of a violation of any provision of this Act other than subsection 1 of section 3 (19-1803) be fined not more than two hundred dollars, or imprisoned for not more than one year, or be subject to both such fine and imprisonment, and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the commissioner to comply with all the requirements of this Act. [1947]

Sec. 19-1809. Seizures.

Any economic poison or device that is distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any proper court of jurisdiction in any county of the state where it may be found and seized for confiscation by process of libel for condemnation:

1. In the case of an economic poison:
 - a. If it is adulterated or misbranded;

* * * * *

- c. If it fails to bear on its label the information required by this Act [Secs. 19-1801—19-1811]; * * * [1947]

[ED. NOTE.—This act includes exemptions with respect to economic poisons used officially by state or federal officials, used experimentally, and intended for export.]

Revised Code of 1943, Vol. 4, Title 36, Ch. 5—Livestock Sales Rings.

Sec. 36-0501. Definitions.

In this chapter [Secs. 36-0501—36-0514], unless the context or subject matter otherwise requires:

1. "Livestock" shall mean horses, mules, cattle, swine, sheep, and goats;

2. "Livestock sales ring" shall mean a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures and their appurtenances, in which livestock is received, held, or kept for sale and where such livestock is sold or offered for sale at either public auction or private sale; and

3. "Commission" shall mean the public service commission. [1941]

Sec. 36-0502. Exemptions.

The provisions of this chapter [Secs. 36-0501—36-0514] shall not apply to:

1. Any place used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing his business;

2. The premises of any butcher, packer, or processor who receives animals exclusively for immediate slaughter; or

3. Any place where any individual or any duly constituted association of breeders of livestock of any class assembles and offers for sale and issues under his or its management registered livestock or breeding sires if such individual or association assumes all responsibility of the sale, guarantees title of such livestock, and makes proper provision for inspection of all animals sold. [1941]

Sec. 36-0508. Scales; inspection; weight certificate.

All scales used in the operation of a livestock sales ring shall be tested and inspected by the department of weights and measures in the manner provided in this code¹. All livestock sold by weight shall be weighed on such scales, and the purchaser and seller of such livestock shall be furnished with a true and correct statement of such weight. [1941]

¹ See Sec. 64-0101—64-0312, pages 743-748.

Sec. 36-0514. Penalties for violations.

Any person who shall violate any of the provisions of this chapter [Secs. 36-0501—36-0514] shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Every person who shall violate any of the provisions of this chapter after having been convicted previously of a violation of any provision thereof shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by

imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment. [1933; last amended 1937.]

**Revised Code of 1943, Vol. 4, Title 36, Ch. 6—
Weighing of Livestock at Packing Plants.**

Sec. 36-0601. Packing plant defined.

The term "packing plant" as used in this chapter [Secs. 36-0601—36-0608] shall mean a place where livestock, exclusive of poultry, shall be purchased for the purpose of slaughtering, dressing, curing, or processing the same for storage and distribution at wholesale for human consumption. [1931]

Sec. 36-0602. Grading before weighing.

No packing plant within this state shall purchase any livestock by weight unless such livestock shall have been graded and sorted in the yard and the price per pound for each grade fixed and determined before the weighing thereof. [1931]

Sec. 36-0603. Penalty for not grading before weighing.

Each purchase of livestock in violation of section 36-0602 shall be a separate offense and shall constitute a misdemeanor upon the part of every owner of a packing plant in which such violation occurs, whether the owner is a natural person or a corporation, and shall be punished by a fine of not more than one hundred dollars for each offense. [1931]

Sec. 36-0604. Licensed weighmaster; duplicate scale ticket; penalty.

All livestock purchased or sold at any packing plant within this state shall be weighed by a licensed and bonded weighmaster. The weighmaster shall deliver to each person from whom livestock is purchased or to whom livestock is sold a duplicate scale ticket showing the gross, tare, and net weights of the livestock. Any person or corporation who shall permit such weighing to be done by any person other than a licensed weighmaster shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars for each unlawful weighing. [1931]

Sec. 36-0605. Weighmaster's license: By whom issued; application; bond; renewal.

The chief inspector of the department of weights and measures of the public service commission shall issue a weighmaster's license to any person of good moral character who shall:

1. Make written application therefor;
2. Pay a license fee of five dollars; and
3. File in the office of the chief inspector a bond

issued by a corporate surety company authorized to do business in this state. Such bond shall run to the state of North Dakota. It shall be in the penal sum of one thousand dollars conditioned for the faithful

performance of his duties as such weighmaster. The term of such license and bond shall be for two years, and the license shall be renewable upon the same terms as are specified for an original license. The cost of the bond shall be borne by the applicant for a license. Any person injured by the wrongful conduct of the weighmaster described in the bond in the performance of his official duties as such may bring an action thereon in the name of the state of North Dakota. [1931]

Sec. 36-0606. Revocation of weighmaster's license.

Any person may make a written complaint to the chief inspector of the department of weights and measures against any licensed weighmaster. If the complaint on its face appears to be meritorious, the chief inspector shall give the complainant and the weighmaster complained against at least twenty days' notice of the time when and place where he will hear such complaint. Such notice may be given to the complainant by mail but shall be served upon the weighmaster personally or by registered mail. The notice served upon the weighmaster shall contain, or be accompanied by, a clear and concise statement of the charges made against him and shall notify him that unless an answer to such charges is served upon the chief inspector at least three days prior to the date specified for the hearing, the charges will be deemed admitted and the license canceled. At such hearing, the chief inspector may administer oaths and shall hear such evidence as may be submitted on behalf of the complainant and of the weighmaster, and upon such evidence, the chief inspector shall make his order dismissing the complaint or canceling the license, whichever is warranted in his judgment by the evidence. [1931]

Sec. 36-0607. Remuneration of weighmaster.

The remuneration of the licensed and bonded weighmaster shall be paid by the packing plant by which he is employed. [1931]

Sec. 36-0608. Penalty for wrongful weighing or issuing of a false scale ticket.

The wrongful weighing or the willful issuance of a false scale ticket by a weighmaster shall be a misdemeanor punishable by imprisonment in the county jail for not more than thirty days or by a fine of not more than one hundred dollars, or by both such fine and imprisonment. [1931]

**Revised Code of 1943, Vol. 4, Title 36, Ch. 20—
Stockyard Scales.**

Sec. 36-2001. Erection and maintenance of scales, etc. by railroad companies.

Every railroad company operating in this state, when ordered to do so by the public service commission, shall erect and maintain at its stations:

1. Stockyards for the loading of livestock to be shipped over its line;

Revised Code of 1943, Vol. 4, Title 36, Ch. 20—Stockyard Scales—Continued.

2. Enclosed and suitable sheds, feed racks, watering troughs, and scales in connection with such stockyards; * * * [1915; last amended 1925.]

Sec. 36-2008. Violation a misdemeanor.

Any person, association, company, or corporation violating or failing to comply with any provision of this chapter [Secs. 36-2001—36-2008] is guilty of a misdemeanor.¹ [1901; last amended 1917.]

¹ See Sec. 12-0107, page 763, punishment for misdemeanor.

1947 Supplement to the Revised Code of 1943, Title 36, Ch. 21—Weighing of Livestock at Public Markets.

Sec. 36-2114. Licensing of weighmen; fees.

No person shall serve in the capacity of weighman at any public market without first having secured a license. Applications for such license shall be made on forms furnished by the Public Service Commission and shall be accompanied by a fee of two dollars and fifty cents and shall contain such information as may be required by the board [state livestock sanitary board]. [1947]

Sec. 36-2115. Livestock sold subject to weight at place and day of sale.

All livestock sold by weight at any public market shall be sold subject to weight at the place of sale on the day sold by the auctioneer. [1947]

Sec. 36-2116. Licensing; duration; renewals; refusal; revocation or suspension.

All weighmen's licenses issued in accordance with the provisions of this Act (36-2114) shall be for a period of one year and shall expire on December thirty-first next following the date of issuance. All applications for the renewal of any such license shall be made in the same manner as for the original license. The Public Service Commission may refuse to grant such a license or may revoke or suspend any such license, for the violation of any of the provisions of this Act [Secs. 36-2114—36-2118] or of any of the rules and regulations adopted pursuant to the provisions of this Act. Before such suspension or revocation becomes effective the party shall be notified by the Public Service Commission of its intention to refuse, revoke, or suspend the license and such person shall be given ten days in which to request a hearing before the Public Service Commission which request shall be made in writing by registered mail. The Public Service Commission may summon witnesses and may take testimony at such hearings. [1947]

Sec. 36-2117. False weighing.

No licensed weighman shall misweigh or falsely report any weights or otherwise fraudulently

manipulate the scales to produce a weight other than the true and actual weight of any livestock, poultry, or other agricultural and horticultural products consigned to and sold at any public market. [1947]

Revised Code of 1943, Vol. 4, Title 38, Ch. 1—Mine Scales, Weighman and Checkweighman.

Sec. 38-0102. Weighmen and check weighmen: Oath; violations; prosecution.

The weighman at each mine shall subscribe to an oath or affirmation, before an officer authorized to administer oaths, that he will do justice between employer and employee and will truly and correctly weigh the output of coal from such mine. Such oath or affirmation shall be posted conspicuously in the office of the weighman. The miners employed by or engaged in working for any mine owner, operator, or lessee of any mine in this state may employ at their own expense a check weighman who shall have the same rights, powers, and privileges in the weighing of coal as the regular weighman and shall be subject to the same oath or affirmation and penalties as the regular weighman. Any weigher of coal, and any person so employed, who shall violate knowingly any of the provisions of this section, or any owner, operator, or agent of any coal mine in this state who shall forbid the miners to employ or use, or who shall hinder their employing or using, a check weighman as provided in this section, or who shall interfere with or willfully obstruct any such check weighman in the discharge of his duty, shall be guilty of an offense against the provisions of this title [Secs. 38-0101—38-1011]. Whenever the inspector shall be satisfied that any provision of this section has been violated willfully, he shall inform the state's attorney of the county in which the violation occurred of the same together with all the facts within his knowledge. The state's attorney shall investigate the charges preferred, and if he is satisfied that the provisions of this section have been violated he shall prosecute the persons guilty thereof. [1919]

Sec. 38-0103. Fraudulent means in weighing prohibited.

No person weighing the output of coal at any mine shall use or resort to any fraudulent means in such weighing. [1919]

Sec. 38-0108. Violations; penalty.

Any person who shall:

1. Willfully neglect, refuse, or fail to perform any duty required of him under the provisions of this title [Secs. 38-0101—38-1011] relating to coal mines: * * * shall be guilty of a misdemeanor and, unless another penalty is specifically provided for such violation, shall be punished by a fine of not more than five hundred dollars or by imprison-

ment in the county jail for not more than six months, or by both such fine and imprisonment. * * * [1919]

Revised Code of 1943, Vol. 4, Title 38, Ch. 3—Mine Scales, Sealer of Weights and Measures.

Sec. 38—0307. Duties of state coal mine inspector.

The inspector shall:

* * * * *

2. Make inquiry into the condition of such mine * * * scales, * * * and into all methods and things connected therewith or relating thereto; [1919; last amended 1943.]

* * * * *

Sec. 38—0315. Inspector to be sealer of weights and measures; powers and duties.

The inspector shall be ex officio a sealer of weights and measures relating to coal mines and coal mining. He may test and compare all weights and measures used in weighing and measuring coal or in measuring air passages or other openings at any coal mine with the standards of weights and measures kept by the state inspector of weights and measures. Upon the written request of any coal mine owner or operator or of any ten coal miners employed at any one mine, the inspector shall test and prove any scale or scales at such mine described in such request. The powers of the inspector under this section shall be coextensive with those of the state inspector of weights and measures except that if any test made by the inspector conflicts with a test made by the chief inspector of weights and measures, the test of the state coal mine inspector shall prevail. [1919]

Sec. 38—0316. Test weights furnished inspector; custody; reimbursement for handling.

The inspector shall be furnished by this state with such sets of standard weights suitable for testing the accuracy of track scales and all smaller scales at mines as in his judgment may be necessary. Such test weights shall remain in the custody of the inspector for use at any point within this state. For any amounts expended by him for the storage, transportation, or the handling of such weights, the inspector shall be reimbursed upon making a proper entry of the proper items in his expense voucher. [1919]

Revised Code of 1943, Vol. 5, Title 49, Ch. 2—Public Utilities.

Sec. 49—0207. Testing appliances on request of consumer; fee.

Any consumer or user of any product, commodity, or service of a public utility may have any appliance used in the measurement thereof tested

by paying the fees fixed by the commission [public service commission]. The commission shall establish and fix reasonable fees to be paid for testing such appliances. [1919]

Sec. 49—0208. Testing gas and electric meters.

The commission [public service commission] shall make tests, from time to time, of meters of public utilities used:

1. To measure the amount of electric current passing through such meters to consumers;

2. To measure the amount of gas passing through such meters for use of its customers; [1937]

* * * * *

Sec. 49—0209. Purpose of testing meters.

Tests shall be made for the purpose of determining the accuracy of the meters * * * [1937]

Sec. 49—0210. Rules and regulations for meters.

The commission [public service commission] shall make such rules and regulations as it may deem proper and necessary as to the manner in which tests of meters and heat values shall be made. [1937]

Sec. 49—0211. Rules and regulations for securing accuracy of meters.

The commission [public service commission] shall:

* * * * *

4. Establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements; and

5. Provide for the examination and testing of any and all such appliances used for the measurement of any product, commodity, or service of any public utility. [1919]

Revised Code of 1943, Vol. 5, Title 49, Ch. 12—Track Scales.

Sec. 49—1221. Track scales to be installed; regulations.

The commission [public service commission] may require any railroad corporation to install track scales where necessary. A railroad corporation shall install suitable scales upon or adjacent to any loading platform. The commission may enforce reasonable regulations for the weighing of cars and freight. [1895; last amended 1919.]

Sec. 49—1222. Penalty for failure to erect scales.

Every railroad corporation neglecting or refusing to comply with the requirements of section[s] * * * 49—1221 shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars for each thirty day period such failure shall continue after notice is given * * *. [1895; last amended 1919.]

Revised Code of 1943, Vol. 5, Title 60, Ch. 2—
Grain Warehouses.

Sec. 60-0201. Definitions.

In this chapter [Secs. 60-0201—60-0241], unless the context or subject matter otherwise requires:

1. "Commission" shall mean the public service commission;
2. "Public warehouseman" shall mean the person, association, copartnership, or corporation owning or operating public warehouses which are located or doing business within this state, whether such owner or operator resides within this state or not;
3. "Public warehouse" shall include respectively:
 - a. All buildings, elevators, and warehouses;
 - b. All grist and flour mills; and
 - c. Cereal and feed mills doing a shipping business in this state, erected and operated by any person, association, copartnership, or corporation, for the purpose of public buying, selling, storing, and shipping grain for profit. Nothing in this subsection shall be construed to require any person operating a flour, cereal, or feed mill, doing manufacturing business only, to receive, store, or purchase at said mill any kind of grain;

* * * * *

5. "Grain" shall include wheat, durum, oats, rye, barley, buckwheat, flaxseed, speltz, and corn;
6. "Seeds" shall include clover, millet, alfalfa, and all other grass seeds. [1895; last amended 1933.]

Sec. 60-0203. Enforcement.

The commission shall:

1. Exercise general supervision of the public warehouses of this state, including the handling, weighing, and storing of grain, and the management of public warehouses;
2. Investigate all complaints of fraud and injustice, unfair practices, and unfair discrimination;

* * * * *

4. Make all proper rules and regulations for carrying out and enforcing any law in this state regarding public warehouses. [1895; last amended 1929.]

Sec. 60-0210. Warehouse license to be posted; penalty; revocation of license.

The license obtained by a public warehouseman shall be posted in a conspicuous place in the public warehouse licensed. Any public warehouseman who shall transact business without first procuring a license, upon conviction, shall be fined not less than twenty-five dollars for each day such business is carried on. The commission shall revoke the license of any warehouse for cause upon notice and hearing. [1895; last amended 1927.]

Sec. 60-0211. Scale tickets.

Every public warehouseman of this state, upon receiving grain into his warehouse, shall issue a uniform scale ticket for each load of grain so received. Such tickets shall be bound in books of convenient size, shall be numbered consecutively, and provision shall be made in said books for a least one carbon copy of each ticket. One carbon copy of each ticket shall be retained in said book and shall remain as a permanent record. The original ticket shall be delivered to the person from whom the grain is received, upon receipt of each load of grain. All such tickets shall be signed by the warehouseman, his agent, or manager. All scale tickets shall be converted into cash or storage tickets at the close of each day's business. The office copy of each scale ticket shall show the number of the cash ticket or storage ticket issued in lieu thereof. [1895; last amended 1927.]

Sec. 60-0212. False weighing; penalty.

Any person, who knowingly shall cheat, or weigh falsely any wheat or other agricultural product, or who shall violate any of the provisions of this chapter [Secs. 60-0201—60-0241], where punishment is not specifically provided for, shall be guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period of not more than one year. [1895; last amended 1927.]

Sec. 60-0214. Stub record to show net weight and dockage.

A stub record or carbon copy shall be attached to each receipt issued by a warehouseman, as is provided by this chapter [Secs. 60-0201—60-0241], showing:

1. The serial number and date of receipt;
 2. The kind and grade of grain; and
 3. The dockage and net weight of the grain.
- Such record shall remain in the possession of the warehouseman for inspection by the commission and persons properly interested. All special bin receipts and stub records thereof shall have marked plainly thereon the words "special bin." [1927]

Sec. 60-0215. Warehouse receipts issued by public terminal elevators.

Every public terminal grain elevator, on receipt of any grain or other produce, shall issue a warehouse receipt therefor and deliver it to the owner or according to his order. Such receipt, in the case of grain, shall state the following:

* * * * *

9. The marks, if any, the weight or quantity, the grade and condition of the commodity at the time it entered storage;

* * * * *

11. That the weight, grade, and condition of

such grain or produce were determined by inspectors licensed under law; [1925]

* * * * *

Sec. 60-0216. Warehouse receipts.

A warehouse receipt shall:

1. Be issued only upon the actual delivery of grain to the warehouse for storage;
2. Contain the following provisions:

* * * * *

d. The gross weight, dockage, and net weight of the grain according to North Dakota standard weight; [1927; last amended 1933.]

* * * * *

Sec. 60-0222. Warehouseman liable for quantity.

A public warehouseman shall be liable to the owner for the delivery of the kind, grade, and quantity of grain called for by the warehouse receipt. [1927]

Sec. 60-0223. Records of warehouseman.

Every public warehouseman shall keep a record of all grain received, stored, and shipped, stating the:

1. Weight;
2. Grade;
3. Dockage for dirt or other causes;
4. Name of owner;
5. Price paid; and
6. Storage charge collected. [1927]

Sec. 60-0226. Standard weights to be used; exception.

No person purchasing, selling, or storing grain in any public warehouse in this state shall use any measure for such grain other than the standard bushel¹, and no number of pounds shall be used or called a bushel other than the number of pounds provided by law as the standard weight of the kind of grain in question, except that during the months of October and November, not exceeding eighty-two pounds, and during the months of December and January, not exceeding seventy-six pounds, may be used as the standard weight per bushel of new ear corn. [1909; last amended 1927.]

¹ See Sec. 64-0105, page 743; standard weight of bushel.

Revised Code of 1943, Vol. 5, Title 60, Ch. 3—Roving Grain Buyers.

Sec. 60-0301. Definition.

The term "roving grain buyer", when used in this chapter [Secs. 60-0301—60-0311], unless the context thereof otherwise requires, shall mean any person, copartnership, association, or corporation, other than warehousemen and track buyers, who shall buy grain from producers for resale and delivery within or without the state or for resale in the local markets. Nothing contained in this chapter shall apply to public warehouses or public

warehousemen and track buyers as defined in chapter 2 of this title [Secs. 60-0101—60-0855]. [1937]

Sec. 60-0306. False weighing; penalty.

Any person who knowingly shall cheat the seller of grain by false weight or otherwise, or who shall violate any provisions of this chapter [Secs. 60-0301—60-0311] where punishment is not otherwise provided, shall be guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than ninety days nor more than one year, or by both such fine and imprisonment. [1937]

Sec. 60-0307. Public service commission to make rules and regulations.

The commission [public service commission] shall make such rules and regulations governing the business of roving grain buyers and shall issue such licenses as may be necessary and proper for the carrying into effect of the purposes of this chapter [Secs. 60-0301—60-0311]. Any person or corporation violating any of such rules or regulations is guilty of a misdemeanor¹ and shall be punished accordingly. [1937]

¹ See Sec. 12-0107, below; punishment for misdemeanor.

Revised Code of 1943, Vol. 1, Title 12, Ch. 1—Misdemeanors.

Sec. 12-0107. Punishment when not otherwise prescribed.

Except in cases where a different punishment is prescribed by law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. [1895]

Revised Code of 1943, Vol. 5, Title 5, Ch. 12—False Advertising.

Sec. 51-1201. Unlawful acts.

No person, firm, corporation, or association with intent to sell, dispose of, increase the consumption of, or induce the public to enter into an obligation relative to, or to acquire title or interest in any food, drug, medicine, patent and proprietary product, merchandise, security, service, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to the public, shall make, publish, disseminate, circulate, or place before the public, or directly or indirectly shall cause to be made, published, disseminated, circulated, or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, tab, label, letter, or in any other way, an advertisement which contains any assertion, representation, or statement of fact which is untrue, deceptive, or misleading regarding such food, drug, medicine, patent and

Revised Code of 1943, Vol. 5, Title 5, Ch. 12—False Advertising—Continued.

proprietary product, merchandise, security, service, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to the public. [1913]

Sec. 51-1202. Penalty for violations.

Any person, firm, corporation, or association violating the provisions of section 51-1201, or aiding another to violate the same, is guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars

for the first offense, and for each subsequent offense shall be punished by a fine of not less than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment. [1913]

Sec. 51-1203. Enforcement.

The state's attorneys, sheriffs, peace officers, health officers, and the state laboratories department shall enforce the provisions of section 51-1201 and shall have ingress to and egress from all places of business where it is believed that section 51-1201 is being violated. [1913]

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General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—State Sealer of Weights and Measures.

Sec. 1088. Director of agriculture as state sealer: Duties.

The director of agriculture shall be state sealer, and shall make, promulgate and enforce such rules and regulations as may be necessary to the prompt and effective enforcement of the weights and measures laws of this state. The standards of weights and measures adopted by the state shall be deposited in a suitable room at Columbus, and be kept in suitable cases, to be opened only for the purpose of comparing them with such standards and copies which by law are furnished for the use of the several counties or villages unless by joint resolution of the general assembly, or upon a call of either house for information, or by order of the governor for scientific purposes, it is otherwise ordered. The director of agriculture shall, once every three years, require each county auditor and city or village sealer, in this state, to present all standards of weights and measures in their possession to him for comparison with the standards adopted by the state, and he shall condemn and destroy all of such standards as do not conform with the standards adopted by the state. Each county auditor and each city and village sealer shall be required to procure copies of all the original standards adopted by the state named in section 1088-3 of the General

Code, except such standards now in their possession as the director of agriculture shall find to conform with the standards adopted by the state. It shall be the duty of the director of agriculture to advise and assist all county, city and village sealers, and generally be charged with the enforcement of all laws relating to weights and measures, and in the performance of such duties it may use the service of any person employed in his department. The director of agriculture or any person employed by him for that purpose may try and prove any weights, measures, balances and any other weighing or measuring devices, on request from any person, and when the same are found or made to conform to the state standards shall cause the same to be sealed and marked as provided in section 2616¹ of the General Code. The director of agriculture shall have authority to call conferences of county and city sealers of weights and measures and their deputies, for the purpose of instructing such sealers and deputy sealers in the proper administration of weights and measures laws and regulations. Traveling expenses incurred by such officials shall be paid out of the proper county or city treasury upon the presentation of a certificate from the director of agriculture certifying the fact of such attendance, and upon allowance by the proper county or city authority. [1945]

¹ See page 769.

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—State Sealer of Weights and Measures—Continued.

Sec. 1088-1. Sealing; testing; condemning; inspection of packaged goods.

The director of agriculture or his deputy, or any other duly authorized sealer of weights and measures or his deputy, may inspect and test any weight, measure, balance or other weighing or measuring device, wherever the same is used or maintained for use, and if such weight, measure, balance or other weighing or measuring device is found to be false or fraudulent, or cannot be made to conform to the legal standard, the same shall be condemned and confiscated by the said sealer or deputy sealer.

The director of agriculture, or his deputy, or any other authorized sealer of weights and measures, or his deputy, may inspect packaged goods to determine whether the labeling and net contents of said packaged goods are in accordance with sections 13128, 13128-2 and 13128-13¹ of the General Code of Ohio. [1945]

¹ See page 792.

Sec. 1088-2. Devices registering price and weight; testing; sealing; condemning.

The director of agriculture or any duly authorized sealer of weights and measures or his deputy, shall inspect and test any weights and measures, balances and weighing or measuring devices having a device for indicating or registering the price as well as the weight or quantity of commodities both as to correctness of weight or quantity and value indicated by them, the director or any sealer of weights and measures or his deputy shall seal such weights and measures, or balances and weighing and measuring devices as shall be tested and found correct, and, after ten days' notice, in writing, to the owner shall condemn or seize such as are found to be incorrect, and shall seal such weights and measures, balances, weighing and measuring devices having a device for indicating or registering the price as well as the weight or quantity of commodities only when correct, both in indications of weight or quantity and value, and shall condemn or seize such in which the graduations or indications are found to be false or inaccurately placed either as to weight or quantity or value. [1943]

Sec. 1088-3. County standards.

Copies of the original standards of the following materials, shall be procured by the state sealer for the use of each county in this state, not already furnished, in pursuance of law, and be delivered by him to the auditor thereof: One-half bushel measure, of one-eighth inch copper, with brass rim; one gallon measure, of one-sixteenth inch copper, with brass rim and handle; one-half gallon, one quart, one pint, and one-half pint measure, to be made in

the same manner and of the same material; fifty, twenty-five, twenty, ten, five, four, three, two and one pound weights, avoirdupois, to be made of cast-iron, turned, polished, and trimmed; and one-half pound, one quarter pound, two ounce, one ounce, half ounce, and quarter ounce weights, troy, to be made of brass; one brass yard measure, graduated into feet, inches and tenths. [1943]

Sec. 1088-4. Same: Seal thereon.

The state sealer shall cause to be impressed on each of the copies, so to be delivered to the counties, the letter "O", and such other device for each county as he directs before its deposit in the county auditor's office. Such device shall be recorded in the state sealer's office, and a copy thereof furnished to the auditor of the proper county. [1943]

Sec. 1088-5. Municipal standards.

The state sealer shall furnish like copies of the original standards to the sealer of any city or village upon application therefor, and payment of the cost thereof, by such city or village. [1943]

Sec. 1088-6. Expense drawn from general revenue fund.

The state sealer shall render accounts to the auditor of state of all moneys by him paid or liabilities incurred in procuring and delivering copies of the standards to the counties; and the auditor shall audit such accounts and draw his warrants on the state treasurer for the amounts he finds due, which must be paid by the treasurer out of any moneys to the credit of the general revenue fund. [1943]

Sec. 1088-7. Inspection of gas meters.

The state sealer of weights and measures shall have charge of all the apparatus and property, belonging to the state, intended for the inspection of illuminating gas and gas meters, and the testing of the registration of meter-provers; he shall test the registration of all meter-provers that may be presented to him for that purpose, and stamp and seal all such meter-provers so tested, that are found correct for testing the registration of gas meter-provers, to be paid by the person requiring such service, he shall be allowed the sum of five dollars for each meter-prover tested. [1943]

General Code, Throckmorton 1948, Part First, Title X, Ch. 3—County Sealer of Weights and Measures.

Sec. 2615. County auditor as county sealer; duties.

By virtue of his office, the county auditor shall be county sealer of weights and measures and shall be responsible for the preservation of the copies of the original standards delivered to his office. It shall be the duty of the county auditor to see that all state laws relating to weights and measures be strictly enforced throughout his county and to assist generally in the prosecution of all violations of such laws. [1861; last amended 1910.]

Sec. 2616. County sealer and deputy: Duties; penalty for violating section.

The county sealer or his deputy, shall compare all weights and measures, balances, weighing and measuring devices used in the purchase and sale of commodities, with the copies of standards in his possession. When they are made to conform to the legal standards, the officer comparing them shall seal and mark such weights and measures. No weight, measure, balance or other weighing or measuring device shall be used or maintained for weighing and measuring in this state unless such weight, measure, balance or other weighing or measuring device has been sealed or marked by the director of agriculture or any employe of the director detailed for that purpose, or by the county sealer of the city or village in which the same is used or maintained, and by stamping upon each the letter "O" and the last two figures of the year in which it has been compared with legal standards, adjusted and found or made to conform to said standards, with seals approved by said director of agriculture, for that purpose. Whoever violates any of the provisions of this section shall be fined not less than fifty dollars nor more than one hundred dollars for the first offense and for each subsequent offense shall be fined not less than one hundred dollars nor more than five hundred dollars and imprisoned for not more than ninety days or both. A justice of the peace, police judge, or mayor shall have jurisdiction in such cases as in cases of violation of law relating to the adulteration of food and drink and dairy products. [1861; last amended 1945.]

Sec. 2617. Duty to turn over standards, etc., to successor.

When a county sealer resigns, is removed from office, or removes from the county, he shall deliver to his successor in office the standards, beams, weights, and measures in his possession. In case of the death of a county sealer his representative shall, in like manner, deliver to his successor in office such beams, weights, and measures. [1861]

Sec. 2618. Penalty for refusal to turn over standards.

In case of neglect or refusal to deliver such standards entire and complete, the successor in office may maintain a civil action against the person so refusing or neglecting, and recover double the value of such standards as have not been delivered, with costs of suit, which shall be by him appropriated to the purchase of such standards as are required in his office. [1861]

Sec. 2619. Surveyor's testimony; surveying instruments to conform to standards.

No surveyor shall give evidence in a cause pending in any of the courts of this state, or before arbitrators, respecting the survey or admeasurement of any lands, unless such surveyor makes oath, if required, that the chain or measure used by him

was conformable to the standards of this state. [1861]

Sec. 2620. Penalty for using false weights and measures.

If any person hereafter uses any weights, measures, or beams, in weighing or measuring, which do not conform to the standards of the state, or any other measures established by law, whereby a dealer in, purchaser, or seller of, any commodity or article of traffic is injured or defrauded, such dealer, purchaser, or seller, may maintain a civil action against the offender, and if judgment is rendered him, he shall receive double damages and costs of suit. [1861]

Sec. 2621. Preceding two sections not enforced, when.

The provisions of the preceding two sections shall not be enforced in any county, unless it has been furnished with copies of the standards of this state¹, at least six months previous to such measuring or surveying. [1861]

¹ See Sec. 1088-3, page 768.

Sec. 2622. Appointment of deputy under seal; salary.

Each county sealer of weights and measures shall appoint by writing under his hand and seal, a deputy who shall compare weights and measures wherever the same are used or maintained for use within his county, or which are brought to the office of the county sealer for that purpose, with the copies of the original standards in the possession of the county sealer, who shall receive a salary fixed by the county commissioners, to be paid by the county, which salary shall be instead of all fees or charges otherwise allowed by law. Such deputy shall also be employed by the county sealer to assist in the prosecution of all violations of laws relating to weights and measures. [1861; last amended 1911.]

General Code, Throckmorton 1948, Part First, Title XII, Ch. 7—City Sealer of Weights and Measures.

Sec. 4318. Appointment; term.

The mayor may appoint a sealer of weights and measures, who shall hold office co-extensive with the term of office of the mayor who made his appointment, and until his successor is appointed and qualified, unless otherwise removed from office. [1861; last amended 1908.]

Sec. 4319. Qualifications; salary.

The sealer of weights and measures shall be a competent person for the position, and shall receive a salary fixed by ordinance, to be paid by the corporation, which salary shall be instead of all fees or charges otherwise allowed by law or ordinance. [1861; last amended 1908.]

Sec. 4320. Oath; bond.

Before entering upon his duties, the sealer of weights and measures shall take the oath of office

General Code, Throckmorton 1948, Part First, Title XII, Ch. 7—City Sealer of Weights and Measures—Continued.

required by law, and give bond to the corporation in such amount as is prescribed by ordinance, with security to the approval of the mayor, and conditioned for the faithful performance of his duties. [1861; last amended 1908.]

Sec. 4321. Comparison of city standards with county standards.

At least once in three years, the sealer of weights and measures shall compare the copy of standards in his possession with those in the office of the county sealer. [1861; last amended 1908.]

Sec. 4322. Testing municipal weights and measures; sealing; condemning.

The sealer of weights and measures shall compare all weights and measures, balances, weighing and measuring devices used in the purchase and sale of commodities with the copies in his possession. Any weights and measures, balances and weighing and measuring devices having a device for indicating or registering the price as well as the weight or quantity of commodities shall be tested by him both as to correctness of weight or quantity and value indicated by them; such sealer shall seal such weights and measures, balances and weighing and measuring devices as shall be tested and found correct, and, after ten days' notice in writing to the owner, shall condemn or seize such as are found to be incorrect, and shall seal such weights and measures, balances, weighing and measuring devices having a device for indicating or registering the price as well as weight or quantity of commodities only when correct both in indications of weight or quantity and value, and shall condemn or seize such in which the graduations or indications are found to be false or inaccurately placed either as to weight or quantity or value. [1861; last amended 1908.]

General Code, Throckmorton 1948, Part Second, Title 2, Ch. 32—Weights and Measures.

Sec. 6403. Standards; metric system.

The standard weights and measures furnished this state by the secretary of the treasury of the United States under a resolution of congress, approved June fourteen, one thousand eight hundred and thirty-six, shall be the legal standard of weights and measures throughout the state. This chapter [Secs. 6403—6422-10] shall not prevent the use of the weights and measures of the metric system, authorized by congress of the United States, as it appears in the revised statutes of the United States. [1861; last amended 1875.]

Sec. 6404. Same: Construction of standards.

Contracts for work to be done, or for anything to be sold by weight or measure, shall be construed

according to the standards hereby adopted as the standards of this state. [1880]

Sec. 6405. Same: Length and surface; yard.

The unit of standard measure of length and surface, from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, is the standard yard, in possession of the secretary of state, and furnished by the government of the United States. The yard shall be divided into three equal parts, called feet, and each foot into twelve equal parts, called inches. For the measure of cloths and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths and sixteenths. [1861]

Sec. 6406. Same: Rod; mile; chain.

The rod, pole or perch shall contain five and a half such yards, and the mile, one thousand seven hundred and sixty such yards. The chain for measuring land shall be twenty-two yards long, and be divided into one hundred equal parts, called links. [1880]

Sec. 6407. Same: Acre.

The acre for land measure shall be measured horizontally, and contain ten square chains, and be equivalent in area to a rectangle sixteen rods in length and ten rods in breadth. Six hundred and forty such acres shall be contained in a square mile. [1880]

Sec. 6408. Same: Perch of mason work or stone.

The perch of mason work or stone shall consist of twenty-five cubic feet. [1880]

Sec. 6409. Same: Cord.

The standard measure of a cord of fire-wood or tan-bark shall be one hundred and twenty-eight cubic feet, well stowed and packed. [1880]

Sec. 6410. Standard weights.

The units or standards of weight from which all other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights furnished this state by the United States government. [1880]

Sec. 6411. Standard pound; divisions thereof; ton.

The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, shall be divided into sixteen equal parts called ounces. The hundred weight except of pig-iron and iron ore, shall consist of one hundred avoirdupois pounds, and twenty hundred weight shall constitute a ton. The troy ounce shall be equal to the twelfth part of a troy pound. [1861]

Sec. 6412. Standard liquid measure.

The unit or standard measure of capacity for liquids, from which all other measures of liquids shall be derived and ascertained, shall be the stand-

ard gallon, and its parts, furnished this state by the government of the United States. [1880]

Sec. 6412-1. Standard milk and cream containers; exception.

That bottles and other containers used for the sale and distribution of milk, cream and other fluid dairy products at retail, shall be of the capacity of one (1) gallon, one-half ($\frac{1}{2}$) gallon, one (1) quart, one (1) pint, one-half ($\frac{1}{2}$) pint, and one (1) gill, and shall be filled full to the base of the lip, the cap-seat, or the stopper, or to some other such designating mark.

The provisions of this act [Secs. 6412-1 to 6412-4] shall not apply to retail sales of cream furnished as a part of a meal in cafeterias, restaurants, or dining rooms, nor to retail sales of manufactured fluid milk products sold in hermetically sealed cans. [1941]

Sec. 6412-2. Same: Tolerances.

The following deviations on individual bottles or other containers used for such products for such purposes, may be allowed, but the average contents of not less than twenty-five (25) bottles selected at random from at least four (4) times the number tested, must not be in error by more than one-quarter ($\frac{1}{4}$) of the tolerances:

Twelve drams above and twelve drams below on the one gallon, six drams above and six drams below on the half gallon, four drams above and four drams below on the quart, three drams above and three drams below on the pint, two drams above and two drams below on the half pint and two drams above and two drams below on the gill. [1941]

Sec. 6412-3. Same: Status of existing statutes; enforcement.

The provisions of this act [Secs. 6412-1—6412-4] shall in no way cause the repeal of any existing statutes or regulations relating to standards of weights and measures now existing as established by any previous act of this legislature, or regulations promulgated pursuant thereto, but shall supersede any such existing provisions as they may relate specifically to the sale and distribution of the products herein named, and the director of agriculture as state sealer shall be charged with the responsibility of procuring the enforcement of these provisions, and is specifically authorized to promulgate and place in force any such reasonable regulations as may be necessary and expedient to facilitate such enforcement by the department of agriculture. [1941]

Sec. 6412-4. Same: Penalties for violations.

Whoever violates any provision of this act [Secs. 6412-1—6412-4] shall be guilty of a misdemeanor, and for the first offense shall be fined not less than ten dollars nor more than fifty dollars, plus fifty cents for each and every bottle or other container filled, used, or otherwise trafficked in by him in

violation of any foregoing provisions, and for each subsequent offense, not less than twenty-five dollars and not more than one hundred dollars, plus fifty cents for each and every bottle or other container filled, used, or otherwise trafficked in by him in violation of any foregoing provision. [1941]

Sec. 6413. Standard barrel and hoghead; brand.

The barrel shall contain thirty-one and one-half gallons, and two barrels shall constitute a hoghead. Barrels, for the purpose of containing apples, potatoes, onions or other fruit, produce or vegetables, shall be made of staves of seasoned timber, twenty-eight and one-half inches in length with cut heads of seventeen and one-eighth inches in diameter and shall measure at the bulge not less than sixty-six inches in circumference, outside measure. Such barrel shall be known as "the standard barrel", and on the outside of one or more of the staves thereof shall be stamped or branded the words "State of Ohio, standard," the name of the cooper or manufacturer thereof and the name of the city or town nearest to which the cooper shop or place of business of such manufacturer is located. [1848; last amended 1896.]

Sec. 6414. Standard half-bushel.

The unit or standard measure of capacity for substances other than liquids, from which all other measures of such substances shall be derived and ascertained, shall be the standard half-bushel measure furnished this state by the government of the United States, the interior diameter of which is thirteen inches and thirty-nine-fortieths of an inch, and the depth is seven inches and one-twenty-fourth of an inch. [1880]

Sec. 6415. Standard dry measure.

The peck, half-peck, quarter-peck, quart and pint measures for measuring commodities other than liquids, shall be of the interior dimensions and capacities as follows, to-wit: the peck measure shall be eleven inches in interior diameter, five and five-eighths inches in interior depth, and shall contain five hundred thirty-seven and six-tenths cubic inches; the half-peck measure shall be eight and one-half inches in interior diameter, four and three-quarter inches in interior depth, and shall contain two hundred sixty-eight and eight-tenths cubic inches; the quarter-peck measure shall be six and five-eighths inches in interior diameter, three and seven-eighths inches in interior depth, and shall contain one hundred thirty-four and four-tenths cubic inches; the quart measure shall be five and five-sixteenths inches in interior diameter, three inches in interior depth, and shall contain sixty-seven and two-tenths cubic inches; the pint measure shall be four and one-half inches in interior diameter, two and nine-twenty-fifths inches in interior depth, and shall contain thirty-three and six-tenths cubic inches. [1880; last amended 1913.]

General Code, Throckmorton 1948, Part Second,
Title 2, Ch. 32—Weights and Measures—Continued.

Sec. 6416. Heaped measure.

Articles usually sold by heaped measure shall be heaped in a conical form as high as such articles permit. [1861]

Sec. 6417. Dry commodities not heaped.

Measures for measuring dry commodities not usually heaped shall be struck with a straight stick, with the edges rounded. Commodities other than liquids, when sold by the gallon or less, shall be sold by the dry measure. [1861]

Sec. 6418. Standard weight of bushel; penalties for violations.

A bushel, in avoirdupois weight, of every article herein mentioned shall be, viz.:

	<i>Pounds</i>
Barley	48
Buckwheat	50
Coal, bituminous	80
Coal, cannel	70
Coke	40
Corn, broom	45
Corn meal	48
Corn, indian, in the ear	68
Corn, indian, shelled	56
Corn, kaffir	56
Corn, pop, in the ear	42
Corn, sweet, shelled	45
Lime	70
Oats	32
Rye	56
Seed, clover	60
Seed, flax	56
Seed, hemp	44
Seed, hungarian grass	50
Seed, millet	50
Seed, sorghum	50
Seed, timothy	45
Wheat	60
Walnuts, domestic	50
Hickory nuts	50

Unless otherwise agreed to, all of the above mentioned articles shall when dealt in by the bushel, be bought and sold upon such actual bulk weight, and no test for moisture shall be used to change the standards herein provided. The prosecuting attorney of each county shall enforce the provisions of this act [Section]. Any person, firm, company, corporation, agent or employee violating any of the provisions of this section shall be deemed guilty of misdemeanor, and upon conviction shall be fined not more than one hundred dollars, or imprisoned in the county jail (if a company or corporation its president), not more than six months, or both. [1869; last amended 1947.]

¹ A slight rearrangement has been made for convenience of reference.

Sec. 6418-1. Fruits and vegetables to be sold upon basis of weight or count; exception; definitions; penalty for violation.

All articles of food, other than liquids, which are capable of being measured by dry capacity measure and which heretofore have been sold by dry

capacity measure in this state shall, except as hereinafter provided, be offered for sale or sold upon the basis of avoirdupois net weight or by numerical count only, and it shall be unlawful for anyone to use or employ any dry capacity measure, basket, barrel or container of any kind as a means of determining the amounts or quantities of any such articles of food offered for sale or sold. The provisions of this section shall not be construed to apply to:

a. Fruits and vegetables offered for sale or sold in original standard containers; or

b. Articles of food offered for sale by farmers except in any farmers' public market, in open or uncovered original standard containers; or

c. Vegetables which by common custom are offered for sale or sold by the bunch; or

d. Fresh berries and other small fruits, which are customarily offered for sale and sold by the box, basket or other receptacle, except, however, when such fresh berries and other small fruits are offered for sale or sold in bulk, in which case the provisions of this section shall apply to the extent that such fresh berries and other small fruits shall be offered for sale and sold by avoirdupois net weight only. But all fresh berries and such other small fruits, when offered for sale or sold shall be so offered for sale or sold in boxes, baskets or receptacles of uniform size to hold two quarts, one quart or one pint dry measure only, uniformly and evenly filled throughout.

As used in this section:

"Dry capacity measure" means only bushel, half-bushel, peck, half-peck, quarter-peck, quart, half-pint and similar measures.

"Original standard container" means only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is established by law of this state or by act of Congress, the contents of which have not been removed or repacked, and upon which is plainly and conspicuously marked the net quantity of contents thereof in terms of weight, measure or numerical count.

Any person violating any of the provisions of this section shall, for the first offense, be liable to a penalty of not less than twenty-five nor more than fifty dollars, for a second offense to a penalty of not less than fifty nor more than one hundred dollars, and for each subsequent offense to a penalty of not less than one hundred nor more than two hundred dollars. [1947]

Sec. 6419. Standard measure for stone coal and lime.

The standard bushel of stone coal, coke and unslacked lime, shall contain twenty-six hundred and eighty-eight cubic inches; and the measure for measuring such articles shall contain two bushels, and be of the following interior dimensions: twenty-four inches diameter at the top, twenty inches at the bottom, and fourteen and one-tenth inches deep. [1848; last amended 1875.]

Sec. 6420. Coal and coke: Sales by weight; ton; scales; weight certificates.

Sales of coal or coke shall be by weight; and two thousand pounds avoirdupois shall constitute a ton thereof. All coal or coke sold or delivered within this state shall be weighed on a scale inspected and sealed by a sealer of weights and measures as provided by law. At the time of the weighing of such coal or coke, duplicate weight certificates, written in ink or indelible pencil, or partly printed and partly written with ink or indelible pencil, shall be delivered by the weigher to the person in charge of the truck, wagon or other vehicle delivering the same, which certificates shall show the name and address of the seller, the name and address of the consignee, the name and address of the person in charge of the truck, wagon or other vehicle, the gross weight of the load, the weight of the truck, wagon or other vehicles used in such delivery, the date of the weighing, and the weight of the coal or coke purported to be delivered. The weigher shall imprint on said duplicate certificates, across the figures showing the weights, a seal showing the name and place of the scale where weighed, and the words "Inspected and sealed scale." One certificate shall be delivered by the person in charge of the said truck, wagon or other vehicle to the purchaser of said coal or coke, or other person in charge of the premises where said coal or coke is to be delivered, prior to the unloading of the same, and the other certificate shall be carried by the person in charge of said truck, wagon or other vehicle to and from the place of delivery. [1869; last amended 1941.]

Sec. 6420-a. Same: Possession of weight certificate and bill of sale required; exception.

Any person driving or operating a truck, wagon or other vehicle in which coal or coke is being transported, upon the streets, roads or highways of the state of Ohio, whether within or without the limits of a municipal corporation, shall have in his possession the weight certificate required by section 6420, General Code of Ohio; and in addition thereto, shall have in his possession bill of sale or invoice as may be required by any order now or hereafter issued by the bituminous coal division of the United States department of the interior, and such bill of sale or invoice shall contain and state the things required in any such order.

This provision shall not apply to the transportation of coal or coke from a mine or other place of loading, to a scale for the purpose of securing a weight certificate, unless, however, the person transporting such coal or coke has had access to a scale at the site of loading; or near thereto. [1941]

Sec. 6420-b. Same: Enforcing agency.

It shall be the duty of the state highway patrol to enforce the provisions of section[s] 6420 and 6420-a in addition to their other duties as pre-

scribed in section 1181-3 of the General Code of Ohio. [1941]

Sec. 6420-c. Same: Duty of police officers.

It shall be the duty of all police officers of the state of Ohio having jurisdiction in the political subdivisions where such coal or coke is being transported or is to be delivered to enforce the provisions of sections 6420 and 6420-a. [1941]

Sec. 6420-1. Same: Certificate shown on demand; verification of weight; cost; procedure in case of short weight or overweight.

On demand made by an officer of the state highway patrol, or any other authorized police officer having jurisdiction in the political subdivision where such coal or coke is being transported, or is to be delivered, the person in charge of or driving such truck, wagon or other vehicle transporting or delivering coal or coke, shall exhibit such certificate and invoice or bill of sale to such highway patrolman or such police officer for inspection. If such police officer, from an inspection of such certificate or invoice or bill of sale, and the load of such truck, wagon or other vehicle, has reasonable cause to suspect that the weights, quality or grade of coal or coke shown on such certificate or invoice or bill of sale, are incorrect, he may cause said person in charge of said truck, wagon or other vehicle to drive to an inspected and sealed scale for the purpose of verifying the weights shown on said certificate, invoice or bill of sale. In so doing, he shall, if possible, use the nearest inspected and sealed scale. The cost of verifying such weights shall be paid by the political subdivision wherein such verification has been demanded. If such verification of weights shows a shortage greater than two per cent (2%) on loads of two and one-half tons or less, or a shortage greater than one hundred pounds on loads of over two and one-half tons in the weights as shown by said certificate of weights, such fact shall be reported to the proper officer or officers for prosecution and shall be prima facie evidence of attempting to sell or deliver coal or coke by short weight. If such verification of weights shows that such truck, wagon or other vehicle has coal or coke on it exceeding two per cent (2%) or more the weights which the certificate, invoice or bill of sale states, then and in that event the officer making such verification shall forthwith report the fact, giving the name of the owner of the truck, wagon or other vehicle; the name of the shipper of the coal or coke therein; the name of the buyer thereof; the date and place of the inspection; the officer making the same; the amount of the overweight; and the description of the truck, wagon or other vehicle, to the U. S. department of the interior, bituminous coal division, Washington, D. C., for prosecution in pursuance of the bituminous coal act of 1937, otherwise known as public number 48, 75th congress, H. B. 4985. [1935; last amended 1945.]

General Code, Throckmorton 1948, Part Second, Title 2, Ch. 32—Weights and Measures—Continued.

Sec. 6420-2. Same: Short weight; false weight certificate; penalty.

Any person, firm or corporation who sells or attempts to sell or deliver coal or coke of short weight, or who issues a short weight certificate as herein provided for, or who sells or attempts to alter a weight certificate after the same has been issued, or who operates a truck, wagon or other vehicle upon any of the public streets, roads or highways of the state of Ohio, without the certificate, and invoice or bill of sale required by any order now or hereafter issued by the U. S. department of the interior, bituminous coal division, Washington, D. C., in his possession, or who violates any of the provisions of this act [Secs. 6420—6420-2], shall be guilty of a misdemeanor, and shall be fined not less than twenty-five (\$25.00) dollars, or more than fifty (\$50.00) dollars, and in addition thereto the court may revoke his chauffeur's license for one year. And if said truck, wagon or other vehicle is being operated by the owner, or the agent of the owner, thereof, at the time of said violation, the court may declare the use of said truck, wagon, or other vehicle to be unlawful in the transportation of coal or coke in the state of Ohio upon the public streets, roads or highways of the state of Ohio, for one year from the date of the conviction for such offense. [1935; last amended 1941.]

Sec. 6421. Same: General penalty.

Whoever sells stone coal in violation of this chapter [Secs. 6403—6422-10] shall be liable to the person to whom such coal is sold and delivered in treble damages. If the defendant in such action does not reside in the county where the mine is located, service may be had upon him by leaving a copy of the summons at his place of business. A judgment recovered in such action shall be a lien upon all property of such defendant in the county from the day of service. This section shall not apply to a person or corporation mining or selling less than fifteen thousand bushels of coal annually. [1875]

Sec. 6422. Standard charcoal bushel.

The standard of measurement for a bushel of charcoal shall be twenty-seven hundred and forty-eight cubic inches. [1885]

Sec. 6422-1. Fruits and vegetables: Standard climax baskets.

That standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket and twelve-quart basket respectively:

(a) The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom

piece, three and one-half inches; thickness of bottom piece, three-eighths inches; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches outside measurement. Basket to have a cover of five by eleven inches, when a cover is used.

(b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

(c) The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenths inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. [1919]

Sec. 6422-2. Same: Standard baskets for small fruits and vegetables.

That standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities: Namely, dry one-half pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half-pint shall contain sixteen and eight-tenths cubic inches.

(b) The dry pint shall contain thirty-three and six-tenths cubic inches.

(c) The dry quart shall contain sixty-seven and two-tenths cubic inches.

The dimensions of the one-quart box used in the sale of berries or other small fruits shall be as follows: Five and one-tenth inches square on top, four and three-tenths inches square on the bottom and three inches in depth. [1919]

Sec. 6422-3. Same: Standard hampers.

That the standard hampers for fruits and vegetables shall be the one peck hamper, one-half bushel hamper, one bushel hamper, and one and one-half bushel hamper respectively.

(a) The standard one peck hamper shall contain five hundred thirty-seven and six-tenths cubic inches, and conform to the following specifications: The inside diameter between staves at upper edge of the top inside hoop shall be ten and three-eighths inches; the inside diameter of the bottom shall be six and one-half inches; the inside length of the staves shall be nine and five-eighths inches; the inside top hoop shall be one-tenth inch thick and set with its upper edge even with the upper

ends of the staves; there shall be ten staves, each not less than one-tenth inch thick and ten and one-eighth inches long; and the bottom piece shall be one-half inch thick.

(b) The standard one-half bushel hamper shall contain one thousand, seventy-five and twenty-one one-hundredths cubic inches, and conform to the following specifications: The inside diameter between staves at upper edge of the top inside hoop shall be thirteen inches; the inside diameter of the bottom shall be eight inches; the inside length of staves shall be twelve and one-half inches; the inside top hoop shall be one-ninth of an inch thick and set with its upper edge even with the upper ends of the staves; there shall be ten staves, each not less than one-tenth of an inch thick and thirteen and one-eighth inches long; and the bottom piece shall be five-eighths of an inch thick.

(c) The standard one bushel hamper shall contain two thousand, one hundred fifty and forty-two one-hundredths cubic inches, and conform to the following specifications: The inside diameter between staves at upper edge of the top inside hoop shall be fifteen and one-eighth inches; the inside diameter of the bottom shall be nine inches; the inside length of the staves to the upper edge of the top inside hoop shall be nineteen inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the upper ends of the staves; there shall be either ten or twelve staves, each not less than one-eighth of an inch thick and twenty inches long; and the bottom piece shall be five-eighths of an inch thick.

(d) The standard one and one-half bushel hamper shall contain three thousand, two hundred twenty-five and sixty-three one-hundredths cubic inches, and conform to either of the following specifications.

(1) The inside diameter between staves at upper edge of the top inside hoop shall be sixteen and one-fourth inches; the inside diameter of the bottom shall be nine inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-five and thirteen-sixteenths inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the upper ends of the staves; there shall be ten staves, each not less than one-sixth of an inch thick and twenty-seven inches long; and the bottom piece shall be five-eighths of an inch thick.

(2) The inside diameter between staves at upper edge of the top inside hoop shall be sixteen and three-fourths inches; the inside diameter of the bottom shall be ten inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-three inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the

upper ends of the staves; there shall be ten staves, each not less than one-eighth of an inch thick and twenty-four inches long, and the bottom piece shall be five-eighths of an inch thick. [1919]

Sec. 6422-4. Same: Standard round stave baskets.

That the standard round stave baskets for fruits and vegetables shall be one-half bushel basket, one bushel basket, one and one-half bushel basket and two bushel basket respectively.

(a) The one-half bushel round stave basket shall contain one thousand seventy-five and twenty one-hundredths cubic inches, and conform to the following specifications: The inside diameter at the upper edge of the top inside hoop shall be thirteen and one-half inches; the average inside depth shall be not less than eight and one-half inches; the web shall consist of twenty intersecting staves, each not less than one-eighth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixteen quarts, standard dry measure.

(b) The one bushel round stave basket shall contain two thousand, one hundred fifty and forty-two one-hundredths cubic inches, and conform to the following specifications: The inside diameter at upper inner edge of the top inside hoop shall be seventeen inches; the average inside depth shall be not less than ten and three-fourths inches; the web shall consist of twenty intersecting staves, each not less than one-eighth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain thirty-two quarts standard dry measure.

(c) The one and one-half bushel round stave basket shall contain three thousand, two hundred and twenty-five and sixty-three one-hundredths cubic inches, and conform to the following specifications: The inside diameter at upper inner edge of the top inside hoop shall be nineteen inches; the average inside depth shall be not less than twelve and three-fourth[s] inches; the web shall consist of twenty-four intersecting staves, each not less than one-sixteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain forty eight quarts standard dry measure.

(d) The two bushel round stave basket shall contain four thousand, three hundred, and eighty-four one-hundredths cubic inches, and conform to the following specifications: The inside diameter at upper inner edge of the top inside hoop shall be twenty and three-fourths inches; the average inside depth shall be not less than thirteen and three-fourths inches; the web shall consist of twenty-four intersecting staves, each not less than one-sixteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixty-four quarts, standard dry measure. [1919]

General Code, Throckmorton 1948, Part Second, Title 2, Ch. 32—Weights and Measures—Continued.

Sec. 6422-5. Same: Offenses; penalties.

That it shall be unlawful to ship or deliver for shipment within the state of Ohio, Climax baskets, small fruit baskets, hampers, or round stave baskets, for fruits or vegetables, either filled or unfilled or parts of such Climax baskets, small fruit baskets, hampers or round stave baskets, that do not comply with this act [G. C. secs. 6422-1 to 6422-10]; or fruits or vegetables in Climax baskets, small fruit baskets, hampers or round stave baskets, that at the time of such shipment, delivery for shipment, or offer for sale, are not filled to the full capacity thereof, stricken measure. An individual, partnership, association or corporation, that willfully violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$100.00 or imprisonment not exceeding sixty days or both. [1919]

Sec. 6422-6. Same: Promulgation of rules and regulations; right of entry for testing.

That the secretary of agriculture is authorized to prescribe such regulations as he may find necessary for carrying into effect the provisions of this act [G. C. secs. 6422-1 to 6422-10], and to cause such examinations and tests to be made as may be necessary in order to determine whether Climax baskets, small fruit baskets, hampers and round stave baskets or parts thereof subject to this act, meet its requirements. For said purpose the authorized officers and agents of the secretary of agriculture may visit factories, stock rooms, and other places of business where such hampers or baskets or parts thereof are manufactured or held for sale or shipment or offered for sale, may enter cars, vessels, other vehicles and places under the control of carriers engaged in the transportation of such hampers or baskets or parts thereof, and may take samples of such hampers or baskets or parts, the cost of which samples, upon request, shall be paid to the person entitled thereto. [1919]

Sec. 6422-7. Same: Enforcing agency; tolerances.

It shall be the duty of the secretary of agriculture to enforce all the provisions of this act [G. C. secs. 6422-1 to 6422-10], and to prescribe such rules and regulations not otherwise herein provided, as he may deem necessary, for the efficient execution of the provisions of the same, including the amount of tolerance necessary in the enforcement of this act, because of the impossibility of perfect scientific exactitude in the manufacture of such Climax baskets, small fruit baskets, hampers and round stave baskets; and which regulations and tolerances shall be in conformity with those from time to time

promulgated by the United States department of agriculture. [1919]

Sec. 6422-8. Same: Exceptions to standards.

The secretary of agriculture for good and sufficient reasons may permit the use of Climax baskets, small fruit baskets, hampers and round stave baskets of a different form from the baskets prescribed in this act [G. C. secs. 6422-1 to 6422-10] but of the same capacity. [1919]

Sec. 6422-9. Same: Signed guarantee as exemption from prosecution.

That no dealer shall be prosecuted under the provisions of this act [Secs. 6422-1 to 6422-10] when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the United States from whom such Climax basket, baskets, or other containers as defined in this act, were purchased, to the effect that said Climax basket, baskets, or other containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of Climax basket, baskets, or other containers, hampers or round stave baskets, to such dealer, and in such case said guarantor shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this act. [1919]

Sec. 6422-11. Flour, corn meal and grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, hominy and hominy grits; provided, however, that the provisions of this act [Secs. 6422-11—6422-12] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) for the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred pounds, or (c) flours, meals, hominy and hominy grits packed in containers the net contents of which are less than three pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 6422-12. Same: Penalties for violations.

Any willful violation of section 6422-11 shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. [1945]

General Code, Throckmorton 1948, Part First, Title XII, Div. II, Ch. 1—Municipal Corporations.

Sec. 3616. Powers.

All municipal corporations shall have the general powers mentioned in this chapter [Secs. 3615—3676], and council may provide by ordinance or resolution for the exercise and enforcement of them. [1902; last amended 1908.]

Sec. 3651. Same: Weights and measures.

To regulate the weighing and measuring of hay, wood and coal, and other articles exposed for sale, and to provide for the seizure, forfeiture and destruction of weights and measures, implements and appliances for measuring and weighing which are imperfect or liable to indicate false or inaccurate weight or measure, or which do not conform to the standards established by law and which are known, used or kept to be used for weighing or measuring articles to be purchased, sold or offered or exposed for sale. [1902; last amended 1908.]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 1—Public Utilities.

Sec. 521. Rules and regulations for weighing of cars and freight.

The commission [public utilities commission] may enforce reasonable regulations for furnishing cars to shippers, switching, loading and unloading them, and the weighing of cars and freight offered for shipment over any line of railroad. [1906]

Sec. 614—36. Rules and regulations for testing; meters.

The commission [public utilities commission] may * * * prescribe reasonable regulations for examination and testing of such product or service and for the measurements thereof [gas, electricity, water, etc.]. It may establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [1911]

Sec. 614—37. Examinations and tests; testing on request; fees.

The commission [public utilities commission] may provide instruments for and carry on the examination and testing of any and all appliances used for the measurement of any product or service of a public utility or for the examination and testing of any devices or appliances of such public utility used for testing for accuracy any and all appliances used for the measurement of any product or service of such public utility. Any consumer or user may have any such appliance tested upon payment of the fees fixed by the commission. The commission may declare and establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fees to be paid by the consumer or user at the time the request is made, but to be paid by the public utility

and repaid to the consumer or user if the appliance be found commercially defective or incorrect to the disadvantage of the consumer or user. [1911]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 11—Mine Scales.

Sec. 898—38. Deputy mine inspectors as sealers.

The deputy mine inspectors are hereby vested with all the powers and authority of county auditors as sealers of weights and measures in the different counties of this state, but shall exercise such authority in connection with weights and measures at mines only. Each deputy inspector of mines, may upon his regular examination of a mine, and shall, upon the written request of the duly authorized representatives of the miners, the owner, lessee or agent, or the interested land owner, test the accuracy of the scales at any time, and post in the weight house a certificate provided by the chief, division of mines, certifying the condition of the scales, provided that such tests be made at a reasonable time without unnecessary interference with the use of such scales. [1941]

Sec. 898—85. Test weights to be provided by owner; penalty.

The owner, lessee or agent of a mine, at which the earnings of ten or more persons depend upon the weights of coal mined shall provide and keep accessible for the purpose of testing the weight scales as provided elsewhere in this act [Secs. 898 to 898—202], the following standard test weights properly sealed: where the coal mined is weighed upon hopper or pan scales, two standard test weights of fifty pounds each; where the coal mined is weighed upon railroad track scales, ten standard weights of fifty pounds each.

Any owner, lessee or agent or operator of a mine who wilfully refuses or neglects to comply with the provisions of this section shall, upon conviction thereof, be fined not less than twenty-five dollars, nor more than fifty dollars and for a second or any subsequent offense shall be fined not less than fifty dollars, nor more than one hundred dollars. [1941]

Sec. 898—166. Weigher: Oath; bond; penalty.

Any person employed to weigh coal at a mine in which ten or more miners are employed and upon the weight of which the earnings of the miners depend, shall take and subscribe to an oath before an officer authorized to administer the same, that he will correctly weigh all coal taken from such mine under existing contracts between the owner, lessee or agent, and the miners and give due credit for same; and when required by existing contracts between the lessor and lessee, he shall give due credit to such lessor. He shall also give bond in the sum of three hundred dollars, with two sureties approved by the clerk of the township in which such mine is situated, conditioned for the

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 11—Mine Scales—Continued.

faithful discharge of his duties, and payable to the state, with the oath endorsed thereon, which shall be deposited with such township clerk.

Any person who violates the provisions of this section shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than fifty dollars. [1941]

Sec. 898-167. Check weighman designated by miners; rights and duties; penalty.

At all mines where the earnings of the miners employed thereat depend upon the weight of the coal mined, the majority of the miners employed therein may at their own cost designate or appoint a person as check weighman. The person so employed must be an employe of such mine, a citizen of the United States, able to read and write the English language. When all of the miners do not concur with the majority in the employment of such check weighman, he shall only be required to furnish weights to the miners who concur therein, and who contribute to the payment of his salary or wages. The owner, lessee or agent of such mine shall permit and allow such check weighman on the tippie or at any other place where the scales used for determining weights upon which wages are fixed at such mine, may be located and at all proper times, such check weighman shall have full right of access to and examination of the scales, machinery or apparatus used at such mine to determine the correct weight of coal mined and shall not interfere with such check weighman in the performance of his duty which shall be to see the coal weighed and make a correct record of such weight. Not more than one person, however, on behalf of the miners collectively shall have such right at the same time at any one mine. The check weighman shall not interfere with or impede the speed of weighing of the coal or the operation of the mine.

Any owner, lessee or agent or operator of a mine, or any person who willfully refuses or neglects to comply with the provisions of this section, or who violates the provisions of this section, shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than fifty dollars. [1941]

Sec. 898-168. Check weighman designated by land owners; rights and duties; penalty.

The land owner, or the persons interested in the rental or royalty at such mine, may at their own cost, designate or appoint a competent person to act as check weighman for them, who shall have the same rights as the check weighman for the miners. Not more than one person, however, on behalf of the land owners, or other persons interested in the rental or royalty, jointly, shall have such right at the same time at any one mine. Check weighmen shall not interfere with the use of or tamper with

such scales, machinery or apparatus, nor make any false entry of any weight, or in any manner exceed the duties prescribed herein.

Any owner, lessee or agent or operator of a mine or any other person who willfully refuses or neglects to comply with the provisions of this section, or who violates the provisions of this section, shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than fifty dollars. [1941]

Sec. 898-169. Check measurer designated by miners; penalty.

The miners employed at a mine where the earnings of such miners depend upon measurements, may at their own cost designate or employ not more than one of their number as check measurer to accompany each mine foreman or other person making the measurements, and see them make such measurements, and make a correct record of same. Each mine foreman or other person making measurements may have a helper, but such helper shall not be regarded as a person making measurements. The person or persons designated as check measurer shall not in any manner interfere with or interrupt the work of the mine foreman, or other person, while making such measurements.

Any owner, lessee or agent who willfully refuses or neglects to comply with the provisions of this section, or who violates the provisions of this section, or who interferes with the check measurer in the performance of his duties, shall, upon conviction thereof, be fined not less than ten dollars nor more than twenty dollars. [1941]

Sec. 898-170. Payment on basis of weight.

Every miner and every loader of coal of any mine in this state who under the terms of his employment is to be paid for mining or loading such coal on the basis of the ton or other weight shall be paid for such mining or loading according to the total weight of all such coal contained within the car (hereinafter referred to as mine car) in which the same shall have been removed out of the mines unless otherwise agreed between employer and miner or loader. [1941]

Sec. 898-175. Screening coal before weighing; penalty.

It shall be unlawful for the employer of a miner or loader of the contents of any car of coal to pass any part of such contents over a screen or other device, for the purpose of ascertaining or calculating the amount to be paid such miner or loader for mining or loading such contents, whereby the total weight of such contents shall be reduced or diminished unless otherwise agreed between employer and miner or loader. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction, shall be fined for each separate offense not less than three hundred dollars nor more than six hundred dollars. [1941]

1949 Supplement (Legislative Issue) to 1948 Throckmorton Code, Part First—"Livestock Remedy Act."

Sec. 1140-24. Definitions.

* * * * *

(c) The term "livestock remedy" shall mean and include all drugs, combination of drugs, proprietary medicines, and combinations of drugs and other ingredients, other than for nutritional purposes which have been prepared or compounded for livestock, poultry or other animal use.

* * * * *

(e) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act [Secs. 1140-24—1140-38] that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.

* * * * *

(g) The term "director" shall mean the director of the department of agriculture. [1949]

* * * * *

Sec. 1140-25. Unlawful acts.

The following acts and the causing thereof within the state are hereby declared unlawful:

(a) The sale, delivery, holding or offering for sale of any livestock remedy which has not been registered with the director as provided in section 4 [Sec. 1140-26] hereof;

(b) The manufacture, sale, delivery, holding or offering for sale of any livestock remedy that is adulterated or misbranded;

* * * * *

(d) The dissemination of any advertisement which is false or misleading in a material respect; provided, that no person or medium for the dissemination of any advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be subject to the penalties of this act [Secs. 1140-24—1140-38] by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the director, to furnish the name and address of the manufacturer, packer, distributor, seller or advertising agency who caused him to disseminate such advertisement;

* * * * *

(f) The disposal of a detained article in violation of section 10 [Sec. 1140-32] hereof;

(g) The giving of a guaranty which is false, except by a person who relied on a guaranty to the same effect signed by, and containing the name and

address of, the person from whom he received the livestock remedy in good faith; [1949]

* * * * *

Sec. 1140-26. Registration; exemptions.

All livestock remedies offered for sale in Ohio shall be registered by the manufacturer or person responsible for placing such livestock remedy on the market.

(a) Any person may make application for the registration of a livestock remedy by filing with the director on forms furnished by him, a sworn statement with respect thereto setting forth:

* * * * *

(3) The minimum net contents of the package, lot or parcel of such livestock remedy (stated by weight in the case of solids and by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

* * * * *

(d) The provisions of this section shall not apply to a livestock remedy intended solely for investigational, experimental, or laboratory use by qualified persons, provided the article is plainly labeled "for investigational use only."

(e) Nothing in this act [Secs. 1140-24—1140-38] shall apply to any product registered with the director under the provisions of General Code, sections 1141 to 1149-2 inclusive. [1949]

* * * * *

Sec. 1140-30. When deemed misbranded.

A livestock remedy shall be deemed to be misbranded:

(a) Unless the label bears:

* * * * *

(3) An accurate statement of the minimum net contents of the package, lot or parcel (stated by weight in the case of solids, by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

* * * * *

(b) If the labeling is false or misleading in any material particular;

(c) If its container is so made, formed, or filled as to be deceptive or misleading as to amount of contents;

* * * * *

(e) If any word, statement, or other information required by or under authority of this act [Secs. 1140-24—1140-38] to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

1949 Supplement (Legislative Issue) to 1948 Throckmorton Code, Part First—"Livestock Remedy Act"—Continued.

(f) Provided, however, that any livestock remedy that is manufactured and distributed under license from and under the supervision of the federal bureau of animal industry and in compliance with the regulations of such bureau, shall be deemed in compliance with this section of this act. [1949]

Sec. 1140-32. Embargo.

The director shall cause livestock remedies, which are found or believed to be in noncompliance with the provisions of this act [Secs. 1140-24—1140-38], to be withheld from sale pending compliance herewith.

(a) Whenever the director or a duly authorized agent finds or has reasonable cause to believe a livestock remedy is adulterated or misbranded within the meaning of this act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained, and warning all persons not to dispose of such article in any manner until permission is given by the director or the court. Provided that any such article may at the discretion of the manufacturer or vendor be removed from display, but left on the premises. [1949]

* * * * *

Sec. 1140-34. Penalties for violations; notice and hearing; minor violations.

* * * * *

(a) Any person who violates any of the provisions of this act [Secs. 1140-24—1140-38] shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than \$25.00 nor more than \$100.00 for the first offense, not less than \$100.00 nor more than \$250.00 for the second offense, and for each subsequent offense not less than \$500.00 nor more than \$1,000.00.

(b) It shall be the duty of each state, county, or city attorney to whom the director reports any violation of this act, to cause appropriate proceedings to be instituted in any court of competent jurisdiction without delay and to be prosecuted in the manner provided by law. Before any violation of this act is reported to any such attorney for the institution of criminal proceedings, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the director or a designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

(c) Nothing herein contained shall be construed as requiring the director to report for the institution of prosecution under this act, minor violations

of this act, whenever the director believes the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1949]

Sec. 1140-36. Enforcement; rules and regulations.

(a) The director is hereby charged with enforcement of this act [Secs. 1140-24—1140-38], and is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this act, provided, that such rules and regulations shall conform, insofar as practicable, with the rules and regulations promulgated under the federal food, drug and cosmetic act, and with the rules and regulations promulgated by the federal bureau of animal industry; and provided that such power to promulgate rules and regulations shall extend to a reasonable enforcement of this act and no further.

(b) The director is hereby authorized and directed to promulgate regulations exempting from any labeling and packaging requirements of this act livestock remedies or components thereof which are, in accordance with the practice of the trade, to be processed, labeled, or repacked at establishments other than those where originally processed or packed; but such articles, when so processed, labeled or repacked, shall be subject to all the provisions of this act. [1949]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—Bread.

Sec. 1090-37. Weight; marking requirements.

Bread shall not be sold or offered or exposed for sale otherwise than by weight and shall be manufactured for sale and sold only in units of not less than sixteen ounces. When multiple loaves are baked each unit of the loaf shall conform to the weight required by this section. The weights herein specified shall be construed to mean net weights twelve hours after baking and to be determined by the average weight of at least twenty-five loaves. Such unit weights shall not apply to rolls and such bread as shall be defined as fancy bread by the director of agriculture.

Every loaf of bread manufactured for sale, sold, offered or exposed for sale shall have affixed thereon a plain statement in plain position of the weight of the loaf of bread, the business name and address of the maker, baker, or manufacturer. In the case of wrapped bread such information shall be stated on the wrapper of each loaf and in the case of unwrapped bread shall be stated by means of a pan impression or other mechanical means or shall be stated on a label using plain legible type. Such label affixed to an unwrapped loaf shall not be affixed in any manner which is unsanitary and unwholesome, and there shall not be more than one label on a loaf or a unit. [1921; last amended 1943.]

Sec. 1090-38. Rules and regulations; tolerances; enforcing provisions.

The director of agriculture shall prescribe such rules and regulations as may be necessary to enforce the preceding section, including reasonable tolerances or variations within which all weights shall be kept, provided, however, that such tolerances or variations shall not exceed one ounce per pound under the standard unit for single loaves, provided, however, that tolerance permitted in the weighing of twenty-five or more loaves shall not exceed one-half ounce per pound. The said secretary, and under his direction, the local sealers of weights and measures, shall cause the provisions of this section to be enforced. Before any prosecution is begun under this section the parties against whom the complaint is made shall be notified and be given an opportunity to be heard by said secretary. [1921; last amended 1943.]

Sec. 1090-43. Penalties for violations.

A violation of any provisions of this act [Secs. 1090-22—1090-43] or any rule or regulation adopted herein, shall, for the first offense, be fined not less than \$25.00 nor more than \$100.00, and for each subsequent offense not less than \$100.00 nor more than \$300.00. [1921; last amended 1943.]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—Commercial Feeding Stuffs.

Sec. 1141. Marking requirements.

Whoever manufactures, sells or offers for sale within this state any feed stuffs or feed mixture for animals or poultry, or condimental stock or poultry feeds, animal or poultry salts or ash, mineral feeds, vitamin supplements, vitamin containing oils, or vitamin concentrates, or similar preparations shall have stamped or printed on each parcel, lot or container, or on a tag or label affixed thereto, in a conspicuous place, a plainly written or printed statement, in the English language, certifying as follows:

(a) The net weight of the package, lot or parcel; [1913; last amended 1949.]

* * * * *

Sec. 1144. Definition.

"Feed stuffs" in general shall be held to include all feeds used for livestock, dog, fox, fish and poultry, and the following and similar preparations of commerce: linseed meal, linseed oil cake, cotton seed meal, cotton seed cake, pea meal, soy bean meal, cocoanut meal, rice meal, rice bran, rice polish, peanut meal, bean meal, gluten meal, gluten feeds, dried brewers' grains, dried distillers' grains, distiller's solubles, dried beet refuse, malt sprouts, yeast feeds, hominy feeds, cerealine feeds, oat feeds, mixed feeds, alfalfa meal, molasses feeds, sugar

feeds, buckwheat bran, buckwheat hulls, buckwheat middlings, corn and corncob meal, crushed ear corn, corn bran, corn siftings, wheat bran with or without screenings, wheat middlings, with or without screenings, ground or unground mixed feeds made from seeds or grains or grain offal, clover meals, dried blood, blood meal, tankage, meat scraps, beef scraps, meat and bone meal, meat cracklings, raw or steamed bone meal, fish scraps, fish meal, dried buttermilk, condensed buttermilk, dried skim milk, condensed skim milk, or other animal, marine, or vegetable by-products; but such terms shall not include hay, straw, whole seeds, whole grains or unmixed meals made from corn, oats, wheat, rye, barley, buckwheat or other whole standard grains. [1913; last amended 1949.]

Sec. 1147. Penalties for violations.

Whoever manufactures, sells or offers for sale within this state any feed stuffs [etc.] * * * defined in section 1141, without having complied with the provisions of this act [Secs. 1141—1149-1] * * * shall be fined not less than fifty dollars nor more than two hundred dollars and shall be liable for damages sustained by the purchasers thereof. [1913; last amended 1949.]

Sec. 1149. Rules and regulations for enforcement.

The director of agriculture is hereby empowered to prescribe and enforce such supplementary rules and regulations relating to feed stuffs as he may deem necessary to carry into effect the full intent and meaning of this act [Secs. 1141—1149-1]. * * * [1913; last amended 1941.]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—Commercial Fertilizer.

Sec. 1150. Definition; marking requirements.

Each person, firm, partnership, association, or corporation who manufactures, sells or offers for sale a commercial fertilizer, which means any substance or mixture of fertilizer materials or superphosphate, either solid or liquid, including any combination or mixture designed for use in promoting or inducing plant growth, except unprocessed animal manure, liming materials inoculants, insecticides and fungicides, shall have stamped or printed on each parcel, lot or container, or on a tag or label affixed thereto, in a conspicuous place on the outside thereof, a plainly printed declaration which shall state the net weight contained therein, * * * [1913; last amended 1941.]

Sec. 1162-1. Rules and regulations.

The director of agriculture is hereby empowered to prescribe, promulgate, and enforce rules and regulations necessary and proper for the operation and enforcement of this act [Secs. 1150-1163] for the inspection of fertilizer. [1941]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 15—Commercial Fertilizer—Continued.

Sec. 1163. Penalties for violations.

Whoever violates the provisions of this act [Secs. 1150—1163] pertaining to the inspection of fertilizer * * * or whoever interferes with, prevents or obstructs the director of agriculture, or anyone acting for or on behalf of him, in the performance of their rights, powers, and duties provided for in [this] act pertaining to the inspection of fertilizer, * * * shall be fined not less than fifty dollars nor more than two hundred dollars for the first offense, and for a subsequent offense not less than two hundred dollars nor more than five hundred dollars or imprisoned not more than six months, or both. * * * [1913; last amended 1941.]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 17, Secs. 1177-12a to 1177-12h—Eggs.

[ED. NOTE.—These sections provide for the grading of eggs according to weight and size. Supervision of the act is under the director of agriculture. As the sections relate primarily to quality, they are omitted.]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 17—Agricultural Liming Materials.

Sec. 1177-44. Marking requirements.

Any person, firm, corporation or agent that shall sell, offer or expose for sale or disposal, any agricultural liming material to be used for the correction of soil acidity in this state, shall print or stamp on each parcel, lot, or container, or cause to be affixed to every package or sample of such agricultural liming material to be used for the correction of soil acidity in a conspicuous place on the outside thereof, a tag or label which shall be accepted as a guarantee of the manufacturer, importer, dealer, or agent, and which shall have plainly printed thereon in the English language the number of net pounds of agricultural liming material to be used for the correction of soil acidity in the package, * * *. [1913; last amended 1941.]

Sec. 1177-50. Rules and regulations.

The director of agriculture is hereby empowered to prescribe and enforce such rules and regulations relating to agricultural liming material to be used for the correction of soil acidity, as may be deemed necessary to carry into effect the full intent and meaning of this act * * *. [1913; last amended 1941.]

Sec. 1177-53a. Penalty for violations; prima facie evidence.

Whoever sells, offers for sale, or keeps for the purpose of selling within the state, agricultural lime or limestone without complying with the pro-

visions of this law relating to agricultural lime or limestone, * * * shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars nor more than two hundred dollars for a first offense, and for a subsequent offense not less than two hundred dollars nor more than five hundred dollars or imprisonment not more than six months or both. The possession of agricultural lime or limestone, except by a person who has the same for his private use, without complying with the provisions of this chapter [Secs. 1177-43—1177-54], relating to agricultural lime or limestone, in any building, room, railroad car, store, storeroom, warehouse or other place within this state shall be prima facie evidence of keeping of the same for the purpose of selling. [1917]

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 17—Livestock Dealers.

Sec. 1177-71. Definitions.

(a) The word "department" as used in this act [Secs. 1177-71—1177-83], shall mean the department of agriculture.

(b) The word "animals" or "livestock" as used in this act, shall mean and include horses, mules, cattle, calves, swine, sheep, and goats.

(c) The word "dealer" or "broker" as used in this act, shall mean any person, co-partnership, association or corporation buying, receiving, selling, exchanging, negotiating, or soliciting sale, resale, exchange, or transfer of any animals in an amount or number of head of livestock equivalent to three carloads or more during any one year, but shall not be construed to include: (a) any railroad transporting animals either interstate or intrastate, (b) any person, association, co-partnership or corporation who or which, by dispersal sale, is permanently discontinuing the business of farming, dairying, breeding, raising or feeding animals, (c) any person, association, co-partnership or corporation that sells livestock which has been raised on the premises of such person, association, co-partnership or corporation, (d) any butcher, packer or processor who receives animals exclusively for immediate slaughter, or that part of the business of a farmer which consists of buying or receiving animals for grazing and feeding purposes and the sale or disposal of such animals after the grazing or feeding period, (e) terminal livestock markets operating under the control and regulations of the United States department of agriculture. [1935; last amended 1945.]

Sec. 1177-72. License required.

No person, co-partnership, association or corporation shall act as a dealer or broker without first being licensed so to do as provided in this act [Secs. 1177-71—1177-83.] * * * [1935; last amended 1945.]

Sec. 1177-73. Scale test certificate must be filed before issuance of license.

* * * * *

No license shall be issued by the department [of agriculture] until the applicant shall have filed with the department a copy of scale test certificate showing weighing facilities to be in satisfactory condition, a copy of the license of each weigher employed by such applicant, * * *. [1935; last amended 1945.]

Sec. 1177-74. Revocation or refusal of license.

The department may refuse to grant or may revoke a license when it is satisfied of the existence of the following reasons and after due hearing in accordance with the provisions of the administrative procedure act:

* * * * *

(b) Where there have been false or misleading statements as to the health or physical condition of the animal or animals with regard to official tests or quantity of animals, or the practice of fraud or misrepresentation in connection therewith or in the buying or receiving of animals or receiving, selling, exchanging, soliciting, or negotiating the sale, resale, exchange, weighing or shipment of animals.

* * * * *

(g) Where the licensee providing weighing facilities used for or in connection with, or incident to, the purchase or sale of livestock, for the account of the licensee or others, fails to maintain and operate such weighing facilities in accordance with the provisions of section 1177-76a.

(h) Where the licensee in the conduct of the business covered by the license, persistently or frequently, fails to use weighing facilities maintained and operated in accordance with section 1177-76a or fails to cause its livestock to be weighed by licensed weighers as provided for in section 1177-76a. [1935; last amended 1948.]

* * * * *

Sec. 1177-76a. Regulations for operation of weighing facilities.

Each person, co-partnership, association or corporation maintaining and operating any weighing facilities used for, or in connection with, or incident to, the purchase or sale of livestock at any auction market, concentration yard, stockyard packing plant or place for assembling livestock in the state of Ohio, shall:

(a) Maintain and operate all such weighing facilities so as to insure accurate weights.

(b) Be licensed as a weigher, or shall employ one or more weighers licensed by the department [of agriculture], and shall require that all livestock handled for purchase, sale or exchange be accurately weighed by such licensed weigher or weighers upon scales approved by the department and in-

spected, tested, maintained and operated in accordance with the provisions of this section; provided nothing contained herein shall prevent such weighers performing other duties not inconsistent with the provisions of this section. [1937; last amended 1941.]

Sec. 1177-76b. Weigher's license; revocation.

Licenses shall be issued by the department [of agriculture] to weighers under such rules and regulations as the department shall prescribe. Each weigher shall display his license in a conspicuous place on or adjacent to the weighing facility operated by such weigher. A weigher's license may be revoked for violation of any of the provisions of section 1177-76c, or of the rules and regulations of the department relating thereto. The license of any weigher convicted of violating any of the provisions of section 1177-76c shall be promptly revoked. [1941]

Sec. 1177-76c. False weight, etc.; penalty.

Any weigher who shall improperly weigh any livestock, or give any false certificate of weight, or accept directly or indirectly, money or other consideration for any neglect or improper performance of duty, and any person who shall wrongfully influence or interfere with any such weigher in the performance of his duty or who shall attempt to do so, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars or by imprisonment for not less than thirty days, nor more than one year, or by both such fine and imprisonment, and shall pay the costs of prosecution. [1941]

Sec. 1177-76d. Maintenance and operation of weighing facilities; testing and sealing.

All weighing facilities at any stockyard operated under the provisions of the federal packers and stockyards act, 1921, shall be maintained and operated in accordance with rules and regulations of the United States department of agriculture; and all other such weighing facilities shall be maintained and operated in accordance with rules and regulations of the state department. All such weighing facilities, not regularly inspected and tested by the United States department of agriculture under the provisions of the packers and stockyards act, 1921, shall be inspected and tested, under the supervision of the department once every six months to rated capacity or 10,000 pounds, whichever is less. In the event the department finds, after proper inspection and test, that such weighing facilities are defective, the department may condemn and seal such weighing facilities and prevent their further use until repairs or renewals have been made to the full satisfaction of the department. The department is authorized to utilize the inspection facilities, services and personnel now performing

General Code, Throckmorton 1948, Part First, Title III, Div. II, Ch. 17—Livestock Dealers—Continued.

similar functions under the provisions of the packers and stockyards act, 1921, at stockyards coming under the provisions of that act, to whatever extent they may be available or desirable in carrying out the intent and purposes of this section. The operator of such weighing facilities shall bear all costs incident to the testing and sealing of such facilities. [1941]

Sec. 1177-76e. Right of entry of state inspectors.

Any duly authorized representative of the department [of agriculture] shall have authority to enter any stockyard or livestock market for the purpose of inspecting the facilities, livestock or scales and shall have the right to weigh or re-weigh any or all livestock. [1941]

Sec. 1177-79. Rules and regulations.

The department [of agriculture] is authorized to formulate, adopt, promulgate and enforce rules and regulations for the purpose of carrying into effect, the provisions of this act [Secs. 1177-71—1177-83]. [1935]

Sec. 1177-80. Penalty for violations of act.

Whoever violates or refuses to comply with any of the provisions of this act [Secs. 1177-71—1177-83], shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not less than twenty-five dollars or more than one hundred dollars and costs of prosecution, and, in default of payment of fine and costs, shall be sentenced to imprisonment for not less than ten nor more than thirty days, and for each subsequent violation a fine of not less than one hundred dollars or more than five hundred dollars and imprisonment for not less than ninety days or more than six months, or both, and the costs of prosecution. [1935]

General Code, Throckmorton 1948, Part First, Title III, Ch. 17—Food and Drugs, Enforcement.

Sec. 1177-12. Director of agriculture to make rules and regulations for enforcement of food, drug, and dairy laws; prosecutions.

* * * * *

The secretary of agriculture shall make such uniform rules and regulations as may be necessary for the enforcement of the food, drug, dairy and sanitary laws of this state. Such rules and regulations shall, where applicable, conform to and be the same as the rules and regulations adopted from time to time for the enforcement of the act of congress, approved June 30, 1906¹, and amended March 3, 1913, and known as "the food and drug act." The secretary of agriculture shall inspect drugs, butter, cheese, lard, syrup and other articles of food or drink, made or offered for sale in the state and

prosecute or cause to be prosecuted each person, firm or corporation engaged in the manufacture or sale of an adulterated drug or article of food or drink, in violation of law, and shall enforce all laws against fraud, adulteration or impurities in foods, drinks, or drugs, and unlawful labeling within the state. [1913; last amended 1917.]

¹Superseded by Federal Food, Drug and Cosmetic Act 21 U.S.C., Sec. 301, et. seq.; 52 stats, 1040, et. seq.

General Code, Throckmorton 1948, Part Second, Title II, Ch. 1—Food and Drugs, Misbranding.

Sec. 5774. Unlawful to sell misbranded article.

No person within this state, shall manufacture for sale, offer for sale, sell or deliver, or have in his possession with intent to sell or deliver, a drug or article of food which is adulterated within the meaning of this chapter [Secs. 5774—5805-27], or offer for sale, sell or deliver, or have in his possession with intent to sell or deliver, a drug or article of food which is misbranded within the meaning of this chapter. [1908]

Sec. 5775. Definitions.

The term "drug," as used in this chapter [Secs. 5774—5805-27], includes all medicines for internal or external use or inhalation, antiseptics, disinfectants and cosmetics. The term "food," as used in this chapter, includes all articles used by man for food, drink, flavoring extract, confectionery, or condiment, whether simple, mixed or compound. The term "flavoring extract," as used in this chapter, includes all articles used as a flavor for foods or drinks, whether used or sold as an extract, flavor, essence, tincture or by another name. [1906]

Sec. 5778. Adding of water to increase weight.

Food, drink, confectionery or condiments are adulterated within the meaning of this chapter * * * (12) if water or any other substance has been added for the purpose of increasing its weight. [1909; last amended 1943.]

Sec. 5784. When drug deemed misbranded.

A drug shall be misbranded within the meaning of this chapter [Secs. 5774—5805-27]: * * * (2) if the package containing it or any label thereon bears a statement, design or device regarding it or the ingredients or substances contained therein, which is false or misleading in any particular; * * *. [1908; last amended 1943.]

Sec. 5785. When food deemed misbranded.

Food, drink, flavoring extracts, confectionery or condiment, shall be misbranded within the meaning of this chapter [Secs. 5774—5805-27]:

* * * * *

3. If in package form, and the contents are stated in terms of weight or measure, they are not

plainly and correctly stated on the outside of the package; [1908; last amended 1919.]

* * * * *

General Code, Throckmorton 1948, Part Fourth, Title I, Ch. 6—Food and Drugs, Penal Provisions.

Sec. 12758. Selling misbranded article; penalty.

Whoever manufactures for sale, offers for sale or sells a drug, article of food, or flavoring extract which is * * * misbranded * * * or manufactures, offers or exposes for sale or delivers a drug or article of food and fails, upon demand and tender of its value, to furnish a sample thereof for analysis, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and, for each subsequent offense, shall be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned in the county jail not less than thirty days nor more than one hundred days, or both. [1884; last amended 1908.]

Sec. 12758-1. Violation of Sec. 5778: Confiscation and destruction of machinery; evidence.

Whenever anyone has been taken into custody for the violation of the provisions of section 5778 of the General Code, any apparatus or machinery used in such violation shall be confiscated by the arresting officer and shall be used as evidence against the alleged violator. After the trial and conviction of the alleged violator such apparatus or machinery shall be destroyed. [1941]

General Code, Throckmorton 1948, Part Second, Title II, Ch. 11—Grist Mills.

Sec. 5973. Rates of toll.

The owner or occupier of a water or steam grist-mill, may take for toll the one-tenth part of wheat, rye or other grain, ground and bolted, the one-twelfth part of rye, malt or buckwheat, ground or chopped, and the one-eighth part of corn ground in such mill. If a horse-mill, and the proprietor thereof furnishes the horses or team, he may take for toll one-fourth part of the grain ground, or ground or bolted; otherwise he shall be entitled only to the one-eighth part. [1830-31; last amended 1891.]

Sec. 5974. What owner to return in lieu of wheat ground.

An owner or occupier of a grist-mill or exchange store refusing to return the product of a grist of wheat ground, less lawful toll, shall return in lieu thereof to his customers, merchantable flour, shorts and bran for each bushel of merchantable wheat delivered to him as follows: For each bushel of merchantable wheat weighing sixty or more pounds to the measured bushel, thirty-six pounds of number one family flour and fourteen pounds of shorts and bran; for each bushel of merchantable wheat weighing less than sixty pounds and not less than fifty-nine pounds to the measured bushel, thirty-five

pounds of number one family flour and fourteen pounds of shorts and bran; for each bushel of merchantable wheat weighing fifty-eight pounds to the measured bushel, thirty-four pounds of number one family flour and fourteen pounds of shorts and bran; and for each bushel of merchantable wheat weighing fifty-seven pounds to the measured bushel, thirty-three pounds of number one family flour and fourteen pounds of bran. [1830-31; last amended 1891.]

General Code, Throckmorton 1948, Part Second, Title II, Ch. 14—Inspection of Various Articles.

Sec. 5987. Inspectors: Appointment.

When necessary, the probate judge of any county shall appoint one gauger and inspector of spirits, linseed oil, lard oil and coal oil; one inspector of flour, meal and biscuit; one inspector of beef, pork, lard and butter; one inspector of pot and pearl ashes; one inspector of fish; one inspector of sawed lumber and shingles, and one inspector of salt. Such judge, on complaint and sufficient cause shown, may remove such inspector and fill the vacancy for the unexpired term. The inspector shall serve for the term of three years and may appoint as many deputies as are required. [1830-31; last amended 1861.]

[ED. NOTE.—In General Code of Ohio, following the foregoing section, it is stated: "Are not Secs. 5987 to 5997 obsolete?"]

Sec. 5988. Same: Oath and bond.

Before an inspector or deputy inspector enters upon the duties of his office, he shall take an oath that he will faithfully and impartially execute the duties required of him by law. The inspector shall enter into bond, with sufficient freehold security to be approved by the court, in such sum as the court may require, but not less than three hundred dollars nor more than one thousand dollars, and made payable to the state. Such bond, conditioned for the faithful and impartial performance of such duties shall be deposited with the treasurer of such county. [1830-31]

Sec. 5989. Same: Suits on bond.

A person injured by the incapacity, neglect or misconduct of such inspector or his deputy, may institute a suit on a copy of the bond, certified by the treasurer of such county, for the use of the person suing. Such bond shall not become void on the first or a subsequent judgment; but suit must be instituted within one year after the cause of action accrues. [1830-31]

Sec. 5990. Same: General duties.

Inspectors, or their deputies, on application within their respective counties, shall inspect wheat or rye flour, buckwheat meal, biscuit, butter, lard, pork, beef, fish, and pot or pearl ashes, and stamp with branding irons, to be provided by the in-

General Code, Throckmorton 1948, Part Second,
Title II, Ch. 14—Inspection of Various Articles—
Continued.

spector for that purpose, the name of this state, the county where inspected, the kind and quality of the article inspected, and the weight thereof on the hoghead, cask, box, package, barrel or part thereof, containing such inspected articles, which shall be conclusive evidence between vendor and vendee at the time of such inspection. Such branding irons shall be made and lettered as directed by the probate court. The inspector shall make, in a book to be provided by him for that purpose, entries of all articles inspected by him or his deputies, with the names of the persons for whom such articles were inspected. When short weight is ascertained or under tare marked, the inspector so finding, shall be entitled for each hoghead, cask or box containing over one barrel, twenty cents, and for each barrel and under, ten cents. The charges for repacking and coeprage shall not be more than the average price paid for such work at the time such inspection is made, to be paid by the person demanding such inspection, or as the parties may agree. In case of forfeiture, the person for whose benefit it is condemned, shall pay such charges and if there is no condemnation, such inspector shall be entitled to like fees for the inspection of weight as for quality. [1830-31; last amended 1857.]

Sec. 5991. Same: Unmerchantable articles.

If the inspector or his deputy finds, on view, that any of the barrels, firkins or kegs herein mentioned are not made in conformity with the provisions of this chapter [Secs. 5987-5997], he shall desist from further inspection of the contents thereof, judge them unmerchantable and condemn, brand or mark such barrel or other cask accordingly. This section shall not prevent a repacking of such articles in proper and sufficient barrels and casks, and when so repacked may be inspected and passed, if found good and merchantable, as in other cases under this chapter. [1830-31]

Sec. 5992. Same: Neglect of duty; penalty.

If an inspector, or his deputy, fails or neglects to perform the duties of his office, or purchases, stores, freights, or deals in an article he is appointed to inspect, or is convicted of partiality, or of having acted contrary to the requirements of this chapter [Secs. 5987-5997], he shall forfeit and pay, for each offense, not exceeding fifty dollars, with costs of suit, to be recovered for the use of the county, and shall forfeit his office, and be liable to the party injured for damages. [1830-31; last amended 1832.]

Sec. 5993. Manufacturer undermarking tare; penalty.

A manufacturer of flour or meal, or packer of meat, butter, lard or other packed article sold by weight, undermarking the tare upon a hoghead,

cask, box or barrel, or part thereof, or placing thereon a less quantity than that marked or branded thereon as specified by law, shall forfeit the hoghead, cask, box or barrel, or part thereof and half the contents thereof. One-fourth of such entire contents shall go to the party injured, prosecuting the case with such other damages as he may sustain, and the other fourth to the use of the poor of the township where the conviction is had. The residue shall be accounted for to such manufacturer or packer, who shall be notified by such inspector. Such forfeiture shall not take place, nor conviction be had, when light weight was occasioned after leaving such manufacturer or packer, if such packing was done according to law. [1857]

Sec. 5994. Inspector: Procedure upon condemnation; certificate.

When the inspector condemns an article enumerated in this chapter [Secs. 5987-5997], he shall forthwith deliver to the owner thereof or his agent, on demand, a certificate, distinctly setting forth the time, place and cause of such condemnation. When such articles have been inspected and declared of good quality and merchantable, he shall deliver a certificate thereof on demand for the benefit of the owner thereof. [1830-31]

Sec. 5995. Same: Inspection fees.

Inspectors, appointed under this chapter [Secs. 5987-5997] shall receive the following fees for their services: For each barrel of wheat flour or rye flour, three cents; for each barrel of buckwheat meal, two cents; for each barrel of domestic spirits, five cents; for each barrel of biscuits, six cents; for each firkin or keg of butter or lard, three cents; for packing and inspecting each barrel of pork or beef, twenty cents; for each half-barrel thereof, fourteen cents; for packing, examining and inspecting each barrel of fish, twenty cents; and for inspecting each barrel of pot or pearl ashes, twelve cents. [1830-31]

Sec. 5996. Same: Offenses; penalties.

An inspector or deputy inspector demanding or receiving a greater sum than provided in the next preceding section, or purchasing an article inspected and condemned by him as unfit for exportation, unsaleable or unmerchantable, shall forfeit and pay to the state, for each offense, not exceeding fifty dollars, together with costs of suit. [1830-31]

Sec. 5997. Municipal corporations may appoint inspectors.

This chapter [Secs. 5987-5997] shall not affect the power to appoint inspectors granted to a municipal corporation. [1830-31]

Sec. 5998. Flour and meal: Barrel dimensions; weight when packed; marking requirements.

Flour and meal shall be packed in well-made barrels of seasoned timber, twenty-seven inches in

length, when finished, with a cut head of seven-teen and one-half inches, tightly bound, with ten smart hoops or six flat hoops two inches broad, secured with four nails in each end hoop, and three nails in each outward bilge hoop. Such barrel shall contain one hundred and ninety-six pounds of flour or meal, and the tare thereof shall be marked on the head of such barrel by the miller, with a marking iron. The weight of the flour or meal shall be branded on the barrel with a branding iron, to be provided by him for that purpose. * * * [1830-31]

Sec. 5999. Same: Barrel and package brand; offenses; penalties.

A miller or mill owner shall brand or cause to be branded on the head of each barrel or side of each sack the weight and quality of the flour or meal contained therein, and the initial letter of his christian name and his surname in full; or if the mill is owned or operated by more than one person, then the name of such persons or such company. If a miller, mill owner or company neglects to so brand such flour or meal, or packs or exposes it for sale in a barrel or sack of a less quantity or poorer quality than is branded thereon, he or they shall forfeit and pay for each offense ten dollars for the use of the county, and be liable to the person injured in double the amount of damages sustained. [1876; last amended 1891.]

Sec. 6001. Same: Fraudulent packing; penalty.

A miller or other person packing or causing to be packed bran, shorts, middlings or unmerchantable flour, with intent to defraud another, shall forfeit and pay for such offense not less than one hundred dollars nor more than five hundred dollars, for the use of the county, and be liable to the party injured in damages. The statement of the amount and quality so placed upon such barrels or sacks shall be a warranty of the facts stated thereon. [1876]

Sec. 6002. Beef and pork: Regulation barrel.

Barrels for beef or pork shall be made of sound, well seasoned white oak timber, clear of sap wood, twenty-nine inches in length, with a cut head of seventeen and a half inches in diameter, bound with strong hoops, one-third of the length thereof, at each end. When packed and headed up the outward hoop on each end shall be secured with four nails of suitable size. [1830-31]

Sec. 6003. Same: Regulation half-barrels.

Half-barrels for beef or pork shall be made of sound, well seasoned white oak timber, clear of sap, twenty-four inches in length, with a cut head four-teen inches in diameter, bound with hoops one-third the length thereof, at each end, the outward hoops thereof being secured with at least three nails of suitable size. [1830-31]

Sec. 6004. Same: Weight and contents of barrel; mess beef; prime beef.

A barrel of beef or pork, packed for exportation, shall contain two hundred pounds of sound, clean, well slaughtered meat, that is well fattened. "Mess beef" shall be cut, if possible, into well formed pieces of ten pounds, so that twenty pieces shall make the weight, and shall be well assorted, excluding legs, leg rounds, necks and shoulder clots. "Prime beef" shall be cut in like manner and well assorted, and may include not exceeding two leg rounds, excluding the point of the neck and clotted pieces. Fifty pounds of clean, fair, dry salt, and four ounces of saltpeter shall be packed into each barrel. When the barrel is packed and headed, it shall be filled with strong pickle. [1830-31]

Sec. 6005. Same: Barrel of mess pork or prime pork; navy pork.

A barrel of "prime pork" shall consist of twenty-five pieces, weighing eight pounds each, if possible, making two hundred pounds, which may include one head and a half, and six shanks, excluding the legs, ears, and snouts, to be composed of the assorted meat of one hog and a half; or three shoulders, one head and a half, exclusive of the legs, snouts and ears, and the remainder in side pieces. A barrel of "mess pork" shall consist of twenty-five pieces, of eight pounds each, if possible making two hundred pounds of pork, from the middlings or sides of hogs weighing not less than two hundred pounds each. A barrel of "navy pork" shall consist of twenty-five pieces, of eight pounds each, if possible, making two hundred pounds of pork, assorted, excluding shanks and faces, no hog to weigh less than one hundred and fifty pounds net. Such pieces shall be packed on the edge, with at least fifty pounds of clean, fair salt, and two ounces of saltpeter to each barrel. When thus packed and headed each barrel shall be filled with strong pickle. [1830-31]

Sec. 6006. Linseed, flaxseed or lard oil: Standard weight of gallon.

When linseed, flaxseed or lard oil is sold by the barrel, without a special agreement as to the measurement thereof, the standard for linseed or flaxseed oil shall be seven and one-half pounds to the gallon; and for lard oil, seven and two-fifths pounds to the gallon. [1857; last amended 1869.]

Sec. 6007. Same: Regulation barrel.

Barrels for linseed, flaxseed or lard oil shall be made of sound, well seasoned timber, bound with strong hoops, and the outward hoop on each end shall be secured with three nails of suitable size. [1857; last amended 1869.]

Sec. 6008. Same: Inspection for weight; brand.

Inspectors shall inspect barrels intended for linseed, flaxseed or lard oil, and before filling them, ascertain the weight thereof, and when so inspected

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and weighed, mark on such barrel the weight thereof with marking irons, provided by the inspector for that purpose, with his name and the name of the county. [1857; last amended 1869.]

Sec. 6009. Same: Inspection fee.

The inspector shall be entitled to ten cents for each barrel intended for linseed, flaxseed or lard oil inspected and weighed by him when the quantity required to be inspected and weighed at one time is less than twenty-five barrels; but when it exceeds twenty-five barrels, he shall receive five cents per barrel. He shall receive five cents for each mile necessarily traveled in the performance of his duty. [1857; last amended 1869.]

Sec. 6013. Fish: Regulation barrel.

Fish barrels shall be made of good, sound and seasoned timber, approved by the inspector, and be bound with at least twelve sufficient, smart hoops, or eight flat hoops, not less than two inches broad, secured with at least three nails in each chime hoop, and contain two hundred pounds of clean fish in each barrel, and one hundred pounds of clean fish in each half-barrel. Only one species of fish shall be packed into each barrel or half-barrel. All fish shall be salted with not less than fifty pounds of coarse salt, or fifty-six pounds of fine salt to each barrel, and in a like proportion to each half-barrel. [1832]

Sec. 6016. Same: Weight of barrel; marking requirements.

A barrel of fish shall contain two hundred pounds, and a package or vessel being or purporting to be a fractional part of such barrel, shall contain a like fractional part of two hundred pounds net, of fish, exclusive of salt, brine and package. A barrel or other vessel of fish packed or sold in this state, shall have the number of pounds contained therein distinctly branded upon the heads thereof. [1872]

Sec. 6017. Same: Packer; bond.

A person or firm engaged in packing, repacking or selling packed fish in this state, may enter into bond to the state, with sufficient surety approved by the clerk of the court of common pleas of the county wherein such person or firm is so engaged, in the sum of five thousand dollars, conditioned for the packing or repacking and branding of fish, according to law. Such bond shall be deposited and kept in such clerk's office, and may be proceeded on by a person aggrieved. [1872]

Sec. 6018. Same: Packer as inspector; brand.

A person or firm so entering into bond, may inspect and brand fish packed or sold by him or it. Such brand shall set forth the full name and place of business of such person or firm, the quality, kind

and weight of fish so packed and sold, and be a guaranty of the facts so set forth, and for a breach thereof, such person or firm shall be liable on such bond. [1872]

Sec. 6019. Same: Offenses; penalty.

A person shall not pack a barrel or other vessel, without the weight, quality and kind of fish contained therein, is branded thereon, or knowingly sell or offer for sale such barrel or other vessel of fish without being so branded, or having in fact less quantity or a different quality or kind therein than that represented in the brand, unless the variation is distinctly noted in writing upon a card fastened upon the head of such barrel or vessel at the time of the sale or of the offer to sell. A person so offending, for each offense, shall forfeit and pay not less than ten dollars nor more than one hundred dollars and costs, recoverable before any justice of the peace having jurisdiction, at the suit and for the use of a person aggrieved, and be liable for damages. [1872]

Sec. 6020. Salt: Regulations as to packing; marking requirements.

Manufacturers of salt shall have it sufficiently drained, and packed in good barrels made of good, sound, seasoned timber; the head and bilge hoops to be nailed with not less than four nails in each hoop. The head shall be bored with a metallic instrument not less than one inch in size. The name of the manufacturer shall be distinctly branded on the head thereof. Salt sold at the manufactory shall be marked with the net weight in figures, directly under the name, with good, durable paint. [1852]

Sec. 6021. Same: Penalty for violating preceding section.

A manufacturer refusing to comply with the next preceding section shall forfeit for each offense the sum of fifty cents per barrel, to be collected by any person in a civil action. [1852]

Sec. 6022. Same: Shipment in bulk.

This chapter shall not prohibit manufacturers from shipping salt in bulk. [1852]

Sec. 6029. Same: Tare on salt barrels.

The inspector of salt shall regulate the tare of barrels as follows: barrels weighing less than three hundred pounds shall be tared at thirty pounds; barrels weighing over three hundred and less than four hundred, shall be tared at thirty-five pounds; and barrels weighing over four hundred pounds shall be tared at forty pounds. [1844]

Sec. 6036. Butter and lard: Marking requirements.

Butter and lard shall be packed in tight and well seasoned firkins or kegs, on each of which shall be marked with a marking iron, the tare and net weight of the contents thereof. * * * [1830-31]

Sec. 6037. Biscuits: Marking requirements.

Casks containing biscuits, packed for exportation, shall be of a like size and quality as those specified for flour in this chapter, and the tare and net weight shall be marked thereon with a marking iron. * * * [1830-31]

Sec. 6038. Pot and pearl ashes: Regulation barrel; tare.

Pot and pearl ashes, subject to inspection, shall be placed in barrels of well seasoned white oak or white ash, hooped with substantial hoops for at least ten inches from each end, the staves not to be more than thirty-one inches nor less than thirty inches in length. The head of a pot ash barrel shall not exceed nineteen inches, and that of a pearl ash barrel, twenty-one inches in diameter; and no barrel shall be tared less than fifty-six pounds. Barrels weighing fifty-six pounds or more shall be so tared. * * * [1830-31]

Sec. 6039. Soap and candles: Package marking; penalty.

Manufacturers of soap and candles shall mark upon each package or box thereof offered for sale the name of the manufacturer, and the net weight avoirdupois of the contents thereof, in legible letters and figures. A manufacturer neglecting or refusing to comply with the provisions of this section or placing in such box or package a less quantity than is marked or branded thereon shall forfeit one dollar for each offense and pay the costs of prosecution. Forfeitures collected hereunder shall be paid into the treasury of the county in which they are collected. [1861]

General Code, Throckmorton 1948, Part Second, Title II, Ch. 15—Intoxicating Liquors.**Sec. 6064-3. Packages: Board to determine nature, form and capacity.**

The board of liquor control shall have the power except as otherwise provided in this section:

1. To adopt and promulgate, repeal, rescind, and amend, in the manner herein required, rules, regulations, standards, requirements, and orders necessary to carry out the provisions of the liquor control act, and amendments thereof, including the following:

* * * * *

(c) Rules and regulations determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor to be kept or sold pursuant to the liquor control act and amendments thereof, whether in state liquor stores or otherwise; and governing, consistently with the law, the form of all seals and labels to be used thereon * * *. The board may require the label on every package, bottle and container to state the ingredients in the contents and the terms of weight, volume or proof spirits, and whether the same is beer, wine, alcohol or any intoxicating liquor. [1933; last amended 1947.]

* * * * *

General Code, Throckmorton 1948, Part Second, Title II, Ch. 24—Paints and Naval Stores.**Sec. 6331. Marking requirements.**

No person, firm or corporation shall expose for sale, offer for sale, or sell within this state, paint, naval stores or linseed oil which is labeled or marked so as to tend to deceive the purchaser thereof as to its nature or composition, or which is not labeled as required by this chapter [Secs. 6331-6336]. [1908; last amended 1923.]

Sec. 6334. Measure or weight to be shown.

The label on paint sold by measure shall show the net measure of the contents of the container, and on paint sold by weight, the net weight of the contents of the package. [1908]

Sec. 6335. Evidence of violation.

The possession of an article or substance improperly marked or inaccurately labeled, as provided in this chapter [Secs. 6331-6336], by a person, firm, or corporation dealing therein shall be prima facie evidence that it is so kept in violation of this chapter and the penal statutes relating thereto. [1908]

Sec. 6336. Enforcing agency.

The secretary of agriculture shall enforce the provisions of this chapter [Secs. 6331-6336] and the penal statutes relating thereto * * * [1908; last amended 1923.]

1 See Sec. 13168 below.

General Code, Throckmorton 1948, Part Fourth, Title I, Ch. 16—Paint and Naval Stores, Penal Provision.**Sec. 13168. Penalties for violations.**

Whoever violates any provisions of law relating to the labeling, marking, stenciling, selling, offering or exposing for sale, or advertising of paints, mixed paints and similar compounds, naval stores, linseed oil, or white lead by manufacturers or distributors thereof, shall be fined not more than fifty dollars (\$50.00) and for each subsequent offense shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or imprisoned not less than thirty days, nor more than one hundred days, or both. [1908; last amended 1923.]

General Code, Throckmorton 1948, Part Second, Title IX, Ch. 6—Gas Meters.**Sec. 9326. Standard measure for gas.**

The standard or unit of measure for the sale of illuminating gas by meter shall be the cubic foot, containing sixty-two and three hundred twenty-one one-thousandth pounds avoirdupois weight of distilled or rain water, weighed in air, of the temperature of sixty-two degrees Fahrenheit's scale, the

General Code, Throckmorton 1948, Part Second,
Title IX, Ch. 6—Gas Meters—Continued.

barometer being at twenty-nine and one-half inches. [1866]

Sec. 9327. Gas meters: Testing; sealing; penalty.

No meter shall be set unless it is tested by a meter-prover, sealed and stamped as hereinafter provided. A company [gas company] authorizing the setting of a meter, or allowing it to be used by a consumer of gas, without being so sealed and stamped, shall forfeit and pay not less than twenty-five nor more than one hundred dollars, to be recovered upon the complaint of such consumer, in the name of the state, before any court of competent jurisdiction. [1867]

Sec. 9329. Same: Testing upon request; tolerances; fees.

Meters in use shall be tested on the request of the consumer, in his presence, if desired, with a meter-prover, tested and sealed as provided by law, by an officer or servant of the company. If the meter be found to be correct, and it shall be deemed correct if there be no greater variation than three per cent, the party requesting the inspection shall pay a fee of twenty-five cents and the expense of removing it for the purpose of being tested. The reinspection shall be stamped on the meter. If proved incorrect, no fees or expenses shall be paid by the consumer, and the company [gas company] shall furnish a new meter without charge to the consumer. No gas company shall charge rent for meters. [1867]

Sec. 9330. Same: Type of company affected; penalty.

The provisions of the preceding section shall apply to all gas companies, supplying the public with either natural or artificial gas. The failure of any person, firm or corporation so providing either natural or artificial gas to the public to comply with the provisions of such section shall cause the person, firm or corporation to forfeit and pay to the state not less than twenty-five dollars, nor more than one hundred dollars, to be recovered upon the complaint of any consumer of such gas in the name of the state before any court of competent jurisdiction. [1867; last amended 1908.]

General Code, Throckmorton 1948, Part Fourth,
Title I, Ch. 6—Milk and Cream.

Sec. 12722. Babcock test: Standard measures or pipettes; penalty for use of non-standard measures.

Whoever uses a standard measure of milk or cream other than that which is defined in this section, where milk or cream is purchased by or furnished to creameries or cheese factories and where the value of such milk or cream is determined by the per cent of butter fat contained therein by the Babcock test, shall be fined not less

than twenty-five dollars nor more than one hundred dollars. In the use of the Babcock test the standard milk measures or pipettes shall have a capacity of 17.6 cubic centimeters and the standard test tubes or bottles for milk shall have a capacity of two cubic centimeters for each ten per cent marked on the necks thereof. The standard unit of cream for testing shall be nine grams. [1904; last amended 1943.]

Sec. 12723. Same: Selling misbranded glassware; penalty.

Whoever offers for sale or sells a milk pipette or measure, test tube or bottle which is not correctly marked or graduated as provided in the next preceding section, shall be fined not less than twenty-five dollars nor more than one hundred dollars. [1904]

Sec. 12724. Same: Penalty for manipulating test.

Whoever, at a cheese factory, creamery, condensed milk factory or other place where milk is tested for quality or value, manipulates, underreads or overreads the Babcock test or any other contrivance used for determining the quality or value of milk or cream, or makes a false determination by the Babcock test or otherwise, or whoever, being the purchaser of milk, fails to retain the sample, from which the butterfat content has been determined as a basis for computing price to the producer, for a period of forty-eight hours, or in the case of cream, twenty-four hours, following such test, shall be fined not less than twenty-five dollars nor more than one hundred dollars. [1904; last amended 1941.]

Sec. 12726. Penalty for selling watered or short-weight milk.

Whoever, with intent to defraud, sells, delivers, or causes to be delivered, to a cheese or butter factory, milk which is adulterated or diluted within the meaning of the law, or from which any cream has been taken, or from which the part known as "stripping" has been withheld, or keeps or renders a false account of the quantity or weight of milk furnished at or to a factory or sold to a manufacturer, shall be fined not less than fifty dollars nor more than two hundred dollars, and, for each subsequent offense, shall be fined not less than one hundred dollars nor more than five hundred dollars and imprisoned not less than ten days nor more than ninety days. [1886]

Sec. 12728. Penalty for selling falsely branded or labeled milk.

Whoever sells, exchanges, exposes, offers for sale or exchange, has in his possession or disposes of milk which is falsely branded, labeled, marked or represented as to grade, quantity or place where produced or procured, shall be fined not less than fifty dollars nor more than two hundred dollars, and for each subsequent offense shall be fined not less than one hundred dollars nor more than five hundred dollars and imprisoned not less than ten days nor more than ninety days. [1886]

General Code, Throckmorton 1948, Part Fourth,
Title I, Ch. 6—Maple Syrup.

Sec. 12763. Definition; standard weight of gallon.

Maple sugar or pure maple sugar and maple syrup or pure maple syrup are the unadulterated product by the evaporation of pure sap from the maple tree. The standard of weight of a gallon of maple syrup of two hundred and thirty-one cubic inches shall be eleven pounds. A substance purporting to be maple syrup or maple sugar not made in compliance with this section shall be an adulteration of maple syrup or maple sugar, and maple syrup of less weight than herein required shall be an adulteration of maple syrup. [1921]

Sec. 12764. Penalties for violations.

Whoever manufactures for sale, offers for sale, has in his possession with intent to sell, or sells or delivers, as and for maple syrup or maple sugar, an adulteration thereof shall be fined not less than fifty dollars nor more than two hundred dollars. [1921]

General Code, Throckmorton 1948, Part Fourth,
Title I, Ch. 16—Frauds.

Sec. 13106. Selling by false weights; penalty.

Whoever, in buying or selling any property, or directing or permitting an employee so to do, makes or gives a false or short weight or measure; or whoever has charge of scales or steel yards fixed for the purpose of misweighing an article bought or sold, or, having scales or steel yards for the purpose of weighing property, reports a false or untrue weight; or whoever uses in the sale of a commodity a computing scale or device indicating the weight and price of such commodity upon which scale or device the graduations or indications are false, or inaccurately placed, either as to weight or price, shall be fined not more than five hundred dollars. [1869; last amended 1923.]

Sec. 13107. Sale of stone-coal by unlawful weights or measures; penalty.

Whoever sells and delivers stone-coal except at legal weights and measures, shall be fined not less than five dollars nor more than fifty dollars or imprisoned not less than five days nor more than thirty days. [1869]

Sec. 13109. Miller, etc. must use standard half-bushel; offense; penalty.

Whoever, being a commission merchant, miller, dealer, grain inspector, company, firm, association, or person, or an officer, agent or employee thereof purchasing or receiving wheat in barter or exchange for flour, or otherwise, from the original producer, his agent or employe, for testing or determining the weight, grade, milling or market value thereof, uses a measure other than the standard half-bushel¹ or uses a measure that is a fractional part of such

standard half-bushel, furnished this state by the United States, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned in jail not more than thirty days, or both. Fines collected under this section shall be paid into the county treasury to the credit of the county fund. [1894]

¹ Standard bushel, see Sec. 6418, page 772.

Sec. 13110. Taking illegal toll at mill; penalty.

Whoever, being the owner or occupier of a mill, or his representative, agent or miller, takes a greater proportionate quantity of toll than is allowed by law,¹ shall be fined not more than twenty dollars and be liable to the party injured in damages. [1830—31]

¹ For legal toll, see Secs. 5973, 5974, page 785.

Sec. 13128. Packaged commodities; Failure to mark weight or quantity on packages; exceptions; sale by net weight; penalty.

Whoever puts up or packs goods or articles sold by weight or count into a sack, bag, barrel, case or package, or whoever puts up or fills a bottle, barrel, keg, drum, can or other container with any commodity sold or offered for sale by liquid measure, shall mark thereon in plain letters and figures the exact quantity of the contents thereof in terms of weight, measure or numerical count; provided, however, that reasonable tolerances and variations and also exemptions as to small packages shall be established by rules made by the secretary of agriculture and shall conform to those of the federal law, and provided, further, that this act shall not apply to such packages or containers, weighed, put up, packed or filled in the presence of the customer.

* * * * *

Any article or commodity packed and sold by weight shall be sold by net weight only, and no wood, paper, burlap, cord, paraffin or other substance used for wrapping or packing, shall be included as a part of the weight of such commodity sold.

Provided, however, that nothing in this section shall prohibit making a reasonable separate charge for any wrapper or container used in packing or preparing such article or commodity for sale, if such be agreed to by the purchasers of such article or commodity at time of sale. Any person, firm, company, corporation or agent, who fails to comply with any provision of this act [section], shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00). * * * [1856; last amended 1919.]

Sec. 13128-1. Fruits and vegetables: Definitions.

The terms fresh fruits, or vegetables, as used in sections 13128-1 to 13128-10 of the General Code inclusive, shall include all fresh fruits, or vegetables, except apples, peaches, potatoes and dry onions.

General Code, Throckmorton 1948, Part Fourth,
Title I, Ch. 16—Frauds—Continued.

The term container as used in sections 13128-1 to 13128-10 of the General Code inclusive, shall mean any type or size of package except unit containers removed from larger containers marked in accordance with the provisions of the above enumerated General Code sections, or containers commonly known as units filled from containers marked in accordance with the above enumerated General Code sections, or containers sold and delivered by the producer to the consumer on the premises where produced.

* * * * *

Whenever the word "director" is used in the above enumerated General Code sections it shall refer to the director of the Ohio department of agriculture. [1933; last amended 1949.]

Sec. 13128-2. Same: Containers; marking requirements.

Every person who packs or repacks fresh fruits, or vegetables or transports, common carriers excepted, consigns, delivers or offers the same for sale, either privately or in the open market, shall cause such containers to be marked in a plain and legible manner as follows:

* * * * *

2. The net contents by weight, or numerical count except when packed in a standard container built in accordance with the specifications of the federal standard container act. [1933; last amended 1949.]

Sec. 13128-3. Same: Sale in unmarked containers prohibited; exceptions.

No person shall sell, offer for sale, expose or have in his possession for sale, either privately or upon the open market, fresh fruits or vegetables packed in containers; or transport, common carriers excepted, consign, deliver, or offer the same for sale, unless such containers are marked in accordance with the provisions of this act [Secs. 13128-1—13128-10]; * * * [1933; last amended 1949.]

Sec. 13128-5. Same: Penalty for violating act.

Any person who violates the provisions of this act [Secs. 13128-1—13128-10] shall be fined not more than twenty-five dollars, in addition to the costs of prosecution. For each subsequent offense he shall be fined not less than fifty dollars and the costs of prosecution, or more than two hundred dollars in addition to such costs. [1933; last amended 1949.]

Sec. 13128-6. Same: Enforcement.

Justices of the peace, mayors, municipal courts and courts of common pleas shall have jurisdiction in the provisions of this act [Secs. 13128-1—13128-10]. The director and such other employees of the

Ohio department of agriculture as the director may designate, police officers, sheriffs and deputy sheriff shall enforce the provisions of this act. Certificate of inspection issued by duly licensed inspectors of the Ohio department of agriculture shall be considered as prima facie evidence of the facts contained therein in any of said courts. [1933; last amended 1949.]

Sec. 13128-8. Same: Disposition of penalties.

All fines assessed under the terms of this act [Secs. 13128-1—13128-10] shall be paid into a permanent revolving fund to be known as, "The Ohio Fresh Fruit and Vegetable Standardization Fund," the proceeds of which fund are to be used in the enforcement of this act and in the general inspection of fresh fruits and vegetables. [1933]

Sec. 13128-9. Same: Exceptions.

This act [Secs. 13128-1—13128-10] shall not apply to products in transit from point of origin to place of processing or further grading or conditioning. [1933]

Sec. 13128-10. Same: Used containers.

When fresh fruits or vegetables are packed in containers previously used for the same fruit or vegetable, any markings pertaining to previous contents of such containers shall be obliterated and new markings shall be placed thereon which markings shall be plain, distinguishable and legible. [1933; last amended 1949.]

Sec. 13128-12. Apple container: Definition.

The term "container" shall mean any type of package containing apples. Nothing in this act [Secs. 13128-12—13128-21] shall be construed to apply to a common carrier. [1941]

Sec. 13128-13. Same: Marking requirements.

Every person, firm, or corporation who, by themselves or by their agents or employees, pack or repack apples in containers, or transports, consign, deliver, or offer the same for sale, either privately or in the open market, shall cause such containers to be marked in a plain and indelible manner as follows:

* * * * *

2. The net contents by weight or numerical count, if not in a standard container built in accordance with specifications of the federal standard container act. [1941]

* * * * *

Sec. 13128-17. Same: Penalty for violations.

Every person, firm, corporation or organization who by themselves, their agents or employees, violates any of the provisions of this act [Secs. 13128-12—13128-21] shall for each offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding twenty-five dollars nor less than five dollars for the

first offense; not exceeding fifty dollars nor less than forty dollars for the second; not exceeding two hundred dollars nor less than one hundred dollars for the third and all following offenses, and all costs for each and every offense. [1941]

Sec. 13128-18. Same: Enforcing agency.

The power of enforcement of this act [Secs. 13128-12—13128-21] shall be vested in the Ohio bureau of markets, and certificates of inspection issued by duly licensed inspectors of such bureau of markets, shall be considered as prima facie evidence in any state court of the facts contained therein. [1941]

Sec. 13128-19. Same: Disposition of penalties.

All fines assessed under the terms of this act [Secs. 13128-12—13128-21] shall be paid into a permanent revolving fund to be known as, "the Ohio fresh fruit and vegetable standardization fund", the proceeds of which fund are to be used in effectuating the purpose and enforcement of this act. [1941]

Sec. 13128-20. Same: Exceptions.

This act [Secs. 13128-12—13128-21] shall not apply to apples in transit from the premises of the producer to the floor of a grading or processing plant; nor shall it apply to any apples exposed on the floor of such grading or processing plant; nor shall it apply to apples sold and delivered by the producer to the consumer on the premises where produced. [1941]

Sec. 13128-21. Same: Used containers.

When apples are packed in used containers, carrying any markings pertaining to the previous contents of such containers, such previous markings or label shall be obliterated, and the new marking shall be plain, distinguishable, and legible. [1941]

Sec. 13147. Tobacco: False packing; penalty.

Whoever intentionally places or causes to be placed in a hogshead, barrel, box, package or parcel of leaf tobacco, a substance other than tobacco, with intent that such hogshead, barrel, box, package or parcel shall be exposed to sale or sold, and that the purchaser thereof shall be in ignorance of such substance, or falsely packs or causes to be packed, in a manner commonly known as "nesting", a hogshead, box, package or parcel of leaf tobacco, with intent that it shall be exposed to sale or sold, and that the purchaser thereof shall be in ignorance of its real character, or delivers or causes to be delivered for sale, a hogshead, box, package or parcel of tobacco containing such foreign substance or falsely packed and nested tobacco, to a warehouseman, commission merchant, dealer in tobacco or manufacturer thereof, knowing it to contain such foreign substance or to be so falsely packed or

nested, with intent that it shall be sold to purchasers ignorant of its real character, or changes or alters a sample selected by an inspector, as provided by law, with intent to defraud a purchaser or other person, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in jail not less than thirty days nor more than six months, or both, and be liable in damages to the inspector and person injured for the amount of such injury. [1881]

Sec. 13165. Binding twine: Marking requirements.

Whoever, being a dealer, manufacturing corporation, company or agent, sells or offers for sale a ball or parcel of binding twine, commonly employed in binding grain, without there is attached thereto a tab or label on which is written or printed the kind of material of which it is composed and the weight of such ball or parcel, shall be fined not less than one dollar nor more than twenty-five dollars. [1893]

Sec. 13193-2. False advertising; misdemeanor; penalty.

Whoever directly or indirectly makes, publishes, disseminates, circulates, or places before the public, in this state, in a newspaper, magazine or other publication, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, letter, sign, placard, card, label, or over any radio station, or in any other way, an advertisement or announcement of any sort regarding merchandise, securities, service, employment, real estate, or anything of value offered by him for use, purchase or sale, and which advertisement or announcement contains any assertion, representation or statement which is untrue, or fraudulent, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county jail not exceeding twenty days or by both said fine and imprisonment. [1913; last amended 1945.]

Sec. 13193-3. Same: Prosecuting attorney may bring action.

Whenever the prosecuting attorney of any county shall believe from evidence satisfactory to him that any person, firm, corporation or association, or agent or employee thereof, has repeatedly engaged in any act or practice prohibited by section 13193-2 of the General Code of the state of Ohio, he may bring an action in the name and on behalf of the people of the state of Ohio against such person, firm, corporation or association, or agent or employee thereof, to enjoin permanently such person, firm, corporation or association, or agent or employee thereof, from continuing such acts or practices. In said action upon a hearing on the merits an order or a judgment may be entered awarding the relief applied for or so much thereof as the court may deem proper. [1913; last amended 1945.]



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Statutes Annotated, Title 83, Ch. 1—Weights and Measures, State Standards.

Sec. 3.1. State standards.

The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836 and July 27, 1866, now in the care and custody of the State Bureau of Standards, and/or such weights and measures in conformity therewith as shall be supplied to the State shall, when the same shall have been certified by the National Bureau of Standards, be the State standards of weights and measures. Such State Standards shall be submitted at least once in ten (10) years to the National Bureau of Standards for certification. Such copies of the State Standards of weights and measures and such other weights, measures, and apparatus as may be necessary to carry out the provisions of this Act [Secs. 3.1, 81-93] shall be supplied by the State. [1949]

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Statutes Annotated, Title 83, Ch. 2—Weights and Measures, Standards.

Sec. 21. Enforcement of chapter.

The State Board of Agriculture shall be charged with the duties of enforcing the provisions of this chapter. [1910]

Sec. 22. Weights per bushel; per ton.

Whenever the articles hereinafter named shall be sold by the bushel, and no agreement as to weights or measures thereof shall be made by the parties, the bushel shall consist of the following number of pounds, viz:¹

	Pounds per Bushel
Apples	48
Barley	48
Beans	60
Beets	60
Buckwheat	52
Carrots	50

	<i>Pounds per Bushel</i>
Castor beans	46
Corn, in shuck	72
Corn, Kaffir	56
Corn meal	50
Corn, shelled	56
Corn, unshelled	70
Cucumbers	48
Malt	38
Oats	32
Onions	57
Parsnips	44
Peaches	48
Peaches, dried	33
Pears	48
Peas	60
Peas, split	60
Peas, green, unshelled	56
Potatoes, Irish	60
Potatoes, sweet	55
Salt	80
Rape	50
Rye	56
Rutabagas	50
Seed:	
Bermuda grass	40
Blue grass	14
Broom corn	48
Clover, including alfalfa and alsike (or Swedish)	60
Cotton	20
Flax	56
Hemp	44
Hungarian grass	48
Millet	50
Orchard grass	14
Osage orange	36
Red top	14
Sorghum	50
Timothy	45
Tomatoes	45
Turnips, common	42
Wheat	60
Lime	80
Mineral Coal	80
	<i>Cubic Inches per Bushel</i>
Coke	2,680
Charcoal	2,680

A ton shall consist of two thousand (2000) pounds of the article or commodity named. [1910]

1 A slight change has been made in the arrangement for convenience of reference.

Sec. 23. Hay: Standard ton.

A ton of hay shall consist of two thousand pounds, or, by measurement, three hundred and forty-three cubic feet, after the same shall have been stacked thirty days, or such time as may be agreed upon between the parties. [1910]

Sec. 24. Perch of stone or masonry.

A perch of mason work, or stone, is hereby declared to consist of twenty-five feet cubic measure. [1910]

Sec. 25¹. Mill products: Standard weights.

Mill products hereinafter mentioned shall have the following standard weights: Barrels of flour, in wood, one hundred and ninety-six pounds net; half barrels, in wood, ninety-eight pounds net; one-

fourth barrels, in sacks, forty-eight pounds gross; one-eighth barrels, in sacks, twenty-four pounds gross. Corn meal, in sacks, thirty-five pounds gross; half sacks, seventeen and one-half pounds gross; one-fourth sacks, eight and three-fourths pounds gross. And all feed made from cereals of any kind, whether pure, mixed, or adulterated, one hundred pounds per sack gross. [1910]

¹ For later act, see Secs. 31 and 32, page 798.

Sec. 26. Same: Marking requirements.

The correct name and true weight of the contents of each and every barrel, box, sack, bale, cask or package of any of the foregoing products, whether sold in single packages or lots, shall be plainly marked, branded or stenciled in letters and figures prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, upon the exterior of such barrel, box, sack, bale, cask or package, in a conspicuous place as the head in case of barrel, and the front or branded side in case of sacks, bales or packages, and it shall be unlawful for any person, firm or corporation, or the agent, employee or representative of any firm or corporation to sell or exchange any such product so packed or contained until the provisions hereof shall have been complied with. [1910; last amended 1941.]

Sec. 27. Penalty for violations.

If any person shall knowingly violate the provisions of this chapter [Secs. 21-29], he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than twenty-five dollars, nor more than one thousand dollars, and each violation shall be deemed a separate offense, which fine or fines shall be recovered in any court of competent jurisdiction, without bond or advance costs. [1910]

Sec. 28. Hindering inspector; penalty.

Any manufacturer, dealer or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any inspector or other person in the performance of his duty in connection with this chapter [Secs. 21-29] shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than twenty-five dollars, nor more than one hundred dollars. [1910]

Sec. 29. Mill products and cereals: Illegal sale; confiscation.

Any member of the Board of Agriculture shall have the privilege of seizing any mill product and cereal sold in the State in violation and contravention of the provisions of this chapter [Secs. 21-29], and may proceed by writ of provisional seizure against the mill products and cereals so sold in the

Statutes Annotated, Title 83, Ch. 2—Weights and Measures, Standards—Continued.

hands of whomsoever they may be and wheresoever he may find them, regardless of the residence of the owner thereof, to recover the fines and penalties due for the illegal sale thereof, by presenting a petition to a competent judge or magistrate, within whose jurisdiction said mill products and cereals are found, stating on oath at the foot of the petition the amount and nature of the demand, the mill products or cereals on which the privilege exists, and praying that the mill products and cereals be seized to satisfy the claim and pay the costs of the suit. [1910]

Sec. 30. Adoption of federal standards for agricultural products.

The State Board of Agriculture shall have authority to adopt the Standard Weights and Measures of agricultural products as set up by the Federal Bureau of Weights and Measures, to be used as the Standard for weighing and measuring such products in Oklahoma. [1913]

Sec. 31. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this State any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this Act [Secs. 31-32] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred (100) pounds, or for export, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1915]

Sec. 32. Same: Penalties for violations.

Any violation of this Act [Secs. 31-32] shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense. [1915]

Statutes Annotated, Title 83, Ch. 3—Weights and Measures, Weighing of Cotton.

Sec. 41. County weigher: Duties; record.

Wherever and whenever cotton is bought or sold, either for shipment or otherwise, and the

buyer or seller thereof shall so demand, such cotton shall be weighed by the County Weigher or by his duly appointed deputy or deputies; provided deputies have been appointed at such places, and it shall be the duty of each County Weigher, each Public Weigher, and each person, firm or corporation holding themselves out to the public as weighers of produce, together with the other duties of such weighers as now required by law, to make and keep a record of each and every mark, brand, letter, figure or other means of identification appearing upon each bale of cotton so weighed by such weigher, which record shall be kept and made accessible to any person desiring information regarding the identification of any such bale of cotton. [1925; last amended 1933.]

Sec. 42. Penalty for violations.

Any person violating any of the provisions of this Act [Secs. 41-42] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum of not less than Five (\$5.00) Dollars, nor more than Twenty-five (\$25.00) Dollars, for the failure to make and keep such record, and each particular case shall constitute a separate offense. [1925]

Statutes Annotated, Title 83, Ch. 4—Weights and Measures, Testing Scales.

Sec. 61. Equipment; personnel; method used; expenses; fees.

The President of the State Board of Agriculture is hereby authorized to secure such equipment as may be necessary to properly test scales used for the weighing of agricultural products, and to employ necessary personnel to make such tests whenever same are requested by the owner or user of any such scale. In testing any such scales, the method used shall conform to regulations and requirements prescribed by the Federal Bureau of Weights and Measures. The expenses of purchasing such equipment and making of such tests shall be paid out of the State Department of Agriculture Trust Fund. The President of the State Board of Agriculture shall charge for each inspection a fee which shall be equivalent to the expense incurred in making the same, which when collected shall be deposited in the State Department of Agriculture Trust Fund. [1943]

Statutes Annotated, Title 83, Ch. 5—Weights and Measures, Supervision.

Sec. 81. State director: Appointment; inspectors.

The State Board of Agriculture shall appoint a State Director of Weights and Measures who shall serve at the pleasure of the Board and who shall carry out the provisions of this Act [Secs. 3.1, 81-93], and shall also appoint necessary inspectors of weights and measures; and their compensation and other expenses necessarily incurred in carrying out the provisions of this Act shall be paid from the

Department of Agriculture Trust Fund. * * *
The powers and duties given to and imposed upon the State Director of Weights and Measures by this Act are hereby given to and imposed upon his deputy and inspectors also, when acting under his instructions and at his direction. [1949]

Sec. 82. Same: Powers and duties.

The State Director of Weights and Measures, hereinafter referred to as the Director, shall have and keep a general supervision over the weights and measures and weighing and measuring devices offered for sale, sold, and in use in the State, and shall have the power to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered, or exposed for sale, or caused to be done through licensed agencies; it shall be his duty at least once each year, and as much oftener as he may deem necessary, to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices commercially 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 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 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 may for the purposes 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, other than a residence, or stop any vendor, peddler, itinerant buyer, person in charge of any delivery vehicle, or any person whatsoever, and require him, if necessary, to proceed, with or without any vehicle involved, to some place which the Director may specify, provided such place is within reasonable distance and provided such orders to proceed to such destination will not in any way endanger the cargo of such vehicle. [1949]

Sec. 83. Regulations of State board of agriculture; sealing and marking; condemning for repairs.

The State Board of Agriculture shall issue from time to time regulations for the enforcement of the provisions of this Act [Secs. 3.1, 81-93], after conducting public hearings as to the advisability or propriety thereof. Regulations established under this Act shall be uniform insofar as is practicable with those promulgated under Federal regulation. The said regulations may include standards of net weight, net measure, or net count for any commod-

ity product, or article, and also specifications and tolerances for all weights, measures, and weighing and measuring devices of the character of those specified in section 3 [Sec. 82] of this Act, 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, and other apparatus shall be deemed to be incorrect.

Whenever the Director compares weights, measures, or weighing or measuring devices and finds that they correspond, or if he 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. The State Board of Agriculture or its Director of weights and measures, shall not enter into the business of repairing scales or devices for weighing or measuring other than minor adjustments as may be made by its inspector without rebuilding or replacing parts or sections of such scales or devices. The Director shall condemn incorrect weights, measures, or weighing or measuring devices, and he shall mark or tag same 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. If the owner repairs same he shall notify the Director that same has been repaired; and it shall be the duty of the Director immediately upon such notification to inspect the same. [1949]

Sec. 84. Marking packages; standards of fill.

It shall be unlawful to keep for the purpose of sale, or to 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, measures, or numerical count, provided, however, that reasonable variations or tolerances shall be permitted, and that such reasonable variations or tolerances and also exemptions as to small packages shall be established by rules and regulations made by the State Board of Agriculture, further provided, however, that rope and twine and cordage, which in common practice of the trade are marked and sold on a gross weight basis, may continue to be marked and sold on a gross weight basis. 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

Statutes Annotated Title 83, Ch. 5—Weights and Measures, Supervision—Continued.

the standards of fill prescribed by regulations promulgated as provided in this Section. For the effectuation of the purposes of this Section the State Board of Agriculture is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a reasonable standard of fill or container. There shall be no violation under this Act [Secs. 3.1, 81-93], for any discrepancy between actual weight or volume at the time of sale to the consumer, and the weight marked on the container or between the fill of container and the capacity of the container, if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith. 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. Provided, that a box or carton or other package used for shipping purposes, containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure or numerical count of the contents thereof. Provided, further, that for the uses and purposes of this Act, the word "commodity" is hereby defined to mean and include only agricultural products. [1949]

Sec. 85. Net weights to be used.

Whenever any commodity, except as hereinabove provided, 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, except commodities customarily sold on basis of gross weight; and all contracts concerning commodities sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Act [Secs. 3.1, 81-93], it shall be understood and construed to mean the net weight of the commodity, provided however, that rope and twine and cordage, which in common practice of the trade are sold on a gross weight basis may continue to be marked and sold on a gross weight basis. [1949]

Sec. 86. Misrepresentation of weight, price or quantity.

It shall be unlawful to misrepresent the weight 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. [1949]

Sec. 87. Hindering officials; director and inspectors to have power of peace officers.

It shall be unlawful for any person to hinder or obstruct in any way the Director, his deputy, or inspectors, in the performance of his official duties, or to impersonate in any way the Director, his deputy, or inspectors. For the purpose of the enforcement of the provisions of this Act [Secs. 3.1, 81-93], the Director, and inspectors of weights and measures, shall have the powers and authority of peace officers. [1949]

Sec. 88. Misdemeanors.

Any person who, by himself or by his servant or agent, or as the servant or agent of another person, does or performs any of the acts enumerated in this Section shall be guilty of a misdemeanor.

(a) Use, sell, offer or expose for sale or hire, or have in possession for the purpose of using, selling, or hiring, a false weight or measure or weighing or measuring device or any device or instrument to be used or calculated to falsify any weight or measure.

(b) Use, or have in possession for the purpose of current 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, any weight or measure, or weighing or measuring device which has not been sealed by the Director, or his deputy or inspectors, at his direction. Provided, however, that it shall be a sufficient compliance with the requirements of this Section if such weight or weighing or measuring device shall have been available at all times for inspection or re-examination, as the case may be.

(c) Remove from any weight, measure, or weighing or measuring device, contrary to law or regulation, any tag placed thereon by the Director, or his deputy or inspectors at his direction

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

(e) Take more than the quantity represented of any commodity, thing, or service, when, as buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing, or service is determined.

(f) Keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law.

(g) Use in retail trade, except in the preparation of package 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.

(h) Violate any of the provisions of this Act [Secs. 3.1, 81-93]. [1949]

Sec. 89. Scale repairing and testing; Bond; powers of licensee; fees; scope of section.

Any person engaging in the business of scale repairing or testing shall obtain a license annually from the Director of Weights and Measures, upon showing that he is qualified to repair or test scales. The cost of such license shall be Five Dollars (\$5.00), which shall be deposited in the Department of Agriculture Trust Fund, and shall expire on the 30th day of June next after its issuance. The Director of Weights and Measures may authorize and may require bond not to exceed One Thousand Dollars (\$1,000.00) of such duly licensed and qualified person to test scales as agent of the State Board of Agriculture and when found correct or when properly adjusted or repaired, such licensed agent, shall seal or mark such weighing devices as agent of the Board of Agriculture. Such duly licensed and qualified person may charge and retain the fee for testing service, such fee shall not exceed the schedule of fees adopted by the State Board of Agriculture. It is further provided that nothing in this section shall be construed to mean that the owners, or his assistant will not be permitted to repair his own scales and notify the inspector that same has been repaired, and ask that inspection be made. It shall be the duty of the Director to ascertain the seasonal use of certain scales and provide inspection thereof prior to the rush season for which that scale is particularly used. [1949]

Sec. 90. Fees.

The State Board of Agriculture shall promulgate a schedule of fees not to exceed Ten Dollars (\$10.00) per test to be charged and collected under the provisions of this Act [Secs. 3.1, 81-93], from the person or agency for whom such testing is rendered; provided, that the maximum schedule of fees shall be as follows:

Truck Beam type scales -----	\$10.00
Truck Heavy-duty dial -----	10.00
Portable Dial up to 1,000 lb. capacity -----	2.50
Portable Beam up to 1,000 lb. capacity -----	1.50
Dormit up to 5,000 lb. capacity -----	5.00
Milk Cream receiving up to 1,000 lb. capacity [Suspended] -----	5.00
Grain Hopper -----	10.00
Cotton Beam -----	1.50
All computing scales from 10 lb. to 30 lb. capacity -----	1.00
Butter Tub Dial 75 lb. capacity -----	1.50
Butter Print -----	1.00
Packing scales up to 30 lb. capacity -----	1.00
Predetermined weight packing scales up to 1,000 lb. ---	2.50
Counting scales portable up to 1,000 lb. -----	2.50
Counting scales bench type up to 40 lb. -----	1.00
Hanging Type Dial scale up to 30 lb capacity -----	.75
Hanging Type Dial & Beam up to 500 lb. capacity -----	1.50
Overhead Track scales Beam & Dial up to 1,000 lb. ---	3.50

Suspended Tank scales up to 1,000 lb. capacity -----	\$3.50
Suspended Tank scales up to 5,000 lb. capacity -----	5.00
Dockage Grain & Seed scales up to 3 lb. capacity -----	.50

Such schedule of fees shall be filed in the Office of the Secretary of State and be opened to the public, and any subsequent change in such fees shall not be operative until such change has been filed in the Office of the Secretary of State; provided, further, that such fees when collected shall be deposited in the Department of Agriculture Trust Fund. Provided that not more than one (1) fee shall be charged in any year for testing a weighing or measuring device. [1949]

Sec. 91. Act cumulative.

The provisions of this Act [Secs. 3.1, 81-93] are cumulative to all existing acts relating to weights and measures. [1949]

Sec. 93. Exemptions.

There shall be exempt from the provisions of this Act [Secs. 3.1, 81-93] all persons, firms or corporations whose weights and measures, and devices for weighing and measuring, are subject to the jurisdiction of the Corporation Commission of the State of Oklahoma, the State Board of Health or any agency, bureau or commission of the United States Government, providing further that the provisions of this Act as a whole are limited to agriculture and agricultural products. [1949]

Statutes Annotated, Title 11, Ch. 16—Cities of the First Class.

Sec. 662. Weights and measures: Regulation of.

The council [city council] may prescribe rules for the weighing and measuring of every commodity sold in the city, in all cases not otherwise provided for by law, and may provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel, and determine the place or places of the same, and regulate and prescribe the place or places of exposing for sale, hay, coal and wood, and fix the fees and duties of the persons authorized to perform the duties named in this section. [1910]

Statutes Annotated, Title 2, Ch. 3—Milk and Cream.

Sec. 305. False determination by test; manner of testing; approved methods; sale by weight.

It shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of another, to falsely manipulate or underread or overread or make any false determination by the test as provided in this Act [Secs. 301-307], or any other contrivance used for determining the quality or value of milk or cream delivered to a creamery, cheese factory, cream receiving station, ice cream factory, or at any other place when sold or purchased. Cream shall be tested by weight only. All

Statutes Annotated, Title 2, Ch. 3—Milk and Cream
—Continued.

tests must be free from curd, charr or other foreign matter, and shall be read at a temperature of 130 degrees to 140 degrees F., and glymol shall be used to reduce the meniscus before the reading is taken on cream tests. None other than the Babcock method, or such method of testing as may be approved by the Dairy Commissioner, may be employed when testing milk or cream, the test of which shall be used as a basis for making payment for the milk or cream thus tested. It shall be unlawful to underweigh or overweigh or give any false weight to any quantity of milk or cream bought or sold. All milk and cream sold or purchased for the purpose of manufacture into butter, cheese, casein, or for the purpose of condensing or drying the same or any part thereof, shall be sold and purchased by weight, and payment shall be made therefor upon the basis of milkfat therein contained and not otherwise. * * * [1919; last amended 1939.]

Sec. 306. Cream test scales; tolerances; testing.

Cream test scales shall be sensitive and accurate to 1-10 part of one gram. The test of accuracy shall be made by noting the action of the scale when a 100 Mg. weight is placed on the pan when the scale is in a balanced position. [1919]

Sec. 307. Penalty for violating Sec. 306.

Anyone violating any of the provisions of this Act [Secs. 306-307] shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than Twenty-five (\$25.00) Dollars, nor more than Fifty (\$50.00) Dollars, or imprisoned in the County jail for thirty days, or both such fine and imprisonment. [1919]

Laws 1949, Title 2, Ch. 3a.—"Oklahoma Commercial Feed Law."

Sec. 2. Definition.

(A) The term "Commercial Feeds" shall mean and include all materials used for feeding animals or birds, except the following:

(1) Unmixed whole seeds or grains;

(2) Whole hays, straws, cottonseed hulls, peanut hulls, stover, silage, and salt (NaCl) when unmixed with materials. [1949]

* * * * *

Sec. 3. Marking requirements.

Every person distributing any brand of commercial feed in this State shall have printed on or attached to each container or delivered with each bulk lot of such feed a plainly printed statement, hereafter referred to as the label, in a conspicuous place on the outside, containing a legible and

clearly printed statement in the English language concisely and truly stating:

(1) The net weight of the contents of the container or bulk lot; [1949]

* * * * *

Sec. 6. Enforcement; stop sale order.

The duties and authority connected with the enforcement of this Act [Secs. 1-13] and rules and regulations shall be vested in the State Board of Agriculture, which may act through its authorized agents:

* * * * *

(3) To issue and enforce a written or printed "stop-sale" or "tie-up" order on any commercial feed found in violation to any of the provisions of this Act or rules and regulations made hereunder.

* * * * *

(6) To administer, enforce, and carry out all of the provisions and requirements of this Act and rules and regulations made hereunder. [1949]

Sec. 9. Seizure; injunction.

Any lot of feed found in violation of any of the provisions of this Act [Secs. 1-13] or rules and regulations of the State Board of Agriculture shall be subject to seizure, condemnation, disposition or sale as a District Court may direct. The Court may, in its discretion, release the feed so seized when the provisions of this Act have been complied with, upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. Violations of this Act may also be restrained by injunction. [1919]

Sec. 10. Violation a misdemeanor.

Any person violating any of the provisions of this Act [Secs. 1-13] or any rule or regulation prescribed by the State Board of Agriculture shall be guilty of a misdemeanor.¹ [1949]

¹ See Title 21, Sec. 10, page 813; punishment for misdemeanor.

Statutes Annotated, Title 2, Ch. 5—Cotton.

Sec. 381. Marking requirements.

It shall be the duty of all ginner or owners of cotton gins in this State to brand, number, and place upon each bale of cotton, whether round or square, ginned and baled at their respective gins, the name of the ginner and the owner, and the number and weight of the bale so ginned, each ginner beginning with number one each ginning season, and continuing consecutively with each bale ginned to the close of the ginning season; which brand, names and number shall be recorded in a book kept at such gin for that purpose: Provided, that no brands or marks shall be placed on the sample side of any bale of cotton. [1907-08]

Sec. 385. Penalty for violations.

Any person who shall fail to comply with the provisions of this article [Secs. 381-385] shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five nor more than one hundred dollars. [1909]

Statutes Annotated, Title 2, Ch. 6—Butter.**Sec. 413.4. Marking requirements.**

All butter sold or offered for sale in Oklahoma shall be labeled as to weight, and the average of ten (10) or more units selected at random shall show a minimum weight as labeled, all tolerances having been allowed for. [1945]

Statutes Annotated, Title 2, Ch. 10—Commercial Fertilizer.**Sec. 460. Tax tags; definition.**

Any person, firm, or corporation who shall sell, expose or offer for sale, within the limits of the State of Oklahoma, any commercial fertilizer, shall affix to every package, in a conspicuous place on the outside thereof, a plainly printed tax tag, stating the number of net pounds in the package sold or offered for sale. * * *. The term commercial fertilizer, as here used, shall include all substances containing nitrogen, potash or phosphoric acid, sold, offered or exposed for sale for manurial purposes, excepting the dung of domestic animals when sold as such. * * * [1923]

Sec. 461. Marking requirements.

Every lot or parcel of Commercial Fertilizer as defined in Section 1 [Sec. 460], of this Act [Secs. 460-470], offered or exposed for sale in the State of Oklahoma for use within this State, shall have printed on a tag, described in Section 1 [Sec. 460], of this Act, a plainly printed statement clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel: [1923]

* * * * *

Sec. 464. Penalty for violations.

Any manufacturer, importer, or agent selling, offering or exposing for sale any Fertilizer Stuffs as defined in Section 1 [Sec. 460], of this Act [Secs. 460-470], without the statement required by Section 2 [Sec. 461] * * *, and any person violating any other provision of this Act, shall on conviction in a court of competent jurisdiction, be fined not less than five hundred dollars or more than five thousand dollars for the first conviction, or less than five thousand dollars or more than ten thousand dollars for each subsequent conviction. [1923]

Sec. 466. Enforcement; rules and regulations.

The Oklahoma State Board of Agriculture is hereby empowered to adopt standards and defini-

tions for Commercial Fertilizer and such regulations as may be necessary for the enforcement of the law. * * * The Oklahoma State Board of Agriculture is hereby empowered to adopt such regulations as may be necessary for the enforcement of all the provisions of this Act [Secs. 460-470]. [1923]

Statutes Annotated, Title 4, Ch. 12—Community Sales of Livestock.**Sec. 365. Definitions.**

* * * The term "community sale," as used in this Act [Secs. 365-373], is hereby defined to mean and include any established place where livestock is regularly offered for sale at public auction, but shall not include any public livestock market where Federal Veterinary inspection is required and maintained. [1947]

Sec. 366. License required; bond.

It shall be unlawful for any person to operate, conduct or maintain a community sale unless such person holds a community license issued by the State Department of Agriculture and has executed a corporate surety bond in the sum of Five Thousand Dollars (\$5,000.00) conditioned upon the prompt and faithful accounting for all livestock received, handled or sold. * * * [1947]

Sec. 369. Scale inspection.

The State Department of Agriculture shall cause a periodic inspection to be made of all scales used at any community sale, and it shall be unlawful to use any scales found to be inaccurate until such scales have been made accurate and have been approved as to accuracy by the State Department of Agriculture. [1947]

Sec. 371. Rules and regulations.

The State Department of Agriculture shall have authority to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this Act [Secs. 365-373]. [1947]

Sec. 372. Penalty for violations.

Any person violating any of the provisions of this Act [Secs. 365-373] shall be guilty of a misdemeanor¹. [1947]

¹ See Title 21, Sec. 10, page 813; punishment for misdemeanor.

Sec. 373. Functions of department performed by President of State Board of Agriculture.

All duties and functions required to be performed by the State Department of Agriculture under the provisions of this Act [Secs. 365-373] shall be performed by the President of the State Board of Agriculture as the executive head of said Department. [1947]

Statutes Annotated, Title 2, Ch. 14—Fruit and Vegetable Containers.

Sec. 661.1. General application of law.

The provisions of this Act [Secs. 661.1-661.11] shall apply to all fruits and vegetables sold in the State of Oklahoma. * * * [1949]

Sec. 661.2. Marking requirements.

It shall be unlawful for any person to expose, offer for sale, have in his possession for sale, sell, transport, deliver or consign any product as to grade in a closed or open package unless the container has been plainly marked or tagged in an indelible manner showing * * * (2) contents in terms of net weight, measure or numerical count, * * * All products handled in bulk that are sold on a graded basis, such as water-melons, shall be accompanied by proper invoice or an official Federal or State Certificate and all of the requirements of this Act [Secs. 661.1-661.11] shall apply to such invoice or certificate. All markings shall be not less than one-fourth ($\frac{1}{4}$) inch in height, * * * [1949]

Sec. 661.3. Label or exposed surfaces misrepresenting contents.

It shall be unlawful for any person to expose, offer for sale, sell, transport, deliver or consign, or have in his possession for sale, products covered by this Act [Secs. 661.1-661.11] in opened or closed packages in which the label or exposed surface gives a false representation of the contents of such package, and a failure of such exposed surface to represent an average of the size and quality and the same varietal characteristics of the remaining portions of such packages, shall be considered a false representation. [1949]

Sec. 661.8. Violation a misdemeanor.

Each person, who by himself, his agents, representatives or employees, violates any of the provisions of this Act [Secs. 661.1-661.11], shall for each offense be deemed guilty of misdemeanor.¹ [1949]

¹ See Title 21, Sec. 10, page 813; punishment for misdemeanor.

Sec. 661.9. Definition of open and closed package.

For the purpose of this Act [Secs. 661.1-661.11], the following terms shall be construed respectively to mean:

* * * * *

"Opened and Closed Package"—A barrel, box, basket, sack, carrier, or crate, of which all of the contents cannot readily be seen or inspected when such package is prepared for market. [1949]

* * * * *

Sec. 661.11. Enforcement.

For the purpose of carrying out the provisions and requirements of this Act [Secs. 661.1-661.11], the State Board of Agriculture and its inspectors

shall have the right and authority to enter into or upon any place and to open any bundle, package or container of agricultural products. [1949]

Statutes Annotated, Title 2, Ch. 21 — Economic Poisons.

Sec. 922. Definitions.

* * * * *

(a) The Term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the State Board of Agriculture shall declare to be a pest.

* * * * *

(q) The term "label" means the written, printed, or graphic matter on or attached to, the economic poison (or device) or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison (or device).

* * * * *

(t) The term "misbranded" shall apply:

(1) to any economic poison (or device) if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular; [1949]

* * * * *

Sec. 923. Marking requirements.

(a) It shall be unlawful for any person to distribute, sell or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any of the following:

* * * * *

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container can not be clearly read, a label bearing

* * * * *

c. the net weight or measure of the content subject, however, to such reasonable variations as the State Board of Agriculture may permit. [1949]

* * * * *

Sec. 928. Violation a misdemeanor.

Any person violating any of the provisions of this Act [Secs. 921-933] shall be guilty of a misdemeanor.¹ [1949]

¹ See Title 21, Sec. 10, page 813; punishment for misdemeanor.

Sec. 929. Seizure.

(a) Any economic poison (or device) that is distributed, sold or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be liable to be proceeded against in any District Court in any county of the State where it may be found and seized for confiscation:

(1) in the case of an economic poison
a. if it is adulterated or misbranded;

* * * * *

c. if it fails to bear on its label the information required by this Act [Secs. 921-933]; [1949]

* * * * *

Sec. 933. Enforcement.

Jurisdiction in all matters pertaining to the distribution, sale and transportation of economic poisons (and devices) is by this Act [Secs. 921-933] vested exclusively in the State Board of Agriculture,
* * * [1949]

[ED. NOTE.—Sec. 927 (not included herein) provides for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

Statutes Annotated, Title 13, Ch. 3—Coal Shipments by Common Carrier.**Sec. 151. Weight statement in bill of lading.**

Whenever any coal is shipped over any common carrier from any point within the State of Oklahoma to any other point within the said State, the common carrier transporting such coal shall issue a bill of lading stating the true weight of the coal so transported. [1907-08]

Sec. 152. Reweighing at destination.

When said coal arrives at its destination, the said carrier shall cause the same to be weighed at that point, provided it has scales at that point, and if not, then it shall cause said coal to be weighed at the nearest track scales on its line between the point of shipment and the point of destination, and if the weight of said coal at the point of delivery is less than the weight set out in the bill of lading, the carrier delivering to the consignee shall be liable to the consignee for all deficiencies in weight, less the natural shrinkage, which shall not exceed one per cent for a one hundred and fifty mile haul or less and one and one-half per cent on more than a one hundred and fifty mile haul; and the measure of damage of the consignee for such deficiency or shortage shall be the value of the deficiency if the freight has not been paid; and in weighing cars of coal they shall be detached from the train and in the event the loss or shortage does not occur on the delivering line, the carrier delivering to the consignee shall be entitled to recover from the carrier upon whose line the loss or shortage occurred,

such amount for the loss or shortage as the carrier delivering to the consignee may be required to pay to the consignee as may be evidenced by any receipt, judgment, or transcript thereof. [1907-08]

Sec. 153. Re-weighing on transfer.

In case any coal shipped shall be carried over the lines of the connecting carriers, the carrier receiving said coal shall cause the correct weight thereof to be placed in the bill of lading, and such coal shall be re-weighed when delivered to the connecting carrier, and the value of the coal at the point of destination shall be the measure of damages. [1907-08]

Sec. 154. Refusal to re-weigh at destination; penalty.

In case the carrier shall fail or refuse to weigh said coal at its destination or at the nearest track scales to the point of destination between said point and the point of shipment, the consignee may weigh said coal, and his weights shall be prima facie evidence of the amount of coal received, and the carrier shall be liable in damages as set out in this Article [Secs. 151-157], for any shortage between the actual quantity received at the point of destination and the amount named in the bill of lading; Provided, that if the consignee shall have the coal weighed at the point of destination, on other than track scales, an allowance of ten pounds per ton shall be deducted from the weight. [1907-08]

Sec. 155. Penalty for violations.

Any agent, servant or employee of any carrier who shall fail or refuse to weigh any coal at its point of destination, or shall knowingly or willfully make false weights of such coal, or in case there are no track scales at the point of destination, at the nearest track scales passed in its transit from its point of shipment, such agents, servants or employees shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty nor more than one hundred dollars, or be imprisoned not less than thirty days nor more than sixty days or both such fine and imprisonment. [1907-08]

Sec. 156. Application to interstate shipments.

Whenever any coal shall be brought into this State by any carrier where the point of shipment is outside of the State, the same shall be weighed by the carrier at the nearest track scales within the State to the State line; and after being so weighed, as to its further carriage all of the provisions of this Article [Secs. 151-157], shall apply thereto in the same manner as if the shipment originated within this state. [1907-08]

Sec. 157. Method of weighing in case of dispute.

In case any contention shall arise between the consignee and the carrier in regard to the shortage of coal on any car, the car shall be weighed first

Statutes Annotated, Title 13, Ch. 3—Coal Shipments
by Common Carrier—Continued.

while loaded and then the empty car shall be weighed again and the actual gross and net weights shall be ascertained, and the stencil weight of any car marked thereon shall not be taken in any case as a true weight of said car. [1907-08]

Statutes Annotated, Title 19, Ch. 15—Public weighers.

Sec. 701. Qualifications.

No person shall be eligible to the office of public weigher, who is not at the time of his appointment or election, a legal voter, resident in his county. [1907-08; last amended 1910.]

Sec. 702. Bond.

The public weigher shall execute a bond to the county to be approved by the board of county commissioners, in the sum of two thousand dollars, conditioned upon the faithful discharge of his duties, and such bond shall be liable for any neglect of official duty, and the board of county commissioners may maintain an action, on behalf of the county for any breach of such bond. [1907-08; last amended 1910.]

Sec. 703. Deputy weighers.

The public weigher may appoint one or more deputies in each precinct of his county, which deputy shall have all the powers conferred upon the public weigher, and shall be answerable to all the penalties prescribed for the violation of this Article [Secs. 701-712] and shall execute a bond payable to the public weigher in the sum of five hundred dollars, conditioned upon the faithful performance of their duties. Such bond shall be subject to the approval of the board of county commissioners, and shall be proceeded against as in case of the public weigher. Deputy weighers shall be confined in their jurisdiction to the limits of their respective precincts. They shall keep a record of their transactions as herein prescribed for the public weigher, which record shall be open at all times to public inspection; Provided that, all deputy weighers appointed under the provisions of this Article shall, before entering upon the duties of their offices, be approved by the board of county commissioners. [1907-08; last amended 1910.]

Sec. 704. Office and equipment provided by weigher.

The public weigher shall hold an office at the county seat, said office being provided by such public weigher at his own expense, and he shall also provide his own record books, blanks, stationery, and in no event shall the State become liable for any of the expenses incurred in the operation of the office of public weigher. All books, reports or other records in the office of such public weigher, or of any deputy weigher, shall be delivered to their successors in office. All public weighers and

all deputy weighers shall provide, at their expense, by purchase, or lease, all scales essential for conducting their business, and in no event, shall the State become liable for the cost thereof. [1907-08; last amended 1910.]

Sec. 705. Scales: Sheriff to test; sealing; report; penalties against sheriff; fees; inspection upon request.

It shall be the duty of the sheriff of each county, in person or by his regular deputies, to inspect and test all scales used by the public weigher or any deputy weigher and such scales shall be tested with the United States standard weights, and such sheriff shall place his seal upon all such tested scales, at a conspicuous place, which seal shall be prima facie evidence of such test, and such test shall be made once each three months, upon all scales so used. Said sheriff shall make a report, in writing, setting forth the date of such test, the result thereof, and specifying the scales, so tested, together with the name of the public weigher or deputy weigher using such scales, and where the same are located. Such report shall be filed in the office of the county clerk within five days after the inspection is made. Said sheriff or the deputy making such test, shall verify each report so filed, stating that the same is a correct, true and exact report of the condition of the scales mentioned therein, and any failure upon the part of the sheriff to comply with the provisions of this section shall be a misdemeanor and upon conviction shall subject such offending official to a fine of not less than ten nor more than one hundred dollars, for each scale so omitted from inspection and any sheriff making a misstatement of facts, or who reports any scale to be in a condition other than their true condition, shall be deemed guilty of false swearing, and upon conviction shall be punished by imprisonment in the penitentiary for not less than one, nor more than two years: Provided, However, that a sheriff or any deputy sheriff shall receive as compensation for inspecting any public scales of any such public weigher, or deputy weigher, the sum of one dollar for each scale inspected: Provided, Further, that if as many as five citizens sign a written request to the sheriff, designating any public scale and asking for an official inspection thereof, such sheriff shall comply with such request and make such inspection and test at any time, not oftener, however, than once each thirty days, and the fees allowed for such special inspection and test shall be the same as above provided: And Provided, Further, that the sheriff or his deputy shall have the same authority for regulating all scales either public or private if they be used to weigh for the public, either with or without hire. [1907-08; last amended 1910.]

Sec. 706.¹ Duties of weigher.

It shall be the duty of every public weigher or deputy weigher within his county to receive, inspect, and weigh according to the standard weights

of the United States, all cotton, grain, of every kind, live stock, hay, cottonseed, coal, wood, broom corn, and all other farm products sold by weight, and such articles shall be weighed by such weigher, in the order in which they are received, and he shall at the time of such weighing make a record in duplicate form, either upon a stub attached or by a carbon duplicate sheet, such records to be in a binding, and kept for future reference. Such record shall contain a statement as to the article, its gross and net weight, its condition and the date of its weighing, together with the description of any marks, brands or other peculiarity essential to the complete description thereof. A copy of such entry shall be furnished the person applying for such weights. Said statement of the record of each weight shall be signed by the official weigher, and all such weights when so made by the public weigher shall be taken as the legal weight of any commodity mentioned in this section. [1907-08; last amended 1910.]

¹ See Sec. 50, Title 28, page 808; fees.

Sec. 707. Books and records open for inspection.

The books and records of all county weighers or deputy weighers shall at all times be open to inspection by any citizen. [1909; last amended 1910.]

Sec. 708. Weighings conclusive; dockage agreement; restrictions on appointment.

The purchaser of an article weighed upon the official scales of any county weigher or deputy county weigher, shall receive and accept such weights as official and correct, and no person, not a county weigher or a deputy county weigher shall hold himself out as such, or be allowed to weigh any of the before mentioned articles offered for sale. Provided that nothing herein shall prevent the purchaser and seller of cotton or other products from agreeing upon the proper dockage of the cotton or article sold which may be net. No person shall be appointed as a county weigher or deputy county weigher or weigh for the public who is in any wise interested as a dealer or speculator, or as an agent or employee of any firm, company or corporation in the sale or purchase of cotton, grain, livestock, hay, cotton seed, broom corn and all other farm products sold by weight. [1909; last amended 1919.]

Sec. 709. Weighing of cattle.

Wherever and whenever cattle are bought or sold, either for shipment or slaughter, and the buyer or seller shall so demand, such cattle shall be weighed by the public weigher, the fee to be paid equally by the seller and the purchaser. At all places where cattle are bought and sold either for slaughter or shipment, the public weigher shall provide a safe and sufficient enclosure around his scales, so that cattle can be weighed in lots of five or more at one draft. [1909; last amended 1910.]

Sec. 710. Penalty for violations of sections 708-709.

Any person, firm or corporation, who shall violate any of the provisions of the two preceding sections shall be liable to the public weigher for damages in a sum not to exceed five dollars, for each load or draft so unlawfully weighed, to be recovered in any court having competent jurisdiction thereof. [1909; last amended 1910.]

Sec. 711. Scope of act.

Nothing in the provisions of this Article [Secs. 701-712], shall be construed so as to prohibit any person from weighing his own products; and this article shall not be so construed as to require the weighing of vegetables, poultry, eggs or dairy products. [1909; last amended 1910.]

Sec. 712. Penalties for violations.

Any public weigher or deputy weigher violating any of the provisions of this Article [Secs. 701-712], or refusing to receive and weigh any commodity herein, or who incorrectly weighs the same, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars, nor more than one hundred dollars, in the discretion of the court; he may be removed from office and any person, either a purchaser or dealer, in any of the commodities weighed upon such private scales who, with intent to cheat or defraud any person, firm or corporation with plates, sand packs, false packs or water packs in cotton, or uses any device, trick or scheme for the purpose of obtaining false weights to his advantage, or to the disadvantage of any person, firm or corporation, and every ginner of cotton or any other person who is a party to such defrauding, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten dollars nor more than one hundred dollars, and upon the second conviction any such person shall be, in addition to said fine, confined in the county jail not less than thirty nor more than one hundred and twenty days. Any public weigher or deputy weigher, or any other person who knows of the perpetration of any such deception or fraud, shall make a report thereof to the grand jury of his county, and if it be the public weigher, or the deputy weigher, he shall file a written report with the records of his office, setting forth the facts, naming the person guilty of such deception, and the failure to so report shall subject the party or weigher to a fine of not less than five nor more than twenty-five dollars. Any person, firm or corporation, who in violation of the provisions of this Article, weigh any of the products mentioned herein for other persons, and who exacts or receives any charges therefor, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than one hundred dollars; Provided, However, that any person, firm or corporation may weigh any

Statutes Annotated, Title 19, Ch. 15—Public weighers
—Continued.

product for any other person, if, such person, firm or corporation so weighing is a bona fide purchaser of such product, but no charges shall be made or received for such weighing under the penalty aforesaid. [1907-08; last amended 1910.]

Statutes Annotated, Title 28, Ch. 1—Fees of Public Weigher.

Sec. 50. Fees; lien.

A public weigher, or any deputy weigher, shall receive for his services in weighing any article, the following schedule of fees: Ten cents for each load or draft weighed separately: Provided, that such public weigher shall not be allowed compensation for any extra weighing which may be essential in determining the net weight of any article or load. The public weigher, or any deputy weigher, shall be allowed and is hereby granted a lien upon any article or product weighed for the fees above mentioned, and such fee shall attach to and follow such article into the hands of the purchaser, and shall not be barred or canceled by any sale or transfer of such article during the day upon which the article is weighed: Provided, that deputy weighers shall be allowed to retain as their compensation the sum of eight cents for each load or draft weighed separately; the residue of the price allowed hereunder shall be paid by the deputies to the county weigher at the close of the month. [1907-08; last amended 1910.]

Statutes Annotated, Title 45, Ch. 1—Mine Scales.

Sec. 211. Standard scales to be used; screening before weighing.

* * * It shall be unlawful for any mine owner, lessee or operator of coal mines in this state employing miners who are paid by the quantity of coal mined by them to use any other than a recognized standard scale or to pass the output of coal mined by said miners over any screen or any other device until the same shall have been weighed. [1929]

Sec. 212. Weighman and check weighman: Oath.

The weighman and the check weighman employed at any mine shall, before some person authorized to administer oaths, take and subscribe an oath (or affirmation) to do justice between employer and employee and to weigh truly and correctly the output of coal from the mines as herein provided. [1929]

Sec. 213. Same: Employment; violations by weighmen; penalties.

The miners employed by or engaged in working for any mine owner, operator or lessee of any mine in this state shall have the privilege, if they desire, of employing, at their own expense, a check weigh-

man who shall have equal rights, powers and privileges in the weighing of coal as the regular weighman. Any regular weigher or check weigher so employed, who shall knowingly violate any of the provisions of this Article [Secs. 211-213] in the discharge of his duties, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense or by imprisonment of not less than thirty (30) days nor more than six (6) months, proceedings to be instituted in any court having competent jurisdiction. Whenever the district mine inspector shall be satisfied that the provisions of this Section have been violated, it shall be his duty to prosecute the person or persons guilty thereof, and upon conviction thereof, such person or persons shall be punished as provided in this Section. [1929]

Statutes Annotated, Title 47, Ch. 12—Itinerant Merchants.

Sec. 422. License required.

No person shall engage in business or use any motor vehicle in this State as an itinerant merchant * * * without complying with this Act [Secs. 421-438] and without obtaining from the Commission [Oklahoma Tax Commission] or its agents the license required by this Act. [1941]

Sec. 425. Bond.

(a) No license shall be issued by the Commission [Oklahoma Tax Commission] until the applicant shall have filed with each application, and the same have been approved by the Commission, the following insurance policies and bonds * * *

(1) A bond in the penal sum of Five Hundred Dollars (\$500.00) in such form as may be prescribed by the Commission for the purpose of protecting the public against fraud, conditioned upon the delivery of correct weights, measures, footage, or grades, if the commodities handled by the itinerant merchant are those customarily sold by weights, measures, footage, or grades * * *

Sec. 426. Appointment of secretary of commission as agent to accept service of summons.

Before a license shall be issued the applicant shall sign and file with the Commission [Oklahoma Tax Commission] an irrevocable power of attorney appointing the Secretary of the Commission his agent to accept service of summons for all causes of action against him arising out of the conduct of his business as an itinerant merchant and the operation of the motor vehicle described in the application. [1941]

Sec. 430. Revocation of license.

Upon such notice and hearing as the Commission may deem proper, it may revoke any license issued

under the provisions of this Act [Secs. 421-438] for failure to comply with any of the laws of this State, or if any judgment recovered against any itinerant merchant remains unpaid for a period of sixty days, provided such judgment be not superseded by bond upon appeal from such judgment. [1941]

Sec. 431. Enforcement; rules.

The Commission [Oklahoma Tax Commission] shall make and enforce such rules for the administration of this Act [Secs. 421-438] as may be necessary and proper. [1941]

Sec. 435. Penalties for violations.

Any person violating any provision of this Act [Secs. 421-438] shall be guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than one year; or by both such fine and imprisonment. [1941]

Sec. 437. Highway patrol and peace officers to enforce act.

It shall be the duty of the Highway Patrol and all peace officers to enforce this Act [Secs. 421-438]. [1941]

Statutes Annotated, Title 47, Ch. 13—Anti-Freeze.

Sec. 461. Definition.

* * * (1) "Anti-Freeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; * * * [1949]

Sec. 463. When deemed misbranded.

An anti-freeze shall be deemed to be misbranded; (1) If its labeling is false or misleading in any particular; or (2) If in package form it does not bear a label containing * * * an accurate statement of the quantity of contents in terms of weight or measure, and these facts are not stated plainly and correctly on the outside of the package; * * * [1949]

Sec. 465. Enforcement.

The Fuel Inspection Division of the Corporation Commission of Oklahoma shall enforce the provisions of this Act [Secs. 461-470] by inspections, chemical analysis, or any other appropriate methods. * * * [1949]

Sec. 466. Rules and regulations.

The Corporation Commission of Oklahoma shall have the authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this Act [Secs. 461-470].

Sec. 470. Penalties for violations.

Any person or persons violating the provisions of this Act [Secs. 461-470] shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for ninety (90) days or both for each offense. In addition thereto, the Corporation Commission is hereby authorized to punish any person or persons violating the rules and regulations adopted by the Commission under this Act as for contempt, and any person found guilty of violating the rules and regulations of the Corporation Commission adopted pursuant to this Act, may be fined any amount not exceeding Five Hundred Dollars (\$500.00) for each offense. [1949]

Statutes Annotated, Title 52, Ch. 1—Natural Gas.

Sec. 44. Natural gas to be furnished through meters at meter rates; exceptions.

All persons, firms, corporations or other business organizations engaged in the business of furnishing natural gas in municipalities in this state, to the inhabitants thereof, shall do so through standard meters at meter rates; provided, that this act [Secs. 44-45] shall only apply to towns where the population exceeds five hundred, and shall not prohibit the sale of gas at a flat rate to federal, state or municipally owned buildings, institutions or plants; Provided further, that this act shall not abrogate any existing contract, or affect or change the terms or conditions of any franchise granted by any municipal corporation prior to, and in effect April 28th, 1913. [1913; last amended 1915.]

Sec. 45. Penalty for violations.

Any person, firm, corporation or other business organization who shall violate any of the provisions of this act [Secs. 44-45] shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars nor more than twenty-five dollars, and each day of such violation shall be deemed a separate offense. [1913; last amended 1915.]

[ED. NOTE.—The Oklahoma Corporation Commission enforces the foregoing Sections 44 and 45.]

Laws 1949, Title 63, Ch. 7—"Oklahoma Food Act."

Sec. 2. Definitions.

* * * * *

(a) The term "Commissioner" means the State Health Commissioner.

(b) The term "Board" means the State Board of Health.

* * * * *

(d) The term "food" means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article.

Laws 1949, Title 63, Ch. 7—"Oklahoma Food Act"
—Continued.

(e) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act [Secs. 1-20] that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.

(f) The term "immediate container" does not include package liners.

(k) The provisions of this Act regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying of any such articles in conduct of any food establishment.

(l) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1010 et seq.). [1919]

Sec. 3. Prohibited acts.

The following acts and the causing thereof within the State of Oklahoma are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded.

(b) The adulteration or misbranding of any food.

(c) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(e) The dissemination of any false advertisement.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Oklahoma from whom he received in good faith the food.

(h) The removal or disposal of a detained or embargoed article in violation of Section 6 of this Act [Secs. 1-20]. [1919]

Sec. 4. Injunction.

In addition to the remedies hereinafter provided the Commissioner is hereby authorized to apply to the District Court for, and such court shall have

jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of Section 3 of this Act [Secs. 1-20], irrespective of whether or not there exists an adequate remedy at law. [1919]

Sec. 5. Penalties for violations; guaranty protection.

(a) Any person who violates any of the provisions of Section 3 of this Act [Secs. 1-20] shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for no more than Thirty (30) days or a fine of not more than One Hundred (\$100.00) Dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this Section has become final, such person shall be subject to imprisonment for not more than Six (6) months, or a fine of not more than Five Hundred (\$500.00) Dollars, or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this Section, for having violated Section 3 (a) or (c) of this Act, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of Oklahoma from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act. [1919]

Sec. 6. Embargo.

(a) Whenever a duly authorized agent of the Commissioner finds, or has probable cause to believe, that any food is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this Act [Secs. 1-20], he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission for a period of Fifteen (15) days after such tag or other marking has been affixed thereto. [1919]

Sec. 8. Minor violations.

Nothing in this Act [Secs. 1-20] shall be construed as requiring the Commissioner to report for the institution of proceedings under this Act, minor violations of this Act, whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1919]

Sec. 9. Standards of fill.

* * * the Board shall promulgate reasonable rules and regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and or fill of container. * * * [1949]

Sec. 11. When deemed misbranded.

A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Provided, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by reasonable rules and regulations prescribed by the Board.

(f) If any word, statement, or other information required by or under authority of this Act [Secs. 1-20] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(h) If it purports to be or is represented as—

(2) a food for which a standard or standards of fill of container have been prescribed by reasonable rules and regulations as provided by Section 9 of this Act, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such reasonable rules and regulations specify, a statement that it falls below such standard. [1949]

Sec. 15. Rules and regulations.

(a) The authority to promulgate reasonable rules and regulations for the efficient enforcement of this Act [Secs. 1-20] is hereby vested in the Board. The Board is hereby authorized to make the reasonable rules and regulations promulgated under this Act conform, in so far as practicable, with those promulgated under the Federal Act. [1949]

Statutes Annotated, Title 63, Ch. 10—"Uniform Narcotic Drug Act."

Sec. 410. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells

or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 419. Enforcement.

It is hereby made the duty of the State Board of Health, its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all county attorneys, to enforce all provisions of this Act [Secs. 401-474], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs. [1935]

Sec. 420. Penalty for violations.

Any person violating any provision of this Act [Secs. 401-474] shall upon conviction be punished, for the first offense, by a fine not exceeding One Thousand (\$1,000.00) Dollars, or by imprisonment for not exceeding two (2) years, or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding Five Thousand (\$5,000.00) Dollars, or by imprisonment for not exceeding three (3) years, or by both such fine and imprisonment. [1935]

Statutes Annotated, Title 68, Ch. 18—"Gasoline Motor Fuel Excise Tax Act."

Sec. 659. Definition of motor fuel.

(a) The term "gasoline" is hereby declared to be and to mean the same as the term "motor fuel", and the term "motor fuel" means and includes every petroleum product, fluid or liquid, or any combination thereof, having an A.P.I. gravity of forty-six degrees (46°) or above at a temperature of sixty degrees (60°) Fahrenheit and at atmospheric pressure, and shall include drip, casing-head or natural gasoline, benzol, naphtha, benzene and solvents, and shall include any liquid or fluid of less than forty-six (46°) degrees A.P.I. gravity at a temperature of sixty degrees (60°) Fahrenheit compounded, blended, manufactured, or otherwise produced by mixing or blending gasoline or naphthas with any blending materials, as herein defined, when the blended product can be used for generating power in internal combustion engines, regardless of the name by which such liquid or fluid may be known or sold. [1939; last amended 1947.]

Sec. 659n. Transporter permit; measurement certificate; sealing of tanks.

(a) Before using any vehicle to transport motor fuel or blending material, on the highways of this State or the streets and alleys of any city or town in this State, the owner or operator of such vehicle

Statutes Annotated, Title 68, Ch. 18—"Gasoline Motor Fuel Excise Tax Act"—Continued.

must first file an application verified by affidavit with the Tax Commission, for a motor fuel transporter permit for each vehicle use, on a form prescribed and furnished by the Tax Commission showing the distributor, retailer, dealer or transporter for hire, license number of the owner of the vehicle, the make, model, year made, license tag number, motor number, number and capacity of the tanks or containers of the vehicle and such other information as the Tax Commission may require. Upon approval of such application the Tax Commission shall issue a motor fuel transporter vehicle permit bearing a distinctive number for each such vehicle which must be displayed at all times in the cab of each vehicle transporting motor fuel or blending material in this state.

(c) Before using any tank or container in the transportation of motor fuel or blending material every person must have such tank or container measured and calibrated by the Tax Commission and a measurement certificate issued for each such container or tank. Such measurement certificate may be executed only by the agents and employees of the Tax Commission after such tank or container has been accurately measured and calibrated according to the standards of the United States Bureau of Weights and Measures. At the time the tank or container is measured and calibrated a marker approved by the Commission must be installed and sealed in such tank or container. Such marker shall not be moved, altered or tampered with and the seal on said marker shall not be broken by any person other than an agent or employee of the Tax Commission. The measurement and calibration as shown by such certificate must be stenciled or printed on the side of each tank or container in such a manner that it is readily decipherable, and such markers must at all times correspond with the measurements for the tanks or containers as shown in such certificate. Each tank or container used to transport motor fuel or blending material in this State must be measured, calibrated, marked and a certificate therefor issued and filed with the Commission, and no person may use any tank or container in this State when its size has been changed after the issuance of a certificate therefor without first having the tank or container again measured, calibrated, marked and a new certificate issued therefor by the Tax Commission.

(e) The Tax Commission may require all tanks or other containers in which motor fuel or blending material is transported in this State to be sealed during such transportation, except any tank used for motor fuel for the propulsion of a motor vehicle having a capacity not to exceed fifty (50) gallons

which is attached as a permanent part of such vehicle.

(h) The Tax Commission may approve the measurement of any other state using the same method of measurement on any tank or container being used exclusively to export motor fuel or blending material into said other state. [1939; last amended 1947.]

Statutes Annotated, Title 68, Ch. 18—"Special Fuel Use Tax Act."

Sec. 713. Definition of fuel.

(b) The term "fuel" means and includes all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of sixty (60°) degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor, including Diesel fuel, kerosene, distillate, condensate or similar products that may be used as fuel to generate power for the propulsion of motor vehicles upon the public highways of this State, except such fuels as are subject to the tax imposed by the "Gasoline or Motor Fuel Excise Tax Act." [1939; last amended 1947.]

¹ See page 811.

Sec. 725. Containers; requirements for transportation.

The Tax Commission may require that all tanks or other containers in which fuel, as defined by this Act [Secs. 713-725], is transported be accurately measured, calibrated and marked. [1939]

Statutes Annotated, Title 81, Ch. 1—Public Warehouses.

Sec. 255. Maintenance of scales; weight certificates.

The person, firm, company or corporation owning a bonded warehouse shall maintain sufficient scales and equipment for weighing and keeping records of all products stored and shall place upon the certificate the weight and grade as determined to the best of his ability. [1919]

Statutes Annotated, Title 82, Ch. 1—Measurement of water.

Sec. 31. Cubic foot; acre foot.

The standard of measurement of the flow of water shall be the cubic foot per second of time; the standard measurement of the volume of water shall be the acrefoot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand five hundred sixty cubic feet. [1905]

Statutes Annotated, Title 21, Ch. 1—Misdemeanors.**Sec. 10. Punishment when not otherwise prescribed.**

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year or by a fine not exceeding five hundred dollars, or both such fine and imprisonment. [1910]

Statutes Annotated, Title 21, Ch. 61—False Weights and Measures.**Sec. 1504. Hay: Failure to mark weight on bales; penalty.**

Any person who, in putting up or pressing hay for market, omits to put in each bundle or bale the number of pounds which he impliedly or expressly represents it to contain, is guilty of a misdemeanor.¹ [1877; last amended 1910.]

¹ See Title 21, Sec. 10, above; punishment for misdemeanor.

Sec. 1505. False increase of weight; penalty.

Every person who puts or conceals in any bag, bale, box, barrel or other package of goods usually sold by weight any other thing whatever for the purpose of increasing the weight of such package shall be punished by a fine of twenty-five dollars for each offense. [1877; last amended 1910.]

Statutes Annotated, Title 21, Ch. 62—False Weights and Measures.**Sec. 1551. Use; penalty.**

If any person with intent to defraud, use a false balance, weight or measure, in the weighing or measuring of anything whatever that is purchased, sold, bartered, shipped or delivered, for sale or barter, or that is pledged, or given in payment, he shall be punished by a fine not exceeding one hundred dollars nor less than five dollars, or by imprisonment in the county jail not more than thirty days, or by both such fine and imprisonment, and shall be liable to the injured party in double the amount of damages. [1877; last amended 1910.]

Sec. 1552. Retention for use; penalty.

Every person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the last section [Sec. 1551], shall be punished as therein provided. [1877; last amended 1910.]

Sec. 1553. Confiscation.

Every person who is authorized or enjoined by law to arrest another person for violation of the first two sections [Secs. 1551, 1552] of this article [Secs. 1551-1556], is equally authorized and enjoined to seize any false weights or measures found in the possession of the person so arrested, and to deliver the same to the magistrate before whom the

person so arrested is required to be taken. [1877; last amended 1910.]

Sec. 1554. Testing seized weights and measures; disposition.

The magistrate to whom any weight or measure is delivered, pursuant to the last section [Sec. 1553], shall, upon the examination of the accused, or if the examination is delayed or prevented, without awaiting such examination, cause the same to be tested by comparison with standards conformable to law; and if he finds it to be false, he shall cause it to be destroyed, or to be delivered to the county attorney of the county in which the accused is liable to indictment or trial, as the interests of justice in his judgment require. [1877; last amended 1910.]

Sec. 1555. Destruction after conviction of owner.

Upon the conviction of the accused, such county attorney shall cause any weight or measure in respect whereof the accused stands convicted, and which remains in the possession or under the control of such county attorney, to be destroyed. [1877; last amended 1910.]

Sec. 1556. Labeling; penalty.

Every person who knowingly marks or stamps false or short weight, or false tare on any cask or package or knowingly sells or offers for sale any cask or package so marked is guilty of a misdemeanor.¹ [1877; last amended 1910.]

¹ See Title 21, Sec. 10, this page; punishment for misdemeanor.

Statutes Annotated, Title 21, Ch. 61—False Advertising.**Sec. 1502. Unlawful acts; penalty.**

Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or publication or in form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$10.00 nor more than \$50.00 or by imprisonment in the county jail not exceeding twenty (20) days, or both such fine and imprisonment. [1919]

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Sec. 76-101. State sealer: Possession of state seal; when used.

The director of agriculture of the state shall be the sealer of weights and measures, and he shall have and keep a seal, which shall be so formed as to impress the word "Oregon" upon the weights and measures, scales and beams, to be sealed by him. With this seal he shall seal all such authorized public standards of weights and measures, and all the weights and measures, scales and beams, used by him, or his deputies, for testing the accuracy of weights and measures, and measuring devices, used in trade, when examined by said director of agriculture and found to be in conformity with the standard weights and measures, scales and beams, aforesaid. [1854; last amended 1949.]

Sec. 76-103. Deputy state sealer: General duties.

It will be the duty of the deputy state sealer of weights and measures to exercise general supervisory control over the inspection of weights and measures in use throughout the state, and to investigate all trades and trade customs or practices of every description which have a tendency in his judgment towards dishonesty in the use of weights and measures or in the buying or selling of any commodity by weight or measure. [1913]

Sec. 76-105. Same: Testing and sealing municipal standards.

It shall be the duty of the deputy state sealer of weights and measures to try, prove and seal with an appropriate seal designated by him all proper standards sent to him by the properly authorized sealer of any municipality or town within the state. [1913; last amended 1939.]

Sec. 76-106. Same: Specific duties.

Under the direction of the state director of agriculture, as state sealer, the deputy state sealer shall have and keep general supervisory control over inspection of weights and measures, and

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weighing and measuring devices, offered for sale, sold, or in use in the state. He, or his deputies at his direction, shall, at least once annually, test the scales, weights and measures used in checking the receipts or disbursements of supplies in every state institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the state board of control and to the executive officer of the institution concerned. He shall, at the request of such state board of control or executive officer of any state institution, appoint, in writing, an employe then in the actual service of such institution, who shall, without receiving additional compensation, act as special deputy for the purpose of checking the receipts and disbursements of supplies. [1915; last amended 1949.]

Sec. 76-113. State sealer and deputies: Duty to inspect annually; sealing; condemnation and confiscation.

It shall be the duty of the sealer of weights and measures, or of his deputies, to visit at least once in each year every place of business where any scale, weight or measure, or any device for ascertaining the quantity of any commodity, is kept for the purpose of trade, and try, test and prove such scale, weight or measure, or such device for ascertaining the quantity of any commodity, and where they are found to be accurate shall seal the same with the seal to be kept by him for that purpose, and when found to be inaccurate shall condemn the same and mark with a tag forbidding the further use thereof until made to comply with the state standards; provided, that where, in the judgment of the sealer of weights and measures, or of his deputies, such scale, weight or measure, or device for ascertaining the quantity of any commodity, is needed for use as evidence in the trial of any case, he, or his deputies, shall take the same into his possession there to await a decision of a competent court of justice, who shall, in addition to any other penalty provided by law, order the destruction

Compiled Laws Annotated, Vol. 5, Title 76, Ch. 1—
Weights and Measures, Sealers—Continued.

thereof where it appears that the same was used with intent to defraud or is incapable of repair or correct adjustment. [1913; last amended 1949.]

Compiled Laws Annotated, Vol. 5, Title 76, Ch. 1a—
Weights and Measures, Regulation and Administration—Continued.

Sec. 76-1a01. Definitions.

For the purposes of this act [Secs. 76-1a01—76-1a12], the following terms are defined as follows: "Department," the department of agriculture of the state of Oregon.

"Director," the director of agriculture of the state of Oregon.

"State sealer," the director of agriculture.

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

"Weights," "measures" or "weighing or measuring devices" include all weights, scales, beams and measures of every kind, instruments and mechanical devices for the weighing or measuring and any appliances or accessories connected with any or all such instruments when used in trade, held in stock as merchandise, offered for sale or sold.

"Person" includes individuals, firms, corporations or associations.

"State weigher," a person duly appointed and qualified for that position as provided in this act.

"In package form" includes 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 sale of the commodity by the vendor, branded or stenciled or otherwise marked, or which may be suitable for labeling, branding or stenciling or otherwise marking, making one complete package of the commodity, and shall include both the wholesale and retail package.

"Original package" includes any article in package form put up by the manufacturer or vendor in advance of actual sale.

"Commodity" includes any article in trade or commerce as a parcel or quantity of goods.

"Commodities not liquid" includes goods, wares and merchandise which are nonliquid in form and which are susceptible of being sold by measure of length, by weight, by measure of capacity or numerical count.

"Livestock scales" is a scales [sic] of not less than 6,000 pounds capacity.

"National bureau of standards" is the national bureau of standards of the department of commerce of the United States. [1941]

Sec. 76-1a02. State standards: Custody; procurement; certification.

The weights and measures, together with scales and beams, now on deposit with the department of

agriculture and those made in conformity therewith and deposited with the department for that purpose shall be preserved by the state sealer as the state standards of weights and measures. All state standards shall conform to those received from the United States under joint resolution of congress, approved June 14, 1836, and July 17, 1866, or such as are certified to be correct by the national bureau of standards. It shall be the duty of the state sealer, when funds are available for that purpose, to procure from time to time such standards and other equipment as may be necessary for the proper administration of the weights and measures laws of this state and to have such state standards as he deems necessary certified as correct once in 10 years by the national bureau of standards. He shall keep a complete record of state standards and other weights and measures apparatus owned by the state and deliver the same over to his successor in office and take a receipt therefor. [1854; last amended 1941.]

Sec. 76-1a03. Office standards; working standards; testing; exceptions.

In addition to the state standards of weights and measures, there shall be at least one complete set of copies to be kept at all times in the office of the state sealer of weights and measures to be known as office standards, and he shall procure such other copies of weights, measures and apparatus as may be found necessary to carry out the provisions of this act [Secs. 76-1a01—76-1a12] to be known as working standards. Such weights, measures and apparatus shall be verified by the state sealer or his deputy at his direction upon their initial receipt and at least once during each year thereafter the office standards by direct comparison with the state standards, the working standards by comparison with the office standards. When found to be accurate upon these tests, the office and working standards shall be sealed by stamping on them the letter "O", and in the case of the working standards, the last two figures of the year with seals which the state sealer shall have and keep for that purpose. The office or working standards shall be used in making all comparisons of weights and measures, weighing or measuring devices submitted for tests and the state standards shall be used only in verifying the office standards and for scientific purposes. This section, in so far as duplicate equipment is concerned, shall not apply to heavy duty equipment such as that used in testing truck scales, calibrating large tanks and other equipment which can not be economically or conveniently purchased and kept in duplicate. [1941]

Sec. 76-1a04. Deputy state sealer: Appointment; duties.

The director, as state sealer, shall appoint a qualified person from the department as deputy state sealer of weights and measures who shall have general supervision throughout the state and the right to test scales, weights, measures or any device used

to ascertain the quantity of any commodity or the giving of full weight or measure in trade. The deputy state sealer shall be under the division chief designated by the director. [1913; last amended 1941.]

Sec. 76-1a06. Sale of commodities: General requirements.

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 products in standard containers, the dimensions of which are established by any law of this state, or rules and regulations of the department, or to apply to foodstuffs put up in original packages or package form and handled, offered for sale or sold in interstate commerce. [1911]

Sec. 76-1a07. Livestock scales: State weighers and deputies; weight certificate; fees.

All scales for weighing livestock shall be maintained in first-class condition and all such scales used at a public terminal or freight-loading station or a livestock salesyard, except railroad track scales, shall be operated by a state weigher or his deputy, who shall be appointed and licensed by the state sealer, but who shall be employed by the owner or operator of any such scales. At the discretion of the state sealer, one or more deputy state weighers may be appointed, licensed and qualified for any such scale. Application for appointment and license as a state weigher or deputy shall be made to the department on forms provided by the department. If the state sealer is satisfied that the person applying for the position of state weigher or deputy is qualified and competent to act in that capacity, he shall appoint and license such person as a state weigher or deputy upon the payment of a fee of two dollars (\$2) who shall hold office at the pleasure of the state sealer. At all stockyards except those operated under the packers and stockyards act of 1921, a state weigher or his deputy shall make a record of all weights taken by him over any such scales on such forms and in the manner as required by the state sealer. A state weigher or his deputy is authorized to issue certificates of weights for livestock, and one copy of such record shall be furnished upon request to each seller and buyer in any such transaction, and one copy shall be sent forthwith to the state sealer at the department in Salem and one copy shall be retained by the state weigher for one year. All fees for the operation of the scales shall be fixed by the owner or operator and may be retained by him as compensation for the services performed. Forms for weight certificates shall be furnished

through the department of agriculture at a minimum price. [1941]

Sec. 76-1a08. Commercial weights and measures: When condemned.

Scales, weighing or measuring devices may be condemned for repairs when used in trade or commerce if installed or operated contrary to law or the rules and regulations of the department. [1941]

Sec. 76-1a09. Approaches and overhead clearance of scales; proviso.

Scales installed for the purpose of weighing drafts of 3,000 or more pounds, except railroad track scales, shall be located so that an approach can be made to one end of the weighbridge and platform by truck on a plane even with the surface of the road or street a distance of 40 feet and shall have an overhead clearance of not less than 10 feet; provided, that for self-contained scales of 600 to 3,000 pounds' capacity located in warehouses or similar locations, the approaches to the platform shall be level to the floor or a ramp approach shall be provided at least equal to the width of the platform and which shall not exceed 10 per cent of its length in elevation; provided further, that scales for the purpose of weighing livestock on the hoof shall be located so that an approach can be made by truck to at least one end of the weighbridge and platform on a plane even with the surface of the road or street of at least a distance of 40 feet and that the overhead clearance shall be not less than 10 feet. The stock cage shall be built on the platform or live part of the scale. Livestock scales located at slaughterhouses, loading or salesyards shall be provided with approaches from the main road or street by a width of not less than 10 feet, as set forth above, and with gate clearance overhead of not less than 10 feet. Bridges and culverts, where necessary, within such approaches shall be built and maintained to permit a 12-ton load to pass safely over them. It is provided further that the provisions of this section shall apply to all new installations at the time this act [Secs. 76-1a01—76-1a12] becomes effective, but scales installed and in use prior to the effective date of this act must meet all the requirements as herein provided not later than January 10, 1943. [1941]

Sec. 76-1a10. Agricultural products: Weighing and measuring; certificate of weight; fees.

The state sealer or his deputies may, upon their own initiative or upon the request of any person, weigh, count or measure any agricultural product or commodity for the purpose of certifying as to the correct weights, measures or count of the same for storage or transportation or for record in case of loss or litigation, and issue a certificate of weight, measure or count, which certificate, when issued, shall be in triplicate; the original copy of such certificate shall be delivered or mailed to the interested person

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making the request for such service and one copy shall be filed in the department with the state sealer and one copy retained by the sealer issuing it for a period of one year. In all such certificates sufficient identification shall be recorded of any commodity upon which a certificate of weight or measure or count is issued. Fees for such service sufficient to cover the cost thereof shall be fixed by the state sealer and shall be paid to the department by the person requesting such service. [1941; last amended 1949.]

Sec. 76-1a11. Disposition of fees.

All fees and other moneys received by the department under this act [Secs. 76-1a01—76-1a12] shall be paid over to the state treasurer and by him deposited in the department of agriculture account to be used for the enforcement of this act. [1941]

Sec. 76-1a12. Courts with jurisdiction; penalties for violations of chapter.

Justice courts and districts courts shall have concurrent jurisdiction with the circuit courts for the enforcement of this act [Secs. 76-1a01—76-1a12] and any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed two hundred and fifty dollars (\$250), or imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment. [1941]

Compiled Laws Annotated, Vol 5, Title 76, Ch. 2—
Weights and Measures, Tolerances and Specifica-
tions.

Sec. 76-201. Deputy state sealer to prescribe.

The deputy state sealer shall prescribe such tolerances and specifications for weights or measures as he may, in his judgment, deem necessary for the proper protection of the public, and it shall be unlawful for any person to offer or expose for sale, sell or use such weights or measures for commercial purposes, as are made contrary to such specifications or that do not come within the prescribed tolerance; provided, however, that such tolerances and specifications as he may prescribe shall conform to any statute of the state relating to same, or to such as have been recommended by the national bureau of standards. Such tolerances and specifications, when prescribed, shall be followed in making all inspections and tests throughout the state. A weight or measure defined as correct shall be understood and construed to mean only such one as conforms to the "standard" within the tolerance prescribed and which complies with such specifications as are applicable to it; all other weights or measures shall be

understood and construed to be incorrect, and in violation of law. [1915]

Sec. 76-202. Condemnation for repairs; confiscation.

Such weights or measures as are incorrect and yet may be repaired shall be marked or tagged as "condemned for repairs," and the owners or users shall have the same repaired within such time as the deputy state sealer or his deputies may require, and any weight or measure or weighing or measuring device that has not been repaired within the required time may be confiscated, and such weight or measure as is, in his best judgment, not susceptible to satisfactory adjustment or repair may be taken into his possession, and shall be held for a period of 30 days next ensuing, at the expiration of which time, if no action at law or suit in equity has been brought for the recovery of the same, it may be destroyed. [1915; last amended 1949.]

Sec. 76-203. Out of balance scale: Unlawful to use.

It shall be unlawful for any person to have in his possession, maintain for use or use any scale for commercial purposes, which is out of balance. [1915]

Sec. 76-204. Sealing of weights and measures; exceptions.

It shall be the duty of the sealer or his deputies to seal all such weights and measures and weighing and measuring devices as are found correct, after test, with an appropriate seal, the design for which shall be furnished by the deputy state sealer; provided, however, that weights used in connection with scales, graduates, milk bottles and similar glass measures need not be sealed. [1915; last amended 1949.]

Sec. 76-205. Municipal ordinances relating to weights and measures; conformity to state statutes.

None of the provisions of title 76 [Secs. 76-101—76-405] shall be construed as in any way limiting the right of any city regularly incorporated within the state from enforcing any ordinance or ordinances which it may have heretofore or may hereafter enact relating to weights and measures; provided, however, that such ordinance shall not establish standards of weight or measure in relation to the sale of commodities other than such as will conform to those adopted by the state; and be it further provided, that such specifications, tolerances and regulations appertaining to the testing, sealing, condemning or confiscation of weights, measures or weighing or measuring devices established or adopted by the state shall be followed by such city in making inspections and tests. [1915; last amended 1939.]

Sec. 76-206. Authority of state sealer and deputy state sealer in municipalities; special sealers.

The state sealer and the deputy state sealer of weights and measures shall have such authority as is authorized and conferred upon them within the limits of such city, and the state sealer hereby is au-

thorized, at his discretion, to appoint as special sealers, the person or persons who may, for the time being, hold the position of city sealer or deputy city sealer, within such city, to enforce the provisions of title 76 [Secs. 76-101—76-405] within the limits of such city, and such person or persons so appointed shall receive no additional compensation therefor. [1915; last amended 1939.]

Sec. 76-208. Penalties for violations.

Any person, firm, corporation or association who or which violates any of the provisions of sections 76-201 to 76-207, inclusive, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$5 nor more than \$500 or, in the case of persons, by imprisonment in the county jail for not less than five nor more than 90 days, or by both such fine and imprisonment. [1915; last amended 1939.]

**Compiled Laws Annotated, Vol. 5, Title 76, Ch. 3—
Weights and Measures, Standards.**

Sec. 76-302. Use of dry measures prohibited; exceptions.

From and after the passage and adoption of this act [Secs. 76-302—76-304], it shall be unlawful to use or employ any dry capacity measure as a means to determine the amounts or quantities of commodities offered or exposed for sale or sold.

All commodities heretofore commonly sold by dry measure shall, from and after the taking effect of this act, be sold upon the basis of net weight or by numerical count.

Dry capacity measures, within the meaning of this section, shall be construed to be the bushel, half-bushel, peck, half-peck, quarter-peck, quart, pint, half-pint and similar measures.

Boxes, baskets and similar containers, the capacities of which have been established by law, shall not be construed as being dry capacity measures.

Any and all existing contracts in which quantities are estimated or arrived at by dry capacity measure or from the bushel weights as at present established by law shall be in force until matured; provided, however, that all contracts made after the taking effect of this act shall establish the amounts or quantities of commodities contracted for therein by net weight or numerical count. [1915]

Sec. 76-303. Sale of dry commodity by liquid measure prohibited.

It shall be unlawful to offer or expose for sale or sell any dry commodity by liquid measure. [1915]

Sec. 76-304. Sale of firewood, coal, and ice.

Firewood shall be sold by the cord or fraction of a cord; coal shall be sold by the ton or fraction of a ton; ice shall be sold by weight, and in all sales of firewood, coal or ice a definite statement shall be made to the purchaser as to the amounts or quantities thereof. [1915]

Sec. 76-305. Standard cord of wood.

The standard of a cord of wood within the state shall be one hundred and twenty-eight cubic feet of wood, well piled. [1913]

Sec. 76-305a. Standard sawdust unit.

The standard of a unit of sawdust within the state shall be 200 cubic feet. [1943]

Sec. 76-306. Standard ton of coal; long ton.

The standard for a ton of coal, within this state, shall be two thousand (2,000) pounds, avoirdupois weight, unless the so-called long ton, twenty-two hundred forty (2,240) pounds, is expressly contracted for. [1913]

Sec. 76-307. Net weight of coal at destination governs; exception.

In all shipments of coal received within this state, in carload lots containing twenty-five tons or more, the net weight of the coal at the destination point shall govern, unless expressly contracted for otherwise. [1915]

Sec. 76-308. Fuel tanks to indicate true capacity when marked.

When the capacity of fuel tanks, range boilers or similar receptacles is marked thereon, such mark or marks shall indicate the true capacity. [1915]

Sec. 76-309. Sale of oysters.

It shall be unlawful to offer or expose for sale or sell any shelled oysters, uncooked, in any other manner than by numerical count, weight, or standard liquid measure, and it shall be unlawful to include, as a part of the weight or the measure, any water or liquid in any greater amount than sixteen per cent of the weight or measure of the oysters offered or exposed for sale or sold; within the meaning of this section, to determine the amount of water or liquid included, the oysters shall be well drained. [1915]

Sec. 76-310. Cranberries: Standard barrel.

The standard barrel for cranberries shall be of the following dimensions, when measured without distension of its parts: Length of staves, twenty-eight and one-half inches; diameter of head, 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 the staves not greater than four-tenths of an inch. [1917]

Sec. 76-311. Same: Packing for sale.

All cranberries offered for sale shall be packed in a standard cranberry barrel, or a legal subdivision thereof, such as half-barrel, a third barrel, or box which shall have the cubical contents of a half-barrel, or third barrel. [1917]

**Compiled Laws Annotated, Vol. 5, Title 76, Ch. 3—
Weights and Measures, Standards—Continued.**

Sec. 76-312. Same: Sale by dry measure authorized.

Cranberries, when offered for sale in quantities less than a third-barrel, may be sold by dry measure; that is, by quart, pint, and similar measures. [1917]

Sec. 76-313. Same: Containers and cartons; label.

Cranberries may be sold in containers or cartons holding four quarts, two quarts, one quart, or pint, and upon the containers or cartons shall be printed the cubical contents of such containers and cartons. [1917]

Sec. 76-314a. Flour: Definitions of.

When used in this act [Secs. 76-314a—76-314e] unless otherwise required by the context:

1. Wheat flour is defined to consist essentially of finely ground endosperm of wheat.

2. Self-rising flour is defined to mean flour to which has been added a leavening agent.

3. Phosphated wheat flour is defined to mean flour to which has been added monocalcium phosphate.

4. Bromated flour is defined to mean flour to which has been added potassium bromate.

5. Enriched flour is defined as flour to which has been added vitamins or minerals, or both, for the purpose of increasing its nutritional value as human food.

6. Enriched self-rising flour is defined to mean flour to which has been added vitamins or minerals, or both, for the purpose of increasing its nutritional value as human food, and a leavening agent.

7. Enriched bromated flour is defined to mean flour to which has been added vitamins or minerals, or both, and potassium bromate, for the purpose of increasing its nutritional value as human food, and a leavening agent. [1945]

Sec. 76-314b. Same: Standard weights of containers required.

There shall be a standard weight for a barrel, sack or other container of wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, or subdivisions thereof. [1945]

Sec. 76-314c. Same: Containers, standard weight of.

The standard weight of a barrel, sack, or other container of wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, and enriched bromated flour shall be 200 pounds, net weight, avoirdupois. The standard weight of one-half barrel, sack or other container of any of said products shall be 100 pounds, net weight avoirdupois. The standard weight of one-quarter barrel, sack or other container of any of said products shall be 50 pounds, net

weight, avoirdupois. The standard weight of one-eighth barrel, sack, or other container of any of said products shall be 25 pounds, net weight, avoirdupois. Standard weights for lesser quantities of any of said products shall be one, two, five and 10 pounds, net weight, avoirdupois. [1945]

Sec. 76-314d. Same: Use of other than standard sack or container unlawful; exceptions.

It shall be unlawful to expose for sale or sell in the sack, or other container, wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, or enriched bromated flour by the sack or other container in other than the standard sack or other container, except the retailing of flours direct to the consumer from bulk stock, or the sale of flours to commercial bakers or blenders in containers of more than 100 pounds, or for export, or the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 76-314e. Same: Penalty for violations.

Any person, firm, corporation or association violating any of the provisions of this act [Secs. 76-314a—76-314e] shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100), or 30 days in the county jail, or by both such fine and imprisonment. [1945]

Sec. 76-319. Potatoes: Standard required.

There shall be a standard weight for a sack of potatoes in the state of Oregon. [1913]

Sec. 76-320. Same: Pounds in sack.

In all cases where not otherwise specified by contract, one hundred pounds, inclusive of the weight of the containing bag or sack, shall be the standard weight of a sack of potatoes in the state of Oregon. [1913]

Sec. 76-321. Mill feed to be sold by weight.

All mill feed, including crushed and ground grains, bran and shorts, shall be sold by weight within the state of Oregon. [1915]

Sec. 76-322. Hops: Standard measure; offenses; exception.

The owner, lessee, manager or person in charge of any hop yard where hops are being picked by measure, shall cause said hops to be measured by standard measure or measures, and for picking purposes the "standard" hop measure within this state, shall contain 19,440 cubic inches. It shall be unlawful for any owner, lessee, manager or person in charge of any hop yard where hops are being picked by measure to use or employ any other than a "standard" measure or measures in ascertaining the quantity picked. Nothing in this section shall be so construed as to prevent any owner, lessee, manager or person in charge of any hop yard from ascertaining by weight,

the quantity of hops picked. [1915; last amended 1927.]

Sec. 76-323. Same: Tare; weight of baling cloth.

Hereinafter in all sales and transfers of hops there shall be allowed and deducted as tare five pounds per bale and no more. Five yards of baling cloth is the maximum quantity to be used making the bale, and the standard weight of each yard of baling cloth is hereby fixed at twenty-four ounces. [1905]

Sec. 76-324. Same: Additional tare in certain cases.

Any vendor of hops using heavier sacking than that specified in this section [Sec. 76-323] or using any extraneous matter in the baling thereof, shall have the same deducted as additional tare. [1905]

Sec. 76-325. Farm or range produce: No tare allowed; exception.

Whenever wheat, rye, Indian corn, oats, barley, clover seed, buckwheat, alfalfa seed, timothy seed, field peas seed, dried apples, dried peaches, dried prunes, potatoes, pears, wool, mohair or any other farm or range product shall be sold by the bushel or pound or in sacks, and if no special agreement shall be made by the parties to sale as to what tare or deduction shall be made for the weight of the sacks containing the above produce, no deduction shall be made therefor. [1913]

Sec. 76-326. Packaged goods: Label; tolerances; exceptions.

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 variation or tolerance shall be permitted; 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 title 76 [Secs. 76-101-76-405]; nor to those commodities kept, for the purpose of sale, offered or exposed for sale, in standard containers as established by the laws of this state or by rules and regulations promulgated by the department of agriculture. [1915; last amended 1939.]

Sec. 76-327. Selling less than quantity represented.

It shall be unlawful for any person or persons, to offer or expose for sale or sell less than the quantity represented, or who, as the buyer, furnished the weight or measure by means of which the amount of the commodity is determined, to take more than the quantity represented or to sell any commodity in a manner contrary to law. [1915]

Sec. 76-328. Certificate of weight; offense.

It shall be unlawful for any person, firm or corporation, owning or operating any scale for hire or

award, to give a false certificate of weights to any person, firm or corporation, and every person, firm or corporation owning or operating a scale for hire or award shall keep a record of all weighings made, and shall on demand of the party interested, report the correct weight in writing of any article or articles to the owner or purchaser thereof. [1913]

Sec. 76-329. Same: False statements; offense.

It shall be unlawful for any person, firm or corporation using any scale, weight or measure, or any device for ascertaining the quantity of any commodity, to give any false certificate, or make any false statement as to the weight or measure of such commodity, to any person whereby such person, or other person, firm or corporation shall suffer loss or injury. [1913]

Sec. 76-330. False weight or measure; offense.

It shall be unlawful, in selling any commodity by weight or measure, to include the weight or measure of anything other than the weight or measure of such commodity so sold; provided, however, that this shall not be so construed as to interfere with the right of contract as between parties. It shall be unlawful for any person, firm or corporation to use any false weight or measure, or to sell any commodity at a greater weight or measure than its true weight or measure, or where the buyer is the weigher or measurer, to take any greater weight or measure than the true weight or measure. [1913; last amended 1915.]

Sec. 76-332. Impersonation of sealers of weights and measures; offense.

It shall be unlawful for any person to impersonate the state sealer or his deputies. [1915; last amended 1949.]

Sec. 76-333. Interference with officers; offense.

It shall be unlawful for any person to interfere in any way with any officer charged with the enforcement of the provisions of title 76 [Secs. 76-101-76-405], while such officer is engaged in the performance of his duty, as in said title provided, or to alter, erase, change or remove any tag or seal placed by such officer in the performance of his duty upon scale, weight or measure, weighing or measuring devices. [1913; last amended 1939.]

Sec. 76-334. General penalty.

Any person, firm, corporation or association who or which violates any of the provisions of chapter 3, title 76 [Secs. 301-334], shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not less than \$5 nor more than \$500, or, in the case of a person, by imprisonment in the county jail for not less than five nor more than 90 days, or by both such fine and imprisonment. [1925; last amended 1939.]

**Compiled Laws Annotated, Vol. 5, Title 76, Ch. 3a—
Weights and Measures, Licensing of Scales.**

Sec. 76-3a01. Definitions.

For the purpose of this act [Secs. 76-3a01—76-3a07] the following terms are defined as follows:

1. "Person" shall include any person, firm, corporation or association.

2. "Department" shall be the department of agriculture of the state of Oregon.

3. "Weighing device" shall mean any scale, balance or instrument used in ascertaining weight of any commodity sold or weighed for commercial purposes.

4. "Liquid measuring device" shall mean any mechanically operated pump, meter or instrument used for ascertaining measure by volume of any commodity used as fuel for internal combustion engines or as a heating fuel, when such commodity is sold at retail or wholesale. [1949]

Sec. 76-3a02. License required; exception.

Before any person shall operate a scale or a liquid measuring device he shall first procure from the department a license for each such device, except scales which are subject to inspection under the provision of section 113-409 O.C.L.A., as amended. All such licenses shall expire on the thirtieth day of June, next succeeding the date of their issuance. [1949]

Sec. 76-3a03. Application for license; fees.

Any person desiring to obtain a license for the operation of scales or measuring devices shall make application to the department for such license upon a form furnished by the department which shall contain such information as the department may by rule or regulation require. Every application shall be accompanied by the proper fee as established by this act [Secs. 76-3a01—76-3a07]. License fees established by this act shall be as follows: Scales with a capacity of 5,000 pounds and over, ten dollars (\$10); scales with a capacity of 600 pounds to and including 4,999 pounds capacity, three dollars (\$3); and scales under 600 pounds capacity, fifty (50) cents; wholesale, bulk or vehicle tank meter, four dollars (\$4); and retail pumps or meters, one dollar (\$1); provided that scales or liquid measuring devices located within the corporate limits of a city enforcing an ordinance relating to weights and measures that conforms to the standards and specifications adopted by the state, shall be exempt from such license fees. The capacity of a given scale shall be determined by the manufacturer's rated capacity as determined by the reading element. [1949]

Sec. 76-3a04. Tags for licensed scales; revocation of license.

The department shall then issue for each scale or measuring device so licensed a tag or sticker for identification and, in addition, a certificate, to the owner or operator holding such license. Any li-

cence issued under this act shall apply only to the device specified in the license. [1949]

Sec. 76-3a05. Enforcement; rules and regulations.

The department hereby is charged with the administration and enforcement of this act [Secs. 76-3a01—76-3a07] and is authorized to make and enforce all rules and regulations which it may deem necessary to carry out the purposes of this act, which rules and regulations shall be published in pamphlet form as provided by the department of agriculture statute. [1949]

Sec. 76-3a06. Penalties for violations; courts of jurisdiction.

Any person who shall violate any of the provisions of this act [Secs. 76-3a01—76-3a07], or any of the rules and regulations of the department made hereunder, shall be punished by a fine of not less than ten dollars (\$10) nor more than two hundred fifty dollars (\$250). Justice courts and district courts shall have concurrent jurisdiction with the circuit courts of this state for enforcement of the provisions of this act. [1949]

Sec. 76-3a07. Disposition of fees.

It shall be the duty of the department upon receiving any fees, charges, fines, costs or other moneys resulting from the operation and enforcement of this act [Secs. 76-3a01—76-3a07] to pay to the state treasurer of the state of Oregon within 10 days after the first of each month all such moneys so received by it during the preceding calendar month, and thereupon the state treasurer shall place any sums so received to the credit of the department of agriculture account for the purposes of administering the provisions of this act, and all such sums hereby are appropriated to the department of agriculture for such purposes. [1949]

**Compiled Laws Annotated, Vol. 5, Title 76, Ch. 4—
Weights and Measures, General Provisions.**

Sec. 76-401. Enforcing agency.

It shall be the duty of the department of agriculture and its officers and employes, acting under the direction of the director of agriculture, as the state sealer of weights and measures to enforce the provisions of title 76, O.C.L.A. [Secs. 76-101—76-405]. [1917; last amended 1949.]

Sec. 76-402. Courts of jurisdiction.

Justices of the peace and district courts shall have concurrent jurisdiction with the circuit courts for the enforcement of title 76 [Secs. 76-101—76-405]. [1917; last amended 1939.]

Sec. 76-403. District attorney to prosecute.

It shall be the duty of the prosecuting attorney in each district to represent the state in any procedure for the violation of the state laws relating to weights and measures. [1913; last amended 1939.]

Sec. 76-404. Definitions.

The word "person" as used in title 76 [Secs. 76-101-76-405], shall be construed to include any officer, director or agent of any corporation, company, society or association. The words "weight or measure" and "weights or measures" shall be construed to include weights, scales, beams, measures of any kind, instruments and mechanical devices for weighing or measuring, and any appliances or accessories connected with any and all such instruments. [1915; last amended 1939.]

Sec. 76-405. Possession as evidence.

In all prosecutions for the violation of any laws relating to weights and measures, the possession of a weight or measure, or weights or measures, which has been altered, changed, or in any manner tampered with so that the same shall give a false or wrong weight or measure in either buying or selling any commodity, shall be prima facie evidence of the guilt of the person having the same in possession. [1915; last amended 1917.]

Compiled Laws Annotated, Vol. 3, Title 23, Ch. 5, Art. 4—Metallic Commodities.

Sec. 23-554. Misbranding or misrepresenting any metallic commodity; penalty.

Any person, firm or corporation, foreign or domestic, his or its agent, servant or employee doing business in the state of Oregon, who, intentionally or for the purpose of deceiving any customer or purchaser, misbrands or misrepresents the kind, gauge, analysis, weight, quality or quantity of any metallic commodity offered for sale, or if it be an imitation of or offered for sale under the distinctive name of another article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. [1915]

Compiled Laws Annotated, Vol. 3, Title 24, Ch. 6, Art. 1—"Uniform Narcotic Drug Act."

Sec. 24-610. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall affix securely to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1935]

Sec. 24-619. Enforcement.

It hereby is made the duty of the state board of health, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of

all county attorneys, to enforce all provisions of this act [Secs. 24-601-24-624], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states relating to narcotic drugs. [1939]

Sec. 24-621. Penalty for violations.

Any person violating any provision of this act [Secs. 24-601-24-624] shall, upon conviction, be punished by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the state penitentiary for not exceeding 10 years, or by both such fine and imprisonment. [1939; last amended 1945.]

Compiled Laws Annotated, Vol. 4, Title 29, Ch. 1—Department of Agriculture, Rules and Regulations.

Sec. 29-118. Rules and regulations; effect of violation.

The department is authorized and directed to make any and all rules and regulations necessary for the administration or enforcement of any law with the administration or enforcement of which the department is or may hereafter be charged, and not inconsistent with the authority with which the department is vested or with any such law. Such rules and regulations shall be compiled and printed in pamphlet form for distribution. The violation of any rule or regulation made by the department pursuant to this section shall be a violation of the law to which such rule or regulation applies and shall be punishable in the manner provided for violations of such law. [1939]

Compiled Laws Annotated, Vol. 4, Title 29, Ch. 1—Agricultural Products, Establishment of Standards for Containers.

Sec. 29-127. Authority to fix standards.

* * * the department of agriculture hereby is authorized and empowered, after investigation and public hearing, * * * to fix and promulgate official standards¹ of such products [horticultural and agricultural products, including articles of food, drinks, dairy products, livestock products, poultry products and apiary products, grown or produced in this state, exclusive of bakery products and alcoholic liquors] and to change any of such * * * standards from time to time; provided, however, that any of such * * * standards fixed and promulgated by the department shall be in conformance to any and all laws of this state providing special * * * standards for any of such products or containers; provided further, that with respect to canned goods, the department is empowered to promulgate only definitions and standards of identity, quality and fill of containers. [1939; last amended 1949.]

¹ See also Sec. 36-205, page 829.

Compiled Laws Annotated, Vol. 4, Title 29, Ch. 1—
Agricultural Products, Establishment of Standards
for Containers—Continued.

Sec. 29-133. Adoption of United States standards.

The state department of agriculture is authorized to fix and promulgate, under the procedure above provided, as the official standard for this state for any such horticultural or agricultural product or container, any standard which may have been promulgated or announced therefor under the authority of the congress of the United States, and the department is authorized to cooperate with the United States, or any department thereof, in accomplishing the matters and things provided for herein. Such grades and standards as are now in force shall continue to be official as though promulgated under this act [Secs. 29-101—29-148]. [1939]

Sec. 29-138. Use of container not conforming to standards; penalty.

* * * * *

(2) Whenever any standard for a container for any such horticultural or agricultural product becomes effective under this act [Secs. 29-101—29-148], no person thereafter shall pack or place for sale, offer for sale, consign for sale or sell and deliver, in a container, any such horticultural or agricultural product to which the standard is applicable, unless the container conforms to the standard, subject to such variations therefrom as may be allowed by law or by rules and regulations made pursuant to law, unless such product be brought from outside the state and offered for sale, consigned for sale, or sold in the original package which is a standard package in the state of origin, provided that the provisions of this act shall not apply to horticultural or agricultural products packed for and sold as gift packages, and shipped in containers, the specifications of which, or a sample of which, have been submitted to and approved by the department.

(3) Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 or be imprisoned not more than one year, or punished by both such fine and imprisonment. [1939; last amended 1941.]

Compiled Laws Annotated, Vol. 4, Title 32, Ch. 20a
—Livestock Auction Markets.

Sec. 32-20a01. Definitions; enforcement; rules and regulations; exemptions.

For the purpose of this chapter [Secs. 32-20a01—32-20a19] "department" means the department of agriculture of the state of Oregon; * * * "director" means the director of the department of agriculture of the state of Oregon; * * * "livestock auction market" (licensee) means any person who holds a valid unrevoked license from

the department as provided by this act, and any person who thereafter receives a valid license from the department as provided by this act; "person" means individuals, partnerships, corporations and associations; "livestock" means horses, mules, asses, cattle, sheep, swine or goats of any age or sex.

The department shall perform such duties as may be necessary to enforce the provisions of this act and rules and regulations promulgated in compliance with this act. * * *

This act shall apply to any person engaged in the business of conducting or operating a livestock auction market in which livestock are received for buying or selling, on commission basis or handling in any manner for exchange; provided, however, that these definitions shall not apply to a person who raises livestock and sells them in the regular course of his business; nor to any sales of breed or livestock associations; nor to sales held by 4-H clubs; nor to sales held pursuant to the provisions of the law pertaining to stock running at large; nor to markets having stationed thereon a full-time federal veterinarian from the United States bureau of animal industry to supervise animal inspection and sanitation.

Every livestock auction market shall, at all times, have posted in a conspicuous place therein the full names and addresses of the persons owning, operating or conducting such business. [1947]

Sec. 32-20a04. License required.

No person shall hereafter operate a livestock auction market in the state of Oregon without first having obtained from the department, under the provisions of this act [Secs. 32-20a01—32-20a19], a license therefor. * * * [1947]

Sec. 32-20a07. Operator's bond.

Any person operating a livestock auction market shall maintain a bond payable to the state of Oregon to secure the performance of his obligation incurred as such livestock auction market operator. * * * [1947]

Sec. 32-20a15. Weighing to be done by licensed weighmasters; scale tickets; weighers' licenses; issuance; fees; disposition.

All livestock auction markets maintaining and operating any weighing facilities for the weighing of livestock shall provide for the weighing to be done by licensed weighmasters. Scale tickets used shall be in triplicate forms, a copy of each for the buyer, seller and office reference. Licenses for weighers shall be issued by the department and a fee of two dollars and fifty cents (\$2.50) for each license shall be collected by the department from the applicant therefor, and all moneys received for such licenses shall be paid into the state treasury to the credit of the department of agriculture account to be used only in the administration of this act [Secs. 32-20a01—32-20a19]. [1947]

Sec. 32-20a18. Penalties for violations.

Any person who shall violate any of the provisions of this act [Secs. 32-20a01—32-20a19] shall be guilty of a misdemeanor and, upon the conviction of the first offense, shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment. Every person who shall violate any of the provisions of this act, after having been convicted previously of a violation of any provision thereof, shall be guilty of a misdemeanor and, upon conviction, shall be punished by revoking the license of such person and a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment. [1947]

Sec. 32-20a19. Jurisdiction.

Justice of the peace courts and district courts shall have concurrent jurisdiction with the circuit courts of the state under the provisions of this act [Secs. 32-20a01—32-20a19]. [1947]

Compiled Laws Annotated, Vol. 4, Title 32, Ch. 25—Honey, Establishment of Standards for Containers.**Sec. 32-2510. Authority to establish standards.**

The department [of agriculture] hereby is authorized and directed, after a public hearing, to establish grades and standards for honey and standards for containers, such grades and standards to be established in the manner provided by law¹ for the establishment of grades and standards by the department; provided, such grades and standards shall be compulsory. * * * The said department also shall take into account any grades or standards for honey established by the United States department of agriculture. [1933; last amended 1939.]

¹ See Sec. 29-127, page 825.

Sec. 32-2512. Penalty for violations.

Any person who shall violate any of the provisions of sections 32-2502 to 32-2512 or any of said sections as now or hereafter amended, or of any rule or regulation issued thereunder, * * * or who shall fail to comply with any notice issued under the provisions of this act is guilty of a misdemeanor and, on conviction thereof, is subject to a fine not to exceed \$25. [1933; last amended 1939.]

Compiled Laws Annotated, Vol. 4, Title 34, Ch. 3—Milk and Cream.**Sec. 34-302. Babcock test: Use of standard glassware and scales.**

Every person, firm or corporation receiving or purchasing milk or cream on the basis of the

amount of butterfat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles, pipettes and accurate weights and scales as prescribed by rules and regulations of the department, and it shall be unlawful to sell, offer for sale, or use glassware for the purpose of the Babcock test in the state of Oregon, unless such glassware shall bear the mark "Sealed" or any other mark which the state department of agriculture shall approve by regulation. Glass manufacturers shall place the mark "Sealed" only on such glassware as fully meets the requirements of the regulations promulgated under this act. The manufacturer shall brand each piece of glass with a brand issued by the state department of agriculture, and shall mark each piece of glassware "Sealed" or with such other mark as the department may designate by regulation. It shall be unlawful for any firm or corporation or its agents to sell or to use for the purpose of determining the amount of fat in milk or cream received or purchased on the basis of butter fat other than standard test bottles or pipettes which have been branded or marked as provided by this section. [1915; last amended 1949.]

Sec. 34-309. Same: Penalty for violations.

Any employe of a firm, company, association, corporation or persons receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein, violating any of the provisions of sections 34-301 to 34-309, inclusive, and section 34-310, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in the sum of not more than \$250 or be imprisoned in the county jail for not more than 12 months, or both. Any person, firm or corporation purchasing milk or cream on the basis of the amount of butterfat contained therein, violating any of the provisions of sections 34-301 to 34-309, inclusive, and section 34-310, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or imprisonment in the county jail for a period of not more than one year, or both such fine and imprisonment. [1915; last amended 1939.]

Sec. 34-310. Same: Record and tests.

A permanent record in duplicate of all tests of milk or cream purchased or received on the basis of butterfat contained therein must be made by a tester, licensed by the state department of agriculture, on standard forms in accordance with the specifications for such records, adopted by the said department. * * * [1915; last amended 1939.]

Sec. 34-311. Milk products plants: Definitions.

1. The term "milk products plant" when used in this act [Secs. 34-311—34-324], shall include any

Compiled Laws Annotated, Vol. 4, Title 34, Ch. 3—
Milk and Cream—Continued.

creamery, shipping station, milk plant, cheese factory, ice cream factory, condensery, or other plant or place which purchases or receives milk or cream on the basis of the amount of butter fat contained therein.

2. The term "department," when used in this act, shall mean the department of agriculture of the state of Oregon.

* * * * *

4. The term "Babcock test" as used in this act shall mean the method of determining the percentage of milk fat in milk or milk products in compliance with this act and regulations hereunder promulgated. [1915; last amended 1949.]

Sec. 34-314. Same: Licensed tester; fraudulent manipulation.

Every milk products plant shall at all times employ a licensed tester, who shall sample and test all milk or cream purchased or received by such plant, and who shall be responsible for the operation of the Babcock test of such milk products plant. Every milk products plant shall take accurate samples of any milk or cream received. It shall be unlawful for any milk products plant or any agent or employe or tester thereof to underweigh, undertest, or overtest or incorrectly weigh, measure or test any milk or cream received or purchased, or to fraudulently manipulate any weight, test or measure of any milk or cream, or to make any false entry thereof as to weight or test or measure thereof upon any statement, record, invoice or milk or cream test sheet. [1933]

Sec. 34-318. Same: Presence of seller at tests.

The seller of milk or cream, or his agent, shall have the right to be present while the purchaser weighs or measures the same, take[s] samples for testing, or makes tests of such samples. Such seller or agent shall have the right to take samples of such milk or cream and to have independent tests thereof made. Upon the request of any seller or his agent, a milk products plant shall notify said seller or his agent of the time and place where the milk or cream will be weighed or measured, samples taken or tests made. [1933]

Sec. 34-319. Same: Inaccurate weighing or testing; damages; attorney's fees.

If any seller of milk or cream shall suffer any damage because of any inaccurate measuring, weighing, sampling or testing of such milk or cream by any milk products plant or by any inaccurate entry of the results of any such test, such seller, if action or suit is brought therefor, may, in addition to damages, recover a reasonable attorney fee to be fixed by the court. [1933]

Sec. 34-320. Same: Revocation of license.

Any license granted under sections 34-312 and 34-313, may be revoked or suspended by the department [of agriculture] if the licensee fails to comply with any provision of sections 34-311 to 34-324, inclusive, or such licensee or his or its agents, employes or testers shall fail to accurately weigh, sample or test any milk or cream received by him or it, or if such licensee or his or its agents, employes or testers shall make any false entry of any weight, sample, test or measure upon any statement, record, invoice, milk or cream test sheet. * * * [1933; last amended 1939.]

Sec. 34-322. Same: Testing, weighing and sampling by department in lieu of revocation of license.

The department [of agriculture], in lieu of revoking the license of any milk products plant, with the written consent of such licensee, may take full charge of the weighing, sampling and testing of the milk or cream received or purchased by such milk products plant. In this event, the department may employ a competent tester of its own choice, the salary and expenses of whom shall be paid by the milk products plant. The department shall continue in charge of the weighing, sampling and testing of the milk or cream received or purchased by such milk products plant until such time as the department shall be satisfied that such licensee will comply with all of the provisions of this act [Secs. 34-311—34-324], and thereupon shall return the control of such weighing, sampling and testing to the licensee. [1933]

Sec. 34-324. Same: Penalties for violations.

Any person, firm or corporation violating any provision of sections 34-311 to 34-324, inclusive, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50 and not more than \$300. [1933; last amended 1939.]

Compiled Laws Annotated, Vol. 4, Title 34, Ch. 6,
Art. 1—Butter.

Sec. 34-603. Marking requirements.

All dairy butter sold, or offered or exposed for sale, in rolls, prints or squares, shall have printed or stamped upon the wrapper the words, "Dairy Butter," and the name and address of the manufacturer and the net weight. * * * [1915]

Sec. 34-608. Shortweight sale prohibited; label.

It shall be unlawful for any person to sell, offer or expose for sale, any short-weight butter within the state of Oregon. All butter sold, or exposed or offered for sale in rolls, prints or squares within the state of Oregon shall be plainly marked with the net weight thereof, and every roll, print or square sold, or offered or exposed for sale shall contain the weight marked thereon. [1915]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 2—
Horticultural Products, Labeling.

Sec. 36-203. Definitions.

For the purposes of this act [Secs. 36-203—36-210], the words hereinafter mentioned shall be defined as follows:

1. "Horticultural products" shall mean all horticultural products excepting those that are canned, bottled, frozen, dried, candied or brined.

2. "Container" shall mean the box, crate, lug, chest, basket, carton, barrel, keg, drum, sack, hamper, bag, bin, tray, bucket or other receptacle, whether open or closed, used by any person, firm, association or corporation in transporting horticultural products, or in which such products are offered for sale.

3. "Stamp," "mark" or "label plainly" shall mean placing the herewithin-required information on the container in legible letters or figures of not less than three-eighths inch in height and not less than three-sixteenths inch in width, by means of a rubber stamp, stencil, printing by machine, or by attaching to the package by means of glue or paste, a machine-printed label, and such marks, and the location thereof, shall conform to the rules and regulations established by the state department of agriculture when promulgating grades for horticultural products.

4. "Deceptive pack" shall mean any arrangement of horticultural products which has in the outer layer or any exposed surface horticultural products which are so superior in quality, size, condition or in any other respect to those in the interior of the lot or the unexposed portion as to materially misrepresent the contents of the lot. A deceptive pack also shall mean a container slackly filled so as to deceive the purchaser in regard to the total contents, or a container which has had a portion of the original contents removed and then offered for sale as a full pack.

5. The singular and plural forms of any word or term in this act [Secs. 36-203—36-210] shall be interchangeable and equivalent within the meaning of this act. [1933; last amended 1941.]

Sec. 36-204. Net contents to be marked.

It shall be unlawful for any person, firm, association or corporation to sell, offer for sale or transportation, or to transport within the state of Oregon, horticultural products unless each container or package of such products be plainly and conspicuously labeled with the name and postoffice address of the grower, shipper or dealer, and the net contents of said container or package in terms of weight, measure or numerical count; provided, that this section shall not apply to transportation from the owner's fields to a warehouse for storage or grading and packing, or to processing plants. [1933; last amended 1941.]

Sec. 36-205. Rules and regulations; deceptive pack unlawful.

The department of agriculture hereby is authorized to * * * provide by regulation such branding and packing requirements as are deemed necessary. Such regulations shall be adopted under the procedure and in the manner provided by sections 29-127¹ to 29-131, O. C. L. A., inclusive.

* * * * *

It shall also be unlawful to prepare, deliver for shipment, ship, transport, offer for sale or sell a deceptive pack, or package, load, arrangement or display of horticultural products. [1933; last amended 1941.]

¹ See page 825.

Sec. 36-208. Possession of unlabeled, falsely labeled or deceptively packed products; misdemeanor; prima facie evidence; exception of transportation by common carrier.

If any person, firm, association or corporation shall have in his possession for sale or transportation any of such horticultural products not labeled as required in this act [Secs. 36-203—36-210] or falsely marked or labeled, or deceptively packed contrary to the provisions of this act, he shall be deemed guilty of a misdemeanor. The possession for sale or transportation by such person, firm, association or corporation of any such horticultural products so falsely marked, labeled or packed shall be prima facie evidence that such person, firm, association or corporation has so falsely marked, labeled or packed such horticultural products; provided, that the provisions of this act shall not apply to the transportation of horticultural products by common carrier, except when the common carrier is issued a written notice by the state department of agriculture that the lot of horticultural products offered for shipment has been seized by the state department of agriculture for not meeting the requirements of this act and such notice shall be accompanied with a copy of the seizure notice. [1933; last amended 1941.]

Sec. 36-209. Enforcement; right of entry; seizure.

The director and all authorized agents of the state department of agriculture shall enforce the several provisions of this act [Secs. 36-203—36-210] and to that end may enter any place or conveyance within this state where any fruit, nuts or vegetables are produced, stored, packed, delivered for shipment, loaded, shipped, being transported, or sold, and inspect all such fruit, nuts or vegetables and the containers thereof and take for inspection such representative samples of the fruit, nuts or vegetables and such containers, as may be necessary, to determine whether or not this act has been violated.

Whenever a duly authorized representative of the department finds, or has probable cause to believe, that any products are marked, labeled

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 2—
Horticultural Products, Labeling—Continued.

or packed in violation of this act, he shall seize said products and proceed in the manner directed by law¹ for the disposal of products seized by the department of agriculture. [1933; last amended 1945.]

¹ See Secs. 36-1501 and 36-1502, page 833.

Sec. 36-210. Penalty for violations.

Any person, firm or corporation who shall violate any of the provisions of sections 36-201 to 36-209, O. C. L. A., inclusive, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than the sum of \$20 nor more than \$500 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment. [1933; last amended 1941.]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 3,
Secs. 36-301 to 36-322—Eggs.

[ED. NOTE.—These sections provide for the grading and classification of eggs according to quality as determined by condition of the egg and the size and weight. The pertinent sections are omitted as they relate primarily to quality.]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 4—
Commercial Feeding Stuffs.

Sec. 36-402. Definition.

The term "commercial feeding stuffs" shall be held to include all materials, single or mixed, intended for use in feeding or mixing for livestock and/or fowls, or represented by any seller or distributor of such material as suitable for such purpose, except the following:

- (a) Whole seeds or grains;
- (b) The unmixeds meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed and grain sorghums;
- (c) Unground hays and straws; unground and un-mixed screenings, cottonseed hulls, corn stover and oat hulls; and feed molasses when mixed with other materials;
- (d) All other materials containing sixty per cent or more of water. [1921; last amended 1939.]

Sec. 36-403. Marking requirements.

On or after July 1, 1921, every lot or parcel of commercial feeding stuffs as specified in section 36-402, sold, offered or exposed for sale or distributed within this state shall be labeled or have affixed thereto a tag in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel. [1921]

* * * * *

Sec. 36-411. Penalty for violations.

Any person, firm, corporation or agent that shall offer or expose for sale or sell any package or sample or any quantity of any commercial feeding stuffs * * * who does not have affixed to it the tag or label required by section 36-403 * * * shall be fined in a sum not to exceed \$100 for the first offense and in a sum not to exceed \$500 for each subsequent offense. * * * [1921; last amended 1939.]

Sec. 36-414. Enforcement; rules and regulations.

The state department of agriculture hereby is empowered to enforce the provisions of sections 36-401 to 36-414, inclusive, and to prescribe the form of labels or tags to be used and to prescribe and enforce such rules and regulations relating to the sale or distribution of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of said sections. * * * [1921; last amended 1939.]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 5—
Commercial Fertilizer, Lime, and Agricultural Minerals.

Sec. 36-501. Commercial fertilizer: Definitions.

When used in this act [Secs. 36-501—36-517] the following terms shall mean as follows:

"Commercial fertilizer" shall mean any substance, or any combination or mixture of substances, designed for use principally as a source of plant food, in inducing increased crop yields or plant growth, or producing any physical or chemical change in the soil and shall contain five (5) per cent or more of available plant food, except hays, straws, peat and leaf mold, and unmanipulated animal manures.

"Agricultural minerals" shall mean mineral substances, mixtures of mineral substances, and mixtures of mineral and organic substances, except animal manures, containing less than five (5) per cent in available form of nitrogen, phosphorus pentoxide, or potassium oxide, singly, collectively, or in combination, designed for use principally as a source of plant food, in inducing increased crop yields or plant growth, or producing any physical or chemical change in the soil, except lime, sand and soil.

"Lime" shall mean any substance or mixture of substances the principal constituent of which is calcium carbonate, calcium hydroxide or calcium oxide, either singularly or mixed with each other.

"Person" shall mean any person, firm, corporation or association.

"Department" shall mean the department of agriculture of the state of Oregon. [1939]

Sec. 36-502. Same: Marking requirements.

(a) No lot, parcel, or package of, or receptacle containing commercial fertilizers shall be sold,

offered, or exposed for sale within this state unless the same shall have attached thereto or printed thereon a plainly printed label, stating * * * the number of net pounds of commercial fertilizer contained therein, * * * [1939; last amended 1941.]

Sec. 36-503. Lime: Marking requirements.

No lime shall be sold or offered for sale in this state for agricultural purposes, without a plainly printed label on or attached to each lot, parcel or package of, or receptacle containing such lime; or, if sold, offered, or exposed for sale in bulk, a statement shall be delivered to the purchaser of such lime or of any part thereof; which statement or label shall contain the following plainly printed information:

(a) The number of pounds in each lot, parcel, package, or receptacle, or bulk lot. [1939]

Sec. 36-504. Agricultural minerals: Marking requirements.

No agricultural minerals shall be sold or offered for sale in this state, without a plainly printed label on or attached to each lot, parcel, or package of, or receptacle containing such agricultural minerals; which statement or label shall contain the following plainly printed information:

(a) The number of pounds in each lot, parcel, package, or receptacle. [1939; last amended 1941.]

* * * * *

Sec. 36-515. Enforcement of statute.

The department hereby is charged with the administration and enforcement of the provisions of this act [Secs. 36-501—36-517], and for that purpose may make rules and regulations, not inconsistent with law. It shall be the duty of the department to prosecute any violations of this act. Whenever a duly authorized representative of the department finds or has cause to believe that any commercial fertilizer, agricultural mineral, or lime is being sold, offered for sale, or exposed for sale in this state, in violation of any of the provisions of sections 36-501 to 36-517, inclusive, as amended, he shall have authority to seize such product, and shall proceed in the manner directed by law¹ for the disposal of products seized by the department of agriculture. [1939; last amended 1947.]

¹ See Secs. 36-1501 and 36-1502, page 833.

Sec. 36-517. Penalties for violations; courts of jurisdiction; procedure.

(a) Any person who shall violate any provision of this act [Secs. 36-501—36-517], or of any rule or regulation of the department [of agriculture] made under the provisions hereof shall be guilty of a misdemeanor, and shall, upon conviction by a court of competent jurisdiction, be fined in a sum not to exceed one hundred dollars (\$100) for each violation. Justice courts, municipal courts acting as justice courts, district courts and circuit courts

shall have concurrent jurisdiction of all offenses under this act.

(b) In addition to any other penalty provided by this act, circuit courts are hereby vested with jurisdiction to restrain any violation or threatened violation of this act upon suit by the director of agriculture of the state of Oregon.

(c) In any action, suit or proceeding, criminal or civil, under this act, it shall be the duty of the district attorney for the county in which the venue of such action, suit or proceeding may lie, to represent the department, if the department shall so request. [1939]

**Compiled Laws Annotated, Vol. 4, Title 36, Ch. 8—
Medicinal Stock Foods.**

Sec. 36-801. Definition.

The term "medicinal stock food", as used in this chapter [Secs. 36-801—36-808], shall be held to include all condimental, patented, proprietary or trade-marked stock or poultry foods or remedies in powdered form, claimed to possess medicinal properties or both medicinal and nutritive properties, whether sold under names such as food, tonic, regulator, powder, conditioner, remedy or under whatever name it may be sold. [1915; last amended 1939.]

Sec. 36-802. Marking requirements.

Every lot, parcel or package of medicinal stock food, as defined in section 36-801, sold, offered or exposed for sale or distribution within this state, shall have affixed thereto, a label in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in black ink, in the English language, clearly and truly certifying:

(a) The net weight of the package. [1915]

* * * * *

Sec. 36-806. Penalties for violations.

Any person who shall, by any act, whether of commission or omission, violate any of the provisions of this chapter [Secs. 36-801—36-808] of the Oregon Compiled Laws shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$10 nor more than \$1,000 or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment; provided, however, that upon a second conviction for the violation of any of the provisions of this chapter such person shall be punished by a fine of not less than \$50 nor more than \$1,000 or by imprisonment in the county jail for not less than 10 days nor more than one year, or by both such fine and imprisonment. [1939]

Sec. 36-808. Courts of jurisdiction; prosecution.

Justice courts, district courts, and municipal courts sitting as justice courts, shall have concurrent jurisdiction with the circuit courts of all pros-

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 8—
Medicinal Stock Foods—Continued.

ections arising under this chapter [Secs. 36-801—36-808] of the Oregon Compiled Laws. The district or county attorney is authorized to institute prosecutions for violations of this chapter of the Oregon Compiled Laws by information, or the same may be instituted by indictment or by complaint verified before any magistrate. [1939]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 9—
Onions, Establishment of Standard Containers.

Sec. 36-901. Authority to establish standards.

The department of agriculture hereby is authorized and directed to establish standard grades and containers for onions for the state of Oregon, which said official grades shall conform, as far as practicable, to the official standards and grades of the United States as prescribed and promulgated by the United States department of agriculture. Such grades or containers may be changed from time to time, as may be necessary. Such grades and containers shall be adopted under the procedure and in the manner prescribed by the department of agriculture statute.¹ [1935; last amended 1939.]

¹ See Sec. 29-127, page 825.

Sec. 36-910. Penalties for violations.

Any person, firm, association or corporation selling or offering for sale or shipment any onions in violation of the provisions of sections 36-901 to 36-909, inclusive, or the rules and regulations established under said sections, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or not less than \$10 nor more than \$100, or by imprisonment in the county jail for not less than 10 days nor more than 30 days, or by both such fine and imprisonment. [1935; last amended 1939.]

Compiled Laws Annotated, Vol. 4, Title 36, Ch. 10—
Insecticides and Fungicides.

Sec. 36-1001. Definitions.

Certain terms appearing in this act [Secs. 36-1001—36-1007] shall be defined as follows:

The term "department" shall be construed to mean and include the department of agriculture of the state of Oregon, acting through its authorized officers, agents and employes.

The term "person" shall include any individual, firm, corporation or other legal entity.

The terms "insecticide" and/or "fungicide" shall be construed to mean and include any and all substances intended for use in preventing, destroying, repelling or mitigating insects, rodents, predatory animals, including birds, fungi, bacteria, weeds, parasites or other pests, but to include

drugs, chemicals or other preparations sold or intended for medicinal or toilet purposes or for use in the arts or sciences.

* * * * *

The term "misbranded" shall apply to any insecticide or fungicide if its package or label shall bear any statement which is false or does not conform to the requirements of this act; * * * if it be labeled or branded so as to deceive or mislead the purchaser; * * *

The term "registrant" shall apply to the person, firm, corporation or other legal entity registering any insecticide or fungicide * * * [1943]

Sec. 36-1002. Marking requirements.

It shall be unlawful for any person to manufacture, deliver, distribute, sell, expose or offer for sale, either at wholesale or retail, within this state:

(a) Any insecticide or fungicide unless the same shall be inclosed in the registrant's or the manufacturer's original unbroken container or package, to each of which is affixed a label bearing * * * (4) the net weight or measure of the contents; provided, however, that insecticides or fungicides may be sold at retail from broken packages when such packages conform to law and the seller labels the package, which label shall contain * * * the net weight or measure of the amount sold. [1943]

Sec. 36-1004. Enforcement; rules and regulations; seizure and disposal of product.

The provisions of this act [Secs. 36-1001—36-1007] shall be enforced and administered by the department of agriculture of this state, * * *. Rules and regulations promulgated by the department under this act shall be furnished to each registrant. Whenever a duly authorized representative of the department finds or has cause to believe that any insecticide or fungicide is being manufactured, distributed, sold or offered for sale in violation of any of the provisions of this statute, he shall have authority to seize such product and shall proceed in the manner directed by law¹ for the disposal of products seized by the department of agriculture. [1943; last amended 1947.]

¹ See Secs. 36-1501 and 36-1502, page 833.

Sec. 36-1005. Exemptions.

The provisions of this act [Secs. 36-1001—36-1007] prohibiting delivery and distribution of any insecticide or fungicide shall not apply to transactions of (1) manufacturers, processors or packers which relate to the improvement, production and preparation of said commodities for lawful sale within the meaning of this act; (2) common or private carriers and warehousemen while engaged in lawfully transporting and storing insecticides or fungicides, provided he can furnish names of party or parties within the state who are respon-

sible; (3) public officers while engaged in the performance of their official duties, or (4) any employe of any of the foregoing while acting within the scope of his employment. [1943]

Sec. 36-1006. Penalties for violations; jurisdiction of courts.

Any person who violates any of the provisions of this act [Secs. 36-1001—36-1007] shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for the first offense, and not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) on any subsequent offense. Justice courts and district courts shall have concurrent jurisdiction with circuit courts of this state of all prosecutions arising under this act. [1943]

**Compiled Laws Annotated Vol. 4, Title 36, Ch. 15—
Department of Agriculture, Seizure and Disposal
of Unlawful Products.**

Sec. 36-1501. Procedure.

In order that the rights of consumers and property owners may be protected and procedures made uniform the state department of agriculture, hereinafter known as the department, its agents, employes or officials, shall observe the following procedure whenever it becomes necessary under any law for the department to detain, seize or embargo any food or other products:

1. The department shall cause to be affixed to the product or products being detained, seized or embargoed, a notice that such product or products are being detained, seized or embargoed by the department and warning all persons that they may not be removed from the place at which they are being held without written permission from the department.

2. The department shall notify in writing the owner or person in possession of the products that said products are being detained, seized or embargoed by the department. Such notice shall state the reason for the detention or seizure of such products, and shall notify the owner or person in possession of the right to be heard before the department in opposition to the seizure.

3. The department shall make a reasonable effort to notify the owner of such products if the person in possession is not the owner.

4. When the department receives a written request for a hearing from the owner or person in possession of such products the department shall designate the time and place of hearing, provided that such hearing shall not be held sooner than 10 days after the request for a hearing has been received by the department. If the product or products detained by the department shall be perishable goods, or if, in the opinion of the department, other good and sufficient reason appears, the hearing may, at the

request of the owner or person in possession of such goods, be held at an earlier date.

5. Such hearing shall be conducted by the director of the department of agriculture, or by an officer or employe of the department appointed by the director for that purpose. The department shall give notice in writing to the owner or person in possession of such products of its decision in respect to the disposition of the products detained or embargoed as soon after the hearing as reasonably convenient, but not to exceed 10 days after such hearing. If it shall appear that the products are not being stored, sold, kept, offered or exposed for sale in violation of law, the products shall be released to the owner or person in possession. If it shall appear that all or a part of such products may be reconditioned or relabeled or segregated in such a way as to comply with state laws, the reconditioned, relabeled or segregated products shall be released at the expense of the owner or person in possession. If it shall appear that all or a part of the products may not be reconditioned, relabeled or segregated in such a way as to comply with state laws, that portion of the products which may not be so reconditioned, relabeled or segregated shall be confiscated and destroyed, unless the owner or person in possession shall execute and deliver to the department of agriculture a good and sufficient bond to the effect that such products shall not be sold, disposed of or used contrary to the laws of the state of Oregon and the rules and regulations thereunder promulgated; provided, however, that if any such products are found to be unfit for human consumption but suitable for animal feeding, such food products may be used for animal feeding as permitted by the terms of the order of the department.

Nothing in this act [Secs. 36-1501—36-1502] shall be construed as requiring that a hearing be held in connection with the seizure or embargoing of illegal or suspected products or as prohibiting the release, destruction or other disposition of such products by agreement between the department and the owner or person in possession of such products. [1945]

* * * * *

Sec. 36-1502. Same: Removing or defacing seizure or embargo notice unlawful; violation of act; punishment.

It shall be unlawful for any person to remove or deface any notice placed upon products seized or embargoed by the department, or to move any such products from the place designated in the notice without written permission from the department. Any person who shall violate any of the provisions of this act [Secs. 36-1501—36-1502] shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100). [1945]

Compiled Laws Annotated, Vol. 4, Title 48, Ch. 1—
Bread.

Sec. 48—108. Enforcement agency; rules and regulations.

The department [of agriculture] shall be vested with and possessed of the powers * * * necessary or proper to enable it to carry out fully and effectually all the purposes and provisions of this act [Secs. 48—101—48—114]. It shall have the power to adopt such rules and regulations as are necessary and feasible for carrying out the provisions of this act, and to amend or repeal any such rules or regulations. * * * [1939]

Sec. 48—111. Standard weights; tolerances; definitions; exceptions.

The standard for a loaf of bread shall weigh one (1) pound avoirdupois weight. Bread, manufactured, 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 standards of weights, and no other, namely: One (1) pound, one and one-half (1½) pounds or multiples of one (1) pound. When twin loaves, or multiple loaves are baked, the weight specified in this section shall apply to each unit of the twin or multiple loaves. Variations at the rate of one (1) ounce per pound in excess or in deficiency of above specified weights are permitted in individual loaves, but the average weight of not less than ten (10) loaves of any one kind shall be not less than the net weight prescribed by this act [Secs. 48—101—48—114], within twelve (12) hours after baking. For the purpose of this section bread shall be deemed to be in the form of loaves, whether or not the loaf is wrapped, or whether transparent or other wrapping is used, or whether or not the loaf is sliced, and shall be deemed to be in package form when wrapped, and shall be marked plainly with the net weight; provided further, that the provisions of this section shall not apply to biscuits, buns, crackers, rolls, or what is commonly known as cakes and cookies, which, when sold or offered for sale, shall be sold either by net weight or numerical count, and when in package form shall be marked plainly as to net weight or numerical count, provided that packages of two ounces or less shall not be required to be so marked. 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 one of the weights specified in this section, and within such variations and/or tolerances as provided herein. [1939]

Sec. 48—112. Standard pans used for baking.

Pans or forms used for the baking of bread shall not exceed the following dimensions:

- 1 pound loaf, 9 inches by 4½ inches.
- 1½ pound loaf, 12¼ by 4½ inches.

1½ pound twin loaf, 7 inches by 8 inches.

1½ pound Pullman loaf, 13 inches by 4 inches by 4 inches.

2 pound Pullman loaf, 16 inches by 4 inches by 4 inches.

3 pound Pullman loaf, 20 inches by 4½ inches by 4½ inches.

Bread baked in frames shall not exceed 11 inches in length for a 1 pound loaf or 14 inches in length for a 1½ pound loaf. Pans used for baking of pan rolls shall have a top measurement not exceeding 56 square inches. Any of the above pan sizes may be varied in any dimensions except the length, provided the total baked content does not exceed that of the applicable one of the above standards. [1939]

Sec. 48—114. Penalties for violations; courts of jurisdiction.

Any person violating any provisions of this act [Secs. 48—101—48—114] shall be guilty of a misdemeanor and may be prosecuted and punished therefor, and, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). Justice courts and district courts hereby are given concurrent jurisdiction with circuit courts of all criminal offenses provided for in this act. [1939]

Compiled Laws Annotated, Vol. 4, Title 60, Ch. 3—
Grain Warehouses.

Sec. 60—301. Definitions.

The term "public warehouse," when used in sections 60—301 to 60—339, inclusive, includes any elevator, mill, warehouse or structure in which grain or hay is received from the public for storage, shipment or handling, whenever such grain or hay is carried or intended to be carried to or from such warehouse, elevator, mill or structure by a common carrier. The term "public terminal warehouse," wherever used in said sections, shall be held and construed to mean any elevator, mill or warehouse located in such cities in the state as may be designated as inspection points by the department of agriculture of Oregon, in which grain is received from the public for storage and the grain of different owners mixed together or stored in special piles or bins, and for which receipts are issued covering the grain received. * * * The term "warehouseman" when used in the above-named sections includes any firm, person, company, corporation or association of persons owning, operating or controlling any public warehouse. The term "department" when used in the above-named sections means the department of agriculture of Oregon. [1917; last amended 1939.]

Sec. 60—302. Supervision.

The department shall exercise general supervision over the handling, weighing, inspecting and

storage of grain and hay, and the management of public and terminal warehouses. The department may authorize the weighing, inspection, grading and analyzing, upon request of any interested party, of commodities of commerce other than grain or hay, such as grain or hay products, rice, beans and other similar articles, nitrates and other fertilizers, sulphur, and other chemicals used in the arts, or in manufacturing, when same are received from or delivered to any rail, water or motor vehicle carrier in the state in commercial transportation, and may authorize the certification of the weights, grades and analysis thereof. Fees for such service, sufficient to cover the cost thereof, shall be fixed by the department. Such department shall investigate all complaints of fraud or injustice in the grain and hay trade, fix the charges of public and terminal warehouses, and make all necessary rules and regulations for carrying out and enforcing the provisions of sections 60-301 to 60-339, inclusive, and of all laws of the state relating to this subject. The provisions of the department of agriculture statute¹ relating to the making of rules and regulations and the printing thereof shall apply to this section. [1917; last amended 1939.]

¹ See Sec. 29-118, page 825.

Sec. 60-304. Malfessance or misfeasance; penalty.

Any officer, employe, inspector, sampler or weigher of the department who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect, sample or weigh any grain, grain products, hay or other commodities improperly, or who shall directly or indirectly accept any money or other consideration for any neglect of duty or any improper performance of duty as such officer, employe, inspector, sampler or weigher, or any person, persons, corporation or agent who shall improperly influence or attempt to improperly influence any officer, employe, inspector, sampler or weigher of the department in the performance of his duties as such officer, employe, inspector, sampler or weigher, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000, or imprisonment in the county jail not less than six months, nor more than one year, or by both such fine and imprisonment, in the discretion of the court. [1917; last amended 1939.]

Sec. 60-305. Inspection points; fees to cover expenditure.

Cities and towns where grain, grain products, hay or other commodities are received in carload lots or by watercraft, or motor vehicle, may be designated by the department as inspection points and be provided with state inspection and weighing; provided, that the expenditure for the inspection and weighing at the points designated by the department shall not exceed the receipts of fees at such place or places. [1917; last amended 1939.]

Sec. 60-307. Rules and regulations.

The department may make any rules and regulations necessary for the enforcement of sections 60-301 to 60-339, inclusive. All such rules and regulations shall be printed in pamphlet form as provided by the department of agriculture statute.¹ [1917; last amended 1939.]

¹ See Sec. 29-118, page 825.

Sec. 60-309. Fees; lien.

The department shall fix the fees for inspection, grading, weighing and analysis of grain, hay, grain and hay products, potatoes and onions, and other commodities included in the provisions of sections 60-301 to 60-339, inclusive, which fees shall be sufficient to cover the cost of such service. The fees for the inspection, weighing and analysis of grain and hay shall be a lien upon such grain and hay, and to be paid by the carrier transporting the same and treated by it as advanced charges. The department shall so adjust the fees to be collected under the above-named sections as to meet the expenses necessary to carry out the provisions hereof, and may prescribe a different scale of fees for different localities. The department also may prescribe a reasonable charge for services performed at places other than public terminal warehouses, in addition to the regular fees, when necessary to avoid rendering the service at a loss to the state. [1917; last amended 1939.]

Sec. 60-310. Department to control weighing; certificate of weight; conclusive evidence; appeal.

The department, its officers, employes, inspectors and weighers, shall, at the places provided for state inspection under sections 60-301 to 60-339, inclusive, have exclusive control of the weighing and grading of grain and hay which shall be inspected under the provisions of said sections, and the action and certificate of such officers, employes, inspectors and weighers in the discharge of their duties, as to all commodities weighed or inspected by them, shall be conclusive upon all parties interested; provided, however, an appeal may be taken to the department, in the manner provided by the department of agriculture statute. Suitable books and records shall be kept in which shall be entered a faithful and true record of every carload, motor vehicle load or cargo or part of cargo of grain, grain products, hay and other commodities inspected or weighed by them, showing the number and initial or other designation of the car, motor vehicle load or cargo or part of cargo of grain, grain products, hay and other commodities inspected or weighed by them, showing the number and initial or other designation of the car, motor vehicle or boat containing such load or cargo or part of cargo, its weight, the kind of grain, grain products, hay or other commodity, and its grade; * * *. They also shall furnish the agent of the

Compiled Laws Annotated, Vol. 4, Title 60, Ch. 3—
Grain Warehouses—Continued.

railroad company or other carrier over which such commodity was shipped or carried a certificate showing the weight thereof, if requested so to do. The department also shall keep a true record of all appeals, decisions and a complete record of every official act, which books and records shall be open to inspection by any party in interest. [1917; last amended 1939.]

Sec. 60-311. Removal of weigher.

Upon written complaint filed with the director of agriculture charging any officer, employe, inspector, sampler or weigher with official misconduct, inefficiency, incompetency or neglect of duty, the director shall investigate such charge, and if it be found sustained, shall remove such officer, employe, inspector, sampler or weigher. [1917; last amended 1939.]

Sec. 60-313. All grain and hay received to be weighed; exception; fee.

All grain and hay received at public terminal warehouses, except that received in truck lots of a maximum weight of 15 tons of grain or three tons of hay, shall be inspected, graded and weighed by an Oregon state inspector; provided, however, that such inspection, grading and weighing shall not be required where grain has been officially inspected, graded and weighed at point of origin unless it is so requested by the consignee, and all grain delivered out of any class. A grain warehouse shall be weighed by a state inspector and when exported shall, if requested, be reinspected and graded in like manner and a certificate of grade issued, a reasonable fee to be charged for such reinspection and grading, said fee to be fixed by the department. All other grain and hay received in carload lots or in any other manner, in lots containing more than 15 tons of grain, or three tons of hay, at inspection points, not unloaded at a terminal warehouse, shall be weighed, inspected and graded, at a reasonable fee to be fixed and charged therefor by the department. [1917; last amended 1945.]

Sec. 60-328. Penalty for issuing false receipt.

It shall be unlawful for any public grain warehouseman to issue a receipt for grain * * * for a greater amount of grain than that actually received. * * * And every person violating any of the provisions of this section, * * * shall be guilty of a felony. [1917; last amended 1939.]

Sec. 60-333. State weighers: Qualifications; bond; fees; rules and regulations.

Owners or operators of public scales used for weighing grain, hay or other commodities, may be appointed by the director of agriculture as state

weighers. Every such scale owner or operator who may be appointed as state weigher shall be required to give a bond to the state of Oregon in a sum not less than \$1,000 and to subscribe to the regular oath of office required of state officials. They may be authorized by the director of agriculture to issue certificates of weight for such commodities as they may weigh. The fees for such service shall be fixed by the director of agriculture and may be retained by the scale owner or operator as compensation for the service performed. Such owner or operator shall report to the department of agriculture monthly stating the quantity of all grain and other commodities weighed and the amount of fees collected therefor. No owner or operator of public scales appointed as state weigher shall, during his term of office, be interested directly or indirectly in the handling, storing, shipping, purchasing or selling of grain, grain products or hay, or other commodities, included within the provisions of sections 60-301 to 60-339, inclusive. The department may prescribe rules and regulations governing weighing of grain, grain products, hay or other commodities by owners or operators of public scales appointed as state weighers. Such rules and regulations shall be made and printed in pamphlet form as prescribed by the department of agriculture statute.¹ [1917; last amended 1939.]

¹ See Sec. 29-118, page 825.

Sec. 60-334. Extraordinary fees.

When occasions arise where it is deemed advisable to load or unload cars or cargoes of grain or hay outside of the usual working days or working hours, the department shall provide inspectors and weighers necessary to supervise the inspection and weighing of such commodities and the department shall, by rule, fix a reasonable sum per hour to be paid therefor by the party requesting such unusual service, which fees shall be in addition to the regular inspection fees provided for weighing and inspection. All moneys collected under the provisions of this section shall be paid into the state treasury and credited to the department of agriculture account and an amount not exceeding such additional fees may be paid to the weighers and inspectors of the department by whom such additional service may be performed. [1917; last amended 1939.]

Sec. 60-335. Failure to weigh; shipper's weight conclusive.

When grain or hay is shipped to points where inspection is provided and the grain or hay is unloaded without being inspected or weighed by duly authorized grain inspector of the department under the provisions of sections 60-301 to 60-339, inclusive, the shipper's weight and grade shall be conclusive and final and shall be the weight and grade upon which settlement shall be made with the seller. [1917; last amended 1939.]

Sec. 60-336. Offenses; penalty.

Any warehouseman who shall violate or fail to comply with any provisions of sections 60-301 to 60-339, inclusive, or who fails, omits or neglects to obey, observe or comply with any order, rule or any direction, demand or requirement of the department made under the provisions of said sections, shall be subject to a penalty of not to exceed the sum of \$1,000 for each and every offense, and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall be and be deemed to be a separate and distinct offense. Any warehouseman, who shall violate or fail to comply with, or who procures, aids or abets any violation by any such warehouseman, of any provision of said sections, or who shall fail to obey, observe or comply with any order of the department, or any provision of any order of the department; or who procures, aids or abets any such warehouseman, in his failure to obey, observe and comply with any such order or provision shall be punished upon conviction by a fine of not more than \$1,000 or by imprisonment in the county jail not more than one year or by both such fine and imprisonment. Every person, individually or acting as an official or agent of any corporation other than a warehouseman, who shall violate any provisions of the above-named sections, or fail to observe or comply with any order made by the department under said sections, so long as the same shall be or remain in force; or shall procure, aid or abet any such corporation, in its violation of said sections, or in its failure to obey, observe or comply with any such order, shall be punished upon conviction by a fine of not more than \$1,000 or by imprisonment in the county jail not more than one year, or by both fine and imprisonment. [1917; last amended 1939.]

Sec. 60-337. Disposition of fees.

All fees, licenses and charges collected by the state department of agriculture under the provisions of sections 60-301 to 60-339, inclusive, shall be paid into the state treasury on or before the tenth day of the month next succeeding the month during which such moneys were received and by the state treasurer placed to the credit of the department of agriculture account and shall constitute a continuing appropriation for the purpose of carrying out the provisions of said sections; provided, however, that the department shall keep a record of all sums received in and pursuant to section 60-314 [license fees] and other of said sections dealing with the administration of warehouse provisions, and that such sums shall be used in the carrying out of the provisions of sections 60-301 to 60-339, as they apply to warehouses. The fees provided in section 60-333 for the owners of public scales are excepted from the provisions

of this section and are authorized to be retained by the owners of such scales as compensation for the services performed. [1917; last amended 1939.]

Compiled Laws Annotated, Vol. 6, Title 99, Ch. 22, Art. 2—"Oregon Food Act."**Sec. 99-2219. Definitions.**

For the purpose of this act [Secs. 99-2219-99-2236] the following words and phrases shall mean, unless the context clearly indicates a different meaning:

1. "Department," the department of agriculture of the state of Oregon.

2. "Person" includes any individual, partnership, corporation or association.

3. "Food" includes (a) articles used for food and drink, (b) chewing gum and (c) articles used for components of any such article.

4. "Label," a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement or other information appearing on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article or is easily legible through the outside container or wrapper.

5. "Immediate container" does not include package liners.

6. "Labeling," all labels and other written, printed or graphic matter (a) upon an article or any of its containers or wrappers, or (b) accompanying such article.

* * * * *

10. The provisions of this act regarding the selling of food include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.

11. "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.). [1941]

Sec. 99-2220. Prohibited acts.

The following acts and the causing thereof within the state or Oregon hereby are prohibited:

1. The manufacture, sale or delivery, holding or offering for sale of any food that is adulterated or misbranded.

2. The adulteration or misbranding of any food.

3. The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

5. The dissemination of any false advertisement.

Compiled Laws Annotated, Vol. 6, Title 99, Ch. 22, Art. 2—"Oregon Food Act"—Continued.

6. The refusal to permit entry or inspection,
* * *

7. The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person from whom he received in good faith the food.

8. The removal or disposal of a detained or embargoed article in violation of section 99-2223. [1941]

* * * * *

Sec. 99-2221. Injunction against violations.

In addition to the remedies hereinafter provided the department or its authorized agents hereby is authorized to apply to the circuit court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 99-2220, irrespective of whether or not there exists an adequate remedy at law. [1941]

Sec. 99-2223. Disposal of misbranded article.

1. Whenever a duly authorized representative of the department finds, or has probable cause to believe, that any food is * * * misbranded as to be * * * fraudulent, within the meaning of this act [Secs. 99-2219—99-2236], he shall proceed in the manner directed by law for the disposal of products seized by the department of agriculture.¹ [1941; last amended 1945.]

* * * * *

¹ See Secs. 36-1501 and 36-1502, page 833.

Sec. 99-2225. Notice or warning of minor violations.

Nothing in this act [Secs. 99-2219—99-2236] shall be construed as requiring the department to report for the institution of proceedings under this act, minor violations of this act, whenever the department believes that the public interest will be served adequately in the circumstances by a suitable written notice or warning. [1941]

Sec. 99-2228. When food deemed misbranded.

A food shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.

* * * * *

4. If its container is so made, formed or filled as to be misleading.

5. If in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer or distributor; (b) an accurate statement of the quantity of the contents in

terms of weight, measure or numerical count; provided, that under clause (b) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department.

6. If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1941]

* * * * *

Sec. 99-2231. Food in transit; exemption from labeling requirements.

Food which is, in accordance with the practice of the trade to be processed, labeled or repacked at an establishment other than the establishment where it was originally processed or packed, is exempted from the labeling requirements of this act [Secs. 99-2219—99-2236] while it is in transit from the one establishment to the other, if such transit is made in good faith; but such food is otherwise subject to all of the applicable provisions of this act. [1941]

Sec. 99-2232. Advertisement: When deemed false.

An advertisement of a food shall be deemed to be false if it is false or misleading in any particular. [1941]

Sec. 99-2233. Rules and regulations; conformity with federal regulations.

1. The authority to promulgate regulations for the efficient enforcement of this act [Secs. 99-2219—99-2236] hereby is vested in the department. The department hereby is authorized to make the regulations promulgated under this act conform, in so far as practicable, with those promulgated under the federal act and shall not be inconsistent with definitions and standards promulgated by such authority. [1941]

* * * * *

Sec. 99-2236. Penalties for violations; jurisdiction of courts.

Any person who violates any of the provisions of this act [Secs. 99-2219—99-2236] shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to imprisonment for not more than six months in the county jail, or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment; but if the violation is committed after a former conviction of such person has become final, such person shall become subject to imprisonment of not more than one year in the county jail, or by a fine of not more

than one thousand dollars (\$1,000), or by both such imprisonment and fine. Justice courts and district courts shall have concurrent jurisdiction with the circuit courts of the state of Oregon for the enforcing of the provisions of this act. [1911]

Compiled Laws Annotated, Vol. 8, Title 112, Ch. 4, Art. 1—Public Utilities.

Sec. 112-422. Rules and regulations: Meters and appliances; testing.

The commission [commissioner] shall * * * prescribe reasonable regulations for examination and testing of such product [gas, electricity, water, etc.] or service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for the measurements, and every public utility is required to carry into effect all orders issued by the commission [commissioner] relative thereto. [1911]

Sec. 112-423. Testing and inspection of appliances; fees.

The commission [commissioner] shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility, and may provide by rule that no such appliance shall be installed and used for the measuring of any product or service of any public utility until the same has been examined and tested by the commission [commissioner] and found to be accurate. The commission [commissioner] shall declare and establish a reasonable fee governing the cost of such examination and test, which shall be paid to the commission [commissioner] by the public utility.

The commission [commissioner] shall declare and establish reasonable fees for the testing of such appliances on the application of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be repaid to the consumer or user by the commission [commissioner] and to be paid by the public utility if the appliance be found defective or incorrect to the disadvantage of the consumer or user beyond such reasonable limit as may be prescribed by the commission. All fees collected under the provisions of this section shall be paid by the commission [commissioner] into the state treasury.

The commission [commissioner] may purchase such materials, apparatus and standard measuring instruments for such examination and tests as it may deem necessary. [1911]

Sec. 112-424. Right of entry for inspection.

The commission [commissioner], its agents, experts, examiners or inspectors shall have power to enter upon any premises occupied by any public utility for the purpose of making any inspection, examination or test provided in this act [Secs.

112-401—112-476] and to set up and use on such premises any apparatus and appliances and occupy reasonable space therefor. [1911]

Compiled Laws Annotated, Vol. 8, Title 113, Ch. 4—Railroad Track Scales.

Sec. 113-409. Under jurisdiction of public utilities commissioner; testing; sealing; use of in adjoining states; fees.

All track scales used by railroads within this state for the purpose of weighing cars or freight offered for shipment in carload lots shall be under the jurisdiction of the public utilities commissioner of Oregon, and subject to his inspection. It shall be the duty of said commissioner from time to time to test and inspect all such scales, and to cause such scales to be put in an accurate condition. Said commissioner shall approve a suitable sealing device, and cause all track scales inspected under the provisions hereof to be officially sealed with such device, when such scales are found or made to be accurate. Such car, apparatus or facilities used for tests and inspections may be used in adjoining states to test track scales and for that purpose may be taken beyond the limits of the state under rules and regulations for the due care and return thereof as the commissioner may prescribe. The commissioner hereby is authorized to ascertain, declare and collect the reasonable cost and expenses of making inspections and tests of track scales, other than those operated by railroads as defined by section 113-102 and subject to his jurisdiction, and such corporations or persons operating such scale other than said railroads shall pay the cost and expense of any inspection to the commissioner upon demand, which sum shall be paid by the commissioner into the state treasury and shall be placed by the state treasurer to the credit of the "public utility commissioner fund." When, in the judgment of the commissioner, action is deemed necessary to collect any unpaid costs and expenses upon the neglect or refusal, after demand, of any person, firm, association or corporation to pay such costs and expenses, the commissioner shall bring such action or take such proceedings as may be necessary in the name of the state of Oregon in any court of competent jurisdiction and be entitled to recover all such costs and expenses and the costs and disbursements incurred therein. The necessary salaries, costs and expenses of whatsoever nature incurred by the commissioner in the administration of this act shall be paid by the state treasurer from the "public utilities commissioner fund" upon the presentation of claims therefor approved by the commissioner. All unexpended balances remaining in the state treasury placed to the credit of the "track scales inspection fund" hereby are transferred to and made a part of the "public utilities commissioner fund." [1911; last amended 1943.]

Compiled Laws Annotated, Vol. 8, Title 113, Ch. 4—
Railroad Track Scales—Continued.

Sec. 113-410. Tampering with; penalty.

Any person who shall break or tamper with or cause to be changed, broken or tampered with, the sealing device or sealing thereof after the same has been installed or inspected by any commissioner [the commissioner] or inspector of the railroad commission [public utilities commissioner] of Oregon shall be deemed guilty of a misdemeanor. [1911]

Sec. 113-411. Equipment for testing; free transportation; inspectors.

The railroad commission [public utilities commissioner] of Oregon is hereby authorized and directed to procure by purchase, lease or otherwise, necessary apparatus to make the tests and inspections herein provided, and to employ the necessary experts and inspectors therefor and to fix their compensation. All such apparatus shall be transported free by every railroad in this state, when necessary for the purpose of making the tests and inspections herein provided. [1911]

Compiled Laws Annotated, Vol. 3, Title 23, Ch. 14—
Misdemeanors.

Sec. 23-1401. Punishment where penalty is not prescribed.

Whenever, by any law in this state, an act is declared to be a misdemeanor, and no punishment is prescribed therefor, the person committing the same, upon conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not more than \$500, or by both such fine and imprisonment. [1864; last amended 1941.]

Compiled Laws Annotated, Vol. 3, Title 23, Ch. 13—
False Advertising.

Sec. 23-1303. Unlawful acts.

It shall be unlawful for any person, firm, corporation or association, with intent to sell or dispose of any real estate, merchandise, foods, drugs, medicinal preparations or other patent nostrums, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public within the state of Oregon, in a newspaper or other publication, or in the form of a book, notice, hand bill, sign, poster, bill, circular, pamphlet, tag, label, letter or contrivance or in any other way or manner whatsoever, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading. [1909; last amended 1917.]

Sec. 23-1304. Penalty for violations.

Any person, firm, corporation or association violating any of the provisions hereof shall upon conviction thereof be punished by a fine of not more than one hundred dollars (\$100), or by imprisonment in the county jail not exceeding thirty (30) days. [1917]

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Constitution, Art. III—Inspection of Merchandise.

Sec. 27. State inspection of merchandise prohibited.

No State office shall be continued or created for the inspection or measuring of any merchandise, manufacture, or commodity; but any county or municipality may appoint such officers, when authorized by law. [1874]

Purdon's Statutes Annotated, Title 71, Ch. 1—Department of Internal Affairs, Abolishment of Bureau of Standards.

Sec. 2. Bureau of standards abolished.

* * * the following departments, bureaus, divisions, boards, commissions, offices, and agencies of the State Government, as now established by law, are hereby abolished, namely: * * * Bureau of Standards, * * * in the Department of Internal Affairs; * * *. [1923; last amended 1927.]

Purdon's Statutes Annotated, Title 71, Ch. 2—Department of Internal Affairs, Weights and Measures.

Sec. 331. Powers and duties retained.

(a) Subject to any inconsistent provisions in this act [Administrative Code 1929, Secs. 51-732] contained, the Department of Internal Affairs shall continue to exercise the powers and perform the duties by law vested in and imposed upon the said department, and the several former bureaus,

and bureau chiefs thereof, and the Secretary of Internal Affairs.

(b) The Secretary of Internal Affairs shall appoint and fix the compensation of such directors, superintendents, bureau or division chiefs, assistant directors, assistant superintendents, assistant chiefs, experts, auditors, inspectors, statisticians, scientists, engineers, surveyors, draftsmen, accountants, secretaries, marshals, clerks, stenographers, bookkeepers, messengers, investigators and other assistants and employes as may be required for the proper conduct of the work of his department. Such appointments shall be made without the approval of the Governor and shall not be subject to prior action by the Executive Board. [1929; last amended 1941.]

Sec. 336. Powers and duties as to weights and measures.

The Department of Internal Affairs shall have the power, and its duty shall be:

(a) To regulate and maintain uniform standards of legal weights and measures in this Commonwealth, to conform with the original standards of weights and measures adopted by the Congress of the United States, and verified by the National Bureau of Standards.

(b) To assist in securing the enforcement of the laws relating to sealers of weights and measures, which are now in force or may hereafter be enacted.

Purdon's Statutes Annotated, Title 71, Ch. 2—Department of Internal Affairs, Weights and Measures—Continued.

(c) To have custody of the State's standards of weights and measures.

(d) To compare, test, and regulate all weights and measures of all county, city and borough sealers, now in office or hereafter who may be appointed, with the State standards, when presented at the office of the Department for that purpose, and to certify to their correctness by issuing certificates as to their accuracy, bearing the date of examination and approval of the said weight or measure for which the certificate is issued, the signature of the examiner and the official stamp of the Department.

(e) To file annual and other reports received from the local sealers of weights and measures. [1929; last amended 1941.]

Purdon's Statutes Annotated, Title 76, Ch. 1—Weights and Measures, Standards.

Sec. 1. Linear measures.

The standard unit of all measures of length shall be the "yard," to conform to that in use in this commonwealth at the date of the Declaration of Independence: the positive standard to be obtained as hereinafter described,¹ and that one-third of said yard shall be one foot, and that one twelfth of said foot shall be one inch. [1834]

¹ See Sec. 4, below.

Sec. 2. Liquid and dry measure.

The standard liquid measure shall be the gallon, to contain two hundred and thirty-one cubic inches, of the standard aforesaid, and no more; and that the standard of dry measure shall be the bushel, to contain two thousand one hundred and fifty cubic inches and forty-two hundredths of a cubic inch, of the standard aforesaid, and no more. [1834]

Sec. 3. Pound.

The standard of weight shall be a pound, to be computed upon the Troy pound of the mint of the United States, referred to in the act of Congress of the nineteenth of May, 1828,¹ to wit: the Troy pound of this commonwealth shall be equal to the Troy pound of the mint aforesaid, and the avoirdupois pound of this commonwealth shall be greater than the Troy pound aforesaid, in the proportion of seven thousand to five thousand seven hundred and sixty. [1834]

¹ 4 U.S. Stats. at Large, 277, C. 67.

Sec. 4. Yard; procurement.

It shall be the duty of the governor of this commonwealth to procure, within three years from the date of the passage of this act [Secs. 1-74], a

standard yard, to constitute the positive standard of length in this commonwealth, said standard to be equal in length, at the temperature of melting ice, to the distance between the eleventh and forty-seventh inches on a certain brass scale of eighty-two inches in length, procured for the survey of the coast of the United States and now deposited in the War Department; the material of said standard to be brass, and the divisions upon it to be inches and parts of an inch of the brass scale aforesaid. [1834]

Sec. 5. Gallon and bushel; procurement.

It shall be the duty of the governor to procure, within three years after the passage of this act [Secs. 1-74], for the use of this commonwealth, a standard gallon and bushel, to conform to the provision of section second [sec. 2] of this act, the material of said standard to be of cast brass. [1834]

Sec. 6. Pound; procurement.

It shall be the duty of the governor of this commonwealth to procure, within three years after the passage of this act [Secs. 1-74], a duly authenticated copy of the Troy pound of the mint of the United States, to constitute the positive standard of weight of this commonwealth, the material of said standard to be brass. [1834]

[ED. NOTE.—In Purdon's Pennsylvania Statutes Annotated, following the foregoing section, it is stated: "This section is probably obsolete."]

Sec. 7. Preservation of standards.

It shall be the duty of the governor of this commonwealth to have the positive standards of measures of length and capacity, and of weight, provided by the foregoing sections [Secs. 1-6], inclosed in suitable cases and deposited in the office of the secretary of the commonwealth, to be by him there carefully preserved. [1834]

Sec. 8. Testing; conformance to national standards.

It shall be lawful for the governor of this commonwealth, when he shall deem it expedient to have tested the conformity of said positive standards of measure and weight to the foregoing provisions of this act [Secs. 1-74], or to the natural invariable standards hereinafter provided, and if Congress shall at any time hereafter establish standards of weight and measure, the standards aforesaid shall be made to conform thereto. [1834]

Sec. 9. Duplicates to be delivered to counties.

It shall be the duty of the governor to provide, within three years after the passage of this act [Secs. 1-74], for each of the counties of this commonwealth, at the charge of the counties respectively, positive standards of measures of length, of capacity and of weight of the several denominations

in common use or such of them as may be necessary for the accurate and convenient adjustment of weights and measures, said standards to be of approved construction carefully compared with the state standards aforesaid, and made of the same material, and having caused the same to be duly stamped, to have them delivered to the commissioners of the counties respectively, to be used as standards for the adjusting of weights and measures, and for no other purpose. [1834]

Sec. 10. County standards to be examined, corrected or renewed.

It shall be the duty of the commissioners of the respective counties, at least once in every ten years and oftener if they have reason to believe it necessary, to cause the standards of the respective county to be examined and tried, and if necessary, to be corrected or renewed according to the standards of the commonwealth heretofore referred to. [1834]

Sec. 11. Testing of positive standards.

It shall be the duty of the governor, within ten years after the passage of this act [Secs. 1-74], to cause the positive standards herein described to be referred to natural invariable standards and to deposit in the office of the secretary of the commonwealth the authentic certificates of such reference with the apparatus by which it was made, the length of the standard yard to be compared with that of the pendulum vibrating seconds, at a certain and defined spot in the Independence square in the city of Philadelphia, or in some unalienable public property at an ascertained and convenient temperature and pressure, all the circumstances of the comparison to be stated, the standard weight to be compared with that of one hundred standard cubic inches of water at its maximum density, and at a convenient atmospheric pressure. [1834]

Sec. 12. Authorization of preparation.

The governor of this commonwealth be and he is hereby authorized to have prepared standards of weight, measure and capacity, specified in the act of assembly, passed April 15, 1834 [Secs. 1-11], and he be authorized to carry into effect the provisions of the said act as soon as practicable. [1838]

Sec. 13. Secretary of commonwealth to procure cases; terms for furnishing county commissioners.

The secretary of the commonwealth be authorized and directed to procure, as soon as practicable, suitable cases for the standards of weights and measures now in his office, and to prescribe and publish the terms upon which standards of approved construction, carefully compared with the state standards, aforesaid, shall be furnished to the commissioners of the several counties of the commonwealth, according to the directions of the

act of April 15, 1834 [Secs. 1-11], entitled "An act to fix the standards and denominations of measures and weights in the commonwealth of Pennsylvania". [1843]

Sec. 41. Linear measures: Denominations.

The denominations of linear measure of this commonwealth, whereof the yard as heretofore provided [Sec. 1] is the standard unit, with the relations thereof, shall be as follows:

Twelve inches make one foot.

Three feet make one yard.

Five and a half yards make one rod, pole or perch.

Fourty rods make one furlong.

Eight furlongs make one mile. [1834]

Sec. 42. Superficial measure: Denominations.

The denominations of superficial measure of this commonwealth, whereof the square of the linear yard as heretofore provided is the standard unit, with the relations to said standard and to each other, shall be:

Thirty and one-fourth square yards make one pole or perch.

Forty square poles make one rood [sic].

Four square roods [sic] make one acre.

Six hundred and forty acres make one square mile. [1834]

Sec. 43. Liquid measure: Denominations.

The denominations of liquid measure of this commonwealth, whereof, the gallon as heretofore provided [Sec. 2] is the standard unit, with the relations to said unit and to each other, shall be:

Four gills make one pint.

Two pints make one quart.

Four quarts make one gallon.

Thirty-one and a half gallons make one barrel.

Two barrels make one hogshead.

Two hogsheads make one pipe.

Two pipes make one ton. [1834]

Sec. 44. Dry measure: Denominations; dimensions.

The denominations of dry measure of this commonwealth, whereof the bushel is heretofore provided [Sec. 2] is the standard unit, with the relations to said standard and to each other; shall be:

Four pecks make one bushel.

And the minor divisions of the peck shall be its aliquot parts: Provided, That the form of the dry measure shall be conical; that the diameter of the circle of the top of the measure shall be not less than one-twentieth greater than the diameter of the bottom of the measure, and the height not more than nine-twelfths of the diameter of the bottom. [1834]

Sec. 45. Troy weight: Denominations.

The denominations of weight of this commonwealth, whereof the troy pound as heretofore pro-

Purdon's Statutes Annotated, Title 76, Ch. 1—
Weights and Measures, Standards—Continued.

vided [Sec. 3] is the standard unit, with the relations thereof to said standard and to each other, shall be:

- Twenty-four grains make one pennyweight.
- Twenty pennyweights make one ounce.
- Twelve ounces make one pound. [1834]

Sec. 46. Avoirdupois weight: Denominations.

The denominations of weight of this commonwealth, whereof the pound avoirdupois as heretofore provided [Sec. 3] is the standard unit, with relations to said pound and to each other, shall be:

- Sixteen drams make one ounce.
- Sixteen ounces make one pound.
- Twenty-five pounds make one quarter.
- Four quarters make one hundred.
- Twenty hundreds make one ton. [1834]

Sec. 71. State standards: Preservation.

The original standards of weights and measures furnished by the United States, and now in the office of the secretary of the commonwealth, shall remain in the case provided for that purpose, which shall only be opened under the direction of the governor or the said secretary, for the sole purpose of comparing such standards with the copies hereinafter described, unless by a joint resolution of the two houses of the legislature, or on the call of either house, or by permission of the governor, for scientific purposes. [1845]

[ED. NOTE.—In Purdon's Pennsylvania Statutes Annotated, following the foregoing section, it is stated: "This act [Secs. 71-74] was repealed by the act of 1859, March 22, P.L. 198, Sec. 1, as to the counties of Franklin, Lancaster, Montgomery, Bucks, Berks, Lehigh, Dauphin and Westmoreland. But its provisions were again extended to Montgomery county, by the act of 1876, Feb. 20, P.L. 233; and to Dauphin county, by the act of 1872, Feb. 20, P.L. 121. The act of 1845 was also repealed as to the counties of Lebanon, Adams, Washington, Cumberland and Perry, by the act of 1860, April 2, P.L. 511; and as to the county of York, by the act of 1858, Feb. 23, P.L. 44. By the act of 1867, April 3, P.L. 692, the commissioners of Northampton county were required to obtain copies of the standards, as provided by this section.

The act of 1859, March 22, P.L. 198, Sec. 1, 1860, April 2, P.L. 511, 1872, Feb. 20, P.L. 121, and sections 5 and 6 of this act, were repealed by act of 1883, March 8, P.L. 6.]

Sec. 72.¹ Same: Copies to be furnished county commissioners.

Copies of such original standards, for general use, to be made of such materials as the governor and the said secretary shall direct, shall be transmitted by them, on application therefor to the county commissioners of each county in this commonwealth, at the expense of the several counties to which the same are sent, and not otherwise. [1845]

¹ See Ed. note following Sec. 71, ante.

Sec. 73. Same: Copies to be stamped.

The said secretary shall cause to be impressed on each of the copies of such original standards the letters "Pa.," and such other additional device as he shall direct for the particular county, which device shall be recorded in the secretary's office and a copy thereof, transmitted to the respective county commissioners. [1845]

Sec. 74. Same: County commissioners to test copies.

It shall be the duty of the county commissioners receiving such standards as aforesaid, and their successors in office, in every five years, and oftener if they shall have reason to believe it necessary, to cause such standards so received by them, or their predecessors in office, to be tried and examined, to be corrected or renewed, so as to conform exactly to the standards prepared according to act of Congress, and deposited in the office of the secretary of the commonwealth as aforesaid. [1845]

Purdon's Statutes Annotated, Title 76, Ch. 2—
Weights and Measures, Approval, Sale, Use, Etc.

Sec. 101. Definitions.

The word "type," as used in this act [Secs. 101-115], is defined as a class the individual objects of which are similar one to another in design, construction, size, and material.

The term "standard weights and measures," as used in this act, is to be construed to include the standards of weights and measures adopted by the United States and the State of Pennsylvania, in accordance with those furnished by the Federal Government under joint resolutions of Congress, approved June fourteenth, eighteen hundred and thirty-six, and July twenty-seventh, eighteen hundred and sixty-six, and now recognized and in use throughout the United States.

The term "use in trade or commerce," as used in this act, shall be construed to include use in buying or selling goods, wares, or merchandise.

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

The term "Bureau of Standards" shall be held to mean under or by authority of the chief of the Pennsylvania Bureau of Standards of the Department of Internal Affairs. When construing or enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person, acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be deemed to be the act, omission, or failure of such corporation, partnership, company, society, or association, as well as that of the person. [1921]

[ED. NOTE.—In Purdon's Pennsylvania Statutes Annotated, following the foregoing section, it is stated: "The

Bureau of Standards was abolished by act of 1927, April 13, P.L. 207, art. 1, sec. 2, amending act of 1923, June 7, P.L. 498, art. 1, sec. 2 (section 2 of Title 71, State Government)." See page 843. "Section 13 of the act of 1927 amended section 212 of the act of 1923 so as to authorize the Secretary of Internal Affairs to establish bureaus in his department, and act of 1929, April 9, P.L. 177, No. 175, art. II, sec. 212, re-enacts such section as amended." See Sec. 331, Title 71, page 843. See also Sec. 336, Title 71, page 843, powers of Department as to weights and measures.]

Sec. 102. Approval of types.

The Bureau of Standards¹ of the Department of Internal Affairs is authorized to pass upon each type of weight and measure and weighing and measuring device manufactured, offered or exposed for sale or sold or given away, for the use in trade or commerce, or used in trade or commerce, in the Commonwealth of Pennsylvania, and to approve or disapprove of said type. The said bureau shall approve each type of weight and measure and weighing and measuring device, submitted to it for approval by any person, if such type is so designed and constructed that it conforms to, or gives correct results in terms of, standard weights or measures or in terms of values derived therefrom, and is reasonably permanent in its indication and adjustment, and does not facilitate the perpetration of fraud, otherwise the bureau shall disapprove the same. [1921]

¹ See Ed. note following Sec. 101.

Sec. 103. Submission of types for approval.

The submission of a type may be by sample or by specifications if, in the best judgment of the bureau, such specifications are adequate, or in such other manner as may be prescribed by the rules and regulations promulgated under the authority of this act [Secs. 101-115]. [1921]

Sec. 104. Certificate of approval; appeal of disapproval.

When a type of weight or measure or weighing or measuring device is approved, the said bureau shall issue a certificate to this effect to the person submitting such type. When a type is disapproved, the said bureau shall notify the person submitting the same of its decision, setting out the reasons therefor, together with such information and references as may be useful in judging of the propriety of the disapproval, and shall give such person an opportunity to be heard in support of his application for approval. The bureau shall then reconsider its decision. If the new decision is adverse to such person, and he is dissatisfied with the same, he may take an appeal from this decision to the Secretary of Internal Affairs, who shall examine the matter, and decide whether the type should be approved or disapproved. If the person is dissatisfied with the decision of the Secretary of Internal Affairs, he may appeal to the court of common pleas of the county of which he is a resident, whose decision shall be final. [1921]

Sec. 105. Manufacture, sale or use of unapproved types unlawful; exceptions.

From and after one year after this act [Secs. 101-115] takes effect, it shall be unlawful for any person to manufacture, offer or expose for sale, or sell or give away, for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device of a type not approved in accordance with the provisions of this act: Provided, however, That in the case of weights and measures and weighing and measuring devices manufactured and ready for sale or in use in the Commonwealth of Pennsylvania at the time this section takes effect, no approval of type shall be necessary, and it shall be lawful for any person to offer or expose for sale or sell, for use in trade or commerce, or to use in trade or commerce, such weights and measures and weighing and measuring devices, unless they do not conform to or give correct results in terms of standard weights or measures or in terms of values derived therefrom: And provided further, That the type of a weight or measure or weighing or measuring device need not be approved if said weight or measure or weighing or measuring device is intended for shipment outside the State of Pennsylvania, but if said weight or measure or weighing or measuring device shall in fact be sold or offered for sale, for use in trade or commerce, or used in trade or commerce, in the Commonwealth of Pennsylvania, then this proviso shall not exempt such weight or measure or weighing or measuring device from the operation of any of the provisions of this act. [1921]

Sec. 106. Seller's or manufacturer's guaranty; seal by local sealer; liability of guarantor; effect of actual notice of non-approval.

No person shall be prosecuted under the provisions of this act [Secs. 101-115] if he can establish a guaranty, signed by the person from whom the weight or measure or weighing or measuring device was purchased, or otherwise obtained, or from the manufacturer thereof, to the effect that the type of the same has been approved, if such approval is required by the provisions of this act, and, if such approval is not required, setting out this fact, or if he can establish that the weight or measure or weighing or measuring device has been sealed by the local sealer of weights and measures. The said guaranty, to afford protection, shall contain the name and address of the guarantor, and, in such case, said guarantor shall be amenable to the prosecutions, fines, or other penalties which would attach in due course to such person under the provisions of this act. But in any case where any such person has actual notice that the type of such weight or measure or weighing or measuring device has not in fact been approved, when such approval is required by the provisions of this act, it shall be unlawful and a violation of the

Purdon's Statutes Annotated, Title 76, Ch. 2—
Weights and Measures, Approval, Sale, Use, Etc.
—Continued.

provisions of this act, for such person thereafter to offer or expose such weight or measure or weighing or measuring device for sale, or to sell it, for use in trade or commerce, or to use it in trade or commerce. [1921]

Sec. 107. Registration; serial numbers; descriptions.

The Bureau of Standards¹ shall register and give a serial number to each type of weight or measure or weighing or measuring device submitted and approved as provided in this act [Secs. 101-115], and shall issue from time to time, descriptions of such approved types, giving serial number of each type, copies of which shall be furnished to all weights and measures officials. [1921]

¹ See Ed. note following Sec. 101, page 846.

Sec. 108. Marking of approved weights and measures.

From and after one year after this act [Secs. 101-115] takes effect, it shall be unlawful to manufacture, offer or expose for sale or sell or give away, for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device unless it shall be conspicuously, clearly and permanently marked for purposes of identification with the name, initials or trade mark of the manufacturer, and with the manufacturer's designation, which positively identifies the pattern or the design of the device and in such manner as may be prescribed by the rules and regulations authorized by this act: Provided, however, That, whenever it shall appear to the satisfaction of the Bureau of Standards¹ that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, the said bureau shall furnish a certificate to that effect to any manufacturer applying for the same, and such weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section. [1921; last amended 1947.]

¹ See Ed. note following Sec. 101, page 846.

Sec. 109. Marking unapproved types; penalty.

It shall be unlawful to mark for purposes of identification in any manner any weight or measure or weighing or measuring device, the type of which has not been approved as required by the provisions of this act [Secs. 101-115], any design or device simulating a serial number required by the provisions of section seven of this act [Sec. 107].

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars, or more than one thousand (\$1000), or by imprisonment for not less than one year, or more

than two years, or by both such fine and imprisonment, in the discretion of the court. [1921; last amended 1947.]

Sec. 110. Approval and serialization of parts.

In case any person may desire to have the type of a part of a weight or measure or weighing or measuring device separately approved and serialized, and shall apply therefor, and the Bureau of Standards¹ decides that the part is such that this may properly be done, then such part may be approved and serialized or disapproved as to type, under the same provisions and restrictions as are applied to the approval and serialization or the disapproval of a type of weight or measure or weighing or measuring device by the provisions of this act [Secs. 101-115]. [1921]

¹ See Ed. note following Sec. 101, page 846.

Sec. 111. Marking "not legal for trade."

It shall be conclusively presumed that a weight or measure or weighing or measuring device is intended for use in trade or commerce if it is manufactured, offered or exposed for sale, or sold, for use in the Commonwealth of Pennsylvania, or is used therein, unless it shall bear a plain, legible, conspicuous, and permanent statement to this effect "Not legal for trade." It shall be unlawful to use in trade or commerce any weight or measure or weighing or measuring device which is marked as described above: Provided, however, That whenever it shall appear to the satisfaction of the Bureau of Standards¹ that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, or is of such design and construction that it is obviously not intended for use in trade or commerce, the said bureau shall furnish a certificate to that effect to any manufacturer applying for the same, and such types of weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section. [1921]

¹ See Ed. note following Sec. 101, page 846.

Sec. 112. Enforcement; rules and regulations.

Rules and regulations for the carrying out and enforcement of the provisions of this act [Secs. 101-115], not inconsistent with the provisions thereof, shall be adopted by the Bureau of Standards,¹ with the approval of the Secretary of Internal Affairs, which rules and regulations shall include reasonable variations or tolerances which may be allowed on weights and measures and weighing and measuring devices included within the provisions of this act, and also specifications for such weights and measures and weighing and measuring devices for the guidance of manufacturers in the design and construction of such weights and measures and weighing and measuring devices. [1921]

¹ See Ed. note following Sec. 101, page 846.

Sec. 113. Sealing of approved types.

Inspectors of weights and measures of the Commonwealth of Pennsylvania and of the several counties and cities of the Commonwealth of Pennsylvania may seal, for use in trade or commerce, all weights and measures and weighing and measuring devices, the type of which has been approved as required by the provisions of this act [Secs. 101-115] or specifically exempted from the necessity of approval by the provisions of this act, when they find that the same are within the tolerances prescribed under the rules and regulations: Provided, however, That this shall not be construed as meaning that the approval of a type shall be taken as evidence of the correctness of any individual weight or measure or weighing or measuring device of that type, or prevent any such inspector of weights and measures from prohibiting the use of or confiscating any individual weight or measure or weighing or measuring device which is found to be inaccurate or otherwise defective or unlawfully used. [1921]

Sec. 114. Penalties for violations of act.

Any person, copartnership, association, or corporation who or which shall violate any provision of this act [Secs. 101-115] shall, upon conviction thereof in a summary proceeding before any alderman, magistrate, or justice of the peace of the proper county or city, be sentenced for the first offense to pay a fine of not less than twenty-five dollars (\$25.00), or more than fifty dollars (\$50.00) and costs of prosecution, and in default of payment thereof, shall undergo imprisonment for ten days; and for the second offense be sentenced to pay a fine of not less than fifty dollars (\$50.00), or more than one hundred dollars (\$100.00) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for twenty days; and for the third offense shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00), or more than two hundred dollars (\$200.00) and costs of prosecution, and in default of the payment thereof, shall undergo imprisonment for thirty days.

Any person violating any of the provisions of this act, for a fourth or subsequent offense shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00), or more than three hundred dollars (\$300.00), or to undergo imprisonment for not more than sixty days, or both. [1921; last amended 1947.]

Sec. 115. Proceedings for enforcement of penalties; limitations.

It shall be the duty of the Chief of the Bureau of Standards¹ and his deputies and the inspectors of weights and measures of the several counties and cities who shall find satisfactory evidence of any violation of the provisions of this act [Secs.

101-115] to cause appropriate proceedings to be commenced and prosecuted, without delay, for the enforcement of the penalties as in such case herein provided: Provided, however, That no action or prosecution shall be brought against any person for any violation of this act unless the same is commenced within one year after the offense is committed. [1921]

¹ See Ed. note following Sec. 101, page 846.

**Purdon's Statutes Annotated, Title 76, Ch. 5—
Weights and Measures, County and City Inspectors.****Sec. 201. Appointment; duties.**

The mayors of cities of the second and third class, and the several boards of county commissioners, shall, respectively, appoint one or more competent persons as inspectors of weights and measures, in the respective county or city, whose salary shall not be less than one thousand dollars per annum, to be paid out of the respective revenues of such county or city: Provided, however, That the payment of a minimum salary shall not apply to counties having a population of fifteen thousand or less. In addition to the salary provided by law, the said county and city inspectors shall be entitled to receive the actual expenses incurred by them personally in performing the duties of their office; such as transportation, hotel, livery, telephone, telegraph, and postal charges, to be paid by the boards of county commissioners of their respective counties and by the proper officers of their respective cities, in such proportion as may be agreed upon by said boards of county commissioners and proper officers of cities, on bills itemized and properly sworn to: Provided, however, That nothing in this act [Secs. 201-209] shall be construed to prevent two or more counties, or any county and city, from combining the whole or any part of their districts, as may be agreed upon by the board of county commissioners and mayors of cities, with one set of standards and one inspector, upon the written consent of the chief of the bureau of standards: Provided further, In cities of the first class the inspectors shall be appointed by the county commissioners of the county in which the said city may be located. Any inspector appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority and duties as if he had been appointed by each of the authorities who are parties to the agreement. The county and city inspectors of weights and measures, as appointed by the respective counties and cities, shall hold their office during good behavior; and shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming employes, or other just cause, and until the said officials shall have been furnished with written statements of the reason for such removal,

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discharge, or reduction, and shall have been given 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 appointing power of such county or city, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony or witnesses in his own behalf. It shall be unlawful for any sealer or inspector of weights and measures, or any of his deputies, to perform clerical or other services for the county or city of their respective districts. [1911; last amended 1917.]

Sec. 202. Equipment; testing; certificate of accuracy.

All county and city inspectors so appointed shall be supplied, at the expense of their respective counties and cities, with standard tests of weights and measures, in conformity with those established by the Government of the United States or the Bureau of Standards¹ of the State, and the laws of this Commonwealth; and to ensure the accuracy of these tests they shall be compared with the standard tests to be purchased by the Secretary of Internal Affairs, and, when so compared and their correctness established, a certificate of accuracy shall be issued, said certificate to bear the date of examination and approval of the said weight or measure for which the certificate is issued, the signature of the examiner and the official stamp of the Department. [1911; last amended 1941.]

¹ See Ed. note following Sec. 101, page 846.

Sec. 203. Reports.

Each inspector shall report in writing, at least once every month, to the chief of the State Bureau of Standards,¹ upon blanks furnished by the chief. Such report shall contain: (1) The number of tests made since the last preceding report; (2) the number of weights, measures and balances found by such tests to be correct; (3) the number of weights, measures and balances found by such tests to be false; (4) the number of prosecutions instituted by such inspector since the last preceding report, together with the name of the accused, the title of the court where the prosecution was instituted, and the result of such prosecution; (5) such other matters as the chief may from time to time prescribe. [1911; last amended 1929.]

¹ See Ed. note following Sec. 101, page 846.

Sec. 204. Duties and powers.

The inspector shall take charge of and safely keep the proper standards. They shall be furnished by the chief of the Bureau of Standards¹ of this Commonwealth with full specifications of tolerance

and allowance to be used by them in the performance of their duties. Each inspector shall have power, within his respective jurisdiction, to test all instruments and devices used in weighing or measuring anything sold or to be sold, including instruments and devices for weighing at coal mines and including weighing machines and scales installed in places frequented by the public, which scales or weighing machines by whatever means purport to indicate the weight of any person or object placed thereon upon the deposit of a coin, and seal the same if found to be correct. Such test shall include all appliances connected or used with such instruments or devices. For the purpose of making such test, each inspector, at any reasonable time and without formal warrant, may enter upon any premises; and may, on any public highway, stop any vendor or dealer, or the agent or servant of such vendor or dealer, or stop any vehicle used in delivering any commodity which is weighed or measured as delivered. He may condemn and mark as condemned, or may seize any false or illegal instrument or device used, or intended to be used, in weighing or measuring. If he shall seize any such instrument or device, he shall retain possession thereof until it shall have been used as evidence in any prosecution under the laws of this Commonwealth relating to weights and measures or to the sale of commodities. After the determination of such prosecution, the false or illegal instrument or device shall be destroyed, unless otherwise ordered by the proper court. [1911; last amended 1929.]

¹ See Ed. note following Sec. 101, page 846.

Sec. 206. New scales, weights or measures; testing; adjustment.

Any person or persons purchasing new scales, weights or measures that do not contain the stamp of the inspector shall, before using them, notify the inspector of the district and have them tested, and all scales, weights or measures that cannot be adjusted by the inspector shall be removed and destroyed. [1895]

Sec. 207. Refusal to allow inspection; penalty.

Any person, upon arrest and conviction before a magistrate or justice of the peace for refusing to allow his scales, weights and measures to be inspected, shall be fined ten dollars and costs of court, or be sentenced to imprisonment for a period of not more than ten days. [1895]

Sec. 208. Alteration or substitution of inspected scales; penalty.

Any person who shall, after his scales, weights and measures have been inspected in accordance with the provisions of the fifth [Sec. 206] section of this act [Secs. 201-209], alter or cause to be altered his said inspected scales, weights and measures so that they be decreased in size or amount,

or who shall substitute for said inspected weights and measures any other weights and measures of smaller size or amount, shall, upon arrest and conviction before a magistrate or justice of the peace, be fined not more than twenty dollars and costs of court, and in default of the payment of such fine and costs shall be imprisoned for a period of not more than ten days. [1895]

Sec. 209. Violations of act; giving false weight or measure; use of condemned devices; obstruction of inspectors; offenses by inspectors; penalties.

Each person who shall directly or indirectly, or by his servant or agent, or as the servant or agent of another, violate any of the provisions of this act [Secs. 201-209], or give or offer to give any false or insufficient weight or measure, or use any weighing or measuring device after it shall have been condemned and before it shall have been adjusted and sealed, or obstruct or attempt to obstruct any inspector in the performance of his duty, shall, upon conviction thereof in a summary proceeding before any alderman, magistrate, or justice of the peace of the proper city or county, for the first offense, be sentenced to pay a fine of not less than twenty-five dollars (\$25.00), or more than fifty dollars (\$50.00) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for ten (10) days; for the second offense be sentenced to pay a fine of not less than fifty dollars (\$50.00), or more than one hundred dollars (\$100.00) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for twenty (20) days; for the third offense be sentenced to pay a fine of not less than one hundred dollars (\$100.00), or more than two hundred dollars (\$200.00) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for thirty (30) days; and for a fourth or subsequent offense shall be guilty of a misdemeanor, and upon a conviction thereof shall be sentenced to pay a fine of not less than two hundred dollars (\$200.00), or more than three hundred dollars (\$300.00), or suffer imprisonment for not less than six (6) months or both. All such fines shall be paid to the treasurer of the respective city or county in which the offense was committed.

It shall be unlawful for any inspector to use any tests or standards, or to attempt to use the same, in ascertaining the correctness or accuracy of weights and measures, until such comparisons are made and their accuracy established and a certificate of accuracy issued therefor as provided by this act. It shall be unlawful for any inspector to manufacture, sell, or offer to sell any weighing or measuring device used in the sale of commodities, or to repair or offer to repair any weighing or measuring device other than such adjustments as he may find necessary in the performance of his official duties, for which no fees shall be collected. Any inspector

violating the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding one thousand (\$1,000) dollars, or undergo imprisonment for a period not exceeding one year, or both or either, at the discretion of the court. [1911; last amended 1949.]

Purdon's Statutes Annotated, Title 76, Ch. 6—Weights and Measures; Sale of Commodities, General Provisions.

Sec. 241. Definitions.

The word "commodity," as used in this act [Sec. 241-250], shall mean any thing, goods, wares, merchandise, compound, mixture or preparation, products of manufacture of any tangible personal property, which may be lawfully kept, sold, or offered for sale.

The words "liquid commodity," as used in this act, shall mean anything fluid or in the liquid state and not mixed with solids, and frozen fluid products.

The words "dry commodity," as used in this act, shall mean any other commodity sold or offered for sale not in liquid or fluid state at the time of sale.

The words "liquid measure," as used in this act, shall mean the standard United States gallon of 231 cubic inches, or binary sub-multiple thereof, quart, pint or gill.

The words "dry measure," as used in this act, shall mean the standard United States bushel of 2150.42 cubic inches, or sub-multiple thereof, peck, quart or pint.

The word "weight," as used in this act, shall mean the United States standard avoirdupois pound or ounce.

The word "package" as used in this act, shall mean everything containing one or more than one unit of any commodity, tied or bound together or put up in box, bag, pack, bundle, container, bottle, jar, can or any other form of receptacle or vessel, not considered as an approved measure, except cases, cartons, crates, bundles or bales used for bulk shipping or storage: Provided, That enclosed packages are marked as to weight, measure or numerical count.

The word "department," as used in this act, shall mean the Department of Internal Affairs.

The word "person," as used in this act, shall be construed to include any individual, firm, partnership, unincorporated association, corporation, association, agent, representative or employe thereof. [1913; last amended 1945.]

Sec. 242. Manner of sale.

(1) All liquid commodities, when sold in bulk or from bulk, shall be sold by weight or liquid measure. All dry commodities, when sold in bulk or from bulk, shall be sold by weight, dry measure or numerical count, unless otherwise designated

Purdon's Statutes Annotated, Title 76, Ch. 6—
Weights and Measures; Sale of Commodities,
General Provisions—Continued.

to be sold in a special manner. No dry commodities shall be sold by liquid measure.

(2) All meat and meat products, poultry and poultry products, except eggs, shall be sold by weight; only eggs may be sold by numerical count.

(3) Wood used for fuel shall be sold by weight or by the cord of 128 cubic feet, or fraction thereof, and accompanied by a statement or invoice certifying the amount sold. [1913; last amended 1945.]

Sec. 242.1. Weighing, etc., in view of purchaser; inspection of weighing devices, etc.

All commodities not considered as packages within the meaning of the act [Secs. 241-250] or labeled as to net contents at the time of sale, shall be counted, measured or weighed in full view of the purchaser at the time of sale, and on weighing or measuring devices as approved by the department and inspected as to accuracy by the several State, county and city inspectors of weights and measures; and statement of result of such count, measure or weight to be made to the purchaser by the person making the sale. [1913; last amended 1945.]

Sec. 242.2. Sales in bulk.

Any dry commodity sold in bulk must be accompanied by a statement of weight. [1913; last amended 1945.]

Sec. 243. Approved measures to be used.

If commodities are sold by dry or liquid measure, only measures as approved by provisions of the act [Secs. 101-115], approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws, three hundred eighty-nine), entitled "An act to regulate and control the manufacture, sale, offering for sale, giving away, and use of weights and measures, and of weighing and measuring devices in the Commonwealth of Pennsylvania; providing for the approval and disapproval of such weights, measures and devices by the Bureau of Standards"; and prescribing penalties," shall be used. [1913; last amended 1945.]

¹ See Ed. note following Sec. 101, page 846.

Sec. 244. Capacity of measures to be marked; containers for milk, etc.

No person selling any commodity shall use any measure unless the same shall have thereon marked in a conspicuous place and in distinct letters and figures the capacity thereof. If such measure be of the capacity of one-half bushel or less, it shall be marked in terms of dry measure, or of one-half gallon or less, it shall be marked in terms of liquid measure. If the measure be of the capacity of over one-half bushel, it shall be marked in the terms

of a bushel, or over one-half gallon, it shall be marked in terms of a gallon liquid measure: Provided, however, That containers, bottles or jars used for the sale of milk, cream or any other commodity and considered as measures within the meaning of this act [Secs. 241-250], and shall be in all respects subject to all rules and regulations heretofore or hereafter made by the Department of Internal Affairs, as to reasonable variations and tolerances. [1913; last amended 1945.]

Sec. 245. Fraud in sales.

No person shall sell, or offer for sale, any commodity in any other manner than by weight, measure or numerical count. [1913; last amended 1945.]

Sec. 246. Weights of a bushel.

Whenever any commodity named in this section shall be sold by the bushel, and free from any foreign matter, the bushel of such commodity shall consist of the respective number of pounds herein set forth, namely:

	Pounds
Alfalfa seed	60
Apples	45
Apples, dried	25
Barley	48
Beans, dried	60
Beans, castor (shelled)	46
Beans, green or waxed	32
Beets	56
Blue-grass seed	14
Bran	20
Broom-corn seed	50
Buckwheat	48
Cabbage	50
Carrots	50
Cement	100
Charcoal	20
Cherries, with stems	56
Cherries, stemmed	64
Chestnuts, hulled	50
Clover-seed	60
Coal, anthracite	75
Coal, bituminous	80
Coal, stone	80
Coke	40
Corn, shelled	56
Corn, ear (husked)	70
Corn-meal	50
Cranberries	32
Cucumbers	48
Currants	40
Flaxseed	56
Gooseberries	40
Grapes	48
Hair (plastering)	8
Hemp-seed	44
Herd's-grass	45
Hickorynuts	50
Hominy	60
Horscradish	50
Hungarian grass seed	50
Kaffir corn	56
Lentils	60
Lime	80
Linseed	56
Malt	38

	<i>Pounds</i>
Millet	50
Oats	32
Onions	50
Onion sets	28
Orchard grass seed	14
Parsnips	50
Peaches	48
Peaches, dried (peeled)	38
Peaches, dried (unpeeled)	33
Peanuts	22
Pears	50
Peas, green (unshelled)	28
Peas, dried	60
Plums	64
Potatoes	60
Potatoes, sweet	54
Quinces	48
Rape-seed	50
Raspberries	48
Redtop grass seed	14
Rice, rough	45
Rutabagas	60
Rye	56
Ryemeal	50
Salt (coarse)	85
Salt (ground)	62
Sand	100
Shorts	20
Sorghum-seed	50
Spelt	40
Spinach	12
Strawberries	48
Timothy-grass seed	45
Tomatoes	56
Turnips	56
Walnuts (common)	50
Wheat	60

Provided, That when any fruits or vegetables named in this section are sold in Pennsylvania standard containers, which are the original packages and are filled in accordance with good commercial practices, such fruits and vegetables shall be exempt from the provisions of this section. [1913; last amended 1947.]

Sec. 247. Marking quantities on packages; variations; tolerance and exemptions.

No person shall distribute or sell or have in his possession with intent to distribute or sell any commodity in package form, unless the net quantity of the contents shall be plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, That reasonable variations shall be permitted; and tolerances may be established by rules and regulations made by the department. Before any tolerances are granted, producers and manufacturers of commodities must make written application for a tolerance to the department, and must furnish proof that the use value of the commodity will not be affected by the granting of the tolerance. Exempt from marking as to net content contained shall be:

(a) All packages sold as liquid commodities containing less than one ounce liquid measure and selling for five cents or less.

(b) All packages sold as dry commodities containing less than one ounce avoirdupois and selling for five cents or less. [1913; last amended 1947.]

Sec. 247.1. Rules and regulations.

The Secretary of Internal Affairs shall have power to adopt and promulgate such rules and regulations, not inconsistent with the provisions of this act [Secs. 241-250], as may be deemed necessary to carry into effect the intent and purpose of this act. [1913; last amended 1945.]

Sec. 248. Penalties for violations.

Any person, who shall violate any of the provisions of this act [Secs. 241-250] shall, upon summary conviction thereof, before any alderman, magistrate, or justice of the peace of the proper county, be sentenced for the first offense to pay a fine of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) and costs of prosecution, and in default of payment thereof, shall undergo imprisonment for ten (10) days; and for the second offense, be sentenced to pay a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) and costs of prosecution and in default of payment thereof shall undergo imprisonment for twenty (20) days; and, for the third offense, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) or more than two hundred dollars (\$200.00) and costs of prosecution; and in default thereof shall undergo imprisonment for thirty (30) days; and for a fourth or subsequent offense shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than two hundred dollars (\$200.00) or more than three hundred (\$300.00), or suffer imprisonment for not more than six (6) months, or both. All fines collected under the provisions of this act shall be paid to the treasurer of the respective city or county in which the offense was committed. [1913; last amended 1945.]

Sec. 249. Enforcement of act.

It shall be the duty of the department and the proper city and county inspectors of weights and measures to enforce the provisions of this act [Secs. 241-250].

Any State, county or city inspector of weights and measures in whose presence a violation of this act has or is being committed by any person who has no established business location in this Commonwealth shall have power, without warrant, to arrest the offender and take him before an alderman, magistrate or justice of the peace of the city or county where the offense was committed and there make information before such officer, which shall be disposed of according to law. [1913; last amended 1949.]

Purdon's Statutes Annotated, Title 76, Ch. 6—
Weights and Measures; Sale of Commodities,
Specific Articles.

Sec. 271. Black blasting powder: Label; weight of keg.

On and after the first day of August, Anno Domini one thousand nine hundred and one, each and every keg of black blasting powder, used, manufactured or sold in and around the coal mines of this commonwealth, shall contain twenty-five pounds of said black blasting powder, standard weight; every one-half keg shall contain twelve and a half pounds of said black blasting powder, standard weight, and every quarter keg shall contain six and one-quarter pounds of said black blasting powder, standard weight; each of said kegs to be plainly stamped with the name of the person, firm or corporation manufacturing said powder, and also the number of pounds of powder contained in said keg. [1901]

Sec. 272. Same: Offense; penalty.

Any manufacturer or dealer in said black blasting powder, making or selling, or causing to be made or sold, any keg, half-keg or quarter-keg of said black blasting powder containing less weight of said powder than specified in this act [Secs. 271-274], or which keg shall not be stamped as required in section one [Sec. 271] of this act, shall be subject to a penalty of five dollars for each and every keg, half-keg or quarter-keg, manufactured or sold, which does not contain the respective weights of black blasting powder set forth in the foregoing sections. [1901]

Sec. 273. Same: Use of another's keg; offense.

It shall not be lawful for any other person, firm or corporation, save only such person, firm or corporation whose name shall be stamped on said kegs, to use any such stamped keg for the purpose of containing said black blasting powder. [1901]

Sec. 274. Same: Penalty for wrongful use of kegs.

Any person, firm or corporation violating the provisions of section three [Sec. 273] of this act [Secs. 271-274] shall be subject to a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000). [1901]

Sec. 342. Solid fuels: Definitions.

The term "solid fuel," when used in this act [Secs. 342-352], shall mean anthracite, semi-anthracite, bituminous, semi-bituminous, or lignite coal, briquettes, boulets, coke, gas-house coke, petroleum coke, carbon, charcoal, or any other natural, manufactured, or patented fuel not sold by liquid or metered measure.

The term "person," when used in this act shall be construed to include any individual, partnership, unincorporated association, corporation, association, agent, firm, representative, or employe thereof.

The term "licensed weighmaster," when used in this act, shall include a person licensed to weigh solid fuel by this Commonwealth or by a bordering state issuing such licenses and recognizing licenses and weigh certificates issued by such licenses in this Commonwealth.

The word "department," when used in this act shall mean the Department of Internal Affairs of the Commonwealth.

The word "weighmaster," when used in this act shall mean a weighmaster licensed under this act by the Department of Internal Affairs.

The word "purchaser," when used in this act, shall mean (a) the ultimate consumer to whom the solid fuel is delivered for the purpose of consumption; (b) coal yard or dealer to whom solid fuel is delivered for the purpose of unloading for storage or resale where coal must be weighed before resale.

The word "vehicle," when used in this act shall be construed to include the skid or other similar portable device upon which a lot of solid fuel may be placed prior to weighing, and on which said lot of fuel shall remain continuously thereafter until delivered to the purchaser thereof: Provided, however, That the use of such skids or other similar portable devices shall be subject to approval of the Secretary of Internal Affairs: And provided further, That when such skids or other portable devices are used for the delivery of solid fuel, it shall not be necessary to weigh the truck, tractor, trailer or other moving equipment upon which such skids or other portable devices may be transported. [1939; last amended 1945.]

Sec. 343. Same: Sales by weight.

No person shall sell, transport over a public highway or deliver, or start out for delivery, less than two thousand (2000) pounds avoirdupois of weight to the ton of any solid fuel or a proper proportion thereof in quantities less than a ton, and such solid fuel shall be duly weighed by a licensed weighmaster of the Commonwealth of Pennsylvania on accurate scales suitable for weighing a tare and the gross weight of the vehicle or vehicle and trailer transporting solid fuel located in this state and which has been tested and approved by an official empowered by law to test such scales. A tolerance at the rate of thirty (30) pounds to two thousand pounds shall be allowed for wastage and variation in scales. [1935; last amended 1947.]

Sec. 344. Same: Weighmaster's certificates; use; forms; contents; exceptions.

(1) No person, shall sell, transport over a public highway, deliver, or cause to be delivered, or to be started out for delivery, any solid fuel in a lot or lots in amounts of exceeding one hundred (100) pounds without each lot, in each separate compartment of any vehicle or vehicle and trailer,

being accompanied by a weighmaster's certificate for each lot issued by a licensed weighmaster of the Commonwealth of Pennsylvania: Provided, That this section shall be inapplicable to a producer of solid fuel, who furnishes proof satisfactory to the Department, or an Inspector of Weights and Measures, that the solid fuel being transported comes from his own mine, is his own property, and is being transported for a purpose other than for sale, or that the vehicle is accompanied by a valid certificate of transportation permitting such transportation without a weighmaster's certificate, as provided for by the rules and regulations as promulgated by the Department of Internal Affairs.

(2) Weighmaster's certificates shall be issued only on forms prescribed and furnished by the department or on forms approved by the department and procured by weighmasters or their employers under the supervision and control of the department and shall be in triplicate. All weighmaster's certificates shall be serially numbered, and the copies thereof shall bear the same serial number as the original. Forms procured by weighmasters or their employers, with the approval and under the supervision and control of the department shall bear the serial number assigned by the department. The department shall keep a record of the serial numbers of all certificates issued to weighmasters and their employers.

(3) The original weighmaster's certificate shall be typewritten or made out in ink or indelible pencil, and the original and each copy thereof shall show:

- (a) The kind, and size of the solid fuel;
- (b) The name and address of the seller of the solid fuel;
- (c) The name and address of the purchaser;
- (d) The license number of the vehicle and trailer;
- (e) The signature and license number of the licensed weighmaster by whom weighed and who issued the weighmaster's certificate;
- (f) The date and hour when weighed;

(g) The gross weight in avoirdupois pounds of vehicle and load; the tare weight and the net weight of the solid fuel, and where the load is divided into lots, the net weight of each such lot, all of which must be determined by the same weighmaster in accordance with the rules and regulations of the department, except where reweighing is required by ordinance within the limits of a city, borough, town or township of the first class in which delivery is made, in which case the gross weight of the vehicle and load shall first be determined without dumping, and after the delivery of the entire load of solid fuel the vehicle shall immediately return to the same scale for the determination of the tare weight.

(4) The original copy of a weighmaster's certificate shall be delivered to the purchaser of the solid

fuel specified in the certificate at the time of delivery. One copy thereof shall be retained at the place of weighing and one copy shall be retained by the person delivering the solid fuel. Copies of weighmaster's certificates in possession of licensed weighmasters and persons delivering solid fuel shall be retained for a period of two years and shall be subject to inspection or subpoena for use as evidence by any state, county or city inspector of weights and measures during the business hours.

(5) When solid fuel is sold in lots not exceeding one hundred (100) pounds, the provisions of this section shall not apply if the solid fuel is delivered in closed containers or closed bags, and the net contents of such bag or container, expressed in avoirdupois pounds, is plainly stamped or printed thereon, or upon a tag securely attached thereto.

(6) This section shall not apply to the sale of a boatload or railroad carload of solid fuel delivered direct from the boat or car to one purchaser, and accepted as to weight by the purchaser on the bill of lading or other voucher issued by the carrier. [1935; last amended 1949.]

Sec. 345. Same: Substitution of purchaser.

Where any person shall, for practical reasons, be unable to deliver solid fuel to the purchaser originally designated in the weighmaster's certificate, he may substitute the name and address of another purchaser: Provided, That report of such substitution is made to the licensed weighmaster within twenty-four hours. [1935; last amended 1941.]

Sec. 346. Same: Official may direct weighing if in process of delivery.

Any state, county or city inspector of weights and measures who finds any quantity of solid fuel ready for or in process of delivery, may inspect the same as to its weight and may direct the person in charge of the delivery of the solid fuel to convey the same to the nearest available scales operated by a weighmaster designated by said inspector. Such inspector shall thereupon determine the gross weight of the solid fuel, and the vehicle on which it is carried, and shall direct such person in charge to return to such scales forthwith upon unloading the solid fuel, and upon such return, the inspector shall determine the weight of the vehicle without load and determine the net weight of the solid fuel delivered. No person in charge of a vehicle containing such solid fuel, or from which such solid fuel has been unloaded, shall fail to take the vehicle, upon the direction of the inspector of weights and measures to scales as aforesaid, or refuse to permit the solid fuel or vehicle to be weighed by such official. [1935; last amended 1941.]

Sec. 347. Same: License of weighers.

(1) No person shall make or issue a weighmaster's certificate of solid fuel unless licensed by

Purdor's Statutes Annotated, Title 76, Ch. 6—
Weights and Measures; Sale of Commodities,
Specific Articles—Continued.

the department, except as otherwise provided in this act [Secs. 342-352]. Application for such license shall be made upon a form, prescribed by the department and shall show the place where the weighmaster shall perform this function, and the type and capacity of the scale to be used by the applicant. The applicant shall furnish satisfactory evidence that he owns or leases a scale suitable for weighing the tare and gross weight of a vehicle or vehicle and trailer transporting solid fuel, or that he is regularly employed by the owner or lessee of such a scale, and that he is of good moral character, and of ability to weigh accurately, and to make correct weight certificates. The department may refer any application for a license as a weighmaster to any city or county inspector of weights and measures for report as to the accuracy of the statements made therein, the suitability of the scale, the moral character of the applicant and such other information as the department may require. The applicant shall pay a license fee of five dollars (\$5.00) to the department, for remittance to the State Treasurer through the Department of Revenue, and the State Treasurer shall return annually two dollars and fifty cents (\$2.50) of each such fee to the treasurer of the city or county wherein such scale is located. The license shall be for a period of one year from the date of issue. A license may be renewed in the discretion of the department for successive periods of not exceeding one year each, upon payment of a license fee of five dollars (\$5.00) to the department for remittance to the State Treasurer through the Department of Revenue, and the State Treasurer shall return annually two dollars and fifty cents (\$2.50) of each such fee to the treasurer of the city or county wherein such scale is located. In all cases where the county inspector of weights and measures also serves as such in any city, the two dollars and fifty cents (\$2.50) required to be returned to the city, or county, either for a new license or a renewal license, shall be paid to the county notwithstanding the fact that the scale is located in such city, and in all cases where there is an agreement between any county and any city for the inspection of weights and measures in such city, such payment shall be divided between the county and the city in such proportions, as under such agreement, the county and the city share the cost of inspection.

(1.1) Each license shall be kept conspicuously displayed at the place where the weighmaster is engaged in weighing. In the event of the change of any name or address appearing on any application the licensed weighmaster shall notify the department of such change within forty-eight hours.

A license may be suspended or revoked by the department after hearing, upon due notice to the

licensee, for dishonesty, incompetency, inaccuracy or failure to notify the department of any change of name or address stated in his application, and may be revoked by the department without hearing, if the licensed weighmaster has been found guilty of any violation of the provisions of this act, or where the licensed weighmaster has ceased to be employed at the place of weighing for which the license has been issued. Upon the revocation of a weighmaster's license the forms of weighmaster's certificates in his possession shall immediately be surrendered to the department. [1935; last amended 1945.]

Sec. 348. Same: False or incorrect certificates; forms; delivery of fuel without certificate; neglect or refusal to deliver; prima facie evidence.

It shall be unlawful for any weighmaster to issue a false or incorrect weighmaster's certificate, or for any person to solicit him to do so, or for any person to use or issue any weighmaster's certificate except one prepared on a form issued or approved by the department, or for any person to print or distribute any forms of weighmaster's certificates unless authorized so to do by the department, or to use a false or incorrect weighmaster's certificate, or a weighmaster's certificate not bearing the signature and license number of a licensed weighmaster, and the license number of the vehicle and trailer, or for any weighmaster knowingly to permit any weighmaster's certificate to be issued or used, which purports to bear his signature and which was not in fact signed by him at the time of weighing or which expresses a gross tare or net weight not ascertained by him, or for any person to deliver solid fuel without an official weighmaster's certificate, or for any person to furnish a false name or address of a purchaser to the licensed weighmaster at the time of weighing, or to permit any diminution of the load of solid fuel before its delivery to the purchaser or purchasers thereof, or, except as otherwise provided in this act, to fail, neglect or refuse to deliver a correct and lawful weighmaster's certificate to the purchaser of solid fuel whose name and address appears on said weighmaster's certificate, or to otherwise directly or indirectly violate any of the provisions of this act [Secs. 342-352].

Whenever solid fuel is sold and delivered to the purchaser named in the approved weighmaster's certificate and whenever the seller or his representative neglects, fails or refuses to deliver an approved weighmaster's certificate at the time of delivery or the net weight of the solid fuel shall be determined to be less than the net amount stated on the approved weighmaster's certificate or as otherwise represented to the purchaser such determination shall constitute prima facie evidence of short weight and the seller shall be prosecuted under this provision for short weight.

Whenever the gross weight of a vehicle and load, the tare weight and the net weight of solid fuel has been determined in accordance with the provisions of this act, and the net weight of the solid fuel shall be determined to be less than that stated in a weighmaster's certificate, proof of such determination shall constitute prima facie evidence of the diminution of the load of solid fuel before delivery to the purchaser. [1935; last amended 1949.]

Sec. 349. Same: Penalties for violations of act; hearings in cities of first class.

Any person violating any of the provisions of this act [Secs. 342-352] shall, upon summary conviction before a magistrate, be sentenced for the first offense to pay a fine of not less than one hundred dollars (\$100) or more than two hundred dollars (\$200) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for twenty days; and for the second offense be sentenced to pay a fine of not less than two hundred dollars (\$200) or more than three hundred dollars (\$300) and costs of prosecution, and in default of payment thereof shall undergo imprisonment for sixty days; and for the third offense shall be sentenced to pay a fine of not less than three hundred dollars (\$300.00), or more than five hundred dollars (\$500.00) and costs of prosecution, and in default of the payment thereof shall undergo imprisonment for ninety days.

Any person violating any of the provisions of this act for a fourth or subsequent offense shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than three hundred dollars (\$300) or more than five hundred dollars (\$500), and suffer imprisonment for not less than six months or more than one year.

In cities of the first class all hearings shall be held before a magistrate who shall hear such purported violations for one month only, and thereafter another magistrate shall be assigned to hear such cases until all magistrates of such city have been assigned to such hearings. It is hereby declared to be the legislative intent that there be a rotation of magistrates assigned to such hearings in the same manner as that provided by section eleven of the "Magistrates' Court Act of 1937," approved the fifteenth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws, one thousand seven hundred forty-three). [1935; last amended 1947.]

Sec. 349.1. Same: Arrest without warrant.

Any state, county or city inspector of weights and measures in whose presence a violation of this act [Secs. 342-352] has or is being committed shall have power without warrant to arrest the offender and conduct him before an alderman, magistrate or justice of the peace of the city or county where the offense was committed and there make infor-

mation before such officer which shall be disposed of according to law. [1941]

Sec. 349.2. Same: Rules and regulations.

The Secretary of Internal Affairs shall have power to adopt and promulgate such rules and regulations not inconsistent with the provisions of this act [Secs. 342-352] as may be deemed necessary to carry into effect the intent and purpose of this act. [1941]

Sec. 349.3. Same: Municipalities may require weighing; fees.

Every city, borough, town or township of the first class shall have power to require by ordinance that the tare and gross weight of a vehicle or vehicle and trailer transporting solid fuel for delivery within its limits shall be weighed therein and the net weight of the solid fuel determined, notwithstanding that such weighing was theretofore done in some other political subdivision, and shall have power to impose reasonable fees in connection with such weighing and the keeping of records thereof. [1941]

Sec. 350. Same: Separability clause.

The provisions of this act [Secs. 342-352] are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of the act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provision not been included herein. [1941]

Sec. 352. Same: Certificate of origin; sales by employer producer to employees.

In any case where under the provisions of any contract it is provided that solid fuel shall be sold at cost by an employer producer to his employes for their own use and consumption, such solid fuel may be sold by cubic contents instead of weight, but no solid fuel so sold shall be transported over the highways of the Commonwealth from the place of production to the residence of the employe unless the operator of the vehicle has in his possession a certificate of origin furnished or approved by the department. Such certificates of origin shall contain such information as may be prescribed by the department and shall be signed by the producer or his agent, and a copy of each certificate issued shall be kept at the place of production for at least two years. [1941]

Sec. 361. Hay and straw: Baling; label.

Hereafter all baled hay and straw shall be properly bound with wire, rope or other material to hold it in bundle, and the correct weight shall be plainly marked on each bale. [1901]

Sec. 362. Same: Weight of baling material.

The wood or other material used in baling cut hay shall not exceed in weight eight per centum

Purdon's Statutes Annotated, Title 76, Ch. 6—
Weights and Measures; Sale of Commodities,
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of the weight of the entire bundle, and no wood, except for a marking block, shall be used in baling long hay or straw. [1901]

Sec. 363. Same: Offense; penalty.

Any person who shall mark a bale of hay or straw higher than its actual weight, or who shall use more than eight per centum of its weight of wood or other material to hold in bundle, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court before whom conviction may be secured. [1901]

Sec. 364. Same: Including matter to increase weight; penalty.

Any person or persons within this Commonwealth who shall sell or cause to be sold or exchanged, in any manner whatsoever, baled hay, straw or other material of a like nature, by weight, and shall include in the weight of said baled hay, straw or other substance of a similar nature, any concealed or exposed matter for the purpose of increasing the weight, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not exceeding one hundred dollars, and imprisoned not exceeding six months, either or both, at the discretion of the court. [1876]

Sec. 383. Babcock test: Inspection and marking equipment.

Every person, firm, company, association, corporation, or agent thereof, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount or percentage of butterfat contained therein, as determined by the "Babcock test", shall use standard "Babcock" bottles, pipettes, and weights, as defined in section two [Sec. 384] of this act [Secs. 383-387]. All such Babcock test bottles, pipettes, and weights so used, shall have been inspected for accuracy by the Bureau of Standards¹ of Pennsylvania or its proper officer or agent, and shall be legibly and indelibly marked, by the said Bureau of Standards or its inspectors of weights and measures, with the letters "S. G. P." (Standard Glassware Pennsylvania), and no Babcock bottle, pipette, or weight shall be used for such test unless so examined and marked by the said inspectors of weights and measures. It shall be unlawful for any person, persons, firm or company, association, corporation, or any agents, to use any other than standard test bottles, pipettes, and weights, which have been examined and marked as provided in this section, to determine the amount of fat in milk or cream bought on the butterfat basis as determined by the Babcock test. [1919]

¹ See Ed. note following Sec. 101, page 846.

Sec. 384. Same: Standard glassware.

The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard Milk Test Bottles.

Graduation. The total per centum graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduations shall represent whole per centum, five-tenths per centum, and tenths per centum. The tenths per centum graduation shall not be less than three millimeters in length; the five-tenths per centum graduations shall be one millimeter longer than the tenths per centum graduations, projecting one millimeter to the left; the whole per centum graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per centum graduations. Each per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per centum.

Neck. The neck shall be cylindrical, and the cylindrical shape shall extend for at least five millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be eighteen grams.

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches).

(b) Standard Cream Test Bottles.

Three types of bottles shall be accepted as standard cream test bottles: a fifty per centum, nine gram, short-neck bottle; a fifty per centum, nine gram, long-neck bottle; and a fifty per centum, eighteen gram, long-neck bottle.

Fifty per centum, nine gram, short-neck bottles:

Graduation. The total per centum graduation shall be fifty. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent five per centum, one per centum, and five-tenths per centum. The five per centum graduations shall extend at least half way around the neck to the right. The five-tenths per centum graduation shall be at least

three millimeters in length, and the one per centum graduations shall have a length intermediate between the five per centum and the five-tenths per centum graduations. Each five per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per centum.

Neck. The neck shall be cylindrical, and the cylindrical shape shall extend at least five millimeters below the lowest, and five millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams. All bottles shall bear on top of the neck, above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches), same as standard milk test bottles.

Fifty per centum, nine gram, long-neck bottles:

The same specifications in every detail as specified for the fifty per centum, nine gram, short-neck bottle, shall apply for the long-neck bottle, with the exception, however, the total height of this bottle shall be between two hundred and ten and two hundred and thirty-five millimeters (eight and one-fourth and eight and seven-eighths inches), and that the total length of the graduation shall not be less than one hundred and twenty millimeters.

Fifty per centum, eighteen gram, long-neck bottles:

The same specification in every detail as specified for the fifty per centum, nine gram, long-neck bottles, except that the charge of the bottle shall be eighteen grams. All bottles shall bear, on the top of the neck, above the graduation, in plainly legible characters, a mark defining the weight of the charge to be used (eighteen grams).

(c) The Standard Babcock Pipette.

Total length of pipette, not more than three hundred and thirty millimeters (thirteen and one-fourth inches). Outside diameter of suction tube, six to eight millimeters. Length of suction tube, one hundred and thirty millimeters. Outside diameter of delivery tube, four and five-tenths of

five and five-tenths millimeters. Length of delivery tube, one hundred to one hundred and twenty millimeters. Distance of graduation mark above bulb, fifteen to forty-five millimeters. Nozzle, straight. To contain seventeen and six-tenths cubic centimeters of water at twenty degrees Centigrade in five to eight seconds. Maximum error shall not exceed five-hundredths of a cubic centimeter.

(d) Standard Weights.

The standard weights shall be of nine (9) grams and eighteen (18) grams denominations. [1919; last amended 1921.]

Sec. 385. Same: Penalties for violations.

Any person violating any of the provisions of this act [Secs. 383-387] shall be guilty of a misdemeanor, and shall be subject to the same penalties as provided in the act to which this is a supplement.¹ [1919]

¹ Act of 1911, May 11, P. L. 275; see Secs. 201, 202, 209, pages 849-851.

Sec. 386. Same: Enforcement.

The Bureau of Standards¹ of the State of Pennsylvania, through its inspectors of weights and measures, shall be charged with the enforcement of the provisions of this act. [Secs. 383-387]. [1919]

¹ See Ed. note following Sec. 101, page 843.

Sec. 387. Same: Effective date of act.

The provisions of this act [Secs. 383-387] shall take effect January first, one thousand nine hundred and twenty, with the exception that the provisions of section two [Sec. 384], as respects the denominations of the glassware therein specified shall not be held to require the abandonment of the use of other denominations in use at the time of the passage of this act, provided that the said glassware of other than standard denominations shall have been certified, after examination by the proper officer of the Pennsylvania Bureau of Standards¹, to be correct to their graduations. [1919]

¹ See Ed. note following Sec. 101, page 843.

Sec. 433. Bark: Weight of cord and ton.

From and after the passage of this act [Sec. 433] the standard weight of a cord of hemlock, oak or other bark, when sold by the cord or ton, shall be two thousand pounds for each and every cord, and two thousand pounds for each and every ton. [1891]

Sec. 441. Fruits and vegetables: "Original unbroken standard container" defined.

The terms "original unbroken standard container," as used in this act [Secs. 441-445], shall be construed to mean any barrel, box, basket, bag or similar container approved by any proper Federal agency as a standard container for fruits and vegetables under or in accordance with any act of the Congress of the United States or approved

Purdon's Statutes Annotated, Title 76, Ch. 6—
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under or in accordance with the laws of this Commonwealth or under the authority of this act by the Department of Internal Affairs of this Commonwealth, and the contents of which have not been removed or repacked by any person whatever. [1937]

Sec. 442. Same: Marking requirements; sale by weight, when, false weight.

Hereafter it shall be lawful for any person, copartnership, association or corporation to sell or offer for sale at wholesale or retail in this Commonwealth, fruits and vegetables in original unbroken standard containers, as herein defined, but sales in such original unbroken standard containers shall be lawful only if there shall appear thereon a plain and conspicuous statement showing correctly the quantity of fruits and vegetables contained therein in terms of weight, measure or numerical count, and only if the containers shall have been filled or packed in accordance with good commercial practice. If the contents of an original standard container are broken for resale at wholesale or retail, or if fruits and vegetables are sold in any other manner than in original unbroken standard containers, then such sales shall be lawful only if made by weight or numerical count and no other manner whatever. It shall be unlawful for any person, copartnership, association or corporation to sell or offer for sale, at wholesale or retail, any fruits or vegetables the weight of which is less than that represented. [1937; last amended 1947.]

Sec. 443. Same: Variations.

The Department of Internal Affairs shall have power to adopt tolerances allowing reasonable variations of the provisions of this act [Secs. 441-445]. [1937]

Sec. 444. Same: Enforcement.

The Department of Internal Affairs and the county and city inspectors of weights and measures are hereby charged with the enforcement of this act [Secs. 441-445]. [1937]

Sec. 445. Penalties for violations.

Any person, copartnership, association or corporation, or his or its servants, agents or employes who shall violate any of the provisions of this act [Secs. 441-445], shall, upon conviction thereof in a summary proceeding, be sentenced for a first offense to pay a fine of not less than twenty-five dollars or more than fifty dollars and costs of prosecution and in default of the payment of such fine and costs of prosecution, shall be sentenced to imprisonment for not less than ten days or more than

twenty days and for conviction in a summary proceeding for a second offense, shall be sentenced to pay a fine of not less than fifty dollars nor more than one hundred dollars, or, in default of such fine and costs of prosecution, shall be sentenced to imprisonment for not more than forty days; and any person, copartnership, association or corporation, or his or its servants, agents or employes, who shall violate any of the provisions of this act for a third or subsequent time, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or to undergo imprisonment for sixty days, or both, at the discretion of the court. [1937; last amended 1949.]

Sec. 448.1. Flour, meals, hominy and grits: Definitions.

(1) The word "flour" as used in this act [Secs. 448.1-448.5] shall mean wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits.

(2) The word "container" as used in this act shall mean any box, bag, bundle, pack, package, jar, can, barrel or any other form of receptacle or vessel.

(3) The term "person" when used in this act shall be construed to include any individual, partnership, unincorporated association, corporation, association, agent, firm, cooperative society, representative or employe thereof.

(4) The word "department" when used in this act shall mean the Department of Internal Affairs of the Commonwealth. [1945]

Sec. 448.2. Same: Standard weight containers; exceptions.

It shall be unlawful for any person to pack for sale, sell, offer or expose for sale in this State, flour except in containers of net avoirdupois weights of five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) pounds and multiples of one hundred (100) pounds: Provided, however, That the provisions of this act [Secs. 448.1-448.5] shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders, or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy and hominy grits packed in containers, the net contents of which are less than three (3) pounds, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 448.3. Same: Enforcement.

It shall be the duty of the department and the inspectors of weights and measures of the several counties and cities to enforce the provisions of this act [Secs. 448.1-448.5]. [1945]

Sec. 448.4. Same: Rules and regulations.

The secretary of the department shall have power to adopt and promulgate such rules and regulations not inconsistent with the provisions of this act [Secs. 448.1-448.5] as may be deemed necessary to carry into effect the intent and purpose of this act. [1945]

Sec. 448.5. Same: Penalties for violations

Any violation of this act [Secs. 448.1-448.5] shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than twenty-five dollars (\$25), nor more than five hundred dollars (\$500) for each offense. [1945]

Sec. 451. Non-compliance with regulator's requisitions; sales by false beams, scales, etc.; penalty.

In case any maker, vendor or proprietor of beams, scales, weights or measures, within the city or county of Philadelphia, or county for which a sealer has been appointed, shall neglect or refuse to comply with the requisitions which the regulator of weights and measures is authorized and directed to make, or shall sell by false beams, scales, weights or measures, such person or persons so offending shall, for each and every offense, forfeit and pay the sum of five dollars, which may be sued for, and recovered as debts of the like amount are by law recoverable for the use of the poor of the city, district or township, in which such fine shall have been incurred: * * * [1845]

Purdon's Statutes Annotated, Title 76, Ch. 6—Weights and Measures, Placing Devices in View of Purchasers.

Sec. 471. Definitions.

That the word "person" as used in this act [Secs. 471-475] shall mean any individual, firm, partnership, unincorporated association, corporation, association or agent, representative or employe thereof.

The word "department" when used in this act shall mean the Department of Internal Affairs.

The word "merchandise" as used in this act shall mean any goods, wares, commodities, mixture or other preparation or thing which may be lawfully kept or offered for sale by weight or measurement at a fixed place of business.

The words "weighing and measuring devices" shall mean any instrument, device or object used for selling or offering for sale merchandise, as approved by the department under the act [Secs. 101-115, Ti. 76], approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws, three hundred eighty-nine), entitled, "An act to regulate and control the manufacture, sale, offering for sale, giving away, and use of weights and measures and of weighing and measuring devices in the Commonwealth of Pennsylvania; providing for the approval and disapproval of such

weights, measures, and devices by the Bureau of Standards; and prescribing penalties." [1941]

Sec. 472. Method of placing.

Every person selling or offering for sale any merchandise at a fixed place of business shall place weighing and measuring devices in a position that their indicators may be accurately read and the weighing or measuring operation observed by the purchaser, the position of the weighing and measuring device to depend upon the size and character of the indicating elements of the device, which shall be determined by the department and the several county and city inspectors of weights and measures. [1941]

Sec. 473. Enforcement.

It shall be the duty of the department and the inspectors of weights and measures of the several counties and cities to enforce the provisions of this act [Secs. 471-475]. [1941]

Sec. 474. Rules and regulations.

The secretary of the department shall have power to adopt and promulgate such rules and regulations not inconsistent with the provisions of this act [Secs. 471-475] as may be deemed necessary to carry into effect the intent and purpose of this act. [1941]

Sec. 475. Penalties for violations.

Any person violating any of the provisions of this act [Secs. 471-475] shall, upon summary conviction before a magistrate, alderman or justice of the peace, be sentenced for the first offense to pay a fine of not less than ten dollars (\$10.00), nor more than twenty-five dollars (\$25.00), and costs of prosecution and in default thereof to undergo imprisonment of not less than ten days, nor more than twenty-five days, and for the second offense to pay a fine of not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00), and costs of prosecution, and in default thereof to undergo imprisonment of not less than twenty days, nor more than sixty days, and for the third and all subsequent offenses to pay a fine of one hundred dollars (\$100.00) and costs of prosecution, and in default thereof to undergo imprisonment of not less than ninety days. All such fines shall be paid over to the treasurer of the respective political subdivisions in which the offense was committed. [1941]

Laws of 1949, Pamphlet Laws No. 330—Weights and Measures, Light Fuel Oils.

Sec. 1. Definitions.

The word "department" as used in this act shall mean the Department of Internal Affairs.

The words "domestic consumers" as used in this act shall mean those in residences, apartment

Laws of 1949, Pamphlet Laws No. 330—Weights and Measures, Light Fuel Oils—Continued.

houses, stores, churches, office buildings, and similar edifices, as distinguished from industrial plants.

The words "light fuel oils" as used in this act shall mean kerosene, number one fuel oil, number two fuel oil, number three fuel oil, and any similar oil used for domestic heating, as distinguished from heavy industrial oils.

The word "person" as used in this act shall be construed to include any individual, partnership, unincorporated association, corporation, association, agent, firm, representative, or employe thereof. [1949]

Sec. 2. Meter required.

No person shall deliver light fuel oils to any domestic consumer unless the vehicle by which such light fuel oils are delivered is equipped with a meter of a type approved under provisions of the act,¹ approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 389), as amended, * * * All deliveries of light fuel oil to such consumers shall be made by the use of such a meter. [1949]

¹ Secs. 101-115, pages 846-849.

Sec. 3. Small deliveries.

Fuel oil deliveries of fifty gallons or less may be delivered without being metered: Provided, That such delivery be made in standard measures of not less than five gallons capacity: And provided further, That only such measures as approved by provisions of the aforesaid act, approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 389), as amended, be used. [1949]

Sec. 4. Exceptions.

The provisions of this act shall not apply to deliveries of heavy fuel oils nor to deliveries of light fuel oils to industrial plants, nor where either the entire truck tank load of light fuel oil or the entire load of light fuel oil in one compartment of the truck tank is delivered to a single domestic consumer, provided such tank truck is of a type approved under provisions of the aforesaid act, approved the fifth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 389), as amended. [1949]

Sec. 5. Enforcement of act; rules and regulations.

It shall be the duty of the department and the inspectors of weights and measures of the several counties and cities to enforce the provisions of this act.

The Secretary of Internal Affairs shall have power to adopt and promulgate such rules and regulations not inconsistent with the provisions of this act as may be deemed necessary to carry into effect the intent and purpose of this act. [1949]

Sec. 6. Penalties.

Any person violating any of the provisions of this act shall, upon summary conviction before a magistrate, be sentenced, for the first offense, to pay a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) and costs of prosecution, and, in default of payment thereof, shall undergo imprisonment for ten (10) days; and for the second offense, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and costs of prosecution, and, in default of payment thereof, shall undergo imprisonment for twenty (20) days; and for the third offense, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) and costs of prosecution, and, in default of the payment thereof, shall undergo imprisonment for thirty (30) days.

Any person violating any of the provisions of this act for a fourth or subsequent offense shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00), or suffer imprisonment for not more than sixty (60) days, or both. [1949]

Sec. 7. Effective date.

The provisions of this act shall become effective the first day of September, one thousand nine hundred fifty. [1949]

Purdon's Statutes Annotated, Title 53, Ch. 31—Cities of the First Class.

Sec. 4191. Water meters: Required installation.

From and after the passage of this act [Secs. 4191-4194] the municipal authorities of every city of the first class within this Commonwealth which now owns and operates or may hereafter acquire or construct and operate its own water works shall have the power to require the owner or owners of every separate property supplied from such water works to install or permit the installation of a water-meter or meters upon and for such property. [1925]

Purdon's Statutes Annotated, Title 53, Ch. 33—Special Provisions for Philadelphia.

Sec. 7306. Coal: Alteration of delivery vehicle; penalty; exception.

Any person who shall change or alter the size or capacity of any cart, wagon or other vehicle, used in delivering anthracite coal in the city of Philadelphia, and stamped under the provisions of an act¹ to which this is a supplement, with intent to defraud by the reducing of such cart, wagon or other vehicle to a less capacity than is indicated by the stamp thereon, shall be guilty of a misdemeanor, and upon conviction thereof shall be com-

pelled to pay a fine not exceeding fifty dollars and undergo an imprisonment not exceeding six months: Provided, however, That neither of the coal inspectors, of said city shall be prevented from altering the size or capacity of any stamped cart, wagon or other vehicle used for the delivery of anthracite coal in said city, and restamping the same. [1872]

¹ Act of 1871, May 27, P. L. 1287, Secs. 7291-7305 of Ti. 53 repealed by Act of 1933, Sp. Sess., Jan. 3, 1934, P. L. 196, No. 10, Sec. 7.

Sec. 7307. Same: Stamping vehicle; penalty.

The stamp shall be put upon each cart, wagon or other vehicle in fast colors, by the inspector of the district in which it belongs; and when it shall become obliterated from any cause, the owner of such cart, wagon or other vehicle shall have the same restamped, and pay therefor to the said inspector the sum of one dollar; and upon the failure or neglect of the said owner to comply with the provisions of this section he shall be compelled to pay a fine of ten dollars. [1872]

Sec. 7308. Same: Use of unstamped vehicles; penalty.

Any person delivering or causing to be delivered anthracite coal into any unstamped cart, wagon or other vehicle used for the delivery of anthracite coal by retail, within the city of Philadelphia, with knowledge that such cart, wagon or other vehicle is used for such purpose within the said city, shall be compelled to pay a fine of ten dollars for each offense. [1872]

Sec. 7309. Same: Delivery tickets, offense; penalty.

It shall be unlawful for any retail coal dealer of the city of Philadelphia to deliver any quantity or quantities of anthracite coal, which shall have been sold by weight, without each such delivery being accompanied with a delivery ticket, whereon shall be distinctly expressed in tons, fractional fourths thereof, or pounds avoirdupois, the quantity or quantities of coal contained in the cart, wagon or other vehicle used in such delivery, with the name of the purchaser thereof, and the dealer from whom purchased; and for each failure or refusal to produce such delivery ticket when called for by either of the inspectors or the purchaser of the coal, the driver or owner of the vehicle shall be compelled to pay a fine of ten dollars. [1872]

Sec. 7310. Same: Vehicle to be weighed loaded and unloaded.

The said inspectors are hereby authorized and empowered, at their discretion, to order any cart, wagon or other vehicle used by any retail coal dealer in delivering anthracite coal within the city of Philadelphia, to be taken back to the place where the said coal shall have been loaded; Provided. The place of arrest be within four hundred yards thereof, where the inspectors may take the weight of the vehicle loaded; and after the coal

shall have been taken to its destination, or immediately, if the owner or driver shall desire the same, the said inspector shall take the weight of the vehicle unloaded; and for the refusal of any driver of any such vehicle to comply with the order of any of said inspectors to drive back to the place where the coal shall have been loaded, he shall be compelled to pay a fine of ten dollars. [1872]

Sec. 7311. Same: Recovery of penalties.

All penalties provided by this act [Secs. 7306-7313] * * * shall be recoverable by action of debt in the same manner as penalties are now by law recoverable, to be brought in the name of the coal inspector; one-half of said fines and penalties to go to the city of Philadelphia, and the other half to go to the said inspector; and corporations and companies violating this act, * * * shall incur like penalties with individuals. [1872]

Sec. 7312. Same: Inspectors have power to arrest.

And each of the said coal inspectors shall have authority to arrest or direct any police officer or constable of the city of Philadelphia to arrest any person or persons found violating this act [Secs. 7306-7313], * * * and take him or them before any alderman¹ or justice of the peace of the city of Philadelphia for a hearing. [1872]

¹ Office of alderman abolished by Const. Art. 5, Sec. 12.

Sec. 7314. Same: Weight per bushel measure.

From and after the first day of May next, stone coal brought from any mine situated within the state of Pennsylvania, to the city or county of Philadelphia, for sale, shall be disposed of by weight or by the bushel measure, and if by the latter, each bushel shall weigh at least eighty pounds; and so when the same is re-sold, whether by wholesale or retail, it shall in like manner be sold by weight or measure, if by the latter, the bushel shall contain at least eighty pounds, and in the same proportion for any greater or less measure. [1822]

Sec. 7315. Same: Penalty for short weight.

If any person or persons selling coal by the bushel, or by any greater or less measure, shall not give at least eighty pounds for each bushel so sold, and so in proportion for any greater or less measure, such person or persons shall for every such offence forfeit and pay five dollars, to be recovered in the same manner as debts for the same amount are by law recoverable, one-half to be paid to the guardians or overseers of the poor of the city, district or township, where the offence is committed, and the other half to the person prosecuting for the same. [1822]

Sec. 7331. Corn and salt: Appointment of measurer.

That there be appointed by the supreme executive council of this commonwealth some proper

Purdon's Statutes Annotated, Title 53, Ch. 33—
Special Provisions for Philadelphia—Continued.

and discreet person, to be the measurer of all kinds of corn and salt imported or brought into the port and city of Philadelphia for sale; which officer, before he enters on the duty of the office, shall take and subscribe, before one of the judges of the court of common pleas for the county of Philadelphia, an oath or affirmation that he will in all things well and faithfully execute the office of measurer of corn and salt, within the city and port of Philadelphia, according to the best of his knowledge and ability, and the directions contained in this act. [Secs. 7331-7333, 7335]. [1785]

Sec. 7332. Same: Duties of measurer; appointment of deputies.

The duty of the said officer shall be:

To provide, at his own cost, a sufficient number of barred half-bushel measures for corn, and unbarred half-bushel measures for salt, made of dry, well-seasoned white-oak, and to have the same compared with and regulated by the public standard half-bushel measure, kept in the city of Philadelphia, at least twice in every year that the same shall be used.

To employ a sufficient number of able-bodied and trusty persons to act as his deputies, in the measuring and striking all kinds of corn and salt, which shall be imported and brought into the city or port of Philadelphia for sale; which deputies, before they shall take upon themselves to measure any corn or salt, shall take and subscribe, before one of the said judges, the like oath or affirmation hereinbefore mentioned.

The said officer shall, upon notice to him given in writing, that any ship, shallop or vessel, boat, cart or wagon, hath imported or brought into the city or port any corn or salt, and that the same is sold and ready to be delivered to the purchaser, send one or more of his deputies, within two hours, to measure the same; which deputy or deputies, taking with them a sufficient number of the said half-bushel measures, therewith shall well and faithfully measure the same, and forthwith deliver to the seller an account of the number of bushels by him measured and delivered, and a duplicate thereof to the buyer; and shall every day, on which he shall measure any corn or salt, return to the said officer an account of the whole quantity by him measured, with the name of the seller and buyer, and the ship, vessel, boat, cart or wagon from which the same was delivered.

The officer shall keep a fair book, in which he shall register the date, names of the sellers and buyers, the quantity and species of the corn and salt measured; which book shall be open for the inspection of the sellers and buyers, at any time

when they shall have occasion to refer to the same. [1785]

Sec. 7333. Same: Limitation on application of law.

Nothing in this act [Secs. 7331-7333, 7335] contained shall extend, or be construed to extend to any retailers of corn or salt, in or out of any store or the public market places in the city, township or district aforesaid, not to entitle the said officer to the reward aforesaid, upon any corn or salt which has once been measured in manner aforesaid, and delivered into any store, warehouse or granary in the said city, township or district. [1785]

Sec. 7334. Grain: Record of weighing; weight certificate.

The head measurer and his deputies, when weighing grain, shall keep true and accurate accounts of the same, and furnish to buyer and seller a certificate of the weight; and whenever their services may be required by buyer or seller, to weigh grain, the charges therefor shall be no greater than for measuring; and for all grain that a deputy may either measure or weigh, he shall make return to the head measurer. [1867]

Sec. 7335. Removal of deputy by justices.

Upon complaint made by any two dealers in corn or salt, dwelling in the city of Philadelphia, the township of the Northern Liberties, or district of Southwark, to be made to two of the justices of the court of common pleas for the county of Philadelphia, that any of the deputies of the said officer has misbehaved himself, or neglected his duty, the said two justices shall * * * summon the party complained of, and if they see cause, deprive him of the office of deputy-measurer, after which he shall not be qualified to measure any grain or salt bought or sold within this city or port. [1785]

Sec. 7336. Removal of deputies by measurer; offense; penalty.

The measurer of all kinds of corn and salt imported or brought into the port of Philadelphia for sale, shall have full power and authority to remove any deputy-measurer, and appoint another or others, from time to time, as he may deem necessary; and if any deputy or deputies, after such removal, shall measure any grain, seed, salt or coal, contrary to the meaning of this act [Secs. 7336-7337] he shall, for every such offense, forfeit and pay a fine of fifty dollars, to be recovered in the same manner that any other debt is by law recoverable. [1836]

Sec. 7337. Removal of deputies upon complaint.

Upon complaint made to the said measurer, by any two citizens of this commonwealth, that any of his deputies have misbehaved themselves in the performance of their duties, or have neglected the same, and if he shall find the said complaint to

be true, he shall remove such deputy-measurer from office. [1836]

Sec. 7338. Fees for measuring corn and salt.

The fee to be received * * * by the measurer of corn and salt:

In performing the duties enjoined upon him by law, for every one hundred bushels of corn and salt -----	07
By the deputies of the said measurer, for every one hundred bushels of corn which they shall measure and keep an account of agreeably to law -----	15
And for every one hundred bushels of salt which they shall measure and keep an account of -----	10

[1821]

Sec. 7339. Taking illegal fees; penalty.

If any person whose fees are fixed by this act [Secs. 7338-7339], by color of his office or occupation, by custom or under any other pretense whatsoever, shall take any other or greater fees for services performed in pursuance of this act than are hereby allowed, he shall be deemed guilty of a misdemeanor, and on conviction thereof before any alderman of the city, or justice of the peace of the county of Philadelphia, pay a fine of \$50, one-half to the commonwealth, and one-half to the party injured. [1821]

¹ Office abolished by Const. Art. 5, Sec. 12.

Sec. 7340. Fees for measuring grain.

The fees to be received by the measurer of grain or his deputies for the port and city of Philadelphia, shall be forty cents for every one hundred bushels of grain of whatever description, including flaxseed, beans and peas, which he or they shall measure and keep an account of, agreeably to law, and the provisions of any act, so far as they are altered or supplied by this act [section], are hereby repealed. [1842]

Sec. 7351. Lime: Standard bushel.

From and after the first day of September next, the bushel used for the measuring of lime in the city and county of Philadelphia, and in the counties of Bucks, Montgomery, Delaware, Chester, Lancaster and York, shall be of the following dimensions, to wit: Thirteen inches and a half diameter at the bottom in the clear, fifteen inches diameter at the top in the clear, and thirteen inches and forty-seven hundredths perpendicular depth in the clear. [1819]

Sec. 7352. Same: Marking.

It shall be the duty of the several courts of common pleas, within the city and counties aforesaid, to appoint one or more suitable persons in each of said counties, as to them shall appear necessary,

whose duty it shall be, after being for that purpose duly sworn or affirmed, by a judge, alderman or justice of the peace, of the city or proper county, and a certificate of such qualification, filed in the prothonotary's office, to procure a brand and mark every bushel, intended to be used for the measuring of lime, with the letters L. B., in the manner that weights and measures are now stamped or marked in the city of Philadelphia; for which service he shall be entitled to receive twenty-five cents for each bushel so stamped or marked. [1819]

Sec. 7353. Same: Offenses; penalty.

If any person or persons, in the city or counties aforesaid, shall use, for the measuring of lime, a bushel of any other dimensions, or not stamped as is hereinbefore directed, he or they shall forfeit and pay the sum of five dollars for every such offense, to be recovered before any alderman or justice of the peace, upon due proof to him made in the same manner that debts of the like sum are recoverable, to be paid to the treasurer of the county wherein the offence was committed, for the use of the county. [1819]

Sec. 7371. Marble: Appointment of measurer; compensation.

The governor be and is hereby authorized and required to appoint a measurer of marble, whose duty it shall be faithfully to measure all marble, in the rough, brought into the city and county of Philadelphia for sale, when thereto required by the parties or either of them, whose compensation shall be one cent per foot for cubic marble, and one fourth of a cent per foot for slab marble. [1838]

Sec. 7381. Wood: Standard cord.

The standard dimensions of a cord of wood or bark for fuel, exposed to sale within the city and county of Philadelphia, shall be eight feet in length, four feet in breadth, and four feet in height, containing one hundred and twenty-eight feet, solid measure; but if it shall so happen, before the first day of September next, that any wood brought to market shall be under the average length of four feet, including one-half the kerf, the deficiency shall be made up in the breadth or height. [1817]

Sec. 7382. Same: Size and arrangement of cord.

From and after the first day of September next, all cord wood brought to market within the city and county of Philadelphia, shall be at least four feet in length, including one-half the kerf, and the cord shall be computed at the rate of eight feet in length, four feet in breadth and four feet in height, well stowed and packed, the straight wood shall be placed or caused to be placed by all vendors of cord wood compactly in the lower part of the pile, and the crooked wood in the upper part thereof, and a reasonable and fair allowance shall be made by all corders or vendors of wood for the

Purdon's Statutes Annotated, Title 53, Ch. 33—
Special Provisions for Philadelphia—Continued.

loss sustained by crooked and uneven wood; nor shall any corder of wood purchase any wood for the purpose of selling the same again, by which sale he may derive a compensation or profit, and the same is hereby declared to be unlawful. [1817]

Sec. 7383. Same: Offenses; penalty.

From and after the first day of September next, if any person shall expose to sale within the city and county of Philadelphia any wood less than four feet in length, it shall be liable to be seized by any corder of wood and forfeited; one-half to the use of the said corder, and the other to the guardians of the poor of the city, district or township in which it shall be seized; but in case the person exposing the wood for sale shall deem himself aggrieved thereby he may appeal to any alderman¹ or justice of the peace of the city, district or township in which the seizure is made, who shall hear, try and determine the same; and if any person shall, within the said limits, sell as a cord of wood or bark, for fuel, any quantity less than the standard measure prescribed by this act [Sec. 7381-7383], unless the same shall have been previously measured by a corder, and is sold without any change since such measurement, he shall forfeit and pay the sum of ten dollars; and if any corder shall refuse or neglect to perform the duties enjoined on him by this act, he shall for every such offense forfeit and pay the sum of ten dollars; and if any corder shall purchase any wood for the purpose of selling it again, he shall forfeit and pay the sum of one hundred dollars, which several penalties and forfeitures may be recovered as debts of a similar amount are by law recoverable, before any alderman or justice of the peace within the city, district or township in which the offence shall have been committed, and shall be one-half for the use of the person prosecuting for them, and the other for the guardians of the poor of the said city, district and township. [1817]

¹Office abolished by Const. Art. 5, Sec. 12.

Purdon's Statutes Annotated, Title 53, Ch. 60—
Cities of the Second Class.

Sec. 9632. Powers.

Every city of the second class within this commonwealth is hereby declared to be a body corporate and politic, and shall have perpetual succession, and shall have power: [1901]

* * * * *

Sec. 9665. Same: Weights and measures.

To regulate the weighing and measuring of every commodity sold in the city, in all cases not otherwise provided by law; to provide for and

regulate the inspection and weighing of hay, grain and coal, and the measuring of wood and fuel, to be used in the city, and to designate the place or places of the same; and to regulate and prescribe the place or places for exposing for sale hay, coal and wood, and to demand and receive reasonable fees for inspection, weighing and measuring, as aforesaid, and for the regulation and stamping of weights and measures. [1901]

Purdon's Statutes Annotated, Title 53, Ch. 99A—
Cities of the Third Class.

Sec. 12198-2403. Powers: Weights and measures; gas, water, and electric meters.

In addition to other powers granted by this act [Secs. 12198-101-12198-4701], the council of each city shall have power, by ordinance:

* * * * *

52. To regulate the weighing and measuring of every commodity sold in the city, in all cases not otherwise provided for by law, including the measuring of gas, water, and electric currents; to provide for and regulate the inspection and weighing of hay, grain, and coal, and the measuring of wood, bark, and fuel, to be used in the city, and to designate the place or places of inspecting and weighing the same; to regulate and prescribe the place or places for exposing for sale hay, coal, bark and wood; to demand and receive reasonable fees for such inspection, weighing and measuring; for the regulation and stamping of weights and measures; and the regulation and inspection of gas, water, and electric current meters, and other meters. [1931; last amended 1937.]

Purdon's Statutes Annotated, Title 3, Ch. 2—Farm
Products, Standards for Containers.

Sec. 21. Establishment of standards.

In order to promote efficient and economical methods of marketing farm products, the Department of Agriculture, under the direction of the Secretary of Agriculture, may, after investigation and public hearing, from time to time, as far as practicable, establish and promulgate standards for the grade and other classification of farm products, and in co-operation with the Department of Internal Affairs, may establish and promulgate standards for receptacles for farm products, by which their quality, value, or quantity, may be determined; and may make regulations governing the marks, brands, and labels, which may be required upon receptacles for farm products, for the purpose of showing the name and address of the producer or packer or distributor, the quantity, nature, and quality of the product, or any of them, and for the purpose of preventing deception with reference thereto. The provisions of this paragraph shall not apply to canned farm products.

Any standard for any farm product, or any stand-

ard for any receptacle for farm products, or any requirements for marking receptacles for farm products, now or hereafter made mandatory under authority of the Congress of the United States, shall forthwith, as far as applicable, be established or prescribed and promulgated by the Department as the official standard or requirement in this Commonwealth.

No standard established, or requirement for marking prescribed, under this section, shall become effective until the expiration of not less than three months after it shall have been promulgated. [1929]

Sec. 22. Offenses; variations; rules and regulations.

* * * * *

Whenever any standard for a receptacle for a farm product becomes effective under this act [Secs. 21-33], it shall be unlawful for any person thereafter to manufacture for sale or shipment, pack for sale, offer for sale, consign for sale, or sell, or ship, any receptacle, either filled or unfilled, to which the standard is applicable, unless the receptacle conform to the standard, subject to such variations therefrom as may be allowed in the regulations made under this act. The Department of Agriculture, and the Department of Internal Affairs, by their joint action, are authorized to make such rules and regulations, under this act, as may be deemed necessary to enforce the provisions of this section relating to standard receptacles for farm products.

Whenever any requirement for the marking, branding, or labeling of a receptacle for a farm product becomes effective under this act, it shall be unlawful for any person thereafter to pack for sale, offer for sale, consign for sale, or sell, and deliver, any such farm product in a receptacle to which such requirement is applicable, unless the receptacle be marked, branded or labeled according to such requirement, or unless such product be brought from outside the Commonwealth and offered for sale, consigned for sale, or sold in the original package.

The department is authorized, at any time, through its agents, to cause such investigations, classifications, and tests to be made, and such certificates to be issued, and, upon payment or tender of payment of the market value thereof, to cause such samples to be taken, as may be deemed necessary to enforce the provisions of this section. [1929]

Sec. 31. Prosecution by weights and measures officials.

* * * * *

Any violation of the provisions of this act relating to standard receptacles for farm products, which may be established as herein provided for, shall be prosecuted in a summary proceeding before any alderman, magistrate, or justice of the

peace, of the proper city or county, by the inspectors of weights and measures of the respective cities and counties and the Department of Internal Affairs or its agents. [1929]

Sec. 32. Definitions.

The term "person", as used in this act [Secs. 21-33], includes individuals, partnerships, associations, and corporations.

The word "department", as used in this act, means the Department of Agriculture.

"Farm product" means any agricultural, horticultural, vegetable, fruit, and floricultural product of the soil, live stock and meats, wool, hides, poultry, eggs, dairy products, nuts, mushrooms and honey. [1929]

* * * * *

Purdon's Statutes Annotated, Title 3, Ch. 3—Commercial Feeding Stuffs.

Sec. 51. Marking requirements.

Every barrel, bag, pail, parcel, or other package of concentrated commercial feeding-stuffs, as defined in section two [Sec. 52] of this act [Secs. 51-56], used for feeding domestic animals, also condimental stock and poultry-food, and patented, proprietary, or trade-marked stock and poultry food, possessing nutritive value combined with medicinal properties, sold, offered, or exposed for sale, within this State, shall have affixed thereto, in a conspicuous place on the outside thereof, a legible and plainly printed statement in the English language clearly and truly certifying the number of net pounds of feeding-stuff contained therein, * * * [1909]

Sec. 52. Definition.

The term "concentrated commercial feeding-stuffs," as used in this act [Secs. 51-56], shall include cottonseed meals, cottonseed feeds, linseed meals, linseed oil meals, coconut oil meals, peanut meals, corn oil meals, corn gluten feeds, corn gluten meals, corn bran, maize feeds, starch feeds, barley middlings, barley feeds, pea meals, bean meals, sugar feeds, dried distillers' grains, dried brewers' grains, malt sprouts, dried malt grains, dried vinegar grains, wheat bran, wheat middlings, wheat mixed feeds, rye bran, rye middlings, rye mixed feeds, buckwheat brans, buckwheat middlings, buckwheat feeds, hominy feeds, cerealine feeds, maize feeds, rice meals, dried beet pulp, dried molasses beet pulp, feed molasses, molasses grains, molasses feeds, clover meal, alfalfa meal and feeds, semi-solid or dried buttermilk, ground beef scraps, ground fish scrap, oil meals or residues from extracted seeds and grains, mixtures of whole grains, and all other mixtures bearing distinctive brand or trade names, and all mixtures of similar nature used for feeding domestic animals, including poultry; condimental stock- and poultry-foods, and

Purdon's Statutes Annotated, Title 3, Ch. 3—Commercial Feeding Stuffs—Continued.

patented, proprietary or trade-mark stock- and poultry-foods, possessing nutritive value combined with medicinal properties, and all mixed feeds other than pure grains which are not sold as mixtures bearing distinctive names, but which are sold as pure grains. It shall not include hays, straws, and corn stover, ensilage, whole grains, nor the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, ear corn, Kaffir corn, broom corn, sugar cane, sorghum, rice, buckwheat, and flaxseed, not mixed with other substances, but sold separately as distinct articles of commerce; nor pure grains mixed together, not being mixed with any other substance, nor having distinctive brand or trade names, but sold as mixtures of pure whole grains. The Secretary of Agriculture, by himself or his agents, is fully empowered to take samples of these articles when found, and, if upon analysis, they prove to be adulterated or misbranded, the vender shall be in all respects subject to the penalties hereinafter set forth for the adulteration or misbranding of concentrated commercial feeding-stuffs. [1909; last amended 1933.]

Sec. 55. Penalties for violations; enforcement of act.

Each and every manufacturer, importer, agent, person, corporation or firm, selling, offering, or exposing for sale, in this State any concentrated commercial feeding-stuffs, as defined in section two [sec. 52] of this act [Secs. 51–56], without the statement or statements required by section one [sec. 51] of this act, * * * shall, for every such offense, forfeit and pay the sum of fifty dollars, which shall be recoverable, with costs, including the cost of analysis, by any person suing in the name of the Commonwealth, as debts of like amount are by law recoverable: Provided, That the Secretary of Agriculture shall, together with his deputies, agents, and assistants, be charged with the enforcement of this act, and may make rules and regulations for the proper enforcement thereof, including rules and regulations setting up definitions and standards for concentrated feeding-stuffs, effective ninety days after being promulgated by the Secretary of Agriculture, and shall have free access to all places of business, mills, buildings, carriages, cars, vessels, and packages of whatsoever kind, used in the manufacture, importation or sale of any concentrated commercial feeding-stuffs; * * *. [1909; last amended 1939.]

Purdon's Statutes Annotated, Title 3, Ch. 3—Commercial Fertilizer.

Sec. 61. Marking requirements.

All corporations, associations, partnerships, or persons, before selling or offering for sale any

commercial fertilizer in the Commonwealth, except the dung of domestic animals, lime, marl, and wood ashes, shall brand or attach to each bag, barrel, or package, in a conspicuous place on the outside thereof, a plainly printed statement giving the following particulars and no others:

(1) The number of pounds of fertilizer contained in the package. [1909; last amended 1933.]

* * * * *

Sec. 65. Enforcement.

* * * It shall be the duty of the Secretary of Agriculture to enforce the provisions of this act [Secs. 61–67], * * * [1909]

Sec. 67. Definition.

The term "commercial fertilizers," as used in this act [Secs. 61–67], shall be construed to mean any and every substance imported, manufactured, prepared, or sold for fertilizing or manuring purposes, except the dung of domestic animals, marl, lime, and wood ashes, and not exempt by the provisions of section one of this act [Sec. 61—as to quality]. * * * [1909; last amended 1933.]

Purdon's Statutes Annotated, Title 3, Ch. 3—Unmanufactured Horse Manure.

Sec. 84. Definition.

Whenever unmanufactured horse manure is furnished, sold, or delivered in this Commonwealth, such manure shall be only the natural product as the same is produced by horses in the stable, together with the straw bedding, without the intentional addition of water, any other manure, or any other foreign substance whatsoever. * * * [1935]

Sec. 87. Unlawful to increase weight.

Whenever any unmanufactured horse manure is or has been sold by weight, and the price to be paid therefor is to be fixed by weighing the same at any point within this Commonwealth, it is unlawful for any person, copartnership, association, or corporation to deliver for weighing, or to cause or permit to be weighed, any unmanufactured horse manure to which has been added, intentionally, any water, any other manure, or any other substance whatsoever, which increases the weight of such unmanufactured horse manure. [1935]

Sec. 89. Penalties for violations.

Any person, copartnership, association, or corporation who or which by himself or itself, or by his or its agents, servants, or employees, violates any of the provisions of this act [Sec. 84–91] shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars, or in the case of an individual, or the members of a partnership, or

the responsible officers of an association or corporation to undergo imprisonment not exceeding six months, or both. [1935]

Sec. 90. Enforcement; right of entry.

It shall be the duty of the Department of Agriculture to enforce the provisions of this act [Secs. 84-91], and in connection therewith, the department, its employees, or agents are authorized to enter any storehouse, warehouse, stable, railroad yard, railroad car, or any other building or place where unmanufactured horse manure is kept, stored, dealt in, or transported for delivery within this Commonwealth. All fines and penalties, collected under the provisions of this act, shall be paid into the general fund in the State Treasury through the Department of Revenue. [1935]

Purdon's Statutes Annotated, Title 3, Ch. 3—Insecticides and Fungicides.

Sec. 101. Unlawful to sell misbranded article.

It shall be unlawful for any person to manufacture, sell, or offer for sale, within the Commonwealth, any insecticide or fungicide which is adulterated or misbranded, within the meaning of this act [Secs. 101-110]. [1917]

Sec. 103. Enforcement.

The Secretary of Agriculture shall promulgate uniform rules and regulations for enforcing this act [Secs. 101-110], including the collection and examination by existing bureaus, of insecticides and fungicides, manufactured or offered for sale in the Commonwealth, for the purpose of determining whether such articles are adulterated or misbranded within the meaning of this act, or if such insecticides or fungicides do not comply with any provision of this act. [1917; last amended 1941.]

Sec. 105. Definitions.

The term "insecticide," as used in this act [Secs. 101-110], shall include any substance, or mixture of substances, intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man, or animals, or households, or be present in any environment whatsoever. The term "Paris green," as used in this act, shall include the product sold in commerce as Paris green, and chemically known as the acetarsenite, of copper. The term "lead arsenate," as used in this act, shall include the product or products sold in commerce as lead arsenate, and consisting chemically of products derived from arsenic acid (H_2AsO_4), by replacing one or more hydrogen atoms by lead. That the term "fungicide," as used in this act, shall include any substance, or mixture of substances, intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation,

or be present in any environment whatsoever. [1917]

Sec. 108. When deemed misbranded.

The term "misbranded," as used herein, shall apply to all insecticides, Paris green, lead arsenates, or fungicides, or articles which enter into the composition of insecticides or fungicides, the package, label, or accompanying descriptive circulars of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular; and to all insecticides, Paris greens, lead arsenates, or fungicides, which are falsely branded as to the State, Territory, or country in which they are manufactured or produced.

For the purpose of this act [Secs. 101-110], an article shall be deemed to be misbranded:

In the case of insecticides, Paris green, lead arsenates, and fungicides,— * * * third, if the quantity of the contents be not plainly and correctly marked on the outside of the package, in terms of weight, measure, or numerical count. [1917]

* * * * *

Sec. 109. Confiscation.

(a) Any insecticide or fungicide that is condemned as being adulterated or misbranded, within the meaning of this act [Secs. 101-110], or otherwise failing to comply with the provisions of this act, shall be confiscated and disposed of by destruction, or in such other manner as the court may direct. [1917; last amended 1941.]

* * * * *

Sec. 110. Penalties for violations.

Any person who shall violate any of the provisions of this act [Secs. 101-110], or any rule, regulation or order promulgated by the Secretary of Agriculture, pursuant to this act, shall, upon conviction thereof, for a first or second offense in a summary proceeding, be sentenced to pay a fine of not less than twenty-five dollars, nor more than one hundred dollars, and cost of prosecution, and, in default of payment of such fine and costs, an individual, the members of a partnership or the responsible officers or agents of a corporation shall be sentenced to undergo imprisonment for not more than thirty days; and for a third or subsequent offense shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than three hundred dollars nor more than six hundred dollars, or in the case of individuals, members of a partnership and the responsible officers and agents of an association or corporation to undergo imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court. [1917; last amended 1939.]

Purdon's Statutes Annotated, Title 3, Ch. 3—Liming Materials.

Sec. 121. Marking requirements.

All liming materials for agricultural purposes, sold, offered, or exposed for sale within this Commonwealth, shall have attached to it or be accompanied, in the manner provided in section three [Sec. 123] hereof, by a plainly printed statement, giving the following information:

* * * * *

(e) The net weight, when the material is sold in packages. [1915; last amended 1933.]

* * * * *

Sec. 122. Definition.

For the purpose of this act [Secs. 121–127], the expression "liming materials for agricultural purposes" means any substances containing calcium or magnesium, or both, for use as soil amendments or in soil treatment, or as ingredients or reagents in the preparation of any fungicide or insecticide. [1915; last amended 1933.]

Sec. 123. Labeling packages; bulk sales.

The statement required by section one [Sec. 121] of this act [Secs. 121–127] shall, in the case of goods sold in package, be plainly printed upon the package, or upon a tag or label fastened thereto, of such quality and in such manner that it shall not be detached in handling, and, in the case of goods sold in bulk, the said statement shall be delivered to the purchaser either with the invoice therefor or with the goods. [1915]

Sec. 126. Penalties for violations; enforcement of act.

Any person or persons selling, offering, or exposing for sale any of the materials covered by section one [Sec. 121] or brand of the same, unless accompanied by the statement required by section one [Sec. 121] of this act [Secs. 121–127], or, when so accompanied, if the said statements shall be false in any particular, or without having complied with all the foregoing provisions of this act, shall be guilty of a misdemeanor, and, on conviction, shall be sentenced to pay a fine of not less than ten nor more than fifty dollars for the first offense, and not less than one hundred dollars for each subsequent offense. It shall be the duty of the Secretary of Agriculture to enforce the provisions of this act, and all penalties, costs, and fines recovered shall be paid to him or his duly authorized agent, and by him shall be immediately paid into the State Treasury, for the use of the Commonwealth. * * * [1915; last amended 1933.]

Purdon's Statutes Annotated, Title 3, Ch. 3—Paint.

Sec. 162. Definition.

The term "paint," as used in this act [Secs. 162–174], shall include oxide of zinc, red lead, and

white lead (basic carbonate or basic sulphate), dry or in any kind of oil, or any compound intended for the same use, colors ground in oil, paste or semi-paste paint, and liquid or mixed paint ready for use; and all similar materials used as protective coatings, or for painting purposes. [1925]

Sec. 167. Label to show weight or measure.

The label on all liquid or mixed paint shall show the net measure of the contents of the container; and on all paste and semi-paste paint sold by weight, the net weight of the contents of the package; or if sold by measure, the net measure of such contents. [1925]

Sec. 170. Prima facie evidence.

The having in possession of by any person, firm, or corporation dealing therein, of any of the articles hereinbefore described and improperly marked or not correctly labeled, as provided in this act [Secs. 162–174], shall be considered prima facie evidence that the same are kept by such person, firm, or corporation in violation of the provisions of this act. [1925]

Sec. 171. Enforcement.

The Department of Agriculture of the Commonwealth is hereby charged with the enforcement of the provisions of this act [Secs. 162–174]. [1925]

Sec. 173. Penalties for violations.

Any person, firm, or corporation, or violator of any of the provisions of this act [Secs. 162–174], or assisting or taking part in the violation of any of said provisions, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than twenty-five dollars nor more than one hundred dollars. [1925]

Purdon's Statutes Annotated, Title 31, Ch. 9—Grapes, Potatoes, Apples and Peaches.

Sec. 371. Definitions.

The term "closed package," wherever used in this act [Secs. 371–376], shall mean a basket, box, bag, or other container the contents of which cannot be adequately inspected without opening it. The terms "shipment" or "ship for sale," wherever used in this act, shall mean movement to market in a railroad car, motor truck, or other medium of transportation, but shall not be construed to include process of delivery to a local warehouse or shipping station. [1931; last amended 1943.]

Sec. 373. Marking requirements.

Grapes, potatoes, apples and peaches in closed packages, if not definitely marked as "unclassified" as hereinbefore provided, shall be marked in a

plain and conspicuous manner with a statement of (1) the grade, (2) the contents in cubic measure or weight, (3) the name and address of the person or association under whose authority the grapes, potatoes, apples or peaches are packed.

In case the marking is changed the person making the same shall cancel the name and address included in the original marking and substitute therefor his own name and address. [1931; last amended 1943.]

Sec. 374. Misrepresentations in sale; prima facie evidence.

(a) No person shall sell, expose for sale, or transport for sale, grapes, potatoes, apples or peaches in closed packages if the package containing them, the label on them, or any advertising accompanying them, shall bear any statement, design, or device regarding the grapes, potatoes, apples or peaches, which shall be false or misleading in any particular.

* * * * *

(c) When grapes, potatoes, apples or peaches in closed packages are delivered to a common carrier for shipment such delivery shall be presumptive evidence that the grapes, potatoes, apples or peaches are intended for sale. [1931; last amended 1943.]

Sec. 375. Penalties for violations.

Any person who violates any of the provisions of this act [Secs. 371-376] shall, upon summary conviction thereof, for the first offense be sentenced to pay a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, and for subsequent offenses be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars and the costs of prosecution, or in default of such fine and costs, be imprisoned in the county jail for not less than ten days nor more than thirty days. All penalties, costs, and fines collected under this act shall be paid to the Secretary of Agriculture of the Department of Agriculture of this Commonwealth, or his agent, and by him shall be paid into the State Treasury for the use of the Commonwealth. [1931; last amended 1943.]

Sec. 376. Enforcement; right of entry.

The enforcement of this act [Secs. 371-376] shall be vested in the State Department of Agriculture, and its officers, employes and agents are authorized to enter upon the premises of any person within this State for the purpose of purchasing packages of grapes, potatoes, apples or peaches and securing evidence of violation of this act; and the Secretary of Agriculture of this Commonwealth is hereby authorized to make such rules and regulations as may be necessary for enforcing its provisions. [1931; last amended 1943.]

Purdon's Statutes Annotated, Title 31, Ch. 13—Milk and Cream.

Sec. 700j—607. Babcock test; Fraudulent manipulation, etc.; quantities for test; standard glassware and weights to be used.

It shall be unlawful for any milk dealer or other person engaged or employed in the business of buying or receiving milk from producers, or selling or delivering milk to stores or consumers, on the basis of, or with reference to, the amount or percentage of butterfat contained therein, to take, collect or use for testing purposes an unfair or inaccurate sample, or to underread, overread or erroneously manipulate the "Babcock Test" used for determining the amount or percentage of butterfat in such milk, or to falsify the record thereof, or to make the "Babcock" reading, except when the fat has a temperature of one hundred thirty-five degrees (135°) to one hundred forty-five degrees (145°) Fahrenheit, or to use for such test quantities other than seventeen and six-tenths (17.6) cubic centimeters, in the case of milk, and nine (9) grams or eighteen (18) grams in the case of cream. In all tests of cream the cream shall be weighed and not measured into the test bottle.

It shall also be unlawful for such milk dealer or other person, so engaged or employed, to ascertain the "Babcock Test" of the milk by use of any glassware except standard "Babcock Test" glassware and weights which have been previously inspected and approved by the Department of Internal Affairs. If the amount of percentage of butterfat is determined by any method other than the "Babcock Test," no utensil or instrument shall be used in such determination until it has been inspected and approved by the commission [milk control commission]. [1937]

Sec. 700j—608. Payment on basis of weight, measure or butterfat; statement; unlawful acts.

Milk dealers shall determine weight, measure and butterfat content of milk as provided in this act [700j—101—700j—1302], or in rules, regulations or orders of the commission [milk control commission] pertaining thereto and consistent with this act. Payment for milk shall be made either upon the basis of weight, measure or butterfat content, or any combination thereof, as the rules, regulations or orders of the commission may require.

Milk dealers buying or receiving milk from producers shall furnish to each producer or his agent a written statement showing the amount of milk delivered daily during the period for which payment is made, and, unless the commission otherwise provides, the average butterfat test of the milk delivered for such period. Such statement shall set forth such information as may be required by the commission, shall be furnished periodically, at the time of payment prescribed by the com-

Purdon's Statutes Annotated, Title 31, Ch. 13—Milk and Cream—Continued.

mission, and in no event less often than monthly: Provided, however, That a written statement of weights shall be given daily to the producer or his agent, upon written request of a majority of the producers, who deliver milk to any receiving station or plant receiving milk, each receiving station or any receiving station or plant to be considered separately, in lieu of such periodic statement of the amount of milk delivered, unless the commission otherwise provides.

It shall be unlawful to use as the basis of payment for milk any amount or percentage of butterfat therein which has been ascertained from a sample containing milk that has been so treated as to cause it to test lower or higher than the milk from which it was taken.

It shall be unlawful for any person including any milk dealer, to knowingly, fraudulently, or negligently weigh, measure, sample or test milk, or cause milk to be weighed, measured, sampled, or tested in such manner as to cause or tend to cause loss or injury to milk producers, stores or milk consumers, or to make any false or misleading statement with respect to the weight, measurement, sampling or testing of milk. [1937; last amended 1945.]

Purdon's Statutes Annotated, Title 31, Ch. 16—Oysters.

Sec. 874. Oysters to be sold by count; exception.

It shall be unlawful for any person, copartnership, association, or corporation, or his, her, or its servants, agents, or employees, to sell oysters at retail, in any manner whatsoever, except by numerical count: Provided, however, That this act [Secs. 871-877] shall not apply to oysters sold at retail when in unopened, sealed, original containers in which they are shipped in inter-state commerce. [1925]

Sec. 875. Penalties for violations.

Any person, copartnership, association, or corporation violating any of the provisions of this act [Secs. 871-877] shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars, or, in the case of individuals, to undergo an imprisonment of not less than thirty (30) days, nor more than sixty (60) days, or both. [1925]

Sec. 876. Enforcement.

The Department of Agriculture shall be charged with the enforcement of this act [Secs. 871-877]. [1925]

Purdon's Statutes Annotated, Title 52, Ch. 3—Mine Scales, Anthracite Coal.

Sec. 651. Scales to be provided by owners; records; miners have right to employ weighmaster; pound weight as basis for earnings; exceptions; penalty for violations.

All persons, partnerships, associations and corporations engaged in the mining of anthracite coal in this commonwealth shall provide and erect, at each of their coal mines or collieries, standard and lawful scales for weighing the coal mined therein; and each and every miner's coal shall be separately and accurately weighed on said scale before said coal is dumped and taken from the car on which said miner loaded it in the said mine or colliery, and a separate and an accurate account shall be kept by all said persons, partnerships, associations and corporations of the number of pounds of coal mined by each miner as aforesaid; and the miners in each mine shall have the right to employ, at their own expense, and keep a weigh master at each of said scales to inspect said scales, and also keep an account of the number of pounds of coal mined by each miner; and the miners at each mine or colliery shall be paid at the rate of so much per pound for amount of coal mined by them, and the pound weight shall be the basis from which to calculate the earnings at all mines or collieries: Provided, That the provisions of this act [section] shall apply only to mines or collieries in which the coal mined has heretofore been paid for by the car, and that this act shall not go into effect until sixty days after its approval by the governor: And provided further, That if any of said persons, partnerships, associations or corporations shall neglect or refuse to comply with the provisions of this act [section], he or they so neglecting or refusing shall forfeit and pay, for every day said neglect or refusal after said sixty days, to the commonwealth of Pennsylvania, the sum of one hundred dollars, the same to be sued for and recovered in an action of debt in the court of common pleas having jurisdiction of the territory in which said mines or collieries may be situate, the writs in said action to be served on the said persons, partnership, association or corporation, or the superintendents, agents or clerks of said persons, partnerships, associations or corporations resident within the jurisdiction of said court: And provided further, That the provisions of this act shall not apply to or embrace any persons, partnerships, associations or corporations that may or shall by any contract agree with his or their miners in any of said mines or collieries, otherwise than as is provided in this act, for the compensation of mining the same, and no penalty provided therein shall apply to such persons, partnerships, associations or corporations so contracting or agreeing. [1875]

Purdon's Statutes Annotated, Title 52, Ch. 4—Mine Scales, Bituminous Coal.

Sec. 1383. Screening bituminous coal before weighing prohibited.

It shall be unlawful for any mine owner, lessee or operator of any bituminous coal mine in this commonwealth, employing miners at bushel or ton rates, or other quantity, to pass the output of coal mined by said miners over any screen or other device which shall take any part from the weight, value or quantity thereof, before the same shall have been weighed and duly credited to the employe sending the same to the surface and accounted for at the legal rate of weight fixed by the laws of this commonwealth. [1897]

Sec. 1384. Penalty for violating preceding section.

Any owner, lessee or operator of any bituminous coal mine, violating the provisions of this act [Secs. 1383-1384], shall be deemed guilty of a misdemeanor, and shall, upon conviction for each and every such offense, be punished by a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars, or by imprisonment in the county jail for a period not to exceed ninety days, or by both such fine and imprisonment, at the discretion of the court; proceedings to be instituted in any court of competent jurisdiction. [1897]

Sec. 1385. Coal miners paid by weight or measure; standard weight or measure therefor.

Any miner employed by an individual, firm or corporation for the purpose of mining bituminous coal, shall be entitled to receive from his employer, and failing to receive, then to collect by due process of law, at such rates as may have been agreed upon between the employer and the employe, full and exact wages accruing to him for the mining of all coal so mined by him. In the adjudication of such wages eighty pounds shall be deemed one bushel, and two thousand pounds net shall be deemed one ton of coal. [1937]

Sec. 1386. Coal cars to be uniform and branded; enforcement.

At every bituminous coal mine, where coal is mined by measurement, all cars filled by miners and their laborers shall be uniform in capacity at each mine. No unbranded car shall enter the mine for a longer period than one month without being branded by the sealer of weights and measures of the county wherein the mine is located or by the Department of Internal Affairs. Any owner or his agent violating the provisions of this section shall be subject to a fine of not less than one dollar (\$1.00) per car for each and every day such car, not in conformity with the act, is used. The sealer of weights and measures or the Department of Internal Affairs, as the case may be, on receiving notice from the check measurer or any five miners

working in the mine, that a car or cars are not properly branded or not uniform in capacity according to law are used in a mine, then inside of three days from the date of receiving said notice, it shall enforce the provisions of this section. [1937]

Sec. 1387. Checkweighman: Duties; compensation; offenses by operator; penalties.

At every bituminous coal mine in this Commonwealth where coal is mined by weight or measure, the miners whose wages are paid on the basis of tonnage mined, whether weighed or measured, or a majority of such miners present at a meeting called by them for that purpose, shall have the right to employ a competent person as checkweighman or checkmeasurer, as the case may require, who shall be permitted at all times to be present at the weighing or measurement of coal, also have power to weigh or measure the same, and during the regular working hours to have the privilege to balance and examine the scales or measure the cars. All such balancing and examination of scales shall be done in such a way and at such time as in no way to interfere with the regular workings of the mine. Such checkweighman shall be paid such compensation as may be fixed by the miners attending such meeting, which shall be paid by the operator to such checkweighman or checkmeasurer from deductions made from the wages of all miners employed at such mine whose wages are paid on the basis of tonnage, whether weighed or measured, an equal deduction being made from the compensation of such wages per ton or per measure, as directed by the checkweighman or checkmeasurer. Any person, association, copartnership or corporation who, as operator, shall refuse to permit any checkweighman or check measurer, so selected, to weigh and measure coal as provided by this act [Secs. 1385-1390c], or shall fail or refuse to pay the wages of such checkweighman or checkmeasurer, so selected, to weigh and measure coal as provided by this act, or shall fail or refuse to pay the wages of such checkweighman or checkmeasurer as required by this act, or shall interfere with, restrain or coerce employes in the exercise of the right to elect such checkweighman or checkmeasurer, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of five hundred dollars (\$500) per day for each day of such refusal or violation. [1937]

Sec. 1388. Same: Privileges; interfering with; penalties.

The checkweighman or checkmeasurer shall not be considered a trespasser during working hours while attending to the interests of his employes, or while posting daily and semi-monthly sheets as hereinafter provided. In no manner shall he be interfered with or intimidated by any person, agent, owner or miner. Any person violating

Purdon's Statutes Annotated, Title 52, Ch. 4—Mine Scales, Bituminous Coal—Continued.

these provisions shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty dollars (\$20.00) and not exceeding one hundred dollars (\$100.00), or imprisonment at the discretion of the court for failure to pay such fine and costs. [1937]

Sec. 1389. Same: Duties; refusal of operator to credit unclaimed coal; penalty.

It shall be a further duty of checkweighmen or checkmeasures to credit each miner with all coal mined by him on a daily sheet, to be kept by him for that purpose, and on a semi-monthly sheet, he shall credit each miner with all coal mined for each period for which payment of wages is made, which daily and semi-monthly credit sheets shall be kept posted at or near the pit mouth of the mine by the checkweighman or checkmeasurer. Whenever the checkweighman or checkmeasurer is unable to credit any coal mined to the proper miner because the car on which the same is loaded is not properly marked or cannot be identified, it shall be his duty to keep account of such coal, and credit the same to the miner entitled thereto when claim therefor is lodged with him by such miner. If claim for any such unidentified coal is not made within thirty days after the same was mined, the checkweighman or checkmeasurer shall credit the same to his account for the payment of his wages. Payment for such coal shall be made by the operator as directed by the checkweighman or checkmeasurer, and where such wages are paid to the checkweighman or checkmeasurer, a corresponding reduction shall be made in the deductions from wages of the miners charged by this act [Secs. 1385-1390c] with the payment of such wages. Any operator, or his servant, agent or employe, who shall refuse to credit such unclaimed coal as required by this section, shall, upon conviction in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00), and, in default of the payment of such fine and costs, shall be sentenced to imprisonment for thirty days. [1937]

Sec. 1390. Regulating cars and scales when differences arise.

When differences arise between the checkweighman or checkmeasurer and the agent or owners of the mine as to the uniformity, capacity or correctness of scales or cars used, the same shall be referred to either the scaler of weights and measures of the county where the mine is located, or to the Department of Internal Affairs, whose duty it shall be to regulate the same at once. [1937]

Sec. 1390a. Penalty for false weight.

Should any weighman or weighman agent, checkweighman or checkmeasurer, whether employed by operators or miners, knowingly or willfully adopt

or take more or less pounds for a bushel or ton than as provided for in the first section of this act [Sec. 1385], or willfully neglect the balancing or examining of the scales or cars, or knowingly and willfully weigh coal with an incorrect scale, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for three months. [1937]

Sec. 1390b. Contract proviso.

Nothing contained in this act shall be construed to prohibit or prevent the operator and the miners collectively at any time from contracting for any method of measuring or weighing coal. [1937]

Sec. 1390c. Procedure upon complaint.

Any person aggrieved by the exercise of any power, duty or authority under the provisions of this act [Secs. 1385-1390c], or who believes such power, duty or authority was exercised contrary to the terms or conditions of this act, may complain by petition to the court of common pleas of the county in which the mine is located, setting forth the facts. Thereupon the court shall fix a day for hearing, of which due notice shall be given to all parties interested in such manner, as the court shall direct. After hearing, the court shall make such order dismissing the petition or directing the manner in which such power, duty or authority shall be exercised under this act, as to it appears just and proper. No such proceeding shall act as a supersedeas or be construed to estop the exercise of any such power, duty or authority until the order of the court is entered. [1937]

Purdon's Statutes Annotated, Title 66, Ch. 7—Public Utilities.

Sec. 1182. Rules and regulations: Testing; meters.

The commission [Pennsylvania Public Utility Commission] may, after reasonable notice and hearing, upon its own motion or upon complaint, * * * prescribe reasonable regulations for the examination and testing of such service, and for the measurement thereof [electricity, gas, water, etc.]; prescribe or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurement; and provide for the examination and testing of any and all appliances used for the measurement of any service of any public utility. [1937; last amended 1938.]

Sec. 1185. Equipment for testing; fees.

Every public utility, furnishing service upon meter or other similar measurement, shall provide, and keep in and upon the premises of such public utility, suitable and proper apparatus, to be approved from time to time and stamped or marked by the commission [Pennsylvania Public Utility

Commission], for testing and proving the accuracy of meters furnished by such public utility for use; and by which apparatus every meter may be tested, upon the written request of the consumer to whom the same shall be furnished, and in the presence of the consumer, if he shall so desire. If the meter so tested shall be found to be accurate, within such commercially reasonable limits as the commission may fix for such meters, a reasonable fee, to be fixed by the commission, sufficient to cover the cost of such test, shall be paid by the consumer requiring such test; but, if not so found, then the cost thereof shall be borne by the public utility furnishing the meter. [1937]

Purdon's Statutes Annotated, Title 18, Ch. 2—False Advertising.

Sec. 4857. Unlawful acts; penalty.

Whoever, with intent to sell or in any wise dispose of merchandise, securities, service, or any other thing, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or any interest therein, makes, publishes, disseminates, or causes, directly or indirectly, the same to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication in

the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, security, investment, service or anything so offered to the public or concerning the quantity, quality, value, merit, use, present or former price, cost, reason for price, motive for sale, or concerning the method or cost of production or manufacture, or the possession of rewards, prizes or distinctions conferred, regarding such merchandise, security, investment, service or thing, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

The provisions of this section shall not apply to any owner, publisher, printer, agent, or employes of a newspaper or other publication, periodical, or circular, who, in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of such advertisement. [1939]

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PUERTO RICO

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Laws 1943, Act No. 164—Bureau of Weights and Measures.

Sec. 1. Creation; abolishment of bureau in office of Executive Secretary.

The Bureau of Weights and Measures of the Office of the Executive Secretary of Puerto Rico and the Division of Inspection of Chemical Labor-

atories of the Department of Agriculture and Commerce of Puerto Rico are hereby eliminated and a bureau is created which shall be known as the Bureau of Weights and Measures, for the enforcement of Act 135¹, of August 18, 1913, * * * [1943]

¹ See page 878.

Laws 1943, Act No. 164—Bureau of Weights and Measures—Continued.

Sec. 2. Same: Under jurisdiction of public service commission; appointment of inspectors and other employees.

The bureau so created shall be under the jurisdiction of the Public Service Commission and shall be composed of the following employees [Chief of bureau, technical inspector, 14 inspectors, secretary, typist, and janitor] whose positions are created by this Act; they shall be appointed by the chairman of the Public Service Commission, * * * [1943]

Laws 1913-14, Act No. 135—Weights and Measures.

Sec. 1. Metric system and imperial system; contracts, how construed.

That the metric system of weights and measures and the imperial system customarily used in the United States, in so far as the same are described by this Act [Secs. 1-25], are hereby recognized and established in Puerto Rico for use in all industrial, commercial, or agricultural transactions as hereinafter defined in Section 16 of this Act, and except as hereinafter expressly authorized; and it shall be unlawful in any of said transactions to use any other systems, or to use any units of weight or measure not recognized and established as a part of the said systems; Provided, however, That no contract or agreement entered into prior to the approval of this Act, which contains a description of or reference to weights or measures not authorized by this Act, shall be vitiated by reason of such an unauthorized description or reference. [1913-14; last amended 1936.]

Sec. 2. Units of measure.

In the metric system the standard meter is the unit of measure of length and surface from which all other measures of extension, whether lineal, superficial or solid, are derived and ascertained. The meter is divided into ten equal parts called decimeters, into one hundred equal parts called centimeters, and into one thousand equal parts called millimeters. The dekameter contains ten meters, the hectometer one hundred meters, the kilometer one thousand meters, and the myriameter ten thousand meters. [1913-14; last amended 1936.]

Sec. 3. Liter is unit for liquids.

In the metric system the standard liter is the unit of measure for liquids from which all other measures of liquids are derived and ascertained, and is equal to one cubic decimeter. The liter is divided into ten equal parts called deciliters, into one hundred equal parts called centiliters, and into one thousand equal parts called milliliters. The dekaliter contains ten liters, the hectoliter one hundred liters, and the kiloliter one thousand liters. [1913-14; last amended 1936.]

Sec. 4. Cubic meter is unit for cubic measure; hectare for land measure.

In the metric system the unit of cubic measure or volume is the standard cubic meter, this being a cube whose edges are each one meter in length. The cubic meter contains one thousand cubic decimeters, the cubic decimeter one thousand cubic centimeters, and the cubic centimeter one thousand cubic millimeters.

The hectare for land measure contains ten thousand square meters; the area contains one hundred square meters and the centare one square meter. In land measurements and records the measurement by *cuerda* customarily used in Puerto Rico, which shall be equivalent to 3930.395625 square meters, may also be used. All land measurement shall be based upon horizontal extension. [1913-14]

Sec. 5. Gram is unit of weight.

In the metric system the standard gram is the unit or standard of weight from which all other weights are derived and ascertained and is equal to the weight in a vacuum of one cubic centimeter of pure water at its maximum density. The gram is divided into ten equal parts called decigrams, into one hundred equal parts called centigrams, and into one thousand equal parts called milligrams. The dekagram contains ten grams, the hectogram one hundred grams, the kilogram one thousand grams, the myriagram ten thousand grams, the quintal one hundred thousand grams and the millier or tonneau one million grams. [1913-14]

Sec. 6. Yard is unit of length in imperial system.

In the imperial system the standard yard is the unit of measure of length and surface from which all other measures of extension, whether lineal, superficial or solid, are derived and ascertained. The yard contains 0.914402 meter. The yard is divided into three equal parts called feet, and each foot into twelve equal parts called inches. [1913-14]

Sec. 7. Gallon is standard of capacity in American system.

In the American system the standard gallon is the unit of standard measure of capacity for liquids from which all other measures of liquids are derived and ascertained. The gallon is equal to 3.78543 liters. The American gallon is divided into four equal parts called quarts, each quart into two equal parts called pints, and each pint into four equal parts called gills. [1913-14; last amended 1917.]

Sec. 8. Pound is unit of weight in imperial system; hundred-weight; ton.

In the imperial system the unit or standard of weight, from which all other weights are derived and ascertained, is the imperial pound, equal to

0.45359 kilograms. The imperial pound is divided into sixteen equal parts called ounces; the hundredweight consists of one hundred pounds, the short ton of twenty hundred pounds, and the gross or long ton of 2240 pounds. [1913-14]

Sec. 9. Official standards.

A full set of said weights and measures shall be kept in the office of the Bureau of Weights and Measures of the Public Service Commission, as the official standards for the tests required by the enforcement of this Act [Secs. 1-25]. [1913-14; last amended 1913.]

Sec. 10. Public service commission to enforce act; rules and regulations; testing and sealing of apparatus; condemnation and seizure.

The Public Service Commission shall be charged with the duty of enforcing this Act [Secs. 1-25]. It shall prescribe rules and regulations not inconsistent herewith, providing for the periodical inspection, examination, testing, and regulating, and the sealing, marking, or approving, when correct, of all weights and measures, scales, beams, steelyards, or other instruments, apparatus, or appliances used, or adapted for use, in ascertaining weights and measures in any industrial, commercial, or agricultural transaction, and for the performance of such other duties as may, in its judgment, be required for the enforcement of this Act; and in accordance with such rules and regulations, its authorized agents shall examine, test, or regulate, or cause to be examined, tested, or regulated, and, when found correct, they shall seal, mark, or approve, or shall cause to be sealed, marked, or approved, all such weights or measures, scales, beams, steelyards, or other instruments, apparatus, or appliances used, or adapted for use, in ascertaining weights or measures in any industrial, commercial, or agricultural transaction. Any agent authorized by the Public Service Commission shall forthwith seize any weight, measure, scale, beam, steelyard, or other instrument, apparatus, or appliance used, or adapted for use, in ascertaining weights or measures in any industrial, commercial, or agricultural transaction which at any time is found not to have been sealed, or which registers, indicates, or shows a false or short weight or measure; and shall file a complaint in a court of competent jurisdiction against the owner or user thereof and against all other persons guilty of any violation of this Act or regulations hereunder bearing on the matter. The apparatus for weighing or measuring, or any article or articles, which it may have been necessary to seize in order to use it as evidence shall, after the conviction of the person or persons complained of, be forfeited to The People of Puerto Rico and shall be disposed of as directed by the Public Service Commission. [1913-14; last amended 1943.]

Sec. 11. Testing and sealing upon request.

Upon the request of any person owning or using any weight, measure, scale, beam, steelyard, or other instrument, apparatus, or appliance used, or adapted for use, in ascertaining weight or measure in any industrial, commercial, or agricultural transaction, the Bureau of Weights and Measures shall, through its authorized agents, examine, test, regulate, and, when correct, seal, mark, or approve the same in accordance with the regulations prescribed under this Act [Secs. 1-25], or cause the same to be done. [1913-14; last amended 1943.]

Sec. 12. Use of unsealed apparatus prohibited; exception.

From and after August 1, 1936, no weight, measure, scale, beam, steelyard, or other instrument, apparatus, or appliance for ascertaining weight or measure, shall be used in any industrial, commercial, or agricultural transaction until the same has been inspected, tested, and sealed, or otherwise marked as provided in this Act [Secs. 1-25]; Provided, That if the marking or sealing of any such instrument, apparatus, or appliance is not practicable or would be injurious or destructive thereto, such marking or sealing may be omitted and the approval thereof indicated in such manner as shall be prescribed by the regulation provided for in this Act. [1913-14; last amended 1936.]

Sec. 13. Apparatus to be exhibited to authorized person when asked for; testing and sealing.

It shall be the duty of every person, when called upon, to exhibit to any authorized person all weights, measures, scales, beams, balances, steelyards, or other instruments, apparatus, or appliances used, or intended to be used, or adapted for use, in ascertaining weight or measure in any industrial, commercial, or agricultural transaction, and to permit the said person to examine, test, regulate, and seal or mark the same. [1913-14; last amended 1936.]

Sec. 14. Apparatus not conforming to standards prohibited.

No person shall use, or cause or permit to be used, any weight or measure, scale, beam, balance, steelyard, or other instrument, apparatus, or appliance in ascertaining weight or measure in any industrial, commercial, or agricultural transaction, which does not conform to the standard weights and measures prescribed by this Act [Secs. 1-25], nor shall he keep or permit to be kept in his industrial, commercial, or agricultural establishment such weight or measure, scale, beam, balance, steelyard, instrument, apparatus, or appliance; and no person shall use, or cause or permit to be used, in any industrial, commercial, or agricultural transaction, any scale, beam, steelyard, or other instrument, apparatus, or appliance for ascertaining weight or measure which registers, shows, or indicates a false weight or measure, nor shall he keep, or permit to

Laws 1913-14, Act No. 135—Weights and Measures—
Continued.

be kept, in his commercial, industrial, or agricultural establishment such scale, beam, steelyard, instrument, apparatus, or appliance. [1913-14; last amended 1936.]

Sec. 15. Using or giving of false weight or measure prohibited.

No person shall give, or permit to be given, any false or short weight or measure, in the purchase, sale, transfer, or transportation of any goods, wares, or merchandise, or in the purchase or sale of any work, task, or service, the value of which is computed by the use of measures of weight or any other measure except that of time, and no person shall use, or permit to be used, any false weight or measure, in any industrial, commercial, or agricultural transaction as a basis for compensation in the purchase, sale, transfer, or transportation of any goods, wares, or merchandise, or in the purchase or sale of any work, task, or service, the value of which is computed by the use of measures of weight or any other measure except that of time, nor shall he keep, or permit to be kept, in his commercial, industrial, or agricultural establishment such false weight or measure. [1913-14; last amended 1936.]

Sec. 16. Transactions involving weights and measures, how conducted; proviso.

All transactions involving the purchase, sale, transfer, or transportation of any property or of any goods, wares, or merchandise, or the purchase or sale of any work, task, or service the value of which is to be computed on the basis of weight or of measure or on the basis of a measure other than that of time, shall be conducted in accordance with the weights and measures authorized by this Act [Secs. 1-25]; Provided, That the purchase or sale of such goods, wares, or merchandise as are usually or customarily sold or dealt in by the article, piece, or number, shall not constitute a violation of this Act, or the use of the measure known as *cuerda*, a unit of surface measurement equivalent to 3,930.392625 square meters, when the same is employed in agricultural job work; And provided, further, That when, by virtue of an order or request, or of a stipulation, agreement, or engagement, or of any contract for the purchase, sale or transfer of any property or of any article, ware, or merchandise, or for the purchase, or sale of any work, task, or service the value of which is to be computed on the basis of weight or of measure, whether the said request, order, stipulation, engagement, or agreement has been authorized and accepted verbally or in writing, there are weighed or measured any articles, wares, or merchandise, or any task, work, or service the value of which is to be computed on the basis of weight or of

measure, which have to be delivered and are delivered without the purchaser or the person to whom they are to be sent witnessing each one of the operations of weighing or measuring any of these articles, wares, or merchandise, or of any task, work, or service the value of which is to be computed on the basis of weight, the net weight or the measure of the articles, wares, or merchandise, or of the task, work, or service contained in each such item weighed or measured as prepared for delivery shall be indicated in a clear and intelligible manner either on a card attached thereto or upon the cover thereof. When any articles, wares, or merchandise, or any task, work, or service the value of which is to be computed on the basis of weight or measure, is weighed or measured away from the purchaser or the person for whom it is destined, to be sent to his residence, the seller or the employer shall enclose with the said articles, wares, or merchandise, or with the said task, work, or service the value of which is to be computed on the basis of weight or measure, a note, notice, or shipping slip authorized by himself or, in his name, by any of his agents or employees stating in the said note, notice, or shipping slip the name of the purchaser or any other person for whom it is destined, as well as an itemized list of the wares, articles, commodities, or merchandise shipped, and the net weight or measure of the contents of each package thereof.

In all cases of agricultural job work, and at each end of the land measured and turned over to the laborer for the performance thereon of any work, task, or service the value of which is computed on the basis of measure, the employer shall place a post, stake, or mark to indicate the area of the parcel stipulated. [1913-14; last amended 1936.]

Sec. 17. Net weight to be marked; variations or tolerances.

All goods, wares, or merchandise in boxes, packages, bundles, coils, rolls, containers, and wrappers which are the object of industrial or commercial transactions shall have the net weight or quantity thereof contained in said boxes, packages, bundles, coils, rolls, containers, and wrappers, plainly marked upon the outside of such boxes, packages, bundles, coils, rolls, containers, and wrappers, and it shall be unlawful to keep for the purpose of sale, to offer or expose for sale, or to sell any such goods, wares, or merchandise, which are not so marked. Each sale of any such goods, wares or merchandise not so marked shall be deemed to be a separate and distinct offense; Provided, however, That the manner of marking boxes, packages, bundles, coils, rolls, containers and wrappers, and the reasonable variations or tolerances on boxes, packages, bundles, coils, rolls, containers, and wrappers, and also exemptions as to small boxes, packages, bundles, coils, rolls, containers, and wrappers, may be established by rules and regulations pre-

scribed by the Public Service Commission. [1913-14; last amended 1943.]

Sec. 17a. Tare weight of carts, wagons, railroad car, truck, etc. to be shown.

Any cart, wagon, railroad car, truck or any vehicle used or intended to be used in the transportation of goods or merchandise that are transported, bought or sold by weight, deducting the weight or tare of the cart, wagon, railroad car, truck or vehicle, from the gross weight of same, or by measure, when said vehicle is used in the transportation, purchase or sale of such goods or merchandise, shall show in a plain and visible manner the weight or tare of same when the transaction is to be made on a basis of weight or the capacity of same when liquid is to be transported in such cart, wagon, railroad car, truck or vehicle. [1921]

Sec. 18. Stamping of false weights or measure prohibited.

No person shall mark or stamp, or permit or cause to be marked or stamped, any false or short weight or measure, or any false tare, upon any box, package, bundle, coil, roll, container and wrapper in which goods, wares or merchandise are packed or sold, or intended to be sold or offered for sale or upon any cart, wagon, railroad car, truck, or any vehicle used or intended to be used in the transportation of goods or merchandise that are transported, bought or sold by weight, deducting the weight or tare of the cart, wagon, railroad car, truck or vehicle from the gross weight of same, or by measure when said vehicle is used as such in the transportation, purchase or sale of such goods or merchandise. [1913-14; last amended 1921.]

Sec. 19. Altering of tested and sealed weight or measure prohibited.

No person shall change or alter, or permit to be changed or modified, or use or permit to be used after the same has been changed or altered, any weight, measure, scale, beam, steelyard, or other instrument, apparatus, or appliance for weighing or measuring, after the same has been officially examined, tested, and regulated, and sealed, marked, or approved, as provided by this Act [Secs. 1-25] or by the regulations prescribed in accordance herewith, nor shall he keep, or permit to be kept, in his commercial, industrial, or agricultural establishment such weight, measure, scale, beam, steelyard, or other instrument, apparatus, or appliance for weighing or measuring, after it is changed, modified, or altered for the purpose of adjusting, approving, marking, or sealing it; nor shall in any manner have adapted for use, nor shall use or permit to be used, nor shall keep or permit to be kept in his commercial, industrial, or agricultural establishment, any scale, beam, steelyard, or any other kind of instrument for weighing, which has been altered as regards its even balance, or as regards any part of its mechanism,

whereby the delivery of a false or short weight, or fraud in the weight when selling or buying any goods, wares, or merchandise, may be facilitated. [1913-14; last amended 1943.]

Sec. 20. Violations; penalty.

Any person violating any of the foregoing provisions of this Act [Secs. 1-25] or of the rules and regulations prescribed in pursuance thereof, and any person who as employer or as member of a firm or partnership or otherwise directs, orders, permits, or consents to any violation of the foregoing provisions of this Act, or of the said rules and regulations, shall be deemed guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction, shall be punished for the first offense by a fine of not less than ten (10) dollars or by imprisonment in jail for a term of not less than ten (10) days; for the second offense by a fine of not less than fifty (50) dollars or by imprisonment in jail for a term of not less than fifty (50) days, and for subsequent offenses by a fine of not less than two hundred (200) nor more than five hundred (500) dollars or by imprisonment in jail for a term of not less than ninety (90) days, or by both penalties, in the discretion of the court. [1913-14; last amended 1948.]

Sec. 21. Sealing or approving apparatus not conforming to standards; penalty.

Any person charged with the enforcement of this Act [Secs. 1-25] or of the regulations prescribed hereunder, or who is responsible therefor, who shall mark, seal, or approve as conforming to the standards established by this Act any weight or measure, scale, beam, steelyard, or other instrument, apparatus, or appliance used, or adapted for use, in ascertaining weight or measure in any industrial, commercial, or agricultural transaction which does not so conform, or who shall mark, seal, or otherwise approve as accurate any weight or measure, scale, beam, steelyard, or other instrument, apparatus, or appliance used, or adapted for use, in ascertaining weight or measure in any industrial, commercial, or agricultural transaction which indicates, shows or registers a false weight or measure, or who, having knowledge of or information as to the ownership or use of, or other responsibility for, any such instrument, apparatus, or appliance, fails to seize the same if it is within his power to do so, or fails to file appropriate charges in the proper court or with the prosecuting attorney of the district in which the offense occurs, shall be deemed guilty of a misdemeanor and, upon conviction thereof in a court of competent jurisdiction, shall be punished by a fine of not less than two hundred and fifty dollars nor more than one thousand dollars and by imprisonment for not less than six months nor more than three years. [1913-14; last amended 1936.]

Laws 1913-14, Act No. 135—Weights and Measures—Continued.

Sec. 22. Previous violations may be submitted in evidence, when.

Upon the trial of any person for the violation of any provision of this Act [Secs. 1-25] or of any regulation duly prescribed thereunder, previous and other violations of said Act or such regulations may be proved and received in evidence. [1913-14]

Laws 1947, Act No. 369—Weights and Measures, Importation, Manufacture, and Sale.

Sec. 1. New weighing and/or measuring apparatus defined.

For the purposes of this Act [Secs. 1-8], by new weighing and/or measuring apparatuses shall be understood those which have not already been authorized, sealed as correct, or otherwise certified as correct by lawfully authorized officials. [1947]

Sec. 2. Manufacturers and importers to comply with rules and regulations of public service commission.

Every domestic manufacturer and every importer of weights and measures or of new weighing and/or measuring apparatuses shall comply with the regulations heretofore or hereafter established by the Public Service Commission. [1947]

Sec. 3. Authority of commission to prescribe rules and regulations.

The Public Service Commission is hereby authorized to prescribe such rules and regulations as may be necessary in connection with the provisions of this Act [Secs. 1-8]. [1947]

Sec. 4. Report of purchase to commission.

Every person, firm, or corporation importing any weight or measure, or any weighing and/or measuring apparatus, or purchasing them from domestic manufacturers, shall report the fact to the Public Service Commission within a term of five days counting from the date of coming into the possession thereof. [1947]

Sec. 5. Violations; penalty.

Every person, firm, or corporation who by himself or itself, or through his or its employees or agents, and every person who, as agent or employee of another, offers or exhibits for sale, or sells, leases, or conveys, or who retains in his possession for sale, or who uses or has in his industrial, commercial, or agricultural establishment, weights and measures, or weighing and/or measuring apparatuses which have not been sealed as correct, or otherwise certified as correct by lawfully authorized officials, or who fails to comply with any regulatory provision in force, shall be guilty of a misdemeanor, and upon conviction by a court of competent jurisdiction, shall be punished, for the

first offense, by a fine of not less than fifty (50) dollars nor more than two hundred and fifty (250) dollars, or by imprisonment in jail for a term not exceeding ninety (90) days; and for subsequent offenses, by a fine of not less than two hundred and fifty (250) dollars, nor more than five hundred (500) dollars, or by imprisonment in jail for a term not exceeding six (6) months, or by both penalties, in the discretion of the court. [1947]

Sec. 6. Incorrect weights, measures, or apparatus to be re-exported when; forfeiture.

Every weight or measure or weighing and/or measuring apparatuses brought or imported into Puerto Rico which are found to be incorrect, and which the inspectors of weights and measures refuse to seal or certify as correct, shall be re-exported from the Island by the importers thereof, with the intervention of the Public Service Commission or its agents, within a month counting from the date of such refusal, unless they are repaired, verified, and sealed or certified as correct; otherwise they shall be subject to forfeiture for the benefit of The People of Puerto Rico, in which case they shall be disposed of by the Public Service Commission. [1947]

Laws 1917, Act No. 13—Bread.

Sec. 1. Standard loaf; rolls, weight; marking requirements.

That a loaf of bread weighing one pound avoirdupois or 453 grams, shall be the standard loaf of bread in Puerto Rico; Provided, That loaves of the following weight only shall be manufactured for the purpose of being sold or offered or displayed for sale; one pound avoirdupois or 453 grams and its multiples; and half pound avoirdupois, or 226 grams; Provided, however, That for the making of bocadillos, hot dogs, and hamburgers, or for use as table servings in hotels, restaurants, lunchrooms or counters, rolls may be manufactured with such weight that a group or number of the said rolls, which shall not be smaller than ten (10) identical units, will weigh one pound avoirdupois or 453 grams; Provided, further, That a number of units or rolls weighing together one-half pound avoirdupois or 226 grams, or one pound avoirdupois or 453 grams, or any multiples thereof, shall be considered as one loaf of bread for the purposes of the variations or tolerances hereinafter established and allowable on the weight of bread loaves; and the said number of units or rolls shall be sold or offered or displayed for sale only in cardboard boxes, paper bags or wrappings made of strong paper which will stand without tearing the wear and tear of handling or transportation, upon which shall be indicated, in addition to the exact weight and the name of the manufacturer, the contents in number of units or rolls. [1917; last amended 1948.]

Sec. 2. Marking requirements; manufacturer defined; variations or tolerances.

Every loaf of bread sold or offered or displayed for sale in Puerto Rico, shall be wrapped in a paper bag labeled in plain and intelligible Spanish with the exact weight and the name of the manufacturer; Provided, That by "manufacturer" shall be understood to be the person, firm, or corporation to which the Department of Health may have issued as such manufacturer, the proper health license or permit; and the use of labels with a name other than that of the real manufacturer shall be unlawful; Provided, further, That in the labeled weight of each loaf of bread individually weighed, as well as in the average weight of a minimum of ten (10) loaves of bread selected at random from a group of at least twenty (20) loaves, there shall be allowed the following:

VARIATIONS OR TOLERANCES

Size of one loaf	Excess weight per loaf	Weight shortage per loaf	For average shortage
	Grams	Grams	Grams
½ pound.....	60	20	12
1 pound.....	84	28	18
2 pounds.....	178	56	30

Provided, That for heavier bread loaves, a tolerance of one ounce avoirdupois or 28 grams on each pound avoirdupois or 453 grams, shall be allowed as either excess or shortage. [1917; last amended 1948.]

Sec. 4. Penalty for violations.

Any person, firm or corporation, whether a manufacturer or seller or distributor of bread, who by himself or by his servant or agent violates any of the foregoing provisions of this Act, shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than fifteen (15) dollars or by imprisonment in jail for a term of not less than fifteen (15) days; and for a second violation, by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars or by imprisonment in jail for a term of not less than fifty (50) days nor more than one hundred (100) days; and for any subsequent violation, by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars or by imprisonment in jail for a term of not less than one hundred (100) days nor more than one (1) year; or by both penalties, in the discretion of the court. [1917; last amended 1948.]

Laws 1940, Act No. 72—"Puerto Rico Food, Drug, and Cosmetic Act."

Sec. 2. Definitions.

For the purpose of this Act [Secs. 1-25]—

(a) The term "commissioner" shall mean the

Commissioner of Health; and "inspector" shall mean Health Inspector.

* * * * *

(c) The term "food" shall mean (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such articles.

(d) The term "drug" shall mean (1) articles recognized in the United States Pharmacopoeia, in the Homeopathic Pharmacopoeia of the United States, or in the National Formulary, official on the date any investigation is made, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but shall not include devices or their components, parts, or accessories.

* * * * *

(f) The term "cosmetic" shall mean (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap when used for cleansing purposes only.

* * * * *

(h) The term "label" shall mean a display of written, printed or graphic matter upon the immediate container or the original container of the manufacturer, and every requirement made under authority of this Act that any word, statement, declaration or other information appear on the label shall not be considered to be complied with unless such word, declaration, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" shall not include package liners.

* * * * *

(q) The term "Federal Act" shall mean the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.). [1940]

Sec. 3. Prohibited acts.

The following acts and the permitting thereof within Puerto Rico are hereby prohibited:

(a) The manufacture, sale, or delivery, holding

Laws 1940, Act No. 72—"Puerto Rico Food, Drug, and Cosmetic Act"—Continued.

or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

(g) The giving of a guaranty which is false, except by a person who relied on a guaranty to the same effect signed by, and containing the name and address of the person residing in the Island of Puerto Rico from whom he received in good faith the food, drug, device or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of section 6.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1940]

* * * * *

Sec. 4. Injunction.

In addition to the remedies hereinafter provided the Commissioner is authorized to apply to the proper district court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 3; irrespective of whether or not there exists an adequate remedy at law. [1940]

Sec. 5. Penalties for violations; guaranty protection.

(a) Any person who violates any of the provisions of section 3 shall be guilty of a misdemeanor and shall, on conviction thereof, be punished by imprisonment in jail for a term of not more than three (3) months, or by a fine of not more than five hundred (500) dollars, or by both penalties; but if the violation is committed after a conviction of such person under this section has become final, such person shall be punished by imprisonment in jail for a term of not more than one (1) year, or by a fine of not more than one thousand (1,000) dollars, or by both penalties, in the discretion of the court.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 3(a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Island of Puerto Rico from whom he received in good faith the article, to the effect that such article is not

adulterated or misbranded within the meaning of this Act, designating this Act. [1940]

* * * * *

Sec. 6. Embargo.

(a) Whenever a duly authorized inspector of the Commissioner finds, or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so labeled as to be dangerous or fraudulent, within the meaning of this Act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and on the same tag or appropriate marking shall give warning to all interested persons that such article may not be removed from its place or disposed of by sale or otherwise until permission for removal or disposal is given by such inspector or by competent court. For his protection he shall draw up in duplicate a record of the proceedings, setting forth the quantity of the articles under custody. He shall take the regulation samples. [1940]

* * * * *

Sec. 8. Minor violations.

Nothing in this Act [Secs. 1-25] shall tend to require the Commissioner to file complaints for minor violations, provided the public interest will be adequately served by a suitable written notice or warning. [1940]

Sec. 11. When food deemed misbranded.

A food shall be deemed to be misbranded—
(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or individual units of weight or measure contained in the complete package; *Provided*, That under subdivision (e) (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Commissioner.

(f) If any word, statement, or other information required by or under authority of this Act [Secs. 1-25] (required to be printed on the label or labeling) is not prominently placed and with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as not likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1940]

* * * * *

Sec. 15. When drugs deemed misbranded.

A drug * * * shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form and it does not bear a label setting forth (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity or the contents in terms of its weight, measure, or individual units of weight or measure contained in the complete package; *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Commissioner.

(c) If the words, statements, and diverse information required by this Act [Secs. 1-25] do not prominently appear on the label or labeling and with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render them not likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

* * * * *

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; * * * [1940]

Sec. 18. When cosmetics deemed misbranded.

A cosmetic shall be deemed to be misbranded— (a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or individual units of weight or measure contained in the complete package; *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Commissioner.

(c) If the words, statements, or other information required by this Act [Secs. 1-25] do not appear on the label and these are not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms not likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading. [1940]

Sec. 20. Regulations.

(a) The authority to promulgate regulations for the enforcement of this Act [Secs. 1-25] is hereby vested in the Commissioner. The said Commis-

sioner is hereby likewise authorized to make the regulations thus promulgated conform, in so far as possible, with those promulgated under the Federal Act. [1940]

* * * * *

Laws 1923, Act No. 37—Concentrated Feeding Stuffs.

Sec. 1. Registration.

Any person, manufacturer, importer, warehouseman or person handling concentrated feeds for domestic animals, who shall sell such feeds to be used in the Island of Porto Rico, shall previously register his brands with the Commissioner of Agriculture and Labor or with such person as he may designate for the purpose. To this end, before selling or offering for sale such feeds, he shall furnish, on printed blanks which shall be furnished by said Commissioner of Agriculture and Labor or by the person designated by him, the following information: (a) the number of pounds in each container; * * * [1923; last amended 1925.]

Sec. 2. Marking requirements.

Every person, manufacturer, importer, warehouseman, or person handling concentrated feeds for domestic animals in Porto Rico, before selling or offering for sale in Porto Rico any concentrated feed for domestic animals, shall stamp on, or affix to, each container the distinctive brand of the product therein contained, the weight of the package, * * * [1923; last amended 1931.]

Sec. 3. Penalty for violations.

* * * * *

Violations of any of the provisions of this Act [Secs. 1-13] shall also be considered as a misdemeanor and shall be punished by a fine not to exceed two hundred (200) dollars, and in default of payment, by imprisonment not to exceed one (1) month. [1923]

Sec. 3(a). Fines imposed against artificial entities.

When the fines referred to in Sections 3 * * * are imposed on artificial entities, collection may be made through the attachment of any property of the violator, whether real or personal, as in the case of property taxes, and through due process of law in court. [1943]

Sec. 5. Definition.

The term "concentrated feeds for domestic animals" for the purposes of this Act [Secs. 1-13], shall not include hay, fresh grass, or seed or grain of wheat, rye, barley, oats, corn, or any other unmixed who legrain. [1923; last amended 1943.]

Sec. 6. Same.

For the purposes of this Act [Secs. 1-13] the term "concentrated feed for domestic animals" shall include all such products used in feeding

Laws 1923, Act No. 37—Concentrated Feeding Stuffs
—Continued.

domestic animals as are not included in Section 5 hereof. [1923]

Sec. 11. Rules.

The Commissioner of Agriculture and Labor shall make the rules in regard to the inspection, analysis and sale of concentrated feeds for domestic animals, not in conflict with this Act [Secs. 1-13], and which in his judgment may be necessary for the better carrying out thereof. [1923]

Laws 1934, Act No. 36—Commercial Fertilizers.

Sec. 1. Definition.

For the purpose of this Act [Secs. 1-19], the term *commercial fertilizers* refers to every mixture of two or more ingredients or materials containing the nutritive elements that may be utilized by plants, such as nitrogen, phosphorus, potassium, etc., and it does not imply that said mixture is offered for sale; the term *raw materials* refers to all organic or mineral matter containing nutritive substances or elements essential to the development of plants, as for example, nitrate of soda, sulphate of potash, cottonseed meal, dried blood, etc.; the term *amendments of the soil* refers to such substances or materials as are applied to land to improve its physical condition, or which in any other form assist in the better development of the plants cultivated on such lands so treated. [1934]

Sec. 4. Marking requirements.

Every person, manufacturer, importer, warehouseman, or handler of fertilizers, raw materials for fertilizers, or amendments to the soil in Puerto Rico, before selling or offering for sale in Puerto Rico, or devoting to use in Puerto Rico, any fertilizer, component of fertilizers, or substances for amendments, shall mark on, or fasten to, each package * * * the weight of the package, * * *. This data shall be marked on, or fastened to, the package: * * * (2) weight of each package in pounds; * * * [1934]

Sec. 15. Rules and regulations for enforcement; penalty for violations.

The Commissioner of Agriculture and Commerce shall have power to establish all such rules for the inspection, analysis, and sale or importation of commercial fertilizers, raw materials or amendments to the soil, as are not in conflict with this Act [Secs. 1-19] and which, in his judgment, may be necessary for the best carrying out of this Act; and every violation hereof shall be considered a misdemeanor punishable by a fine of not to exceed five hundred (500) dollars, or by imprisonment in jail up to one (1) year, or by both penalties, in the discretion of the court. [1934; last amended 1935.]

Sec. 16. Penalty for violations.

Every person importing, manufacturing, selling or owning in Puerto Rico, to be used in Puerto Rico, any fertilizer, raw material for fertilizer, or amendments of the soil, without first having complied with the provisions of Sections * * * 4 of this Act [Secs. 1-19], or who alters or adulterates the contents of a fertilizer for selling it, shall be considered guilty of a misdemeanor and, on conviction, shall have imposed upon him a fine of not less than two hundred (200) dollars nor more than five hundred (500) dollars; and in default of the payment of said fine, imprisonment for not more than three months.

Every violation of any other of the provisions of this Act shall likewise be considered as a misdemeanor and shall be punished by a fine of not less than fifty (50) dollars nor more than two hundred (200) dollars; and in default of payment, by imprisonment for not more than one month. When the fines treated of in this section are imposed on artificial entities, collection may be made through the attachment of any real property or immovable of the violator, as in the case of property taxes, through due process of law in a court. [1934; last amended 1941.]

Laws 1919, Act No. 60—Water, Gas, and Electric Meters.

Sec. 1. Units of electric measure.

That the legal units of electric measure as defined and established by the statutes of the United States are the only units of electric measure recognized as legal in Porto Rico. [1919]

Sec. 2. Unit measure for gas.

That the standard of unit of measure for the sale of illuminating or heating gas by meter shall be the cubic foot, containing sixty-two and three hundred and twenty-one thousandths pounds, avoirdupois weight, of distilled or rain water, weighed in air, of the temperature of sixty-two degrees Fahrenheit, the barometer registering a pressure of twenty-nine and one-half inches. [1919]

Sec. 3. Meters to be furnished by corporation; meters to be tested, when.

That every company, corporation, association or individual furnishing gas, electricity or water for public consumption on the basis of measure shall provide the consumer with a meter, free of cost to the said consumer, and shall not put in use any meter unless it has been previously tested and found correct by the bureau of weights and measures, in which office a complete register shall be kept of the original and subsequent tests made of each meter. If so desired, the company or person furnishing gas, electric current or water may appoint a representative to attend the test, for which purpose notice in writing shall be given by the

bureau of weights and measures as to the day and hour on which said test is to be made.

Where the apparatus is found correct, the bureau of weights and measures shall seal the same and no person shall remove or break the said seal without the authorization of the said bureau. [1919]

Sec. 4. Meters in use to be tested by bureau.

Meters in actual use shall be tested and sealed by the bureau of weights and measures as the needs of the service may permit, and such tests may be also attended by a representative of the company or person furnishing gas, electric current or water: *Provided*, That after this first test the bureau of weights and measures shall from time to time order other tests. [1919]

Sec. 5. Meters in use may be tested on petition.

On written petition of a consumer the bureau of weights and measures may inspect and test any gas, electric or water meter which has been installed, or put in service, where it is shown that the said meter has registered, without apparent cause therefor, an excess of twenty-five per cent or more over the normal monthly expense represented by the average for the last six months. [1919]

Sec. 6. Inspection service, how organized.

That the executive secretary¹ of Porto Rico is hereby authorized to organize, under the jurisdiction of the bureau of weights and measures, the inspection service required by this act [Secs. 1-11]. He shall prescribe and promulgate such rules and regulations as in his judgment may be necessary for the execution of this act. And he shall also establish reasonable specifications to which said instruments shall conform to secure the accuracy of all meters and appliances for measurement. [1919]

¹ Bureau of Weights and Measures now under jurisdiction of Public Service Commission; see Secs. 1 and 2, page —.

Sec. 7. Officials to be appointed.

That there shall be appointed by the executive secretary¹ of Porto Rico one chief inspector of gas, electric and water meters, * * * and two assistant inspectors * * * who shall have charge of and be responsible for the technical part of the service, under the direction of the chief of the bureau of weights and measures. * * * [1919]

¹ Bureau of Weights and Measures now under jurisdiction of public Service Commission; see Secs. 1 and 2, pages 877-878.

Sec. 8. Penalty for violations.

That any person, firm, company or corporation which by itself or by its servant or agent violates the foregoing provisions of this act [Secs. 1-11], or of the rules and regulations prescribed in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction by a court of competent jurisdiction shall be fined not less than twenty nor more

than one hundred dollars for each violation. [1919]

Penal Code 1937—False Weights and Measures.

Sec. 474. Fraudulently increasing weight or measure; penalty.

* * * Every person who in putting up in any bale, bag, box, barrel or other package any sugar, tobacco, coffee, rice or other goods usually sold in bales, bags, boxes, barrels or other packages, by weight or otherwise, puts in or conceals therein any extraneous substance whatever for the purpose of fraudulently increasing the weight or measurement of such bale, bag, box, barrel or other package with intent thereby to sell the goods therein, or to enable another to sell the same, for more than the actual weight or measurement of such goods, is punishable by fine not less than twenty-five dollars for such offense, or confined in jail for not less than thirty days, or by both fine and imprisonment in the discretion of the court. [1902; last amended 1908.]

Sec. 480. False weight or measure defined.

A false weight or measure is one which does not conform to the standard established by law. [1902]

Sec. 481. Punishment for using.

Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, shall be punished by imprisonment for not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1902]

Sec. 482. Sale of package marked or stamped with short weight or measure.

Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale, any cask or package so marked, shall be punished by imprisonment for not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1902]

Sec. 483. Sale of sugar, coal, etc., sold by the ton.

In all sales of sugar, coal, and other commodities, usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, and any person violating this section shall be punished by imprisonment for not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1902]

Sec. 484. Sale of goods sold by weight or measure.

In all sales of merchandise, wares, articles of food or drink or whatever else is purchased by weight or measure, the seller must give to the purchaser full weight or measure, and any person violating this section shall be punished by imprisonment not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1902]

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Laws 1940, Ch. 803—Weights and Measures, Department of Business Regulation.

Sec. 1. Certain duties of department of labor transferred to the department of business regulation.

The functions, powers and duties of the department of labor or the director of labor in connection with the administration of chapter 407 of the general laws, entitled "Standards of weights, measures and balances, and powers, duties and liabilities of sealers," amended as to reorganization by chapter 660 of the public laws, 1939, are hereby assigned and transferred to the department of business regulation or the director of business regulation. [1940]

Sec. 2. References to department or director of labor, how construed.

Whenever in said chapter 407 of the general laws, as amended, or in any document, record or proceeding authorized by the same the phrases "department of labor" or "director of labor" are used in reference to or descriptive of said department or the director thereof, or to its or his respective activities, such phrase or reference shall hereafter be deemed to refer to, include and describe the department of business regulation or the director of business regulation as the context requires. [1940]

Sec. 5. Amended relative sections.

Sections 120, 121 and 150 of chapter 660 of the public laws, 1939, known as the "Administrative act of 1939," are hereby amended to read as follows:

"DEPARTMENT OF BUSINESS REGULATION

"Sec. 120. There shall be a department of business regulation. * * * The director of business regulation shall also perform the duties required by any and all other provisions of the general laws and public laws in so far as such provisions relate to * * * the director of labor in his administration of the law relating to standards of weights, measures and balances, and powers, duties and liabilities of sealers.

"FUNCTIONS

"Sec. 121. It shall be the function of the department of business regulation (a) to regulate public utilities and public service corporations; * * * (c) to regulate and control the manufacture, transportation, possession and sale of alcoholic beverages; * * * (g) to regulate and control the standards of weights, measures and balances, and powers, duties and liabilities of sealers." [1940]

General Laws 1938, Title XXXV, Ch. 407—Weights and Measures, Standards and Sealers.

Sec. 1. State standards.

The weights, measures and balances received from the United States, and now in the custody of the state sealer of weights, measures and balances, and such new weights, measures and balances as shall be received from the United States as standard weights, measures and balances in addition thereto or in renewal thereof, shall be the authorized standards by which all town standards of weights and measures shall be tried, proved and sealed. [1872; last amended 1896.]

Sec. 2. Same: Custody and control.

The state scaler of weights, measures and balances shall have the exclusive custody and control of the standards so received by the state from the United States, which standards shall be kept in a suitable fireproof place to be provided by the state. He shall have the oversight of all the standards furnished by the state to the various towns and cities, and shall keep a complete list of the same and shall see that they are kept in good order and repair. He shall also keep the standards belonging to the state, furnished by the United States, in perfect order, and shall keep a complete list of the same, and shall take a receipt for the same from his successor in office. His office shall be kept open at least 2 specified days in each week. He shall try, prove and seal all town standards of weights, measures and balances brought to him for that purpose, the compensation for which is hereinafter provided. [1872; last amended 1901.]

General Laws 1938, Title XXXV, Ch. 407—Weights and Measures, Standards and Sealers—Continued.

Sec. 3. Same: Duplicates; denominations.

The said state sealer shall furnish a set of standards of weights, measures and balances, at such cost as he may deem proper, to each city or town that in his judgment shall not have a suitable set, the same to be paid for by the state on the order of the state budget director and comptroller on the general treasurer, the said set to consist as follows: one even balance of a capacity not less than 100 pounds; one brass yard-gauge; 5 iron dry-measures, one each of the following capacities: one-half bushel, one peck, one-half peck, 2 quarts, and one quart; 6 iron wine-measures, one each of the following capacities: one gallon, one-half gallon, one quart, one pint, one-half pint, and one gill; 5 iron ring weights, avoirdupois standard, one each as follows: 50 pounds, 25 pounds, 20 pounds, 10 pounds, and 5 pounds; 10 brass weights, avoirdupois standard, one each as follows: 4 pounds, 2 pounds, one pound, 8 ounces, 4 ounces, one ounce, one-half ounce, one-quarter ounce, one-eighth ounce, one-sixteenth ounce; together with a suitable case or cabinet to contain the same. He shall also furnish each town and city, at the expense of said town or city, a portable even-balance scale, with a set of weights and measures, to be used by the said town or city sealers in the discharge of their duties as hereinafter provided. [1872; last amended 1896.]

Sec. 4. State sealer may inspect local weights, measures and balances; reports.

The state sealer may, in the discharge of his duties, inspect the weights, measures and balances of any person or persons, which are used for selling any goods, wares, merchandise or other commodities, or for public weighing in any town or city in this state, and if he finds the same to be inaccurate he shall forthwith inform the mayor of the city or the president of the town council, as the case may be, and such mayor or president shall at once call the attention of the town or city sealer thereto. The state sealer shall keep a record in detail of the towns and cities visited by him in the performance of his duties; of the weights, measures and balances tested and sealed by him; and he shall annually, during the first week in December, make a report to the governor of his doings for the year. [1872; last amended 1896.]

Sec. 5. Local sealers: Inventory of local weights, measures and balances.

The sealers of the different towns and cities shall make an inventory of weights, measures and balances furnished by the state and the condition of the same, on a blank prepared for that purpose, in the month of October of each year, and shall

forward the same to the state sealer of weights, measures and balances. [1896]

Sec. 6. Same: Deputy sealers; appointment; duties.

The different town councils of the several towns, and the boards of aldermen of cities, may appoint, upon recommendation of their respective town or city sealers, one or more persons as deputy-sealers of their town or city, who shall assist the said town or city sealer and, in the absence from duty of such town or city sealer, shall perform all the duties of town or city sealer as may be required of them for the time being. [1872; last amended 1896.]

Sec. 7. Same: Office standards; procurement and custody.

Every town or city sealer shall, at the expense of his town or city, provide therein a suitable place for the safe keeping and preservation of the weights, measures and balances furnished by the state, which shall be used only as standards, and shall not be taken from the office. He shall have the care and oversight thereof; shall see that they are kept in good order and repair; and if any portion of them are lost, damaged, or destroyed, shall at the expense of the town or city, replace the same by similar weights, measures or balances. He shall procure, at the expense of his town or city, a suitable set of sealing-stamps for stamping dry and wine measures, with the date of the year thereon, and, for coal and wood baskets, a branding-iron, with letters not less than one-half inch high and the date of the year thereon. [1896]

Sec. 8. Same: Offenses; penalties.

Every town or city sealer who neglects to provide a suitable place for keeping such weights, measures and balances, or suffers any of them through his neglect to be lost, damaged or destroyed, shall be fined the sum of not less than \$20.00 nor more than \$50.00. [1896]

Sec. 9. Same: Adjustment of standards; sealing.

Every town or city sealer shall, once at least in every 3 years, have the standard weights, measures and balances in his custody tried, adjusted and sealed by the state sealer, who shall receive as compensation therefor the sum of \$15.00, which sum, together with the necessary expenses incurred by him in so performing such service, shall be paid by the town or city to which such set of standards belong. [1896]

Sec. 10. Same: Testing and sealing commercial devices; notice.

Every town or city sealer shall annually, at the expense of his town or city, advertise or post up notifications in public places in different parts of his town or city, for every person engaged in the trade of buying and selling, or as a public weigher, who uses weights and measures, to bring in within a certain time, in each notification limited, being not less than one month from the date of such no-

tification, his weights, measures, balances and scales to be adjusted and sealed, and he shall forthwith adjust and seal all weights and measures brought to him for that purpose. [1872; last amended 1896.]

Sec. 11. Same: Duties.

After the expiration of the time limited in the notification which is required to be given in the preceding section, the sealer of weights and measures in every town or city shall visit the places of business, and enter upon the carts, wagons, and other vehicles then in use for business, of all the persons engaged in the trade of buying and selling or of selling, who have weights, measures or balances which have not been sealed during the current calendar year, and try, adjust, and seal the same. He shall go at least once in every 6 months, to every hay-scale, coal-scale, wagon-scale, railroad-track-scale, or platform scale or balance used in the trade of buying and selling or of selling or for public weighing, in his town or city, which is not brought to him under the provisions of the preceding section, and try, adjust, and seal the same. [1872; last amended 1909.]

Sec. 12. Same: Penalty for violating preceding section.

For every neglect of duty prescribed in the next preceding section the town or city sealer shall be fined a sum not exceeding \$20.00; and every town or city sealer who shall seal any weight, measure or balance otherwise than according to the town or city standard, duly tried, proved and sealed by the state sealer, shall be fined not exceeding \$50.00 nor less than \$25.00. [1872; last amended 1899.]

Sec. 13. Same: Fees or salary; penalty for violating section.

The sealer of weights and measures, in any town or city, shall receive a fee of 3 cents for every weight, wine or dry measure, sealed by him at his office; he shall receive a fee of 5 cents for every yard-stick or yard-measure sealed by him; and for sealing every spring-balance of a capacity less than 100 pounds, he shall receive a fee of 25 cents; for every spring-balance of a capacity of 100 and less than 500 pounds, 50 cents; for every platform-scale of a capacity of 5,000 pounds or more, \$1.00; for every balance of a capacity of less than 5,000 pounds, 50 cents; for every steel-yard of a capacity of 50 pounds or less, 25 cents; and for every steel-yard of a capacity over 50 pounds, 50 cents; every scale or balance used for weighing people shall be tested, and if found correct shall be sealed, by the said sealer, and he shall receive a fee of 50 cents for each and every scale or balance so sealed. If any of the said scales or balances are found to be incorrect, then they shall be condemned and their use forbidden as hereinbefore provided. For proving and sealing coal and wood baskets he shall receive a fee of 15 cents each, and for every charcoal-basket so sealed, 20 cents; he shall also have

a reasonable compensation for all repairs, alterations, and adjustments which it may be necessary for him to make, made by him, and for the expenses incurred in visiting any place, as provided for in sec. 11 of this chapter. Such fees and compensation shall be paid to said sealer by the person owning or using the weights, measures or balances so adjusted and sealed. Every person violating the provisions of this section shall be fined not exceeding \$20.00 for each offense, one-half thereof to go to the town or city and one-half to the complainant. All said fees received by any sealer of weights and measures of any town or city shall be retained by him as compensation for his services except as hereinafter provided. Any town or city council may at any time by ordinance fix an annual salary for the sealer of weights and measures of such town or city, and in such case said fees received by him shall be paid over by him to the town or city treasurer, at the time or times prescribed by any ordinance of such town or city. [1872; last amended 1923.]

Sec. 14. Commercial weights, measures and balances: Sealing; adjusting; confiscating; penalties.

No person engaged in the trade of buying and selling shall have or permit to be kept at his place of business or upon any cart, wagon or other vehicle used by him in carrying on his business, any weight, measure or balance of whatever description which is not at the time duly sealed in accordance with this chapter, or which having been sealed, is no longer correct. If such weights, measures or balances can be readily adjusted by such means as the sealer has at hand, he may adjust and seal them; but if they cannot be readily adjusted, he shall either seize such weights, measures and balances forthwith and destroy them, or shall affix to the same a notice forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards; and whoever removes said notice without the consent of the officer affixing the same, shall for each offense be fined not less than \$20.00 nor more than \$50.00, one-half to the town or city and one-half to the use of the complainant. [1882; last amended 1896.]

Sec. 15. Same: Offenses; penalty.

Every person engaged in the trade of buying and selling, or of selling, or as a public weigher, who shall use or permit to be used for him, or have in his possession at his place of business, or upon any cart, wagon, or other vehicle which is used by him in carrying on his business, or upon his person while engaged in his business, any weight, measure, balance, or scale of whatever description, unless such weight, measure, balance, or scale shall have been duly sealed in conformity with the provisions of this chapter, and every such person who alters any weight, measure, balance, or scale after

General Laws 1938, Title XXXV, Ch. 407—Weights and Measures, Standards and Sealers—Continued.

it has been duly sealed, so that it does not conform to the United States standard, or has in his possession any such weight, measure, balance or scale, which has been so altered, and every such person who shall use or permit to be used for him, or have in his possession, as aforesaid, any weight, measure, balance, or scale which he has refused to allow to be examined or sealed by the sealer of weights and measures, or deputy sealer, according to the provisions of this chapter, or who shall use or permit to be used for him, or have in his possession any spring-balance having a sliding or adjustable face-plate or index, or any measure not made of the shape or dimensions required by law, shall be fined the sum of \$20.00 for each offense, one-half thereof to the use of the town or city in which the offense shall have been committed, and one-half thereof to the complainant. [1882; last amended 1902.]

Sec. 16. False or insufficient weight or measure; penalty.

Whoever, himself or by his servant or agent or as the servant or agent or another person, is guilty of giving false or insufficient weight or measure shall for the first offense be punished by a fine of not more than \$50.00, for a second offense by a fine of not more than \$200.00 and for a subsequent offense by a fine of \$50.00 and by imprisonment for not less than 30 nor more than 90 days. [1882; last amended 1912.]

Sec. 17. Hay-scales and platform-balances: Testing and sealing.

Every person who shall keep hay-scales or platform-balances for public use shall cause the same to be tried and sealed at least once in 6 months by a sworn sealer of weights and measures. [1857]

Sec. 18. Same: Offense; penalty.

Every person who shall keep hay-scales or platform-balances for public use, or shall weigh or suffer to be weighed in such scales or balances any article of merchandise, unless such scales or balances shall have been tried and sealed as provided in the preceding section, shall be fined \$100.00. [1857]

Sec. 19. Same: Testing upon application; exemption from liability.

Whenever the owner or keeper of such hay-scales or balances shall apply to the mayor of the city or president of the town council, as the case may be, or to any person by him appointed for the purpose in any town or city in which the office of sealer of weights and measures shall from any cause be vacant, to try such scales or balances, and to seal the same if found correct, such mayor, president or person so appointed shall try such scales or

balances and seal the same if found correct; and in case of his neglect so to do, such owner or keeper shall be exempt from the fine prescribed in the next preceding section. [1857; last amended 1882.]

Sec. 20. Public weighers: Appointment.

The town councils of the several towns and the boards of aldermen of any city shall appoint one or more persons to be weighers of coal and other articles of merchandise, who shall be sworn and be removable at the pleasure of the town council or board of aldermen appointing them, and shall receive such fees as may be fixed by the town council or board of aldermen of the several towns or cities, which shall be paid by the seller: *Provided*, that no person shall act as a public weigher of coal or other merchandise of which he is either the buyer or seller, or in the sale whereof he has any interest. [1872; last amended 1899.]

Sec. 21. Same: To weigh coal upon demand; penalty.

Every person who shall sell coal or other merchandise without its being first weighed by a weigher provided for in sec. 20 of this chapter, when the same shall be demanded by the purchaser, and procuring a certificate of such weight for the purchaser, shall be fined \$20.00 for each offense. [1872; last amended 1896.]

Sec. 22.¹ Weight of commodities: Per bushel; per barrel; per ton.

The legal weights of certain commodities in the State of Rhode Island shall be as follows: ²

	<i>Pounds per Bushel</i>
Apples	48
Apples, dried	25
Apple-seed	40
Barley	48
Beans	60
Beans, castor	46
Beets	50
Bran	20
Buckwheat	48
Carrots	50
Charcoal	20
Clover-seed	60
Coal	80
Coke	40
Corn, shelled	56
Corn, in the ear	70
Corn meal	50
Cotton-seed, upland	30
Cotton-seed, Sea Island	44
Flax-seed	56
Hemp	44
Hungarian seed	50
Lime	70
Malt	38
Millet-seed	50
Oats	32
Onions	50
Parsnips	50
Peaches	48
Peaches, dried	33
Peas	60
Peas, split	60

	<i>Pounds per Bushel</i>
Potatoes -----	60
Potatoes, sweet -----	54
Rye -----	56
Rye-meal -----	50
Salt, fine -----	50
Salt, coarse -----	70
Timothy-seed -----	45
Shorts -----	20
Tomatoes -----	56
Turnips -----	50
Wheat -----	60
	<i>Pounds per Barrel</i>
Flour -----	196
	<i>Pounds per Ton</i>
Coal, net -----	2,000
Coal, gross -----	2,240

[1900]

¹ See also Ch. 383, Secs. 6-10, page 896; Ch. 408, Sec. 4, page 896; and Laws 1942, Ch. 1202, page 899.

² A slight change has been made in the arrangement for convenience of reference.

Sec. 23. State and local sealer: Power to prosecute; power to arrest.

The state sealer of weights and measures and the city and town sealers of weights and measures in the various cities and towns throughout the state, shall be, by virtue of their respective offices, special constables, and as such they shall have power to prosecute all persons violating the provisions of this chapter, and shall not be required in such prosecutions to furnish any surety for costs. They shall also have power to arrest upon view without warrant and to detain for a period of not more than 12 hours any person found violating any of the provisions of this chapter. [1899]

Sec. 24. Standard boxes for farm produce.

A box which shall measure on the inside thereof 17½ inches by 17½ in length and width, and which on the inside thereof shall measure 7 1/16 inches in depth, measured from the highest part of the bottom thereof, is hereby declared to be a legal bushel box for the sale of farm produce. A box which shall measure on the inside thereof 13 by 13 inches in length and width and which on the inside thereof shall measure 6 1/16 inches in depth, measured from the highest part of the bottom thereof, is hereby declared to be a legal half-bushel box for the sale of farm produce. All bushel boxes of the dimensions specified by this section shall be marked in letters not less than one inch in height with the words "standard bushel for farm produce." All half-bushel boxes of the dimensions specified by this section shall be marked in letters not less than one inch in height with the words "standard half-bushel for farm produce." [1916]

Sec. 25. Gasoline measuring devices: Testing and sealing; fee.

The state sealer of weights, measures, and balances is hereby authorized and directed to have

tested all gasoline measuring devices used in the sale of gasoline, from time to time as in his judgment it may be deemed necessary, to prevent fraud or deception in the use of such devices or to insure the accurate measurement of gasoline in such sale. Any town or city sealer of weights, measures, and balances shall have authority to condemn and forbid the use of any gasoline measuring device for the sale of gasoline in his respective town or city, or until such device has been duly tried and sealed, or until such gasoline measuring device has been equipped with such attachment, contrivance or apparatus as will insure the correct and proper functioning of such measuring device for the sale of said gasoline by accurate measurement. For the testing and sealing of a gasoline measuring device a fee of 50 cents shall be paid. [1922]

Sec. 26. Same: Use of tested and sealed 5-gallon measure upon request.

Any person, firm or corporation selling or vending gasoline from a gasoline station, so-called, or from a garage, shall keep for use at such gasoline station or garage a 5-gallon measure which has been properly tested and sealed by the sealer of weights, measures, and balances of the town or city in which the gasoline station or garage is located. Upon the request of any purchaser of gasoline, the person selling such gasoline shall, in the presence of the purchaser, use such gasoline measure in the sale of such gasoline. [1922]

Sec. 27. Same: Duty to use 5-gallon measure when automatic device is under repair.

Whenever it becomes necessary in the repairing of any gasoline measuring device to break the seal of said gasoline measuring device, it shall be the duty of every person, firm or corporation selling or vending gasoline at a gasoline station or garage to use a 5-gallon measure which has been properly tested and sealed, until such time as the said gasoline measuring device shall have been repaired and properly tested and sealed by the sealer of weights, measures, and balances of the town or city in which the gasoline station or garage is located. [1922]

Sec. 28. Same: State sealer to furnish local sealer with 5-gallon liquid measure for use in testing.

The state sealer of weights, measures, and balances shall furnish to the sealer of weights, measures, and balances of each town and city one 5-gallon liquid measure, to be paid for by the respective town or city. Each measure before being used for the purpose described in this and the 2 preceding sections shall be tested and sealed by the state sealer of weights, measures, and balances to have a capacity of 5 gallons liquid measure according to the United States standard. Such measure after being so tested and sealed shall be used exclusively for the purpose of testing and sealing all

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measuring devices used in the sale of gasoline. [1922]

Sec. 29. Same: Testing and sealing of capacity of tank vehicles; marking; testing of meters thereon; fees.

The capacity of every tank vehicle and each compartment thereof used for the transportation over the public highways of this state of fuels, such as gasoline and other volatile and inflammable liquids including oils used for heating purposes, when used as a measuring device shall be tested and sealed at least once every 3 years by the state sealer of weights and measures. Said capacity, when so determined, shall be plainly printed upon the right-hand side of said vehicle tank done in letters and numerals not less than one inch in height. The meters of such vehicle tanks shall be tested and sealed at least once a year by the state sealer of weights and measures. The state sealer of weights and measures shall assess a fee of one-half cent per gallon for measuring tank vehicles and a fee of \$1.00 for testing meters on tank vehicles. [1938]

Sec. 30. Same: Offenses; penalties.

Every person who shall use or cause to be used any gasoline measuring device without first having the same tested and sealed by the town or city sealer of weights, measures, and balances wherein the said gasoline measuring device is located, and every person who shall use or cause to be used any gasoline measuring device after the same has been condemned by any town or city sealer of weights, measures, and balances and before the same has been again tested and sealed shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$50.00 for each offense. [1922]

Sec. 31. Enforcement of chapter.

The director of labor¹ shall enforce the provisions of this chapter. [1935]

¹ Now Director of Business Regulation. See P. L. 1940, Ch. 803, page 891.

General Laws 1938, Title XXXV, Ch. 408—Weights and Measures, Grain, Meal and Salt.

Sec. 1. Measurers: Election.

The towns of Bristol, Warren, West Warwick, East Greenwich and North Kingstown shall, and any other towns may, at any annual meeting for the choice of town officers, elect in each of said towns respectively not exceeding 2 persons to be measurers of grain and salt. The city councils of the several cities, at the time of the election of city officers, shall respectively elect at least 2 such measurers for said cities. [1857; last amended 1896.]

Sec. 2. Same: Appointment of deputies.

Such measurers may appoint as many deputy-measurers and employ as many assistants as they may deem expedient, who shall be engaged to the faithful performance of their duties. [1857]

Sec. 3. Same: Duties.

The measurers shall measure or cause to be measured in their presence, and shall certify the measure, of all corn, rye, oats, barley and other grain and salt imported into such town from without the limits of the state, which shall be sold and delivered from any vessel or water-craft or any railroad-car in said town, in any quantity exceeding 25 bushels at one sale, to one person or company. [1857]

Sec. 4. Legal measures; penalty.

In the sale of Indian corn and rye the same shall be estimated at the rate of 56 pounds to the bushel, barley at the rate of 48 pounds to the bushel, and oats at the rate of 32 pounds to the bushel. In the sale of Indian meal or rye meal by weight, the same shall be estimated at the rate of 50 pounds to the bushel. Every person who shall sell a less number of pounds for a bushel shall be fined \$10.00. [1872]

Sec. 5. Measurers: Fees.

The measurers shall receive as compensation, for every bushel of grain or salt aforesaid by them measured and certified, where the same shall exceed 150 bushels, one-half of one cent per bushel, and for any quantity less than 150 bushels, one cent per bushel, to be paid by the vendor upon the tender of the certificate of the measurers, the vendor charging one-half of the same to the purchaser, unless otherwise by them agreed; but no measurer shall be entitled to receive more than one-half of one cent per bushel for measuring whenever the quantity shall exceed 150 bushels, delivered from the same vessel or any car. [1857; last amended 1872.]

Sec. 6. Same: Duty to settle disputes.

The measurers or their deputies shall measure and certify as aforesaid in all cases of sale and delivery of said articles in the towns where they are appointed, in quantity aforesaid, from any store or other places of selling in said towns, whenever a dispute shall arise between the seller and purchaser, if called on for that purpose by either party, for which duty they shall receive the same compensation, and payable in like manner, as hereinbefore provided. [1872]

Sec. 7. Offenses; penalties.

Every person who shall sell and deliver from any vessel, water-craft or railroad-car in said towns any such grain or salt in a quantity exceeding 25 bushels, at one sale and delivery, without

having the same duly measured and certified as aforesaid by one of the said measurers, or shall refuse to permit a measurer or deputy to measure such articles when sold from any water-craft or railroad-car shall forfeit \$50.00 for each offense, one-half thereof to the use of the person who shall sue for the same and one-half thereof to the use of the town where the offense shall be committed. [1857; last amended 1872.]

Sec. 8. Same.

Every measurer or deputy-measurer who shall, after being duly requested to perform any of the duties prescribed by this chapter and after tender of his fees therefor, refuse or neglect so to do, shall forfeit \$10.00 for each offense, one-half thereof to the person who shall sue therefor and one-half thereof to the use of the town where such neglect occurred. [1857]

Sec. 9. Contract proviso.

Nothing in this chapter shall be so construed as to apply to or affect the sale, delivery or measuring of any of the articles aforesaid, in the sale whereof it shall have been contracted by the seller and purchaser that the same shall be sold and delivered at custom-house measure, the same being measured under the inspection of a custom-house inspector, or to the sale of grain where the contract is that it shall be delivered by weight. [1857]

General Laws 1938, Title XXXV, Ch. 409—Weights and Measures, Cotton Weighers.

Sec. 1. Election.

Weighers of cotton may be annually elected by the city council of the city of Providence, the representative council of the city of Newport and by the town councils of the several towns respectively. [1857; last amended 1923.]

Sec. 2. To weigh all cotton sold; exception.

All cotton sold in the state, unless otherwise specially agreed, shall be weighed by the weighers so chosen. [1857]

Sec. 3. Records; weight certificates.

Such weighers shall correctly weigh and record in a book to be kept for that purpose the weight of each bale of cotton, with the marks and numbers of the bales, and shall mark upon every bale, in plain figures, the weight of the same, and shall make a certificate of each lot of cotton, which certificate shall specify the marks, numbers and weight of each bale. [1857]

Sec. 4. Weight certificate; fees.

Such certificate shall be given to the seller of the cotton, and the weigher shall be paid for weighing and marking the same, on the delivery of the certificate, 8 cents per bale; and for every duplicate certificate of not exceeding 100 bales, 50

cents, and 50 cents for every additional 100 bales. [1857]

General Laws 1938, Title XXXV, Ch. 410—Weights and Measures, Neat Cattle.

Sec. 1. Weighing.

The following parts of all neat-cattle purchased by the hundred-weight or slaughtered by any person, such person having contracted to account for the same to the owner or seller of the same, shall be denominated "weighable"; namely, the whole of the several 4 quarters, the hide, horns and tal-low. [1857]

Sec. 2. Offense; penalty.

Every person slaughtering or weighing any neat-cattle, and being obliged to account for the same to the owner or seller thereof as aforesaid, who shall not weigh and account for all those parts of such cattle denominated weighable as aforesaid, shall forfeit for every offense \$20.00. [1857]

Sec. 3. Town weigher; tolerances.

The town weighers of neat-cattle shall weigh all parts of such cattle made weighable by sec. 1 of this chapter, deducting therefrom for green weight not more than 2 pounds for every 100 pounds of the weight thereof. [1857]

Sec. 4. Fees of weigher.

The fees of such weigher shall be 25 cents per head for all cattle weighed, one-half part of which shall be paid by the seller and one-half part thereof by the buyer. [1857]

General Laws 1938, Title XXXV, Ch. 411—Weights and Measures, Firewood and Charcoal.

Sec. 1. Standard cord of wood.

All firewood offered for sale by the cord shall measure in quantity equal to a cord of 8 feet in length, 4 feet in width and 4 feet in height, including one-half of the kerf and be well stowed and closely laid together. [1872]

Sec. 2. Corder; Fees.

Every person chosen by a town to be a corder of wood shall receive for cording and measuring not exceeding 12 cents per cord, to be paid by the purchaser of such wood. [1872]

Sec. 3. Offenses; penalty.

Every person who shall sell any firewood by the cord in any quantity not well stowed and closely laid together, or who shall fraudulently and falsely represent any quantity of firewood by him offered for sale to be a greater quantity, or who shall sell the same for a greater quantity, than it shall actually measure, or who shall otherwise commit any fraud in the sale thereof, shall be fined \$20.00. [1872]

General Laws 1938, Title XXXV, Ch. 411—Weights and Measures, Firewood and Charcoal—Continued.

Sec. 4. Standard charcoal measuring basket.

Every basket used in measuring charcoal brought into any town for sale shall be of the following dimensions, to wit: 19 inches in breadth in every part thereof, and 17 and one-half inches deep, measuring from the highest part of the bottom of the basket perpendicularly to a level with the top of the basket. [1872]

Sec. 5. Same: Sealing.

Every basket shall be sealed by the sealer of weights and measures of the town where the person so using the same shall usually reside, or of the town where such coal shall be so measured for sale, and shall also be well heaped. [1872]

Sec. 6. Same: Offense; penalty.

Every person who shall measure charcoal offered for sale in any basket of other dimensions than as aforesaid, or not sealed as aforesaid, shall be fined \$20.00. [1872]

Sec. 7. False baskets for measuring coal; prosecutions.

The town councils of the several towns may appoint, as occasion may require, some suitable person or persons to seize and secure, within their respective towns, all baskets used for measuring coal that shall not be of the dimensions aforesaid, and sealed as aforesaid, and to prosecute every person who shall be guilty of any violation of any of the provisions of this chapter; but no person shall be obliged to measure charcoal, where the quantity shall be agreed on by the buyer and seller. [1872]

Sec. 8. Standard short-wood or kindling-wood basket and cord.

All short-wood or kindling-wood sold by the basket shall be sold and delivered in baskets of the following dimensions, to wit: 21 inches in diameter at the top under the hoop, 13 inches in depth, measured from the highest part of the bottom thereof, and 17 inches in diameter at the bottom. Such baskets in selling shall be well heaped; and shall be sealed by the sealer of weights and measures of the town or city where the person so using the same shall reside, or of the town or city where such firewood shall be offered for sale. Forty-eight baskets of said dimensions shall constitute one cord of sawed wood. [1896]

Sec. 9. Same: Penalty for selling unsealed.

Every person who shall sell or deliver any short-wood or kindling-wood in any basket not sealed, or of other dimensions than as provided in the preceding section, shall be fined \$20.00. [1896]

Sec. 10. Seizure; prosecutions.

The town or city sealers of the several cities and towns, and such persons as the town councils of

the several towns may appoint, shall seize and secure all baskets used for measuring coal, short-wood, or kindling-wood, that shall not be sealed, or shall not be of the dimensions provided by law, and prosecute every person who shall be guilty of any violation of the provisions of the laws defining the size of such baskets. [1896]

Sec. 11. Penalty against sealer.

Every sealer of weights and measures who shall seal any basket not being of the lawful dimensions, shall be fined \$20.00. [1872]

General Laws 1938, Title XXXV, Ch. 412—Weights and Measures, Fish Manure Barrel.

Sec. 1. Barrel measure: Sealing.

Whenever fish are sold by measure for manure they shall be measured in a barrel or half-barrel, the barrel containing 28 gallons and the half-barrel 14 gallons, which shall be sealed by a sealer of weights and measures. [1872]

Sec. 2. Penalty against sealer.

Every sealer of weights and measures who shall seal any barrel or half-barrel which shall contain a less quantity than prescribed in the preceding section shall be fined \$50.00. [1872]

Sec. 3. Penalty for using unsealed measure.

Every person who shall measure any fish sold by measure in any barrel or half-barrel not sealed according to the provisions of this chapter shall be fined \$10.00 for each offense. [1872]

General Laws 1938, Title XXXV, Ch. 413—Weights and Measures, Hay and Straw.

Sec. 1. Weighing; tare deduction; marking requirements.

Before any hay or straw pressed into bundles shall be delivered to any purchaser within the state the same shall be weighed by some town weigher and the tare for wood and other bindings about the said bundles, as nearly as the same can be ascertained without unbinding the same, shall be deducted therefrom, and the gross weight of such bundle with the tare ascertained as aforesaid, and the said weight of the hay or straw therein shall, in legible figures with the initials of the weigher, be marked upon some board or wood attached to each bundle of hay or straw. [1872]

Sec. 2. Fraud in packing; penalty.

Every person who shall put into or conceal in any bundle of hay or straw any wet or damaged hay or other material or hay of an inferior quality to that which plainly appears upon the outside of such bundle, or who knowingly offers for sale or sells any bundle of hay as merchantable in which there is concealed any such wet, damaged or inferior hay or other materials shall be deemed guilty of a misdemeanor. [1872]

Sec. 3. Penalties for violating chapter.

Every person violating any of the provisions of this chapter shall be fined \$20.00 and forfeit \$100.00, one-half thereof to the use of the town and one-half thereof to the use of the person who shall sue for the same. But nothing herein contained shall be so construed as to apply to the sale of hay, and straw sold by the producer thereof for consumption and not to be resold, nor to prevent the purchase of commodities by a standard weight expressly agreed on by the parties. [1872]

General Laws 1938, Title XXXV, Ch. 414—Weights and Measures, Gauging of Casks.

Sec. 1. Method of gauging.

All casks which shall be gauged in this state shall be gauged by the method or rule commonly called "gauging by Gunter", computing the gallon at 231 cubic inches. Care shall be taken to ascertain, as near as may be practicable, the true average of the head and bung diameter, also of the internal length of the cask; its mean diameter shall be ascertained in accordance with the principles laid down in the work on the subject of gauging by Daniel Anthony, published in Providence in the year 1817. [1857]

Sec. 2. Fees; marking requirements.

The fees for gauging a single cask shall be 25 cents, and for gauging any number of casks not exceeding 10, 10 cents each, and for any number above 10, 7 cents each; the gauger who shall gauge any cask shall fairly mark with branding-irons or marking-irons on the head or bulge of each cask the initials of his name and the quantity of the gauge or capacity of such cask. [1857]

Sec. 3. Marking by person other than gauger; penalty; exception.

Every person, not holding the office of gauger, who shall put upon any cask any gauge or other permanent mark to denote the capacity of such cask, or who shall exercise the office of gauger or business of gauging, shall forfeit \$100.00 for each offense; but nothing contained in this section shall be so construed or held as to apply to the sale of petroleum or any of its products by weight or for exportation from the state. [1857]

Sec. 4. Selling by gauge weight not made by gauger; penalty.

Every person who shall sell any commodity by any gauge or gauge-mark, which shall not have been made by a gauger appointed under this chapter, shall forfeit the value of such commodity sold. [1857]

Sec. 5. Appointment for city of Providence; deputies.

The city council of the city of Providence may, whenever they deem it expedient, appoint for said city a gauger, who may appoint under him such

deputy-gaugers as said city council may approve, and for the official conduct of such deputies he shall be answerable. Said gaugers shall be subject to such regulations as said city council may establish not repugnant to law. [1857]

Sec. 6. Provisions for United States gaugers.

Nothing in this chapter shall be so construed as to prevent the sale of any commodity under the lawful gauge or gauge-mark of the United States by the inspector of such commodity. [1857]

Laws 1942, Ch. 1202—Weights and Measures, Sale of Vegetables.

Sec. 1. Sale by weight only.

It shall be unlawful for any person, firm, partnership, or corporation to sell at retail or offer to sell at retail any lima, fava, shell, wax, or green snap beans, peas, spinach, kale, dandelions and potatoes and such other vegetables of the commonly accepted staple classes as may be determined by the director of agriculture and conservation, in any other manner or measure other than by weight. [1942]

Sec. 2. Penalty for violations.

Every person, firm, partnership, or corporation violating section one of this act shall be fined not less than \$20.00 and not more than \$50.00, one-half thereof to the use of the city or town where the offense was committed and one-half thereof to the use of the state. [1942]

Sec. 3. Enforcement.

The enforcement and provisions of this act shall be under the jurisdiction of the director of agriculture and conservation. [1942]

General Laws 1938, Title XXXII, Ch. 332—Towns and Cities, Election of Town Sealers, etc.

Sec. 1. Election.

The electors in each town shall, on their town election days, choose and elect as many town officers as by the laws of the state are or shall be required; that is to say, * * * a town sealer of weights and measures, * * * one or more corders of wood, one or more packers of fish, one or more pound keepers, one sealer of leather, and as many constables, directors of public welfare, viewers of fences, gaugers of casks and all such other officers as by law are required in such town and as each or any town shall have occasion for, * * *. [1666]

General Laws 1938, Title XXXII, Ch. 333—Towns and Cities, Powers.

Sec. 5. Gauging of neat-cattle: Appointment.

The town councils of the several towns and cities shall, annually, in the month of April, appoint not

General Laws 1938, Title XXXII, Ch. 333—Towns and Cities, Powers—Continued.

less than 2 persons, for the purpose of weighing neat-cattle slaughtered for sale, in their respective towns; *provided, however*, that in the city of Providence the board of aldermen shall so appoint not less than 6 such persons, and in the city of Newport not less than 3 such persons shall be appointed. [1857]

Sec. 8. Measurers of wood, etc.: Appointment, bond.

The town councils of all towns, where boards, planks, timber, joist and scantling are imported for sale, shall annually, on or before the first day of March, appoint one or more surveyors and measurers of boards, plank, timber, joist and scantling, who shall be removable at the pleasure of the council, and who shall each be engaged, and give bond, with 2 securities, in the sum of \$500.00, to the town treasurer; for the faithful discharge of the duties of said office. [1857]

Sec. 19. Bread: Ordinances and regulations for settling assize; penalty.

They may make ordinances, by-laws and regulations for settling the assize of baker's bread in their respective towns, not contrary to the laws of the state: *Provided*, that the penalty for any breach of the same shall not exceed \$5.00, or the forfeiture of the bread not made in conformity thereto. [1857]

Laws 1940, Ch. 797—Coal and Coke, Department of Business Regulation.

Sec. 1. Transfer of functions of department of labor to.

The functions, powers and duties of the department of labor or the director of labor in connection with the administration of chapter 367 of the general laws, entitled "Licensing and regulation of the sale of coal and coke," amended as to reorganization by chapter 660 of the public laws, 1939, and further amended by chapter 733 of the public laws, 1939, are hereby assigned and transferred to the department of business regulation or the director of business regulation. [1940]

Sec. 2. References to department or director of labor, how construed.

Whenever in said chapter 367 of the general laws, as amended, or in any document, record or proceeding authorized by the same, the phrases "department of labor" or "director of labor" are used in reference to or descriptive of said department or the director thereof, or to its or his respective activities, such phrase or reference shall hereafter be deemed to refer to, include and describe the department of business regulation or the director of business regulation as the context requires. [1940]

Sec. 5. Amended relative sections.

Sections 120 and 121 of chapter 660 of the public laws, 1939, cited as the "Administrative act of 1939," are hereby amended to read as follows:

"DEPARTMENT OF BUSINESS REGULATION

"Sec. 120. There shall be a department of business regulation. The head of the department shall be the director of business regulation who shall carry out, except as otherwise provided by this act, the provisions of * * * chapters * * * 407 and 367 of the general laws of 1938, as amended by chapter 733 of the public laws, 1939. The director of business regulation shall also perform the duties required by any and all other provisions of the general laws and public laws in so far as such provisions relate to the * * * director of labor in his administration of the act relating to the licensing and regulation of the sale of coal and coke.

"FUNCTIONS

"Sec. 121. It shall be the function of the department of business regulation (a) to regulate public utilities and public service corporations; * * * and (f) to license and regulate the sale of coal and coke, and (g) to regulate and control the standards of weights and measures and balances, and powers, duties and liabilities of sealers." [1940]

Laws 1939, Ch. 733—Coal and Coke.

Sec. 6. Standard ton; standard receptacles; weight certificate.

All coal or coke sold or offered for sale by any licensee shall be sold by weight. Two thousand pounds avoirdupois shall be the standard of weight for the net ton, and two thousand two hundred forty pounds avoirdupois shall be the standard of weight for the gross ton. Coal and coke of one hundred pounds or less per unit shall be sold in bags, baskets or other vessels or receptacles, *provided, however*, that coal or coke shall not be sold or offered for sale in bags, baskets, vessels or receptacles in units of less than eighteen pounds. Said bags, baskets, vessels or receptacles shall be plainly marked in solid letters of not less than three-fourths of an inch in height, stating thereon the weight of coal or coke contained therein, the name and address of the dealer putting up the same, together with the size and kind. A statement upon a form approved by and a copy of which is filed with, the director of labor,¹ signed by the seller or the seller's agent setting forth the seller's name and business address, the name and address of the purchaser, the date of delivery and the kind, size and weight of such coal or coke, shall accompany the delivery of any coal or coke sold to consumers in the state of Rhode Island in quantities in excess of one hundred pounds and shall be given to the purchaser or purchaser's

agent upon delivery of such coal or coke. Every vehicle used by a licensee or other person in connection with the sale or delivery of coal or coke in this state shall be marked in such manner as the director of labor may require and each licensee shall display his license in a conspicuous place and manner at his principal place of business. [1939]

¹ Now Director of Business Regulation. The functions, powers, and duties of the department of labor or the director of labor have been assigned and transferred to the department of business regulation or the director of business regulation. See P. L., 1940, Ch. 797, page 900.

Sec. 7. Reweighing at public scales.

Whenever in this state coal or coke is being transported by a licensee or other person to a purchaser or consumer the director of labor,¹ or his agent or agents, may direct the person or persons having charge of such coal or coke to convey the same forthwith to scales designated by the director of labor, or his agent or agents, and thereupon said director, or his agent or agents, shall determine the quantity of such coal or coke and shall determine its weight, together with the tare weight, and shall direct such person or persons after unloading the coal or coke to return forthwith to the scales whereon the original load was weighed and upon such return said director, or his agent or agents, shall determine the tare weight. The scales designated by said director, or his agent or agents, used as aforesaid may be the public scales of any city or town or any other scales which have been duly tested and sealed and such scales as in the judgment of said director are most convenient; *provided, however*, that the provisions of this section shall not apply to coal or coke while being transported in trains or cars operated by any railroad or street railroad authorized to do business in this state. [1939]

¹ See footnote following Sec. 6, page 900.

Sec. 9. Enforcing agency.

The director of labor¹ shall be the administrator of the provisions of this chapter * * *. [1939]

¹ See footnote following Sec. 6, page 900.

Sec. 11. Revocation of license.

The director of labor¹, after due hearing, may suspend or revoke any license issued under the provisions of this chapter for using or giving false or insufficient weight, * * *. [1939]

¹ See footnote following Sec. 6, page 900.

Sec. 13. Penalty for violations.

Whoever violates any provision of this chapter, or whoever is guilty of fraud or deceit in the weighing, selling or delivering of coal or coke, or whoever wilfully, by himself or his servant, agent or employee, sells or delivers or distributes or offers to sell, deliver or distribute any coal or coke which does not comply with the standards and specifica-

tions established pursuant to the provisions of this chapter shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars. In any proceeding to enforce the provisions of this chapter the director of labor¹ shall not be required to enter into any recognizance or to give surety for costs. [1939]

¹ See footnote following Sec. 6, page 900.

Sec. 14. Construction of provisions of chapter.

The provisions of this chapter, except section 10 [relating to quality] hereof, shall be construed and deemed to apply to all anthracite and bituminous coal and to all coke and other fuels containing coal or coke which may be sold or offered for sale in this state. The term "coal" as used in this chapter, except in section 10 hereof, shall include both anthracite and bituminous coal and other fuels containing coal. The provisions of section 10 hereof shall apply only to such kinds of coal, coke and other fuels to be sold or offered for sale in this state as are expressly designated in said section. [1939]

General Laws 1938, Title VI, Ch. 45—Petroleum Products.

Sec. 3. Capacity of vehicle tanks to be measured; sealing; marking.

* * * * *

The capacity of every vehicle tank, and each compartment thereof, used for the transportation of fuels shall be measured and sealed by an official sealer of weights and measures, and such capacity when so determined shall be plainly printed upon the right hand side of said vehicle tank in letters and numerals not less than one inch in height. [1925; last amended 1929.]

Sec. 11. Inspection; unlawful to give false weight or measure.

The division of taxation may cause its investigators and examiners to make inspections and examinations of filling stations, pumps, measuring devices, storage tanks, and tanks on motor vehicles.

* * * It shall be unlawful for any person, firm, or corporation to give false or insufficient weight or measure in the sale of fuels or lubricating oils. [1925; last amended 1940.]

Sec. 15. Enforcing agency.

The tax administrator shall enforce the provisions of this chapter. [1925; last amended 1940.]

General Laws 1938, Title XVI, Ch. 122—Public Utilities, Meters.

Sec. 44. Testing; fees; tolerance.

The said division [division of public utilities]¹ shall provide for the examination and testing of any and all appliances used for measuring any product or service of any public utility. Any consumer or user may have any such appliances tested

General Laws 1938, Title XVI, Ch. 122—Public Utilities, Meters—Continued.

upon payment of the fees fixed by the said division. The said division shall declare and establish reasonable fees to be paid for the testing of such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliances be found defective or incorrect or to the disadvantage of the consumer or user. A meter shall be deemed correct for the purpose of this section if it appears from such examination or test that it does not vary more than 2 per cent from the standard approved by the said division. [1912]

¹ Now Department of Business Regulation. Laws of 1939, Ch. 660, Sec. 120, creates a department of business regulation and provides: " * * * The head of the department shall be the director of business regulation who shall carry out except as otherwise provided by this act, the provisions of chapter * * * 122 * * * of the general laws of 1938; * * *. The director of business regulation shall also perform the duties required by any and all other provisions of the general laws and public laws in so far as such provisions relate to the director of revenue and regulation, * * *, chief of the division of public utilities, * * *."

The law provides that the "function of the department of business regulation shall be (a) to regulate public utilities and public service corporations; * * *."

Sec. 62. Enforcing agency.

The chief of the division of public utilities¹ shall enforce the provisions of this chapter, and such other laws as in the judgment of the director of revenue and regulation¹ are applicable to such division. [1912; last amended 1935.]

¹ See footnote following Sec. 44 above.

Laws 1939, Ch. 660—Department of Agriculture and Conservation.

Sec. 160. Creation; director; enforcement of chapters 201-233.

There shall be a department of agriculture and conservation. The head of the department shall be the director of agriculture and conservation who shall carry out, except as otherwise provided in this act, the provisions of chapters 201 to 233 inclusive * * * of the general laws of 1938 and any and all other general laws and public laws heretofore carried out by the existing director of agriculture and conservation and department of agriculture and conservation. [1939]

General Laws 1938, Title XXII, Ch. 208—Commercial Fertilizer and Feeds.

Sec. 1. Commercial fertilizer: Marking requirements.

Every lot or parcel of commercial fertilizer, or material used for manurial purposes, excepting the dung of poultry and domestic animals in its usual condition, sold, offered, or exposed for sale within this state shall be accompanied by a plainly

printed label stating clearly and truly the number of net pounds of fertilizer in the package, * * * [1910]

Sec. 4. Same: Penalty for not labeling.

Any person selling, offering or exposing for sale any commercial fertilizer, or material used for manurial purposes, without the statement as required by the first section of this chapter * * * shall pay a fine of \$50.00 for the first offense, and \$100.00 for each subsequent offense. [1910]

Sec. 5. Same: Exceptions.

This chapter shall not affect parties manufacturing, importing, or purchasing fertilizers for their own use, and not to sell in this state. [1910]

Sec. 10. Commercial feeds: Definition.

The term "commercial feeds" shall be held to include all materials used for feeding animals or birds, except the following:

(a) Unmixed whole seeds or grains;

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo, and other seeds or grains;

(c) Whole hays, straws, cottonseed hulls, corn stover and silage, when unmixed with other materials.

(d) Feed mixed according to a formula furnished by the consumer, for his own use, and not sold as a commercial brand. [1936]

Sec. 11. Same: Marking requirements.

All manufacturers, importers, jobbers, firms, associations, corporations or persons shall before selling or offering for sale in this state any brand of commercial feed have printed on, or attached to each bag, package, carton or delivered with each bulk lot a plainly printed statement, hereafter referred to as the label, in a conspicuous place on the outside, containing a legible and clearly printed statement in the English language clearly and truly stating:

(a) The net weight of the contents of the package, bag, carton or bulk lot; [1936]

* * * * *

Sec. 19. Same: Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state, any commercial feeds * * * if the number of net pounds set forth upon the package is not correct, or who shall violate any other provision of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00 for the first violation and not less than \$100.00 for each subsequent violation. * * * [1936]

Sec. 20. Enforcement of chapter; rules and regulations.

The director [director of agriculture and conservation] is hereby empowered to enforce the provisions of this chapter, * * * [1936]

General Laws 1938, Title XXII, Ch. 211, Secs. 1 to 7—Eggs.

[ED. NOTE.—These sections provide for the grading of eggs according to candling and size, under the direction of the chief of the bureau of markets. The pertinent sections are omitted as they relate primarily to quality.]

General Laws 1938, Title XXII, Ch. 212—Containers for Apples and Other Farm Products.

Sec. 1. Apples: Marking of closed packages.

Each closed package of apples packed or repacked within the state and intended for sale within or without the state shall be marked or branded at the time of packing, repacking or closing with a statement of the quantity of the contents, the name and address of the person by whose authority the apples were packed, * * * in accordance with Sec. 5 of this chapter. * * * If apples are repacked, the packages shall be marked "Repacked," and shall bear the name and address of the person by whose authority it is repacked in place of that of the person by whose authority it was originally packed. [1931]

Sec. 2. Same: Size of lettering on label.

The branding or marking of barrels, boxes or baskets under the provisions of this chapter shall be in block letters and figures not less than one-half inch in height. The director of agriculture and conservation shall prescribe rules and regulations as to the lettering to be used in branding, or marking other packages. [1931]

Sec. 3. Same: When deemed misbranded.

For the purpose of this chapter, apples packed in a closed package shall be deemed to be misbranded:

First. If the package fails to bear all statements required by Sec. 1 of this chapter.

Second. If the package bears any statement, design or device regarding such article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular. [1931]

Sec. 4. Same: Closed package defined.

The term "closed" package when used in this chapter shall mean a barrel, box, basket or other container, the contents of which cannot be sufficiently inspected without opening it or removing any kind of cover or lid to expose the surface contents to view. [1931]

Sec. 5. Same: Standard barrel; bushel.

The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: length of stave, 28 and one-half

inches; diameter of heads, 17 and one-eighth inches; distance between heads, 26 inches; circumference of bulge, 64 inches, outside measurements; 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 7,056 cubic inches shall be a standard barrel. The standard bushel box or standard bushel basket for apples shall be a container having a capacity of not less than one United States standard bushel or 2150.42 cubic inches. Containers for apples other than the standard barrel or bushel shall be marked in terms of cubical capacity or count. [1931]

Sec. 8. Same: Penalties for violations.

Whoever himself or by his servant or agent misbrands apples within the meaning of this chapter, or packs, sells, distributes, offers or exposes for sale or distribution apples which are misbranded, or apples in closed or open packages so packed that the faced or shown surface gives a false representation of the contents of such package, or otherwise packs, sells, distributes, offers or exposes for sale or distribution, apples in violation of any provision of this chapter, shall be punished for the first offense by a fine not exceeding \$25.00 and for a subsequent offense by a fine not exceeding \$100.00, or be imprisoned for a term of 3 months or both such fine and imprisonment. [1931]

Sec. 9. Farm products: Rules and regulations for marking, labeling, etc.; conformance to rules.

The director of agriculture and conservation is hereby authorized and instructed to promulgate reasonable rules and regulations relative to grading, marking, labeling, packing and branding of products of the farm. Any fruit or vegetable offered or exposed for sale or distribution in a closed or open package so packed that the faced or shown surface gives a false representation of the contents of such package shall be construed to be misbranded under the terms of this section. Products of the farm sold or offered for sale as graded, marked, labeled, packed or branded as conforming to said rules and regulations, must in fact so conform. [1926; last amended 1930.]

Sec. 10. Same: Penalty for violating Sec. 9.

Any person, firm or corporation who shall violate any provision of sec. 9 or any rule or regulation of the director of agriculture and conservation made thereunder, shall be punished by a fine of not less than \$25.00 nor more than \$100.00 or be imprisoned for a term of 3 months or by both such fine and imprisonment. [1926; last amended 1930.]

Sec. 11. Enforcement of chapter.

The director of agriculture and conservation shall enforce the provisions of this chapter. [1926; last amended 1930.]

General Laws 1938, Title XXII, Ch. 216—Milk and Cream.

Sec. 1. Sale by standard measure; penalties; purchaser has recourse to town sealer, when; state sealer may license manufacturer to seal receptacles, when; receptacles, how to be sealed; revocation of license; such sealing does not authorize use as legal measures; tolerance on glass bottles and jars.

All milk, cream and skimmed milk shall be sold only by standard wine measure, and by or in measures, cans, jars, bottles, or other vessels or receptacles which shall, prior to being used in such sale, be sealed by the manufacturer thereof as herein-after provided, or by the sealer of weights and measures of the town where the person so using the same shall usually reside in this state, or of the town where such milk shall be sold for use; and every person selling any of the same contrary to this section or delivering any of the same sold contrary hereto, shall be fined for the first offense not less than \$20.00 and not exceeding \$50.00, and for any subsequent offense not less than \$50.00, or imprisonment not to exceed 60 days, or both such fine and imprisonment. Any purchaser of milk, cream or skimmed milk, having reason to believe that any measure, can, jar, bottle or other vessel or receptacle in which milk, cream or skimmed milk is sold and delivered to him is not of sufficient size or capacity to contain, by standard wine measure, the amount thereof purchased, may apply to the sealer of weights and measures of the town in which such milk, cream or skimmed milk is delivered to him, which sealer shall, upon receipt of a fee of 25 cents therefor, test the capacity of the same and issue to such purchaser his certificate stating the capacity thereof; and if such capacity according to such certificate shall be less than the amount purchased such purchaser may make complaint and deliver such certificate to any officer of such town authorized to make complaints for the violation of this chapter, who thereupon shall duly make complaint against and prosecute the person or persons selling or delivering the same, for violation of this section. Upon the application of a manufacturer of a can, jar, bottle or other vessel or receptacle to be used in the sale of milk, cream or skimmed milk, the state sealer of weights and measures * * * may issue a license to such manufacturer to seal any such can, jar, bottle or other vessel or receptacle for use in this state. All such cans, jars, bottles or other vessels or receptacles shall be sealed by the manufacturer thereof in such manner and in accordance with such regulations as the state sealer of weights and measures in the department of labor may prescribe and shall be marked with the name, initials, or trade mark of the manufacturer, and by any other mark which the state sealer of weights and measures may require. The state sealer of weights and measures may revoke any such license at any time after giving the manufacturer

holding such license 10 days' notice of the proposed revocation. The sealing of any such can, jar, bottle, or other vessel or receptacle by a manufacturer shall not authorize the use of the same as legal measures nor shall any such sealing be held to affect the provisions of law relating to the giving of false measure, or the using of a false measure, or the having in possession a false measure with intent to use the same: *Provided, however*, that the wine measure as defined in this section shall permit a variation of one-half an ounce in the contents of glass bottles or jars. [1915]

Sec. 13. Sale of watered milk unlawful; penalty.

No person, firm or corporation shall sell or exchange or have in his possession with intent to sell or exchange, adulterated milk or milk to which water or any foreign substance has been added.

Every person, firm or corporation who shall be found guilty of violating any of the provisions of this section upon first conviction shall be fined not to exceed \$20.00; and upon the second and every subsequent conviction shall be fined not to exceed \$50.00 and may be imprisoned in the county jail for not exceeding 10 days. [1921]

Sec. 20. Convicted persons; names published.

Every inspector of milk shall cause the name and place of business of all persons convicted under this chapter [Secs. 1-39] to be published in 2 newspapers published in the town or county where the offense shall have been committed. [1921]

Sec. 21. Who to prosecute.

Any chief of police and any inspector of milk, and such special constables as the town council of any town or the board of aldermen of any city, may appoint for that purpose, may make complaints and prosecute for all violations within the city or town wherein they are appointed or elected, of any of the provisions of this chapter [Secs. 1-39]; and they each shall be exempt from giving surety for costs on any complaint made as aforesaid. [1921]

Sec. 29. Enforcement.

It shall be the duty of the chief of the division of animal industry and milk control, together with his deputies and assistants to exercise in any part of the state all the powers of inspector of milk, deputy inspector of milk or collector of samples, in the enforcement of all laws relating to milk, under the direction of the director of agriculture and conservation, and for such purpose, he may, with the approval of the director of agriculture and conservation, employ such assistants as may be necessary to enable him to properly discharge his duty. * * * [1927; last amended 1935.]

Sec. 30. Babcock test: Glassware; testing; fees; offenses.

No bottle, pipette, or other measuring glass or utensil shall be used by an inspector of milk or by

any person in any milk inspection laboratory, in determining, by the Babcock or other centrifugal machine, the composition of milk or cream for the purposes of inspection, or by any person in any place in determining by the Babcock or other centrifugal machine, the composition or value of milk or cream as a basis for payment in buying or selling, until such measuring glass, or utensil has been tested for accuracy and verified by the chief of said division [division of animal industry and milk control], or by a duly authorized assistant. Each such bottle, pipette, or other measuring glass or utensil shall be submitted to said chief, or such assistant, by the owner or user thereof, to be tested for accuracy, before the same is used for the purpose aforesaid. A fee of 5 cents for each bottle, pipette, or other measuring glass or utensil so tested shall be paid by the owner or user thereof to the person making such tests. Each measuring glass or utensil so tested and verified or found inaccurate shall be marked accordingly by said chief or such assistant, and no such measuring glass or utensil so marked as inaccurate shall be used in determining the composition or the value of milk or cream. [1928]

Sec. 31. Same: Centrifugal machine; testing; offenses.

Each Babcock or other centrifugal machine used by an inspector of milk or by a person in a milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by a person in any place for determining the composition or value of milk or cream as a basis for payment in buying or selling, shall be inspected at least once in each calendar year by said chief [of the division of animal industry and milk control] or by a duly authorized assistant. The owner or user of any such centrifugal machine shall pay to the person making such inspection as a fee therefor the actual cost of such inspection.

Each Babcock or other centrifugal machine used as aforesaid which, in the opinion of said chief or such assistant, is not in condition to give accurate results, may be condemned by him. No Babcock or other centrifugal machine so condemned shall be used for determining the composition or value of milk or cream as aforesaid, unless and until such machine is corrected to the satisfaction of said chief, or such assistant, and approved by him. [1928]

Sec. 34. Same: Inspection; fees; right of entry.

The said chief [chief of the division of animal industry and milk control] shall test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him under sec. 30 of this chapter and shall inspect, or cause to be inspected, at least once each year, each Babcock or other centrifugal machine used by an inspector of milk, or by a person in any milk inspection laboratory, for purposes of inspection, or by any person in any place to determine the composition or value

of milk or cream as a basis for payment in buying or selling, and shall collect the fees or actual cost of tests and inspections under Secs. 30 to 33 inclusive of this chapter, and shall pay the same over to the general treasurer at least once each month. The said chief, and any duly authorized assistants, may enter upon premises where any centrifugal machine is so used, to inspect it and to ascertain if said last mentioned sections are complied with. [1928]

Sec. 35. Same: Rules and regulations; weighing marginal containers.

The chief of the division of animal industry and milk control may make such rules and regulations, not inconsistent with law, as in his judgment may be helpful in carrying out the provisions of this chapter [Secs. 1-39] and for the purpose of insuring accuracy in the weighing, sampling and testing of milk; and, to further insure accuracy in the weighing of milk, any milk sold by weight and test, and delivered to any registered distributor or dealer within this state, may, in the discretion of said chief, be weighed in the original containers in which such milk is received and in the presence of the shipper or his duly authorized agent. [1928; last amended 1932.]

Sec. 36. Same: Offenses; penalties.

Whoever hinders or obstructs said chief, or a duly authorized assistant, in the discharge of any authority or duty imposed by any provision of Secs. 30 to 35 inclusive of this chapter, and whoever violates any provision of said sections shall be punished by a fine of not less than \$15.00 nor more than \$50.00. [1928]

Sec. 37. Same: Exemptions.

Sections 30 to 36 inclusive of this chapter shall not affect any person using any centrifugal or other machine or test to determine the composition or value of milk or cream if such use or test is made for the information of such person only, and not for purposes of inspection, or as a basis for payment in buying or selling. [1928]

Sec. 38. Sale at wholesale.

Nothing in this chapter contained shall be construed to prohibit the selling of milk, cream or skim-milk at wholesale, or the making of any contract for the sale thereof at wholesale, by weight and test. [1928]

Sec. 39. Enforcing agency.

The chief of the division of animal industry and milk control, appointed by the director of agriculture and conservation, shall enforce the provisions of this chapter, under the supervision of said director. [1928; last amended 1935.]

General Laws 1938, Title XXV, Ch. 269—Foods.

Sec. 1. "Misbranding" unlawful; penalties; exceptions.

It shall be unlawful for any person, firm or corporation, as principal, or by a servant, or agent, to manufacture, sell, or offer for sale within this state, any drug or article of food which is adulterated or misbranded within the meaning of this chapter, and any person, firm or corporation, as principal or by a servant, or agent, violating any of the provisions of this chapter shall be guilty of misdemeanor, and shall, upon conviction, be punished for the first offense by a fine not exceeding \$50.00, for the second offense by a fine not exceeding \$100.00, and for the third and each subsequent offense by a fine of not exceeding \$200.00, or imprisonment for one year: *Provided*, that no article shall be deemed misbranded or adulterated within the provisions of this chapter when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if such article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this chapter. [1917]

Sec. 2. Definition.

* * * The term "food" as used herein shall include all articles whether simple, mixed, or compound, used for food, drink, confectionery or condiment by man or other animals. * * * [1916]

Sec. 6. When food deemed misbranded.

A drug or an article of food, or an article which enters into the composition of food, shall be deemed to be misbranded:

* * * * *

In the case of food:

* * * * *

Second.—If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count: *Provided, however*, that reasonable variations shall be permitted and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of sec. 12 of this chapter. [1914]

Sec. 7. Guaranty protection.

No dealer shall be convicted under the provisions of this chapter, when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that

the same is not adulterated or misbranded within the meaning of the food and drugs act of the United States, approved June 30, 1906,¹ as amended, or of this chapter. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this chapter. [1914]

¹ Superseded by Federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.; 52 Stats. 1040 et seq.

Sec. 12. Enforcement; rules and regulations.

It shall be the duty of said division of foods and drugs and the director of public health to enforce the provisions of this chapter and to prosecute every person, firm or corporation violating the same and for this purpose said division may employ experts if necessary. Any agent authorized by the chief of said division may make complaints for any violation of the provisions of this chapter and said chief or such agent of said division making such complaint shall not be required to give surety for the payment of costs. Said chief shall adopt such rules, consistent with the provisions of this chapter, as may be necessary for its enforcement * * *.

Said chief shall have authority to appoint such agents as may be necessary to assist in the enforcement of this chapter. Said agents shall work under the direction of the said chief and shall perform such duties as the said chief shall prescribe for them to perform. [1915]

General Laws 1938, Title XXVI, Ch. 273—"Uniform Narcotic Drug Act."

Sec. 21. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1934]

Sec. 47. Penalty for violations.

Any violation of the provisions of this chapter, the punishment for which is not specified herein, and of the rules and regulations of the division made under authority of this chapter, shall be punished by a fine of not more than \$1,000.00, or by imprisonment for a term not exceeding one year, or by such fine and imprisonment. [1934]

Sec. 50. Enforcement.

* * * it shall be the duty of said division [Division of Narcotic Drugs and Pharmacies] to promote the enforcement of the provisions of this chapter, and in the furtherance of this purpose said

division may appoint an investigator and such clerical assistance as may be deemed necessary within the amounts appropriated therefor, and may call upon the attorney-general and the police authorities of the several cities and towns to prosecute any violations of this chapter. * * * [1934]

General Laws 1938, Title XXXIV, Ch. 379—Business Regulations, Beef and Pork.

Sec. 1. Standard casks required; exception.

No person shall sell, ship or export for sale from this state any salted beef or pork except in casks of the quality and dimensions hereinafter provided, nor unless the contents thereof shall be inspected and packed and the casks containing the same branded agreeably to the directions in this chapter, unless a special contract be made respecting the same. [1857]

Sec. 2. Standards for beef.

All beef put up in casks for sale or exportation shall be * * * cut in pieces as nearly square as may be, which shall be not more than 8 pounds nor less than 4 pounds in weight. [1857]

Sec. 8. Casks: How made.

Every cask in which mess beef or in which clear or mess pork shall be packed shall be made of good seasoned white oak or white ash staves and heading not less than five-eighths of an inch in thickness, free from sap and every defect; to be covered three-fourths of the length with good hoops, leaving one-fourth in the centre, the hoops to be well set and drawn together; but casks containing prime beef and cargo beef or prime pork may be hooped with only 12 hoops, which shall be well secured with not less than 3 pins on each bulge. [1857]

Sec. 9. Marking requirements.

On the head of every cask in which beef or pork is packed shall be branded the weight it contains, which shall be only even hundreds, with the first letter of the christian name and the surname at length of the inspector who has inspected the same, with the name of the town where it was inspected and the words RHODE ISLAND in legible letters not less than three-fourths of an inch long. [1857]

Sec. 10. Weight per barrel.

Two hundred pounds of beef shall be considered and taken as a barrel of beef, and 200 pounds of pork shall be considered and taken as a barrel of pork. [1857]

Sec. 11. Penalty for violations; exception.

Every person who shall sell or offer for sale any salted beef or pork in casks before it shall have been inspected and branded as aforesaid, unless there shall be a special contract in relation to the

kind and quality of the article sold, shall forfeit \$20.00 for each cask. [1857]

Sec. 12. Act, how construed.

This chapter shall not be so construed as to repeal or to affect an act entitled "An act authorizing the city of Providence to elect an inspector of beef and pork for said city," passed June 29, 1833, nor the inspection of beef and pork in said city; *Provided*, the inspection be conformable to this chapter. [1857]

Sec. 15. Inspectors; election or appointment; compensation; bond.

The town council of any town and the city council of any city are hereby authorized to elect annually, or appoint one or more inspectors of beef and pork, and to provide for the compensation by salary or fees. Every such inspector shall, before entering upon the duties of his office, give bond in the sum of \$1,000.00 for the faithful performance of the duties of such office * * *. [1914]

General Laws 1938, Title XXXIV, Ch. 380—Business Regulations, Pickled Fish.

Sec. 3. Sorting.

Pickled fish, whether codfish, mackerel, menhaden, herrings or other fish, shall be sorted and one kind only be put into the same cask. [1857]

Sec. 4. Standard cask, barrel, and half-barrel.

Every cask shall be well seasoned and bound with 12 hoops; casks for menhaden and herrings shall be of the capacity to hold 28 gallons, and those of other fish of the capacity, if a barrel, to hold 200 pounds, and if a half-barrel, 100 pounds weight of fish; each cask shall be full and the fish shall be sound and well cured. [1857]

Sec. 5. Marking requirements.

Every cask before being packed or repacked for exportation shall be at first searched, examined and approved by a packer; and shall, when so packed or repacked for exportation, be branded legibly on one head with the kind of fish it contains and the weight thereof, or the capacity of the cask with the first letter of the christian and the whole of the surname of the packer, the name of the town and the words RHODE ISLAND in letters not less than three-fourths of an inch long, to denote that the same is merchantable and in good order for exportation. [1857]

Sec. 16. Penalty for violations.

Every packer who shall be guilty of any fraud or neglect in packing any fish contrary to this chapter, or shall brand any cask not thoroughly examined according to the provisions thereof, shall be fined \$50.00 for each offense. [1872]

General Laws 1938, Title XXXIV, Ch. 380—Business Regulations, Pickled Fish—Continued.

Sec. 17. Fees.

The packers of fish shall be paid for opening, assorting, inspecting, weighing, pickling, packing, or repacking, heading-up, nailing, and giving a certificate, if pickled codfish or mackerel, 20 cents for every barrel and 15 cents for every half-barrel by the owner thereof: *Provided*, that for all pickled codfish or mackerel which have been inspected in some one of the United States and which shall not in the judgment of the packer require repacking, the said owner shall pay to the packer 20 cents only for unheading, inspecting, reheading, branding, nailing and giving a certificate thereof, and for all other, except codfish and mackerel, the owner thereof shall pay the packer 25 cents for every cask. [1872]

General Laws 1938, Title XXXIV, Ch. 383—Business Regulations, Sale of Various Commodities.

Sec. 1. Butter containers: Marking requirements.

Every person who shall make or bring into the state any butter firkins or tubs shall brand or mark each one of the same with the weight thereof and with the initial letters of his name, in a plain and durable manner, before he offers the same for sale. [1857]

Sec. 2. Same: Marking required.

No person shall offer for sale any butter by the firkin or tub unless each firkin and tub shall be branded or marked as aforesaid. [1857]

Sec. 3. Same: Penalty for violations; exception.

Every person who shall offer for sale any butter firkin or tub before the same shall be marked or branded as required in sec. 1 of this chapter, or any butter by the firkin or tub, in any firkin or tub not marked or branded as aforesaid, or in any firkin or tub which shall weigh more than the mark or brand on it, allowing 2 pounds additional for the brine absorbed by the same, shall forfeit \$5.00, unless there shall be a special contract in relation to the kind, quantity and quality of the article sold. [1857]

Sec. 6. Potatoes: Weight per bushel.

In the sale of potatoes by weight, the same shall be estimated at and after the rate of 60 pounds per bushel. [1857]

Sec. 7. Onions or root-crops: Weight per bushel.

In the sale of onions and of all other root-crops by weight, the same shall be estimated at and after the rate of 50 pounds per bushel. [1857]

Sec. 8. Nuts, shelled beans and berries: Sale by dry measure; penalty.

Nuts and shelled beans and all kinds of berries, whenever sold by measure, shall be sold by dry

measure. And any person who shall sell any nuts or shelled beans or any kind of berries by any measure other than dry measure shall be fined not exceeding \$20.00, one-half thereof to the use of the town or city in which the offense shall have been committed and one-half thereof to the complainant. [1892]

Sec. 10. Enforcement of chapter.

It shall be the duty of the chief of the division of foods and drugs to prosecute any person, firm or corporation violating any of the provisions of this chapter, and the chief of said division when making such complaint shall not be required to give surety for the payment of costs. [1916]

General Laws 1938, Title XXXIV, Ch. 387—Business Regulations, Sewing Thread.

Sec. 1. Label.

Every manufacturer of sewing-thread or person engaged in putting up thread on spools or in packages intended for sale shall, before the same is offered for sale, affix to each spool or package a label or ticket designating the number of yards of thread which such spool or package contains. [1872]

Sec. 2. Penalty for violations.

Every such person who shall purposely neglect to affix such label to each spool or package of thread or shall, with intent to deceive, affix or cause to suffer to be affixed a label or ticket to any spool or package of thread intended for sale specifying that such spool or package contains a greater number of yards of thread than such spool or package contains, shall forfeit the sum of \$50.00 for each spool or package so without a label or falsely labeled which shall be sold or be delivered by him to any person to be sold, one-half thereof to the use of the state and one-half thereof to the use of the person who shall sue for the same. [1872]

General Laws 1938, Title XXXIV, Ch. 388—Business Regulations, Surveying of Lumber.

Sec. 1. Surveyor for Providence: Election; term of office.

There shall be a surveyor of lumber for the city of Providence, who shall be well skilled in the surveying and admeasurement of lumber; he shall be elected in the month of February annually, by the city council of said city, and shall hold his office for one year and until a successor be chosen, unless sooner removed. [1857]

Sec. 2. Same: Bond.

Such surveyor shall, before entering on the duties of his office, give bond with 2 sureties to the city treasurer, in the sum of \$2,000.00, for the faithful discharge of his duties. [1857]

Sec. 3. Same: Appointment of deputy-surveyors.

Such surveyor may appoint, subject to the approval of the city council of said city, such number of deputy-surveyors, not less than 6, as he may judge sufficient, for whose official conduct he shall be answerable. [1857]

Sec. 4. Same: Bond of deputies.

Such surveyor shall take bonds from said deputies for the faithful discharge of their duties, in the sum of \$500.00 each, with surety; and the deputies shall be sworn faithfully to perform the same, and shall be removable by the surveyor for neglect of duty. [1857]

Sec. 6. Surveyor for Newport: Election; bond.

The representative council of the city of Newport shall annually, in the month of February, elect one or more surveyors and measurers of boards, planks, timber, joist and scantling, removable at the pleasure of said representative council, who shall each give bond, with surety, in the sum of \$1,000.00, to the city treasurer, for the faithful discharge of the duties of said office. [1857]

Sec. 7. Extent of provisions of chapter.

Every surveyor and measurer of boards, planks, timber, joist and scantling, appointed by the town council of any town or by the representative council of the city of Newport, shall be subject to all the duties, provisions and penalties contained in this chapter. [1857]

Sec. 9. Lumber to be measured.

All lumber brought by water or imported, discharged or delivered in this state, whether on the land or into a boat or vessel, except as hereinafter provided, shall be surveyed and admeasured according to the provisions of this chapter. [1857]

Sec. 11. Same: Manner.

All boards less than three-fourths of an inch thick shall be surveyed and measured in the same manner as to quality, quantity and numbers, as though they were of the thickness of one inch. [1857]

Sec. 12. Same: Planks and joists.

All planks and joists shall be surveyed as to quality and numbers the same as boards and their contents measured and marked in board-measure. [1857]

Sec. 15. Deputies appointed for certain purposes.

The surveyor of lumber for any city may appoint one or more deputy-surveyors, whose duty it shall be to survey mahogany, cedar and cherry-tree boards, planks, joists and timber, and other ornamental or hard wood lumber, and ship-timber, and such deputy shall give bond with surety, as is required in sec. 4 of this chapter. [1857; last amended 1872.]

Sec. 18. Board measure to be marked.

In the survey of all boards, planks, joists and timber the contents of the same in board-measure shall be truly marked thereon in plain and durable numbers, and all other marks if not correct shall be erased; and in marking the contents of any lumber the board-measure commonly used in marking boards shall be used and no other. [1857]

Sec. 21. Fees for measuring.

There shall be paid for the survey of all lumber, excepting hard woods, 25 cents per 1,000 feet board-measure, for mahogany, cedar and cherry-tree timber, boards, planks and joists, 50 cents per 1,000 feet board-measure, for oak and other hard woods, for ship-building, 25 cents per ton, for ash, maple, birch and other hard wood, 40 cents per 1,000 feet board-measure, to be paid by the purchaser, and in case the purchaser shall require that a person should be employed to keep tally of the lumber, an additional fee of 5 cents per 1,000 feet shall be paid for such service. No stock lumber shall be surveyed unless requested by the purchaser. [1857; last amended 1882.]

Sec. 22. Fee for surveyor's use.

There shall be paid to the surveyor, of the fees aforesaid, for his own use, 3 cents on every 1,000 feet of pine, spruce, hemlock and juniper boards, planks, joists and sawed timber, 4 cents on every ton of oak and other ship-timber, 6 cents on every 1,000 feet board-measure of mahogany, cedar and other ornamental lumber, ash, maple, birch and other hard wood. [1857]

Sec. 23. Measurement on board vessel.

No lumber shall be surveyed on board a vessel when the same can be conveniently landed for the inspection of the surveyors. [1872]

Sec. 25. Exemption from measuring provisions.

Every person importing or purchasing lumber for his own private use and benefit, upon giving a certificate to that effect to the surveyor, shall not be required to have the same surveyed and measured as aforesaid; but should he dispose of it in any other manner than is provided in this section, he shall be liable to the same penalties as though said certificate had not been given. [1857]

Sec. 26. Exemption from measuring provisions during transportation.

No person purchasing lumber without the state and transshipping the same through this state to any other state shall be required to have the same surveyed and measured. [1857]

Sec. 27. Penalty for violating chapter.

Every person who shall sell, purchase, deliver or take the delivery of any boards, planks, joists or timber, in violation of any of the provisions of this

General Laws 1938, Title XXXIV, Ch. 388—Business Regulations, Surveying of Lumber—Continued.

chapter, shall forfeit for all boards, planks, joists and timber so sold, purchased or delivered, \$1.00 per 1,000 feet board-measure, and the same for any less amount, one-half thereof to the use of the state, and one-half thereof to the use of the surveyor of the town or city in which the same shall be taken or delivered, who shall prosecute for all violations of this chapter that come to his knowledge. [1857; last amended 1872.]

Sec. 29. Fraud in office; penalty.

Every person appointed to office under this chapter, or his deputy, who shall connive at any fraud or deception in surveying, marking or numbering the contents of any boards, planks, joists or timber, shall be fined for each offense not less than \$50.00. [1857; last amended 1872.]

Sec. 30. Neglect of duty; penalty.

Every surveyor or his deputy who, on due notice and request, shall wilfully neglect or refuse to perform the duties enjoined by this chapter, shall be fined for each offense not less than \$10.00 nor more than \$50.00. [1857; last amended 1872.]

Sec. 31. Reinspection upon demand.

Any person who shall be dissatisfied with the survey and admeasurement of any lumber purchased or sold by him, by any deputy appointed by the surveyor, may require the surveyor, with one or more deputies, at the option of the surveyor, to reinspect the same. [1857; last amended 1872.]

Sec. 32. Fees in case of error in measurement.

If, upon reinspection, an error shall be found in the survey above the amount of \$5.00, the person who surveyed the lumber shall receive no compensation for his services, and shall be fined not less than \$10.00 nor more than \$20.00; and the surveyor and his deputy or deputies in other cases shall receive for their compensation 25 cents per 1,000 feet, to be paid by the purchaser. [1857; last amended 1872.]

Sec. 33. Reinspection; expenses.

The expense of overhauling lumber for the purpose of reinspection and of the reinspection, shall be paid by the person requiring the same; and in all such cases the compensation therefor shall be equally divided among the surveyor and his deputy or deputies. [1857; last amended 1872.]

Sec. 34. Construction of chapter.

This chapter shall not be so construed as to require the survey or admeasurement of any lumber made in any town in this state. [1857]

General Laws 1938, Title LXX, Ch. 605—Impersonation of Weights and Measures Officials.

Sec. 18. Penalty.

Every person who shall falsely assume or pretend to be a town sealer of weights and measures, auctioneer, corder of wood or fence-viewer, and shall act as such, shall be fined not less than \$20.00 nor more than \$100.00. [1872]

General Laws 1938, Title LXX, Ch. 612—False Advertising.

Sec. 54. Unlawful acts; penalty.

No person, firm, corporation or association, with intent to sell, or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation therefor or to acquire title thereto, or any interest therein, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact, which is untrue, deceptive or misleading, * * *. No person, firm, corporation or association, with intent to profit, directly or indirectly thereby, shall place, or cause or produce an advertisement to be placed in or affixed to a newspaper, without the consent of the publisher of said newspaper; and in any way calculated to lead the readers thereof to believe that such advertisement was circulated by such publisher. The placing of an advertisement, notice, circular, pamphlet, card, handbill, printed notice of any kind in or the affixing thereof to a newspaper is presumptive evidence that the person or persons, or corporation or corporations, whose name or names appear therein as proprietor, advertiser, vendor, or exhibitor, or whose goods, wares and merchandise are advertised therein, caused or procured the same to be so placed or affixed with intent to profit thereby. Any person, firm, corporation or association who shall violate any of the provisions of this section shall be fined not less than \$50.00 nor more than \$300.00, or be imprisoned not more than 90 days or shall suffer both such fine and imprisonment. [1914; last amended 1928.]

SOUTH CAROLINA

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Weights and Measures.

Sec. 6645. Standard weights and measures: Commodities.

The following shall be the legal and uniform standard weights and measures in this State for the sale and purchase of the following named products of the farm, orchard or garden, and articles of merchandise, to wit: ¹

	Bushels per barrel
Apples, green	2½
Beans, green, in pods	2½
Corn, green, with shucks	2½
Corn, matured, with shucks	5
Melon, cantaloupe	2½
Peas, green in hull	2½
Potatoes, Irish	2½
Potatoes, sweet	2½
Turnips	2½
	Pounds per bushel
Apples, green	50
Apples, dried	24
Apples, seed	40
Blue grass, seed	14
Beans, dried	60
Beans, green, in pods	30
Beans, castor	46
Beets	50
Blackberries	48
Blackberries, dried	28
Bran	20
Broom-corn seed	42
Buckwheat	50
Barley	48
Cane seed	50
Carrots	50
Cabbage	50
Cherries, with stems	56
Cherries, without stems	64
Corn, shelled	56
Corn, in the ear, shucked	70
Corn, in the ear, with shucks	74
Corn, green, with shucks	100
Corn, pop, shelled	56
Corn meal, unboltd	48

	Pounds per bushel
Corn meal, boltd	48
Peas, green	30
Peaches, matured	50
Peaches, dried	25
Peanuts	23
Pears, matured	36
Pears, dried	26
Plums	64
Pie plant	50
Potatoes, Irish	60
Potatoes, sweet	50
Quinces, matured	48
Rape seed	50
Raspberries	48
Rice, rough	44
Redtop	14
Rutabagas	60
Rye grass, Italian, seed	20
Rye meal	50
Rye seed	56
Sage	4
Salt	50
Sorghum seed	50
Strawberries	48
Salads, turnips, kale	12
Salads, mustard, spinach	12
Turnips	50
Cucumbers	48
Chestnuts	50
Cement	80
Coke	40
Charcoal	22
Coal, stone	80
Canary seed	60
Clover seed, red and white	60
Cottonseed, long staple	30
Cranberries	32
Currants	40
Flaxseed	56
Gooseberries	48
Grapes, with stems	48
Grapes, without stems	60
Horseradish	50
Hickory nuts	50
Hair, plastering	8
Hominy	62
Hungarian seed	48
Hemp seed	44

	Pounds per bushel
Kaffir corn -----	56
Land plaster -----	100
Lime, unslacked -----	80
Lime, slacked -----	40
Melon, cantaloupe -----	50
Millet, German, seed -----	50
Millet, Missouri -----	50
Millet, Tennessee -----	50
Orchard grass seed -----	14
Osage orange seed -----	33
Oats, seed -----	32
Onions, matured -----	56
Onions, top buttons -----	28
Onions, button sets -----	32
Parsnips -----	50
Peas, dry -----	60
Tomatoes -----	56
Timothy seed -----	45
Velvet grass seed -----	7
Walnuts -----	50
Wheat -----	60

	Pounds per barrel
Beef, net -----	200
Flour -----	196
Fish -----	200
Pork, net -----	200

	Gallons per barrel
Liquids -----	42

	Pounds per gallon
Sorghum molasses -----	12

[1923]

1 A slight rearrangement has been made for convenience of reference.

Sec. 6646. Same: United States commodity measures adopted.

Any article of produce from garden or farm not mentioned in section 6645, shall be the same standard per bushel, or per gallon, as adopted and approved by the United States Government: *provided, further*, that all packages of the articles enumerated in section 6645 shall correspond in weight and measures to the standards fixed in said section. [1923]

Sec. 6647. Same: Offenses.

It shall be unlawful to buy or sell any of the products of any farm, orchard or garden, or articles of merchandise mentioned in section 6645, except in strict accordance with the standard weights and measures provided therein. [1923]

Sec. 6648. Same: Offenses in docking.

It shall be unlawful to dock any of the articles mentioned in section 6645, delivered in good condition and in marketable form on account of keg or barrel or other receptacle, without allowing the value of same. [1923]

Sec. 6649. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions; penalty for violations.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in South Carolina any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; *provided, however*, that the provisions of this section shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy, and hominy grits packed in cartons, the net contents of which are less than five (5) pounds, or (d) flours, meals, hominy and hominy grits, given by mills grinding for toll or given in exchange for wheat or corn.

Any violation of this section shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars for each offense. [1945]

Sec. 6650. Inspection of scales, measures, etc.; right of entry.

It shall be the duty of the commissioner of agriculture or his duly authorized representatives to inspect as often as practical all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measuring, and tools, appliances and accessories connected with any or all such instruments or measures used in trade in this State. The commissioner or his duly authorized representatives for the purposes above mentioned, and in the general performance of his duties, without formal warrant, may enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of coal wagon or ice wagon or driver of any wagon containing commodities for sale or delivery and if necessary, require him to proceed to some place which the commissioner or his agents may specify for the purpose of making proper tests. [1923; last amended 1941.]

Sec. 6651. Seizure and condemnation of incorrect equipment; rules and regulations.

The commissioner of agriculture or his duly authorized representatives shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring devices which in his best judgment are not susceptible of repair, but any weight, measure or weighing or measuring device which shall be found to be incorrect, but which in

Code of Laws 1942, Vol. 3, Title 34, Ch. 139, Art. 1—
Weights and Measures—Continued.

his best judgment are susceptible of repair, shall serve a written order upon the person or persons, firms or corporations in whose possession the inaccurate device is found forbidding the use of such device, and shall attach thereto a seal, tag or statement stating the device is condemned. Also, he shall lock the weighing or measuring device in such a manner that it cannot be used. The commissioner of agriculture, however, may in his discretion release the weighing or measuring device so condemned and annul the restraining order when the requirements of the provisions of this article [Secs. 6645-6661] have been complied with. The commission is hereby empowered and authorized to prescribe and issue such regulations as may be necessary for the proper enforcement of this article and any person or persons who shall violate any regulation issued by the commissioner shall be guilty of a violation of this article. The owners or users of any weights or measures or weighing or measuring devices which have been marked condemned, and upon whom an order has been served forbidding the use of such weighing device as in this section provided, may neither use or dispose of the same in any way, or remove or allow to be removed any seal, tag or statement attached thereto by a representative of the department of agriculture without the approval and consent of the commissioner. [1923; last amended 1941.]

Sec. 6652. Possession of false weights, etc., as evidence; seizure.

Possession of any weight or measure or weighing or measuring device of any kind which appears to have been tampered with or altered in any manner whatsoever, so as to falsify any weight or measure or weighing or measuring device of any kind shall be prima facie evidence of the fact that it was intended to be used in violation of this article [Secs. 6645-6661]: *provided, further*, that any weight or measure or weighing or measuring device found upon inspection to have been tampered with or altered in any manner so as to falsify a weight or measure shall be seized and may be destroyed by the commissioner or his agent acting under his instructions. [1923]

Sec. 6653. Refusal to allow inspection; interference with inspector; offense.

Any person, who by himself, or his employee, or as a proprietor or manager, shall refuse to exhibit any weight, measure or weighing or measuring device of any kind, or appliance or accessories connected with any or all such devices or measures which is in his possession or under his control, to the commissioner of agriculture or his duly authorized representatives, for the purpose of allowing the same to be inspected and examined as in this article [Secs. 6645-6661] provided, or who shall hinder or ob-

struct the inspector in the general performance of official duties shall be deemed a violation of this article. [1923; last amended 1941.]

Sec. 6654. Packaged commodities: Marking requirements.

Whenever any of the commodities within the provisions of section 6645, or any article of merchandise of any kind whatsoever, not specified in this article [Secs. 6645-6661] are sold, or exposed for sale in packages or containers of any kind, the net quantity of the contents of the package or container shall be plainly marked, branded, or otherwise indicated on the outside or top thereof or on a label or tag attached thereto. [1923]

Sec. 6655. Same: Terms in which contents shall be stated; exceptions.

The designation of the quantity of the commodity required in section 6654 shall be in terms of weight, measure or numerical count, subject however to the following provisions: (a) the quantity of the contents so marked shall be the net amount of food or stuff or other commodity in the package or container. (b) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if the designation is in liquid measure it shall be in terms of United States gallon of two hundred and thirty-one cubic inches and its customary subdivisions, i.e., in gallons, quarts, pints or fluid ounces.

(c) The quantity of solids shall be designated in terms of weight and of fluid in terms of measure, except in case of articles in respect to which there exists a definite trade custom; in such case the designation shall be in terms of weight, measure, or numerical count, in accordance with such custom.

(d) The quantity of the contents shall be designated in terms of weight or measure, unless the container marked by numerical count gives accurate information as to the quantity of the food or other commodity in the package. When the designation is by numerical count it shall be in English words or Arabic numerals.

(e) The quantity of the contents may be stated in terms of minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the minimum.

(f) The quantity of viscous or semi-solid foods, or of a mixture of solids and liquids, may be stated in terms of weights and measure. When products are packed in brine or other preserving fluids, the weight or measure of such brine or fluids shall not be included in the weight or measure of the edible or commodity indicated on the container.

The provisions of this article [Secs. 6645-6661] shall not apply:

(a) To any sale of any commodity within the provisions of this section when such sale is made from bulk and the quantity is weighed, measured or counted for the immediate purpose of such sale.

(b) To a sale of any container of an ornamental or symbolic character with which a quantity of some commodity is sold as merely incidental.

(c) To a sale of a commodity in any container of a net weight of two ounces or less, or of a commodity of any container of a measure two fluid ounces or less, or of a commodity of any container of a numerical count of six or less.

(d) To the sale of medicine when prescribed by licensed physician, veterinarian or dentist; or to medicinal or pharmaceutical preparations or mixtures of two or more medicinal substances. [1923]

Sec. 6656. Same: Exemptions of retailer who relies on package labels; provisions thereof.

It shall not be held to be a violation of the provisions of this article [Secs. 6645-6661] when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed: *provided*, that the seller purchased said commodity in said container in good faith, relying upon the said indication of the net contents thereof, and sold said commodity in said container without altering the contents thereof or the indication of the contents thereof: and *provided, further*, that the exemption of this section shall not apply to any sale unless the container had the name of a packer, manufacturer, wholesaler or jobber thereon at the time the seller purchased it. [1923]

Sec. 6657. "Person" defined.

The term of person used in this article [Secs. 6645-6661] shall include every person, firm, company, copartnership, society, association and corporation. [1923]

Sec. 6658. "Container" defined.

The term container used in this article [Secs. 6645-6661] is hereby defined to be any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put up for sale: *provided*, that where individual packages or containers, properly labeled to comply with this article are packed in an outside case or carton for convenience in shipping or handling, the term "container" shall not be construed to include or apply to such outside case or carton. No containers, boxes or baskets wherein food products or other commodities are packed shall have a false bottom, or be so constructed as to facilitate the perpetration of deception or fraud. [1923]

Sec. 6659. Selling less than quantity represented; prima facie evidence; violation.

Any person who by himself or by his servant or agent, or as the servant or agent of another, shall offer or expose for sale, sell for use, any commodity,

package, article or thing less than the quantity he represents, then such commodity, package, article or thing shall be prima facie evidence of the fact that it was intended to be sold, or proof of such shall be deemed a violation of this article. [Secs. 6645-6661]. [1923]

Sec. 6660. Penalties for violations.

Every person, who by himself or his agent, servant or employee violates or causes or permits to be violated any of the provisions of this article [Secs. 6645-6661] shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$25.00 nor more than \$100.00, or shall be imprisoned in the county jail for a term not to exceed thirty days. Each and every instance shall constitute a separate offense: *provided*, that for any second or successive offense the punishment shall be by fine or imprisonment, or both, in the discretion of the court. [1923; last amended 1930.]

Sec. 6661. State standards; custody; tolerances.

Such weights and measures as have been or may hereafter be furnished the states, or such weights and measures as have been or may hereafter be approved by the government of the United States, shall be kept by the commissioner of agriculture; and the said weights and measures shall be deemed and taken to be the standard weights and measures by which all weights and measures in this State shall be regulated: *provided, further*, that all tolerance now in effect or which may hereafter be established pursuant to the provisions of this article [Secs. 6645-6661] shall be the same as now in effect or hereafter may be adopted or approved by the United States government. [1923; last amended 1941.]

Code of Laws 1942, Vol. 2, Title 28, Ch. 115, Art. 3—
County Standards of weights and measures.

Sec. 3608. Procurement and custody.

The clerk of the court of common pleas and general sessions of each county in this State shall furnish, and is required to keep in his office, the weights and measures established by law, which shall be the standards of all other weights and measures in said county, and to which any person shall have free access to test the same; and the Governor of the State is authorized and required to purchase such standard weights and measures out of the fines and forfeitures incurred in the respective counties where such weights and measures are to be kept. [1840; last amended 1850.]

Code of Laws 1942, Vol. 1, Title 21, Ch. 70—False Weighing, Measuring and Packing.

Sec. 1279-1. Fraudulently increasing weight of salt pork; penalty.

It shall be unlawful for any packer or wholesale or retail merchant, or any other person, firm or cor-

Code of Laws 1942, Vol. 1, Title 21, Ch. 70—False Weighing, Measuring and Packing—Continued.

poration, to increase the weight fraudulently of any salt pork meats by putting water thereon, soaking, sprinkling or otherwise and any person, firm or corporation violating the provisions hereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred (\$200.00) dollars or more than one thousand (\$1,000.00) dollars, or imprisoned for not less than sixty (60) days, nor more than one (1) year or both, in the discretion of the court. [1936]

Sec. 1280. Fraudulent packing of cotton; penalty.

Any person or persons convicted of knowingly and wilfully packing into any bag or bale of cotton any stone, wood, trash, cotton cottonseed, water, or any matter or thing whatsoever, or causing the same to be done, with the intent and purpose of cheating or defrauding any person or persons whomsoever in the sale of such cotton, or who shall exhibit or offer for sale any bag or bale of cotton so fraudulently packed, at the time of the said exhibit, or offer for sale knowing the same to be so fraudulently packed, shall on conviction thereof, as aforesaid, be sentenced to pay a fine of not more than five hundred dollars nor less than twenty dollars, and to be imprisoned for a term of not more than six months nor less than one month. [1875]

Sec. 1281. Charge of "breakage" on weighing of cotton; penalty.

Any person who shall put and make the charge known as "breakage" upon the weighing of cotton shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than twenty-five dollars, or be imprisoned not more than thirty days, or both, in the discretion of the court. [1876]

Sec. 1286. Deduction on sale of cotton; offense; penalty.

It shall be unlawful for any person, firm or corporation engaged in the business of buying cotton in this State, as principal or agent, to deduct any sum for bagging and ties from the weight or price of any bale of cotton, when the weight of the bagging and ties does not exceed six per cent. of the gross weight of such bale of cotton. In the event that the weight of the bagging and ties exceed six per cent. of the gross weight of such bale of cotton, only the excess over the said six per cent. may be deducted.

For each and every violation of this section the offender shall be guilty of a misdemeanor and shall be fined in the sum of not less than five dollars nor more than twenty-five dollars, or imprisoned not less than ten days nor more than thirty days; *provided*, this section shall not apply to what is known in the trade as round bales, and bales of cotton which weigh less than three hundred pounds. [1910]

Sec. 1287. Weight of bales of cotton deemed merchantable.

It shall be unlawful for any cotton buyer to refuse to accept any bale of cotton, after he has bought the same by sample thereof, weighing over three hundred pounds, provided same corresponds in quality with sample bought by; and any such buyer who docks or deducts any amount from the purchase price of any such bale of cotton, or attempts to dock or deduct any amount from the purchase price of such bale of cotton, shall be deemed guilty of a misdemeanor, and, upon conviction before any court of competent jurisdiction, shall be fined in the sum of not more than one hundred dollars nor less than twenty dollars. [1899]

Sec. 1288. Cotton factors to furnish statements on demand; offense; penalty.

Any person or persons, firm or corporation, by whatever name styled, doing business as sales agent, exporter, dealing in or handling cotton on commission, are hereby required to furnish to all persons for whom cotton is exported, sold or handled, when demanded by such person, a sworn itemized statement which shall show the name of the purchaser, the grade, the weight and the price received for such cotton. Such sworn itemized statement shall be furnished with final account of gross sales, or whenever demanded by any one who is doing business with such person or persons as are set forth in this section: *provided*, that any one upon whom demand is made for such sworn itemized statement shall be allowed ten days' time in which to furnish the same. Any one refusing or neglecting to furnish such sworn itemized statement shall be guilty of a misdemeanor, and, upon conviction, shall be fined in a sum of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned for not less than ten days nor more than thirty days on the county chain-gang. [1915]

Sec. 1323. Liquid fuels, lubricating oils, greases; offenses; penalty.

(1) No person, firm or corporation shall store, sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other similar products in any manner whatsoever which may deceive, tend to deceive or have the effect of deceiving the purchaser of said products as to the nature, quality or quantity of the products so sold, exposed or offered for sale.

* * * * *

(7) Penalties.—Every person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than one thousand (\$1000) dollars and by imprisonment not to exceed twelve (12) months, or by either or both in the discretion of the trial judge. [1933]

Code of Laws 1942, Vol. 2, Title 28, Ch. 114, Art. 10—
State Iodine Label.

Sec. 3272. Selection; conditions of use.

It shall be the duty of the commission [South Carolina Natural Resources Commission ¹] herein created to select a label, have it copyrighted and registered in the United States copyright office which said label shall be used to advertise the chemical and other contents of food products grown in South Carolina or other articles in the judgment of this commission; they shall promulgate and register the conditions ² upon which said label may be used and fix the charges for such use; they shall also promulgate information furnished by the South Carolina Research Laboratories and other educational institutions and such other information as has bearing upon value of South Carolina products; they shall receive and disburse the appropriations from the Legislature of South Carolina, contributions from corporations, institutions, associations and individuals, said expenditures to be approved by the commission and all vouchers to be signed by the chairman and countersigned by the secretary. [1929]

¹ South Carolina Natural Resources Commission abolished and its duties devolved on State Research, Planning and Development Board, 1945 Acts and Joint Resolutions (44 Statutes at Large).

² As a condition upon which the State Iodine Label may be used, the product must be of "proper weight". The commission has set up the standard size case of the various standard size cans on which a fee is levied for the use of the label.

Code of Laws 1942, Vol. 2, Title 28, Ch. 114, Art. 13—
Shellfish.

Sec. 3308. Enforcement.

It shall be the duty of the board of fisheries to impartially enforce all laws pertaining to fish and fisheries. [1924]

Sec. 3370. Standard measures for shellfish; non-standard measures to be destroyed.

The following standard measures are hereby established for use in this State in selling and marketing shellfish and fixing the amount of taxes of licenses to be paid thereon: (a) The bushel measure for oysters shall be cylindrical with a perforated bottom, the diameter of the cylinder to be eighteen (18) inches and the length from bottom to top sixteen (16) inches. (b) The half-bushel measure for oysters in the shell shall be cylindrical, with a diameter of thirteen and three-quarter ($13\frac{3}{4}$) inches and a depth of ten (10) inches with a perforated bottom. (c) The peck measure for oysters in the shell shall be cylindrical, with a diameter of ten and one-half ($10\frac{1}{2}$) inches and a depth of eight (8) inches. All bushel, half-bushel or peck measures found at any place where oysters are purchased or sold in the shell which do not conform in shape and

contents to this standard shall be destroyed by the board [of fisheries] or its authority. [1924]

Sec. 3371. Use of non-standard measures; penalty.

Any person who shall buy or sell oysters in the shell using a bushel, half-bushel, or peck measure which does not conform to the standard above described as to contents shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished for each offense by a fine of not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars or by imprisonment of not more than thirty days. [1924]

Sec. 3372. Package label; stamps.

Each package containing oysters or clams shall contain a bushel or even multiple thereof and before being tendered for transportation or offered for sale shall be stamped or tagged with the quantity and kind of shellfish contained therein and the correct amount of tax stamps affixed and cancelled and wherever any package shall contain less than one bushel the tax upon one bushel shall be nevertheless paid as aforesaid. [1924]

Sec. 3418. Crab meat: Pounds to a gallon.

For commercial purposes for the sale of crab meat in this State eight (8) pounds of crab meat shall be considered one (1) gallon. [1937]

Code of Laws 1942, Vol. 3, Title 30, Ch. 121, Art. 4—
"Uniform Narcotic Drug Act."

Sec. 5128-9. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vender and the quantity, kind, and form of narcotic drug contained therein. * * * [1934]

Sec. 5128-18. Enforcement.

It is hereby made the duty of the said state board of health, its officers, agents, inspectors and representatives, and of all peace officers within the State, and of all county attorneys, to enforce all provisions of this statute, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs. [1934]

Sec. 5128-19. Penalties for violations.

Any person violating any provision of this statute shall upon conviction be punished, for the first offense, by a fine not exceeding five hundred (\$500.00) dollars, or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment, in the discretion of the court; and for

Code of Laws 1942, Vol. 3, Title 30, Ch. 121, Art. 4—
"Uniform Narcotic Drug Act"—Continued.

any subsequent offense by a fine of not exceeding two thousand (\$2,000.00) dollars, or by imprisonment not exceeding two (2) years, or by both such fine and imprisonment, in the discretion of the court. [1934]

Code of Laws 1942, Vol. 3, Title 30, Ch. 121, Art. 4—
Food.

Sec. 5128-27. Unlawful to sell misbranded article; penalty for violations; food defined; when deemed misbranded; guaranty protection; enforcement.

(1) It shall be unlawful for any person to manufacture or sell, or offer for sale, any article of food * * * which is adulterated or misbranded, within the meaning of this section, and any person who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding fifteen days for the first offense, and one hundred dollars, or thirty days' imprisonment, for each subsequent offense. * * * The term "food", as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound. * * *

(3) The term "misbranded," as used herein, shall apply to all * * * articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular * * *. That for the purposes of this section, an article shall also be deemed to be misbranded:

In the case of food.

* * * * *

Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

* * * * *

(5) No dealer shall be prosecuted under the provisions of this section when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded, within the meaning of this section, designating it.

(6) For the purpose of carrying out the provisions of this section, the commissioner of agriculture, and all inspectors and chemists employed under the Commercial Feed Stuffs Act,¹ shall take cognizance of the interests of the public health, as it relates to the sale of food, drugs, spirituous, fermented and malt liquors, and the adulteration thereof, and

make all necessary inquiries and investigations relating thereto and shall take such action in the courts as provided for; the commissioner shall adopt such measures as he may deem necessary to facilitate the enforcement of this section; * * * [1904; last amended 1924.]

¹ Sec. Sec. 6600, page 924.

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 1—
Commercial Fertilizers.

Sec. 6360. Registration statement required.

(A) Every person, firm or corporation, before manufacturing, selling or offering for sale in this State any commercial fertilizer or fertilizer materials shall first register and file with the board of trustees of The Clemson Agricultural College a signed statement giving the name and address of the applicant, together with the location of each manufacturing or mixing plant, and the following information with respect to each brand, grade or analysis in the following order:

(1) Net weight of material in each package in pounds. [1939]

* * * * *

Sec. 6362. Marking requirements.

(A) Each person, firm or corporation who sells or offers for sale mixed fertilizer or fertilizer material in this State shall mark upon each container or associate with each shipment or document relative thereto the information required by items 1 to 6 inclusive of section 6360.

(B) If shipped in bags, barrels or other containers with a capacity of 50 lbs. or more, said information included in item 1 to 4 inclusive, section 6360, shall be printed directly on the container. * * *

(C) If shipped in bulk by rail, said information in items 1 to 6 inclusive, section 6360, shall be printed on a suitable label which shall be fastened on the inside wall of the car near the door.

(D) If shipped in bulk by boat, truck, wagon or other vehicle, said information contained in items 1 to 6 inclusive, section 6360, shall be attached to the copy of the invoice delivered to the purchaser or other receiver.

(E) If shipped in packages less than 50 lbs., said information contained in items 1 to 6 inclusive, section 6360, may be printed on the container in which the material is delivered to the purchaser. [1939]

Sec. 6367. Definition.

For the purpose of this article [Secs. 6353—6385-1] a commercial fertilizer is hereby defined as any material, substance or mixture which contains or is claimed to contain more than one per cent. of nitrogen, or of total phosphoric acid, or of potash: *provided*, that the following substances, lime, limestone, marl, unground bones, stock-pen manure, barnyard manure or the excrement of any domestic animals

shall be exempt from the provisions of this article, in the case that said manure or excrement has not been dried or manipulated or otherwise treated, or is not claimed to have a value of more than four dollars a ton. [1939]

Sec. 6375. Weight of packages; exceptions; penalties.

All fertilizers of [or] fertilizer materials, sold or offered for sale or use within this State, shall be in a package containing one hundred or two hundred pounds each, except as provided in section 6362 and section 6378 and: *provided, further*, that this section shall not apply to foreign imported goods in original packages. The weight of the package of fertilizers shall be ascertained at the time of delivery to the purchaser in the presence of at least two disinterested witnesses, one chosen by the purchaser and one by the seller, and the purchaser shall within five days thereafter notify the seller to make good such deficiency and pay to the purchaser a penalty equal to four times the value of the actual shortage and upon failure of the seller to do so within twenty days thereafter, he shall pay a penalty equal to the value of the goods, which penalty shall become recoverable by the State, one-half of the penalty so recovered to be paid to the purchaser in the case of a sale, and the other half to be paid into the state treasury, subject to the order of the board of trustees of The Clemson Agricultural College: *provided*, if such seller shall refuse, decline or neglect to choose a witness as herein prescribed after having been notified or requested to do so, then he or they shall have forfeited their right to do so, and the purchaser shall select two witnesses who shall in turn select a third, and they shall proceed to ascertain said weight. [1939]

Sec. 6376. Sale of misbranded article; penalty.

Every person, company, common carrier, or corporation who shall sell, offer for sale or transport in this State, any commercial fertilizer or fertilizer material without being properly branded or having attached thereto such labels and tags, as required by law, or who shall use or permit to be used the required label or tag for a second time, and every person who shall receive any such fertilizer, shall forfeit to the State a sum equal to the selling price of each separate package sold, offered for sale, or received, to be recovered by suit brought in the name of the State in any court of competent jurisdiction: such forfeitures, when collected, shall be paid to the state treasurer, who shall hold the same subject to the order of the board of trustees of The Clemson Agricultural College of South Carolina: *provided, further*, that the penalty defined in this section shall apply also to any misbranded fertilizer, a fertilizer being deemed to be misbranded if it carries any false or misleading statement upon or attached to the package. [1939]

Sec. 6378. Bulk sales.

Manufacturers, jobbers, dealers, or manipulators of commercial fertilizers may sell acid phosphate or other fertilizer material in bulk to persons, individuals, or firms, who desire to purchase the same for their own use on their own lands in this State, but not for sale, under such rules and regulations prescribed by the board of trustees of The Clemson Agricultural College as are not inconsistent with the provisions of this article: *provided*, that inspection tax shall be paid on such fertilizer as provided in section 6366. But if such bulk fertilizer is offered for sale it must be tagged and branded and otherwise in accord with the provisions of this article. [1939]

Sec. 6381. Rules and regulations.

The board of trustees of The Clemson Agricultural College of South Carolina shall have authority to establish such rules and regulations in regard to the inspection, analysis and sale of fertilizers and fertilizer materials as shall not be inconsistent with the provisions of this article, and as in their judgment will best carry out the requirements thereof. [1939]

Sec. 6382. Dealer or manufacturer persistently fraudulent.

Where it shall appear to the board of trustees of The Clemson Agricultural College that any manufacturer or dealer has been persistently fraudulent in his dealings the said board may revoke or refuse to register such manufacturer or dealer. [1939]

Sec. 6385. Fertilizer board of control.

The board of trustees of The Clemson Agricultural College is authorized and empowered to delegate the duties herein provided to the fertilizer committee of the said board which shall be known as the fertilizer board of control. [1939]

Sec. 6385-1. Violation a misdemeanor.

Every person, firm, corporation or dealer violating the fertilizer law of this State shall be guilty of a misdemeanor. [1939]

**Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 2—
Weighing of Cotton.**

Sec. 6386. Standard tare.

The custom of making a deduction from the actual weight of bales of unmanufactured cotton as an allowance for breakage or draft thereon is abolished; [and all contracts made in relation to such cotton shall be deemed and taken as referring to the true and actual weight thereof without deduction:] and no tare shall be deducted from the weight of such bales of cotton except the actual weight of the bagging and ties used in baling said cotton: and whenever it shall be agreed between the buyer and seller to deduct tare on cotton bales it shall be as follows: for bales of

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 2—
Weighing of Cotton—Continued.

cotton covered with seven yards of standard cotton bagging and six iron ties the actual tare shall be and is hereby fixed at sixteen pounds, and for bales of cotton covered with seven yards of standard jute bagging and six iron ties the actual tare shall be and is hereby fixed at twenty-four pounds; and when buyer and seller agree to sell at net weight, and when bales of cotton are covered with seven yards of standard cotton bagging and six iron ties, the actual tare shall be and is hereby fixed at sixteen pounds, and when bales of cotton are covered with seven yards of standard jute bagging and six iron ties, the actual tare shall be and is hereby fixed at twenty-four pounds. [1846; last amended 1889.]

Sec. 6387. Charges for weighing; penalty.

The rates of storage of cotton shall not exceed twelve and one-half cents per week for each bale of cotton; the charges for weighing cotton shall not exceed ten cents for each bale; and any person violating the provisions of this section, or either of them, shall forfeit to the owner of the cotton ten dollars for each offense, which may be recovered by him in any court of competent jurisdiction in this State. [1876]

Sec. 6398. Record of public ginner.

Every person who runs a public gin shall keep a book in which shall be entered a full account of all the cotton brought thereto, with the date and the name of the person bringing it, which book shall be open to inspection by the public. The ginner shall also number consecutively each bale of cotton as it comes from the press, by stencil, or other permanent mark, beginning with the number one (1) at the opening of the ginning season, so that said stencil or number mark shall correspond with the number and weight of the identical bale of cotton as it is recorded in the ginner's book of records, if requested so to do by the owner of the cotton. [1902; last amended 1929.]

Sec. 6399. Acceptance of bales; offense.

It shall be unlawful for any cotton buyer to refuse to accept any bale of cotton, after he has bought the same by sample thereof, weighing over three hundred pounds, provided same corresponds in quality with sample bought by. [1899]

Sec. 6402. Public weighers: Election.

Upon the petition of fifty or more qualified electors, who are freeholders and growers of cotton in any township or parish in which there may be a cotton market, the county board of commissioners of that county shall annually elect one or more public cotton weighers for said cotton markets, whose term of office shall be for one year and until

the election and qualification of his or their successors: *provided*, that there shall be two public cotton weighers at Bishopville, Lee County, who shall give bond, with good and sufficient surety, to be approved by supervisor, in the sum of one thousand dollars each, conditioned for the faithful performance of his duty: *provided*, that cotton weighers in the county of Greenwood shall be elected to hold office for two years, and the cotton weighers already elected in Greenwood County shall hold office for two years from their election, and until their successors are elected and qualified: *provided*, that in the county of Sumter no person shall be voted for or elected a cotton weigher who is related within the sixth degree by blood or marriage to one or any one of the county board of commissioners of said county: *provided, further*, that if more than one weigher be elected for the city of Sumter, then in such event one of said weighers shall be elected upon the nomination and recommendation thereto by the city council of said city: *provided*, that upon petition of the operators, or owners, of any public cotton warehouse in Marlboro County showing that necessity or convenience of the public demands, the board of county commissioners of Marlboro County are authorized and empowered, if in their judgment it be deemed advisable, to appoint a public cotton weigher for said warehouse. [1896; last amended 1930.]

Sec. 6403. Same: Oath; bond; compensation.

Before entering upon the duties of his office, each cotton weigher shall be legally sworn to discharge the duties of the position, by some officer authorized to administer oaths, and shall enter into bond in the sum of three hundred dollars for the faithful performance of his duty, which bond shall be approved by the county board of commissioners, and filed with the clerk of the court of common pleas and general sessions for the county in which said cotton market or markets may be situated. Each weigher shall receive as compensation for his services not more than ten cents for each bale weighed by him, to be fixed by the commissioners, the same to be paid in equal proportion by the seller and buyer, except in those markets where the weigher may be paid by individuals or corporations, at which markets the seller shall pay nothing. [1896; last amended 1920.]

Sec. 6404. Same: Duties; removal upon cause.

It shall be the duty of each weigher to provide a platform and scales with ample facilities for handling cotton with speed and at minimum cost, at which platform or platforms all cotton sold in said market or markets shall be weighed. It shall be the duty of each weigher to weigh fairly and promptly all cotton sold in said market or markets, issuing his own ticket, showing the weight of each bale or package of cotton weighed. It shall be his

further duty to adjust any difference between sellers and buyers as to moisture and mixed or false packing. In case of inability from sickness or other cause, and from the first day of March to the first day of September of each year, a weigher may appoint a deputy, who shall take, before entering upon his duties, the usual oath of the office in the manner required of the weigher. The elected weigher shall be responsible on his bond for the official acts of his deputy. Each weigher or his deputy shall devote his exclusive attention to the duties of his office during the cotton marketing season. Each weigher shall test his scales once a month by the standards in the office of the clerk of the court, as provided by law: *provided*, that the county board of commissioners may, for good and sufficient cause shown, remove any such public cotton weigher from his office, after giving such weigher at least ten days' notice to show cause why he should not be removed; and shall have power to fill any vacancy occurring in the office of public cotton weighers, at the first regular meeting of the said board after such vacancy occurs: *provided*, that nothing herein contained shall apply to sales made on plantations or at cotton mills, except that the provisions of the aforesaid act shall apply to sales made at cotton mills in the county of Orangeburg: *provided*, that in Marlboro County where cotton is stored in a warehouse chartered and operating under United States Warehouse Act or under the State Warehouse Act, and is sold to any buyer or is delivered by the seller at such warehouse for storage, for account of the buyer, said cotton need not be weighed by the public weigher, unless the buyer or seller shall demand it, but may be weighed at the warehouse by its authorized weigher, and in no case shall a seller be denied the privilege of having his cotton weighed by a sworn weigher. [1896; last amended 1931.]

Sec. 6404-1. Same: Weighing regulated.

Any person, persons or agents of any corporation weighing cotton in any cotton market or markets where a public weigher has been elected, except as prescribed in secs. 6402, 6403, 6404, 6404-1, and 6405, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than ten dollars for each offense, or imprisoned for not more than five days; except in Dorchester County, where he shall be fined not more than one hundred dollars, or imprisoned not exceeding thirty days. [1894; last amended 1909.]

Sec. 6405. Same: Exceptions to weighing laws.

The provisions of sections 6402 thru 6405 shall not apply to sales made on plantations or at cotton mills, nor to the counties of Charleston, Laurens, Berkeley, Spartanburg, Aiken, Horry, Georgetown, Richland, Beaufort, Abbeville, Newberry, Oconee, nor to the town of Liberty, in Pickens County, or to Anderson Township, in Anderson County: *pro-*

vided, that in the county of Edgefield for each cotton weigher, his term of office shall be for two years from the date of his election, and until his successor shall have qualified: *provided, further*, that in the county of Edgefield the provisions of this chapter shall apply to all cotton sold or stored in warehouses. [1896; last amended 1917.]

Sec. 6406. Same: Duties; requirements for scales; monthly reports of weighers; payment for use of platform.

The cotton weighers shall be required to mark and number each bale of cotton as indicated by tags of buyer, and keep the cotton of each buyer together in order to facilitate prompt shipment. No cotton shall be allowed to remain on the platform more than five days, except upon being subject to a charge of one cent per bale per day; and cotton left on platform for any time to be at the owner's risk. The platform for cotton weighers shall be furnished by the county, and shall have a capacity of 5,000 bales; and the scales on said platform shall be approachable from at least two sides. The weighers as aforesaid, shall render to the county commissioners a monthly statement of the cotton weighed, and shall pay to the county treasurer one cent per bale for all cotton weighed by them, for the use of the platform. [1904; last amended 1907.]

Sec. 6407. Same: Counties may contract for platforms.

The county board of commissioners of any county may enter into a binding and valid contract for a time not exceeding ten years with one or more persons or corporations which shall agree to furnish a platform of such size and capacity as the said board of county commissioners may deem sufficient for the expeditious weighing of the cotton coming into said market, for the use of which platform the said person or persons, or corporation, shall receive as compensation one cent per bale for all cotton weighed thereon, which shall be paid by the weigher or weighers elected for such cotton market (weighing such cotton): *provided*, that no cotton shall be allowed to remain on the platform longer than twenty-four hours, except upon being subject to a charge of one-half cent per bale for each day or fractional part thereof up to five days, and of one cent per bale for each succeeding day or fractional part thereof: *provided, further*, that the cotton weigher or weighers for such cotton market shall be required to number and mark at the time of weighing, with not more than three letters, as indicated by tags or other instructions of buyer of each bale of cotton, and to keep the cotton of each buyer together to facilitate prompt shipment: *provided, further*, that regular buyers and exporters of cotton shall be required to furnish stencils and marking material for properly numbering and marking the cotton by them bought. [1906]

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 2—
Weighing of Cotton—Continued.

Secs. 6407-1 thru 6456. Same: Specific legislation.

[ED. NOTE.—These sections provide for the election of weighers of cotton, their term of office, fees, etc., making specific provisions for the individual counties and cities. The pertinent sections are omitted as they are not general law, but relate to a particular locality.] [1894; last amended 1948.]

Sec. 6458. Regulation of cotton weighing in cities over 20,000 and less than 50,000: Platforms; weighers; penalties for violations; enforcement.

(1) In every city of more than twenty thousand and less than fifty thousand inhabitants, as shown by the last preceding United States census, and within the township in which such city is situated, the purchase and sale of cotton in bales shall be regulated by the provisions of this sub-section. The county board of commissioners shall cause to be maintained a public cotton platform adequate to hold not less than three thousand (3,000) bales of cotton, said platform to have a substantial roof, sufficient number of suitable scales, and to be located as accessibly as possible to the railroad, or railroads, and to the neighboring cotton warehouse, or warehouses, and compresses, if any, for the convenient handling of cotton from said platform to freight trains and to such cotton warehouses or compresses, said platform to be open and accessible to wagons, the cost of maintenance of the same to be paid by the county board of commissioners out of funds in their hands. The said county board of commissioners shall, on or before the first day of July, 1911, and every four years thereafter, elect and commission for the term of four years one cotton weigher for such city and township: *provided*, that said cotton weigher shall not be related within the sixth degree to any member of said board of county commissioners. Such cotton weigher, before receiving his commission, shall take and subscribe to the oath of office and enter into a bond with an approved surety company as surety, in the sum of one thousand dollars for the faithful performance of his duties, payable to the county board of commissioners for the use of any party who may be aggrieved, said bond to be approved by said board and filed with the clerk of court, the premiums on said bond to be paid by said board. Said cotton weigher shall have a night watchman on duty at said platform from sunset to sunrise of every day, and shall employ one assistant for every day from September 1st to December 31st, and may have other assistants during the year. He shall frequently test the scales at said platform and keep them accurate, and shall weigh promptly and fairly all cotton offered to him and mark each bale of cotton as indicated by tag

of buyer and number of each bale of cotton and keep together all the cotton of the several buyers separate and apart from each other, so as to facilitate prompt shipment, and issue ticket showing number, mark and weight of every bale weighed by him, and adjust any differences between sellers and buyers as to moisture and mixed or false packing. Said cotton weigher shall represent neither buyer nor seller of the cotton weighed nor be interested in any purchase or sale, except in cotton from his own farm, and shall receive and charge for his services and the use of the platform, fifteen cents for each bale weighed by him, seven cents to be paid by the seller and eight cents to be paid by the buyer, and for such cotton as may remain on the platform for more than three days the said weigher shall collect an additional charge of one cent per bale for every additional day, to be paid by the owner, all cotton to be at the risk of the weigher, loss by fire excepted, for the first three days, and thereafter at the risk of the owner. The said cotton weigher shall, during the cotton season, maintain a blanket insurance to cover at least fifty bales of cotton left upon the platform for sale, and shall compensate himself for the cost of such insurance by deducting the amount thereof from the charge hereinafter provided to be collected for the use of the platform by cotton remaining thereon more than three days. The public cotton weigher, herein provided for, shall appoint a deputy to serve in his place during necessary absence by sickness or otherwise, such appointment to be approved by the board of county commissioners, which deputy shall take the usual oath of office, the bond of the cotton weigher being liable for the official acts of such deputy. The public cotton weigher shall weigh, inspect and sample before sale every bale of cotton brought to said platform for sale, and no cotton shall be sold until after it has been so weighed and inspected. All cotton in bales weighed in such city or township for sale therein and purchased in such city or township at weights ascertained by weighing in such city or township (it being intended hereby not to include under the terms herein cotton bought upon weights stated in bills of lading of shipments to said city or town) shall be brought to said platform for sale, and no cotton in bales shall be sold or purchased in such city, town or township, by any seller or purchaser or agent, except upon certificate that it has been weighed and inspected at such platform by the public cotton weigher or deputy: *provided*, that the provisions of this sub-section shall not apply to cotton sold by regular cotton dealers out of recognized cotton warehouses or cotton compresses in such city, town or township, or to cotton weighed upon plantations or at ginhouses or bought upon the faith of weights

guaranteed by the sellers. The said cotton weigher shall render to the county board of commissioners a monthly statement of the cotton weighed by him, and shall pay to said board as compensation for the use of the platform and equipment, after deducting the cost of maintaining the blanket insurance to cover, during the cotton season, at least fifty bales of cotton left upon the platform for sale, as hereinabove provided for, one cent per bale for all cotton weighed on said platform and one-half the amount collected for cotton remaining on the platform more than three days. All other moneys received by virtue of the charges herein provided for shall be retained by the cotton weigher for his compensation and expenses. The county board of commissioners shall have power to remove from his office the said cotton weigher after at least three days' notice why he should not be removed, and on sufficient cause being shown, and said board shall fill any vacancy in the manner hereinabove provided for the election of a cotton weigher.

(2) Any and every person, for himself or as agent, and any corporation who shall sell or buy in such city or township any cotton bale or bales contrary to the provisions of sub-section 1, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding fifty dollars, or imprisonment for not exceeding ten days for each offense.

(3) It shall be the special duty of the sheriff, the county policemen, if any, and the magistrates' constables in the county in which such city may be situate, and of the city policemen, to be on the lookout for violations of the provisions of this section, and upon information or belief to swear out warrants and cause prosecutions for the same; and it shall likewise be the duty of the solicitor and of the city attorney to prosecute in such cases. [1911]

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 5—
Flour and Grain, Tolls Take for Grinding.

Sec. 6544. Quantity of commodity taken for toll.

No person shall take more toll for grinding corn, wheat, rye or any other grain into good meal or flour than one-eighth part of any quantity under ten bushels, and for ten bushels, or any quantity above, at one time brought, one-tenth part only, and for all grain, as aforesaid, chopped for hominy, feeding stock or for distilling, one-sixteenth part. [1785]

Sec. 6545. Penalty.

Any person or persons taking more toll than hereinbefore directed shall be subject to pay a fine to the amount of ten times the value of the toll so taken, to be recovered in the most summary way before the nearest magistrate; one-half to the prosecutor and the other half to the person aggrieved. [1785]

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 7—
Pork, Beef, Turpentine and Tar Barrels.

Sec. 6560. Barrels of pork and beef: Number of gallons; weight; packing.

Every barrel of pork or beef packed and sold in this State shall contain thirty gallons and two hundred pounds weight of wholesome, well-cured meat in the same, which shall be weighed by the packers, and well packed with salt and pickle, each piece not to weigh more than eight pounds, and not to be cut or mangled further than to take out the kernels or where bones require it, and not more than two heads in one barrel of pork. No beef's head or shanks shall at all be packed. [1746]

Sec. 6565-1. Turpentine barrel, weight; tar barrel, number of gallons.

In the absence of satisfactory proof of a special stipulation to the contrary, it shall be presumed and held that the quantity and weight of crude turpentine to make a barrel thereof is two hundred and eighty pounds, and that the quantity of tar to make a barrel thereof is thirty-two gallons. [1746; last amended 1870.]

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 7—
Staves and Shingles.

Sec. 6565. Standards.

All staves to be made for exportation, and all shingles which shall be offered for sale in this State, shall be made of good and sound timber, and shall be of the following dimensions, to wit: each pipe stave to be made of white oak, fifty-eight inches long, and not less than three-quarters of an inch thick at the thin edge, and three inches broad, clear of sap; each hoghead stave to be made of red or white oak, forty-two inches long, not to be less than three-quarters of an inch thick at the thin edge, and four inches broad, clear of sap; and each barrel stave of red or white oak, to be thirty inches long, not to be less than half an inch thick at the thin edge, and four inches broad, clear of sap; and each shingle to be twenty-two inches in length, and not less than half an inch thick at the thick end, and well shaved, so as not to be winding, and not less than three inches and a half broad, clear of sap. [1746]

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 10—
Commercial Feeding Stuffs.

Sec. 6587. Marking requirements; standard weight packages.

Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale within this State shall have affixed thereto, or printed thereon in a conspicuous place on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying the weight of the package (provided that all con-

Code of Laws 1942, Vol. 3, Title 34, Ch. 138, Art. 10—
Commercial Feeding Stuffs—Continued.

concentrated commercial feeding stuffs shall be in standard weight bags or packages of 25, 50, 75, 100, 125, 150, 175, or 200 pounds); * * *. [1910; last amended 1936.]

Sec. 6588. Definition.

The term "concentrated commercial feeding stuffs" shall be held to include all feeds used for live stock and poultry, except whole hays, straw, cotton seed hulls and corn stover, when the same are not mixed with other materials; nor shall it apply to the unmixed whole seeds or grains of cereals when not mixed with other materials, and when not in damaged condition as determined by inspection to be unfit for feed purposes, mixed or unmixed. [1910]

Sec. 6593. Seizure.

Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale or distribution in this State any concentrated commercial feeding stuff, as defined in section 6588, without complying with the requirements of sections 6587 thru 6592, * * * shall be guilty of a violation of sections 6587 thru 6600, and the lot of feeding stuffs in question shall be seized and condemned, sold or destroyed by the commissioner of agriculture, or his duly authorized representative, and the proceeds from said sales shall be covered into the state treasury for the use of the department executing the provisions of sections 6587 thru 6600. Such seizure and sale shall be made by the commissioner of agriculture, or under the direction of an officer of his appointment. * * * The commissioner of agriculture, however, may in his discretion, release the feeding stuffs so withdrawn when the requirements of the provisions of sections 6587 thru 6600 have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal. [1910; last amended 1941.]

Sec. 6597-4. Penalty for violations.

Any manufacturer, importer, jobber, agent or dealer who shall violate any of the provisions of sections 6587 thru 6600, or the regulations adopted by the commissioner of agriculture, upon conviction thereof, shall be fined not exceeding fifty dollars for the first offense nor more than two hundred dollars for each subsequent offense, and the proceeds from such fines shall be covered into the state treasury for use of the department executing the provisions of sections 6587 thru 6600. [1906; last amended 1910.]

Sec. 6598. Notification of violation.

Whenever the commissioner of agriculture, or his duly authorized representative, becomes cog-

nizant of any violations of the provisions of sections 6587 thru 6600 he shall immediately notify in writing the manufacturer, importer, jobber or dealer if same be known, and after thirty days he shall notify the circuit solicitor, who shall cause such person or persons so violating sections 6587 thru 6600 to be prosecuted in the manner required by law. [1910; last amended 1941.]

Sec. 6600. Inspectors.

The commissioner of agriculture shall appoint such analysts, chemists and inspectors as may be required to carry out the provisions of sections 6587 thru 6600, and any part of the labor of analysts and chemists, upon request of the commissioner of agriculture, shall be performed by the South Carolina experiment station, with such compensation therefor as may be approved by the said commissioner of agriculture. Such inspectors shall also assist in the enforcement of the Pure Food and Drug Law of the State.¹ [1910; last amended 1941.]

¹ See Sec. 5128-27, page 918.

Code of Laws 1942, Vol. 3, Title 34, Ch. 139, Art. 2—
Containers for Fruits and Vegetables.

Sec. 6663. Enforcing agency.

The division of markets of the extension service is charged with the execution of the provisions of sections 6662 to 6672, and has authority to employ such agents and assistants as may be necessary, fix their compensation and define their duties, and require bonds in such amount as the chief of the division of markets deems advisable, conditioned upon the faithful performance of duties by any employee or agent: *provided*, that no said compensation, or other expenses involved in the execution of sections 6662 to 6672, shall be a charge against the state. [1921]

Sec. 6665. Establishment and promulgation of standards.

After investigation, and from time to time as may be practicable and advisable, the division of markets of the extension service shall have authority to establish and promulgate standards of open and closed receptacles for, and standards for the grade and other classification of farm products, by which their quantity, quality and value may be determined, and prescribe and promulgate rules and regulations governing the marks, brands and labels which may be required for receptacles for farm products, for the purpose of showing the name and address of the producer or packer; the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto, and for the purpose of establishing a state brand for any farm product produced in South Carolina: *provided*, that any standard for any farm product or receptacle therefor, or any requirement for marketing receptacles for farm

products, now or hereafter established under authority of the Congress of the United States, shall forthwith, as far as applicable, be established or prescribed and promulgated as the official standard of requirement in this State: *provided, further*, that no standard established or requirement for marketing prescribed under sections 6662 to 6672 shall become effective until the expiration of thirty days after it shall have been promulgated. [1921]

Sec. 6666. Packing according to regulations; exceptions; enforcement.

* * * Whenever any standard for an open or closed receptacle for a farm product shall be made effective under said sections no person shall pack for sale in and deliver in a receptacle, or sell in and deliver in a receptacle, any such farm product to which such standard is applicable, unless the receptacle conforms to the standard, subject to such variations therefrom as may be allowed in the rules and regulations made under said sections: *provided*, that the requirements as to receptacle shall not apply to produce sold or offered for sale in less than car lots. Whenever any requirement for the marketing, branding or labeling of a receptacle for a farm product becomes effective under said sections, no person thereafter, shall pack for sale, offer for sale, consign for sale, or sell and deliver any such farm product in a receptacle to which such requirement is applicable, unless the receptacle be marked, branded or labeled according to such requirement, or unless such product be brought from outside the State and offered for sale, consigned for sale, or sold in the original package. The chief of the division of markets is authorized at any time to cause such inspections and classifications to be made and such certificates to be issued, as he may deem necessary to enforce the provisions of said sections. Such inspections to be made without charge only when no request is made by grower, shipper, receiver or any other party, and inspection is made for the purpose of demonstration or for enforcing the provisions of said sections. [1921]

Sec. 6669. Regulations to conform to United States regulations.

The division of markets is authorized to make and promulgate such rules and regulations as may be necessary to carry out the provisions of sections 6662 to 6672. Such rules and regulations shall be made to conform as nearly as practicable to the rules and regulations of the secretary of agriculture of the United States prescribed under any act of Congress of the United States relating to the marketing of farm products. [1921]

Sec. 6670. Violation a misdemeanor.

Any person who violates any provisions of secs. 6662 to 6672, or of the rules and regulations made under the article for carrying out its provisions, or fails or refuses to comply with any of the require-

ments thereof, or who willfully interferes with agents or employees in the execution or on account of the execution of his or their duties, shall be guilty of a misdemeanor. [1921]

Sec. 6671. Punishment.

Any person convicted of a misdemeanor under secs. 6662 to 6672 shall be punished by a fine of not more than one hundred (\$100.00) dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment, in the discretion of the court. [1921]

Code of Laws 1942, Vol. 4, Title 36, Ch. 150, Art. 6—Coal.

Sec. 7529. Weighing of coal in cities and towns not under 10,000 inhabitants; penalty.

The municipal authorities of the cities and towns of this State of not less than ten thousand inhabitants are hereby empowered to require all dealers of coal to weigh all coal sold within the limits of such cities and towns upon the public scales of such cities and towns and to impose a charge therefor of not more than ten cents for each draft. Said municipal authorities may enforce the provisions of this section by such fine and imprisonment as may be now or hereafter prescribed by law for the violation of the ordinances of such cities or towns. [1896]

Code of Laws 1942, Vol. 4, Title 38, Ch. 159—Public Utilities.

Sec. 8209. Public utility defined.

* * * (c) The term "public utility," when used herein includes every corporation and person furnishing or supplying in any manner gas, electricity, heat, electric power, water and street railway service, or any of them, to the public, or any portion thereof, for compensation. [1910; last amended 1935.]

Sec. 8210. Powers of commission.

(a) The public service commission is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every "public utility" in this State as defined in sections 8209 * * *, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service¹ to be furnished, imposed, observed and followed by every "public utility" in this State as defined in sections 8209 thru 8213 and the State hereby asserts its rights to regulate the rates and services of every "public utility" as herein defined. * * * [1910; last amended 1935.]

¹ Rules and regulations established under the provisions of this section include the definition of a cubic foot of gas, requirement of meters and testing thereof; regulation and testing of electric meters; and providing penalties therefor. See p. 719, Code of Laws of S. C., 1942.

Code of Laws 1942, Vol. 4, Title 38, Ch. 160, Art. 5—
Railroad Track Scales.

Sec. 8303. Cotton: How classified by common carriers.

All cotton packed in bales transported by common carriers within the limits of this State shall be classed as "heavy goods"—that is to say, an article to be weighed, and charged for and treated accordingly; *provided*, that any common carrier before receiving such cotton for shipment, shall have the right to demand from the shipper the weights of the several bales thereof, and to adopt the same as the weights upon which freight is to be charged; and in case of loss, no recovery shall be had by any shipper for a greater amount than the weights so furnished by him. [1889]

Sec. 8319. Consignees may have product reweighed.

Any consignee of coal or other articles to be delivered to him in car-load lots by any common carrier at any point within the limits of this State where such common carrier maintains track scales, shall have the right to demand that such coal or other articles be reweighed before delivery to him by said common carrier; and it shall be the duty of such common carrier, within forty-eight hours after such demand, to reweigh the same and deliver to such consignee a written, or partly written and partly printed statement, showing the true weight thereof. [1906]

Sec. 8320. Penalty against carrier for violating preceding section.

Any common carrier refusing or failing to comply with any of the provisions of section 8319 shall forfeit the right to any freight incurred through transportation of such coal or other article, or in the event that such freight shall have been prepaid, shall be liable as a penalty to the said consignee for the amount of freight so prepaid, to be recovered by suit in any court of competent jurisdiction. [1906]

Sec. 8322. Maintenance of scales by common carrier.

It shall be the duty of any common carrier doing business in this State, upon demand of any party or any industrial enterprise having a sidetrack adjacent to and used in connection with the business of the said party or industrial enterprise, to erect and maintain on the said sidetrack suitable scales for reweighing the said coal or other articles, in carload lots: *provided*, however, the said party or industrial enterprise shall agree and become liable to the said common carrier to pay the amount incurred by said common carrier in the erection and maintenance of the said scales. In such event, it shall be the duty of the said common carrier to reweigh such coal or other articles delivered in

car-load lots to the said party or industrial enterprise upon said sidetrack, as provided for in section 8319. Upon refusal so to weigh, the said common carrier shall be liable for the same penalties heretofore provided in sections 8319 to 8322, inclusive. [1906]

Sec. 8323. Public service commission to have jurisdiction; penalty.

All railroad track and platform scales, which are used in connection with shipping, are hereby placed under the jurisdiction of the public service commission, for inspection, and to require new scales when needed, and to require the installation of such scales whenever in their opinion same is necessary for the needs of the public. A failure or refusal to carry out instructions of said commission, in reference to said scales, shall be punished by a penalty of two hundred dollars for each refusal, to be recovered by suit in any court of competent jurisdiction by any person or corporation aggrieved; and any sum so recovered shall be turned into the state treasury for general use. [1912; last amended 1935.]

Code of Laws 1942, Vol. 1, Title 21, Ch. 70—False Advertising.

Sec. 1379. Unlawful acts; penalty.

Any person, firm, corporation or association who knowingly with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is intentionally untrue, shall be deemed guilty of a misdemeanor; and upon conviction shall be punished by a fine of not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars, or imprisonment at hard labor for not less than thirty (30) days or more than six months, in the discretion of the court. [1924]

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Code of 1939, Vol. 1, Title 4, Ch. 4.01—Department of Agriculture.

Sec. 4.0104. Powers and duties.

The Department of Agriculture shall have power:

* * * * *

(2) To execute and enforce all laws within the jurisdiction of the Department including the inspection of foods, drugs, dairy products, oils, cider, vinegar, oleomargarine, butterine, and all other food products, and sanitation of premises used for the manufacture, preparation, storage, and sale of

food and food products; cold storage warehouses, seeds, noxious weeds, commercial feeding stuffs, livestock remedies, commercial fertilizer, hotels and restaurants, lodging houses, weights and measures, including the inspection of all warehouse and public scales, including scales of fuel dealers and all merchants, and from time to time promulgate such rules and regulations and, with the advice of the State Chemist, adopt such standards of food products as are necessary and proper to enforce the provisions of this title [Secs. 4.0101-4.9911];

(3) To make, promulgate, amend, repeal, or add

to, from time to time such rules and regulations for regulation and administration of any of the subjects within the jurisdiction of such Department, but only in cases where the making of such rules and regulations is specifically authorized by statute. [1925; last amended 1937.]

* * * * *

Code of 1939, Vol. 3, Title 63, Ch. 63.01—Weights and Measures, State Sealer.

Sec. 63.0101.¹ Secretary of agriculture as sealer of weights and measures; deputies; power to arrest, etc.; reports.

The Secretary of Agriculture is hereby made ex officio inspector and sealer of weights and measures and is hereby charged with the duty of carrying into force and effect the provisions of this title, [Secs. 63.0101-63.0704], except as provided in chapter 63.03.

The deputies, assistants, and inspectors, appointed for the purpose or intrusted with such duties by the Secretary of Agriculture, shall have the same powers and duties as are provided for such Secretary when acting in performance of duties assigned to them by him under the provisions of this title.

The Secretary of Agriculture, his deputy, assistants, and inspectors are hereby made special policemen, and are authorized and empowered to arrest any violator of the statutes in relation to weights and measures, to enter complaint before any court of competent jurisdiction, and to seize and use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodities found to be used, retained, or offered or exposed for sale or sold in violation of law.

The Secretary of Agriculture jointly with the State Chemist shall have authority to make, and shall issue from time to time, regulations for the enforcement of the provisions of this title. Such regulations may include specifications and tolerances for all weights, measures and weighing and measuring devices of the character of those specified in Section 63.0103 of this title, 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 not reasonably permanent in their adjustment or which will not repeat their indications correctly or which facilitate the perpetration of fraud. Such specifications and tolerances shall be in conformity with the code of specifications, tolerances and regulations for commercial weighing and measuring devices issued and recommended by the National Bureau of Standards of the United States Department of Commerce and in effect on the effective date of this Act. For the purposes of this Act any weight, measure, or weighing or measuring device shall be deemed to be correct when it conforms to

all applicable requirements promulgated as specified in this section, and other apparatus shall be deemed to be incorrect.

The Secretary of Agriculture may from time to time, make, and he is hereby authorized to make reports, in printed bulletins, of the work undertaken and accomplished under this title, together with other information relative to weights and measures as may be deemed suitable. [1919; last amended 1949.]

¹ See Ch. 63.99, pages 935-937; penal provisions for violation of chapter.

Sec. 63.0102. Supervision of weights and measures; state institution inspection; state university cooperation.

Except as provided in chapter 63.03, the Secretary of Agriculture shall have and keep a general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state. He, or his assistants at his direction, shall at least once annually test all scales, weights, and measures used in checking the receipts and 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, he 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.

It is hereby made the duty of the Department of Physics of the State University of South Dakota, upon request of the Secretary of Agriculture, to assist him or his assistants in all such matters as may require the facilities of the laboratory of that department or technical knowledge relating to physical measurements. [1919; last amended 1925.]

Sec. 63.0103. Duty of inspection and testing; packaged commodities; right of entry; duty to prosecute.

When not otherwise provided for by law the Secretary of Agriculture 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 and measuring devices kept, offered, or exposed for sale, sold or used or employed by any proprietor, agent, lessee, or employee in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of distribution or consumption purchased or offered or submitted by such person or persons for sale, hire, or award.

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, sold, or in the process of delivery, in order to determine whether the same contain the amounts rep-

Code of 1939, Vol. 3, Title 63, Ch. 63.01—Weights and Measures, State Sealer—Continued.

resented, and whether they be offered for sale or sold in a manner in accordance with law.

He may for the purposes above mentioned, and in the general performance of his official duties, enter and go into or upon, without formal warrant, any stand, place, building, or premises, or stop any vender, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the Secretary of Agriculture may specify, for the purpose of making proper tests.

Whenever the Secretary of Agriculture finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1919; last amended 1925.]

Sec. 63.0104. Sealing after inspection.

Whenever the Secretary of Agriculture compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, or subject to his use, he shall seal or mark such weights, measures, or weighing or measuring devices with appropriate seals or marks. [1919; last amended 1925.]

Sec. 63.0105. Faulty devices: Condemnation for repairs or confiscation.

The Secretary of Agriculture shall condemn and seize and may destroy incorrect weights, measures, or weighing or measuring devices which in his best judgment are not susceptible to satisfactory repair; but such as are incorrect and yet 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 or corrected within sixty days, and they may neither use nor dispose of the same in any way, nor remove or deface any such "Condemned for repairs" tag or other mark or tag affixed by the Secretary of Agriculture until they shall have received from the Secretary of Agriculture written permission to do so. 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 Secretary of Agriculture. [1919; last amended 1925.]

Sec. 63.0106. Inspection upon complaint.

Whenever complaint shall be made to the Secretary of Agriculture that any false or incorrect scales, weights, or measures are being made use of by any person, firm, or corporation in the purchase or sale of merchandise or other commodities or in weighing any article or commodity, the piece price for which is determined by weight or measure, it shall be his duty to cause the same to be inspected

as soon as the duties of his office will permit, and he shall make such other inspections of the weights and measures as in his judgment is necessary or proper to be made, except where inspection is provided for by chapter 63.03. [1919; last amended 1925.]

Sec. 63.0107. Prosecution.

The state's attorney of each county in the state is hereby authorized and required upon complaint on oath of the Secretary of Agriculture or other person to prosecute before any court of competent jurisdiction in the name of the state of South Dakota proper action or proceeding against any person or persons violating the provisions of this title [Secs. 63.0101-63.0704]. [1919; last amended 1925.]

Code of 1939, Vol. 3, Title 63, Ch. 63.02—Weights and Measures, State Chemist.

Sec. 63.0201. State standards; custody; testing and sealing of office and working standards.

The weights and measures received from the United States under a Resolution of Congress approved June 14, 1836, and 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 such as shall be supplied by the state in conformity therewith and certified to by the National Bureau of Standards, shall be the state standards of weights and measures.

Nothing in this title [Secs. 63.0101-63.0704] shall prohibit the use of standard metric measures.

The State Chemist shall take charge of the standards adopted by this title as the standards of the state, and cause them to be kept in a fireproof building belonging to the state and 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 receipt for same from his successor in office. Such standards shall be used only for testing any duplicate standards that may be required in the enforcement of this title.

In addition to the state standards of weights and measures provided for by law, there shall be supplied by the state at least one complete set of duplicate standards, to be kept at all times in the office of the State Chemist and to be known as the office standards; and such other weights, measures, and apparatus as may be found necessary to carry out the provisions of this title, to be known as working standards. Such weights, measures, and apparatus shall be verified by the State Chemist or his assistants 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 letters "S. D." and the last two figures of the year with seals which the State Chemist shall have and keep for that purpose. The office standards shall be used in making all comparisons of weights and measures and weighing and measuring devices submitted for test in the office of the Secretary of Agriculture or State Chemist. [1919; last amended 1925.]

Sec. 63.0202. State chemist to act as technical adviser.

The State Chemist shall act as technical adviser and assistant on all matters relating to the state standards of weight and measure, inspections, examinations, comparisons, and related subjects for the Secretary of Agriculture, his deputy, assistants, and inspectors, and whenever called upon to do so by the Public Utilities Commission. The equipment and facilities of the State Chemical Laboratory shall be available at all times for all such comparisons, inspections, analyses, and technical services as may be necessary for assistance of the officers and agents of the state vested with duties of inspection and enforcement of the statutes relating to weights and measures. [1939]

Code of 1939, Vol. 3, Title 63, Ch. 63.03—Weights and Measures, Public Utilities Commission.

Sec. 63.0301. Heavy scale and weight supervision; rules and regulations; jurisdiction.

All track scales and all other scales in this state used by common carriers or by shippers for the purpose of weighing cars or freight offered for shipment in car lots and all scales and weighing devices in public warehouses and grain elevators and all stock scales at stockyards and all private, farm, and town and city scales used in weighing hay, grain, wood, coal, and like subjects of commerce shall be under the supervision and control of the Public Utilities Commission and be subject to inspection by it. Farm scales shall be inspected only at the request of the owner.

The Public Utilities Commission shall have authority and it shall be its duty to prescribe and enforce reasonable rules and regulations for the weighing of cars of freight offered for shipment in carload lots and livestock at stockyards scales, and of hay, grain, wood, coal, and like subjects of commerce in this state. The commission shall also make and publish reasonable rules and regulations for the installation, including specifications therefor, inspection, testing, and repairing of such scales under its jurisdiction as to it may seem necessary and desirable and not inconsistent with the laws of this state, specifying among other things the extent and nature of such scale repairs or correc-

tions as will in its judgment be practicable for its inspectors to make.

The jurisdiction of the Public Utilities Commission over the scales hereinbefore designated shall be exclusive and such inspection shall be made only by and under the direction of the Public Utilities Commission. [1937; last amended 1949.]

Sec. 63.0302. Inspectors.

The Public Utilities Commission of this state is hereby authorized and empowered to appoint suitable and competent inspectors to aid the said Commission in making such inspections and repairs, such appointments to be made for such time as the Commission shall designate. Each person so appointed shall qualify by taking an oath of office and giving a bond to the state in the sum of one thousand dollars conditioned for the faithful performance of his duties.

He shall receive a salary to be fixed by the commission and his necessary traveling expenses during the period of his employment, necessarily and actually incurred in the performance of his duties, the said salary and expenses to be paid upon vouchers itemized and accompanied by receipts as provided by law, to be approved by the Public Utilities Commission.

Such inspectors shall report to the Public Utilities Commission at such time or times and in such manner as the said Commission may require. [1937; last amended 1945.]

Sec. 63.0303. Public utilities commission may acquire standards.

The Public Utilities Commission is authorized to provide itself with such standard weights and measures and such additional facilities and equipment including motor vehicles or other means of conveyance as in the judgment of the Commission may be necessary and suitable in carrying on the work of inspecting, testing, repairing, and correcting scales and performing generally the duties entailed upon it by this chapter [Secs. 63.0301—63.0305]. [1937]

Sec. 63.0304.¹ Inspection; sealing; condemning; right of entry.

The Commission or any one or more members thereof or any agent, employee, or scale inspector of the Commission may at any time, without notice, enter any place maintaining a scale subject to the provisions of this chapter and test and seal all weighing scales and measures used in conducting such business. If the person making such inspection shall find any scales in use in such place inaccurate, he shall condemn the same and attach thereto a card, notice, or other device, indicating that the scales are condemned. It shall thereafter be unlawful for any person to remove, deface, or destroy such card, notice, or other device placed upon condemned scales, or to use again, or permit the use of such scales for any purpose, until the

Code of 1939, Vol. 3, Title 63, Ch. 63.03—Weights and Measures, Public Utilities Commission—Continued.

same shall have been repaired, retested, and found to be correct, and until the Public Utilities Commission, or the person making the inspection, shall consent to the further use of such scales.

If such scales are found to be incorrect and are condemned, upon the request of the owner of such scales or the person in charge of the same, it shall be the duty of the scale inspector or other person inspecting the same, with such competent assistance to be furnished by the owner of such scales or the person in charge of the same as may, in the judgment of said inspector or other person inspecting such scales, be necessary, to repair the same immediately. If the securing of necessary parts for the repair of such scales will occasion delay, such inspector or person inspecting the same shall perform the work of making such repairs with assistance to be furnished as aforesaid, as promptly as possible. The owner or person in charge of the scale being repaired shall furnish all materials needed in making the repairs.

Whenever directed so to do by the Commission, any common carrier or shipper or other person owning or operating a scale under the jurisdiction of the Public Utilities Commission, shall equip such scale with any sealing device considered by the Commission to be a proper and safe device to be used in sealing of scales. [1937]

1 See Sec. 63.9906, page 936; penal provisions.

Sec. 63.0305. Fees for testing; charges for repair work.

The Public Utilities Commission shall charge and collect the fee hereinafter set forth for each inspection or testing of scales, which fee shall be paid upon demand of the Commission or its agent by the person, firm, or corporation owning or operating the scale inspected or tested. Such schedule of fees is hereby fixed as follows:

Up to and including 2,000 pounds capacity	\$ 3.00
Over 2,000 pounds capacity and up to and including 5,000 pounds capacity	4.00
Over 5,000 pounds capacity and up to and including 10,000 pounds capacity	5.00
Over 10,000 pounds capacity and up to and including 20,000 pounds capacity	7.00
Over 20,000 pounds capacity and up to and including 40,000 pounds capacity	8.00
Over 40,000 pounds capacity and up to and including 60,000 pounds capacity	10.00
Over 60,000 pounds capacity and up to and including 100,000 pounds capacity	12.00
Over 100,000 pounds capacity	15.00

Where the scale inspected or tested is found to be out of tolerance, or defective, and the inspector is able to make adjustments or repairs on the ground such as will bring the scale within the standards of accuracy prescribed by the Commission, a reasonable charge may be made, in addition

to the fee fixed in the foregoing schedule, based upon the number of man-hours of labor required for putting the scale in serviceable condition. The wage per hour shall be fixed by the Commission. Such charge shall be collected and paid as herein prescribed for scheduled rates.

All fees, repair charges, and funds of any kind collected under the provisions of this chapter shall be by the Public Utilities Commission deposited with the State Treasurer and by him credited to the General Fund. [1937; last amended 1949.]

Code of 1939, Vol. 3, Title 63, Ch. 63.04—Weights and Measures, Definitions and Application.

Sec. 63.0401. Meaning of net weight construed.

All contracts, sales, purchases, or other transaction having for its purpose the exchange of commodities or work to be done by weight or measure shall be taken and construed according to the standard of weights and measures hereby adopted as the standard of this state, and it shall be unlawful to make contracts, sales, or purchases, or engage in any such transaction contrary to the provisions of this title [Secs. 63.0101–63.0704]. Whenever any commodity is sold on the 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 chapter [Secs. 63.0401–63.0402], it shall be understood and construed to mean the net weight of the commodity. [1919]

Sec. 63.0402. Definitions.

Terms used in this part [Sec. 63.0401–63.0704], relating to methods of weight and measure, are defined and applied as follows, unless the context otherwise plainly requires:

(1) "Person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies, and associations;

(2) "Weights", "measures", "weighing devices", and "measuring devices" 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.

(3) "Sell" or "sale" shall be construed to include barter or exchange. [1919]

Code of 1939, Vol. 3, Title 63, Ch. 63.05—Weights and Measures, General Units.

Sec. 63.0501. Standards of weights and measures: units of length and surface.

The units or standard measures of length and surface from which all other measures of extension, whether lineal, superficial, or solid, shall be derived

and ascertained, are the standards of length designated in this chapter [Secs. 63.0501-63.0504]. For measures of cloth and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths, and sixteenths. The rod, pole, or perch contains five and one-half yards; the mile, one thousand seven hundred sixty yards. A chain for measuring land is twenty-two yards long and is divided into one hundred equal parts called links. The acre for land measure shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten rods in breadth; six hundred and forty acres being contained in a square mile. [1919]

Sec. 63.0502. Units of weight.

The units or standards of weight from which all other weights shall be derived and ascertained shall be the standard weights designated in this chapter [Secs. 63.0501-63.0504]. The hundredweight consists of one hundred avoirdupois pounds and twenty hundredweight are a ton. Whenever, hereafter, in this chapter the word "pound" is used it shall mean the avoirdupois pound unless otherwise distinctly specified. [1919]

Sec. 63.0503. Gallon; barrel; hogshead.

A barrel for liquids shall contain thirty-one and one-half gallons, and a hogshead two barrels.

A liquid gallon shall contain two hundred and thirty-one cubic inches.

A barrel of potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruit as provided in this section.

The standard barrel for apples or pears or other fruit unless otherwise specifically defined shall have an interior capacity of seven thousand fifty-six cubic inches, and shall not be less than twenty-six inches between the heads inside; the diameter of the heads shall be seventeen and one-eighth inches, including the beveled edge; the outside bulge or circumference shall be not less than sixty-four inches, the thickness of the staves being four-tenths of an inch. Any barrel of different form, having the same distance between heads and a capacity of seven thousand fifty-six cubic inches shall be a legal barrel.

A barrel of flour measured by weight shall contain one hundred ninety-six pounds, one-half barrel ninety-eight pounds, one-quarter barrel forty-nine pounds, one-eighth barrel twenty-four and one-half pounds, and one-sixteenth barrel twelve and one-fourth pounds.

A barrel of unslaked lime shall contain two hundred pounds. [1919]

Sec. 63.0504.¹ Milk and cream bottles; tolerances.

Bottles used for the sale of milk or cream shall be of the capacity of half gallon, three pints, one quart, one pint, one-half pint, one gill, filled full to the bottom of the lip or cap ring. The following

variations on individual bottles or jars may be allowed, but the average contents of not less than twenty-five bottles selected at random from at least four times the number tested must not be in error by more than one quarter of the tolerance herein provided; six drams above and six drams below on the half gallon; five drams above and five drams below on the three pint; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the half pint; two drams above and two drams below on the gill. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of the bottle the name, initial, or the trade-mark of the manufacturer, and the capacity of the bottle or jar. [1919]

¹ See Sec. 63.9904, page 936; penal provisions.

Code of 1939, Vol. 3, Title 63, Ch. 63.06—Weights and Measures, Agricultural Weights and Measures.

Sec. 63.0601. Dockage regulation.

When, in the purchase, sale, or delivery of any grain, seed, or any other agricultural product, excepting corn on cob (field), a dockage or discount is taken for dirt, foul seed, or any other substance or mixture, such dockage must be according to the per cent of such dirt, foul seed, or other substance or mixture present in the grain, seed, or other agricultural product, which per cent must be determined by the careful sifting and grading of a truly representative sample of said grain, seed, or other agricultural product. No greater dockage shall be taken than the proportion of dirt, foul seed, or other substance or mixture which shall be found by such careful sifting and grading. When in the purchase, sale, or delivery of corn on cob (field), dockage or discount for excess cob is taken it shall only be taken when the standard bushel contains more than fourteen pounds of cob. Said dockage shall be computed in terms of pounds to the standard bushel and be determined by careful shelling of the weighed standard bushel, or an amount of like proportion. [1919]

Sec. 63.0602. Standard bushel weights for commodities.

Whenever any of the articles or commodities mentioned in this section shall be bought, sold, or dealt in by the bushel or fractional part thereof, the measure thereof shall be determined by avoirdupois weight, and a bushel of each of the respective articles mentioned in this section shall mean the amount of weight of each article herein specified, as follows:¹

	<i>Pounds</i>
Apples	48
Apples, dried	24
Alfalfa seed	60
Barley	48
Beans, dried	60

Code of 1939, Vol. 3, Title 63, Ch. 63.06—Weights and Measures, Agricultural Weights and Measures—Continued.

	<i>Pounds</i>
Beans, green, unshelled	50
Beans, Lima, dried	56
Beets	56
Blue grass seed	14
Bromus inermis	14
Broom corn seed	50
Buckwheat	48
Carrots	50
Castor beans, shelled	50
Clover seed	60
Corn meal	50
Corn on cob (field)	70
Corn, shelled (field)	56
Cucumbers	48
Flax seed	56
Grapes, with stems	40
Hemp seed	44
Hickory nuts, hulled	50
Hungarian grass seed	50
Kaffir corn	56
Lime	80
Millet seed	50
Oats	32
Onion bottom sets	32
Onion top sets	30
Onions	52
Orchard grass seed	14
Osage orange seed	32
Parsnips	48
Peaches	48
Peaches, dried	33
Peanuts	20
Pears	45
Peas, dried	60
Peas, green, unshelled	56
Plums	48
Popcorn on the ear	70
Popcorn, shelled	56
Potatoes	60
Quinces	48
Radish seed	50
Rape seed	50
Red top seed	14
Rutabagas	50
Rye	56
Salt, coarse	80
Sand	130
Sorghum seed	50
Spelts	45
Sweet corn	50
Sweet potatoes	54
Timothy seed	45
Tomatoes	50
Turnips	55
Walnuts, black hulled	50
Wheat	60
All root crops not specified above	50

It shall be unlawful in buying to take any greater number of pounds or in selling to give any less number of pounds to the bushel, than is in this section allowed and provided, and no test for moisture shall be used to change the standards herein provided.

If any of the foregoing articles or commodities are bought, sold, or dealt in by the one-half bushel, peck, half peck, quart, or pint, the one-half bushel, peck, half peck, quarter peck,

quart, or pint shall be by weight and shall be derived from the weights per bushel as prescribed for such articles or commodities in this section, and shall be determined by successively dividing such weight by two. [1919]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 63.0603. Weight and container for berries and small fruits.

It shall be unlawful to sell or offer to sell any berries or small fruit in any other manner than by weight, dry measure, 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 container 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, one-half pint, standard dry measure. [1919]

Sec. 63.0604. Sale by weight of butter and butter substitute.

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. [1919]

Sec. 63.0605. Hay to be sold by weight; exception.

All hay, of whatever kind, straw, or other forage which is sold at wholesale or retail by a regular dealer in such commodities, shall in every instance be sold by weight. This section shall not apply to the sale of hay, straw, or other forage in stacks. [1919]

Sec. 63.0606. Hay in stack: Legal measurement by volume.

Unless otherwise agreed upon between contracting parties, the following shall be the legal measurement of a ton of hay in stack:

(1) For clean, native blue joint hay, alkali or salt grass hay, or wheat grass hay, or the same mixed, settled in the stack for thirty to sixty days, four hundred twenty-two cubic feet, thereafter three hundred forty-three cubic feet;

(2) For clean, alfalfa hay, settled in the stack for thirty to sixty days, five hundred twelve cubic feet, thereafter four hundred twenty-two cubic feet;

(3) For clean timothy or clover hay, or the same mixed, settled in the stack for thirty to sixty days, five hundred twelve cubic feet, thereafter four hundred twenty-two cubic feet. [1915]

Sec. 63.0607. Same: Measurement of cubic contents of rick or loaf shaped stack.

Unless otherwise agreed upon between the contracting parties, the following method is prescribed for determining number of cubic feet in a rick stack of hay: the width and the length of the stack

on the ground shall be measured, and the average distance from the ground against one side of the stack to the ground against the other side of the stack, directly over and opposite, shall be taken in linear feet and inches, and then the width shall be subtracted from the measurement over the stack as above indicated, the result divided by two, and the result so obtained multiplied by the width and the result thus obtained multiplied by the length, which will give the number of cubic feet contained in the stack; and the tonnage thereupon determined by dividing the total number of cubic feet, as above determined, by the number of cubic feet allowed for a ton under the provisions of this chapter. [1915]

Sec. 63.0608. Same: Measurement of round stack.

Unless otherwise agreed upon between the contracting parties, the following method is prescribed for determining the number of cubic feet in a round stack of hay: measure around the base of the stack in feet, and multiply such number by itself, and multiply the product by the height of the stack in feet and divide the last-named product by twenty-five and the quotient so determined is the cubical contents of the stack, and the tonnage thereupon is determined by dividing the total number of cubic feet, as herein determined, by the number of cubic feet allowed for a ton under the provisions of this chapter. [1915]

Code of 1939, Vol. 3, Title 63, Ch. 63.07—Weights and Measures, Miscellaneous Provisions.

Sec. 63.0701. Coal, coke, charcoal: Sale by weight; delivery ticket; exception.

It shall be unlawful to sell except at the mine any coal, coke, or charcoal in any other manner than by weight. It shall be unlawful for any person to deliver except at the mine any coal, coke, or charcoal without each such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, coke, or charcoal contained in the vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets 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. 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. [1919]

Sec. 63.0702. Standards of wood for fuel.

Wood for fuel may be sold by the ton or the cord. A ton of fuel wood shall be two thousand avoird-

dupois pounds. A cord shall be the amount of wood which is contained in a space of one hundred twenty-eight cubic feet, when the wood is well ranked and stowed. [1939]

Sec. 63.0703. Standard log rule.

The log rule now in use by the Department of School and Public Lands and known as the "Decimal C" log rule, is hereby declared and adopted as the legal rule by which all logs hereafter sold by the state from its public lands shall be measured and scaled. [1915]

Sec. 63.0704. Measurement of masonry.

A perch of mason work or stone is hereby declared to consist of twenty-five cubic feet measure. [1899]

Code of 1939, Vol. 3, Title 63, Ch. 63.99—Weights and Measures, Penal Provisions.

Sec. 63.9901. Obstructing enforcement.

Any person who shall hinder or obstruct in any way, not otherwise specifically penalized in this chapter [Secs. 63.9901–63.9909], the Secretary of Agriculture, his deputy, or inspectors, in the performance of his or their official duties under this title [Secs. 63.0101–63.0704], 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 twenty dollars or more than one hundred dollars or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment. [1919]

Sec. 63.9902. Preventing inspection and testing; violation of rules and regulations.

Any person, firm or corporation preventing or attempting to prevent, or in any way interfering with the Secretary of Agriculture or any of his inspectors or agents in entering the premises where a weighing or measuring device may be kept, for inspecting or testing the same, or knowingly failing or neglecting to observe any reasonable rule or regulation of said Secretary of Agriculture adopted for the enforcement of this title [Secs. 63.0101–63.0704], shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed one hundred dollars for each offense. [1919]

Sec. 63.9903. Impersonation of officers.

Any person who shall impersonate in any way the Secretary of Agriculture as inspector of weights and measures, his deputy, or inspectors, in the performance of his or [sic] their official duties, shall be guilty of a felony, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the State Penitentiary for not more than one year. [1919]

Code of 1939, Vol. 3, Title 63, Ch. 63.99—Weights and Measures, Penal Provisions—Continued.

Sec. 63.9904. False milk or cream containers; testing.

Any dealer or person who uses for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of the law as to marking and capacity shall be guilty of giving false or insufficient measure. Any manufacturer, person, firm, or corporation, who sells milk or cream bottles to be used in this state that do not comply with the law as to size and marking shall suffer the penalty of one hundred dollars, to be recovered by the Attorney General in an action to be brought in the name of the people of the state.

The Secretary of Agriculture shall, from time to time, make tests on individual jars or bottles used by the various firms in the state for milk or cream in order to ascertain whether the above provisions are being complied with. [1919]

Sec. 63.9905. Use or sale of false or condemned weights and/or measures; selling less than quantity represented.

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 buying or selling of any commodity or thing, or for hire or award, or retain in his possession a false weight or measure or measuring or weighing device, or any weight or measure or weighing or measuring device which has not been sealed by the Secretary of Agriculture 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 Secretary of Agriculture or his assistants at his direction; or who shall sell or offer or expose for sale less than the quantity he represents, or shall take or attempt to take more than the quantity he represents, when as the buyer, he furnished the weight, measure, or weighing or measuring device by means of which the amount of the commodity 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 violate any provision of this title for which a specific penalty has not been provided; or who shall sell or offer to sell or use or have in his possession for the purpose of selling or using any device or instrument to be used, 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 twenty dollars or more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, upon the 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 fifty dollars or more than five hundred dollars or by imprisonment in the county jail for not more

than one year, or by both such fine and imprisonment. [1919]

Sec. 63.9906. Heavy scale regulations.

Except as otherwise provided in chapter 63.03, relating to supervision and inspection of heavy scale weighing or measuring by the Public Utilities Commission, any person, partnership, or corporation neglecting or refusing to install a seal for the preservation of adjustment as required by such chapter, upon any scale under the jurisdiction of the said Commission, after thirty days notice so to do; or removing, defacing, or destroying any such seal placed upon any scale by any member of said Commission or any agent, employee, or scale inspector of the Commission for the purpose of fixing or preserving the adjustment of such scale in order to insure its accuracy; or removing, defacing, or destroying any such seal, tag, card, notice, or other device placed upon any scale by any member of the Commission or by any agent, employee, or scale inspector of the Commission for the purpose of indicating that such scale has been condemned, and must not be used; or using or permitting the use of any scale that shall have been tested and found to be incorrect, before the same shall have been again tested and found to be correct and the further use thereof authorized or consented to by the Commission or one of its scale inspectors; or preventing or attempting to prevent or in any way interfering with any member, inspector, agent, or employee of the Public Utilities Commission entering the premises where such scales may be kept, or inspecting or testing such scales; or knowingly failing or neglecting to observe any reasonable rule or regulation of the said Commission relating thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days for each offense. [1937]

Sec. 63.9907. False stamping of weight.

Every person who knowingly marks or stamps false or short weight, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, shall be guilty of a misdemeanor. [1899]

Sec. 63.9908. Fraudulently increasing weight.

Every person who, in putting up in any bag, bale, box, barrel, or other package any hops, cotton, hay, or other goods usually sold in bags, bales, boxes, barrels, or packages, by weight, puts in or conceals therein anything whatever for the purpose of increasing the weight of such bag, bale, box, barrel, or package, shall be guilty of a misdemeanor. [1899]

Sec. 63.9909. General provisions.

Any person who shall violate any provision of this title [Secs. 63.0101-63.0704] prohibiting any act or making such act unlawful and which is not herein otherwise penalized, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars and not more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [1919]

Code of 1939, Vol. 3, Title 45, Ch. 45.02—Municipal Government, Powers of All Municipalities.

Sec. 45.0201. Powers of all municipalities.

Every municipality shall have power:

* * * * *

(58) To provide for the inspection and sealing of weights and measures and to enforce the keeping of proper weights and measures by vendors.

(59) To provide for the inspection, weighing, and measuring of articles of merchandise and fuel and for the places and manner of weighing and measuring the same, and to establish city scales, and to appoint weighers and inspectors.

(60) To provide for the inspection of meats, dairy products, fish, lard, vegetables, flour, and similar provisions. [1913]

* * * * *

Sec. 45.0202. Same: Additional powers.

In addition to other powers granted, every city shall have power:

* * * * *

(3) To regulate the place of sale and selling of meats, poultry, fish, cheese, lard, vegetables and similar provisions;

(4) To regulate the sale and prescribe the weight and quality of bread; [1913; last amended 1923.]

* * * * *

Code of 1939, Vol. 3, Title 45, Ch. 45.08—Municipal Government, Board of Commissioners.

Sec. 45.0806. Powers of five member board.

In cities governed by a board consisting of five members, the mayor and the commissioners shall have the following powers and duties:

* * * * *

(2) The police and fire commissioner shall have under his special charge the enforcement of all police regulations of the city and general supervision of the police and fire departments and of their officers and employees. He shall have charge of all apparatus and personal property used by these departments. He shall also have charge of the city pound and supervision of the public weigher and measurer; [1913; last amended 1915.]

* * * * *

Sec. 45.0807. Powers of three member board.

In cities governed by a board consisting of three members, the mayor and commissioners shall have the following powers and duties:

(1) The mayor shall have the same powers and duties as the mayor in a city governed by a board consisting of five members except as to the city parks and the lighting of the streets, alleys, and public buildings of the city. In addition he shall have under his special charge the supervision of the police and fire departments, the public health department, and all matters relating to the public welfare of the city. [1913; last amended 1915.]

* * * * *

Code of 1939, Vol. 1, Title 4, Ch. 4.09—Potatoes, Labeling.

Sec. 4.0901. Definitions.

Terms used in this chapter [Secs. 4.0901-4.0915], unless the context otherwise plainly requires, shall mean:

(1) The term "potatoes" shall mean and include what is commonly called and known as white or Irish potatoes;

(2) The term "closed container", or its plural form, shall mean any container which shall be either sewed, tied, sealed, glued, nailed, or otherwise closed in a practical or secure way for handling;

* * * * *

The term "label" and its various grammatical forms when used as a noun, shall mean and include any tag, label, brand, or device attached to, or written, stamped, printed, or stenciled on any container and carrying a term or terms setting forth the grade, condition, quality, weight, variety, or class of the potatoes or other produce therein contained; and, when used as a verb shall mean the act or the fact of the use of the aforesaid labeling items and methods in connection with potatoes or other produce; and, when used as an adjective, its descriptive meaning shall be interpreted from its use and meaning as a noun and verb as herein prescribed. [1935]

Sec. 4.0905. Enforcement.

The Commissioner [State Seed Commissioner] shall be charged with the enforcement of the provisions of this chapter [Secs. 4.0901-4.0915] and of the regulations duly made thereunder. [1935]

* * * * *

Sec. 4.0909. Inspection points.

The Commissioner [State Seed Commissioner] may designate by regulation, as official potato shipment inspection points or areas any point or stations, or all points or stations within a county or specified subdivisions thereof, at or in which the majority of the potato shippers at public hearing

Code of 1939, Vol. 1, Title 4, Ch. 4.09—Potatoes, Labeling—Continued.

shall declare themselves in favor thereof. * * * [1935]

Sec. 4.0910. Marking requirements, closed containers.

* * * * *

Every closed container containing potatoes grown in the state of South Dakota and sold, offered, or exposed for sale or consignment in carload lots; also closed containers containing potatoes grown in the state of South Dakota and sold, offered, or exposed for sale in truck load lots by a person other than the grower thereof, shall bear upon the outside either by brand, tag, or label, in plain letters and figures, the grade of the potatoes therein contained, as specified in this chapter, the minimum weight thereof when packed and the variety or class name of said potatoes.

The labeling prescribed in this chapter [Secs. 4.0901-4.0915] may be accompanied by additional marks or brands which are not inconsistent with or in the same location more conspicuous than, or which do not in any way obscure the labeling described in this chapter. The Commissioner shall, by regulation, prescribe the general location of the labeling on the container and the minimum size of the letters and figures used in the labeling of the potatoes as herein provided. [1935]

Sec. 4.0911.¹ Misbranding unlawful.

It shall be unlawful for any person either for himself or while acting as agent or servant for any other person to sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale, or to deliver within the state of South Dakota or to convey or cause to be conveyed out of the state of South Dakota, any potatoes or other produce which are mislabeled within the meaning of this chapter [Secs. 4.0901-4.0915] or the regulations thereunder, or which are falsely labeled, represented, or advertised in any respect, whether they are in closed containers or in open containers or in bulk and regardless of the quantity. In the event of the shipment into this state from any point outside thereof of any potatoes, it shall be the duty of the purchaser, the vendor, and the person receiving such potatoes to have the same labeled in accordance with and conforming to the requirements of this chapter for potatoes grown or originating in South Dakota. Provided however, that certain standardized grades and labeling of potatoes in use elsewhere may be permitted by the Commissioner in connection with shipments of potatoes into this state from any point outside thereof, in lieu of the labeling provided for in this chapter. [1935]

¹ See Sec. 4.9903, this page; penal provisions.

Code of 1939, Vol. 1, Title 4, Ch. 4.99—Potatoes, Penal Provisions.

Sec. 4.9903. Penalty for violation of chapter 4.09.

Whoever shall violate any of the provisions of, or who fails or refuses to comply with any of the requirements of chapter 4.09 of this title relating to potato regulations or of the regulations duly made thereunder, or who willfully interferes with the Commissioner [State Seed Commissioner] or any of his agents in the execution or on account of the execution of his or their duties under chapter 4.09, shall on conviction be fined not more than one hundred dollars and costs of prosecution for the first offense, nor more than five hundred dollars and costs of prosecution for each subsequent offense. [1935]

Code of 1939, Vol. 1, Title 22, Ch. 22.01—Food, Drugs, Oils, and Compounds: Department of Agriculture.

Sec. 22.0101. Powers and duties.

The Department of Agriculture through its Secretary, Division of Inspections, and such other agents and employees as it may assign thereto shall be in general charge of the administration and enforcement of this title [Secs. 22.0101-22.1705], except in cases where a different intention plainly appears. It shall have and may exercise all of its general powers and duties of visitation, inspection, examination, access to property and places therefor, prosecution, rule and regulation making, requiring cooperation and aid of other agencies of government, for the purpose of administering and enforcing the provisions of this title, as the same are prescribed in the title "Agriculture" of this Code or as specifically prescribed in this title and as otherwise prescribed by law. [1925; last amended 1937.]

Sec. 22.0102.¹ Secretary of agriculture to establish standards; rules and regulations.

(a) The Secretary of Agriculture, whenever in his judgment such action will promote honesty and fair dealing in the interest of consumers, shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity and purity; provided, that when a definition and standard for a food has been fixed and established by the administrator of the Federal Food, Drug, and Cosmetic Act of 1938, the Secretary of Agriculture shall adopt and promulgate such definition and standard as official for this state, and the said Secretary may by regulation amend definitions prescribed by law in chapters 22.05 and 22.06 of the South Dakota Code of 1939 to conform to the definitions and standards so adopted and promulgated. The Secretary of Agriculture shall have power to promulgate, amend and repeal such

rules and regulations not inconsistent with law as may be necessary for the proper and effective enforcement of this title. All such standards, definitions, rules and regulations shall become effective upon approval by the Attorney General and promulgation in conformity with the provisions of Section 65.0106 of this Code. An article of food which does not conform to the definitions and standards so fixed, adopted and promulgated shall be deemed to be adulterated or misbranded as the case may be. The failure to obey any rule or regulation of the Secretary of Agriculture promulgated as authorized and provided in this Section may be enforced by proper legal procedure in a court of competent jurisdiction.

b. Bulletins containing such standards, definitions, rules and regulations together with such information relating to the products regulated by the provisions of this title as shall be calculated to promote the public health and safety may be distributed from time to time by the Department of Agriculture to newspapers of the state, to all persons dealing in the products to which they relate, and to any citizen of this state, upon application therefor, the cost of which shall be paid out of funds appropriated for maintenance of the Department. [1917; last amended 1949.]

¹ Tolerances and exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of this section. See Sec. 22.0403, subdivision 3, this page.

Code of 1939, Vol. 1, Title 22, Ch. 22.02—Food, Drugs, Oils, and Compounds: State Chemist.

Sec. 22.0201. Duties.

* * * * *

Said State Chemist shall also have the custody and care of the state and office standards of weights and measures and at least once in each year all working standards used by the State Department of Agriculture and any other state office or department in the inspection of weighing and measuring devices in this state and the standards used by any city maintaining a city inspector of weights and measures, shall be submitted to said State Chemist to be verified and sealed by comparison with the said office standards. All examinations, tests, and analyses requested as above provided shall be made promptly and the results immediately certified to the officer or department requesting the examination. [1925]

* * * * *

Code of 1939, Vol. 1, Title 22, Ch. 22.04—Food, Drugs, Oils, and Compounds: Food.

Sec. 22.0401. Definition.

The word "food" as used in this title [Secs. 22.0101–22.1705] shall include all substances used

as food, drink, confectionary, or condiment by man or other animals, whether simple, mixed, or compound, and all substances or ingredients to be added to foods for any purpose. [1917]

Sec. 22.0403. When food deemed misbranded.

* * * For the purpose of this title [Secs. 22.0101–22.1705] a food product shall also be deemed to be misbranded:

* * * * *

(3) If in package form and the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count, * * * however, reasonable variations as to the quantity of the contents of package shall be permitted, and tolerance and exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 22.0102;¹ [1917; last amended 1923.]

* * * * *

¹ See page 938.

Sec. 22.0404. Guaranty protection.

Whenever any dealer shall have received a guaranty, signed by the wholesaler, jobber, manufacturer, or other person, residing within the United States, from whom he purchased the food product, to the effect that the same is not adulterated or misbranded as defined herein, he shall not be liable to prosecution under this chapter [Secs. 22.0401–22.0411], unless he shall have knowledge or notice of the falsity of such guaranty, but the person making such guaranty shall be subject to the fines and penalties which otherwise would attach to such dealer. Such guaranty must contain the name and post office address of the wholesaler, jobber, manufacturer, or person from whom the food product was purchased: provided that any product which is evidently unfit for consumption must not be sold or offered for sale though the dealer may possess the guaranty provided for in this section. [1913]

Sec. 22.0405. Seizure and condemnation.

Any food product that is adulterated or misbranded within the meaning of this chapter [Secs. 22.0401–22.0411], and is being transported from one point within this state to another point within this state or, having been so transported, remains unloaded, unsold, or in the original unbroken packages, and any such adulterated or misbranded product which is sold, kept for sale, or offered for sale in this state, shall be liable to be proceeded against by an action in the Circuit Court of the county where the same is found and seized for condemnation; * * * [Remainder of section relates to procedure]. [1917]

Code of 1939, Vol. 1, Title 22, Ch. 22.04—Food, Drugs, Oils, and Compounds: Food—Continued.

Sec. 22.0406. Manufacture of misbranded food unlawful; penalty.

It shall be unlawful for any person to manufacture, within this state, any article of food which is adulterated or misbranded within the meaning of this chapter [Secs. 22.0401–22.0411], and any person so doing shall be subject to the penalty provided in section 22.9901¹ of this title. [1917]

¹ See page 942.

Sec. 22.0407. Transportation, sale, keeping, etc. of misbranded food unlawful; penalty; exception.

The transportation or shipment from any point within this state to any other point within this state of any article of food which is adulterated or misbranded, within the meaning of this chapter [Secs. 22.0401–22.0411], is prohibited, and any person who shall ship or transport or deliver for shipment or transportation from any point within this state to any other point within this state, or who shall receive at any point within this state from any other point within this state and having so received shall deliver in original, unbroken packages, or offer to deliver to any person any such article so adulterated or misbranded, or any person selling or keeping for sale, or offering for sale in this state, any such adulterated or misbranded foods, shall be punished as provided in section 22.9905¹ of this title. No article shall be deemed to be misbranded or adulterated within the meaning of this chapter when intended for export to any foreign country and prepared and packed according to the specifications or directions of the foreign purchaser, if no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which such article is intended to be shipped; but if such article shall be in fact sold, or kept for sale, or offered for sale, for use or consumption in this state then it shall be subject to all the provisions of this chapter. [1917]

¹ See page 943.

Code of 1939, Vol. 1, Title 22, Ch. 22.05—Food, Drugs, Oils, and Compounds: Milk and Cream.

Sec. 22.0515. Babcock test; correct glassware to be used.

Whoever uses the Babcock test or any other test for determining the quantity of butterfat in milk or cream purchased, used, or received shall use such methods as will secure a uniform sample of such milk or cream; shall weigh the samples to be tested, shall correctly read the measurement of butterfat in such tests and in all transactions concerning the purchase or receiving of any milk or cream to be tested; shall use true and correct glassware and scales and other apparatus, and it shall be unlawful to report or use as a basis for settlement

anything but the true and correct result as shown by said tests. * * *. [1909]

Code of 1939, Vol. 1, Title 22, Ch. 22.06—Food, Drugs, Oils, and Compounds: Ice Cream.

Sec. 22.0602. Enforcement; rules and regulations.

It shall be the duty of the Secretary of Agriculture to enforce the provisions of this chapter [Secs. 22.0601–22.0611]. He shall make and promulgate, jointly with the State Chemist, such rules and regulations as may be incidental to or necessary for the accomplishment of the purposes and the enforcement of this chapter, * * *. Upon approval by the Attorney General and publication, such rules and regulations shall become effective. [1937]

Sec. 22.0609. Containers.

It shall be unlawful to sell, keep, or offer for sale the frozen products [ice cream and other frozen desserts] defined in this chapter [Secs. 22.0601–22.0611] in any other manner than by liquid measure and in the containers described in this section. Such containers shall be sold only of the following net capacities, U. S. standard liquid measure, and none other: one gallon, multiples of one gallon, one quart and multiples of one quart to and including three quarts, four-fifths quart, and one pint and fractions of the pint not exceeding three-fourths pint in volume. These standard containers shall be used regardless of whether the product be frozen in the container in advance of sale or be packed in the container in the presence of the consumer. Each and every container shall be plainly and conspicuously labeled on a side or the top thereof to show the net contents of the same in one of the net capacities herein prescribed, except that containers having a capacity of three-fourths pint or less shall be marked to show the net contents in terms of fluid ounces. Nothing in this section shall be construed to affect the sale of these products for consumption on the premises. [1937]

Code of 1939, Vol. 1, Title 22, Ch. 22.07—Food, Drugs, Oils, and Compounds: Flour and Bread.

Sec. 22.0702. Flour, corn flour and meal: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer, or expose for sale in South Dakota any of the following commodities except in containers plainly and conspicuously labeled to show the net weight of the contents thereof and except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: wheat flour, whole wheat flour, corn flour, corn meal, and any such flour or meal treated or modified by any method, or by the addition of any material, for

the purpose of affecting the food value or cooking qualities of such flour or meal; provided, however, that the provisions of this Act as to unit weights fixed by this section shall not apply to (a) the retailing of such flours or meals direct to the consumer from bulk stock, or (b) the sale of such flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours or meals packed in cartons the net contents of which are less than five (5) pounds, or (d) the exchange of flour for wheat by mills grinding for toll; and provided further that for the purposes of this Act the terms "wheat flour" and "whole wheat flour" shall include such products made from Durum or other variety or varieties of wheat. If in the process of manufacture the flour has been subjected to any treatment whereby it is bleached or its natural color changed in any manner by any chemical or other artificial action, such container shall be conspicuously labeled with the word "bleached" printed in capital letters in such manner as shall be prescribed by the Secretary of Agriculture in regulation issued hereunder. [1917; last amended 1945.]

Sec. 22.0703. Same: Enforcement.

This chapter [Secs. 22.0701-22.0703] * * * shall be enforced by the Secretary of Agriculture under his general powers of visitation, inspection, examination, prosecution, rules and regulation making, prescribed in this title [Secs. 22.0101-22.1705]. [1937]

Sec. 22.0704. Bread: Standard loaves; enforcement.

It shall be unlawful for any person, firm, or corporation to make or procure for purpose of sale, or to sell or offer for sale, or consign or offer for consignment, in the state of South Dakota, bread in loaves of any other weights than the following standard avoirdupois weights: one pound, one and one-half pounds, and any greater weight which is a multiple of one-half pound. These shall be the standard weights of bread to be sold in this state, and bread shall not be sold except of these weights; however, the provisions of this chapter [Secs. 22.0704-22.0706] regarding weight shall not apply to biscuits, buns, crackers, rolls, or to fancy breads as defined in regulations adopted pursuant to the provisions hereof, or to what is commonly known as "stale bread" and sold as such, if the seller at time of the same shall expressly state to the buyer that the bread so sold is "stale bread", and provided that commercial bread shall be deemed stale forty-eight hours after baking. When twin or multiple loaves are baked, the weights specified in this section shall apply to the total weight of the loaf. The Secretary of Agriculture shall enforce the provisions of this chapter and shall adopt and establish, in the manner provided by law, rules for such enforcement, including reasonable toler-

ances and variations within which all weights shall be kept; provided, however, that such tolerances shall apply only to individual loaves, and variations from the standard weights herein prescribed may be above as well as below the standard weights, but the average weight of all loaves of the same designated weight and kind produced, sold, delivered, or consigned by any baker or dealer shall not be less than the standard weight which such loaves are indicated by the labels or otherwise represented as weighing. [1937]

Sec. 22.0706. Same: Marking requirements.

It shall be unlawful for any person, firm, or corporation to procure for purpose of sale, transport, keep, or offer for sale, or to sell or consign bread unless such bread be labeled as required herein. There shall be printed upon the wrapper of every loaf of bread in plain and conspicuous type not smaller than ten point gothic capital letters and figures the name and address of the manufacturer of the bread, the net weight of the loaf, and a descriptive name or term designating the kind of bread if it be other than that commonly known and defined as white bread. The net weight shall be expressed in terms of one of the standard units of weight prescribed in section 22.0704, or, in lieu of statement of weight, by the words, "South Dakota standard weight loaf." The information herein required to be shown upon the bread wrapper shall be printed upon that portion of the wrapper which can easily be seen and read by the consumer; provided that when the baker uses transparent wrapping materials, such as cellophane, he may, in lieu of printing the label on such wrapper, print the required label information upon paper not smaller than two by three inches and insert this underneath the transparent wrapper in such manner as to make it clearly legible through the transparent wrapper. [1937]

Code of 1939, Vol. 1, Title 22, Ch. 22.10—Food, Drugs, Oils, and Compounds: Commercial Feeding Stuff and Livestock Remedies.

Sec. 22.1001. Enforcing agency.

It shall be the duty of the Secretary of Agriculture to see that the provisions of this chapter [Secs. 22.1001-22.1007] are complied with and enforced and he shall make or cause to be made such inspection and investigation as shall be necessary in the premises. * * * [1929]

Sec. 22.1002. Definitions.

The following definitions shall apply throughout this chapter [Secs. 22.1001-22.1007]:

(1) "Concentrated commercial feeding stuffs" shall be construed to mean and include any product used or offered to be used for feeding livestock, poultry, or other domestic animals and animals grown in captivity, except whole seed or grain,

Code of 1939, Vol. 1, Title 22, Ch. 22.10—Food, Drugs, Oils, and Compounds: Commercial Feeding Stuffs and Livestock Remedies—Continued.

whole hay, straw, silage, and corn fodder, un-mixed meals made from and composed of the entire grains of wheat, rye, barley, oats, Indian corn buck-wheat, millet, broom corn, Kaffir, milo, or other seed or grain, and except mixed or unmixed meals of grains, with or without ground screenings added, which are sold and delivered in bulk to the consumer, and except those products hereinafter designated as mineral feeds:

(2) "Mineral feeds" shall be construed to mean and include all mixtures and preparations sold or intended for sale or use as supplemental food for livestock, poultry, or other domestic animals, which contain those mineral or inorganic ingredients generally regarded as dietary factors essential for the normal nutrition of animals, and which are sold or represented for the primary purpose of supplying these minerals or inorganic ingredients as additions to rations in which these same mineral or inorganic factors may be deficient:

(3) "Livestock remedy" shall be held to mean and include all condimental feeds, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines, or any preparation of like nature, either solid, semisolid, powdered, or liquid in form, used or to be used for any animal except man and administered internally for their stimulating, invigorating, curative, or therapeutic effect. [1929]

Sec. 22.1003. Marking requirements.

No person, firm, or corporation shall sell, distribute, offer, or expose for sale or distribution in this state any concentrated commercial feeding stuff, mineral feed, or livestock remedy, unless he furnish with each lot or shipment sold in bulk, and unless there be affixed to every lot, parcel, or package of such product in a conspicuous place on the outside thereof, a clearly legible and plainly printed statement or label in the English language, in type not smaller than ten point, which statement or label shall clearly and truthfully show:

(1) On all of said products:

(a) The net weight of the contents of the package expressed in the terms commonly used for such purpose; [1929; last amended 1945.]

* * * * *

Code of 1939, Vol. 1, Title 22, Ch. 22.13—Food, Drugs, Oils, and Compounds: "Uniform Narcotic Drug Law."

Sec. 22.1310. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or

dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 22.1319. Enforcement and cooperation.

It is hereby made the duty of the Secretary of Agriculture, his officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter [Secs. 22.1301–22.1324], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1935]

Sec. 22.1320. Penalties for violations.

Any person violating any provision of this chapter [Secs. 22.1301–22.1324] shall upon conviction be punished as provided in section 22.9920¹ * * * [1935]

¹ See page 943.

Code of 1939, Vol. 1, Title 22, Ch. 22.14—Food, Drugs, Oils, and Compounds: Paint.

Sec. 22.1401. Definition.

The term "paint" as used in this chapter [Secs. 22.1401–22.1405] shall include white lead in linseed oil or any compound intended for the same use, paste or semipaste, and liquid or mixed paint ready for use. [1907]

Sec. 22.1402. Marking requirements.

It shall be unlawful for any person to manufacture for sale or to sell within this state any paint which is not accurately labeled as provided in this chapter [Secs. 22.1401–22.1405].

The label required by this chapter shall be pasted or fastened on the outside of each container of paint, and shall have printed thereon, clearly and distinctly * * * the quantity of paint contained in the container; * * *

The possession by any dealer of any paint not labeled as provided in this chapter shall be prima facie evidence that the same is being kept in violation of this chapter. [1907]

Code of 1939, Vol. 1, Title 22, Ch. 22.99—Foods, Drugs, Oils, and Compounds: Penal Provisions.

Sec. 22.9904. Penalty for violation of Sec. 22.0406.

Whoever shall violate the provision of section 22.0406 relating to manufacture of adulterated or misbranded foods, shall be guilty of a misdemeanor and for each offense shall, upon conviction thereof, be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding thirty days or by both such fine and imprisonment; and for each subsequent offense and

conviction thereof shall be punished by a fine of not less than one hundred dollars or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [1917]

Sec. 22.9905. Penalty for violation of Sec. 22.0407.

Whoever shall violate the provisions of section 22.0407 shall be punished by a fine not exceeding fifty dollars for the first offense and not exceeding one hundred dollars for each subsequent offense, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [1917]

Sec. 22.9910. Penalty for violation of Sec. 22.0515.

Whoever shall violate any provisions of section 22.0515 shall be guilty of a misdemeanor, and upon conviction thereof before a court having jurisdiction in such cases, shall be fined for each and every offense in a sum not less than twenty-five or more than one hundred dollars, and shall stand committed until such fine and costs are paid. [1909; last amended 1925.]

Sec. 22.9912. Penalty for violation of chapter 22.06.

Any person, firm, association, or corporation, or the members, officers, or employees of any firm, association, or corporation, who shall violate any of the provisions of chapter 22.06 relating to frozen deserts, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars or more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail for a period of not more than thirty days, or by both such fine and imprisonment for each such offense, in the discretion of the court. [1937]

Sec. 22.9914. Penalty for violation of chapter 22.07.

Any person who shall violate any provision of chapter 22.07 regulating the handling of flour and bread, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars for each offense, and each separate sale and each separate day of continuation of any practice prohibited by said chapter shall constitute a separate and distinct offense after the first conviction of any violation of said chapter. [1937]

Sec. 22.9917. Penalty for violation of chapter 22.10.

Any person, firm, corporation, or agent that shall sell, offer, or expose for sale or distribution any package of same or any quantity of any concentrated commercial feeding stuff or of any mineral feed or of any livestock remedy which has not been registered with the Secretary of Agriculture as required by chapter 22.10 relating to stock foods and remedies, or which does not have affixed to it the label required by the provisions of such chapter, or which is found by an analysis made by or under the direction of the State Chemist to differ mate-

rially in composition from the guarantees and statements on the labels thereof, or which shall bear any false, misleading, or deceptive statements, either upon the label of the product or on circulars, leaflets, or other printed matter accompanying or distributed with such product; and any person, firm, or corporation or agent who shall fail or refuse to comply with any of the provisions of such chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than ten nor more than fifty dollars and for each subsequent offense by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [1929]

Sec. 22.9920. Penalty for violation of chapter 22.13.

Any person violating any provision of chapter 22.13 relating to habit-forming drugs, shall upon conviction be punished, for the first offense, by a fine not exceeding five hundred dollars or by imprisonment in jail for not exceeding ninety days, or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding one thousand dollars, or by imprisonment in the State Penitentiary for not exceeding two years or by both such fine and imprisonment. [1935]

Sec. 22.9921. Penalty for violation of chapter 22.14.

Any person who shall falsely paint, stamp, mark, or stencil any tank car, tank, barrel, can, keg, or other container containing linseed oil or flaxseed oil, or who shall violate any provision of chapter 22.14 relating to paints and oils, shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine not exceeding fifty dollars, and for each subsequent offense by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. [1909; last amended 1911.]

Laws 1949, Ch. 85—Commercial Fertilizers.

Sec. 1. Enforcement.

The Secretary of Agriculture, hereinafter referred to as the "Secretary", is charged with the administration and enforcement of this chapter [Secs. 1-19] * * * [1949]

Sec. 2. Definitions.

* * * * *

c. The term "commercial fertilizer" includes mixed fertilizers and fertilizer materials;

d. The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which is used primarily for its plant food content

Laws 1949, Ch. 85—Commercial Fertilizers—Continued.

or for compounding mixed fertilizers, except unmanipulated animal and vegetable manures;

e. The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth, with or without inert materials;

* * * * *

q. The term "label" means a display of written, printed, or graphic matter on or attached to the immediate container of any article and the outside container or wrapper of the retail package, if any there be; [1949]

* * * * *

Sec. 5. Marking requirements.

a. All commercial fertilizer offered for sale or sold or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container a suitable label showing, in clearly legible and conspicuous written or printed form, the net weight or measure of the contents of the container * * *. The label shall be either (1) on tags affixed to the end of the package midway between the ears or on the sewed end, or (2) directly on the package in which case, for bags containing fifty pounds or more, the grade shall appear also on the end of the package in type that is plainly legible.

b. If distributed in bulk, a written or printed statement of the net weight * * * shall accompany delivery and be supplied to the purchasers. [1949]

Sec. 14. Stop sale order.

It shall be the duty of the Secretary to issue and enforce written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the Secretary finds said commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of this Act or any regulation issued hereunder, until the law has been complied with and said commercial fertilizer is released in writing by the Secretary or said violation has been otherwise legally disposed of by written authority. [1949]

Sec. 15. Seizure.

Any lot of commercial fertilizer not in compliance with the provisions of this Act [Secs. 1-19] shall be subject to seizure and condemnation on complaint of the Secretary to a court of competent jurisdiction in the area in which said fertilizer is located. * * * [1949]

Sec. 17. Penalties for violations: minor violations.

a. Any person violating any of the provisions of this Act [Secs. 1-19] or any rule or regulation

promulgated hereunder shall be guilty of a misdemeanor and shall be punished for the first offense by a fine of not less than \$25.00 or more than \$50.00, and for each subsequent offense by a fine of not less than \$100.00 or by imprisonment for not to exceed thirty days, or by both such fine and imprisonment. * * *

b. Nothing in this Act shall be construed as requiring the Secretary or his representative to report for prosecution, or for the institution of seizure proceedings, minor violations of the Act when he believes that the public interests will be best served by a suitable notice of warning in writing. [1949]

Laws 1949, Ch. 88—Anti-Freeze.

Sec. 1. Definitions.

* * * (1) "Anti-freeze" shall include all substances and preparations sold or distributed for use as the cooling medium, or to be added to the cooling liquid or medium, for use in the cooling systems of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; * * * (4) "label" means a display of written, printed or graphic matter on or attached to the immediate container of any article and the outside container or wrapper of the retail package, if any there be; * * * [1949]

Sec. 3. Marking requirements.

An anti-freeze shall be deemed to be misbranded; (1) if its labeling is false or misleading in any particular; or (2) if in package form and it does not bear a label on the outside of the package plainly and conspicuously stating * * * the net quantity of the contents of the package; or (3) if it be so labeled or branded as to mislead or deceive the purchaser. [1949]

Sec. 5. Enforcement.

The Director of Licensing is charged with the administration of this Act [Secs. 1-7]. * * * [1949]

Sec. 7. Penalties for violations.

Any person who shall violate or fail to comply with any of the provisions of this Act [Secs. 1-7] shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not less than ten nor more than thirty days, or by both such fine and imprisonment. Any rule or regulation of the Director of Licensing promulgated under this Act may be enforced by proper legal procedure in a court of competent jurisdiction. [1949]

Laws 1947, Ch. 99—Economic Poisons.

Sec. 2. Definitions.

For the purposes of this act [Secs. 1-15]—

a. The term "economic poison" means any sub-

stance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

* * * * *

o. The term "Secretary" means the Secretary of Agriculture of this State.

* * * * *

q. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device. [1947]

* * * * *

Sec. 3. When deemed misbranded.

* * * * *

c. An economic poison shall be deemed misbranded:

* * * * *

(8) if the label fail to clearly and plainly show * * * the net weight or measure of the contents of the container subject, however, to such reasonable variations as the Secretary may by regulation permit. [1947]

Sec. 4. Prohibited acts.

a. It shall be unlawful for any person to distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any of the following: * * *

(1) any economic poison which has not been registered pursuant to the provisions of Section 5 of this Act, * * *

(5) any economic poison which is adulterated or misbranded, * * * [1947]

Sec. 7. Enforcement.

a. The examination of economic poisons or devices shall be made under the direction of the Secretary for the purpose of determining whether they comply with the requirements of this Act [Secs. 1-15]. * * * provided, however, that nothing in this Act shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of the Act whenever he believes that the public interests will be best served by a suitable notice of warning in writing. [1947]

* * * * *

Sec. 9. Penalty for violations.

a. Any person violating Section 4a (1) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200.00.

b. Any person violating any provision of this Act other than Section 4a (1) shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$50.00 for the first offense and upon conviction for a subsequent offense shall be fined not more than \$200.00; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided, further, that in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of this Act, such registrant shall upon conviction of a violation of any provision of this Act other than Section 4a (1) be fined not more than \$500.00, or imprisoned for not more than one year, or be subject to both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Secretary to comply with all the requirements of this Act. [1947]

* * * * *

Sec. 10. Seizures.

a. Any economic poison or device that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be liable to be proceeded against in any Court in any county of the State where it may be found and seized for confiscation by process of libel for condemnation:

(1) in the case of an economic poison,

(a) if it is adulterated or misbranded;

(b) if it has not been registered under the provisions of Section 5 of this Act;

(c) if it fails to bear on its label the information required by this Act: [1947]

* * * * *

[ED. NOTE.—Sec. 8 (not included herein) of this Act provides for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

Code of 1939, Vol. 3, Title 52, Ch. 52.09—Track Scales.

Sec. 52.0938. Supervision; testing.

Jurisdiction and authority shall be vested in the Public Utilities Commission to require the construction of track scales and to test and correct the same from time to time and to regulate the maintenance and operation thereof.

No such track scale shall be constructed in such a way as to in any manner interfere with the opera-

Code of 1939, Vol. 3, Title 52, Ch. 52.09—Track Scales
—Continued.

tion by the railroad company of its line of railway, and no scale shall be constructed of a size which will not permit of the weighing of an entirely detached car of a capacity of not to exceed one hundred thousand pounds. [1915]

Sec. 52.0939. Private operation; procedure to procure.

Whenever any person engaged in business on the right of way or loading tracks of any station of any railroad company doing business in this state desires to construct, maintain, and operate, at his own cost and expense, a track scale for the weighing of inbound and outbound shipments of freight in carload lots, such person shall first file in the office of the Public Utilities Commission a petition setting forth in substance:

(1) The name, place of residence, business, and place of business of such petitioner;

(2) The name of the station at which such track scale is desired to be constructed and operated;

(3) The name of the railway on whose right of way it is desired that such track scale shall be constructed and operated;

(4) The reasons, stated briefly, why it is desired to construct such track scale;

(5) The place where such scale is desired to be constructed;

(6) That the petitioner is ready, able, and willing, and agrees to assume and pay all expenses in any wise incurred in the construction of such track scale and in the grading or building of any spur or side track or right of way, and all expense in connection with the complete construction of such track scale, including any necessary changes in track, grade, or right of way.

Upon the filing of such petition the Commission shall fix a time and place for hearing the petition and give at least thirty days notice thereof to the railroad company and to the petitioner interested. If, after such hearing, the Commission shall determine that there is a sufficient public demand and public necessity for the construction of such track scale, it shall, at the expense of the petitioner, procure complete plans and specifications for the construction of such track scale, and of any spur or side track, and any changes in the track or grade which may be necessary to properly install such track scale, including an estimate of the actual expenses necessarily to be incurred in completing the construction of the scale and equipping it so as to put it into operation, as well as the cost of any spur or side track and any changes in the track or grade which may be necessary to install such track scale, and shall serve a copy of such plans and specifications and estimate upon the petitioner and the railroad company interested. Upon the service of such plans and specifications and estimate, it shall be the duty of the petitioner

to pay over to the Public Utilities Commission the amount of money set down as the estimated cost and expense of constructing such track scale, and any spur or side track and any changes in the track or grade necessary for the proper installation of such track scale, and thereupon it shall be the duty of the Public Utilities Commission to cause such track scale and spur or side track to be constructed in accordance with the plans and specifications and estimate provided therefor, and after such track scale is fully completed to serve notice to that effect upon the petitioner and the railroad company interested, and set a time and place for hearing any objections to the acceptance of the track scale as constructed. The Public Utilities Commission shall have authority to determine whether such scale has been substantially constructed according to the plans and specifications and is suitable to the requirements of the shippers at that station, and upon arriving at such determination shall pay over the cost of construction thereof to the person who constructed the same. The petitioner shall make good any deficiency between the estimated and actual cost of construction within thirty days from the acceptance of such scale. Any surplus remaining after paying the cost of construction of such scale shall be immediately returned to the petitioner. The expense of maintaining such scale shall be borne by the petitioner.

No such track scale shall be discontinued without the consent of the Public Utilities Commission, entered at length upon the journal of its proceedings, and then only upon restoration of the right of way to its original state at the expense of the original petitioner or his successors in interest. [1915]

Code of 1939, Vol. 3, Title 57, Ch. 57.42—Public Person Weighing Scales.

Sec. 57.4201. Definition.

A "public person weighing scale" is defined as any scale or device used or intended to be used by the general public for the purpose of weighing persons and for the use of which a charge is made or compensation is derived. [1931]

Sec. 57.4202. License required.

Any person, firm, corporation, or association who shall use, install, or display for use, any public person weighing scale, as defined herein, within the state of South Dakota, shall before doing so, secure a license for said scale from the Department of Agriculture of the state of South Dakota and pay the license fee provided herein. [1931]

Sec. 57.4205. Inspection.

All such scales shall be subject to the same inspection as now provided for public scales by the statutes of this state. [1931]

Code of 1939, Vol. 3, Title 57, Ch. 57.99—Public Person Weighing Scales, Penal Provisions.

Sec. 57.9940. Penalty for violations of chapter 57.42.

Any person, firm, corporation, or association using, storing, or displaying a public person weighing scale without having secured a license therefor and paid the license fee required by chapter 57.42 relating to public person weighing scales taxation, or any person unlawfully or willfully defacing or removing the license plate from such scale or device shall be punished, upon conviction thereof, by a fine of not to exceed one hundred dollars or by the imprisonment in the county jail for the term of thirty days, or both such fine and imprisonment. [1931]

Code of 1939, Vol. 3, Title 60, Ch. 60.03—Public Grain Warehouses.

Sec. 60.0320.¹ Weight certificates.

Every person transacting the business of a public grain warehouseman, from whose public grain warehouse grain shall be shipped to any terminal point at which such grain shall be weighed, inspected, and graded by the officer of the state wherein such terminal point is situated, and certificates of such weighing, inspection, and grading shall be issued by such officer, shall forthwith secure from such officer, either through the consignee of such grain or otherwise, such certificates or true and correct copies thereof; and such certificates or copies shall, within ten days after issuance be transmitted and delivered to the person having immediate charge of the public grain warehouse from which such grain was shipped, and shall be open to the inspection and examination of any person who has an ownership interest in such shipment. The Public Utilities Commission may revoke the license of any public warehouseman found, upon hearing before it, to have violated such provisions. [1909]

¹ See Sec. 60-9908, page 948; penalty for violations.

Sec. 60.0321.¹ Testing and repairing of scales.

The Public Utilities Commission or any one or more members thereof or any agent, employee, or scale inspector of the Commission may at any time without notice enter any public warehouse in this state and test and seal all weighing scales and measures used in conducting such warehouse business, and for that purpose the Commission is authorized to provide itself with standard weights and measures and such additional facilities and equipment, including motor vehicles or such other means of conveyance as in the judgment of the Commission may be necessary and suitable in carrying on the work of inspecting, testing, and repairing scales in this state. If the person making such inspection shall find any scales in use in such public warehouse inaccurate, he shall condemn the same and

attach thereto a card, notice, or other device indicating that the scales are condemned. It shall thereafter be unlawful for any person to remove, deface, or destroy such card, notice, or other device placed upon condemned scales, or to again use, or permit the use of such scales for any purpose, until the same shall have been repaired, retested, and found to be correct, and until the Commission, or the person making the inspection, shall consent to the further use of such scales. If such scales are found to be incorrect and are condemned, upon the request of the owner of such scales or the person in charge of the same, it shall be the duty of the scale inspector or other person inspecting the same, with such competent assistance to be furnished by the owner of such scales or the person in charge of the same as may in the judgment of the said inspector or other person inspecting such scales be necessary, to repair the same immediately. If the securing of necessary parts for the repair of such scales will occasion delay, such inspector or person inspecting the same shall perform the work of making such repairs with assistance to be furnished as aforesaid, as promptly as possible; and the Commission shall make and publish reasonable rules and regulations for the inspection, testing, and repairing of such scales as may be necessary and desirable and not inconsistent with the laws of this state, specifying therein among other things the extent and nature of the repairs which will in its judgment be practicable for its inspectors to make. In addition to the fee provided by law for the inspection of such scales, the owner or person in charge of such scales shall pay to the Commission one dollar per hour for the time devoted by the inspector or other person inspecting such scales, to the work of repairing the same. The owner or person in charge of scale being repaired shall furnish all materials needed in making the repairs. All moneys collected under the provisions of this section shall be, by the Commission deposited with the State Treasurer and by him kept in a separate fund and be expended only on vouchers approved by the Commission pursuant to the provisions of section 60.0306. [1890; last amended 1921.]

¹ See Sec. 60-9909, page 948; penalty for violations.

Sec. 60.0322. Inspection.

The Public Utilities Commission shall cause every warehouse and the business thereof, and the mode of conducting the same, to be inspected at such times as it may deem necessary, by one or more members of the Commission or by one of its agents, employees, or scale inspectors, who shall report in writing to the Commission the result of such examination; and the property, books, records, accounts, papers, and proceedings kept at such warehouses, so far as they relate to its condition, operation, or management, shall at all times dur-

Code of 1939, Vol. 3, Title 60, Ch. 60.03—Public Grain Warehouses—Continued.

ing the business hours be subject to the examination and inspection of such Commissioners, their agents, employees, and scale inspectors; and the Commission may, in all matters arising under provisions of this chapter, exercise the power to subpoena and examine witnesses, conferred upon the Commission by law in relation to railroad companies. [1890; last amended 1921.]

Code of 1939, Vol. 3, Title 60, Ch. 60.99 — Public Grain Warehouses, Penal Provisions.

Sec. 60.9908. Penalty for violation of Sec. 60.0320.

Any person violating any of the provisions of section 60.0320, shall be guilty of a misdemeanor and punished by a fine of not less than fifty dollars nor more than one hundred dollars for each offense. [1909]

Sec. 60.9909. Penalty for violation of Sec. 60.0321.

Any person who violates any of the provisions of section 60.0321 shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days for each offense. [1890; last amended 1921.]

Code of 1939, Vol. 3, Title 61, Ch. 61.01—Units of Measurement of Water.

Sec. 61.0138. Cubic foot; acre foot; miner's inch.

The standard of measurement of the flow of water shall be the cubic foot per second of time; and the standard of measurement of the volume of water shall be the acre foot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand, five hundred sixty cubic feet. The miner's inch shall be regarded as one-fiftieth of a cubic foot per second in all cases, except when some other equivalent of the cubic foot per second has been specially stated by

the contract or has been established by actual measurement or use. [1907]

Code of 1939, Vol. 1, Title 13, Ch. 13.06—Misdemeanors.

Sec. 13.0607. Punishment for misdemeanor when not otherwise prescribed.

Except in cases where a different punishment is prescribed by this Code or by some existing provision of law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. [1899]

Code of 1939, Vol. 1, Title 13, Ch. 13.42—False Advertising.

Sec. 13.4201. Unlawful acts; penalty.

If any person, or his employee, in a newspaper, circular, form letter, or other publication published, distributed, or circulated in this state, or by any billboard, sign, card, label, or other advertising medium displayed at any place in this state knowingly makes or disseminates or causes to be made or disseminated any statement or assertion of fact concerning the quantity, the quality, the method of production or manufacture, the cost of production, the cost to the advertiser, the present or former price, or the reason for the price of the merchandise of such person, or concerning the manner or source of purchase of such merchandise, or the possession of rewards, prizes, or distinctions conferred on account of such merchandise, which statement or assertion has the appearance of an offer advantageous to the purchaser and is untrue or calculated to mislead, the person causing such statement or assertion to be made or disseminated, also the employee making or disseminating such statement or assertion, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars. [1913]

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Sec. 585. State standards.

The weights and measures received from the United States, under the acts or resolution of congress, approved June 14, 1836, and additions thereto and renewals thereof, certified by the United States Bureau of Standards, and such other weights, measures, balances, and apparatus as are the property of the state or may be added by the state sealer of weights and measures, hereinafter

provided for, which are in conformity to and certified by the United States Bureau of Standards, shall be the state standards by which all state, county, and municipal standards of weights and measures shall be tried, proved, and sealed. [1913]

Sec. 586. State superintendent: Duties; custody of standards.

The department of agriculture, through and by its superintendent of foods, fertilizers, and dairies, shall exercise the right, power, and duties to administer and enforce the law in this article [Secs.

585-621], which official is hereinafter referred to as the state superintendent. He shall have and keep a general supervision of the weights, measures, weighing devices, and measuring devices offered for sale, sold, or used within the state; shall enforce all laws regarding them; and shall, in conjunction with the state sealer of weights and measures hereinafter provided for, have the care and custody of all weights, measures, balances, and other apparatus mentioned in the preceding section. [1913; last amended 1923.]

Sec. 587. Assistant sealers; powers.

He and the duly appointed assistant and deputy food inspectors under him are made assistant sealers, and shall have the same power and authority as the county and city sealers hereinafter provided for. [1913; last amended 1923.]

Sec. 588. Working standards: Procurement.

The state superintendent shall procure at the expense of the state, the necessary working sets of weights, measures, balances and apparatus for the use of said inspectors, and shall cause same to be tried and proved by the state sealer. [1913; last amended 1923.]

Sec. 589. Same: Sealed apparatus as evidence.

Such weights, measures, balances, and other apparatus provided for such inspectors, when sealed by the state sealer, shall be competent evidence in all the courts of the state in criminal or civil actions. [1913; last amended 1923.]

Sec. 590. Bi-annual inspection in counties and cities; report of superintendent.

The state superintendent, or his deputies or assistants, by his direction, shall at least once in two years visit the various cities and counties in order to inspect the work of the county and city sealers hereinafter provided for; and in the performance of such duties he or they may inspect the weights, measures, balances, or any other weighing or measuring apparatus of any person, and shall have the same power as said county and city sealers of weights and measures. The state superintendent shall likewise annually, during the first two weeks in January, make to the commissioner of the department for the governor a report of the work done by his office. [1913; last amended 1923.]

Sec. 591. State sealer: Custody of standards; receipt from successor.

The president of the University of Tennessee shall be, and the same is, hereby made ex-officio state sealer of weights and measures, hereinafter referred to as the state sealer. He shall, in conjunction with the state superintendent, have the care and custody of all standard weights, measures, balances and other apparatus mentioned in section 585; shall cause them to be kept in a suitable building belonging to the University of Tennessee,

from which they shall not be removed except for repairs or for certification; and shall take all other necessary precautions for their safe-keeping. He shall keep complete records of the standards, balances, and other apparatus belonging to the state, and take receipt for same from his successor. [1913; last amended 1923.]

Sec. 592. Same: Certification of standards; state seal.

He shall maintain the state standards in good order, and shall, in conjunction with the state superintendent, submit them, and thereafter at least once in ten years, to the United States Bureau of Standards for certification. He shall keep a seal, which shall be so formed as to impress the letters "T.N." and the last two figures of the year in which comparison has been made upon all weights, measures, and balances sealed by him; and he, or his deputies, by his direction, shall correct the standards of the several cities and counties when submitted to him by comparing the same with those in his possession, and shall seal the same when tried and proved to be in conformity with the state standards. [1913; last amended 1923.]

Sec. 593. Same: Testing and calibration at request of individuals; fees.

He shall, further, upon the written request of any person or educational institution of the state, in person or by his deputies, test or calibrate weights, measures, weighing devices, or measuring devices and instruments and apparatus used for standards in the state, and for such testing for citizens, firms, or corporations may collect fees to be fixed by the state superintendent and state sealer. Fees so collected shall be turned over to the state treasurer for the use of the state. [1913; last amended 1923.]

Sec. 594. Same: Testing and sealing at request of state superintendent.

He shall, at the request of the state superintendent, test and seal, when found correct, all measures, weights, balances, weighing devices, or measuring devices for the use of the state superintendent and his deputy or assistant inspectors. [1913; last amended 1923.]

Sec. 595. Same: Rules and regulations.

He shall likewise, in conjunction with the state superintendent, establish rules and regulations for the enforcement of this article [Secs. 585-621] and for the guidance of all city and county sealers, and these regulations shall govern the procedure to be followed by said officials in the discharge of their duties. [1913; last amended 1923.]

Sec. 596. Same: Appointment of deputy.

He may appoint a deputy state sealer, who shall be a member of the faculty of the University of Tennessee, and who shall not receive any addi-

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3, Art. XI—Weights and Measures, Sealers—Continued.

tional compensation for his services. [1913; last amended 1923.]

Sec. 597. Same: Report to governor.

He shall likewise annually, during the first two weeks in January, so make for the governor a report of the work done by his office. [1913; last amended 1923.]

Sec. 598. Same: Testing for state institutions.

The state superintendent, or his deputy or inspectors, by his direction, shall at least once annually test all scales, weights, and measures used in checking the receipt or disbursement of supplies in each institution under the direction and ownership of the state, and shall report in writing his findings to the board having such institution under its control or to the executive officer of the institution concerned; and at the written request of such board or officer, the state superintendent shall appoint in writing one or more employees then in actual service of such institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. [1913; last amended 1923.]

Sec. 599. County sealer: Deputies; appointment.

Any county may establish a department of inspection of weights and measures, and shall have power to appoint a sealer and deputies. Such sealer (and deputies, if provided for) shall be appointed by the county court for a term of five years, and shall be paid a salary to be determined by the county court, said county sealer's salary to be not less than six hundred dollars per annum; and no fee shall be charged by him or by the county for the inspection, testing, or sealing of weights, measures, or weighing or measuring devices. [1913; last amended 1923.]

Sec. 600. Same: Power of inspection.

When not otherwise provided by law, the county sealer shall have the power within his county to inspect, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments, or mechanical devices for measuring, and tools, appliances, or accessories connected with any and all such instruments or measures kept, offered, or exposed for sale, sold, or used or employed within the county by any person in proving the size, quantities, things, produce, articles for distribution or consumption offered or submitted for sale, hire, or reward. [1913; last amended 1923.]

Sec. 601. Same: Packaged commodities.

He shall have the power to, and shall from time to time weigh or measure, packages or amounts of commodities of any kind kept with intent to sell,

or in the process of delivery, in order to determine whether same contain the amounts represented or are sold in a manner in accordance with law. [1913; last amended 1923.]

Sec. 602. Same: Testing; right of entry.

He shall at least once in each year, and as much oftener as he may deem necessary, see that the weights, measures, and all apparatus used in the county are correct, and may for this purpose and in the general performance of his official duties enter and go into or upon and without formal warrant any place, building, premises, or stop any vendor, peddler, junk dealer, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the sealer may specify for the purpose of making proper tests. [1913; last amended 1923.]

Sec. 603. Same: Duty to prosecute.

Whenever he finds a violation of any statute relating to weights and measures, he shall cause the violator to be prosecuted. [1913; last amended 1923.]

Sec. 604. Same: Sealing.

Whenever the county sealer compares weights, measures, weighing devices, 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, weighing devices, or measuring devices with a seal to be approved by the state superintendent. [1913; last amended 1923.]

Sec. 605. Same: Right to destroy or condemn for repairs faulty apparatus.

He shall condemn and seize and may destroy incorrect weights, measures, weighing devices, or measuring devices which, in his best judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet may be repaired he shall mark or tag as "Condemned for Repairs" in a manner prescribed by the state superintendent. [1913; last amended 1923.]

Sec. 606. Same: Duty of owner to repair.

The owners or users of apparatus so condemned shall have same corrected or repaired within ten days, and may neither use nor dispose of same in any manner without permission from the county sealer. Any apparatus which has been "Condemned for Repairs" and has not been repaired as required above shall be confiscated by the sealer. [1913; last amended 1923.]

Sec. 607. Same: Records and reports.

The county sealer shall keep a complete record of all his official acts, and shall make an annual report to the county court and an annual report, duly sworn to, on the first day of December of each year to the state superintendent on blanks to

be furnished by the superintendent. [1913; last amended 1923.]

Sec. 608. Same: Office and equipment.

When a county shall establish such a department of weights and measures, it shall provide the sealer with suitable quarters, a set of standards to be approved by the state sealer and state superintendent, and all other equipment for the proper performance of his duties. [1913; last amended 1923.]

Sec. 609. Same: Verification of county standards.

All county standards shall be tried, proved, and sealed under the direction of the state sealer, and shall be returned to him for verification at least once in every five years. [1913; last amended 1923.]

Sec. 610. Same: For combined counties.

Nothing in the above shall be construed to prevent two or more counties combining the whole or any part of their districts, as may be agreed upon by the county courts thereof, with one set of standards and one sealer, upon the written consent of the state superintendent. A sealer appointed in pursuance of any 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 parties to the agreement. [1913; last amended 1923.]

Sec. 611. City sealer: Appointment and equipment.

Any city or municipality in the state may establish a department of inspection of weights and measures, and shall have power to appoint a sealer and deputies and fix their compensation, and pass such ordinances not in conflict with the state laws as may be deemed necessary; and if a city or municipality shall establish such a department, it shall provide the sealer with suitable quarters and a set of standards to be approved by the state sealer and state superintendent, and all other equipment for the proper performance of his duties. [1913; last amended 1923.]

Sec. 612. Same: Verification of city standards.

All city and municipal standards shall be tried, proved, and sealed under the direction of the state sealer, and shall be returned to him for verification at least once in every five years. [1913; last amended 1923.]

Sec. 613. Same: Duties and powers.

The city sealer shall perform in such city the duties and have like powers as the county sealer in the county. [1913; last amended 1923.]

Sec. 614. Same: When county sealer acts.

In those cities in which no sealer is appointed the county sealer of the county shall perform in said cities the duties and have like powers as in the county. [1913; last amended 1923.]

Sec. 615. Combination of county and city sealer.

Nothing in the above shall be construed to prevent any county and any city situated therein from combining the whole or any part of their districts, as may be agreed upon, with one sealer, subject to the written approval of the state superintendent. [1913; last amended 1923.]

Sec. 616. Same: Powers and duties.

A sealer appointed in such agreement or 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 parties to the agreement. [1913; last amended 1923.]

Sec. 617. Sealing before testing; penalty.

Any state, county, or city sealer, or deputy, or assistant sealer who shall seal any weight, measure, or balance, weighing device, or measuring device before testing and making the same to conform to the authorized standards, or who shall condemn, seize, or destroy any weight, measure, or balance, or weighing device, or measuring device, without first testing the same, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, and shall be forthwith removed from office by the state superintendent or other person or persons having authority to make such removal. [1913; last amended 1923.]

Sec. 618. Weights and measures officials: Special powers.

The state superintendent, his deputies and inspectors, the state sealer, and the county and city sealers of weights and measures are hereby made special policemen, and are authorized and empowered to arrest, without formal warrant, any violator of any statute in relation to weights and measures, and to seize for use as evidence, and without formal warrant, any false or unsealed weight, measures, weighing device, or measuring device, or packages, or amounts of commodities offered or exposed for sale or sold in violation of law. [1913; last amended 1923.]

Sec. 619. Same: Interference with or failure to produce apparatus for inspection; penalty.

Any person who shall hinder, obstruct, or interfere in any way with the state superintendent, state sealer, any deputy or assistant state sealer, or any county or city sealer while in the performance of his official duties, or who shall fail to produce, upon demand by any authorized sealer or inspector of weights and measures, any weights, measures, balances, weighing devices or measuring devices in or upon his premises, place of business, or in his possession for use in manufacture or trade, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3,
Art. XI—Weights and Measures, Sealers—Con-
tinued.

less than ten dollars nor more than fifty dollars,
or to imprisonment for not more than ninety days,
or to both such fine and imprisonment. [1913;
last amended 1923.]

Sec. 621. Tolerances.

The state superintendent of weights and meas-
ures and the state sealer of weights and measures
shall jointly fix and determine reasonable varia-
tions for all classes of commodities; and they shall
give the reasonable variations so established all
possible publicity through the public press and
through bulletins of their offices. [1913]

Williams Code Annotated 1934, Vol. 4, Title XIV,
Ch. 24—Weights and Measures, Sale of Commodi-
ties.

Sec. 6649. Standard weight of commodities per bushel; per
barrel.

The following shall be the legal and uniform
standard of weights and measures in this state for
the sale and purchase of the following named
products of the farm, orchard, and garden, and
articles of merchandise, to wit¹:

	<i>Pounds per Bushel</i>
Apples, green	50
Apples, dried	24
Apple seed	40
Barley	48
Beans, dried	60
Beans, green, in pods	30
Beans, castor	46
Beets	50
Blackberries	48
Blackberries, dried	28
Blue grass seed	14
Bran	20
Broom corn seed	42
Buckwheat	48
Cabbage	50
Canary seed	60
Carrots	50
Cement	80
Charcoal	22
Cherries, with stems	56
Cherries, without stems	64
Chestnuts	50
Clover seed, red and white	60
Coal, stone	80
Coke	40
Corn, shelled	56
Corn in the ear, shucked	70
Corn in the ear, with shucks	74
Corn, green with shucks	100
Corn, pop	70
Corn meal, unbolting	48
Corn meal, bolting	48
Cottonseed	28
Cucumbers	48
Delinted cotton seed	33½
Flaxseed	56
Gooseberries	48
Grapes, with stems	48
Grapes, without stems	60
Hair, plastering	8
Hempseed	44

	<i>Pounds per Bushel</i>
Hickory nuts	50
Hominy	62
Horseradish	50
Hungarian seed	48
Kobe Lespedeza, common and 76 Lespedeza seed	25
Korean Lespedeza	40
Land Plaster	100
Lime, unslaked	80
Lime, slaked	40
Melon, cantaloupe	50
Millet, German, seed	50
Millet, Missouri	50
Millet, Tennessee	50
Oats seed	32
Onions, button sets	32
Onions, matured	56
Onions, top buttons	28
Orchard grass seed	14
Osage orange seed	33
Parsnips	50
Peaches, matured	50
Peaches, dried	26
Pears, matured	56
Pears, dry	26
Peanuts	23
Peas, dry	60
Peas, green, in hull	30
Pieplant	60
Plums	54
Potatoes	60
Potatoes, sweet	50
Quinces, matured	48
Raspberries	48
Redtop seed	40
Rye seed	56
Rye grass (Italian) seed	40
Sage	4
Salads, turnips, kale	30
Salads, mustard, spinach	30
Salt	50
Serica Lespedeza seed	60
Sorghum seed	50
Strawberries	48
Timothy seed	45
Tomatoes	56
Turnips	50
Velvet grass seed	7
Walnuts	50
Wheat	60

	<i>Bushels per Barrel</i>
Apples, green	2¼
Beans, green, in pods	2½
Corn, green, with shucks	2½
Corn, matured, with shucks	5
Melon cantaloupe	2¼
Peas, green, in hull	2½
Potatoes, Irish	2½
Potatoes, sweet	2½
Turnips	2½

	<i>Pounds per Barrel</i>
Beef	200
Fish	200
Flour	196
Pork	200

	<i>Gallons per Barrel</i>
Liquids	42

	<i>Pounds per Gallon</i>
Sorghum molasses	12

[1887; last amended 1943.]

¹A slight change has been made in the arrangement for
convenience of reference.

Sec. 6650. Same: Offenses.

It shall be unlawful to buy or sell any of the products of the farm, orchard, or garden, or articles of merchandise, mentioned in the preceding section except in strict accordance with the standard of weights and measures provided therein and below; and it shall be unlawful to dock any of the articles mentioned in said section delivered in good condition and marketable form, on account of keg, container, or barrel, without allowing value of same. [1895]

Sec. 6651. Unlawful to sell by dry measure; exceptions.

It shall be unlawful for any person to sell or offer for sale any food commodity by dry capacity measure, which shall be sold by weight only; provided, however, that this statute [Secs. 6651-6655] shall not be construed to prohibit the sale of dry food commodities in terms of the denominations of dry measure when such articles are weighed and sold in accordance with standards fixed by section 6649; and, provided further, this shall not apply to dry food commodities shipped into the state when sold in the original package. [1921]

Sec. 6652. Same: Enforcement.

The state superintendent of weights and measures in the department of agriculture, his duly authorized assistants and deputies and all county and city sealers of weights and measures, are charged with the enforcement of this statute [Secs. 6651-6655], and the commissioner of that department is empowered to make all reasonable rules and regulations for the enforcement of this statute. [1921; last amended 1923.]

Sec. 6653. Standard half bushel measure: Use in measuring wheat.

It shall be unlawful for any person, either by himself, officer, agent or employee, when purchasing wheat from the owner, his agent, or employee, to use for the purpose of testing or determining, as above, the weight, grade, milling, or market value of wheat, any measure other than the standard half bushel measure furnished this state by the United States; and the use of any fractional part of said standard half bushel measure for such purpose shall be a violation of this section. [1899]

Sec. 6654. Same: Straight leveling sticks to be used.

It shall be unlawful to use anything other than a straight stick, with the edges square, for leveling the wheat in said half bushel measure for the purpose of testing the weight, grade, milling, or market value of wheat. [1899]

Sec. 6655. Same: Penalty for violations.

Any person who shall violate any of the preceding provisions of this chapter, or the reasonable rules and regulations made in pursuance thereto,

shall be guilty of a misdemeanor; and be fined not less than ten dollars nor more than fifty dollars for each offense. [1921]

Sec. 6656. Annual testing and sealing of apparatus required.

Every person keeping any store, grocery, warehouse, merchant mill, commission house, railroad depot, or any scales or apparatus for weighing or measuring for the public, shall, once in each year, have the weights, measures, and other apparatus used by him proved and sealed. [1857-58]

Sec. 6657. Same: Penalty for violating preceding section.

For every neglect to comply with this provision, the delinquent shall be liable to a penalty of ten dollars, to be recovered before a justice of the peace, one-half to the use of the town or county, the other half to the person who sues therefor. [1857-58]

Sec. 6658. Same.

Every person not enumerated in section 6656, who shall use weights, measures, or other apparatus, in buying or selling, which have not been once sealed as required by law, shall be subject to a penalty of one dollar and costs, recoverable as above. [1857-58]

Sec. 6659. Same: Treble damages and costs.

If any person use such weights, measures, and apparatus which have not been sealed according to law, or which have been altered after being sealed, whereby any person shall be defrauded, he shall be subject to an action at law, in which the person defrauded shall recover three times the amount of damages and costs. [1857-58]

Sec. 6660. Surveyor's chains to conform to standard.

Every surveyor shall have the chains or other measures used by him in conformity with the standard. [1857-58]

Sec. 6661. Metric system authorized.

It shall be lawful throughout the United States of America to employ the weights and measures of the metric system, and no contract or dealing or pleading in any court shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are weights or measures of the metric system. [1866]

Sec. 6662. Tables of metric weights and measures authorized.

The tables in the schedule hereto annexed shall be recognized in the construction of contracts, and in all legal proceedings, as establishing, in terms of the weights and measures in use in the United States, the equivalents of the weights and measures expressed therein in terms of the metric system; and said tables may be lawfully used for computing, determining, and expressing, in customary weights and measures, the weights and measures of the metric system. [1866]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 24—Weights and Measures, Sale of Commodities—Continued.

MEASURES OF LENGTH

Metric denominations and values		Equivalents in denominations in use
Myriameter	10,000 meters.	6,213.70 miles.
Kilometer	1,000 meters.	0.62137 miles, or 3,280 ft. and 10 in.
Hectometer	100 meters.	328 feet and 1 inch.
Dekameter	10 meters.	393.700 inches.
Meter	1 meter.	39.3700 inches.
Decimeter	1/10 of a meter.	3.9370 inches.
Centimeter	1/100 of a meter.	0.3937 inch.
Millimeter	1/1000 of a meter.	0.0394 inch.

MEASURES OF SURFACE

Metric denominations and values		Equivalents in denominations in use
Hectare	10,000 square meters.	2.471 acres.
Are	100 square meters.	119.600 square yards.
Centare	1 square meter.	1,550 square inches.

MEASURES OF CAPACITY

Metric denominations and values			Equivalents in denominations in use	
Names	No. liters	Cubic measure	Dry measure	Liquid or wine measure
Kiloliter, or sterc	1,000	1 cubic meter	1.308 cubic yards	264.1700 gals.
Hectoliter	100	1/10 of a cubic meter	2 bush. 3.35 pecks	26.4170 gals.
Dekaliter	10	10 cubic decimeters	9.08 quarts	2.6417 gals.
Liter	1	1 cubic decimeter	0.908 quarts	1.0567 qts.
Deciliter	1/10	1/10 of a cubic decimeter	6.1022 cubic in.	0.8450 gills.
Centiliter	1/100	10 cubic centimeters	0.6102 cubic in.	0.3380 fld. oz.
Milliliter	1/1000	1 cubic centimeter	0.0610 cubic in.	0.2700 fld. dr.

WEIGHTS

Metric denominations and values			Equivalents in denominations in use
Names	No. of grams	Weight of what quantity of water at maximum density	Avoirdupois weight
Millier or Tonneau	1,000,000	1 cubic meter	2,204.6000 pounds.
Quintal	100,000	1 hectoliter	220.4600 pounds.
Myriagram	10,000	10 liters	22.0460 pounds.
Kilogram or kilo	1,000	1 liter	2.2046 pounds.
Hectogram	100	1 deciliter	3.5274 ounces.
Dekagram	10	10 cubic centimeters	0.3527 ounces.
Gram	1	1 cubic centimeter	15.4320 grains.
Decigram	1/10	1/10 of a cubic centimeter	1.5432 grains.
Centigram	1/100	10 cubic millimeters	0.1543 grains.
Milligram	1/1000	1 cubic millimeter	0.0154 grains.

Sec. 6663. Standards of metric system furnished by United States.

The secretary of the treasury of the United States shall furnish each state, to be delivered to the governor thereof, one set of the standard weights and measures of the metric system for the use of the states respectively. [1866]

Sec. 6663.4a. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds; wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this act shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) buckwheat flour, whole wheat flour, pancake flour, prepared biscuit flour, cereal foods, or cake flour, when so labeled and in packages of five (5) pounds or less, net weight, or (d) the exchange of wheat for flour by mills grinding for toll. [1945]

Sec. 6663.4b. Same: Penalty for violations.

Any violation of this act shall constitute a misdemeanor and upon conviction, the offender shall be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars for each offense. [1945]

Sec. 6663.5. Coal: Weigh tickets.

All drivers or others having charge of conveyances for the purpose of transporting coal, shall have in their possession when same is loaded with coal, a ticket in duplicate showing the gross, net, and tare weight of load. Weigh tickets must also be signed by person weighing load, and must also show the location and date of weighing. [1937]

Sec. 6663.6. Same: Delivery of weigh tickets to purchaser.

One copy of weigh ticket must be delivered to party purchasing or receiving coal. [1937]

Sec. 6663.7. Same: Inspection of weigh tickets.

Weigh tickets must be shown to inspectors of the department of agriculture or county, or city sealers upon demand. [1937]

Sec. 6663.8. Same: Penalty for violations.

Any person who shall violate any of the provisions of this act [Secs. 6663.5-6663.8] shall be

guilty of a misdemeanor, and be fined not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each offense. [1937]

Sec. 6663.9. Farm commodities: Weighers to give and declare just weights; penalty.

All weighers of farm commodities, whether they be buyers or sellers, shall give and declare exact and just weights regardless of the condition of the commodities.

Any weigher who shall willfully violate this act [section] shall be deemed guilty of a misdemeanor for each separate weighing and fined not more than fifty dollars (\$50.00) for each separate offense or confined in the county jail for a period not to exceed six months or both in the discretion of the court. [1939]

Williams Code Annotated 1934, Vol. 3, Title IX, Ch. 1, Art. IV—Corporate Towns.

Sec. 3335. May require sales by weight.

All corporate towns may pass laws to require articles usually sold by dry or heaped measure, to be sold by weight, within their corporate limits. [1857-58]

Williams Code Annotated 1934, Vol. 3, Title IX, Ch. 2, Art. III—Corporate Cities.

Sec. 3528. Powers relating to weights and measures.

Every city incorporated under this chapter [Secs. 3317-3647] shall have power by ordinance:

* * * * *

(24) To inspect, test, measure, and weigh any article for consumption or use within the city, and to charge reasonable fees therefor; and to provide standards of weights, tests and measures.

(25) To establish, regulate, license, and inspect weights and measures. [1921]

* * * * *

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3, Art. V—Commercial Feeding Stuffs.

Sec. 499.1. Definition.

The term commercial feeding stuffs shall be held to include the so-called mineral feeds and all feeds used for livestock, domesticated animals and poultry except cottonseed hulls, whole unground hays, straws and corn stover, when the same are not mixed with other materials, nor shall it apply to whole unmixed, unground or uncrushed grains or seeds when not mixed with other materials. [1933; last amended 1943.]

Sec. 499.2. Marking requirements; standard weight packages.

Every lot, parcel and package of commercial feeding stuffs sold, offered or exposed for sale or distribution within this state shall have affixed thereto or printed thereon in a conspicuous place

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3,
Art. V—Commercial Feeding Stuffs—Continued.

on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, provided that only standard weight packages of 5, 8 1/3, 10, 25, 50, 100, or 140 pounds may be used. Packages of less than 5 lbs. can be sold providing that the weight is conspicuously declared in at least twenty point type. [1933; last amended 1943.]

Sec. 499.9. Seizure.

If it appears from any examination or analysis of an official sample of any commercial feeding stuff that any of the provisions of this act [Secs. 499.1-499.16] have been violated, the commissioner of agriculture or his deputy shall have the power to seize such feeding stuffs, but immediate written notice of such seizure must be given the party in whose possession the feed is found. Any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the commissioner of agriculture, before action in the courts may be instituted.

The commissioner of agriculture or his deputies may in their discretion release feeding stuffs so seized when all requirements of this act have been complied with, and upon payment of all costs and expenses incurred in connection with the proceedings. [1933]

* * * * *

Sec. 499.10. Violations; penalty.

Any manufacturer, mixer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state, any commercial feeding stuffs without having attached thereto or furnished therewith such tax stamps and labels as required by the provisions of this act [Secs. 499.1-499.16], * * * or who shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs as defined in section 1, without complying with provisions of this act, * * * or violate any other provisions of this act, or official rules and regulations relative thereto, shall be deemed guilty of a violation of this act and upon conviction thereof, shall be fined not more than one hundred dollars for the first violation and not less than one hundred dollars (\$100.00) for each subsequent violation. [1933]

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3,
Art. VI—Commercial Fertilizer.

Sec. 501. Marking requirements.

All persons, companies, manufacturers, dealers, or agents, before selling or offering for sale in this

state any commercial fertilizer or fertilizer material, shall brand or attach to each bag, barrel, or package * * *

(1) Net weight of each package in pounds. [1925; last amended 1947.]

* * * * *

Sec. 514. Rules and regulations.

The commissioner of agriculture shall have authority to establish such rules and regulations in regard to inspection, analysis, and sale of commercial fertilizer or fertilizer materials, as shall not be inconsistent with the provisions of this article [Secs. 500-519], and as in his judgment will best carry out the requirements thereof. [1925]

Sec. 518. Penalty for violations.

Any person or firm selling or offering for sale any commercial fertilizer or fertilizer material without first having complied with the provisions of this article [Secs. 500-519] shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars. [1925]

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3,
Art. VIII—Milk and Cream.

Sec. 526. Babcock test defined.

For the purpose of this article [Secs. 526-547.13], the word "Babcock test" shall mean the test for determining the percentage of butterfat in milk, cream or other dairy products as invented by Dr. S. M. Babcock, using sulphuric acid and a centrifugal machine, and now in general use in the purchase and sale of milk and cream. * * *

Sec. 528. Standard glassware and apparatus: Approval required.

Every person or agent for any person, buying milk or cream on the basis of its weight and butterfat content, as determined by the Babcock test, shall use only such standard scales and measures as approved by the state dairy commissioner and only such standard weights and Babcock test bottles and pipettes, as have been inspected and approved by the state dairy commissioner; and it shall be unlawful for any person to sell such articles to any one to be used for the above purpose, unless they have been approved or inspected, as required above, by the state dairy commissioner. [1917; last amended 1925.]

Sec. 529. Unlawful manipulation of Babcock test.

It shall be unlawful for any person buying and paying for milk or cream, on the basis of the butterfat content, or any agent thereof, to manipulate the Babcock test in any way other than as prescribed in the rules and regulations of the state dairy commissioner, as provided for in sections 536-539, or to falsify the records thereof. [1917]

Sec. 530. Unlawful manipulation of weights.

It shall be unlawful for any person buying or receiving milk or cream, by weight or butterfat content, or by both weight and butterfat content, or any agent of such person to fraudulently manipulate the weight or weights of milk or cream of any person, or to take a sample or samples for testing in any manner not approved by the rules and regulations of the state dairy commissioner, as provided for in sections 536-539, or to fraudulently manipulate such sample or samples. [1917]

Sec. 531. Fees for testing apparatus.

The fee to be charged by the state dairy commissioner, or his duly appointed deputy, for inspecting and approving the scales, measures, and apparatus as provided for in this act [Secs. 526-547.13] shall be three cents for each piece of apparatus or glassware so inspected and approved. [1917]

Sec. 532. State dairy commissioner: Appointment.

The state commissioner of agriculture is authorized to appoint a state dairy commissioner and such deputies as in his judgment may be necessary to carry out the provisions of this act [Secs. 526-547.13]. [1917]

Sec. 536. Same: Enforcement.

He [state dairy commissioner] shall have authority to enforce the provisions of this article [Secs. 526-547.13], * * * by inspecting all Babcock testers, glassware, and scales as provided for in this article, and he shall have the authority to destroy¹ all apparatus not found accurate. [1917]

¹ See Sec. 538 below.

Sec. 537. Same: Sealing or destroying glassware.

* * * he [state dairy commissioner] shall certify to the accuracy of apparatus by inscribing thereon the initials "T. D. C." (Tennessee dairy commissioner) in indelible manner, and shall either destroy¹ or properly label all glassware and other apparatus found inaccurate. [1917]

¹ See Sec. 538 below.

Sec. 538. Same: Inspection of apparatus.

He [state dairy commissioner] shall visit all creameries, cheese factories, milk depots, milk plants, ice cream factories, cream stations, cream routes, milk condensaries, and similar plants in the state at least once every three months for the purpose of inspecting the Babcock testers, scales, and other apparatus used in the test and for inspecting of such plants with regard to the execution of this article [Secs. 526-547.13]; provided that the word "destroy" in sections 536 and 537 shall not mean the destruction of any apparatus that is found inaccurate where same can be repaired. [1917; last amended 1925.]

Sec. 542. Same: Tests to settle disputes; prima facie evidence.

They [state dairy commissioner and his deputies] are further authorized and empowered to make such tests as are necessary to settle disputes, when called on by either buyer or seller of milk, cream or other dairy products where such disputes arise over dissatisfaction, regarding weights or tests of dairy products. Such test made by the state dairy commissioner or his deputies shall be regarded as prima facie correct, and shall be taken as a basis of settlement in such disputes. [1917]

Sec. 544. Penalties for violations.

Every person hindering or obstructing the state dairy commissioner or his appointed deputies in the discharge of the authority or duty imposed on him or them by any provisions of this article [Secs. 526-547.13] or any person violating any provision of this article, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars for the first offense, and not less than fifty dollars nor more than two hundred dollars for each subsequent offense, or be imprisoned in the county jail for not less than sixty days, nor more than twelve months, or by both fine and imprisonment. All fines and fees collected under the provision of this act shall be turned into the state treasury. [1917]

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3, Art. VIII—"Dairy Law of State of Tennessee."

Sec. 547.1. Enforcement; rules and regulations.

* * * * *

13. The commissioner [dairy commissioner] is hereby authorized to enforce the provisions of this law [Secs. 547.1-547.13], and is further authorized to adopt and promulgate uniform rules and regulations, for carrying out the provisions of this law, under the following procedure:

1st. Proposed rules and regulations shall be submitted by the commissioner to the attorney general of Tennessee for approval as to form and legality. [1939; last amended 1947.]

* * * * *

Sec. 547.5. Marking requirements.

1. All milk and dairy products when sold to the retail trade shall be labeled and billed with the correct name and quantity of the product and shall conform to all other requirements for special labeling of the products provided for in this section, or in the rules and regulations for its enforcement. * * *

7. Butter when sold at retail shall be labeled * * * with the net weight.

8. Renovated or process butter shall comply with all the provisions of labeling butter * * *. Renovated or processed butter shall only be sold

Williams Code Annotated 1934, Vol. 1, Title III, Ch. 3, Art. VIII—"Diary Law of State of Tennessee"—Continued.

in individual packages and shall not be sold from bulk.

9. All package cheese sold must be labeled to indicate * * * the net weight.

* * * * *

11. Ice milk shall not be sold in larger than one quart packages, and containers shall be conspicuously so labeled. [1939]

* * * * *

Sec. 547.13. Penalties for violations.

Any person violating any of the provisions of this act [Secs. 547.1-547.13] shall be guilty of a misdemeanor, and shall for the first offense be fined not less than ten dollars nor more than fifty dollars, and for each subsequent offense be fined not less than fifty dollars nor more than two hundred dollars, or be imprisoned in the county jail for not more than twelve months or less than sixty days, or shall in the discretion of the court suffer both fine and imprisonment. [1939]

Williams Code Annotated 1934, Vol. 4, Title XII, Ch. 23, Art. I—Public Utilities.

Sec. 5450. Rules and regulations; meters; testing; fees.

The commission [railroad and public utilities commission] shall have power:

* * * * *

(f) After hearing, by order in writing, * * * to prescribe reasonable regulations for examination and test of such product or service and for the measurement thereof [gas, electricity, water, etc.]

(g) After hearing, by order in writing, to establish reasonable rules and regulations, specifications and standards, to secure accuracy of all meters and appliances for measurements.

(h) To provide for the examination and test of any appliance used for the measuring of any product or service of a public utility, and by its agents or examiners to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests provided for in this statute.

(i) To fix the fees to be paid by any consumer or user of any product or service of a public utility, who may apply to said commission for such examination or test to be made, and any consumer or user may have any such appliance tested upon the payment of the fees fixed by the commission, which fees shall be repaid to the consumer or user if the appliance be found defective or incorrect to the disadvantage of the consumer or user, and in that event such fees shall be paid by the public utility concerned. [1919]

Williams Code Annotated 1934, Vol. 4, Title XII, Ch. 25, Art. VI—Mine Scales.

Sec. 5639. Check weighman: Duties; offenses against; penalty.

At every coal or other mine in this state, where coal or other minerals are mined by weight or measure, the miners, or a majority of those present at a meeting called for that purpose, shall have the right to employ a competent person as check weighman or check measurer, as the case may require, who shall be permitted at all times to be present at the weighing or measuring of coal, also power to weigh or measure the same, and during the regular working hours, to have the privilege to balance and examine the scales or measure the cars; provided, that all such balancing and examination of scales shall only be done in such way and in such time as in no way to interfere with the regular working of the mines; and he shall not be considered a trespasser during working hours while attending to the interest of his employers, and in no manner shall he be interfered with or intimidated by any person, agent, or owner, or miner; and any person violating any of these provisions shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty dollars and not exceeding one hundred dollars, or imprisonment, in the discretion of the court. [1887]

Sec. 5640. Testing scales in case of dispute; fee.

It shall be a further duty of such check weighman or check measurer to credit each miner with all merchantable coal or other mineral mined by him, on a proper sheet or book kept by him for that purpose. When differences arise between the check weighman or check measurer and the agent or owners of the mine, as to the uniformity, capacity of scales or cars used, the same shall be referred to the mine inspector of the district where the mine is located, whose duty it shall be to regulate the same at once; and, in the event of said scales or cars proving to be correct, then the party or parties applying for the testing thereof shall pay all costs and expenses thereof; but, if not correct, then the owner or owners of said mine to pay the cost and charges of making said examination. [1887]

Sec. 5641. False weighing; penalty.

Should any weighman, agent, or check measurer, whether employed by operators or miners, knowingly or willfully adopt or take more or less pounds for a bushel or ton than is provided by law, or willfully neglect the balancing or examining of the scales or cars, or knowingly and willfully weigh coal with an incorrect scale, he shall be guilty of a misdemeanor, and be imprisoned in the county jail for not less than three months. [1887]

Sec. 5642. Compensation of check weighman.

When miners of coal or other minerals in this state elect a check weighman or measurer, as pro-

vided, the operators, company, or firm employing said miners shall, upon receiving notice in writing from the miners of said election of check weighman, withhold from each miner an equal amount, agreed upon by the miners and check weighman, and pay the same to the check weighman at each regular pay day. [1887]

Sec. 5643. Penalty for violating preceding section.

Upon failure of any operator, company or firm to comply with the last preceding section, they shall be liable to the check weighman for the full amount of his wages, and shall be guilty of a misdemeanor, and be fined in the discretion of court. [1887]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 7—Barrels and Casks, Butter, Lard, Flour, and Meal.

Sec. 6460. Restrictions.

No cooper or other person furnishing casks shall expose to sale any barrel or half barrel for holding butter, lard, flour, or kiln-dried meal, but such as are herein directed to be made for that use. [1801]

Sec. 6461. Butter or lard casks: Construction for exportation.

All casks intended for the purpose of containing butter or lard for exportation shall be made of well seasoned timber, the staves not less than half an inch thick, and the heads not less than three-quarters of an inch thick when wrought, the heading well doweled, the cask to have twelve good and substantial hoops, securely nailed or pinned, and to be perfectly tight, and capable of holding said articles in a liquid state. [1801]

Sec. 6462. Barrels: Gallon measure.

Each barrel shall contain not more than thirty gallons, and each half barrel fifteen gallons. [1801]

Sec. 6463. Flour casks: Dimensions for exportation.

Casks intended to contain flour or meal for exportation shall be made of good seasoned materials tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each bilge hoop, and shall be of the following dimensions: the staves of the barrel shall be twenty-seven inches long, and the heads seventeen inches in diameter; and the half barrel shall be one-half the capacity of the barrel. [1801]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 8—Flour, Meal, and Stock Food.

Sec. 6464. Flour barrel: Standard.

Every packer of flour or kiln-dried meal shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and into every half barrel the full quantity of ninety-eight pounds of flour. [1801]

Sec. 6467. Same: Offenses; penalty.

If any person shall export any flour, without branding on the barrel or package the name of the miller or bolter by whom it was manufactured, together with the proper quality of the flour so exported; or shall mix the flour with corn meal, or any other ingredient, whereby its value shall be impaired; or shall pack such flour in barrels not made of the lawful material or size; or shall pack less than the lawful quantity in any barrel or half barrel, he shall forfeit and pay the sum of ten dollars for each barrel, to be recovered before any justice of the peace, to the use of the person who will sue for the same. [1801; last amended 1819.]

Sec. 6469. Same: Marking requirements.

All flour, grits, or corn meal packed in barrels or half barrels, made of any material, or any packages made of wood, paper, cloth or metal in which flour, grits, or corn meal are offered for sale, shall be well made and of good material, and shall have the net weight of flour plainly marked on the head, top, or side of the barrel or package with a stencil or label, with letters and figures not less than one inch in length, and the tare marked on the reverse end or side of the barrel or package in like manner. [1903]

Sec. 6473. Stock food: Marking requirements.

It shall be unlawful for any person to pack for sale, sell, or offer for sale in this state any stock food without plainly marking upon the sack or package in letters and figures not less than two inches in size, the actual weight of each sack or package of such food. [1903]

Sec. 6475. Same: Penalty for violating Sec. 6473.

A violation of either of the last two sections is a misdemeanor; and the offender shall be fined not less than ten dollars nor more than twenty-five dollars for each sack or package sold or offered for sale in violation. [1903]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 9, Art. I—Tobacco Warehouses.

Sec. 6482. Scales to be provided; testing.

The proprietor [of a tobacco warehouse] shall keep good and sufficient scales for weighing tobacco, which shall be tested at the beginning of each tobacco year, and every three months thereafter, by the keeper and sealer of weights for the county, and at any time when written application is made by two or more planters or burghers. [1870-71]

Sec. 6486. Duties of proprietor.

It is the duty of the proprietor or one of his regular deputies:

* * * * *

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 9, Art. I—Tobacco Warehouses—Continued.

(7) He shall refuse to classify, and shall mark "condemned," any hogshead of tobacco that is falsely and fraudulently packed with intent to deceive, and shall give full information to the grand jury about such hogshead, from his books, when called upon to furnish same.

(8) To superintend the cooping and reweighing; to see that each cask is replaced over the same tobacco from which it was taken; to mark the hogshead on both heads with distinct figures, specifying the correct weights. [1870-71]

* * * * *

Sec. 6488. Responsibility of keeper.

After the tobacco is inspected, coopered, weighed, and numbered, the warehouse keeper becomes responsible to the planter or owner for the weights and proper keeping of the tobacco. [1870-71]

Sec. 6496. Fraudulent packing.

Any person who fraudulently packs or "nests" a hogshead of tobacco with intent to deceive and obtain thereby more than its true value, is guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than five hundred dollars, and be imprisoned not more than six months. [1870-71]

Sec. 6497. Description of container to be posted.

The warehouse keeper shall keep posted in some conspicuous place in his warehouse a description of the hogsheads or casks, length, measurement, etc., best suited to contain tobacco for market. [1870-71]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 9, Art. II—Syrups and Liquors, Gauging.

Sec. 6506. Gauger.

The warehouse keeper of oils and fluids shall be ex officio gauger of molasses, and syrups, and other liquids. [1877]

Sec. 6507. Use of standard instrument; marking requirements.

In the performance of his duties, he shall use the standard instrument in use for that purpose, and he shall brand or mark all barrels or casks gauged by him with his name, official character, and the capacity of the package. [1877]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 10—Public Mills.

Sec. 6509. Definition.

Every grist mill that shall at any time grind, for toll, shall be a public mill. [1777]

Sec. 6526. Measures and toll dishes.

Millers shall keep in their mills the following sealed measures: One half bushel, one peck, and proper toll dishes for each measure. [1777]

Sec. 6527. Forfeiture for keeping false toll measures.

Every owner keeping a mill, either by himself, servant, or lessee, who shall keep false toll measures, shall forfeit and pay to the party injured ten dollars, to be recovered before any justice of the peace of the county. [1777]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 12—Salt and Sugar.

Sec. 6538. False weight; forfeiture.

Any person selling salt or sugar by the barrel, sack, or bag, purporting by the marks or brands to contain a certain number of pounds or bushels, when in fact the quantity falls short of the amount designated, shall forfeit ten cents for each and every pound or deficiency, to any person who will sue therefor; but nothing in this section shall be construed to prevent the sale of salt or sugar by the mark or brand, if the purchaser is willing to buy by such mark or brand. [1839-40]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 17A—Tomatoes.

Sec. 6579.3. Marking of closed packages.

Every closed package containing tomatoes grown in the state of Tennessee which is sold, offered or exposed for sale or packed for sale or transported for sale, by any person, shall bear upon the outside of one end, and in plain letters and figures:

* * * * *

(b) The net contents by weight or numerical count or if the package be a standard container built in accordance with the specifications of the Federal Standard Container Act¹, the cubical contents. [1937]

* * * * *

¹ See pages 17-20.

Sec. 6579.4. When deemed misbranded.

It shall be unlawful for any person within the state to sell, offer or expose for sale or pack for sale or transport for sale or be in possession of tomatoes which are adulterated or misbranded, and tomatoes packed in a closed package shall be deemed to be misbranded within the meaning of this act [Secs. 6579.1-6579.12]

(a) If the package shall fail to bear the statements required in section 3 [Sec. 6579.3] * * *. [1937]

Sec. 6579.9. Enforcement.

The commissioner of agriculture shall be charged with the enforcement of the provisions of this act [Secs. 6579.1-6579.12] * * *. [1937]

Sec. 6579.11. Penalties for violations.

Every person, who by themselves, their agents or employees, violates any of the provisions of this act [Secs. 6579.1-6579.12] shall for each offense be

deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding \$25.00 nor less than \$5.00 or thirty days in jail for the first offense; not exceeding \$50.00 nor less than \$40.00 or 60 days in jail for the second offense; not exceeding \$200.00 or less than \$100.00 or 90 days in jail or both for the third and all following offenses, and all costs for each and every offense. [1937]

Williams Code Annotated 1934, Vol. 4, Title XIV,
Ch. 18—"Tennessee Food, Drug, and Cosmetic Act."

Sec. 6580.2. Definitions.

(a) The term "commissioner" means the commissioner of agriculture of the State of Tennessee.

* * * * *

(c) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, Official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure of any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

* * * * *

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.

* * * * *

(h) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article, and a requirement made by or under authority of this act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

* * * * *

(p) The provisions of this act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the supply or applying of any such article in the conduct of any food, drug or cosmetic establishment.

(q) The term "federal act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.) * * * [1941]

Sec. 6580.3. Prohibited acts.

The following acts and the causing thereof within the State of Tennessee are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt of any food, drug, device or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

* * * * *

(e) The dissemination, in any manner or by any means or through any medium, of any false advertisement.

* * * * *

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the United States from whom he received in good faith the food, drug, device or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of section 6 [Sec. 6580.6] of this act.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or in the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded. [1941]

* * * * *

Sec. 6580.4. Injunction.

In addition to the remedies hereinafter provided the commissioner is hereby authorized to apply to a court of competent jurisdiction, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 3 [Sec. 6580.3] of this act, irrespective of whether or not there exists an adequate remedy at law. [1941]

Williams Code Annotated 1934, Vol. 4, Title XIV,
Ch. 18—"Tennessee Food, Drug, and Cosmetic Act"
—Continued.

Sec. 6580.5. Penalties for violations; guaranty protection.

(a) Any person who violates any of the provisions of section 3 [Sec. 6580.3] of this act shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than thirty (30) days or a fine of not more than fifty (\$50.00) dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than 6 months, or a fine of not more than one thousand (\$1,000.00) dollars, or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 3 (a) or (c) [Sec. 6580.3] of this act if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this act, designating the act. [1941]

* * * * *

Sec. 6580.6. Embargo.

(a) Whenever a duly authorized agent of the commissioner finds, or has probable cause to believe, that any food, drug, device or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this act, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. [1941]

* * * * *

Sec. 6580.11. Food: When deemed misbranded.

A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the commissioner. [1941]

* * * * *

Sec. 6580.13. Same: Exemptions from labeling requirement.

Food which is in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirement of this act, while it is in transit in intrastate commerce from one establishment to the other, if such transit is made in good faith for such completion purposes only; but is otherwise subject to all the applicable provisions of this act. [1941]

Sec. 6580.16. Drugs: When deemed misbranded; exemptions.

A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the commissioner.

* * * * *

(i) If it is a drug and its container is so made, formed, or filled as to be misleading; * * *

(m) A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this act, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all applicable provisions of this act. [1941]

Sec. 6580.19. Cosmetics: When deemed misbranded.

A cosmetic shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the con-

tents in terms of weight, measure or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the commissioner.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading. [1941]

Sec. 6580.21. Regulations.

(a) The authority to promulgate regulations for the efficient enforcement of this act is hereby vested in the commissioner. The commissioner is hereby authorized to make regulations promulgated under this act conform, in so far as practicable with those promulgated under the federal act. [1941]

* * * * *

Public Acts 1949, Ch. 86—Weighers.

Sec. 1. Licensed weighman required at certain establishments; duties.

That every stockyard, slaughter house, tobacco, warehouse or loose floor, dairy and cotton gin shall have in their employ one or more "licensed weighman", whose duty it shall be to weigh all live-stock, tobacco, milk, cream and cotton received which is purchased, processed or sold on a weight basis. [1949]

Sec. 2. License; oath.

That every person desiring to become a "licensed weighman" shall make application to the Commissioner of Agriculture on such forms as shall be prescribed and furnished by said Commissioner [of agriculture] which shall contain as an integral part an oath in the following form:

"I do solemnly swear (or affirm) that I will correctly and accurately weigh all commodities purchased or offered for sale, at the establishment where I am employed, which I weigh, and I understand that a conviction for incorrect weighing will necessitate the revocation of my license in addition to all other penalties.

* * * * *

Upon receipt of application and the required One (\$1.00) Dollar fee the Commissioner shall issue said license for a period of one year beginning on the first day of July and ending on the thirtieth day of June next; after obtaining the license the person obtaining same shall, before doing any weighing, post or display said license in a conspicuous place adjacent to said scales whereby said license can be easily and readily seen by all interested parties. [1949]

Sec. 3. Exact weights to be declared; weight certificates.

That it shall be the duty and obligation of each "licensed weighman" to give and declare exact

and just weights, regardless of the condition of the commodity weighed. It shall also be the duty of each "licensed weighman" to issue a certificate of weight or to make a recording of each weight on a permanent record; each certificate or recording to be identified by signature or initials or other satisfactory symbol so as to positively identify the "licensed weighman" during the weighing of said commodity. [1949]

Sec. 5. Penalties for violations.

That any person violating any provision of this Act [Secs. 1-8] shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars or by imprisonment for not more than three months or by both such fine and imprisonment in the discretion of the court and in addition thereto, if a "licensed weighman", his license shall be revoked. [1949]

Sec. 6. Enforcement; rules and regulations.

That the Commissioner of Agriculture is hereby authorized to promulgate rules and regulations for the enforcement of this Act [Secs. 1-8]. [1949]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 25—Cotton and Tobacco Weighers.

Sec. 6664. Election; duties.

The county court of any county (a majority of its members voting for the same) may, on the first Monday of July of every year, elect cotton and tobacco weighers for such county, whose duty it shall be to weigh all cotton and tobacco that parties may agree to have weighed by him. The said election shall be by ballot, and the party having a majority of the votes cast, shall be declared elected. [1883]

Sec. 6665. Equipment; oath; bond; term.

Before entering upon the duties of his office, said cotton and tobacco weigher shall provide himself with balances or scales, duly tested according to law, and shall take an oath faithfully and impartially to discharge the duties of said office, and shall give bond in such penalty as the court may prescribe, conditioned as set forth in said affidavit, and said officer shall hold his office twelve months, or until his successor is elected and qualified. [1883]

Sec. 6666. Duty to declare exact weights.

It shall be the duty of the said weighers to give and declare exact and just weights, regardless of the condition of the cotton or tobacco. [1883]

Sec. 6667. Penalty for violations.

Any such weigher, who shall give or declare any unjust weights, or who shall willfully violate either of the previous sections of this chapter [Secs.

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 25—Cotton and Tobacco Weighers—Continued.

6664-6669], shall be guilty of a felony, and be confined in the state penitentiary not less than one nor more than three years. [1883]

Sec. 6668. Compensation.

The court may prescribe the compensation for said weigher, which shall not be over ten cents a bale of cotton and twenty-five cents a hogshead of tobacco, to be paid by the party selling the cotton or tobacco. [1883]

Sec. 6669. Scalage prohibited; penalty.

It shall be unlawful for any purchaser or weigher of cotton to deduct two pounds, or any number of pounds, known as "scalage," from the actual weight of any merchantable bale of cotton weighed or purchased by him; and the purchaser shall account to the seller of cotton, in all instances, for the actual weight of the bale purchased or weighed, except in cases of wet or damaged cotton, or any number of pounds for bagging and ties, when the amount to be deducted shall be agreed upon by the persons buying and selling; but the number of pounds agreed upon to be deducted for bagging and ties shall not exceed their actual weight. Each violation of this section shall be a misdemeanor, and the offender fined not less than ten nor more than twenty dollars. [1883]

Williams Code Annotated 1934, Vol. 4, Title XIV, Ch. 41—Insecticides and Fungicides.

Sec. 6793. Marking requirements.

* * * the following items shall be printed, branded, or labeled on the package: net weight, * * * [1919]

Sec. 6794. Definitions.

The term "insecticide," as used in this law, shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating the effect of any insects which may infest vegetation, man, animals, or households or be present in any environment whatever. The term "fungicide" shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating the effects of any and all fungi or bacteria that may infest vegetation or be present in any environment whatsoever, and these terms shall include arsenate of lead, Paris green, lime sulphides, miscible combinations of mineral or vegetable oils, Bordeaux Mixture, acids, singly or in combination, or any essential material or chemical used in the manufacture of any insecticide or fungicide. [1919]

Sec. 6807. Rules and regulations.

The commissioner of agriculture shall have authority to establish such rules and regulations in regard to inspection, analysis, and sale of such insecticides and fungicides as come within the meaning of section 6794, as shall not be inconsistent with the provisions of this statute, and as in his judgment will best carry out the requirements hereof. [1919]

Sec. 6808. Penalties for violations.

Any person selling, or offering for sale, any insecticide or fungicide, chemical or material, coming within the meaning of section 6794, without first having complied with the provisions of this statute, shall be guilty of a misdemeanor, and be fined not less than fifty dollars nor more than five hundred dollars. [1919]

Williams Code Annotated 1934, Vol. 7, Title I, Ch. 7, Art. II—False Weights and Measures.

Sec. 11133. Possession or use a misdemeanor.

If any person, with intent to defraud, have in his possession, or use, any false balance, weight, or measure in any business, trade, or transaction, it shall be a misdemeanor. [1741]

Sec. 11134. Seizure.

The magistrate granting the warrant of arrest for the offense described in the last section, shall also direct the seizure of the false weights, balances, or measures; and if they are found to be false, they shall be forfeited to the county, and, after being made of the standard weight or measure, may be sold and the money paid into the county treasury. [1741]

Sec. 11135. Sale or use of false or unsealed apparatus; unlawful disposal; penalty.

Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall offer or expose for sale, sell or retain in his possession, a false weight or measure or weighing or measuring device or any weight, measure, weighing device, or measuring device which has not been sealed by a state, county, or city sealer of weights and measures, within one year, or use same in the buying or selling of any commodity or thing for hire or reward, or shall dispose of any condemned weight, measure, weighing device, or measuring device, contrary to law, or remove any tag placed thereon by any sealer of weights and measures; or shall, by himself or by his servant or agent, or as the servant or agent of another, offer or expose for sale, or have in his possession for the purpose of selling, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than fifty dol-

lars for the first offense, and for subsequent offenses by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment in the county jail for not more than ninety days, or by both such fines and imprisonment. [1913]

Sec. 11136. Selling less than quantity represented; penalty; tolerances.

Any person who, by himself or by his servant or agent, shall sell, offer, or expose for sale any quantity of any commodity which is by weight, measure, or numerical count less than the quantity which he represents same to be, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars nor more than fifty dollars for the first offense, and for subsequent offenses not less than fifty dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not more than ninety days, or both such fine and imprisonment; provided, that the state superintendent of weights and measures, who is the commissioner of agriculture, and the state scaler of weights and measures shall jointly fix and determine reasonable variations for all classes of commodities; and no penalties for violation of this section shall be imposed when the variation in weight, measure, or numerical count does not exceed the reasonable variation so fixed; provided, further, that such superintendent shall give the reasonable variations so established all possible publicity through the public press and through bulletins of their offices. [1913; last amended 1923.]

Sec. 11137. False representation of quantity.

It shall be unlawful for any merchant or manufacturer or any person to sell within this state any package or quantity of any commodity marked to contain or represented to contain a certain number of pounds or ounces or fractions thereof when, as a matter of fact, it contains a less quantity. [1909]

Sec. 11138. Penalty for violating preceding section.

Every violation of the preceding section, where the shortage in weight is as much as one per cent of the marked or represented weight, is declared to be and shall be a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county workhouse for not more than six months, or by both, in the discretion of the court. [1909]

Sec. 11141. Altering and counterfeiting brands.

It shall be a misdemeanor:

(1) For any person, with intent to defraud, falsely to alter any stamp, brand, or mark on any cask, package, box, or bale containing merchandise or produce, made by a public officer appointed for that purpose, in order to denote the quality, weight, or quantity or the contents thereof.

(2) For any person to counterfeit any mark, stamp, or brand of such officer, or of another, or falsely to mark any cask, package, box, or bale, as to quality or quantity, with intent to defraud. [1901]

* * * * *

Sec. 11144. Fraudulent packing; penalty.

Any person who fraudulently packs or bales any cotton, wool, hemp, tobacco, or other article of trade or produce, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars, and may be imprisoned not more than six months. [1901]

Sec. 11147. Fraudulent packing of tobacco and cotton; penalty.

If the owner or superintendent of cotton gin or tobacco establishments of any kind shall place any wood, iron, rocks, dirt, or other substance, into any bale of cotton, hoghead or package of tobacco, when packed or baled, for the purpose of adding to the weight thereof, or shall cause the same to be done by others, such person so offending shall be deemed guilty of a felony, and, upon conviction thereof, shall suffer imprisonment in the penitentiary for a period not less than two nor more than five years, and shall also pay a fine of five hundred dollars. [1859-60]

Sec. 11148. Same: Sale of by person from adjoining state; penalty.

If any person from an adjoining state shall sell in this state any cotton or tobacco so fraudulently packed, as described in the last section, knowing the same to be so packed, such person shall be subject to the penalties of said section. [1859-60]

Sec. 11149. Same: Civil remedy.

If any person shall sell or otherwise dispose of cotton or tobacco fraudulently packed, as described in section 11147, the person at whose gin or establishment the same was put up, shall be deemed guilty of negligence, and shall, upon suit, on behalf of any subsequent purchaser of said cotton or tobacco, pay double the value of the same as damages, and also the cost of reshipping the same from the market where the fraud was detected. [1859-60]

Williams Code Annotated 1934, Vol. 7, Title I, Ch. 7, Art. II—False Advertising.

Sec. 11154. Unlawful acts; penalty.

Any person who, with intent to sell or in any wise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligations relating thereto, or to acquire title thereto, or an interest therein, knowingly makes,

Williams Code Annotated 1934, Vol. 7, Title I, Ch. 7,
Art. II—False Advertising—Continued.

publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this state, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities,

service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both said fine and imprisonment.
[1915]

TEXAS

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¹ For penal provisions, see Arts. 1035-1057d, pages 977-982.

Art. 5705. Enforcement; appointment of sealers.

The Commissioner of Markets and Warehouses¹ shall have power and authority to enforce, or cause to be enforced, any provision of this chapter [Arts. 5705-5736f]. He shall appoint a chief deputy, who shall be known as Chief Deputy of Weights and Measures. In the absence or inability of the Commissioner, such deputy may perform any duty required by the provisions of this chapter. The Commissioner shall also appoint such additional deputies from time to time to serve as sealers of weights and measures, as may be provided for by appropriation. He may also designate such inspectors, lecturers, or employees, serving under him as Commissioner, as sealers of weights and measures. [1919]

¹ Now Commissioner of Agriculture. Office of Commissioner of Markets and Warehouses, the Markets and Warehouse Department, and the Weights and Measures Department were abolished and powers, duties and functions transferred to the Commissioner of Agriculture. See Article 5611, page 972.

Art. 5706. Expenses.

Such deputies, together with the chief deputy and the Commissioner [of agriculture], shall be entitled to their actual traveling expenses when traveling on business for the State, and the Legis-

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lature shall provide from time to time by appropriation other estimated expenses to fully carry out the provisions of this chapter [Arts. 5705-5736f]. [1919]

Art. 5707. Duties of commissioner.

The Commissioner [of agriculture] shall investigate conditions throughout the State, and especially in all the cities and towns in the State, with respect to weights and measures, and the sale of goods, wares and merchandise, commodities, and the food stuff and feed stuff sold in packages or containers, and also all kinds of feed, fuel or ice that is sold by weight or measure. The Commissioner shall annually report to the Governor, and shall, prior to each regular session of the Legislature, file a copy of such report made by him to the Governor, together with his recommendations, with the Legislature of the State. [1919]

Art. 5708. Rules and regulations.

The Commissioner [of agriculture] shall issue instructions and make such rules and regulations for the government of all State sealers of weights and measures, deputy sealers, inspectors and local sealers, as he may see proper in order to carry out the purposes of this chapter [Arts. 5705-5736f]. All such rules and regulations so issued by him shall have the same force and effect as if they were enacted into law. [1919]

Vernon's Annotated Civil Statutes, Vol. 16, Title 93, Ch. 7—Weights and Measures—Continued.

Art. 5708a. County sealers in certain counties; deputies.

Sec. 1. The Commissioner's Court in each county having a population of not less than sixty-nine thousand, four hundred (69,400) and not more than seventy thousand (70,000), according to the last or any succeeding United States Census, may in its discretion appoint a county sealer of weights and measures. He shall be paid a salary to be determined by said Court, said salary not to be less than Fifteen Hundred Dollars (\$1500) 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 any weights, measures, or weighing or measuring devices. Whenever the Court 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. Provided that the appointments of all county sealers and deputy sealers being made under the provisions of this Chapter [Art. 5708a] shall be subject to the approval of the Commissioner of Agriculture.

Sec. 2. All county sealers appointed under the terms of this Act [Art. 5708a] shall have the same power, authority, duties, and responsibilities as are conferred upon all State and local sealers, in the performance of their official duties by the laws of this State. The jurisdiction of all county sealers and deputy sealers appointed by the Commissioners Court of any county in this State shall be co-extensive with the limits of said county.

Sec. 3. Nothing in this Act [Art. 5708a] shall be construed to prevent two (2) 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 Commissioners Courts of the counties, or such Court of the county and the Mayor and the Common Council of the city, with one set of standards and one sealer, upon the written consent of the Commissioner of Agriculture. 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. [1941]

Art. 5709. Jurisdiction of sealers and inspectors.

The jurisdiction of all State sealers, deputy sealers and inspectors appointed by the Commissioner [of agriculture] shall be co-extensive with the limits

of the State and they shall have a right to inspect weights and measures in any and all districts or localities designated by the Commissioner. The jurisdiction of all local sealers of weights and measures appointed by the governing body of any city in this State shall be co-extensive with the limits of said city. [1919]

Art. 5710. Power as peace officers.

The Commissioner [of agriculture], his deputy, sealers or inspectors and all local sealers and their deputies in the performance of their official duties, shall have the same power as peace officers in this State. [1919]

Art. 5711. Record; reports.

The Commissioner [of agriculture] shall keep in his office a complete record of all acts done by him; of all inspections made throughout the State, and a record of all prosecutions for the violation of any provision of this chapter [Arts. 5705-5736f]. He shall keep an accurate record of the reports of all the various sealers of weights and measures, deputy sealers and inspectors appointed by him, or under his direction, as well as a record of the inspections of all local sealers of weights and measures appointed by the various cities of the State; such record shall always be open to the inspection of the public. Copies of such record may be had by application therefor, together with the necessary cost of making such copies. [1919]

Art. 5712. State standards.

The standard of weights and measures received from the United States under a resolution of Congress, approved June 14, 1836, and 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 such as shall be procured by the State in conformity therewith and certified by the bureau of standards, shall be the State's standards by which all State and municipal standards of weights and measures shall be tried, authenticated, proved and sealed. [1919]

Art. 5713. Same; Custody.

The standards referred to in the preceding article shall be kept by the Commissioner [of agriculture] in a safe and suitable place in his office, from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them, at least once in ten years to the National Bureau of Standards for certification. He shall purchase such apparatus as shall be found necessary to a proper prosecution of work of the office. [1919]

Art. 5714a. County sealer; deputies; combining districts.

(1) The Commissioners Court in each county in Texas may in its discretion appoint a county sealer of weights and measures. He shall be paid a salary

to be determined by said Court and no fee shall be charged by him or by the county for the inspecting, testing, or sealing or the repairing or adjusting of any weights, measures, or weighing or measuring devices. Whenever the Court 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.

(2) All county sealers appointed under the terms of this Act [Art. 5714a] shall have the same power, authority, duties and responsibilities as are conferred upon all State and local sealers, in the performance of their official duties by the laws of this State. The jurisdiction of all county sealers and deputy sealers appointed by the Commissioners Court of any county in this State shall be co-extensive with the limits of said county.

(3) Nothing in this Act shall be construed to prevent two (2) or more counties or a county and a city or cities situated therein, from combining the whole or any part of their districts, as may be agreed upon by the Commissioners Courts of the counties, or such Court of the county and the mayor and the common council of the city or cities, with one set of standards and one sealer. 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. [1945]

Art. 5715. Copies of standards to cities.

The Commissioner [of agriculture] shall, at the request of any city council, town council, city commission or any other such town or city body, furnish to them copies of the standard weights and measures of the State; such copies shall be furnished at the expense of any such city or town requesting the same. He shall, upon request of any such city council, town council, or city commission, test and accurately approve copies of the State's standards of weights and measures procured for the use of any such city or town, to be used by the sealer of weights and measures for such city or town. All copies furnished or copies tested and approved by the Commissioner shall be true and correct; shall be sealed and certified by the Commissioner and stamped with the letters "C." Such copies need not be of the same material or construction as the standards of the State and such copies may be furnished in any suitable materials or construction that the city or town requiring the same may

specify, subject, however, to the approval of the Commissioner. [1919]

Art. 5716. Correcting standards of cities.

The Commissioner [of agriculture] shall inspect and correct the standards used by any incorporated city or town in this State at least once every two years and compare the same with others in his possession, and keep a record of the state of inspection and character of weights and measures so compared. [1919]

Art. 5717. False weights and measures; sale prohibited.

The Commissioner [of agriculture] shall have general supervision over all weights and measures and weighing and measuring devices sold or offered for sale in this State. If any false weights or measures are being sold, offered for sale, or about to be sold, he shall have full authority to condemn same and prohibit the sale and distribution of such false weights and measures, or weighing and measuring devices in this State. [1919]

Art. 5718. Certified standards; use.

All sealers of weights and measures, or deputy sealers of weights and measures appointed under the terms and provisions of this law [Arts. 5705-5736f] are prohibited from using for the purpose of comparison or verification in any official capacity any weights or measures, unless same have been certified to by the Commissioner [of agriculture]. All expenses incurred in certifying to the correctness of the weights and measures or copies of the same used by any incorporated city or town in this State shall be paid by such city or town for whom the comparison or test is made. [1919]

Art. 5719. Copies of standards.

In addition to the standards heretofore referred to, and required to be kept by the State, the State shall also have a complete set of copies of such original standards of weights and measures adopted by this chapter [Arts. 5705-5736f], which shall be used for adjusting municipal standards by the Commissioner [of agriculture] or his deputy in the performance of their duties, and the original standards shall not be used, except for the adjustment of this set of copies and for certification purposes. Additional complete sets of copies for such original standards of weights and measures may be purchased by the Commissioner when the same are necessary for use by any State sealer of weights and measures, or deputy State sealer of weights and measures. In all instances where the State shall furnish true and correct copies of weights and measures for the use of any incorporated city or town in this State, such city or town shall reimburse the State for the actual cost thereof, plus such expenses as are necessary to pay the freight, express and cost of certification thereof. [1919]

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Sec. 5720. State institution apparatus; testing.

The Commissioner [of agriculture] or his deputy shall at least once annually, or oftener if requested so to do by the Board of Control, or board of supervisors, regents or other governing body of any State institution or penitentiary commission or the governing body of any other penal institution of the State, test all scales, weights and measures used in checking the receipt and distribution of supplies of any such institution under the control of the State, and shall report his findings to the Chairman of the Board, or the superintendent of such institution. He shall also test all scales, weights and measures used for any other purpose by such institution. [1919]

Art. 5721. City sealer; Offenses; penalty.

The Commissioner [of agriculture] if he finds that any sealer or deputy sealer of weights and measures appointed by any incorporated city or town in this State, by virtue of the authority given them under the law, is neglecting to perform the duties of his office, or has refused to accept the recommendations and instructions of the Commissioner and be guided thereby, or is guilty of any malfeasance in office, or who is incompetent, he shall present to the governing body or officer who has control or supervision of such city sealer of weights and measures, or deputy sealer of weights and measures, a written charge and accusation based upon and clearly stating the offense of such sealer or deputy sealer and request such officer or governing body to hear and determine such accusation. Upon receipt of such charge and accusation, such officer or city commission with whom the same has been filed, shall make an order setting the same for a hearing at a time which shall be not less than ten nor more than twenty days from the date of filing of such charge and accusation and shall in such order fix the time and place for such hearing. A copy of such charge and accusation, together with a copy of such order, shall be served upon the accused at least seven days prior to the time fixed for such hearing. At such hearing the accused shall have the right to be represented by counsel and to produce evidence in his defense. If, upon such hearing, he shall be found guilty of malfeasance, or misfeasance in office or adjudged to be incompetent to perform the duties of the office, the officer or governing body before whom such hearing is had must forthwith remove him from office. Whenever it shall become known to the Commissioner or his deputy that any local sealer of weights and measures for any city or town in this State, or deputy sealer of weights and measures, is guilty of accepting any bribe, gift or money from any one who is interested in procuring

false weights and measures, as soon as such fact shall become known, or be made known to the officer or governing body employing such sealer or deputy sealer, he or they shall immediately suspend such sealer from office. [1919]

Art. 5722. Supervision of local sealers.

Every local sealer of weights and measures, or deputy sealer, appointed by any governing body of any town or city shall be under the supervision of the Commissioner [of agriculture] and shall be required to report to him regularly and carry out all the instructions of the Commissioner. Failure or refusal to do so shall be grounds for dismissal from the service. [1919]

Art. 5723. Duties of sealers and inspectors.

Each sealer of weights and measures, deputy sealer, inspector, or local sealer shall carefully preserve all copies of the standards of weights and measures used by him in his inspection work, and keep the same safe and in good order, when not in actual use. He shall keep a record of all work done by him showing the inspections made, for whom made, giving the name and post office address of each party for whom any measurement, test weight, inspection, condemnation or prosecution is made; such record shall be preserved by him, from which he shall compile his reports at regular intervals to the Commissioner [of agriculture] when required to make a report. He shall keep a careful record of all violations of the weights and measures law and report in detail to the Commissioner. [1919]

Art. 5724. Sealing and marking.

Every person, firm, or corporation, or association of persons, using or keeping for use, or having or offering for sale, weights, scales, beams or measures of any kind, instruments or mechanical devices for weighing or measuring, and tools, appliances and accessories connected with any or all of such instruments or measurements within this State, shall cause the same to be sealed and marked by the sealer of weights and measures as to their correctness, and no instrument shall be sold for the purpose of weighing or measuring unless it shall bear the seal of the inspector of weights and measures as to its correctness. [1919]

Art. 5725. Apparatus found correct or certified by National Bureau of Standards; sale of unassembled device.

When any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measuring; also all tools and appliances necessary or connected with any such instruments of measure have been tested and found correct by any sealer appointed under the provisions of this chapter [Arts. 5705-5736f], the same may be used, kept for use, offered for sale, sold or kept for sale anywhere within this State for one year without

being further tested. Any weight, scale, beam, measures of every kind, instruments or mechanical devices for weighing or measuring, or appliances and accessories connected with any or all of such instruments or measure, which have been tested and sealed and certified as correct by the National Bureau of Standards may be kept for sale, sold or offered for sale without being tested and sealed by a sealer under the provisions of this chapter, but all such weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measuring; also all tools and appliances necessary connected with any or all of such instruments or measures shall always be subject to inspection and testing as herein provided, notwithstanding that the same have been tested and sealed, either by a sealer appointed under the provisions of this chapter, or by the National Bureau of Standards. Any scale, beam or mechanical device for weighing or measuring, which, after being sold, and before being used for weighing and measuring, is found necessary to assemble and set up, may be sold, kept for sale or offered for sale without first being tested and sealed, but such scale, beam or measuring device for weighing or measuring, before being used for weighing or measuring, without the consent of the Commissioner [of agriculture], must be tested and sealed as provided in this Chapter [Arts. 5705-5736f]. [1919]

Art. 5726. Testing weights and devices.

All sealers, deputy sealers, inspectors, and local sealers shall inspect, try and test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measuring and all tools, appliances and accessories connected with any or all such instruments or measures kept for the purpose of sale, sold or used by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area, weight or measurement of quantities, things, produce, articles for distribution or consumption, purchased, or offered or submitted by such person or persons for sale, hire, or award, and ascertain if the same are correct, and he shall have the power to and shall from time to time weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale or sold, or in the process of delivery, in order to determine whether the same contains the quantity or amount represented and whether they are being offered for sale or sold, in accordance with law and may seize for use as evidence such amounts of commodities or packages which shall be found to contain a less amount than that represented. He shall at least once each year, or as much oftener as may be found necessary, and directed by the Commissioner [of agriculture] see that the weights, measures and all weighing and measuring apparatus, used in any locality to which he is assigned for the purpose of inspection, are

correct. All local sealers of weights and measures shall test at least once each year all scales, weights and measures of every kind and device within any such city to which they are appointed, and oftener, if required so to do. Any sealer, or deputy sealer, or inspector for the purposes above mentioned, and in the general performance of his duty may, without warrant, enter, go into or upon any stand, place, building or premises, or stop any vendor, peddler, junk dealer, driver of a coal wagon, ice wagon or delivery wagon or the driver of any wagon containing commodities for sale or delivery, and if necessary require him to proceed to some place which the sealer may specify for the purpose of making the proper tests. [1919]

Art. 5727. Marking and tagging.

Whenever a sealer, deputy sealer, or inspector of weights and measures compares weights and measures, or weighing or measuring instruments and finds that they correspond, or causes them to correspond to the standards he shall seal or mark under his name such weight or measure or weighing or measuring instrument with an appropriate device showing that the weight or measure, or weighing or measuring instrument is correct, and the date of inspection, which device shall be placed so as to be easily seen. He shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments, which in his best judgment are not susceptible of repair, but any weights and measures, or weighing or measuring instruments which shall be found to be incorrect, but which, in his best judgment are susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "Out of Order." The owner or user of any weights or measures, or weighing or measuring instruments, which have been marked "Out of Order," as in this article provided, may have the same repaired or corrected within thirty days, but until the same have been repaired or corrected and tested as herein provided, the owner or user thereof must neither use nor dispose of the same in any way, but shall hold the same at the disposal of the Commissioner [of agriculture] or any deputy or local sealer. When the same have been repaired or corrected, the owner or user thereof shall notify the Commissioner or his deputy or local sealer and they shall again be tested for the purpose of proving the weight, measure or weighing or measuring instrument which had been found to be incorrect and marked as in this article, and until such weight, measure or weighing or measuring instrument has been re-inspected by the sealer and found correct, the same shall not be used or in any way disposed of by the owner. When any weight, measure or weighing or measuring instrument has been repaired and corrected, and has been re-inspected and found correct by the sealer of weights

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and measures, the sealer of weights and measures shall remove the tag or device with the words "Out of Order" and shall mark such weight, measure or weighing or measuring instrument in the manner provided for the marking of same where upon inspection they were found to be correct. [1919]

Art. 5728. Fees.

The Commissioner [of agriculture] shall have the right and power to fix and collect a nominal fee for testing all weights, scales, beams and any kind of instruments or mechanical devices for weighing or measuring; all tools, appliances and accessories connected with all such instruments before they are offered for sale; such fee, however, to be reasonable and to be graduated according to the cost of such instrument, and it shall be unlawful for anyone to sell any weights, scales, beams, measuring instruments or mechanical devices for weighing or measuring, or to lease or rent same, unless such instruments have been duly inspected, tested and approved by the Commissioner, or one of his duly accredited deputies. All moneys collected by the Commissioner shall be paid into the State Treasury. [1919]

Art. 5729. Definitions.

The word "person," whenever used in this chapter [Arts. 5705-5736f], shall be deemed to include person, firm or corporation and all officers, directors and managers of corporations shall comply with the provisions of this chapter on behalf of their respective corporations. [1919]

Art. 5730. Legal standards.

The standard of weights and measures adopted and used by the Government of the United States is hereby declared the legal standard of weights and measures of this State; provided, that as to commodities for which the Congress of the United States provided no standard of weights or measures, the standards adopted by this State shall be the standards of weights and measures for such commodities. The unit of standard of length and surface, from which all the other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, is the standard yard designated in this chapter, which is divided into three equal parts called feet, and each foot into twelve equal parts called inches. For measures of cloth, and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths and sixteenths. The rod, pole or perch contains five and one-half yards; the mile one thousand seven hundred and sixty yards. The Spanish vara, thirty-three and one-third inches. Where land is measured by the English rule, the chain for measuring land shall be twenty-two yards long

and divided into one hundred equal parts called links. The acre for land measure shall be measured horizontally and shall contain forty-eight hundred and forty square yards; six hundred and forty acres shall constitute a square mile. [1919]

Art. 5731. Standard of avoirdupois and troy weights.

The units or standards of weight from which all the other weights shall be derived and ascertained shall be the standard of avoirdupois and troy weights designated in this chapter [Arts. 5705-5736f], and avoirdupois pounds shall bear to the troy pounds the ratio of seven thousand to five thousand seven hundred and sixty grains, and the avoirdupois pound shall be divided into sixteen equal parts called ounces. The hundred weight shall consist of one hundred avoirdupois pounds, and twenty hundred weight shall constitute a ton. The troy ounce shall be one twelfth of a troy pound. [1919]

Art. 5732. Standard for liquids.

The units or standards of measure of capacity for liquids from which all other measurements shall be derived and ascertained, shall be the standard gallon and its parts designated in this Chapter [Arts. 5705-5736f]. The barrel shall constitute $3\frac{1}{2}$ gallons and two barrels shall make a hogshead. All other measures of capacity for liquids shall be derived from the liquid gallon by continual division by the number two, so as to make half gallons, quarts, pints, and half pints and gills. Provided, however, that a liquid measuring device which indicates fractional parts of a gallon shall indicate such fractional parts in terms of binary sub-multiple subdivisions or in terms of tenths of a gallon.

For the purposes of this Article, the term "liquid measuring device" shall be construed to mean a mechanism or machine adapted to measure and deliver liquid by volume. [1919; last amended 1945.]

Art. 5733. Standard for solids.

The unit or standard measure of capacity for substance not liquids, from which all measures of such substance shall be derived and ascertained, is the standard half bushel mentioned in this chapter [Arts. 5705-5736f]. The peck, half peck, quarter peck, quart and pint measure for measuring commodities which are not liquid shall be derived from the half bushel by successively dividing that measure by two. The standard bushel measure shall constitute two thousand one hundred fifty and forty-two one hundredths cubic inches; the standard half-bushel measure shall contain ten hundred seventy-five and twenty one-hundredths cubic inches; the standard gallon shall contain two hundred thirty-one cubic inches. All measures for measuring dry commodities shall not be heaped but shall be stricken with a straight stick or roller. [1919]

Art. 5734. Weights per bushel; ton; cord.

Wherever the articles hereinafter named shall be sold by the bushel, and no special agreement as to the measurement or weights thereof shall be made by the parties, the bushel shall consist of the following number of pounds: Barley, 48 pounds; shelled corn, 56 pounds; flax seed, 56 pounds; oats, 32 pounds; rye, 56 pounds; wheat, 60 pounds; cotton seed, 32 pounds.

The term "ton" shall be understood to mean a unit of 2,000 pounds avoirdupois weight. The term "cord" shall be understood to mean 128 cubic feet, or the contents of a space eight (8) feet long, four (4) feet wide, and four (4) feet high.

When the term "cord" is used in connection with wood intended for fuel purposes, it 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. [1907; last amended 1943.]

Art. 5736. Contract construction.

All contracts hereafter to be executed and made within this State for any work to be done, or for anything to be sold, delivered, done or agreed for, by weight or measure, shall be construed to be made according to the standard weight and measure ascertained as hereinbefore provided, unless there is an express contract to the contrary. In making any adjustment of weights or measures under the laws of this State, the standard given in this chapter [Arts. 5705-5736f] shall be taken as the guide for making such adjustment. [1907; last amended 1919.]

Art. 5736a. Babcock test: Adopted as official test; enforcement.

The Babcock test is hereby adopted as the official dairy test for use in the State of Texas, to be used by every person, firm, association, partnership, and/or corporation paying for milk or cream on the basis of the butter fat content of such commodity or commodities, and the method of operating the test shall comply in every detail with the standard rules governing the Babcock test, and the Commissioner of Agriculture is hereby authorized to enforce the correct operation of the Babcock test and to issue all rules and regulations necessary to enforce the provisions of this Act [Secs. 5736a-5736f]. [1931]

Art. 5736d. Same: Right of entry; standard weights and measures from United States.

In addition to the rights and powers given to the Commissioner of Agriculture and his inspectors and agents by the provisions of Chapter 7, Title No. 93, of the Revised Civil Statutes of 1925, as amended by Acts of the Regular Session of the Forty-first Legislature, the said Commissioner, his inspectors and agents, are hereby authorized to

enter any creamery, cheese factory, building, premises or place where milk, cream and dairy products are handled for the purpose of securing samples and/or checking tests on same, and except as herein provided, all of the provisions of said Chapter and Title shall apply to the purchase of cream, milk and butter fat in this State, and particularly as pertains to the standard of weights and measures received from the United States under a resolution of Congress, approved June 14, 1836, and particularly such new weights and measures as shall be received from the United States or which have been received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be procured by the State in conformity therewith and certified by the Bureau of Standards. [1931]

Art. 5736e. Same: Standard glassware.

The units or standards of measure of capacity for use in the Babcock test shall be the true cubic centimeter, or the weight of one (1) gram of distilled water, at four (4) degrees Centigrade, and all other units and weights shall be in conformity with the standards prescribed by the United States Bureau of Standards, as aforesaid. The said Commissioner of Agriculture shall from time to time make tests of individual bottles and pipettes used by various persons, firms and corporations in the State in order to ascertain whether the above provisions are being complied with, and shall report any violations found to the Attorney General, County or District Attorney in the county where such alleged violation occurs. All glassware and/or measuring devices found not to be standard in capacity shall be seized and destroyed by the Commissioner of Agriculture or his authorized agents. [1931]

Art. 5736f. Same: Investigation.

It shall be the duty of the District or County Attorney of any county in which the provisions of this Act [Secs. 5736a-5736f] may be violated to make due investigation and prosecute in the Court having jurisdiction of the offense all persons guilty of such violations, and if necessary to file suits to enjoin further violations of this Act. [1931]

Vernon's Annotated Penal Code, Vol. 2, Title 14, Ch. 5
—Weights and Measures.¹

¹ For civil provisions, see Arts. 5705-5736f, pages 971-977.

Art. 1035. Duty of local sealer.

Each local or deputy sealer of weights and measures appointed by any city or town council or commission, shall be under the supervision of the Commissioner of Agriculture and shall be required to report to him regularly and carry out all his instructions, and on failure or refusal to do so shall be fined not less than ten nor more than two hundred dollars. [1919]

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Art. 1036. Removal of seal; penalty.

Whoever removes or obliterates any tag or device placed by any authorized sealer, deputy sealer or inspector upon any weight or measure, or weighing or measuring instrument, shall be fined not less than ten nor more than two hundred dollars. [1919]

Art. 1037. False weights and measures.

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 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 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 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 Twenty Dollars (\$20) nor more than One Hundred Dollars (\$100), 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 Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200).

Sec. A. Definitions.—The word "person" as used in this Chapter [Arts. 1035–1057d] shall be construed to include any individual and all officers, directors, managers, employees, and other agents of all corporations, companies, partnerships, societies and associations, and such is the legislative intent.

The words "weights, measures or (and) weighing or (and) measuring devices" as used in this Chapter, 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 Chapter, shall be construed to include barter and exchange.

The term "false weight or measure, or (and) weighing or measuring device" as used in this Chapter, shall be construed to mean any weight or measure or weighing or measuring device which does not conform as closely as practicable to the official standards, which is not accurate, which is of such construction that it is not reasonably permanent in its adjustment or will not correctly repeat its indications, which facilitates the perpetration of fraud, or which does not conform to the requirements of the Statutes of this State and to the specifications and tolerances promulgated by the Commissioner under authority of Article 5714¹, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, as amended.

¹ See Art. 1057d, page 982, Acts 1931, 42nd Leg., Ch. 83, Sec. 1, in amending Art. 5714 makes it a penal provision and it is, therefore, classified as Penal Code, Art. 1057d.

Sec. B. Commodities, how sold; exceptions; definitions.—It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count. Provided, however, that liquid commodities may be sold by weight if there exists a general consumer usage to express the quantity of such commodities by weight and such expression gives accurate information as to the quantity thereof; and that nothing in this Section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel or by other methods provided for by State or Federal Law; or of berries and small fruits in boxes as provided for in the provisions of other Articles of the Statutes; 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 commodities 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 not 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. C. (1) Net container.—It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count, and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package. Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to packages sold on the premises where packed shall be made. 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 Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner.

(2) *Deceptive pack.*—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 Commissioner is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a standard of fill of container, which in his best judgment is reasonable with respect to the physical characteristics of the commodity, the size, shape, and physical characteristics of the container, prevailing methods of handling and transportation of packages, and generally accepted good commercial practice in filling methods; provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances shall be established by regulations made by the Commissioner.

(3) *"In package form" defined.*—The words "in package form" as used in this Chapter, shall be construed to include a commodity in package, carton, case, can, box, bag, barrel, bottle, phial, or on a spool or similar holder, or in a container or band, or in a roll, ball, coil, skein, 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 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. Provided, however, that a box or carton used for shipping purposes containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of the contents thereof, nor the name and place of business of the manufacturer, packer, or distributor. And provided further, that the words "in package form" shall not be construed to include paper stationery in tablet form.

Sec. D. Standards for sale of milk.—It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, any milk or cream in bottles or other containers of any capacity other than those provided for measures of capacity for liquid in Article 5732¹, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, to wit, the gallon, a multiple of the gallon, one-half gallon, quart, pint, one-half pint, and gill.

¹ See page 976.

Sec. E. Standards for sale of cheese, meat, poultry, etc.—It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight. Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Section the following shall be deemed to be meat and meat food products: All fresh, cured, or salt meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, Hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed alive at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece.

The word "poultry" as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

Sec. F. Sale by net weight.—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 Chapter, it shall be understood and construed to mean the net weight of the commodity.

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—Weights and Measures—Continued.

Provided, however, that this Section shall not be construed to apply to bales of cotton.

Sec. G. Misleading price signs.—It shall be unlawful for any person 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. Whenever any price sign, tag, card, poster, or other advertisement displaying the price of any commodity or thing, includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

Sec. H. Unavoidable discrepancies.—There shall be no violation under this Act for any discrepancy between the actual weight or volume at the time of sale to the consumer and the weight marked on the container or between the fill of container and the capacity of the container if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste or to causes beyond the control of the seller acting in good faith.

Sec. I. Penalties for violations.—Any person who shall violate any provisions of this Act, or any of the reasonable rules and regulations promulgated hereunder, for which a specific penalty has not been provided, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty Dollars (\$20) nor more than One Hundred Dollars (\$100) upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200). [1919; last amended 1941.]

Art. 1038. Hindering sealers; penalty.

Whoever hinders or obstructs in any way the Commissioner of Agriculture, or his deputy, inspector or sealer or any local sealer, in the performance of their duties, shall be fined not less than ten nor more than two hundred dollars. [1919]

Art. 1039. Refusing to permit test of weight; penalty.

Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring instrument of any kind, or appliances and accessories connected with any of such instruments or measures which are in his possession or under his control to the Commissioner, his deputy, inspector or to any local inspector or sealer, for the purpose of allowing the same to be inspected and examined as provided for by law, shall be fined not less than ten nor more than two hundred dollars. [1919]

Art. 1040. Refusal to permit test of article; penalty.

Any person, who, by himself, or his employee, or agent, or as the proprietor or manager, shall refuse to exhibit any article, commodity, produce, or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the Commissioner or to his deputy or to a sealer or his deputy or to an inspector or local sealer, for the purpose of allowing same to be tested and proved as to quantity contained therein, shall be fined not less than ten nor more than two hundred dollars. [1919]

Art. 1041. Sealing wrongfully; penalty.

Any sealer, deputy sealer, inspector or local sealer appointed under the provisions of law, or discharging the duties of a sealer of weights and measures in this State, who shall seal any weight, measure, balance or apparatus before testing and making the same conform with the standards of the State or who shall condemn any weight, measure, balance or apparatus without first testing the same, shall be fined not less than twenty-five nor more than two hundred dollars, and shall be immediately suspended from office. [1919]

Art. 1042.¹ Failure to regard unit of measure; penalty.

Whoever in buying any commodity or article of property, merchandise or produce, the standard weight of which per bushel or barrel, or divisible merchantable quantities of a bushel or barrel, or by the cord or ton or cubic yard, has been fixed by the laws of this State, shall take any greater number of pounds thereof to the bushel, barrel or cubic yard, or divisible merchantable quantity of bushel, barrel, cubic yard or lineal yard, or in selling any of the same, shall give any less number of pounds thereof to the bushel, barrel, cubic or lineal yard, or divisible merchantable quantity of bushel, barrel, cubic or lineal yard than is allowed by the laws of this State, with intent to gain an advantage thereby, shall be fined not less than twenty nor more than two hundred dollars. [1919]

¹ For exception, see Art. 1043, page 981.

Art. 1042b. Flour and corn meal: Standard weight containers; marking requirements; exceptions; penalties for violations.

Sec. 1. The standard measures of wheat flour, whole wheat flour, graham flour, other cereal flour, and corn meal, except such cereals sold as grits, shall be packages containing net avoirdupois weights of two, five, ten, twenty-five, fifty, one hundred, one hundred fifty, and two hundred pounds.

Sec. 2. It shall be unlawful for any person, firm, association, or corporation to pack for sale, sell or offer for sale in the State of Texas any wheat flour, whole wheat flour, graham flour, other cereal flour, or corn meal except in packages (including barrels, sacks, bags, cartons and other containers) of the above standard net weights.

Sec. 3. Each package of wheat flour, whole wheat flour, graham flour, other cereal flour and corn meal shall have the net weight, name of manufacturer (meaning the person, firm, association, or corporation which processes the wheat or other cereal into flour, or which processes the corn into meal) and the name of the place where milled, printed or plainly marked on it in letters and figures clearly readable; and that it shall be unlawful for any wheat flour, whole wheat flour, graham flour, other cereal flour or corn meal, to be packed for sale, offered for sale or sold within the State of Texas unless it shall be so labeled. Provided, however, that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including reasonable variations or tolerances, shall be made by the Commissioner of Agriculture.

Sec. 4. The provisions of this Act shall not apply to the retailing of wheat flour, whole wheat flour, graham flour, other cereal flour or corn meal direct to the consumer from bulk stock, nor to sales of flour to bakeries for exclusive use in such bakeries, nor to the exchange of flour or meal for wheat or corn by grist mills and other mills grinding for toll for producers; and that nothing herein contained shall be held to apply to any product such as prepared pancake flour, cake flour or other specialty, packed and distributed in identified original package, the net contents of which are five pounds or less.

Sec. 5. Any violation of this Act shall be a misdemeanor, and upon conviction the offender shall be fined not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars for each offense. [1943]

Art. 1043. Contract stipulation.

The preceding article [Art. 1042] does not apply where the buyer or seller is expressly authorized by special contract or agreement to take more or give less of such article. [1919]

Art. 1044. Receptacle containing mill product.

Any one engaged in the manufacture of mill products of any character who shall use any bag, box, barrel or any other receptacle into which to put such product other than the one bearing the name of such mill manufacturing the same, shall be fined not less than one hundred nor more than one thousand dollars or be confined in jail for thirty days, or both. [1907]

Art. 1045. Illegal containers for fruits and vegetables; penalty.

Whoever shall make, sell, or offer to sell containers for the shipment of fruit or vegetables, which containers are of different size or dimensions from the standards¹ of such containers established by the laws of this State, shall be fined not to exceed one thousand dollars. [1917]

¹ See Art. 109, page 985.

Art. 1046. Illegal packs of fruits or vegetables; penalty.

Any grower, shipper's agent, packer, or any agent, receiver or representative of any common carrier or transportation company, who shall violate any provision of the laws of this State relating to standards of grades and pack¹ of fruit and vegetables, or who shall refuse to submit any such fruit or vegetables packed or ready for shipment to inspection by any inspector appointed, as authorized by law, by the Commissioner of Agriculture and empowered by such Commissioner to make such inspection, shall be fined not to exceed one hundred dollars. [1918]

¹ See Art. 110, page 985.

Art. 1047. Public weigher.¹

All persons engaged in the business of public weighing for hire, or any person who shall weigh or measure any commodity, produce or article, and issue therefor a weight certificate or weight sheet, which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce, or article is based, shall be known as a public weigher, and shall comply with the provisions of the law regulating public weighers, provided the provisions of this article shall not apply to any owner, manager, agent or employe of any compress or any public or private warehouse in their operations as a warehouseman. This law shall not apply in any manner to any Texas port. [1921]

¹ See also Art. 5680 et seq., pages 994-998, civil provisions.

Art. 1048. Same: Weight certificate.

The Commissioner of Agriculture shall prescribe the form of weight certificate to be used by all public weighers in this State, which certificate shall be known as a State Certificate of Weights and Measures; such certificate shall state thereon the kind of produce; the number of the same, the date of the receipt of the produce, the owner, agent or consignee, the total weight of the produce, the vessel, railroad, or other means by which the produce was received, and any trade mark or other mark thereon; and such other information as may be necessary to distinguish or identify the produce from a like kind. No certificate other than the one herein prescribed shall be used by any public weigher in this State, and such certificate when so made and properly signed, shall be prima facie evidence of such weight. [1919]

Art. 1049.¹ Same: Record of weights.

All public weighers, within this State, shall keep and preserve a correct and accurate record of all weights made by them, which record shall be open for the inspection of the Commissioner of Agriculture, his deputies or inspectors, and the public at any and all times. Such record shall be uniform

Vernon's Annotated Penal Code, Vol. 2, Title 14, Ch. 5
—Weights and Measures—Continued.

throughout the State, and the form of such record shall be prescribed by said Commissioner. [1919]

¹ See also Art. 5698, page 997, similar provision.

Art. 1050. Same: Issuing false certificate; penalty.

All certificates of weights and measures or weight sheets as provided for in this chapter [Arts. 1047-1053] shall contain the accurate and correct weight of any and all commodities weighed when issued by public weighers. Any public weigher, or deputy public weigher, who shall issue any certificate of weights and measures or weight sheet giving false weights or measures of any article, or commodity weighed or measured by him, or his representative or deputy, to any person, firm or corporation shall be fined not less than twenty-five nor more than two hundred and fifty dollars, and may be imprisoned in jail for not less than thirty days nor more than six months, and in addition thereto, he shall be suspended from office and not permitted to continue the business of public weighing any longer. [1919]

Art. 1051. Same: Request for false certificate; penalty.

Whoever shall request a public weigher, deputy public weigher or any person employed by him, or pay to him any money, or give him anything to weigh any produce, commodity or article, falsely or incorrectly, or who shall request a false or incorrect certificate of weights or measures, or weight sheet, shall be fined not less than twenty-five nor more than two hundred dollars, and in addition thereto may be imprisoned in jail for not less than thirty days nor more than six months. [1919]

Art. 1052. Same: Offenses; penalty.

Any person, or agent or representative of any corporation, who shall engage in the business of weighing for the public, or who shall grant or issue a certificate or weight sheet, upon which a purchase or sale is made without complying with the terms of the statutes regulating public weighers, shall be fined not less than twenty-five nor more than two hundred dollars. Each certificate so granted, or weight sheet issued by him is a separate offense. [1919]

Art. 1053. Shipping at false weight; penalty.

Whoever ships to any one in this State any thing in which the weight is necessary to be given at any weight other than the true weight properly certified to shall be fined not less than one hundred nor more than five hundred dollars and may be imprisoned in jail for not more than twelve months, or both so fined and imprisoned. [1919]

Art. 1055. Water, gas and electric meters: Inspection; penalty.

Water meters, gas meters and electric meters are subject at all times to inspection of the Commissioner of Agriculture and said Commissioner either on his motion or complaint of any user of any of the above named meters, shall have same inspected as to its correctness, and if found incorrect to discontinue its use until corrected, so that it will register correctly and whoever refuses to discontinue such meter when so notified by said Commissioner that it is incorrect or when so ordered to discontinue such meter should fail or refuse to comply with such order of said Commissioner shall be fined not less than twenty-five nor more than one hundred dollars and each day he shall fail or refuse to comply with such order to discontinue same shall be a separate offense. [1923]

Art. 1057. Same: Misreading; penalty.

Any person engaged in the manufacture or sale of electricity, water, or gas for lighting, power or other purposes, or any officer or employe of any person, corporation or company so engaged who shall knowingly misread any meter or overcharge any customer for such light, water or gas furnished, or shall cause or knowingly permit any light, water or gas meter to register or show greater than the true amount of light, electricity, water or gas sold or furnished any customer shall, for every offense, be fined not less than twenty-five nor more than one hundred dollars. [1923]

Art. 1057d.¹ Specifications and tolerances; penalties.

The Commissioner [of agriculture] shall establish tolerances and specifications for commercial weighing and measuring apparatus for use in this State, similar to the tolerances and specifications recommended by the National Bureau of Standards and he may establish a standard net weight or net count of any commodity, product, or article, and prescribe such tolerance for same as he may in his best judgment deem necessary for the proper protection of the public. Provided, the specifications and tolerances issued by the Commissioner of Agriculture for weighing and measuring devices in conformity with this Article, or any specifications or tolerances issued to protect the public from fraud, shall have the same force and effect as if enacted into law, and provided, further, any person, firm, or corporation who shall fail or refuse to comply with said specifications and tolerances shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars. [1919; last amended 1931.]

¹ This article was originally Art. 5714, Revised Civil Statutes. As amended, it is made a penal provision.

Vernon's Annotated Civil Statutes, Vol. 2, Title 28, Ch. 4—Cities and Towns.

Art. 1015. Municipal powers.

The governing body [city or town council] shall also have power: * * *

5. To regulate the inspection of beef, pork, flour, meal, salt and other provisions; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees.

6. To regulate the weight and quality of bread to be sold or used within the city. [1889]

Vernon's Annotated Civil Statutes, Vol. 2, Title 28, Ch. 10—Cities and Towns, Gas and Electric Meters.

Art. 1124a. Testing upon complaint; report.

Sec. 1. That hereafter any consumer or user of electric power, current, natural or artificial gas furnished by any private concern in any city, town or village in this State on complaint made to the city Commissioners or city council of any city, town or village within this State, shall have the right to have any meter which measures the amount of electricity or gas installed by the person furnishing said electrical current or gas for the purpose of ascertaining what amount to charge him for the use thereof, examined, read and tested by the agents, servants and employees of the city commissioners or city council, as the case may be; said agents, servants and employees being hereby given the right to break the seal, and examine, read and test the various meters and similar devices, in company with an agent of the furnisher of said electrical power, current and gas, if said furnisher desire its representative to be present, if not, then such examination to be had without him but three days' notice shall be given to all persons, firms or corporations furnishing said electricity or gas of said test.

Sec. 2. The word "meter" as used in this Act [Art. 1124a] applies to any instrument, apparatus or machine used for measuring electric currents or gas and recording the results obtained.

Sec. 3. The words "person" and "furnisher" used in this Act [Art. 1124a] refer to any corporation, association, partnership or individual engaged in furnishing electricity, electric current, electrical power or gas for consumption for hire in cities.

Sec. 4. That on demand said city council or city commissioners shall furnish the complaining consumer with a detailed report of the result of their reading, examination and testing of said meters or other said measuring devices for electrical current, or gas as hereinbefore referred to, said report to state whether or not said meter or measuring device is functioning properly, is in good condition, and the amount of electrical current, power or gas used by the consumer for any period of time preceding of not more than one year, such period

to be designated by the consumer in his complaint hereinbefore mentioned. [1927]

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 5—Commercial Fertilizer.

Art. 94. Marking requirements.

All corporations, firms or persons, before selling or offering for sale any commercial fertilizer for use within this State, shall brand or attach to each bag, barrel or package a plainly printed statement, showing * * * the net weight of the contents of the package * * *. All branding or labeling must be durable and legible, and so placed as to be easily read. [1911]

Art. 103. Seizure.

Any commercial fertilizer sold, offered, or exposed for sale within this State in violation of any provision of this chapter [Art. 94-108], shall be liable to seizure at the instance of the State chemist. * * * If it appears at the hearing before the county judge or justice of the peace who issued said writ, that the commercial fertilizer was being sold, exposed or offered for sale in violation of any provision of this chapter, said commercial fertilizer shall be condemned and delivered to an officer or agent of the State chemist, to be sold by or under the direction of the State chemist, and the net proceeds paid to the treasurer of the Agricultural and Mechanical College of Texas, for the purpose of enforcing the provisions of this chapter. * * * [1911]

Art. 105. Bulk sales.

Manufacturers, jobbers, dealers or manipulators of commercial fertilizers may sell acid phosphate or other commercial fertilizer in bulk to persons, individuals or firms who desire to purchase the same for their own use on their own land but not for sale or distribution, under rules prescribed by the State chemist which shall not be inconsistent with the provisions of this chapter [Arts. 94-108]; provided, that the inspection tax shall be paid upon such fertilizer as provided in this chapter. But if such bulk fertilizer is offered for sale or distribution it must be tagged and branded and otherwise accord with the provisions of this chapter. [1911]

Art. 106. Standard weight containers.

All fertilizers or fertilizing materials sold or offered for sale for use within this State shall be in bags or packages of one hundred pounds net weight, except as provided in the preceding article. The weight of fertilizers shall be ascertained by the inspectors of the State chemist before drawing a sample, or by the purchaser within ten days of delivery to him, in the presence of at least two disinterested witnesses, one chosen by the purchaser and the other by the manufacturer, and the pur-

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 5—Commercial Fertilizer—Continued.

chaser shall within five days notify the manufacturer to make good the deficiency. Upon failure of the manufacturer to do so within twenty days thereafter he shall be liable to a penalty of three dollars for each sack, barrel or package, which immediately attaches and becomes recoverable by the State, one-half of the penalty so received to be paid to the purchaser in case of a sale. If any such manufacturer shall refuse, decline or neglect to be present or to choose a witness within six days as herein provided, after having been notified or requested in writing by the purchaser so to do, then he shall have forfeited his right to do so and the purchaser may select two witnesses who shall select a third, and the three shall proceed to ascertain said weight. [1911]

Art. 108. Definitions.

The terms "commercial fertilizer," "misbranded," "adulterated," as used in this chapter [Arts. 94-108], shall have the same meaning as is given those terms in Article 1716¹ of the Penal Code. [1911]

¹ See next following article.

Vernon's Annotated Penal Code, Vol. 3, Title 19, Ch. 12—Commercial Fertilizer.

Art. 1716. Definitions.

These terms mean:

1. A commercial fertilizer is any material, substance or mixture which contains or is claimed to contain more than one per cent of total phosphoric acid, or of potash, or of nitrogen, and which is used for application to the soil to promote the growth of crops or of any substance, material or mixture, which is claimed to exert a beneficial action upon the soil or to promote the growth of crops. Lime, limestone, marl, unground bones, stockpen manure, barn-yard manure, or the excrement of any domestic animal shall be exempt from the provisions of this chapter [Arts. 1709-1720], in case that said manure or excrement has not been dried or manipulated or otherwise treated or is not claimed to have a value of more than four dollars a ton.

2. A fertilizer is misbranded if it carries any false or misleading statement upon or attached to the package, or if false or misleading statements concerning its agricultural value are made on the package or in any printed advertising matter issued by the corporation, firm, or individual that registered said fertilizer, or if the number of net pounds set forth upon the package is not substantially correct. * * * [1911]

Art. 1717. Penalty for selling misbranded article.

Whoever manufactures, sells or offers for sale any adulterated or misbranded commercial fer-

tilizer for use within this State shall be fined not less than twenty-five nor more than two hundred dollars. [1911]

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 7A—Article 135b-1, Insecticides and Fungicides.

Sec. 1. Definitions.

(a) The term "agricultural insecticide" as used in this Act [Art. 135b-1] shall include any substance or mixture of substances offered for use for preventing, destroying, repelling, or mitigating any insects or pests which may infest agricultural crops, including fruits, vegetables, ornamentals, shade and forest trees.

(b) The term "Paris green" as used in this Act shall include the product sold as Paris green and chemically known as aceto-arsenate of copper.

(c) The term "calcium arsenate" as used in this Act shall include the product or products sold as calcium arsenate and consisting chemically of products derived from arsenic acid (H₃AsO₄) by replacing one or more hydrogen atoms by calcium.

(d) The term "fungicide" as used in this Act includes any substances or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi, including rusts, smuts, mildew, molds, yeasts, and bacteria that may infest vegetation.

* * * * *

Sec. 4. Misbranded articles.

For the purpose of this Act [Article 135b-1] an article shall be deemed misbranded:

* * * * *

(b) If it be labeled or branded so as to deceive or mislead the purchaser, * * *

(c) If the statements required in Section 5 are not branded or set forth on the label of each package.

(d) If any false or misleading statements are made on the package or in any printed matter accompanying the package.

Sec. 5. Marking requirements.

All corporations, firms, or persons, before selling or offering for sale any agricultural insecticide or fungicide for use within this state, shall brand or attach to each package a plainly printed statement, showing * * * the net weight, or volume if liquid, of the contents of the package; * * *. All branding or labeling must be durable and legible, and so placed and arranged as to be easily read.

* * * * *

Sec. 8. Notice of misbranding.

(a) If it shall appear from the examination and analysis of any of such samples that the same is misbranded or adulterated within the meaning of this

Act [Art. 135b-1], the State Chemist shall certify the results to the Commissioner of Agriculture, who shall cause notice thereof to be given to the manufacturer of said products. * * *

Sec. 12. Penalties for violations.

Every firm, corporation, or person who shall sell or offer for sale any agricultural insecticide or fungicide without having attached thereto such statements as are required by law, or who shall sell or offer for sale any adulterated or misbranded agricultural insecticide or fungicide within the meaning of this Act [Art. 135b-1], or who shall violate any other provisions of this Act, shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars for each offense.

Sec. 14. Condemnation and forfeiture.

(a) Any agricultural insecticide or fungicide that is adulterated or misbranded within the meaning of this Act [Art. 135b-1] shall be liable to be condemned, confiscated, and forfeited by a civil suit brought in the District Court of the county where said agricultural insecticide or fungicide is located, in the name of the State of Texas, as plaintiff, and in the name of the owner thereof or the name of the person, firm, or corporation selling, offering or exposing same for sale, as defendant; and service shall be had as in other civil cases. If upon a trial of said case it shall be determined that said agricultural insecticide or fungicide is misbranded or adulterated, within the meaning of this Act, then the same shall be disposed of by destruction or sale in accordance with the judgment of the court, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the General Fund of the State of Texas.

* * * * *

Sec. 16. Exemptions.

This Act [Art. 135b-1] shall not apply to the sale of household insecticides, household disinfectants, and household deodorants. [1943]

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 6—Fruits and Vegetables.

Art. 109.¹ Standard containers.

The following standards of containers for the shipment of fruits and vegetables in this State are hereby established and adopted as State standards.

1. Standard Bushel Basket. The standard bushel basket shall contain not less than 2150.4 cubic inches in the basket proper, regardless of the manner in which the lid is made.

2. Standard Four Basket Crate. The basket in said crates shall hold not less than three quarts dry measure, and the dimensions of such baskets shall be 5x8 inches at the bottom, 6x10 inches at the

top, and 4 inches deep, and shall contain not less than 201.6 cubic inches. The heads of the crates holding said baskets shall be 4 1/2 inches wide by 11 inches at the bottom, and 13 inches at the top in length and not less than 7/16 of an inch thick. The veneer or boards for the bottoms, sides and tops shall be not less than 4 1/2, 4, and 5 1/2 inches wide respectively, and not less than 1/7 of an inch thick and 22 inches long. Both crates and baskets shall be made of good, substantial material, sufficiently strong to withstand the ordinary strain incident to transportation and handling.

3. Standard Six-basket Crate. Each basket of a six-basket crate shall contain not less than 268.8 cubic inches.

4. Standard Folding Onion Crate. The standard folding onion crate shall not be less than 19 5/8 inches long, 11 3/16 wide and 9 13/16 inches deep, inside measurements, containing not less than 2154.4 cubic inches.

5. Standard Orange Box. The dimensions of the standard orange box shall be 12 x 12 x 12 inches for each one-half of box, inside measurement, and the dimensions of a one-half (or strap box) shall be 12 x 12 x 6 inches for each one-half box, inside measurement.

6. Standard Berry Box or Crate. The standard quart berry box or crate shall contain not less than 24 quart baskets containing 67.2 cubic inches each, dry measure; and the standard pint berry box or crate shall hold not less than 24 pint baskets, containing not less than 33.6 cubic inches, dry measure. [1917]

¹ See Art. 118c-1, Sec. 9, page 988, and Art. 118c-2, Sec. 9, page 989; tomatoes and cabbage, rules and regulations for containers.

Art. 110. Packs.

The following "grades and packs" are hereby established as State standards for the State of Texas:

(a) Standard Peach Grades and Packs. Standard peach grades are three in number; namely, Fancy, Choice or No. 1, and No. 2.

Fancy peaches shall be * * * carefully picked and closely packed in bushel crates or crates of four or six basket capacity.

Choice or No. 1 peaches shall be * * * carefully picked and closely packed in bushel crates or crates of four or six basket capacity.

* * * Each and every package of fruits and vegetables offered for sale or shipment shall have plainly stamped on it the * * * name and post office address of the person shipping same, provided that this shall apply only to shipments of such fruits and vegetables as have grades established by law.

* * * * *

Texas Standard Peach Packs. The standard peach packs for six basket crate shall be eight in

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 6—Fruits and Vegetables—Continued.

number; namely, 72's, 96's, 138's, 162's, 180's, 216's, 270's and 324's.

* * * * *

All packages must be filled tight, in all layers from bottom to top, and extend approximately 1 inch above the top rim or edge of the package, whether it be a bushel basket, crate basket, or box. All peaches in the same crate or package shall be as nearly as possible of a uniform degree of ripeness.

(b) Texas Standard Tomato Grades and Packs. Texas standard tomato grades may be two in number; namely, Fancy and Choice. Texas standard tomato packs shall be seven (7) in number for the six basket crate and nine (9) in number for the four basket crate and the manner in which tomatoes are packed will partly determine their grade.

* * * * *

(c) Texas Standard Orange Packs. The Standard orange packs shall be 8 in number; namely, 96's, 126's, 150's, 176's, 200's, 216's, 252's and 288's.

* * * * *

The Standard Satsuma and Tangerine packs shall be 7 in number; namely 90's, 106's, 120's, 168's, 196's, 216's and 224's.

* * * * *

The standard grapefruit packs shall be 7 in number; namely, 28's, 36's, 46's, 54's, 64's, 80's, 96's.

* * * * *

In the enforcement of the above standards of grade and pack, an allowance may be made of not exceeding ten per cent difference in size between the fruit on top and in the interior of the package. A variation of not more than three per cent of actual count may be made in the number of any kind of fruit prescribed for each particular pack. [1917]

Art. 114. Snap beans: Hamper weights.

* * * * *

All beans are to be packed in hamper weighing, when packed, not less than 17 pounds net weight for one-half bushel hamper, and 34 net weight for one bushel. [1918]

Art. 115. Bartlett pears: Packing.

* * * * *

Packing.—Fruit shall be tightly packed in clean standard boxes, one end stamped with the grade, number of pears, name of and post office of packer.

Packs Defined.—“Four Tier” shall be packed

in four layers. Minimum pack 120 pears to the box.

“Five Tier” shall be packed in six layers. Minimum pack 135, maximum pack 180 pears to box.

“Six Tier” shall be packed in six layers, containing 216 pears to the box, or five layers containing 195 or 210 to the box, but will be considered “six tier.” [1918]

Art. 116. Irish potatoes: Estimate and deduction of dirt.

* * * * * In instances where dirt adheres to the potatoes a fair and reasonable estimate by weight, of such dirt, shall be made and deducted from the gross weight of the potatoes and dirt, which estimate may be made by removing and weighing the dirt from three or more samples of not less than fifty pounds each, that, when taken together, represents the average conditions of the potatoes.

All potato containers must have some mark or brand showing the name and post-office address of the grower or shipper. [1918]

* * * * *

Art. 118. Enforcement of chapter; rules and regulations.

The Commissioner of Agriculture is hereby authorized and empowered to enforce each provision of this chapter [Arts. 109—118c-2], and he shall promulgate and publish all necessary rules and regulations for the enforcement of this law, and such other information as will aid fruit and truck growers and the manufacturers of containers in complying with the provisions of this chapter. [1917]

Art. 118a. Citrus fruit.

* * * * *

Sec. 2. *Inspection.*—The inspection in the State of Texas of all grapefruit and oranges, * * * shall be under the direction of the Commissioner of Agriculture, of the State of Texas, hereinafter known as the Commissioner.

Sec. 5. *Rules and regulations as to marking of containers.*—The Commissioner is hereby authorized to promulgate such rules and regulations relative to proper marking on containers, the issue of certificates of inspection, the tagging of the vehicle of transportation, and such other rules and regulations as he deems necessary for the improvement of the method of marketing of all citrus fruits as provided for in this Act.¹

¹ This article and Penal Code, Art. 719b, see page 989.

Sec. 14. *Deceptive pack.*—It shall be unlawful to prepare, deliver, for shipment, load, ship, transport, offer for sale or sell for shipment a deceptive pack, load, arrangement or display of citrus fruits within the meaning of this Act,¹ or to mis-label any container or display of such citrus fruits. A deceptive pack or load is hereby defined as one which is so arranged to conceal the true grade of

the citrus fruit within the package or to misrepresent the contents.

¹ This article and Penal Code, Art. 719b, see page 989.

Sec. 19.¹ Public weighers.—Under the terms of this Act ² all citrus fruit purchased by weight prior to packing by any buyer or shipper, shall be weighed at the instance and expense of buyer, by a duly elected or appointed public weigher, who shall be governed in his rights and duties by the Statutes of the State of Texas covering public weighers as set out in the 1925 Revised Civil Statutes of the State of Texas, Title 93, Chapter 6, Article 5680,³ and any amendments thereto; and it shall be the duty of the buyer or shipper to deliver such certificates of weight issued by the public weigher to the seller, prior to any accounting or settlement between the buyer or shipper and the seller, on all citrus fruit purchased by weight prior to packing. Said public weigher shall receive for his services hereunder a fee of Ten (10) Cents when the net load weighs seven thousand (7,000) pounds, or less; a fee of Fifteen (15) Cents when the net load weighs in excess of seven thousand (7,000) pounds and not more than fourteen thousand (14,000) pounds; a fee of Twenty (20) Cents when the net load weighs in excess of fourteen thousand (14,000) pounds, said fees to be in full payment for each completed certificate showing net weight. [1933; last amended 1943.]

¹ Citrus fruit, failure to have weighed pursuant to this article, see Art. 118b, Sec. 11, this page.

² This article and Penal Code, Art. 719b, see page 989.

³ See page 994.

Art. 118b. "Citrus Fruit Growers' Act."

Sec. 1. Definitions.

* * * * *

(b) "Citrus fruit," as the term is used in this Act,¹ shall be construed to mean all citrus fruits grown in the State of Texas and bought and/or sold and/or handled in any way either as fresh or natural fruit or in canned and/or processed form.

* * * * *

(d) "Handle" means buying or offering to buy, selling or offering to sell, or shipping for the purpose of selling, whether as owner, agent or otherwise, any citrus fruit within the State of Texas, and persons buying and/or shipping citrus fruit for canning and/or processing or handlers, as the term is defined.

(e) "Dealer" means any person who handles fruit, as the word "handle" is defined in (d) of this Section; * * *

¹ This article and Penal Code, Art. 1700a-3, see page 989.

Sec. 2. License and bond of dealer.—No person shall engage in the business of a dealer in citrus fruits as that term is herein defined unless such

person shall first have procured a license in accordance with the provisions of this Act.¹

¹ This article and Penal Code, Art. 1700a-3, see page 989.

Sec. 11. Buying by weight.—Any dealer who buys citrus fruit by weight and who does not have such fruit weighed over public scales by public weigher as provided in Title 4, Chapter 180 of the Acts of the Forty-third Regular Session of the Legislature of the State of Texas,¹ as now written or as the same may be amended, shall be deemed guilty of a violation of this Act.²

¹ See Art. 118a, Sec. 19, this page, and Penal Code, Art. 719b, page 994.

² This article and Penal Code, Art. 1700a-3, page 989.

Sec. 14. Commissioner's power and authority in enforcing act.—For the purpose of enforcing the provisions of this Act,¹ the Commissioner [of agriculture] is hereby vested with full power and authority and it shall be his duty, either upon his own initiative or upon the receipt of a properly verified complaint, to investigate all alleged violations of this act * * * and in furtherance of such investigation either the Commissioner in person or through his authorized representatives, may examine * * * scales, measures, and other matters, objects or persons pertinent to such alleged violation under investigation. The Commissioner * * * shall take the proper action with reference to the cancellation or suspension of the license of any dealer hereunder shown to have been guilty of a violation of the terms of this Act. * * *

¹ This article and Penal Code, Art. 1700a-3, see page 989.

Sec. 22. Exemptions.—The provisions of this Act¹ shall not apply to a retailer of citrus fruit nor to any person shipping less than six (6) standard boxes of citrus fruit in any one separate shipment nor shall this Act apply to noncommercial shipments by express. [1937; last amended 1939.]

¹ This article and Penal Code, Art. 1700a-3, see page 989.

Art. 118c-1. "Tomato Standardization and Inspection Act."

Sec. 1. Authority of commissioner.—The inspection and certification of grade, size, pack, and marking and the designation of containers of tomatoes shall be under the direction of the Commissioner of Agriculture of the State of Texas, hereinafter called the Commissioner.

Sec. 2. Deceptive pack defined.—For the purposes of this Act [Art. 118c-1] the following terms, when used in this Act, or the rules, regulations, and orders made pursuant thereto, shall be construed, respectively, to mean:

* * * * *

"Deceptive pack": Any container or sub-container of tomatoes used within this State having imprinted, inscribed, or otherwise placed thereon any marking designating any grade, standard,

Vernon's Annotated Civil Statutes, Vol. 1, Title 4, Ch. 6—Fruits and Vegetables—Continued.

count, arrangement, and/or pack which does not truly represent the grade, standard, and count, arrangement, and/or pack therein contained.

Sec. 7. Rules and regulations relating to pack and containers.—* * * The Commissioner [of agriculture] is further authorized to issue rules and regulations relating to standards, grades, pack and marking of tomatoes, as well as to containers and sub-containers to be used in the packing and shipping thereof.

Sec. 9. Containers.—The Commissioner [of agriculture] is hereby authorized to prescribe containers for use in the shipment of tomatoes and is authorized to promulgate and publish rules and regulations relative to the use of containers for the shipment of tomatoes in the State of Texas; the rules and regulations adopted by the Commissioner shall conform to Article 109,¹ of Chapter 6, Revised Civil Statutes of Texas, 1925; the Commissioner is, however, hereby authorized to provide for and adopt other and different containers, provided that the use of such other and different containers is not prohibited under any Statutes of the United States, the rules of the Interstate Commerce Commission, or the regulations of the United States Department of Agriculture; no container or sub-container used in the packing and/or shipment of tomatoes within this State shall have imprinted or inscribed or otherwise placed thereon any designation of grade, standard, count, arrangement, or pack which is false and misleading; this provision shall be construed to prohibit, from and after the effective date of this Act [Art. 118c-1], the use of any container of tomatoes bearing any markings required by this Act or any designation of brand, trade-mark, quality, standard count arrangement, or grade, unless all markings which do not properly and accurately apply to the products therein packed, shall first be completely removed, erased, or obliterated.

¹ See page 985.

Sec. 10. Inspection contributions.—It is provided that this law shall be self-financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner [of agriculture] is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture and the Inspection Service of the Federal Bureau of Agricultural Economics, relative to the amounts of contributions to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act [Art. 118c-1] * * *;

Sec. 11. Prohibited acts; penalties.—From and after the effective date of this Act [Art. 118c-1], it shall be unlawful for any individual, firm, partnership, corporation, or association of persons to:

(A) Wilfully or knowingly interfere with the Commissioner [of agriculture] or any agent, inspector or employee, as these terms are in this Act defined, in the performance of their duties under this Act;

(B) To ship any tomatoes without first obtaining the inspection certificate required under the terms and provisions of this Act;

(C) Knowingly and wilfully deliver to any transporting medium or agency any tomatoes "deceptively packed";

(D) Use any container or sub-container in the packing and/or shipping of tomatoes which has imprinted, inscribed or otherwise placed thereon any designation of grade, standard, size, count, or pack which is false and/or misleading;

(E) Use, in the shipment of tomatoes in or from the State of Texas, any container or sub-container, the use of which is not authorized by law and/or the rules, regulations, and orders of the Commissioner;

(F) Falsify, forge, or change any inspection certificate required under the terms and provisions of this Act;

(G) To wilfully and knowingly fail and refuse to obey any order, rule, or regulation issued by the Commissioner pursuant to his authority granted under the terms and provisions of this Act;

* * * * *

Any person violating any of the terms or provisions of this Act shall be guilty of a misdemeanor and on conviction shall be fined not to exceed Two Hundred Dollars (\$200). [1939]

Art. 118c-2. "Cabbage Standardization and Inspection Act."

Sec. 1. Authority of commissioner.—The inspection and certification of grade, size, pack and marking and the designation of containers of cabbage shall be under the direction of the Commissioner of Agriculture of the State of Texas, hereinafter called the Commissioner.

Sec. 2. Deceptive pack defined.—

* * * * *

"Deceptive Pack": Any container or sub-container of cabbage used within this State having imprinted, inscribed or otherwise placed thereon any marking designating any grade, standard, count, arrangement and/or pack which does not truly represent the grade, standard, count, arrangement, and/or pack therein contained.

* * * * *

Sec. 7. Rules and regulations relating to pack and containers.—* * * The Commissioner [of agriculture] is further authorized to issue rules and regulations relating to standards, grades, pack and marking of cabbage, as well as to containers and subcontainers to be used in the packing and shipping thereof.

Sec. 9. Containers.—The Commissioner [of agriculture] is hereby authorized to prescribe containers for use in the shipment of cabbage and is authorized to promulgate and publish rules and regulations relative to the use of containers for the shipment of cabbage in the State of Texas; the rules and regulations adopted by the Commissioner shall conform to Article 109,¹ Chapter 6, Revised Civil Statutes of Texas, 1925; the Commissioner is, however, hereby authorized to provide for and adopt other and different containers, provided that the use of such other and different containers is not prohibited under any Statutes of the United States, the rules of the Interstate Commerce Commission, or the regulations of the United States Department of Agriculture; no container or sub-container used in the packing and/or shipment of cabbage within this State shall have imprinted or inscribed or otherwise placed thereon any designation of grade, standard, count, arrangement, or pack which is false and misleading; this provision shall be construed to prohibit, from and after the effective date of this Act [Art. 118c-2], the use of any container of cabbage bearing any markings required by this Act or any designation of brand, trademark, quality, standard count arrangement, or grade, unless all markings which do not properly and accurately apply to the products therein packed, shall first be completely removed, erased or obliterated.

¹ See page 985.

Sec. 10. Inspection contributions.—It is provided that this law [Art. 118c-2] shall be self financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner [of agriculture] is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture relative to the amounts of contribution to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act; * * *

Sec. 11. Prohibited acts; penalties.—From and after the effective date of this Act [Art. 118c-2], it shall be unlawful for any individual, firm, partnership, corporation, or association of persons to:

(A) Willfully or knowingly interfere with the Commissioner [of agriculture] or any agent, inspector or employee, as these terms are in this Act defined, in the performance of their duties under this Act;

(B) To ship any cabbage without first obtaining the inspection certificate required under the terms and provisions of this Act;

(C) Knowingly and willfully deliver to any transporting medium or agency any cabbage "deceptively packed;

(D) Use any container or subcontainer in the packing and/or shipping of cabbage which has

imprinted, inscribed or otherwise placed thereon any designation of grade, standard size, count, or pack which is false and/or misleading;

(E) Use in the shipment of cabbage in or from the State of Texas, any container or subcontainer, the use of which is not authorized by law and/or the rules, regulations, and orders of the Commissioner;

(F) Falsify, forge, or change any inspection certificate required under the terms and provisions of this Act;

(G) To willfully and knowingly fail and refuse to obey any order, rule or regulation issued by the Commissioner pursuant to his authority granted under the terms and provisions of this Act;

* * * * *

Any person violating any of the terms or provisions of this Act shall be guilty of a misdemeanor and on conviction shall be fined not to exceed Two Hundred Dollars (\$200). [1945]

Art. 118d. "Texas Citrus Commission."

Sec. 14. Standard packed box for tax purposes.—There is hereby levied and assessed * * * a tax in such amount not to exceed Three Cents (3¢) per standard packed box or bag of one and three-fifths (1 3/5) bushels or equivalent, * * *. [1949]

Vernon's Annotated Penal Code, Vol. 2, Title 12, Ch. 2—Citrus, Penal Provisions.

Art. 719-b. Penalty for violation of Article 118a.

Any person, firm, corporation, association or other organization which violates any provisions of this Act¹ or willfully interferes with the Commissioner [of agriculture], his agent, inspectors or employees, in the performance or on account of the execution of his or their duties as provided by this Act shall be deemed guilty of a misdemeanor. Any person convicted under this Act shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment in the discretion of the Court. [1935]

¹ This article and Ann. Civ. Stat., Art. 118a, see page 986.

Vernon's Annotated Penal Code, Vol. 3, Title 19, Ch. 10A—"Citrus Fruit Growers' Act," Penal Provisions.

Art. 1700a-3. Penalty for violation of Article 118b.

* * * * *

(3) Any licensee or any transporting or buying agent of any licensee under this Act¹ who shall violate any of the terms and provisions of this Act shall be fined not to exceed Two Hundred Dollars (\$200). [1937; last amended 1939.]

¹ This article and Ann. Civ. Stat., Art. 118b, see page 987.

General and Special Laws, 51st Legislature, Regular Session, 1949, Ch. 288—Antifreeze.

Sec. 1. Definitions.

has been in this Act, the following words and phrases shall have the following meanings:

(a) "Antifreeze" shall mean all substances and preparations intended for use as a cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

(c) "Commissioner" shall mean the Commissioner of Agriculture.

(e) "Label" means the written, printed or graphic matter on the immediate or outside container of the antifreeze.

(f) "Labeling" means all labels upon any article or any of its containers or wrappers, accompanying such article, to which reference is made on the label or literature accompanying such article, or which relates or refers to the article for the purpose of inducing the sale thereof.

(h) "Misbranded" shall mean, and shall apply to, any antifreeze (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

Sec. 3. Marking requirements.

Every label of every container of antifreeze shall contain the following information, including (3) the net weight or measure, as the case may be, of the contents of the package or can; Failure to include any of the foregoing information on the label shall be an offense hereunder.

Sec. 4. Seizure.

The Commissioner [of agriculture] may seize all antifreeze, the manufacture, transportation, sale or use of which is prohibited by this Act or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of any provision of this Act or in violation of any rule, regulation, definition or standard promulgated by the Commissioner hereunder. Such seizure may be made without a warrant. For obtaining information regarding the suspected violation of this Act, the Commissioner, his assistants, appointees, agents or employees shall have access to all places where any antifreeze is sold, stored, transported or held for sale, and they may inspect any

antifreeze found and take samples for analysis.

Sec. 5. Administration of act.

The Commissioner of Agriculture shall administer the provisions of this Act, and shall have authority to promulgate rules and regulations to implement its administration.

Sec. 8. Exceptions.

The provisions of this Act shall not apply to (1) finished antifreeze in transit through the State or in storage within the State intended for sale outside the State; (2) antifreeze ingredient materials in transit or in storage intended for manufacturing, processing, mixing, packing or canning within this State; (3) common or private carrier and warehousemen, or any employee thereof, while engaged in lawfully transporting and storing antifreeze; (4) public-officers while engaged in the performance of their official duties.

Sec. 9. Penalties for violations.

Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500).

Vernon's Annotated Civil Statutes, Vol. 1, Title 7—Article 192-1, "Texas Livestock Remedy Act."

Sec. 2. Definitions.

For the purposes of this Act [Art. 192-1]:

(c) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(d) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article. But this shall not be construed as including advertising matter not attached to such article or the container thereof used for display purposes only.

(f) The term "livestock remedy" shall mean and include all drugs, combinations of drugs, proprietary medicines, and combinations of drugs and other ingredients which have been prepared or compounded for animal use, except that feeding stuff or mineral feed supplements shall not be included.

(g) The term "State Health Officer" shall mean the State Health Officer of the State of Texas.

Sec. 3. Unlawful acts.

The following acts and the causing thereof within the State of Texas are hereby declared unlawful:

(a) The sale, delivery, holding or offering for sale of any livestock remedy which has not been registered with the State Health Officer as provided in Section 4 hereof;

(b) The manufacture, sale, delivery, holding or offering for sale of any livestock remedy that is adulterated or misbranded;

* * * * *

(d) The dissemination of any advertisement which is false or misleading in a material respect: Provided, that no person or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be subject to the penalties of this Act [Art. 192-1] by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the State Health Officer, to furnish the name and address of the manufacturer, packer, distributor, seller or advertising agency who caused him to disseminate such advertisement;

(e) The refusal to permit entry or inspection,

(f) The disposal of a detained article in violation of Section 10 hereof;

(g) The giving of a guaranty which is false, except by a person who relied on a guaranty to the same effect signed by, and containing the name and address of, the person from whom he received the livestock remedy in good faith;

* * * * *

Sec. 4. Registration; marking requirements; exceptions.

(a) Any person may make application for the registration of a livestock remedy by filing with the State Health Officer on forms furnished by him, a sworn statement with respect thereto setting forth:

* * * * *

(3) The minimum net contents of the package, lot or parcel of such livestock remedy (stated by weight in the case of solids and by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

* * * * *

(b) A label or specimen of labeling for any livestock remedy shall accompany each application for registration,

(c) If the State Health Officer after examination and investigation finds the application and labeling comply with the requirements of this Act [Art. 192-1], a certificate of registration shall be issued the applicant on payment of a registration fee as

hereinafter provided. All such certificates shall be issued for a period not exceeding one year, expiring on December 31st of each year. No certificate shall be construed as a recommendation or endorsement of the livestock remedy registered.

(d) The provisions of this section shall not apply to a livestock remedy intended solely for investigational, experimental or laboratory use by qualified persons, provided the article is plainly labeled "For Investigational Use Only".

(e) Nothing in this Act shall apply to any product registered with the Commissioner of Agriculture under the provisions of Chapter 98, Acts of the Regular Session of the 48th Legislature.¹

¹ Art. 135b-1, see pages 984-985.

Sec. 8. When deemed misbranded.

A livestock remedy shall be deemed to be misbranded:

(a) Unless its label bears:

* * * * *

(3) The minimum net contents of the package, lot or parcel (stated by weight in the case of solids, by volume in the case of liquids, and by both count and weight or volume per dose in the case of dosage forms);

* * * * *

(b) If its labeling is false or misleading in any material particular;

(c) If its container is so made, formed, or filled as to be deceptive or misleading as to amount of contents;

* * * * *

(e) If any word, statement, or other information required by or under authority of this Act [Art. 192-1] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(f) Provided, however, that any livestock remedy that is manufactured and distributed under license from and under the supervision of the Federal Bureau of Animal Industry and in compliance with the regulations of such Bureau, shall be deemed in compliance with this section of this Act.

Sec. 10. Detained articles.

(a) Whenever the State Health Officer or a duly authorized agent finds or has reasonable cause to believe a livestock remedy is adulterated or misbranded within the meaning of this Act [Art. 192-1], he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained, and warning all persons not

Vernon's Annotated Civil Statutes, Vol. 1, Title 7—
Article 192-1, "Texas Livestock Remedy Act"—
Continued.

to dispose of such article in any manner until permission is given by the State Health Officer or the court. Provided that any such article may at the discretion of the manufacturer or vendor be removed from display, but left on the premises.

* * * * *

Sec. 11. Penalties for violations; minor violations.

(a) Any person who violates any of the provisions of this Act [Art. 192-1] shall be guilty of a misdemeanor and shall on conviction thereof be subject to a penalty of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

* * * * *

(c) Nothing herein contained shall be construed as requiring the State Health Officer to report for the institution of proceedings under this Act, minor violations of this Act, whenever the State Health Officer believes the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Sec. 13. Enforcement; rules and regulations.

(a) The State Health Officer is hereby charged with the enforcement of this Act [Art. 192-1], and is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this Act; provided, that such rules and regulations shall conform, insofar as practicable, with the rules and regulations promulgated under the Federal Food, Drug and Cosmetic Act,¹ and with the rules and regulations promulgated by Federal Bureau of Animal Industry; and provided that such power to promulgate rules and regulations shall extend to a reasonable enforcement of this Act and no further.

(b) The State Health Officer is hereby authorized and directed to promulgate regulations exempting from any labeling and packaging requirements of this Act livestock remedies or components thereof which are, in accordance with the practice of the trade, to be processed, labeled, or repacked at establishments other than those where originally processed or packed; but such articles, when so processed, labeled or repacked, shall be subject to all the provisions of this Act. [1945]

¹ 21 U.S.C. 301 et seq., 52 Stat. 1040 et seq.

Vernon's Annotated Civil Statutes, Vol. 12, Title 60—
Feeding Stuffs.

Art. 3872. Marking requirements.

Every lot or parcel of feeding stuff, used for feeding farm live stock, sold, offered or exposed for sale

in this State, for use within the State, shall have attached a tag, described in Article 3875, carrying a plainly printed statement clearly and truly certifying the number of net pounds of feeding stuff in the package. * * * [1905]

Art. 3873. Definition.

The term "feeding stuff," as used in this title [Arts. 3872-3881], is defined to mean and include wheat bran, wheat shorts, linseed meal, cotton seed meals, pea meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, dried brewer's grains, malt sprouts, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, oat feeds, corn and oat chops, corn chops, ground beef or mixed fish feeds, and all other materials of similar nature, but shall not include hay or straw, the whole seed or grains of wheat, rye, barley, oats, Indian corn, rice, buckwheat or broomcorn, or any other whole or unground grains or seed. [1905]

Art. 3880. Rules and regulations; enforcement.

The director of said experiment station [Texas Agricultural Experiment Station] is empowered to adopt standards or definitions for feeding stuff, and such other regulations as may be necessary for the enforcement of any provision of this title [Arts. 3872-3881]. * * * [1907]

Art. 3880-A. Detained articles.

(a) Whenever the Director of the Texas Agricultural Experiment Station, hereinafter referred to as the Director, or his duly authorized representative, shall find a feeding stuff which he has reasonable cause to believe is adulterated or misbranded within the meaning of the Texas Feeding Stuff Law, he shall affix to the container of such feeding stuff a written notice that such article is, or is suspected of being, adulterated or misbranded and has been detained, and warning all persons not to dispose of such article in any manner until permission is given by the Director or the Court. If the Director finds that such detained article is not adulterated or misbranded, he shall remove the aforesaid notice. [1947]

* * * * *

Art. 3881. Standard weight of packages.

Feeding stuff shall have the following standard net weights per sack or container: one hundred and forty-three pounds, one hundred and thirty-three and one-third pounds, one hundred and twenty-five pounds, one hundred pounds, or the following fractions of one hundred: three-fourths, one-half, one-fourth, one-sixth, one-eighth, one-tenth, one-twelfth, one-sixteenth, and one-twentieth. No tax tags shall be issued for any feeding stuff which does not conform to the weights herein prescribed. [1905]

Vernon's Annotated Penal Code, Vol. 3, Title 17, Ch. 13—Feeding Stuffs, Penal Provisions.

Art. 1493. Failure to affix tag or label; penalty.

Any manufacturer, importer, or agent, selling, offering or exposing for sale, any feeding stuff, without the statement required by article [3872] * * * shall be fined not less than one hundred nor more than five hundred dollars. [1907]

Vernon's Annotated Civil Statutes, Vol. 12, Title 61, Ch. 2—Public Weighers, Fees.

Art. 3946. Fees.

Public weighers shall receive the following fees:

For each bale of cotton weighed, not exceeding ----	\$0.10
When he shall run a cotton yard in connection with his weighing, his compensation shall not exceed, as yardage for the first month after same is received for storage, per bale -----	.15
Thereafter per bale per month, not exceeding -----	.10
For each bale or sack of wool, or hoghead of sugar or wagon load of hay, pecans or grain -----	.10
For each part of a wagon load of hay, grain or pecans, not exceeding -----	.05
For each barrel weighed -----	.10
For each bale of hides weighed -----	.10
For each loose hide weighed -----	.02

And he shall not be obligated to deliver any such articles so weighed until his fee therefor shall have been paid. [1903]

Vernon's Annotated Civil Statutes, Vol. 12, Title 67, Ch. 1—Game, Fish and Oyster Commission.

Art. 4018. Verification of weights and measures.

The duties of the Commissioner [Game, Fish, and Oyster Commissioner] shall be in the execution of the laws relating to game, fish, oysters and marine life, and such further duties as are imposed upon him by legislation. In the execution of these laws he shall exercise the power and authority given to sheriffs. The Commissioner is authorized to collect and enforce the payment of all taxes, licenses, fines and forfeitures, and all money due his department, by deputies or persons employed for that purpose, and to inspect all products so taxed, and to verify the weights and measures thereof; * * * [1907; last amended 1925.]

Vernon's Annotated Civil Statutes, Vol. 16, Title 93, Ch. 3—Warehouse Corporations, Standards of Weights and Measures.

Art. 5602. Standards of weights and measures.

The standards of weights and measures of this State shall be the standards of weights and measures used under the terms and provisions of this chapter [Arts. 5578-5611]. It shall be the duty of the Commissioner [of agriculture] to establish standards of classifications of cotton, corn, and other farm and ranch products, of whatever kind and character, which may be subject to classification,

and originals of such standards so established shall be maintained, subject to public inspection, in the office of the Commissioner at all reasonable times; and duplicates of such standards as well as the standards of weights and measures, shall be furnished by the Commissioner to all persons who may apply therefor, under the payment of the necessary cost thereof. It shall be the duty of each public warehouse company to keep a duplicate of said standards, as well as the standards of weights and measures, at its warehouse, subject to inspection and comparison of grades and classification by persons storing products therein; provided, that the standards of classification shall always be the standards established by the Government of the United States, or of this State. [1917]

Art. 5611. Certain offices and departments abolished; refer to Commissioner of Agriculture.

* * * * *

Acts 1925, 39th Leg., p. 35, Ch. 13

Sec. 1. The office of Commissioner of Markets and Warehouses of the State of Texas is hereby abolished, and the authority, duties, powers, functions, rights, and liabilities, heretofore vesting in said commissioner, shall hereafter vest in and be had and performed by the Commissioner of Agriculture. The Markets and Warehouse Department and the Weights and Measures Department of the State of Texas are hereby abolished, and the duties and functions of the same shall hereafter vest in the Commissioner of Agriculture. [1925]

* * * * *

Vernon's Annotated Civil Statutes, Vol. 16, Title 93, Ch. 5—Cotton.

Art. 5679b. Deduction for deficiency in weight of bale.

When any buyer of spot cotton has made a bona fide bid for same from sample or bale and the sale price is agreed to between the buyer and seller, the buyer shall not make any deductions from the total value thereof as agreed to between the parties by reason of the weight of said bale of cotton, unless such bale shall weigh less than four hundred (400) pounds. If the bale weighs less than four hundred (400) pounds a deduction of not more than One Dollar (\$1.00) may be made by the buyer. Nothing contained herein shall prevent the buyer from refusing to accept a bale of cotton weighing less than three hundred and fifty (350) pounds. [1933]

Art. 5679c. Recovery of double amount of unlawful deductions.

If deductions or charges are made contrary to this Act [Arts. 5679b-5679c], then the seller or grower of such cotton may recover from the buyer or ginner twice the amount of the deductions or charges in the same manner as is allowed for recovery by law for usury. [1933]

Vernon's Annotated Civil Statutes, Vol. 16, Title 93, Ch. 6—Public Weighers.¹

¹ For fees of public weighers, see Art. 3946, page 993.

Art. 5680. Definition; exemptions from act.

Any person engaged in the business of public weighing for hire, or any person, who shall weigh or measure any commodity, produce or article, and issue therefor a weight certificate or weight sheet, which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article is based, shall be known as a public weigher, and shall comply with the provisions of this chapter [Arts. 5680-5704-A]. The provisions of this article shall not apply to the owners, managers, agents or employees of any compress or any public warehouse in their operation as a warehouseman. This exemption shall not apply in any manner to any Texas port. [1919]

Art. 5681. Appointment.

The Governor is authorized and required to appoint five persons as public weighers in every city which receives annually one hundred thousand bales of cotton on sale or for shipment. In all cities and towns which receive as much as fifty thousand bales of cotton; twenty-five thousand tons of cotton seed; one hundred thousand bushels of grain or rice, one hundred thousand pounds of wool; five thousand barrels of sugar, or any other commodity in large quantities, it shall be lawful for the Governor to appoint a sufficient number of public weighers for such city or town to carefully and accurately weigh all produce tendered for the purpose of weighing for shipment. [1883; last amended 1919.]

Art. 5682. Requisites of appointment.

No man shall be appointed as such weigher unless he shall receive the endorsement of the senator and a majority of the representatives from the senatorial district where such appointee would hold such office. [1919]

Art. 5683. Election.

In all counties in which there are no city or cities in which the Governor is authorized to appoint public weighers, there shall be elected at each general election a public weigher for each justice precinct in the manner and form governing the election of other precinct officers. The commissioners court at the regular February term preceding the election may unite two or more justice precincts for the purpose of electing such public weigher. [1919]

Art. 5683a. Office in counties of not less than 25,600 nor more than 25,700 population.

In and for all counties in this State having a population, according to the United States census of 1920, of not less than 25,600 people and not more than 25,700 people, there is created the office

of public weigher, whose official headquarters shall be at the county seat of such county and who shall discharge and perform at the county seat only, all the duties required by law of any public weigher, and whose qualifications shall be the same as required by law of public weighers elected in precincts, and who shall appoint a sufficient number of deputies to enable him to discharge his duties.

2. Such public weigher shall take the oath required by the Constitution of public officers, and shall give a bond in the sum of \$2,500.00, payable, conditioned and to be approved as required in cases of bonds of precinct public weighers, and shall procure a like certificate of authority from the Commissioner of Markets and Warehouses.¹ The deputies of such public weigher shall take such oath and give bond in like manner, which bond, however, shall in the case of such deputies be in the sum of \$1,000.00.

3. At the first regular term of the commissioners' court of such counties, following the passage of this Act [Arts. 5683a-5683b], such commissioners' court shall appoint a public weigher for its county, who shall serve until the next general election when his successor shall be elected.

4. This Act shall not be construed to suspend the operation of the present law, providing for the election of precinct public weighers, in the counties effected [affected] by this law. [1925]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5683b. Office in counties of not less than 55,700 nor more than 55,800 population.

In and for all counties in this State having a population according to the United States census of 1920 not less than 55,700 and not more than 55,800 people, there is created the office of public weigher to be filled by two officers of equal rank, whose official headquarters shall be in the county seat of such county and who shall discharge and perform at the county seat only, all the duties required by law of any public weigher and whose qualifications shall be the same as required by law of public weighers elected in precincts, and who shall appoint a sufficient number of deputies to enable them to discharge their duties.

Sec. 2. Each of said public weighers shall take the oath required by the Constitution of public weighers and give a bond in the sum of \$2,500, payable, conditioned and to be approved as required in cases of bonds of precinct public weighers, and shall procure a like certificate of authority from the Commissioner of Markets and Warehouses.¹

Sec. 3. Such public weighers shall be elected by popular vote of the entire county as other county officers. One of said weighers shall fill a place called Place No. 1 and the other shall fill the place called Place No. 2.

Sec. 4. This Act [Arts. 5683a-5683b] shall not be construed to suspend the operations of the

present law providing for the election of Precinct Public Weighers in the counties affected by this law, except the precinct in which the county seat is located, and it shall not disturb the present Public Weighers, but shall take effect and be in force on and after January 1, A. D. 1927. [1925; last amended 1926.]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5684. Qualifications.

No person shall be appointed or elected public weigher unless he is a qualified voter in the city or precinct for which he is appointed or elected and is of a good moral character and unquestioned integrity. He shall have a fair education and be able to keep an accurate set of books as required by this law. No person shall be appointed or elected public weigher, or deputy public weigher who is interested in the buying or sale of cotton, wool, sugar or grain to be weighed, either as principal, agent, factor, commission merchant or employee. [1919]

Art. 5685. Term.

All public weighers appointed by the Governor or elected for any precinct shall hold their office for the term of two years. [1919]

Art. 5686. Procedure to abolish elective office.

When the people of any subdivision of a county that has an elective weigher may wish to abolish said office of public weigher, the commissioners court of said county shall, upon petition to abolish said office signed by qualified voters at least one-third in number of the whole vote cast for Governor at the last preceding election in the weigher's precinct, order an election to decide whether such office of public weigher of the subdivision named in the petition, shall be abolished or not. Said election shall be held in the same manner as other elections. If a majority of the votes of the subdivision of the county ordering said election shall be cast in favor of abolishing any office of public weigher, the commissioners court shall declare such office to be abolished within thirty days after the election; and another election for this purpose shall not be held for two years. [1919]

Art. 5687. Bond of appointed weigher.

Every public weigher appointed by the Governor, shall file a bond payable to the State of Texas in the sum of five thousand dollars, conditioned that he will accurately weigh, or measure all produce tendered to him for weighing or measuring, and that all certificates of weights issued by him shall represent a true and accurate weight of the produce so weighed and that he will comply with the laws governing public weighers, and that he will not permit any one to molest, mutilate or destroy any article, produce or commodity while

in his possession. Such bond shall not be void on first recovery, but may be sued on by any person injured by such public weigher. All bonds given by such public weighers or their deputies shall be subject to approval by the Commissioner of Markets and Warehouses¹. [1919]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5688. Bond of elective weigher.

Each public weigher elected for a precinct shall execute a bond payable to the county judge in the sum of five thousand dollars to be approved by the commissioners court, conditioned upon the faithful and impartial performance of the duties of his office. The bond of a weigher for a precinct where not over five thousand bales of cotton are received for sale or shipment shall be two thousand five hundred dollars. [1903]

Art. 5689. Filing bond and oath of office.

Each public weigher, whether elected or appointed, before entering upon his duties as such, shall take and subscribe to the official oath and file said oath and his bond with the county clerk of the county in which he resides. [1903]

Art. 5690. Certificate of authority.

All public weighers or deputy public weighers, appointed or elected shall obtain from the Commissioner of Markets and Warehouses¹ a certificate of authority to carry on the business of public weigher or deputy public weigher within the city, town, precinct or shipping point for which he was elected or appointed. [1919]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5691. Deputy weighers: Appointment; bond.

Each public weigher, appointed or elected, shall have the right, and it shall be his duty to appoint a sufficient number of deputies in each precinct, to weigh all produce tendered for the purpose of weighing, at any and all points within such precinct. He shall require of each of said deputies to file a bond in the penal sum of one thousand dollars, under the same terms and conditions as the bond which he filed with the commissioners court of the county in which he resides, before he shall be permitted to engage in the business of deputy public weigher; such bond so filed, shall be payable to the State of Texas, and shall be subject to the approval of the commissioners court of the county in which he resides, and certified to the Commissioner of Markets and Warehouses¹ before such deputy public weigher shall be entitled to engage in the business of public weighing. Such public weigher shall have the right to appoint a sufficient number of deputies to serve at will of the public weigher, to aid him in weighing or measuring any commodity that is tendered to him for weighing. [1919]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Vernon's Annotated Civil Statutes, Vol. 16, Title 93,
Ch. 6—Public Weighers—Continued.

Art. 5692. Special weighers.

In all counties of this State in which there are two or more cities, towns or shipping points that receive as much as fifty thousand bales of cotton, or twenty-five tons of cotton seed, or one hundred thousand bushels of grain, or two hundred thousand bushels of rice, or one hundred thousand pounds of wool, or five thousand barrels of sugar, or any other commodity in large quantities, it shall be lawful for the Governor to appoint a sufficient number of weighers for such county to carefully and accurately weigh all commodities tendered for the purpose of weighing for shipment, sale or purchase. This article shall not apply to Galveston and Nueces counties. All such appointments shall be made by the Governor on the recommendation of the Senator from whose senatorial district such appointment is made, together with a majority of the representatives in the Legislature from such senatorial district. No man shall be appointed unless he shall receive the endorsement of the Senator and a majority of the representatives from such district. Every public weigher so appointed shall file a bond payable to the State of Texas, in the sum of five thousand dollars, conditioned that he will accurately weigh, or measure, all commodities tendered to him in said county for weighing or measuring, and that all certificates of weight issued by him shall represent a true and accurate weight of such produce so weighed, and otherwise complying with the law governing the conditions of bonds required of public weighers. Such bond so given shall not be void upon first recovery but may be sued on successively by any and all persons who are injured by such public weigher. Such public weigher shall have the right to appoint a sufficient number of deputies to aid him in weighing or measuring any commodity that is tendered to him for weighing. All bonds given by such public weighers or their deputies shall be subject to the approval of the Commissioner of Markets and Warehouses¹ and all bonds and oaths of such public weighers and their deputies shall be filed with said Commissioner. [1921]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5693. Compliance with law.

No one shall be allowed to pursue the business of weighing for the public or grant a certificate or weight sheet upon which a purchase or sale is made unless he comply with the provisions of this chapter [Arts. 5680-5704A]. [1919]

Art. 5694. Commissioner to supervise.

All public weighers in this State as provided for in this chapter [Arts. 5680-5704A], shall be under the supervision of the Commissioner of Markets

and Warehouses¹ and all weights made by them shall be subject to his approval. In any case where any discrepancy arises as to weights or measures of cotton or other farm products, made between public weighers in different sections of this State, or between public and private weighers, the difference shall be subject to review by the Commissioner; and any party who may be dissatisfied with the weights or measures of any public or private weigher, may appeal to the Commissioner, and have such cotton or other farm products re-weighed or re-measured, for the purpose of ascertaining and deciding the correct weight and measure thereof. The scales of all public and private weighers weighing cotton and other products shall at all reasonable times be subject to inspection by the Commissioner, or his duly authorized representative. Compliance with this article shall be absolute prerequisite to the right to institute and maintain any action concerning the subject matter hereof, in any court of this State. The authority herein conferred upon the Commissioner, to review the weights, shall not be construed as in any manner affecting the selection of public weighers or of fixing the charge to the public of such public weighers. [1917]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5695. Duty of commissioner.

The Commissioner of Markets and Warehouses shall issue a certificate of authority to all persons engaged in the business of weighing for the public; carefully and accurately test all scales, weights, beams and measures, used by such public weighers at least once every twelve months, and charge such public weigher a fee of five dollars for such inspection, which fee shall be paid by the Commissioner into the State Treasury; such inspection fee to be collected at the time of the certificate of authority is issued to any public weigher or deputy public weigher in this State, and such fee shall be collected annually thereafter from all persons engaged in the business of public weigher. [1917]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5696. Weight certificates.

The Commissioner [of agriculture] shall prescribe the form of weight certificate to be used by all public weighers in this State, which certificate shall be known as a State certificate of Weights and Measures. Such certificate shall state thereon the kind of produce; the number of same, the date of the receipt of the produce, the owner, agent, or consignee, the total weight of the produce, the vessel, railroad, or other means by which the produce was received, and any trade or other mark thereon; and such other information as may be necessary to distinguish or identify the produce from a like kind. No certificate other than the one herein prescribed shall be used by any public weigher in

this State, and such certificate when so made and properly signed, shall be prima facie evidence of such weight. All certificates of weights and measures or weight sheets as provided for in this chapter [Arts. 5680-5704A] shall contain the accurate and correct weight of any and all commodities weighed when issued by public weighers. [1917]

Art. 5697. Seal.

Every public weigher in this State shall provide himself with a seal, consisting of a star of five points, and shall have inscribed on the outer margin thereof the words, "Public Weigher Precinct No. _____ County, Texas" or "Public Weigher, _____ city, Texas" which seal shall be impressed upon each weight certificate issued by such public weigher, or deputy public weigher, on all weight sheets made out by them. [1917]

Art. 5698. Record of weights.

All public weighers shall keep and preserve in a well bound book a correct and accurate record of all weights by them, as provided in this chapter [Arts. 5680-5704A], which record shall at all times be open for inspection to the public and to the Commissioner of Markets and Warehouses¹, his deputies or inspectors. Such record shall be uniform throughout the State, and the form of such record shall be prescribed by the Commissioner. [1917]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5699. Placement of commodity.

All amounts, lots, or shipments or consignments of produce, after having been weighed, shall be piled or stored separately as nearly as can be, in order that amounts, lots, shipments or consignments, may be distinguished from other lots, shipments, or consignments of like kind. [1917]

Art. 5700. Tagging or marking commodity.

All public weighers in weighing any commodity, produce, or article, shall immediately tag or mark such commodity, produce or article that has been weighed by him so as to distinguish same from that which has not been weighed. [1917]

Art. 5701. Re-weighing.

When any doubt or difference arises as to the correctness of the net or gross weight of any amount, or a part of a commodity, produce or article, for which a certificate of weight or measure has been issued, as provided in this State by the public weigher, the owner, agent or consignee, may, upon complaint to the Commissioner of Markets and Warehouses¹ have said amount, or part of any commodity, produce or article re-weighed by the Commissioner, or his deputy, or by a public weigher designated by the Commissioner by depositing with the Commissioner sufficient money to defray the cost of re-weighing such

article or commodity. If on reweighing, it is discovered that fraud or carelessness, or any faulty weighing apparatus was the cause of a discrepancy in weights, the cost of re-weighing shall, in all instances, be borne by the public weigher who issued the weight sheet or weight certificate. [1917]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5702. Suspension or dismissal.

Whenever any public weigher or deputy public weigher appointed or elected under the provisions of this chapter [Arts. 5680-5704A] shall be guilty of malfeasance in office, or who is grossly incompetent in the performance of his duties, he shall be subject to suspension or dismissal from office by the commissioners court of the county in which he resides, or by the Governor, should he be appointed by the Governor. In all cases it shall be the duty of the Commissioner of Markets and Warehouses,¹ to file with the commissioners court or the Governor the specific charges alleging malfeasance, misfeasance, dishonesty or incompetency or other cause. Such cause may be set down for hearing not less than ten nor more than thirty days from the filing of such charges. The accused shall be furnished a copy of such charges and be notified of the date set for hearing of his case. He shall have the right to be represented by an attorney, to introduce evidence in his own behalf, and to have compulsory process for witnesses and the production of records. If he is found guilty, the commissioners court or Governor shall immediately discharge him as a public weigher, provided, he may have the right of appeal to the district court of his county or to the district court of Travis county. [1917]

¹ Now Commissioner of Agriculture; see Art. 5611, page 993.

Art. 5703. Unlawful to employ other than public weigher to weigh commodity; penalty.

It shall not be lawful for any factor, commission merchant, or other person or persons, to employ any other than a public weigher, or his deputies to weigh cotton, wool, sugar, hay, or grain, or other produce, sold or offered for sale in any city or justice precinct having a public weigher duly qualified. Whoever violates any provision of this article shall be liable at the suit of the public weigher to damages in any sum not less than five dollars for each bale of cotton, bale or sack of wool, ton of hay, or ton of grain, so unlawfully weighed. [1917]

Art. 5704. Owner may weigh own commodities; weigher other than public weigher; bond.

Nothing in this chapter [Arts. 5680-5704A] shall prevent any person, firm or corporation from weighing his own cotton, wool, sugar, hay, grain or pecans in person. In places where there are no public weighers appointed or elected, any person who shall weigh cotton, wool, sugar, grain, hay, or

Vernon's Annotated Civil Statutes, Vol. 16, Title 93,
Ch. 6—Public Weighers—Continued.

peans for compensation shall be required before weighing such produce to enter into a bond for twenty-five hundred dollars approved and payable as in case of public weighers referred to in this chapter, and conditioned that he will faithfully perform the duties of his office and turn over all property weighed by him on demand of the owner. This article shall not apply to merchant flouring mills. [1905]

Art. 5704—A. Public weighers in counties with population of not less than 290,000 nor more than 320,000.

In precincts located in counties having a population of not less than two hundred ninety thousand (290,000) and not more than three hundred twenty thousand (320,000) inhabitants according to the last preceding or any future Federal Census, where a Public Weigher is elected by the people in any last election held for that purpose, no Public Weigher shall be appointed to perform the same or similar services and the authority now vested in the Governor, the Commissioner of Agriculture and the Commissioners' Courts to so appoint or authorize other persons to perform the same duties, or similar duties as elected Public Weighers is hereby repealed only to the extent of its conflict with this Act [Art. 1504—A]. The elected Public Weigher in such counties shall have authority to appoint a sufficient number of deputies to conveniently serve the public need; and such deputies, before taking the oath of office, shall be required to give a bond approved by the Commissioners' Court of the county where appointed to serve as a deputy, in the sum of One Thousand (\$1,000.00) Dollars conditioned as provided in the bond required to be given by the elected Public Weigher as to liability. [1939]

Vernon's Annotated Civil Statutes, Vol. 3, Title 32, Ch.
1—Corporations for Operating Public Scales.

Art. 1302. Public scales: Private corporations may be formed for purpose of owning and operating.

* * * * *

108. Private corporations may be formed for the purpose of owning, maintaining and operating scales to do weighing for the public in this state. [1949]

Vernon's Annotated Civil Statutes, Vol. 17, Title 95,
Ch. 2—Mine Scales.

Art. 5912. Owner to provide scales; examination by inspector.

The owner or operator of every coal mine shall provide adequate and accurate scales for weighing coal; the mine inspector shall examine such scales, and if same are not found to be accurate, he shall

notify the owner to repair same; and, if such owner fails or refuses to repair same within a reasonable time, said inspector shall institute proceedings under the law against the proper parties. [1907]

Art. 5913. Check-weighman.

The employees in any mine shall have the right to employ a check weighmen [sic] at their own option and their own expense. [1911]

Art. 5916. Enforcing agency.

The State Mining Inspector shall see that the provisions of this title [Art. 5892—5920] are complied with and shall report all violations hereof to the State Mining Board and to the proper district or county attorney. [1911]

Vernon's Annotated Penal Code, Vol. 3, Title 18, Ch. 8
—Mine Scales, Penal Provisions.

Art. 1607. Penalty for violating three preceding articles.

Any person who shall wilfully violate any provision of the * * * preceding articles shall be fined not exceeding five hundred dollars, or imprisoned in jail not exceeding six months. [1907]

Vernon's Annotated Civil Statutes, Vol. 20, Title 122,
Ch. 2—"Motor Fuel Tax Law."

Art. 7065b—19. Comptroller authorized to measure containers; rules and regulations; design of vehicle tanks; testing and measuring of tanks; exemptions; violations.

(a) For the purpose of enforcing the collection of the tax levied by this Article [Articles 7065b-1-7065b-29], and to enable the Comptroller to ascertain whether or not the tax has been paid or accounted for on all motor fuel and other products which can be used as motor fuel, which may be transported in this State, the said Comptroller and his authorized representatives are hereby vested with the power and authority to measure, calibrate and determine the capacity in gallons of any vehicle tank or other container in which motor fuel, blending materials, liquefied gases and liquid fuels are transported. The Comptroller is hereby given the power and authority to promulgate and enforce any rules and regulations, which he may deem necessary to the best enforcement of the provisions of this section [Article 7065b—19].

All vehicle tanks, and all devices designed to be attached thereto and used in connection therewith, and all other containers in which any of the foregoing products are transported, shall be of such design and construction that they do not facilitate the perpetration of fraud. Each compartment of said vehicle tank or other container shall be conspicuously marked on, or immediately under, the dome thereof with a designating figure, or letter and the capacity of said compartment and each delivery faucet shall be marked with the capacity

and a corresponding figure or letter to indicate the compartment of which it is the outlet. In addition, the total capacity of all compartments of each vehicle tank shall be conspicuously marked in letters of not less than two (2) inches in height on the rear of each such vehicle tank. The Comptroller's test or certificate number shall also be printed on the rear of each vehicle tank. When a motor vehicle carrying a vehicle tank is equipped with side tanks or other auxiliary tanks or compartments, such additional tanks and compartments shall comply with all of the specifications applicable to vehicle tanks. No vehicle shall transport motor fuel upon the public highways of this State with connection from any cargo tank or container to the carburetor for the purpose of withdrawing motor fuel from said cargo tank or container, and fuel tanks, including auxiliary fuel tanks shall be separate and apart from the cargo tank, with no connection by pipe, tube, valve or otherwise. It shall be a violation of this Article to sell or distribute motor fuel from any fuel tank or auxiliary fuel tank connected with the carburetor of any motor vehicle or to withdraw said motor fuel from any such fuel tank or auxiliary fuel tank for the purpose of sale. The measurement certificate shall be carried with the vehicle tank for which it is issued and the Comptroller or his authorized representatives shall have the authority to impound and hold any truck, for a period not to exceed seventy-two (72) hours, until said certificate is produced. The owner of any vehicle tank or other container tested and measured may be required to pay a reasonable fee to any city or any person for the water used in the measurement of such tank or container.

If any vehicle tank or other container shall, after having been tested, become damaged, repaired or modified in any way which might affect the accuracy of measurement of its receipts and deliveries, it shall not again be used for the sale or transportation of motor fuel, blending materials, liquefied gases and liquid fuels until officially reinspected, and, if deemed necessary, retested and remeasured.

(b) From and after the effective date of this Article, and before using any vehicle tank or other containers in the transportation of motor fuel, blending materials, liquefied gases and liquid fuels, except in quantities of thirty (30) gallons or less in the fuel tank feeding the carburetor of the motor vehicle, every person shall have every such vehicle tank or other containers, subject to the provisions of this Section, tested, measured and calibrated by a representative of the Comptroller and shall obtain a measurement certificate from said Comptroller, showing the capacity of each such vehicle tank and other container. Provided, however, that the Comptroller may, at his discretion, accept any weights and measures certificate issued by the Division of Weights and Measures of

the Department of Agriculture, State of Texas, without retesting or remeasuring said vehicle tank or containers.

It is further provided that carriers-for-hire operating under valid permits or certificates of convenience and necessity issued by the Railroad Commission of the State of Texas, and not engaged in transporting motor fuel or other taxable petroleum products for the purpose of sale or distribution for sale, and persons operating motor buses under franchises or licenses issued by municipalities, shall not be required to produce for inspection or measurement or to have tested, measured and calibrated, any fuel tank with a capacity not exceeding one hundred (100) gallons, connected to and feeding the carburetor of any motor vehicle owned or operated by said carriers or said persons, when such fuel tank is used exclusively for furnishing fuel to propel the motor or engine of said motor vehicle, and none of the contents thereof is sold or transported for sale, distribution or delivery to any other person. Provided, however, that this exemption shall not apply to the fuel tank of any motor vehicle used to transport motor fuel or other taxable petroleum products for sale or distribution for sale.

All authorized representatives of the Comptroller shall have the power and authority to inspect, test, measure, or remeasure vehicle tanks and other containers used to transport motor fuel, blending materials, liquefied gases and other liquid fuels, or containers from which said products are sold, or to correct, condemn or mark "out of order" any such vehicle tanks or containers which may be so constructed as to prevent accurate measurement or which are not constructed in conformity with the provisions of this Act or the rules and regulations promulgated hereunder.

(c) Whoever shall remove, obliterate, or change any measurement certificate, tag, marking, or device made by any authorized representative of the Comptroller, or placed upon any vehicle tank or other container, or shall refuse or neglect to produce for inspection and measurement, at the time and place fixed by the Comptroller, not to exceed one hundred (100) miles from the point which is the customary base of operations of such truck, any vehicle tank or other container in his possession or under his control, or shall transport such products in any vehicle tank or other container which has been condemned or tagged "out of order" by any authorized representative of the Comptroller, or whoever shall fail to comply with any provision of this Section or any reasonable rule and regulation promulgated under the provisions of said Section, or shall violate the same, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). [1941]

Vernon's Annotated Civil Statutes, Vol. 21, Title 128,
Ch. 1—Measurement of Water.

Art. 7538. Standard unit.

A cubic foot of water per second of time shall be the standard unit for the measurement of flowing water for the purpose of distributing water for beneficial uses. [1917]

Art. 7539. Same.

The Standard unit for volume of static water shall be the acre-foot. [1917]

Art. 7540. Cubic foot.

A cubic foot per second of time is the quantity of water that will pass through an area of one square foot in one second, when flowing at an average velocity of one foot per second. [1917]

Art. 7541. Acre foot.

An acre foot is the quantity of water required to cover one acre one foot deep. [1917]

General and Special Laws, 51st Legislature, Regular Session, 1949, Ch. 519—"Standard Gas Measurement Law."

Sec. 2. "Cubic foot of gas" defined.

The term "cubic foot of gas" or "Standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base. The standard pressure base shall be 14.65 pounds per square inch absolute and the standard temperature base shall be 60 degrees Fahrenheit. Whenever the conditions of pressure and temperature differ from the above standard conversion of the volume from these conditions to the standard conditions shall be made in accordance with the Ideal Gas Laws¹, corrected for deviation. [1949]

¹ The reference here is to physical relations for an ideal gas, and specifically to those physical laws which relate volume to temperature and pressure (of gases) known as Boyle's Law, Charles' Law, and Dalton's Law.

Sec. 4a. Railroad commission: Duties.

It shall be the duty of the Railroad Commission of Texas and said Commission is hereby authorized, empowered and directed to determine the average temperature of gas, as produced in each oil and gas field in Texas, and to determine the other variable factors necessary to calculate the metered volumes in accordance with the Ideal Gas Laws¹ and the variable factors to correct for deviation from the Ideal Gas Laws¹ in each of the oil and gas fields in the State of Texas. Upon request of any interested party the Railroad Commission of Texas shall give notice and hold a public hearing before making such determinations. Promptly upon such determinations the Railroad Commission of Texas shall make and publish such findings and promulgate such reasonable field rules as may

be necessary to effectuate the provisions of this Act. [1949]

* * * * *

¹ See footnote to Sec. 2.

Sec. 5. Sale of gas.

Each and every sale, and each and every purchase, delivery and receipt of gas by volume hereafter made in this state by, for or on behalf of an oil and gas lease owner, royalty owner thereunder or other mineral interest owner, shall be made and such gas shall be measured, calculated, purchased, delivered and accounted for on the basis of "a standard cubic foot of gas" as defined in section 2, and as determined under this Act. Whenever the provisions of this Act operate to change the basis of measurement provided for in existing contracts, then the price for gas, including royalty gas, provided for in such contracts shall, if either the purchaser or seller so desires, be adjusted to compensate for the change in the method of measuring the volume of gas delivered thereunder. This provision is intended to protect parties to contracts now in existence, so that after this Act becomes effective the total amount of money paid for a volume of gas purchased, or required to be accounted for, under existing contracts shall remain unaffected by this Act.

If the foregoing provisions of this section 5, or any part thereof, shall be held by the courts to be unconstitutional or invalid then and in that event the remaining portions of this Act shall become ineffective and inoperative.

Nothing in this section shall affect or apply to purchases or sales made on any basis other than a volume basis.

Any person, association of persons, or corporation who, as purchaser thereof, shall knowingly fail or refuse to so measure, calculate or account for any such gas so purchased, shall be subject to a penalty of not less than Ten dollars (\$10) nor more than Five Hundred Dollars (\$500) for each offense recoverable in the name of the State in any District Court in Travis County, Texas, and each day of such violation shall constitute a separate offense. But it shall be a defense to any claim for such penalty that the Railroad Commission of Texas has not made and published the findings provided for in Section 4a, as to the particular field in question.

Nothing herein shall prevent an aggrieved party from maintaining a civil suit for damages in the county or counties in which the gas is produced. [1949]

Sec. 6. Saving clause.

Subject to the provisions in Section 5 hereof, if any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional or

invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have been enacted, and does here now enact, such remaining portions despite any such invalidity. [1949]

Vernon's Annotated Penal Code, Vol. 1, Title 11, Ch. 8 —Beer Containers.

Art. 667-1. Definitions.

Where used in this Article [Arts. 667-1—667-27] unless expressly stated otherwise:

(a) The term "barrel" means as a standard measure, a quantity of beer equal to thirty-one (31) standard gallons.

(b) The term "beer" means a malt beverage containing one-half of 1% or more of alcohol by volume and not more than 4% of alcohol by weight, and shall not be inclusive of any beverage designated by label or otherwise by any other name than beer.

(c) The term "Board" means Texas Liquor Control Board.

(d) The term "container" means any container holding beer in quantities of one (1) barrel, one-half (1/2) barrel, one-quarter (1/4) barrel, one-eighth (1/8) barrel, or any bottle or can having a capacity of twelve (12) fluid ounces, twenty-four (24) fluid ounces, and thirty-two (32) fluid ounces, and no container of any other capacity shall be authorized.

* * * * *

(g) The term "original package" means any container holding one (1) barrel, one-half (1/2) barrel, one-quarter (1/4) barrel, or one-eighth (1/8) barrel of beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers. [1935; last amended 1943.]

* * * * *

Art. 667-8. Unlawful acts.

It shall be unlawful for any person to sell, store, possess, or transport in this State, any beer unless it be in a container as defined in Section 1 [Art. 667-1] of this Article [Arts. 667-1—667-27], * * * [1935; last amended 1937.]

Art. 667-24. Unlawful to sell misbranded article.

(1) It shall be unlawful for any manufacturer or distributor directly or indirectly, or through a subsidiary or affiliate, any agent or employee, or by any officer, director, or firm member:

* * * * *

(i) Misbranding: To sell or otherwise introduce into commerce any brewery product that is misbranded. A product is misbranded:

(1) Food and Drug Act Requirement: If it is misbranded within the meaning of the Food and Drug Act¹.

(2) Standards of Fill: If the container is so made,

formed, or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill.

* * * * *

(m) Labeling: To manufacture or sell or otherwise introduce into commerce in this State any brewery product unless it bears a label showing in plain, legible type the * * * net content of the bottle, in terms of United States liquor [sic] measure; * * * [1935; last amended 1943.]

¹ See Art. 708, this page.

Vernon's Annotated Penal Code, Vol. 2, Title 12, Ch. 2 —Foods.

Art. 706. Unlawful sale; food defined.

No person, firm or corporation, shall within this State manufacture for sale, have in his possession with the intent to sell, offer or expose for sale or sell or exchange any article of food or drug which is adulterated or misbranded within the meaning of this chapter [Arts. 706-719d]. The term "food" shall include all articles used by man for food, drink, flavoring, confectionery or condiment, whether simple, mixed or compounded. * * * [1911]

Art. 708. When deemed misbranded.

The term "misbranded," as used herein, shall apply to all drugs or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular.

An article shall also be deemed to be misbranded:

* * * * *

(b) in the case of food;

* * * * *

(3) if in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package; [1911]

* * * * *

Art. 714. Guaranty protection.

No dealer shall be prosecuted under this chapter [Arts. 706-719d] when he can establish a guaranty signed by the wholesaler, manufacturer, or other party residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this Act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party making the sale of such article to such dealer, and in such case said party shall be amenable to the fines and other penalties which would attach in due course to the dealer under the provisions of this chapter. [1911]

Vernon's Annotated Penal Code, Vol. 2, Title 12, Ch. 2
—Foods—Continued.

Art. 717. Penalties for violations.

Whoever shall do any act or thing prohibited, or neglect or refuse to do any act or thing enjoined by the preceding articles of this chapter [Arts. 706-719d], or in any way violate any provision thereof, shall be fined not less than twenty-five nor more than two hundred dollars. It shall not be necessary for the indictment to allege or for the State to prove that the act or omission was knowingly done or omitted. [1911]

[ED. NOTE.—The State Health Officer enforces the provisions of this chapter. See Vernon's Annotated Civil Statutes, Art. 4465a.]

Art. 719. Weight of bread; penalty.

Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars:

* * * * *

Rule 5. Bread to be sold by the loaf made by bakers engaged in the business of wholesaling and retailing bread, shall be sold based upon any of the following standards of weight and no other, namely: a loaf weighing one pound or 16 ounces, a loaf weighing 24 ounces or a pound and a half, and loaves weighing two pounds or 32 ounces, and loaves weighing three pounds, or some other multiple of one pound or 16 ounces. These shall be the standard of weight for bread to be sold by the loaf. Variations, or tolerance, shall not exceed one ounce per pound over or under the said standard within a period of 24 hours after baking. [1921]

Vernon's Annotated Penal Code, Vol. 2, Title 12, Ch. 3
—Art. 725b, "Uniform Narcotic Drug Act."

Sec. 10. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * *

Sec. 22. Enforcement.

It is hereby made the duty of the Department of Public Safety, its officers, agents, inspectors, and representatives, and of all peace officers within the State, including all peace officers operating under the jurisdiction of the Department of Public Safety, or that may hereafter operate under its jurisdiction and all County Attorneys, District Attorneys, and the Attorney General to enforce all provisions of this Act, except those specifically delegated, and to

cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other States, relating to narcotic drugs.

* * * * *

Sec. 23. Penalties for violations.

Any person violating any provision of this Act [Art. 725b] shall, upon conviction, be punished by confinement in the penitentiary for not less than two (2) nor more than ten (10) years, and the benefits of the suspended sentence law shall not be available to a defendant convicted for violation of the provisions of this Act. [1937; last amended 1943.]

Vernon's Annotated Penal Code, Vol. 2, Title 14, Ch. 11—Petroleum Products.

Art. 1108. Scales and measures: Only accurate devices to be used.

No person, firm, association of persons, corporation or carrier, shall use any scales, measure or measuring device in the handling or sale of petroleum products unless the same is true and accurate according to the standard of weights and measures under the laws of this State nor use any pumping device unless the same is correct according to such standard at three speeds, fast, slow and medium. [1919]

Art. 1109. Same: Sealing of inaccurate devices; breaking of a seal.

The inspector shall seal and forbid the use of any inaccurate measuring device until such time as the defect is corrected. The breaking of said official seal shall be prima facie evidence of a violation of this law [Arts. 1101-1117] and no person, firm, association of persons, corporation or carrier shall refuse to permit the inspector provided for by law to inspect and seal, if deemed necessary, any such measuring device, or to break the seal after being placed by such inspector. [1919]

Art. 1110. Enforcing agency; offenses.

The Director of the Food and Drug Division of the State Board of Health, his inspectors, or any duly authorized representative appointed by the State Comptroller for that purpose, or any highway patrolman, or sheriff, or deputy sheriff, or any other peace officer shall have, in the performance of his duties under this law, the power to inspect any premises or place where petroleum products are made, prepared, stored, transported, sold or offered for sale or exchange, take samples of same, and test measuring devices. It shall be unlawful for any person to hinder or obstruct or refuse to permit said inspectors or any other persons duly authorized to perform said duties in the exercise of such powers. [1919; last amended 1933.]

Art. 1111. Penalties for violations.

Any person who shall knowingly violate any of the provisions of Articles 1101 through and inclusive of Article 1110 of the Penal Code shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200). [1919; last amended 1935.]

Art. 1111a. Measuring amount of oil or gas produced; record.

* * * Sec. 9b. It shall be unlawful for any person owning, leasing, operating, or controlling any oil property within the State of Texas to permit the oil or gas so produced to pass beyond the possession or control of such person into the possession or control of any other person without first accurately measuring the amount of such oil or such gas, and making and preserving an accurate record thereof. It shall also be unlawful for any person to use any method or device to evade such accurate measurement. Upon conviction for a wilful violation of any provision hereof, such person shall be deemed guilty of a felony and, upon such conviction, shall be punished by confinement in the State penitentiary for a term of not less than two (2) nor more than four (4) years. [1933]

Vernon's Annotated Penal Code, Vol. 2, Title 14, Ch. 11—False Packing.

Art. 1114. Penalty.

Whoever with intent to defraud shall put into any hogshead, barrel, cask or keg or into any bale, box or package containing merchandise or other commodity usually sold by weight, any article whatever of less value than the merchandise or commodity with which such container is apparently filled, or with intent to defraud shall sell or barter, give in payment or expose for sale or ship for exportation any such container with any such article of inferior value concealed therein, shall be con-

fined in the county jail not exceeding one year or be fined not exceeding one thousand dollars. [1879]

Vernon's Annotated Penal Code, Vol. 3, Title 17, Ch. 16—False Advertising.

Art. 1554. Unlawful acts; penalty.

Whoever with intent to sell or in any way dispose of merchandise, securities, service, or anything offered by such person, or by any firm, corporation or association which he owns or of which he has control directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public or causes to be made, published, disseminated, circulated or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, window display card or price tag, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, as to its character or cost, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is known by said person or could have been known by use of reasonable diligence or inquiry to be untrue, deceptive or misleading in any material particular as to such matters or things so advertised, shall be fined not less than ten nor more than two hundred dollars. In prosecutions under this article such statement, trade name or trade mark, with the name, signature, mark or identification of the person, firm, corporation, partnership, association, shall be considered prima facie evidence of the publication of such statement, trade name or trade mark by the person, firm, corporation, partnership, association, referred to therein. [1921]

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Sec. 3-1-15. Violation of title a misdemeanor.

Whoever violates any of the provisions of this title [Secs. 3-1-1—3-13-28] where no other penalty is provided is guilty of a misdemeanor. [1921]

Sec. 3-1-31. Powers of board.

The state board of agriculture shall have the following powers:

1. To execute and enforce all laws of the state pertaining to agriculture, including horticulture, crops, pests and related subjects; livestock, including sheep, swine, poultry, bees and related subjects; weights and measures; commercial feeding stuffs and commercial fertilizers; dairy and food stuffs and related subjects; the marketing, stamping and branding of receptacles; the licensing of produce dealers.

* * * * *

5. To establish standards and grades of vegetables, fruit, hay, grain, seed, livestock products, cheese, ice cream and other dairy products. To adopt regulations fixing dimensions and standards for containers of all or any of such products when offered or exposed for sale, and prohibit the shipment, sale or offering for sale, or movement of all such products unless in all respects they meet the requirements of the law and the regulations of the board of agriculture, and unless the boxes, bags or other containers of the same are branded or labeled in accordance with the regulations adopted by said board; provided any product may be labeled or tagged and sold as unclassified exclusively in the state of Utah. * * *

8. To formulate and prescribe such rules and regulations for the operation of creameries, butter and cheese factories, dairies, slaughterhouses, confectionaries, bakeries, fruit and vegetable canneries, flour mills, farm dairies, or any other factory, establishment, store or house where dairy or food products of any nature are bought, sold, manufactured, prepared, stored or exposed for sale for public use, as shall be deemed necessary for such board to fully carry out all laws relating to dairy and food products and for the promotion and maintenance of sanitary conditions in connection therewith; and for the prevention of false grades, weights and measures; and also for advancing the value of Utah food and dairy products. All such rules, regulations, standards and grades pertaining to vegetables, fruit, hay, grain, seed, livestock products, eggs, poultry,

cheese, ice cream, butter, milk and other dairy and food products shall conform as nearly as practicable to but not in excess of the rules, regulations, standards and grades that have been promulgated by the agricultural department of the United States or its secretary or the administrator of the Federal Security Agency under and by authority of a law known as the Federal Food, Drug, and Cosmetic Act as well as an act entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the Fiscal Year Ending June 30, 1939, and for Other Purposes", approved June 16, 1938, authorizing an inspection service for farm products; as well as the acts of congress approved June 30, 1906; March 4, 1907; October 3, 1913, and July 24, 1919, governing meat inspection. It shall be unlawful for any person or organization to place on any such product, for which grades or standards have been established by the board, or on its package or label, any grade or quality designation not in conformity with the grade or quality regulations adopted by the board. All such rules and regulations pertaining to weights and measures shall conform as nearly as practicable to the recommendations of the National Conference on Weights and Measures and to those contained in the Handbook of the National Bureau of Standards. All such rules and regulations pertaining to hay, grain and commercial feeding stuffs shall conform as nearly as practicable to the regulations, definitions and recommendations of the Association of American Feed Control Officials. No rule or regulation pertaining to grades and standards established by the board under the provisions of this act [Secs. 3-1-16—3-1-33] shall exceed the standards and grades set up in the federal acts referred to herein.

The state board of agriculture, upon an application of any interested industry or substantial portion thereof, stating reasonable grounds therefor, and before any grade or standard be established by regulation shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation contemplated by any of the sections of this act.

9. To appoint all state inspectors and other employees necessary to carry out the provisions, powers, duties and functions of the state board of agriculture and to fix their salaries or compensations according to the standards adopted by the state department of finance.

10. To divide the state into as many agricultural districts as the board may deem desirable for the purpose of effectively and economically carrying out the duties and performing the functions of

the board, and to appoint an agricultural inspector for each district. The inspectors so appointed shall have jurisdiction and full power and authority to operate in any district in the state when so directed by the board and deemed necessary to carry out the duties and perform the functions of the board. * * * [1941; last amended 1943.]

Code Annotated 1943, Vol. 1, Title 3, Ch. 13—Weights and Measures.

Sec. 3-13-1. State standards.

The weights and measures received from the United States under a resolution of Congress approved June 14, 1896, and 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 such as shall be supplied by the state in conformity therewith, and certified by the National Bureau of Standards, shall be the state standards of weights and measures. [1915]

Sec. 3-13-2. Office and working standards; verification.

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 thereof to be kept at all times in the office of the commissioner of agriculture 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 chapter [Secs. 3-13-1—3-13-28] to be known as working standards. Such weights, measures and apparatus shall be verified by the commissioner of agriculture upon their initial receipt and at least once in each year thereafter; the office standards by direct comparison with the state standards and the working standards by comparison with the office standards. When found accurate upon these tests the office and working standards shall be certified to by the commissioner. The office standards shall be used in making all comparisons of weights, measures, and weighing and measuring devices, submitted for test in the office of the commissioner, and the state standards shall be used only in verifying the office standards and for scientific purposes. [1915]

Sec. 3-13-3. Custody of standards; certification.

The commissioner [of agriculture] shall take charge of the standards adopted by this chapter [Secs. 3-13-1—3-13-28] as the standards of the state, and cause them to be kept in his office at the state capitol, from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safekeeping. 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 shall take a receipt for the same from his successor in office. [1915]

Sec. 3-13-4. Testing of city standards; powers of commissioner.

The commissioner [of agriculture] 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 city required to appoint a sealer and to purchase and keep standards of weights and measures by the provisions of this chapter [Secs. 3-13-1—3-13-28], and shall certify to such when found to be accurate. The commissioner shall at least once in two years visit such cities for the purpose of inspecting the work of the local sealers, and in the performance of such duties he may inspect the weights, measures, balances or any other weighing or measuring device of any person, and shall have the same powers as the local sealer of weights and measures. The board of agriculture shall issue from time to time regulations for the guidance of city sealers, and said regulations shall govern the procedure to be followed by such officers in the discharge of their duties. [1915]

Sec. 3-13-5. General supervisory powers of commissioner of agriculture.

The commissioner shall have general supervision of the weights and measures, and weighing or measuring devices, offered for sale, sold or in use in the state. He 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. [1915]

Sec. 3-13-6. Powers and duties of commissioner of agriculture.

When not otherwise provided by law the commissioner, where there is no city sealer, shall inspect and test all weights and measures, and weighing or measuring devices, kept, offered or exposed for sale, sold or used, by any person in proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, purchased or offered or submitted by such person or persons for sale, hire or award; and he 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 for sale or sold. He shall at least once 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, without formal warrant, any

Code Annotated 1943, Vol. 1, Title 3, Ch. 13—Weights and Measures—Continued.

stand, place, building or premises, or stop any dealer and require him, if necessary, to proceed to some place which the commissioner may specify for the purpose of making the proper tests. [1915]

Sec. 3-13-7. Sealing.

Whenever the commissioner [of agriculture] compares weights or measures, or weighing or measuring instruments, 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 instruments with appropriate devices. [1915]

Sec. 3-13-8. Condemning incorrect devices.

The commissioner [of agriculture] shall condemn and seize, and may destroy, incorrect weights or measures, or weighing or measuring devices, that in his judgment are not susceptible of satisfactory repair; but such as are incorrect and yet may be repaired he shall mark or tag "Condemned for repairs." The owner or user of any weights or measures, or weighing or measuring devices, so marked or tagged shall have the same repaired or corrected within ten days unless upon satisfactory showing the commissioner shall extend such time, and he shall neither use nor dispose of the same in any way, but shall hold the same at the disposal of the commissioner. Any weights or measures, or weighing or measuring devices, that have been condemned for repairs and have not been repaired as required above shall be confiscated by the commissioner. [1915]

Sec. 3-13-9. City sealer: Appointment; compensation; deputies.

There shall be a city sealer of weights and measures in cities of not less than twenty-five thousand population according to the latest official state or United States census, to be appointed by the city commission. He shall be paid a salary to be determined by the city commission, 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 or measures, or weighing or measuring devices. Whenever the city commission shall deem it necessary one or more deputy sealers of weights and measures may be appointed and their salaries fixed as above. All deputies appointed shall have the same powers and may perform the same duties as the city sealer when acting under his instructions and direction. [1915]

Sec. 3-13-10. Same: Bond.

The city sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of \$1000, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office. [1915]

Sec. 3-13-11. Same: Standards; certification.

The city commission of each city required to appoint a sealer under the provisions of this chapter [Secs. 3-13-1—3-13-28] shall procure at the expense of the 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 commissioner of agriculture may direct. All such weights, measures and other apparatus having been tried and accurately proven by the commissioner of agriculture shall be sealed and certified by him as hereinbefore provided, and shall be then deposited with and preserved by the city sealer as public standards for such city. [1915]

Sec. 3-13-12. Same: Powers and duties.

Where not otherwise provided by law the city sealer shall have the same powers and shall perform the same duties within his city as are granted to and imposed upon the commissioner of agriculture by sections 3-13-6 to 3-13-8. [1915]

Sec. 3-13-13. Same: Record; report.

The city sealer shall keep a complete record of all his official acts and shall make an annual report, duly sworn to, on the 30th day of November to the commissioner of agriculture on blanks furnished by the latter, and also any special reports that the latter may request. [1915]

Sec. 3-13-14. Arrest without warrant; seizure.

The commissioner of agriculture and his deputies and inspectors, and the 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 or measure, or weighing or measuring device, or package or amount of commodity, found to be used or retained, offered or exposed for sale, or sold, in violation of law. [1915]

Sec. 3-13-15. Weights and measures officials: Hindering a misdemeanor.

Any person who hinders or obstructs in any way the commissioner or any inspector or deputy, or any city sealer or deputy sealer of weights and measures, in the performance of his official duties is guilty of a misdemeanor. [1915]

Sec. 3-13-16. Same: Impersonation; penalty.

Any person who impersonates in any way the commissioner or any inspector or deputy, or any city sealer or deputy sealer of weights and measures, by the use of his seal or a counterfeit of his seal or otherwise is guilty of a misdemeanor, and shall be punished by a fine of not less than \$100 or imprisonment not exceeding one year or by both such fine and imprisonment. [1915]

Sec. 3-13-17. Coal, coke and charcoal: Sale by weight only; delivery tickets.

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 unless each delivery is accompanied by a delivery ticket in duplicate on each of which shall be in ink or other indelible substance distinctly expressed in pounds the gross weight of the load, the tare weight of the delivery vehicle and the quantity or quantities of coal, coke or charcoal contained in the vehicle used in such deliveries, with the name of the purchaser thereof and the name of the dealer from whom purchased. One of such tickets shall be surrendered to the commissioner of agriculture, his deputy or inspector, or to a city sealer or deputy sealer of weights and measures, upon demand for his inspection; and a ticket or weight slip issued by him when he desires to retain the original shall be delivered to the purchaser of the coal, coke or charcoal 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. [1915]

Sec. 3-13-18. Food products: Marking requirements; tolerances; exceptions; "package" defined.

It shall be unlawful to keep for the purpose of sale or to sell, or to offer or expose for sale, any food products in package form unless the net quantity of the contents is 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; such reasonable variations or tolerances, and also exemptions as to small packages, shall be established by rules and regulations made by the board of agriculture; and *provided further*, that this section shall not be construed to apply to those commodities in package form, the manner of the sale of which is specifically regulated by the provisions of other sections of this chapter [Secs. 3-13-1—3-13-28]. The word "package" as used in this section shall be construed to include the package, carton, case, can, box, barrel, bottle, phial or other container put up by the manufacturer; or when put up by the vendor prior to the order of the commodity, if such container may be labeled, branded or stenciled or otherwise marked, or if it may be suitable for labeling, branding or stenciling or marking otherwise, making one complete package of the commodity. The word "package" shall also be construed to include both the wholesale and the retail package, with the exception of shipping cases when their contents are properly marked. [1915]

Sec. 3-13-19. Dry goods: Marking requirements; terms defined.

It shall be unlawful to keep for the purpose of sale, to offer or expose for sale, or to 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 form, 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 is 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. [1915]

Sec. 3-13-20. Butter and oleomargarine: Sale by weight only; size of prints or rolls; marking requirements; construction of terms.

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, to offer or expose for sale or to 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 pound, 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 is such a label; otherwise, on the outside wrapper thereof; such statement shall be in gothic type not less than twelve-point. 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 put up by the vendor prior to the order of the commodity. [1915]

Sec. 3-13-21. Bread: Sale by weight only; marking requirements.

All bread kept for the purpose of sale, offered or exposed for sale, or sold, shall be sold by weight. To each loaf of bread shall be attached a label plainly showing its correct weight and the name of the manufacturer thereof; the size of the label and type to be used to be specified by the board of agriculture. It shall be unlawful for any person to make or keep for the purpose of sale, to offer or expose for sale, or to sell, any bread other than such as shall be marked in accordance with the provisions of this section. [1915]

Code Annotated 1943, Vol. 1, Title 3, Ch. 13—Weights and Measures—Continued.

Sec. 3-13-22. Sale of commodities: How sold; exceptions.

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 vegetables, fruits and produce in the standard barrel adopted by the United States government, or of berries and small fruit in boxes as provided in section 3-13-23, or of articles usually sold by the head or bunch. For the purpose of this section the term "commodities not liquid" shall be construed to include goods, wares and merchandise which have heretofore been sold by measure of length, by weight, by measure of volume or by numerical count, or which are susceptible of sale in any of these ways. [1915]

Sec. 3-13-23. Sale of berries and small fruits; standard containers.

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, to offer or expose for sale, or sell or give away, any 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, to offer or expose for sale, or to sell, berries or small fruits in baskets or in other open containers holding one quart or less of any other than the following capacities when level full: one quart, having a capacity of 67.2 cubic inches and containing not less than twenty-four ounces; one pint, having a capacity of 33.6 cubic inches and containing not less than twelve ounces; one half-pint, having a capacity of 16.8 cubic inches and containing not less than six ounces; except that the weights used in the sale of red currants shall be twenty-one ounces for quarts, 10.5 ounces for pints and 5.3 ounces for half-pints. It shall be unlawful to use unclean or insanitary berry cups, crates, boxes, sacks or other containers. It shall be unlawful for any dealer or vendor to transfer berries or small fruits from one container to another, or from containers in which said fruits or berries are packed by the producer. [1927; last amended 1935.]

Sec. 3-13-24. Weight defined.

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 chapter [Secs. 3-13-1—3-13-28], it shall be understood and construed to mean the net weight of the commodity. [1915]

Sec. 3-13-25. False weights and measures; misdemeanor.

Any person who offers or exposes for sale, sells, or uses in the buying or selling of any commodity or thing, or who offers or exposes for hire or reward, or hires or retains in his possession, a false weight or measure, or weighing or measuring device, which has not been scaled by the commissioner of agriculture or by a sealer of weights and measures within one year, or who disposes of any condemned weight or measure, or weighing or measuring device, contrary to law, or removes any tag placed thereon by the commissioner of agriculture or by a sealer of weights and measures; or who sells or offers or exposes for sale less than the quantity he represents, or takes or attempts 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 the commodity is determined; or who keeps for the purpose of sale, offers or exposes for sale, or sells, any commodity in a manner contrary to law; or who violates any provision of this chapter [Secs. 3-13-1—3-13-28] for which a specific penalty has not been provided; or who sells or offers for sale, or uses or has 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 is guilty of a misdemeanor.¹ [1915]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Sec. 3-13-26. Weights and measures terms defined.

The words "weights, measures, or weighing or measuring devices," shall 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" include barter and exchange. [1915]

Sec. 3-13-27. Flour, corn meal, hominy and hominy grits: Standard weight containers; exceptions.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities, except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred pounds (100): Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits; provided, however, that the provisions of this act [Secs. 3-13-27—3-13-28] shall not apply to (a) the retailing of

flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred (100) pounds, or for export, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five (5) pounds, or (d) the exchange of wheat flour by mills grinding for toll. [1945]

Sec. 3-13-28. Same: Violation a misdemeanor.

Any violation of this act [Secs. 3-13-27—3-13-28] shall constitute a misdemeanor.¹ [1945]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Code Annotated 1943, Vol. 2, Title 19, Ch. 5—Counties.

Sec. 19-5-32. Powers.

They [board of county commissioners] may provide for the inspection, measurement or grading of any merchandise, manufacture or commodity and appoint the necessary officers therefor. [1896]

Code Annotated 1943, Vol. 1, Title 15, Ch. 8—Cities and Towns.

Sec. 15-8-21. Powers: Meter inspection.

They [the boards of commissioners and city councils of cities] * * * may regulate the sale and use of gas, natural gas and electric or other lights and electric power within the city, and regulate the inspection of meters therefor; * * * [1919]

Sec. 15-8-39. Same: Regulation of public scales.

They may license, tax and regulate * * * keepers of public scales * * *. [1931]

Sec. 15-8-43. Same: Markets.

They may establish markets and market houses, and provide for the regulation and use thereof, and provide for the place and the manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions, and regulate the selling of the same. [1898]

Sec. 15-8-44. Same: Food stuffs.

They may provide for and regulate the inspection of meats, fruit, poultry, fish, butter, cheese, lard, vegetables, flour, meal and all other provisions, and provide for the inspection, measurement or graduation of any merchandise, manufacture or commodity, and appoint the necessary officers therefor. [1898]

Sec. 15-8-45. Same: Weights and measures.

They may provide for the inspection, sealing and use of proper weights, measures, computing scales, and all weighing and measuring devices indicating the numerical value as well as weight or quantity. [1898]

Code Annotated 1943, Vol. 1, Title 3, Ch. 3, Art. 2—Insecticides and Fungicides.

Sec. 3-3-16. Definitions.

As used in this article [Secs. 3-3-16—3-3-21] the following terms are defined as follows:

"Insecticide" shall include Paris green, lead arsenate, and any other substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects or other animals that may infest or infect vegetation or animals or households or be present in any environment thereof.

"Paris green" shall include the products sold in commerce as Paris green and chemically known as aceto arsenite of copper.

"Lead arsenate" shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_2AsO_4) by replacing one or more hydrogen atoms by lead.

"Fungicide" shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all fungi or bacteria that may infest or infect vegetation or be present in any environment whatsoever. [1919]

Sec. 3-3-17. Unlawful to sell misbranded article.

It shall be unlawful for any person to manufacture, import or sell, offer, keep or expose for sale or distribution within the state of Utah any adulterated or misbranded insecticide or fungicide. [1919]

Sec. 3-3-19. When deemed misbranded.

Insecticides or fungicides or articles which enter into their composition shall for the purpose of this article [Secs. 3-3-16—3-3-21] be deemed to be misbranded: (1) In all cases: (a) if the package or label shall bear any statement, design or device regarding such article or its ingredients which shall be false in any particular; (b) if sold, offered or exposed for sale in package form and the quantity of the contents is not wholly and correctly marked on the outside of the package in terms of weight, measure or numerical count; * * * [1919]

Sec. 3-3-21. Marking requirements.

Every lot or package of any insecticide or fungicide which is manufactured, sold, distributed or transported, or offered or exposed for sale, within the state shall have affixed in a conspicuous place on the outside thereof a plainly printed or written statement in at least 8-point type clearly and truly stating the number of net ounces or pounds in the package, * * * [1919]

[ED. NOTE.—Secs. 3-3-16—3-3-21 are enforced by the state Board of Agriculture; see Sec. 3-1-31, page 1006. Any violation of these sections is a misdemeanor; see Sec. 3-1-15, page 1006.]

Code Annotated 1943, Vol. 1, Title 3, Ch. 8—Commercial Feeding Stuffs.

Sec. 3-8-1. Definitions.

The term "commercial feed and commercial feeding stuff" shall include all materials used for feeding birds or other domestic animals or domesticated wild animals except the following:

1. Unmixed whole seeds or grain as defined by U. S. grain standards.

2. The unmixed meals made directly from and consisting wholly of any one of the following entire grains; corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, milo or other seeds or grains.

3. Entire, unmixed, hays, straws, cotton seed hulls, stover or silage, whether whole, ground or chopped when unmixed with other materials. [1921; last amended 1939.]

Sec. 3-8-2. Marking requirements.

Every lot or parcel of commercial feeding stuff sold, offered or exposed for sale, or distributed within this state shall have affixed thereto a tag in a conspicuous place on the outside thereof containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(1) The net weight of the contents of the package, lot or parcel. [1921; last amended 1939.]

* * * * *

Sec. 3-8-5. Bulk sales; cards.

Whenever any commercial feeding stuff as defined in section 3-8-1 is offered or exposed for sale in bulk or otherwise or stored the person keeping the same for sale shall keep on hand cards, to be furnished by the manufacturer of the product, upon which shall be printed the statement required by the provisions of section 3-8-2, and when such feeding stuff is sold at retail in bulk or in packages the seller shall furnish the purchaser cards upon which appears the statement required by the provisions of section 3-8-2. [1921]

Sec. 3-8-8. Rules and regulations.

The state board of agriculture is hereby empowered to prescribe the form of tags, stamps and labels to be used, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs, as it may deem necessary to carry into effect the provisions of this chapter [Secs. 3-8-1—3-8-10], and shall have power to prevent the sale within the state of any commercial feeding stuffs which may be made in whole or in part of any noxious weeds or seeds. [1921]

Sec. 3-8-10. Penalty for violations.

* * * * *

(b) Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state

any commercial feeds * * * if the number of net pounds set forth upon the package is not correct or who shall violate any other provision of this chapter [Secs. 3-8-1—3-8-10] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$50 for the first violation and not less than \$25 or more than \$100 for each subsequent violation. * * *

Code Annotated 1943, Vol. 1, Title 3, Ch. 8a—Commercial Fertilizers.

Sec. 3-8a-1. Enforcing agency.

This act [Secs. 3-8a-1—3-8a-27] shall be administered by the state board of agriculture. [1935]

Sec. 3-8a-2. Definitions.

When used in this act [Secs. 3-8a-1—3-8a-27]:

* * * * *

(e) The term "commercial fertilizer" means any substance, including any combination or mixture of substances, except unmanipulated animal and fowl manure, designed and fit for use in inducing increased crop yields or plant growth when applied to the soil, whose aggregate content of nitrogen, available phosphoric acid, and available potash is sixteen (16%) per cent or more.

(f) The term "fertilizer material" shall mean any mineral substance, mixture of mineral substances, organic substance, or mixture of mineral and organic substances, except unmanipulated animal or fowl manure, used as a source of plant food, either alone or in combination with soil conditioners, amendments, weed killers, or insecticides, which has an aggregate content less than sixteen (16%) per cent of nitrogen, available phosphoric acid, available potash, or contains other essential plant nutrients in any amounts. [1935; last amended 1947.]

* * * * *

Sec. 3-8a-4. Registration.

Any manufacturer or importer who may desire to sell or offer for sale, either by himself, or through another person, commercial fertilizer or fertilizer materials in this state shall first file with the state board of agriculture, on registration forms supplied by the board, a signed statement, giving * * * the following information with respect to each brand or grade of commercial fertilizer:

(1) Net weight of each package in pounds. [1935; last amended 1947.]

* * * * *

Sec. 3-8a-8. Marking requirements.

Each person who offers for sale or sells commercial fertilizer or fertilizer material in this state

shall mark in conspicuous letters in the English language upon each container or associate with each shipment or some document relative thereto the information required by sections 4 * * *. The information may either be branded or printed directly on the bag or other shipping container, or may be printed on a tag, label or certificate which shall be affixed to the shipping container or otherwise associated with the shipment, as provided in this section. [1935; last amended 1947.]

* * * * *

Sec. 3-8a-9. Same.

If shipped in bags, barrels or other containers commonly used, the data required by sections 4 * * * shall be printed either directly on the package, or on tags to be affixed to the package by the manufacturer.

If shipped in bulk by rail, the data shall be printed on a suitable label which shall be fastened on the inside wall of the car near the door. * * * [1935; last amended 1947.]

Sec. 3-8a-22. Rules and regulations for enforcement; "stop sale" order.

For the enforcement of this act [Secs. 3-8a-1-3-8a-27] the state board of agriculture is authorized to prepare and issue such regulations as may be necessary, and to cooperate with any department or agency of the government of this state as the said board may elect in their enforcement.

It shall be the duty of the board to issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of mixed fertilizer or fertilizer material and to hold at a designated place when the board or its authorized agents find said fertilizer is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said fertilizer is released in writing by the board or its authorized agents or said violation has been otherwise legally disposed of by written authority; Provided, That after a period of sixty days from the date of the "stop sale" order, if no attempt is made to comply with the law, said lot or lots of fertilizer shall be forfeited to the state of Utah. The board shall have the authority to dispose of said fertilizer in any manner consistent with the quality of fertilizer and the laws of the state. The board, however, may in its discretion release the fertilizer so withdrawn when the requirements of the provisions of this act have been complied with and upon payment of all costs and expenses incurred in connection with the withdrawal. [1935; last amended 1947.]

Sec. 3-8a-24. Violation a misdemeanor.

Each of the following offenses shall be a misdemeanor:¹

(a) The violation of any one of the following

sections: * * * 4, * * * 8, * * * 22.

(b) The filing with the state board of agriculture of any false statement of fact in connection with the registration of any commercial fertilizer or fertilizer material as herein provided.

(c) Forcibly obstructing the state board of agriculture or their authorized official inspector in the lawful performance by them of their duties in the administration of this act [Secs. 3-8a-1-3-8a-27]. [1935; last amended 1947.]

* * * * *

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Code Annotated 1943, Vol. 1, Title 3, Ch. 10—Food and Dairy Products.

Sec. 3-10-5. Food; Sale of misbranded commodities; misdemeanor.

Every person who manufactures for sale, sells, exchanges or delivers, or offers to sell, exchange or deliver, or has in his possession with intent to sell, exchange or deliver, any * * * misbranded * * * article of food, drink, or confectionery, or who adulterates or misbrands any article of food, drink, * * * or confectionery, is guilty of a misdemeanor.¹ [1903]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Sec. 3-10-6. Same: Definition.

The term "food" as used in this chapter [Secs. 3-10-1-3-10-72] shall include all articles, whether simple, mixed or compound, used for food, drink, confectionery or condiment by man or beast; and the name and address of the manufacturer or distributor shall appear upon the label of all food offered for sale in package form. [1903; last amended 1919.]

Sec. 3-10-9. Same: When deemed misbranded; marking requirements.

The term "misbranded" as used herein shall apply to all drugs and articles of food, and articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or fraudulent in any particular, * * *. For the purposes of this chapter [Secs. 3-10-1-3-10-72] an article shall also be deemed to be misbranded: * * *

In the case of foods: * * *

(3) If when in package form the net quantity of the contents is not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; *provided*, that reasonable variation and tolerance shall be permitted by rules and regulations made in accordance with this chapter by the state board of agriculture. [1903; last amended 1913.]

* * * * *

Code Annotated 1943, Vol. 1, Title 3, Ch. 10—Food and Dairy Products—Continued.

Sec. 3-10-17. Babcock test; standard glassware; penalties.

The method of operating and the equipment used in the Babcock test or any other test for the determination of the percentage of butter fat in the purchase of milk or cream shall be that prescribed by the latest edition of the methods of the association of official agricultural chemists. Cream shall be tested by weight and the standard unit for testing shall be either nine grams or eighteen grams. It is hereby made a misdemeanor¹ to use any other standards of milk or cream measures where milk or cream is purchased by or furnished to creameries or cheese factories and where the value of such milk or cream is determined by the percentage of butter fat contained in the same by the Babcock test. In sampling cream or milk from which composite tests are to be made to determine the percentage of butter fat contained therein no such sample or sampling shall be lawful unless a sample is taken from each weighing and the quantity thus tested shall be proportioned to the total weight of the cream or milk tested. Every person operating a creamery when using the Babcock test as a standard to determine the value of any milk or cream received or bought by such person to be manufactured into butter shall when paying for such milk or cream include in every statement or check issued to any patron in payment thereof a statement of the number of pounds of butterfat for which payment is made. Any person who offers for sale or sells a milk pipette or measure, test tube or bottle which is not correctly marked or graduated as herein provided is guilty of a misdemeanor.¹ It shall be unlawful for any person to falsely manipulate or under-read or over-read the Babcock test or any other contrivance used for determining the quantity or value of milk or cream, or to make any false determination by Babcock test or otherwise. [1911; last amended 1937.]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Sec. 3-10-42. Food: Confiscation.

And any article found in the possession of any person in violation of this chapter [Secs. 3-10-1—3-10-72] shall be subject to confiscation and may be destroyed by the commissioner of agriculture. [1896; last amended 1913.]

Sec. 3-10-45. Same: Guaranty protection.

No dealer in food or drink products shall be held liable to prosecution, if he can establish that the goods in question were sold to him under a guaranty by a wholesaler, manufacturer, jobber, dealer or other person residing in the United States. [1907]

Sec. 3-10-72. General penalty.

Whoever violates any of the provisions of this chapter [Secs. 3-10-1—3-10-72] where no other penalty is provided is guilty of a misdemeanor.¹ [1911]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Code Annotated 1943, Vol. 3, Title 46, Art. 3—Intoxicating Liquors.

Sec. 46-0-48. Packages: Utah liquor control commission to determine capacity.

Subject to the provisions of this act [Secs. 46-0-43—46-0-252], the commission shall:

* * * * *

(i) Determine the nature, form and capacity of all packages to be used for containing liquor kept or sold under this act. * * * [1935]

Code Annotated 1943, Vol. 3, Title 55, Ch. 3—Mine Scales.

Sec. 55-3-1. Owner to provide scales; miner's car weighed at standstill.

The owner, agent or operator of every coal mine at which the miners are paid by weight shall provide at such mine suitable and accurate scales of standard manufacture for the weighing of all coal which shall be hoisted or delivered from such mine. When coal is weighed in the miner's car such car shall be brought to a standstill on the scales before the weight is taken. [1897]

Sec. 55-3-2. Weighmen: Oath; record.

Such owner, agent or operator shall require the person authorized to weigh the coal to take and subscribe an oath to keep the scales correctly balanced, to accurately weigh and to correctly record the gross or screened weight, to the nearest ten pounds, of each miner's car of coal delivered, and such oath shall be kept conspicuously posted at the place of weighing. The record of the coal mined by each miner shall be kept separate, and shall be opened to his inspection at all reasonable hours, and also to the inspection of all other persons pecuniarily interested in the mine. [1897]

Sec. 55-3-3. Check weighmen: Duties and powers; oath.

In all coal mines the miners employed and working therein may furnish a competent check-weighman at their own expense, who shall at all proper times have full right of access to and examination of such scales or machinery and right of inspection of measuring apparatus, and weights of coal mined and of accounts kept of the same; *provided*, that no more than one person on behalf of the miners collectively shall have such right of access, examination and inspection of scales, measures and accounts at the same time, and that such person shall cause no unnecessary interference with

the use of such scales, machinery or apparatus. Such agent of the miners shall before entering upon his duties take and subscribe an oath that he is duly qualified and will faithfully discharge the duties of check-weighman. Such oath shall be kept conspicuously posted at the place of weighing. [1897]

Sec. 55-3-4. Fraudulent weighing; misdemeanor.

Any person having or using any scales, for the purpose of weighing the output of coal at mines, so arranged or constructed that fraudulent weighing may be done thereby, or who knowingly resorts to or employs any means whatsoever by reason of which such coal is not correctly weighed or reported in accordance with the provisions of this chapter [Secs. 55-3-1-55-3-6]; and any weighman or check-weighman who fraudulently weighs or records the weights of such coal, or connives at or consents to such fraudulent weighing, is guilty of a misdemeanor.¹ [1897]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Sec. 55-3-5. Inspection; notice of incorrect scale; offense; penalty.

It shall be the duty of the industrial commission to examine all scales used at any coal mine for the purpose of weighing coal taken out of such mine, and on inspection, if found incorrect, it shall notify the owner or agent of such mine that they are incorrect. After such notice it shall be unlawful for any owner or agent to use or suffer the same to be used, until such scales are so adjusted that the same will give correct weight. Any person violating the provisions of this section is guilty of a misdemeanor.¹ [1897]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Sec. 55-3-6. Shipping coal; procedure of weighing; penalty.

It is hereby made the duty of all persons engaged in the mining or shipping of coal from any mine or point within this state to weigh each empty car before it is loaded and to note the weight thereof upon the bill of lading, and to weigh each car after the same is loaded and to note the weight thereof upon the bill of lading or waybill of the same. Any person violating the provisions of this section is guilty of a misdemeanor.¹ [1913]

¹ See Sec. 103-1-16, page 1016, punishment for misdemeanor.

Code Annotated 1943, Vol. 4, Title 76, Ch. 3—Railroads, Weighing of Coal.

Sec. 76-3-12. Weighing in carload lots; track scales.

No common carrier shall collect from any consignee for coal in carload lots delivered at any point within this state freight charges for any weight in excess of the actual weight of the coal delivered to said consignee, if railroad track scales are maintained at the point of delivery or in the

the line of transit; and in determining the actual weight of such coal the common carrier shall be entitled to take the weight of the empty car, as determined by weighing such car at the point where the coal is loaded for shipment, and to deduct such weight from the gross weight of the car and coal as weighed on the railroad track scales at the point nearest in the line of transit to the point of delivery. Such weighing shall be done within a reasonable time after the arrival of the car at its destination. No charge shall be made to the consignee by such common carrier for such weighing. If the difference between the original net weight as determined at the point of shipment and the net weight obtained by reweighing at the track scales nearest in the line of transit to or at the destination does not exceed 200 pounds on a carload of coal, then the weight determined at the point of shipment shall not be changed. [1919]

Sec. 76-3-13. Weighman's certificate.

Before the payment by the consignee of the freight upon any carload of coal delivered by a common carrier within this state, if track scales are maintained in the line of transit to or at the place of delivery, such common carrier shall deliver to said consignee a certificate signed by a competent and disinterested weighman, stating the gross weight of the car and the coal contained therein as weighed at the track scales nearest in line of transit to the destination or at the point of delivery, and shall indorse on such certificate the weight of the empty car as determined at the point where such coal was loaded, and no freight charges for the transportation of any such coal shall be due or payable until the same has been so weighed and the certificate of the weight thereof given. [1919]

Sec. 76-3-14. Penalty for violating two preceding sections.

Any carrier who collects freight on a carload of coal where railroad track scales are maintained in the line to or at the point of delivery without causing the same to be weighed within the time and in the manner required by the next two preceding sections is guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than \$100 nor more than \$299. [1919]

Code Annotated 1943, Vol. 4, Title 76, Ch. 4—Public Utilities Commission, Powers.

Sec. 76-4-17. Railroad track scales and weights; testing.

* * * * *

(4) The commission [public utilities commission of Utah] shall also have power to enforce reasonable regulations for the weighing of cars and freight offered for shipment over any line of railroad, and to test the weights made be [by] any railroad corporation and scales used in weighing freight on cars. [1917]

Code Annotated 1943, Vol. 4, Title 76, Ch. 4—Public Utilities Commission, Powers—Continued.

Sec. 76-4-18. Electric gas and water meters: Rules and regulations; testing.

The commission [public utilities commission of Utah] shall have power, after a hearing, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements or service to be furnished, imposed, observed and followed by all electrical, gas and water corporations; * * * to prescribe reasonable regulations for the examination and testing of such products, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility. [1917]

Sec. 76-4-19. Same: Right of entry; testing.

The commissioners and officers and employees of the commission [public utilities commission of Utah] shall have power to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests and exercising any of the other powers provided for in this title [Secs. 76-1-1—76-6-30] and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility shall have the right to be present at the making of such examinations and tests. [1917]

Sec. 76-4-20. Same: Testing upon request; fees.

Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested, upon paying the fees fixed by the commission [public utilities commission of Utah]. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user; the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user under such rules and regulations as may be prescribed by the commission, if the appliance is found defective or incorrect to the disadvantage of the consumer or user. [1917]

Code Annotated 1943, Vol. 5, Title 100, Ch. 1—Measurement of Water.

Sec. 100-1-2. Unit of measurement.

The standard unit of measurement of the flow of water shall be the discharge of one cubic foot per second of time, which shall be known as a second foot; and the standard unit of measurement

of the volume of water shall be the acre foot, being the amount of water upon an acre covered one foot deep, equivalent to 43,560 cubic feet. [1919]

Code Annotated 1943, Vol. 5, Title 103, Ch. 1, Art. 1—Penal Code, Misdemeanors.

Sec. 103-1-16. Punishment when not otherwise prescribed.

Except in cases where a different punishment is prescribed by law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months or by a fine in any sum less than \$300, or by both. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable as for a misdemeanor and there is no other punishment prescribed by law, such corporation is punishable by a fine not exceeding \$1,000. [1876; last amended 1898.]

Code Annotated 1943, Vol. 5, Title 103, Ch. 4—Penal Code, False Advertising.

Sec. 103-4-1. Unlawful acts.

Every person, whether acting on his own behalf or on behalf of another, who, with intent to sell or in any way dispose of real or personal property, choses in action, merchandise, service or anything of any nature whatsoever offered by such person, directly or indirectly, to the public for sale, use or distribution, or with intent to increase the consumption thereof, or to induce any member of the public to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, publishes, disseminates, circulates, or causes to be published, disseminated or circulated, or who in any manner places, or causes to be placed, before the public in this state, by any newspaper, magazine, book, pamphlet, circular, letter, handbill, placard, poster or other publication, or by any billboard, sign, card, label or window sign, showcase or window display, or by any other advertising device, or by public outcry or proclamation, or by telephone or radio, or in any other manner whatever, an advertisement regarding such property or service so offered to the public, which advertisement shall contain any statement, representation or assertion concerning such property or service, or concerning any circumstance or matter of fact connected in any way, directly or indirectly, with a proposed sale, performance or disposition thereof, which statement, representation or assertion is false in any respect, or which is deceptive or misleading, and which is known, or by the exercise of reasonable care could be known to be false, deceptive or misleading, to the person publishing, disseminating, circulating or placing before the public such advertisement, is guilty of a misdemeanor.¹ [1929]

¹ See Sec. 103-1-16, above; punishment of misdemeanor.

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Sec. 7701. State standards.

The standards of weight and measure that have been or may be adopted by the United States shall be the standards of weight and measure for this state; and the weights, measures and balances received from the United States under a resolution of Congress, approved June 14, 1836, and such new weights, measures and balances as shall be received from the United States as standard weights, measures and balances in addition thereto, or in renewal thereof, shall be the authorized standards by which all standards of weights and measures of this state shall be tried, proved and sealed. [1787; last amended 1910.]

Sec. 7702. Director of standards.

The commissioner of agriculture shall be ex officio director of standards. [1787; last amended 1947.]

Sec. 7703. Same: Apportionment and arrangement of work.

The commissioner of agriculture shall apportion and arrange the work of inspection of weights and measures, creameries, milk, cream, butter, cheese, oleomargarine, grades and standards of farm products, and any other inspection service conducted under his supervision as such commissioner or as director of standards, in such manner as to provide greatest efficiency and to eliminate, as far as possible, overlapping of inspection service and duplication of traveling expenses. [1937]

Sec. 7704. Same: Appointment of inspectors.

With the approval of the governor, the director may appoint inspectors whose salaries and expenses shall be fixed by him, subject to like approval. The inspectors shall be sworn. [1910; last amended 1919.]

Sec. 7705. Same: Custody and certification of state standards.

The director shall take charge of the standards adopted by the state, cause them to be kept in the department of weights and measures from which they shall not be removed, except for repairs or for certification, and take all other necessary precautions for their safekeeping. He shall maintain such standards in good order and shall submit them once in ten years to the National Bureau of Standards for certification. [1787; last amended 1933.]

Sec. 7706. Same: Inspection of town weights.

He shall inspect the weights, measures and balances of the several towns, and, once in five years and oftener if necessary, compare the same with those in his possession and seal such as are correct. [1787; last amended 1919.]

Sec. 7707. Same: Supervision of weights and measures.

Unless otherwise provided, the director shall have a general supervision of the weights, measures and weighing and measuring devices of the state, those in use in the state and those sold or hired or offered for sale, hire or award in the state. [1787; last amended 1919.]

Sec. 7708. Same: Record; testing; sealing.

The director shall keep a complete record of the standards and other apparatus in his possession and take a receipt for same from his successor in office. He and his inspectors may inspect, try, test and ascertain if they are correct and if so, seal same, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and the tools, appliances or accessories connected with any such instruments or measurements used or employed within the state by a proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted

by such a person for sale, hire or award. [1910; last amended 1917.]

Sec. 7709. Same: Testing of test standards; state institutions; sealing.

Upon the request of any citizen, firm, corporation or educational institution of the state, the director or his inspectors shall test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as test standards in the state and shall seal such as are correct. At least once annually, he or his inspectors shall test all weights, measures and balances used in checking the receipt or disbursement of supplies in state institutions and shall seal such as are correct and shall report in writing his findings to the executive officer of the institution concerned. [1910; last amended 1931.]

Sec. 7710. Same: Testing of commodities; police powers; seizures.

At irregular intervals the director, his deputy or his inspectors may examine commodities sold or offered for sale and test them for correct weight, measure or count. Without formal warrant, they may enter any stand, place or premises and may stop any vendor, peddler, dealer, coal wagon or coal truck and ice wagon or ice truck, for the purpose of making proper tests. In exercise of their duties, they shall have full police power to enforce all reasonable measures for testing any weighing or measuring devices and for ascertaining whether false or short weights and measures are being given in any sales or transfers of commodities taking place within the state. They may seize for use as evidence and hold until final disposition of the same any commodity, package or other article sold or offered for sale contrary to the law relating to weights and measures. [1910; last amended 1933.]

Sec. 7711. Same: Arrest without warrant; prosecutions.

The director, his deputy or inspectors may arrest without warrant and on view, in any part of the state, a person found violating a provision of this chapter [Secs. 7701-7741] and take such person before a magistrate having jurisdiction of the offense and detain such person in custody at the expense of the state until opportunity is had to notify a prosecuting officer who shall forthwith prosecute such offender. Grand jurors in such cases shall receive the fees prescribed by section 10,520. Except as herein otherwise provided, whenever the director, his deputy or his inspectors find a violation of the statute relating to weights and measures, they shall submit the evidence to proper prosecuting officer in the county in which such violation occurred who shall thereupon prosecute the offender. [1910; last amended 1919.]

Sec. 7712. Same: Tolerances.

After consultation with and with the advice of the National Bureau of Standards, the director

shall establish tolerances for use in the state and such tolerances shall be the legal tolerances in the state. [1910]

Sec. 7713. Same: Rules and regulations.

The director may make suitable rules and regulations to govern the sale of commodities. [1910]

Sec. 7714. Same: Record and report.

The director shall keep a complete record of all work done under his direction and, in each even year, shall make a report to the governor of the work done during the preceding two years. Such report shall also contain such other matter and recommendations as seem pertinent. [1910; last amended 1917.]

Sec. 7715. Marking of standards.

The state standards shall be stamped with the letters S. S., and the town standards with the letters T. S., and city standards with the letters C. S. [1787; last amended 1910.]

Sec. 7716. Marking of weights and measures.

Every weight for use in trade, except when the small size of the weight renders it impracticable, shall have the denomination of such weight permanently marked on the top side thereof in legible characters. Every measure of capacity for use in trade shall have the denomination and kind thereof permanently marked on the outside of such measure in legible characters. A weight or measure not in conformity with this section shall not be sealed by the director, inspectors or town treasurers. [1910]

Sec. 7717. Sealing without verifying; penalty.

A person authorized to seal weights and measures in accordance with the provisions of this chapter [Secs. 7701-7741], who stamps a weight or measure without duly verifying the same by comparison with the town standards or is guilty of a breach of any duty imposed upon him by law or otherwise misconducts himself in the execution of his office, shall be liable to removal and shall be fined not more than \$200.00 for each offense. [1910]

Sec. 7718. Use of false measures after condemnation; penalty; seizure.

A person who, after an inspection of his weighing and measuring devices, or both, uses or has in his possession for use in trade, in public weighing or in ascertaining the weight of commodities for or in transportation, any weight, measure, scale, balance, steelyard or other weighing or measuring device which is false or incorrect or which has been stamped or tagged as condemned by the director or his inspectors, providing the same has not been afterwards sealed as correct by such officials, shall be fined not more than \$100.00 for the first offense

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and, for each subsequent offense, not more than \$200.00. After an inspection has been made, any such false or incorrect weight, measure, scale, balance, steelyard or other weighing or measuring device may be seized by any official acting under authority of this chapter [Secs. 7701-7741] and, on order of the court, the same shall be forfeited. [1884; last amended 1947.]

Sec. 7719. False weights and measures; offenses; penalty.

A person who himself or by his servant or agent, or as the servant or agent of another, offers or exposes for sale, sells for use, or uses in the buying or selling of any commodity or thing, or for hire, or award, or retains in his possession a false weight or measure, or weighing or measuring device, or who disposes of any condemned weight, measure, or weighing or measuring device contrary to law, or removes any tag placed thereon by a scaler of weights and measures without his permission, or who sells or offers or exposes for sale less than the quantity he represents, or offers and exposes for sale any such commodity in a manner contrary to law or who sells or offers for sale, or has in his possession for the purpose of selling, any device or instrument to be used to, or calculated to falsify any weight or measure, or in purchasing misrepresents the amount purchased, upon conviction, except as hereinafter provided, shall be fined not more than \$100.00 for the first offense and, for each subsequent offense, not more than \$200.00. [1910; last amended 1919.]

Sec. 7720. Obstructing weights and measures officials; penalty.

A person who neglects or refuses to produce for the director, his deputy or inspectors all weighing and measuring devices in his possession and used in trade or on his premises, or refuses to permit such officers to examine the same, or obstructs the entry of such officers, or obstructs or hinders any officer acting under the authority of this chapter [Secs. 7701-7741] or knowingly violates a rule or regulation made under the authority of section 7713, or violates a provision of this chapter for which other penalty is not prescribed, shall be fined not more than \$200.00. [1910; last amended 1933.]

Sec. 7721. Dealers and repairmen of weighing and measuring devices; Definitions.

Whenever used in sections 7721 to 7729 inclusive, the words "dealer" or "repairman" shall be construed to mean:

I. "Dealer", a person, firm, copartnership, corporation or association, engaged in the business of dealing in, selling, buying, exchanging, or trading in weighing or measuring devices in this state.

II. "Repairman," a person, firm, copartnership,

corporation or association, engaged in the business of adjusting or repairing weighing or measuring devices in this state, or an employee thereof engaged in such business. [1947]

Sec. 7722. Same: Application for certificate of registration.

A dealer or repairman, before engaging in such business, shall file a written application with the director of standards for a certificate of registration therefor, stating therein the location of the place in which such business is conducted or about to be conducted. [1937; last amended 1947.]

Sec. 7723. Same: Form of application.

The application shall be made upon the form prescribed by the director of standards and shall be verified by the applicant under oath. [1937; last amended 1941.]

Sec. 7724. Same: Certificate; fee; suspension.

Upon filing of the application, the director of standards shall cause an inquiry to be made concerning the applicant. If the director approves the application, he shall issue the certificate of registration for an annual period beginning on the first day of July in each year. The fee for such certificate shall be \$2.00 a year payable to the director before the certificate is issued. After notice and hearing, the director may revoke or suspend such certificate on the ground that the registrant is incompetent, inefficient, unscrupulous or an unsuitable person to engage in the business specified in section 7721 or has violated a provision of sections 7721 to 7729 inclusive, or of the rules and regulations of the director of standards. [1937; last amended 1941.]

Sec. 7725. Same: Reports.

Every dealer or repairman, within ten days after the making of a repair, adjustment or the sale and delivery of a new, repaired, rebuilt, exchanged or used weighing or measuring device, shall notify in writing the director of standards, giving the name and address of the person, firm, copartnership, corporation or association for whom such repair has been made, or to whom a repaired, rebuilt, adjusted, exchanged or used weighing or measuring device has been sold or delivered. The dealer or repairman shall make a written statement that the same has been so altered, rebuilt or repaired as to conform to the standard specifications and regulations of the director of standards. [1937; last amended 1941.]

Sec. 7726. Same: Handling of condemned devices; disposition.

A dealer or repairman who accepts weighing or measuring devices, which have been condemned by the director of standards in trade for new or used weighing or measuring devices, and which are intended to be dismantled or destroyed, upon receipt thereof, shall remove the condemned tags.

Such condemned tags shall be returned to the director of standards within ten days thereafter, with a statement describing the weighing or measuring device, giving the number of the weighing or measuring device, if obtainable, and the name and address of the former owner or user from whom it was received. There shall also be furnished a statement of what disposition has been made of the weighing or measuring device. [1937; last amended 1947.]

Sec. 7727. Same: Reports.

Every dealer and repairman registered pursuant to the provisions of sections 7722 to 7724 inclusive, shall submit to the director of standards the name and address of every person, firm, copartnership, corporation or association for whom weighing or measuring devices are adjusted, repaired, rebuilt or to whom a new, adjusted, repaired, rebuilt, exchanged or used weighing or measuring device has been sold or delivered. [1937; last amended 1947.]

Sec. 7728. Same: Calibration of testing equipment; certificate.

A dealer or repairman shall submit his testing equipment at least once a year to the office of the director of standards for comparison and calibration with the standard maintained by such director. After comparison and calibration, the director of standards shall issue to such dealer or repairman a certificate of his findings. [1937; last amended 1947.]

Sec. 7729. Same: Penalty for conducting business without certificate.

A dealer or repairman who conducts such business without having a certificate then in force shall be fined not more than \$100.00 for the first offense and not more than \$200.00 for each subsequent offense. [1937; last amended 1947.]

Sec. 7730. Weighers and surveyors: Appointment; duties; offenses; penalty.

The director may designate one or more of the employees of a corporation, association, firm or individual, or some other suitable person, to act as a weigher or surveyor for such corporation, association, firm or individual. Such weigher or surveyor shall be appointed for a specified term and, before entering upon his duties, shall make oath to execute faithfully his trust as weigher or surveyor. The director shall issue a certificate of such designation and shall keep a record of the same. The rights and duties of such weigher or surveyor shall be prescribed by the director and such weigher or surveyor shall not receive compensation from the state for the duties so performed. Such a weigher or surveyor who misrepresents the quantity of commodities weighed or measured by him or otherwise misconducts himself in the execution of his duties as weigher or surveyor may be

removed from office by the director and shall be fined not more than \$200.00 for each offense. [1915; last amended 1933.]

Sec. 7731. Hundredweight; ton.

A hundredweight shall mean the net weight of one hundred pounds avoirdupois and a ton, the net weight of two thousand pounds, and contracts concerning the same shall be construed accordingly. [1831]

Sec. 7732. Bushel weights of commodities.

Whenever the commodities hereinafter mentioned are purchased or sold by the bushel, peck or quart, or multiple or fraction thereof, the bushel of such commodity shall consist of the respective number of pounds herein set forth, viz.:

	<i>Pounds</i>
Alfalfa seed	60
Apples	44
Apples, dried	25
Barley	48
Beans	60
Beans, unshelled, green	28
Beans, string	24
Beans, soy	58
Beets	60
Beet greens	12
Buckwheat	48
Butternuts, dried	28
Butternuts, green	56
Carrots	50
Charcoal	20
Chestnuts	50
Clover seed	60
Corn meal	0
Corn, shelled	56
Corn in ear, husked	70
Corn in ear, unhusked	72
Cranberries	32
Cucumbers	48
Dandelions	12
Emmer	40
Flaxseed	55
Grapefruit	56
Hominy	56
Hungarian grass seed	50
India wheat	46
Kafir corn	56
Malt	34
Millet	50
Oats	32
Onions	52
Oranges	50
Parsley	8
Parsnips	45
Peaches	48
Peanuts, green	22
Peanuts, roasted	20
Pears	58
Peas	60
Peas, unshelled, green	28
Plums	48
Pop-corn, shelled	56
Cured pop-corn in the cob	70
Potatoes	60
Potatoes, sweet	54
Quinces	48
Redtop seed in chaff	14
Redtop seed, re-cleaned	52

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	Pounds
Rye	56
Salt, coarse	70
Salt, fine	56
Spinach	12
Timothy or herd's grass seed	45
Tomatoes	56
Turnips	60
Wheat	60

The legal peck shall be a fourth part of the bushel, the legal dry quart shall be a thirty-second part of the bushel, and the legal dry pint shall be a sixty-fourth part of the bushel. [1802; last amended 1931.]

¹ A slight change has been made in the arrangement for convenience of reference.

Sec. 7733. Produce to be in good shipping order.

The kinds of produce enumerated in the preceding section shall be in good order for shipping. Beets, turnips, carrots and onions shall be reasonably free from the soil in which they grew and fairly trimmed of their tops. [1876]

Sec. 7734.²Maple syrup: Legal weight; offenses; penalty.

The legal weight of a gallon of maple syrup shall not be less than eleven pounds and the legal measure thereof shall be two hundred and thirty-one cubic inches. Whenever maple syrup is sold by the gallon, quart, pint, or gill, or multiple or fraction thereof, it must be sold according to such legal weight and measure. The legal quart shall be a fourth of a gallon; the legal pint, an eighth of a gallon; and the legal gill, a thirty-second of a gallon. A person who sells or offers for sale a less quantity of maple syrup than represented or sells the same in a manner contrary to law shall be fined not more than \$5.00 for the first offense, and for each subsequent offense, not more than \$10.00. [1915; last amended 1917.]

¹ See also Secs. 1 and 3, Public Acts 1949, No. 110, pages 1026-1027; marking requirements for maple syrup.

Sec. 7735. Lime and ashes: Legal weight per bushel.

One bushel and three-quarters of a peck shall be deemed a bushel of lime or ashes, and contracts concerning the same shall be understood accordingly. [1795; last amended 1828.]

Sec. 7736. Standard cord.

A pile of wood or bark four feet high, four feet wide and eight feet long, well packed, shall be a cord. In measuring the length of wood only half the kerf shall be included. [1855]

Sec. 7737. Standard measure of milk.

The standard measure of milk shall be wine measure. [1876]

Sec. 7738. Log measure.

In bargains for or purchases of saw logs or round timber by measure, the number of feet shall be ascertained either by the International log rule as designated by the United States forestry service for a one-quarter inch kerf or by the Vermont rule as follows: multiply the average diameter of the top of the log, inside the bark, in inches, by half such diameter in inches, disregarding fractions of an inch less than a half, and regarding fractions greater than a half as a full inch, and the number obtained as the product will represent the contents in feet of a log of that diameter twelve feet long. If the log is less than twelve feet long, the actual contents will be the same fraction of the above product as the actual length of the log is of twelve feet. If the log is more than twelve feet long, commence at the upper end and measure it into sections of twelve feet; then, according to the above rule, find the contents of each section and fractional section. The aggregate of the contents of the sections will be the contents of the whole log, and shall be marked on the small end as to its contents. [1884; last amended 1939.]

Sec. 7739. Roofing slate: Standard underlap.

In contracts for covering roofs with slate, when the underlap is not agreed upon, three inches for each course of slate shall be required. [1890]

Sec. 7740. Coal: Sold by weight; scales; delivery tickets; exceptions; penalty for violating section.

Coal and coke shall be sold by weight, and only after being weighed on accurate scales located in this state which have been tested and sealed as provided in section 7709 or on accurate scales located in bordering states which have been approved by the director of standards in accordance with rules and regulations relating thereto. A person shall not deliver or cause to be delivered any coal or coke unless the same has been weighed as aforesaid and unless a delivery ticket, on which shall be distinctly expressed in pounds the weight of the coal or coke contained in the vehicle or receptacle in which such coal or coke is being transported together with the name of the seller and the name of the purchaser, is delivered to such purchaser, his agent or representative at the time of such delivery. If necessary to wet down coal or coke, such shall be done only after being weighed according to this section. The person making the delivery or causing the delivery of coal or coke shall keep a duplicate of such delivery ticket which shall be surrendered upon demand of the director of standards, his deputy or his inspectors for their inspection. However, this section shall not apply to sales in railroad carload lots. A person who violates a provision of this section shall be fined not more than \$100.00. [1917; last amended 1939.]

Sec. 7741. Jurisdiction of justices.

Justices of the peace shall have concurrent jurisdiction with county and municipal courts of offenses arising under this chapter [Secs. 7701-7741]. [1910; last amended 1915.]

Statutes, Revision of 1947, Title 15, Ch. 163—Towns, Inspectors of Lumber and Weighers of Coal.

Sec. 3516. Appointment.

Forthwith after their election and qualification, the selectmen shall organize and elect a chairman and, if so voted, a clerk from among their number, and file a certificate of such election for record in the office of the town clerk. Such selectmen shall thereupon appoint from among the legally qualified voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same;

* * * * *

III. One or more inspectors of lumber, shingles and wood¹;

IV. One or more weighers of coal²; [1787; last amended 1933.]

* * * * *

¹ For fees, see Sec. 10,556, below.

² For fees, see Sec. 10,557, below.

Sec. 3612. Duties of inspector of lumber, shingles and wood.

At the request of any party interested, an inspector of lumber, shingles and wood shall examine and classify the quality of lumber and shingles, measure lumber, shingles and wood and give certificates thereof. [1802; last amended 1933.]

Sec. 3613. Duties of weigher of coal.

A weigher of coal shall be sworn and shall not be directly or indirectly interested in the sale of coal. Upon request of the seller or purchaser, he shall weigh all coal sold in his town. [1787; last amended 1910.]

Statutes, Revision of 1947, Title 49, Ch. 445—Fees, Inspectors of Lumber and Weighers of Coal.

Sec. 10,556. Fees of inspector of lumber, shingles and wood.

The fees of an inspector of lumber, shingles and wood shall be four cents a cord for the first ten cords and one cent for each additional cord, and twenty-five cents for each thousand feet of lumber, to be paid by the person applying for the measurement. [1802; last amended 1917.]

Sec. 10,557. Fees of weigher of coal.

The fees of a weigher of coal shall be ten cents for the first ton and four cents for each additional ton, to be paid by the person applying for the weighing. [1787; last amended 1910.]

Statutes, Revision of 1947, Title 15, Ch. 169—Villages, Hay Scales.

Sec. 3737. General powers of villages: Hay scales.

An incorporated village may enact such by-laws and regulations as are expedient, not inconsistent with law, particularly such as relate to * * * erection and regulation of buildings and hay scales * * *. [1845; last amended 1947.]

Statutes, Revision of 1947, Title 8, Ch. 60—Tank Vehicles, Calibration.

Sec. 1251. Distributor defined.

The term "Distributor" as used in this chapter [Secs. 1251-1262] shall mean a person, firm or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution or sale within the state or any person, firm or corporation who produces, refines, manufactures or compounds gasoline or other motor fuel within the state for use, distribution or sale therein. Kerosene shall not be considered as motor fuel under this chapter. [1923; last amended 1929.]

Sec. 1254. Duty of distributor.

A distributor shall cause all tank vehicles used by him in the delivery of motor fuel to be calibrated under the supervision of the director of standards and under such regulations as he may prescribe, so as to show the number of gallons of motor fuel contained in such vehicles. Such distributor shall make application in writing to such director for such calibration stating therein the number of tank vehicles to be calibrated. [1929]

Sec. 1262. Penalty for violations.

A person who violates any provision of this chapter [Secs. 1251-1262] shall be fined not more than \$2,000.00 nor less than \$500.00. Such penalty shall be in addition to the penalty imposed by any other section of this chapter. [1923; last amended 1929.]

Statutes, Revision of 1947, Title 19, Ch. 216—"The Insecticide, Fungicide and Rodenticide Act."

Sec. 4563. Definitions.

For the purpose of this chapter [Secs. 4562-4581]:

1. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner [commissioner of agriculture] shall declare to be a pest.

* * * * *

XVI. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison, or the immediate container thereof, and the outside container or wrapper of

Statutes, Revision of 1947, Title 19, Ch. 216—"The Insecticide, Fungicide and Rodenticide Act"—Continued.

the retail package, if any there be, of the economic poison.

XVII. The term "labeling" means all labels and other written, printed, or graphic matter:

(a) upon the economic poison or any of its containers or wrappers;

(b) accompanying the economic poison at any time;

(c) to which reference is made on the label or in literature accompanying the economic poison,

XIX. The term "misbranded" shall apply:

(a) to any economic poison if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) to any economic poison:

(6) if any word, statement, or other information required by or under the authority of this chapter to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; [1947]

Sec. 4564. Marking requirements.

It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

II. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:

(c) the net weight or measure of the content subject, however, to such reasonable variations as the commissioner may permit; [1947]

Sec. 4570. Examination; notice of violations; minor violations.

The examination of economic poisons shall be made under the direction of the commissioner [of agriculture] for the purpose of determining whether they comply with the requirements of this chapter [Secs. 4562-4581]. If it shall appear from such

examination that an economic poison fails to comply with the provisions of this chapter, and the commissioner contemplates instituting criminal proceedings against any person, the commissioner shall cause appropriate notice to be given to such person.

* * * However, nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings minor violations of the chapter whenever he believes that the public interest will be best served by a suitable notice of warning in writing. [1947]

Sec. 4575. Penalties for violations.

II. Any person violating any provision of this chapter [Secs. 4562-4581] other than section 4564, subdivision I, shall be guilty of a misdemeanor and upon a conviction shall be fined not more than \$100.00 for the first offense and upon conviction for a subsequent offense shall be fined not more than \$200.00; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided further, that in any case where a registrant was issued a warning by the commissioner [of agriculture] pursuant to the provisions of this chapter, such registrant shall, upon conviction of a violation of any provision of this chapter other than section 4564, subdivision I, be fined not more than \$200.00, or imprisoned for not more than one year, or be subject to both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article, the registration of which has been terminated, may not again be registered unless the article, its labeling, and other material required to be submitted appear to the commissioner to comply with all the requirements of this chapter. [1947]

Sec. 4576. Seizure.

Any economic poison that is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any county court of the state where it may be found and seized for confiscation by process of libel for condemnation:

I. If it is adulterated or misbranded;

II. If it has not been registered under the provisions of section 4566;

III. If it fails to bear on its label the information required by this chapter [Secs. 4562-4581]; [1947]

Sec. 4581. Jurisdiction vested exclusively in commissioner.

Jurisdiction in all matters pertaining to the distribution, sale and transportation of economic poi-

sons, is by this chapter [Secs. 4562-4581] vested exclusively in the commissioner [of agriculture]. [1947]

[ED. NOTE.—Sections 4573 and 4574 (not included herein) of this chapter provide for exemptions with respect to economic poisons, including those used officially by State or Federal officials, used experimentally, and intended for export.]

Statutes, Revision of 1947, Title 19, Ch. 222—Milk and Cream.

Sec. 4648. Glassware: Testing; marking; fees.

Bottles, pipettes or measuring glasses used by a person in determining by test the value of milk or cream received from other persons, before such use, shall be tested for accuracy of measurement and for accuracy of the per cent scale marked thereon, at the experiment station. Such bottles, pipettes or measuring glasses as are correct shall be marked in permanent marks or characters, which shall be proof that they were so tested; but incorrect bottles, pipettes or glasses shall not be so marked. The person owning such bottles, pipettes or measuring glasses shall pay the actual expense of testing the accuracy of the same. [1898; last amended 1947.]

Sec. 4654. Penalty for violations.

A person who violates a provision of sections 4648 * * * shall be fined not more than \$25.00 for the first offense and, for each subsequent offense, not more than \$50.00. [1898; last amended 1933.]

Sec. 4656. Cream test; penalty.

When cream is bought or sold according to its butter fat content, there shall be accurately weighed into the test bottle the full weight of cream as specified by the method employed. A person who violates a provision of this section shall be fined not more than \$50.00 nor less than \$10.00. [1910]

Sec. 4680. Inspection of testing apparatus.

The commissioner [commissioner of agriculture], or his deputy, may enter the premises of such a creamery, cheese factory, condensary or receiving station and may inspect all apparatus and materials used for making tests for the purpose of determining the accuracy of the same, and for ascertaining whether the provisions of sections 4648 * * * are being complied with. [1915; last amended 1919.]

Sec. 4681. Condemning of apparatus; regulations.

The commissioner [commissioner of agriculture] may order any testing apparatus to be repaired or may condemn the same or any part thereof or any materials used in making tests and may give such instructions and make such regulations concerning the taking of samples of milk and cream for making the butter fat test, the making of such test, and the computing of the results thereof as he deems proper. [1915; last amended 1919.]

Sec. 4684. False statement in test record; hindering commissioner; penalty.

The owner, operator or manager who credits a patron delivering milk or cream with a greater or less percentage of fat than is actually contained in the milk or cream so delivered, or who hinders, impedes or obstructs the commissioner [commissioner of agriculture], or his deputy, in the discharge of his duties in making tests and inspecting testing apparatus or materials, or who refuses him access to his testing apparatus or his records of tests, or who neglects to follow the instructions given by the commissioner under the provisions of sections 4680 and 4681, shall be fined not more than \$100.00 nor less than \$25.00 for each offense. [1915; last amended 1933.]

Statutes, Revision of 1947, Title 36, Ch. 311—Food.

Sec. 7362. Definition.

The word "food," as used in this chapter [Secs. 7362-7397], shall include all articles whether simple, mixed or compound, used for food, drink, confectionery, or condiments, by man or beast. * * *. [1904; last amended 1943.]

Sec. 7369. When deemed misbranded.

For the purposes of this chapter [Secs. 7362-7397], an article of food shall be deemed to be misbranded * * * if in package form, the quantity of the contents is not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 7373; or if the package containing it or its label bears any statement, design, or device regarding the ingredients or the substances contained therein, which is false or misleading in any particular. [1906; last amended 1917.]

Sec. 7372. Penalty for violations.

A person who fraudulently adulterates or misbrands for the purpose of sale an article of food, drink, drug or medicine, as defined in this chapter [Secs. 7362-7397], shall be imprisoned not more than one year or fined not more than \$400.00, and the articles so adulterated or misbranded shall be forfeited and destroyed under the direction of the court. * * * [1839; last amended 1908.]

Sec. 7373. Enforcement; rules and regulations.

The board of health shall adopt such rules and regulations as it deems necessary to facilitate the enforcement of the provisions of this chapter [Secs. 7362-7397], * * *. A person who violates a rule or regulation made under the provisions of this chapter for which no other penalty is provided shall be fined not more than \$500.00. [1904]

Statutes, Revision of 1947, Title 36, Ch. 312—"Uniform Narcotic Drug Act."

Sec. 7407. Marking requirements.

I. Whenever a manufacturer sells or dispenses a narcotic drug and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. * * * [1945]

Sec. 7417. Enforcement.

It is hereby made the duty of the state board of health, its officers, agents, inspectors and representatives, and of all peace officers within the state, and of all state's attorneys, to enforce all provisions of this chapter [Secs. 7398-7422], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1945]

Sec. 7418. Penalty for violations.

A person violating the provisions of this chapter [Secs. 7398-7422] shall be fined not less than \$100.00 nor more than \$500.00 or imprisoned in the state's prison for a term of not less than one year nor more than five years, or both. [1945]

Statutes, Revision of 1947, Title 38, Ch. 336—Food.

Sec. 7752. Marking requirements; tolerances; exceptions; food defined.

A person who sells, offers or exposes for sale food in containers or package form shall have the correct net quantity of the contents plainly and conspicuously marked on the outside of the package or container in terms of weight, measure or numerical count. However, reasonable variations shall be permitted, and allowance and exemption as to small packages shall be established by rules and regulations made from time to time by the director of standards. The term "food" as used herein shall mean articles used for food or drink for man or animals and articles used for components of any such article. [1919; last amended 1939.]

Sec. 7753. Guaranty protection.

A person shall not be prosecuted under the provisions of this chapter [Secs. 7752-7756] if he shows a guaranty signed by a wholesaler, jobber, manufacturer, dealer or other person, to the effect that such articles are correctly marked or labeled within the meaning of this chapter, designating it, unless he shall have theretofore within one year had notice from the director of standards that articles of the same type purchased from the same wholesaler, jobber, manufacturer, dealer or other person have

been found not to comply with the provisions of this chapter. Such guaranty, to afford protection, shall contain the name and address of the person by whom such articles purport to have been marked or labeled. The name and address appearing on the container and the marking as provided by the preceding section shall be deemed to constitute a guaranty. If it shall appear that any of the provisions of this chapter have been violated and the party giving such guaranty is without the state, the director of standards shall give notice of such violation to the person who was selling, offering or exposing for sale the articles with respect to which such violation is found to exist and to all other persons known to him to be selling, offering or exposing for sale articles of the same type purchased from the same wholesaler, jobber, manufacturer, dealer or other person and no action shall be brought unless such notice has been given to such person within one year prior to such violation. In case of all such violations when the person giving such guaranty is without the state, the director of standards shall present the facts to the proper national authorities for their action. [1919; last amended 1939.]

Sec. 7754. "Exposed for sale" defined; weight means net weight.

A package or container, for the purposes of this chapter [Secs. 7752-7756], shall be exposed for sale when it is kept or displayed at a place of business where commodities are bought or sold. The word "weight" shall be construed to mean net weight. [1919]

Sec. 7755. Construction of sale by weight; contracts.

If commodities are sold by weight, it shall be understood to mean the net weight of all commodities so sold. All contracts concerning goods sold by weight shall be understood and construed accordingly. [1919]

Sec. 7756. Penalty for violations.

A person who, by himself, his servant or agent, or as a servant or agent of another, violates the provisions of this chapter [Secs. 7752-7756] shall be fined not more than \$100.00 for the first offense and not more than \$200.00 for each subsequent offense. [1919]

Public Acts 1949, No. 110—Maple Syrup.¹

¹ See also Sec. 7734, page 1022; legal weight of gallon of maple syrup.

Sec. 1. Marking requirements.

Every shipment, package or container of maple syrup, packed, sold, offered or exposed for sale or distribution in the state by any person shall be plainly and conspicuously marked: * * * (4) [with] the contents of the container. * * * [1949]

Sec. 3. Enforcement; penalty for violations; exemptions.

It shall be the duty of the department of Agriculture to enforce the provisions of this Act and any violator shall be fined \$5.00 per gallon not to exceed \$50.00 for any one offense.

The provisions of this act as regards marking shall not apply on lots of syrup when sold by the producer to a packer or retailer for repackaging. [1949]

Statutes, Revision of 1947, Title 38, Ch. 338—Commercial Fertilizer and Feeding Stuffs.

Sec. 7770. Commercial fertilizers and agricultural lime: Definitions.

The words "commercial fertilizers" or "fertilizers," as used in this chapter [Secs. 7768-7806], mean and include every natural or artificial manurial substance containing nitrogen or phosphoric acid or potash or lime except stable manure in its original condition. The words "agricultural lime" as used in this chapter mean and include all the various forms of lime intended and sold for fertilizing purposes. [1882; last amended 1947.]

Sec. 7771. Same: Marking requirements.

Every lot or parcel of commercial fertilizer sold, offered or exposed for sale shall be accompanied by a plainly printed statement, clearly and truly certifying the number of net pounds of fertilizer in a package, * * * [1882; last amended 1921.]

Sec. 7785. Same: Illegal sale defined.

A person shall not knowingly sell, offer or expose for sale a commercial fertilizer without the statement required by sections 7771 * * *. [1882; last amended 1917.]

Sec. 7786. Concentrated commercial feeding stuffs: Definition.

The words "concentrated commercial feeding stuffs" or "commercial feeding stuffs," as used in this chapter [Secs. 7768-7806], include linseed meals, cottonseed meals, cottonseed feeds, pea meals, co-coanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, distillers' dried grains, brewers' dried grains, malt sprouts, hominy feeds, cerealine feeds, rice meals, oat feeds, corn and oat chops, corn and oat feeds, corn bran, ground beef or fish scraps, meat and bone meals, mixed feeds, wheat, rye, barley and buckwheat of-fals, condimental stock and poultry foods, patented, proprietary or trade-marked stock and poultry foods and other materials of a similar nature not named in the following sections. [1898; last amended 1933.]

Sec. 7787. Same: Exceptions.

The words "concentrated commercial feeding stuffs" or "commercial feeding stuffs," as used in this chapter [Secs. 7768-7806], shall not include hay and straw, the whole seed nor the unmixed meals

made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, India wheat and broom corn, nor pure grains ground together. [1898; last amended 1933.]

Sec. 7788. Same: Marking requirements.

Every lot or parcel of concentrated commercial feeding stuffs, as defined in this chapter [Secs. 7768-7806], used for feeding farm live stock, sold, offered or exposed for sale, shall have a plainly printed statement conspicuously affixed thereto clearly and truly certifying the number of net pounds of feeding stuffs in a package, * * * [1898; last amended 1912]

Sec. 7797. Illegal sales.

A manufacturer, importer, agent or seller shall not knowingly sell, offer or expose for sale concentrated commercial feeding stuffs * * * without the statement of contents required in section 7788, * * *. [1898; last amended 1933.]

Sec. 7799. Powers and regulations of director of experiment station.

Such director [director of the Vermont agricultural experiment station] may prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs and agricultural seed as he may deem necessary to carry into effect the full intent and meaning of this chapter [Secs. 7768-7806.] [1923; last amended 1925.]

Sec. 7800. Notice of violation.

The director of the experiment station, upon ascertaining a first violation of a provision of this chapter [Secs. 7768-7806], shall forthwith notify the manufacturer, importer or dealer in writing and give him ten days' time within which to comply with the provisions which have been violated. * * * [1888; last amended 1945.]

Sec. 7806. General penalty.

A person who violates a provision of this chapter [Secs. 7768-7806] for which other penalty is not provided shall, subject to the provisions of section 7800, be fined not more than \$50.00 for the first offense and, for each subsequent offense, not more than \$100.00. [1882]

Statutes, Revision of 1947, Title 38, Ch. 340—Paints and Putty.

Sec. 7820. White lead defined.

The words "white lead," as used in this chapter [Secs. 7820-7826] shall apply to the basic carbonate and the basic sulphate of lead. [1908]

Sec. 7821. Marking requirements.

A person, firm or corporation that manufactures for sale, sells, or exposes for sale within this state, white lead, paint, or compound intended for use as such, shall label the same by a label printed in the

Statutes, Revision of 1947, Title 38, Ch. 340—Paints and Putty—Continued.

English language and in clear and distinct gothic letters, stating, with substantial accuracy, the per cent of white lead, oxide of zinc, red lead, water, pure linseed oil or substitutes therefor, the name and per cent of dryer used, the per cent of colored matter and inert material used, the name and residence of the manufacturer of the paint, or of the distributor thereof, or of the party for whom the same is manufactured, the per cent of solid and liquid material used, and the net measure of the contents of the container of all liquid or mixed paints, and the net weight of the contents of the package of all paste and semi-paste paints sold by weight, or if sold by measure, the net measure of such package. [1908]

Sec. 7824. Penalties for violations; exceptions.

A person, firm or corporation that manufactures for sale, sells, or exposes for sale within this state paint or mixed paint, paste or semipaste paint, or compound intended for use as such, white lead, linseed oil, turpentine or putty, who violates the provisions of the four preceding sections shall be fined not more than \$100.00, nor less than \$25.00 for each offense. However, a person, firm or corporation that manufactures for sale, sells, or exposes for sale within this state, white lead, paint or mixed paint, paste or semipaste paint, containing ingredients other than those enumerated in section 7821, shall not be deemed guilty of a violation of this chapter [Secs. 7820-7826], in case the same is properly labeled, stating the quantity or amount of each and every ingredient used therein, the name and the place of residence of the manufacturer of the paint, or of the distributor thereof, or of the party for whom the same is manufactured, the per cent of solid and liquid material used, and the net measure of the contents of the container of all liquid or mixed paints and the net weight of the contents of the package of all paste and semipaste paints sold by weight, or if sold by measure, the net measure of such package. [1908]

Sec. 7825. Prima facie evidence of violation.

The possession by a person, firm or corporation dealing in an article or substance described in the preceding section and not labeled as required by the provisions of this chapter [Secs. 7820-7826], shall be considered prima facie evidence that the same is kept by such person, firm or corporation in violation of the provisions of this chapter. [1908]

Sec. 7826. Enforcing agency; powers and duties.

The director of standards shall have charge of the proper enforcement of the provisions of this chapter [Secs. 7820-7826] * * * [1908; last amended 1933.]

Statutes, Revision of 1947, Title 43, Ch. 410—Gas and Electric Meters.

Sec. 9743. Testing upon request.

Upon demand of any of its customers a public service company which sells gas or electricity shall test without charge the meters used to measure the gas or electricity sold to such customer, provided that the customer does not request such test more frequently than once in twelve months. [1931; last amended 1933.]

Sec. 9744. Testing on installation.

Such company shall test every service meter for correct connection and proper mechanical condition in its permanent position at the time of installation or within sixty days thereafter. [1931]

Sec. 9745. Cost of test; report.

When a customer requests a meter test within twelve months after the date of installation or of the last previous test of his meter, he may be required by the company to make a deposit equal to the reasonable cost of such test. The amount so deposited with the company shall be refunded or credited to the customer if the meter has a positive average error, that is, is fast, in excess of four per cent; otherwise such deposit may be retained by the company. A customer may be present when the company tests his meter, or may select an expert or other representative to be present. A written report, giving the results of such test, shall be made to the customer by the company. [1931]

Sec. 9746. Inaccurate meter.

Such company shall not keep in service a gas or electric service meter which registers upon no load or which has an error in measurement in excess of four per cent. [1931; last amended 1933.]

Statutes, Revision of 1947, Title 41, Ch. 364—False Advertising.

Sec. 8324. Unlawful acts; penalty.

A person, firm, corporation or association, or an agent or employee thereof, who, with intent to sell or dispose of merchandise, real estate, securities or service or to induce the public to enter into any obligations relating thereto, shall knowingly make, publish, circulate or place before the public, in a newspaper, magazine or other publication or in form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, an advertisement or statement regarding merchandise, real estate, securities or service, which advertisement or statement shall contain anything untrue, deceptive or misleading, shall be fined not more than \$1,000.00. [1931]

THE VIRGIN ISLANDS

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Code of Laws of the Municipality of St. Thomas and St. John, and Code of Laws of the Municipality of St. Croix, Title IV, Ch. 10—False Weights and Measures.

Sec. 53. False weight or measure defined.

A false weight or measure is one which does not conform to the standard established by law. [1921]

Sec. 54. Using false weights and measures; penalty.

Every person who uses any weight or measure, knowing it to be false, by which another is defrauded or otherwise injured, shall be punished by imprisonment for not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1921]

Sec. 55. Packages: Marking false weight or tare; penalty.

Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for

sale, any cask or package so marked, shall be punished by imprisonment not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1921]

Sec. 56. Seller must give full weight or measure; penalty.

In all sales of merchandise, wares, articles of food or drink, or whatever else is purchased by weight or measure, the seller must give the purchaser full weight or measure, and any person violating this section shall be punished by imprisonment not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1921]

Sec. 57. Commodities sold by ton: Seller must give full weight or measure; penalty.

In all sales of sugar, coal, and other commodities, usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, and any person violating this section shall be punished by imprisonment not exceeding six months or by fine not exceeding two hundred dollars, or by both. [1921]

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Sec. 59-71. Definitions.

As used in this chapter [Secs. 59-71—59-140]:

(1) "Commissioner" shall be construed to mean the Commissioner of Agriculture and Immigration.

(2) "Person" shall be construed to import both the plural and singular, as the case demands, and shall include corporations, partnerships, societies and associations.

(3) "Sealer" shall be construed to mean sealer of weights and measures.

(4) "Sell" or "sale" shall be construed to include barter and exchange.

(5) "Weights and measures" or "weighing and measuring devices" 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. [1924]

Sec. 59-72. Net weight to be employed when commodity sold on basis of weight.

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 chapter [Secs. 59-71—59-140], it shall be understood and construed to mean the net weight of the commodity at the time of delivery to the customer. [1924; last amended 1926.]

Sec. 59-73. Sales to be by weight, measure or numerical count; exceptions.

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, unless otherwise agreed in writing by the mutual consent of the buyer and seller; 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 Secs. 59-131, and 59-132, or of berries and small fruits in boxes as provided for in Sec. 59-130, 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. [1926]

Sec. 59-74. Meaning of "original package".

For the purpose of the preceding 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. [1926]

Sec. 59-75. Meaning of "commodities not liquid".

For the purpose of Sec. 59-73 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 measures of capacity, or by numerical count, or which are susceptible of sale in any of these ways. [1926]

Sec. 59-76. Powers of governing bodies of cities or towns.

The governing body of any city or town may provide for the weighing or measuring of hay, coal or any other articles for sale. [1887; last amended 1938.]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 1—Weights and Measures, Commissioner of Agriculture and Immigration.

Sec. 59-77. Powers and duties.

All the powers conferred and all the duties imposed by law upon the former Superintendent of Weights and Measures shall be exercised or performed by the Commissioner of Agriculture and Immigration, without additional compensation, under the direction of the Board of Agriculture and Immigration. [1926]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 1—Weights and Measures, Commissioner of Agriculture and Immigration—Continued.

Sec. 59-78. Vested with powers of sealer of weights and measures.

The Commissioner shall, in addition to the other powers conferred upon him, have, throughout the Commonwealth, all the powers and authority of a sealer of weights and measures. [1924; last amended 1938.]

Sec. 59-79. To use manual of Bureau of Standards as guide.

The Commissioner shall be guided in the performance of his duties by the Department of Commerce, Bureau of Standards, manual of inspection and information for weights and measures officials. [1926; last amended 1938.]

Sec. 59-80. Assistants, deputies, inspectors and weighmasters.

The Commissioner may appoint assistants, deputies and inspectors to assist in carrying out the weights and measures laws of this State and the rules and regulations adopted and established pursuant thereto. Such assistants, deputies and inspectors shall have all the authority and powers of local sealers of weights and measures, but their activities and functions shall not be restricted to any particular counties or cities unless the Commissioner shall so direct. The Commissioner may also appoint weighmasters who shall perform such duties and functions as may be properly required by him; and he may approve as weighmasters persons now or hereafter privately employed for that purpose. Any appointment hereunder may be for full or part time. All such appointments shall be subject to the approval of the State Board of Agriculture and Immigration. The compensation of persons appointed hereunder shall be such as may be provided in accordance with law. [1938]

Sec. 59-81. Fees for services rendered by agreement.

No fees shall be charged for the services of any appointee hereunder unless such services be rendered by agreement with or at the request of the person or party served. In event services be rendered by agreement with or at the request of the party served such fees may be charged as the Commissioner may deem proper. All fees and moneys collected or received pursuant hereto shall be paid into the State treasury to be there maintained in a separate fund which is hereby appropriated to the Department of Agriculture and Immigration for the administration and carrying out the provisions hereof. [1938]

Sec. 59-82. Specifications, tolerances and regulations.

The Commissioner may adopt and establish specifications, tolerances, and regulations for weights and measures and weighing and measuring devices for the purpose of protecting the public

from fraud and deception by the use of defective or incorrect weights or measures or weighing or measuring devices or weights or measures or weighing or measuring devices which are susceptible to or can be operated so as to give incorrect weight or measure and for the purpose of providing reasonable variations that may be allowed in the size, quantity, area, weight or measurement of quantities, things, produce or articles for distribution or consumption 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. The Commissioner may also make, adopt and establish the necessary rules and regulations for the enforcement of the weights and measures laws of this State. [1932]

Sec. 59-83. Police powers.

The Commissioner, his assistants and inspectors shall have police power for the purpose of carrying out the provisions of this chapter [Secs. 59-71—59-140] only, and in the exercise of their duties they shall upon demand, exhibit their badges to any person questioning their authority, and they are authorized and empowered to make arrests of any person violating any provisions of this chapter. [1926]

Sec. 59-84. Inspector of weights and measures for coal mines.

The State Mine Inspector shall be the inspector of weights and measures for all coal mines where coal produced therefrom shall be weighed or measured. [1938]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 3—Weights and Measures, Local Sealers.

Sec. 59-85. Appointment.

The governing bodies of the respective counties and cities may appoint for their respective counties and cities a local sealer of weights and measures; provided, however, that two or more counties may appoint jointly for their respective counties and towns a local sealer, subject to the approval of the Commissioner; and provided, further, that if in any particular city or county the services of a full time local sealer be not required, the governing body thereof may appoint a part time local sealer of weights and measures. [1926]

Sec. 59-86. Terms of office and compensation.

Local sealers appointed under the preceding section shall hold office for such terms, and shall receive such salaries, as the appointing power may prescribe. Such salaries shall be paid out of the county or city treasury, as the case may be. [1926]

Sec. 59-87. Grounds for removal.

Local sealers may be removed at any time, by the authority which appointed them, for nonfeasance, misfeasance, or malfeasance in office. [1926]

Sec. 59-88. No fees charged.

No fee shall be charged by the local sealer of weights and measures, or by the county or city, for inspecting, testing, or sealing, or the repairing or adjusting of weights, measures, or weighing or measuring devices. [1926]

Sec. 59-89. Set of weights and measures to be kept; sealing, etc. by Commissioner.

The governing body of each county or city appointing a sealer under the provisions of this article [Secs. 59-85—59-94] 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 Commissioner may direct. All such weights and measures, and other apparatus having been tried and accurately proven by the 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 each county or city. [1924]

Sec. 59-90. Powers and duties.

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 by any proprietor, agent, lessee or employee in proving the size, quantity, area or measurement of quantities, things, produce or articles for distribution or consumption purchased or offered or submitted by such person or persons 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 whomsoever, 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, specifications, tolerance or regulations relating to weights and measures, he shall cause the violator to be prosecuted. [1924; last amended 1932.]

Sec. 59-91. To use manual of Bureau of Standards as guide.

Sealers of weights and measures shall be guided in the performance of their duties by the Department of Commerce, Bureau of Standards, manual of inspection and information for weights and measures. [1926; last amended 1938.]

Sec. 59-92. Sealing.

When 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 Commissioner. [1924]

Sec. 59-93. Condemnation and destruction of incorrect weights and measures; condemnation for repairs.

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 Commissioner. 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 ten days, and they may neither use nor dispose of them in any way, but shall hold them 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. [1924]

Sec. 59-94. Records and reports.

The county or city sealer shall keep a complete record of all his official acts, and shall make an annual report to the appointing authority and an annual report duly sworn to, on the first day of October, to the Commissioner on blanks furnished by him, and also, any special reports that he may request. [1924]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 4—Weights and Measures, Standards.**Sec. 59-95. State standards.**

The weights and measures received from the United States under joint resolutions of Congress, approved June fourteenth, eighteen hundred and thirty-six, and July twenty-seventh, eighteen hundred and sixty-six, and such new weights and measures as shall be received from the United States

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 4—Weights and Measures, Standards—Continued.

as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the national Bureau of Standards shall be the State standards of weights and measures. [1924]

Sec. 59-96. Office standards and working standards to be supplied by State.

In addition to the State standard 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 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 chapter [Secs. 59-71—59-140], to be known as working standards. [1924]

Sec. 59-97. Verification and sealing.

Such weights, measures, and apparatus shall be verified by the Commissioner 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 "V" and the last two figures of the year with seals which the Commissioner shall have and keep for that purpose. [1924]

Sec. 59-98. Use of office and State standards.

The office standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the Commissioner and the State standards shall be used only in verifying the office standards and for scientific purposes. [1924]

Sec. 59-99. Where standards kept; certification.

The Commissioner shall take charge of the standards adopted by this chapter [Secs. 59-71—59-140] as standards of the State, and cause them to be kept in a safe and suitable place in the city of Richmond, from which place they shall not be removed except for repairs or for certification, and he shall submit them at least once in ten years to the national Bureau of Standards for certification. [1924]

Sec. 59-100. Record and annual report.

The Commissioner shall keep a complete record of the standards, balances, and other apparatus belonging to the State and take a receipt for the same from his successor in office. He shall annually on the thirty-first day of December make the Governor a

report of all work done by his office during the twelve months next preceding the first day of October. [1924]

Sec. 59-101. Standard cord.

A cord contains one hundred and twenty-eight cubic feet, being eight feet long, four feet high, and four feet wide, or the equivalent thereof; and in all measurements of wood, tan-bark or other things subject to such measurements the foregoing shall be the true and legal standard, any usage, by law or ordinance of any corporation, railroad or other company to the contrary, notwithstanding. [1924; last amended 1946.]

Sec. 59-102. Standard bushel of agricultural products sold by weight.

In all sales by weight of the agricultural products hereinafter named, the number of pounds per bushel as stated in the following schedule shall be the true and legal standard:¹

	<i>Pounds</i>
Alfalfa seed	60
Barley	48
Navy and soya beans	60
Blue grass seed	14
Bran	20
Buckwheat	48
Carrots	50
Castor beans	46
Chestnuts	57
Clover seed	60
Coal (anthracite)	80
Corn (in ear)	70
Corn (shelled)	56
Corn meal	48
Dried apples	28
Dried peaches (peeled)	40
Dried peaches (unpeeled)	32
Flaxseed	56
Hemp seed	44
Hungarian grass seed	48
Lime (unslaked)	80
Malt	38
Millet seed	50
Oats	32
Onions	57
Orchard grass seed	14
Parsnips	50
Virginia peanuts	22
Spanish peanuts	30
Peas (black eye and other cowpeas)	60
Potatoes (Irish)	60
Potatoes (sweet)	56
Plastering hair	8
Redtop grass seed	40
Rye	56
Salt	50
Timothy seed	45
Tomatoes	60
Turnips	55
Wheat	60
Cottonseed	30
Milo maize	56

[1924]

¹ A slight rearrangement has been made for convenience of reference.

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 5—Weights and Measures, Packaged Commodities.

Sec. 59-103. Net quantity to be marked on package; exceptions.

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 Commissioner; 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 chapter [Secs. 59-71—59-140]. [1926]

Sec. 59-104. "Package" and "in package form" defined.

The word "package" as used in the preceding section shall be construed to include both a wholesale and a retail package.

The words "in package form" 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, stenciled or otherwise marked, or which may be suitable for labeling, branding, stenciling or marking otherwise, making one complete package of the commodity. [1926]

Sec. 59-105. Textile materials.

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 wrapper, 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. [1924]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 6—Weights and Measures, Livestock Auction Markets.

Sec. 59-106. Definition.

For the purpose of this article [Secs. 59-106—59-114] the term "livestock auction market" shall mean

any place or establishment at which cattle, sheep, swine or other livestock are sold, offered or exposed for sale, by weight, at auction, for compensation or profit, and in the regular course of business of such place or establishment; provided, however, that by mutual agreement between the consignor and the auction market the provisions of this article shall not apply to livestock received at the market on other than auction sale days. [1940; last amended 1948.]

Sec. 59-107. Weighmasters generally.

At every livestock auction market in this State all weighing shall be done by or in the presence of weighmasters appointed by the Commissioner of Agriculture and Immigration. The Commissioner shall appoint as many weighmasters as may be necessary to perform such duties, shall fix their compensation, and may remove them at any time. [1940; last amended 1948.]

Sec. 59-108. Duties of weighmasters.

Such weighmasters shall see that all weights of livestock are correctly made and correctly recorded, and the auction market shall give to the weighmasters all facilities necessary for the proper performance of their duties. [1940; last amended 1948.]

Sec. 59-109. Payment of cost of service.

All reasonable and actual costs of such service not exceeding ten dollars per person employed as weighmaster per auction day shall be paid by the person or persons who operate or conduct such market, and shall become due on the fifteenth day of the month next succeeding that in which such service is rendered, and upon default thereof may be recovered by civil action brought in the name of the Commissioner. [1940; last amended 1948.]

Sec. 59-110. Disposition of collections.

The moneys collected pursuant to the preceding section shall be paid into the State treasury and are hereby appropriated to the Department of Agriculture and Immigration as reimbursement for the expenditures made in furnishing such service. [1940; last amended 1948.]

Sec. 59-111. Indicators.

The weighbeams or other indicators of weight on all scales used by any such weighmaster shall be so situated or constructed as to be accessible to the view of all persons in interest, and the indications thereon shall be clearly discernible at such place of access. [1940; last amended 1948.]

Sec. 59-112. Who to do weighing.

If the auction market scales are not equipped with recording beams, all weighing of livestock shall be done by a weighmaster; if they are so equipped, the weighing may be done either in the presence of the weighmaster or by the weighmaster, at the option of the auction market. [1940; last amended 1948.]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 6—Weights and Measures, Livestock Auction Markets—Continued.

Sec. 59-113. Penalty for violations.

Any person operating or conducting any such livestock auction market or any weighmaster employed under this article [Secs. 59-106—59-114], who shall violate any provision of this article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. [1940; last amended 1948.]

Sec. 59-114. Adoption of provisions as to weighmasters.

The provisions of this article [Secs. 59-106—59-114] with reference to weighmasters shall not become applicable to any livestock auction market until the governing body of the county in which such market is situated shall by affirmative recorded vote declare such provisions operative in the county, and the provisions shall not become applicable to any livestock auction market within any incorporated city entirely surrounded by a single county, until the governing body of the county shall declare by affirmative recorded vote that the provisions shall be operative as to the livestock auction markets in such adjacent city. [1940; last amended 1948.]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 7—Weights and Measures, Flour and Meal.

Sec. 59-115. Definitions.

(1) "Flour" as used herein shall mean any finely ground product of wheat, or other grain, corn, peas, beans, seeds or other substance, with or without added ingredients, intended for use for human consumption.

(2) "Meal" as used herein shall mean any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted or unbolted, including grits and hominy, intended for use for human consumption. [1946]

Sec. 59-116. Standard weight packages or containers; exceptions.

All flour and meal packed for sale, offered or exposed for sale, or sold in this State shall be in one of the following standard weight packages and no other, namely: five pounds, ten pounds, twenty-five pounds, fifty pounds, one hundred pounds, and multiples of one hundred pounds.

However, nonstandard weight packages may be packed for sale, offered or exposed for sale, or sold in this State, weighing three pounds or less, if such nonstandard weight packages shall be plainly and conspicuously marked showing net contents in avoirdupois weight.

And nothing in this section shall be construed to prevent the retail sale of any amount of flour or meal direct to the consumer from bulk, upon order and weighed at time of delivery to the consumer, or to

prevent the exchange of grains for flour or meal for home consumption by mills grinding for toll, or the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred pounds. [1946]

Sec. 59-117. Weight to be shown on package.

A statement of the weight of the flour or meal contained in a package shall be plainly and conspicuously shown on the package, and must be a correct statement of the net weight of the product, and shall appear either on or immediately above or below the principal label. [1946]

Sec. 59-118. Enforcement.

This article [Secs. 59-115—59-119] shall be enforced by the Commissioner [of Agriculture and Immigration] and the Board [of Agriculture] through its designated agencies. [1946]

Sec. 59-119. Penalty for violations.

Any person who shall violate any provision of this article [Secs. 59-115—59-119] shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than twenty nor more than two hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment; and upon a second or subsequent conviction, shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. [1946]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 8—Weights and Measures, Milk and Cream Bottles.

Sec. 59-120. Capacity; markings.

Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, one quart, one pint, one-half pint, or one gill. Each bottle used for the sale of milk or cream shall be clearly and permanently marked with its capacity, with the word "sealed" and, for the purposes of identification, with the name, initials, or trademark of the manufacturer and the manufacturer's mold designation which identifies the pattern or design of the bottle; the capacity designation and the word "sealed" shall not be on the bottom of the bottle. [1924; last amended 1948.]

Sec. 59-121. Bond required of bottle manufacturers.

As a condition precedent to the sale or offering for sale, for use within this State, of milk or cream bottles, the manufacturer thereof shall have on file with the Commissioner of Agriculture and Immigration a bond in the sum of one thousand dollars, with sureties, approved by the Attorney General, and conditioned upon conformance of the bottles so sold or offered for sale with the requirements of this section. [1924; last amended 1948.]

Sec. 59-122. Violation by manufacturer; penalty.

Any manufacturer who sells or offers to sell milk or cream bottles to be used in the State that do not comply as to size and markings with the provisions of this article [Secs. 59-120—59-124], shall suffer a penalty of five hundred dollars, to be recovered by the Attorney General in an action against the offender's bondsmen to be brought in the name of the Commonwealth. [1924; last amended 1948.]

Sec. 59-123. Violation by dealer.

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 article [Secs. 59-120—59-124] as to markings and capacity, shall be deemed guilty of using a false or insufficient measure. [1924; last amended 1948.]

Sec. 59-124. Powers and duties of sealers.

The Commissioner of Agriculture and Immigration, 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 provided in this article [Secs. 59-120—59-124], 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 provisions of this article are being complied with; county and city sealers of weight and measures shall immediately report violations found to the Commissioner of Agriculture and Immigration. [1924; last amended 1948.]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 9—Weights and Measures, Miscellaneous Commodities and Containers.

Sec. 59-125. Gold: Bank weights to be tried, proved and sealed.

Once in every five years the directors of each bank shall have the weights used in such bank tried, proved and sealed, either by the Superintendent or a sealer of weights and measures. No tender by any bank in the State, of gold weighed with weights not so sealed, shall be legal. The payer to, or receiver from, any bank, of gold, may require that it shall be weighed in each scale and the mean weight resulting therefrom shall be deemed the true weight. [1924]

Sec. 59-126. Coal, coke and charcoal: To be sold by weight.

It shall be unlawful to sell or offer to sell any coal, coke or charcoal in any other manner than by weight. No coal, charcoal or coke shall be sold at retail which contains at the time the weight is taken, more water or other liquid substance than is due to natural conditions, weather conditions or causes incident to the mining, cleaning or handling of the coal, charcoal or coke, except by and with consent of the purchaser. [1924; last amended 1926.]

Sec. 59-127. Same: Delivery ticket.

It shall be unlawful for any person to deliver any coal, coke or charcoal without such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, coke or charcoal contained in the vehicle used in such deliveries, 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 sealer of weights and measures upon his demand for his inspection, and this ticket or weight slip issued by him when he desires to retain the original shall be delivered to the purchaser of such 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. [1924; last amended 1926.]

Sec. 59-128. Same: Buyer may have coal weighed upon public scales; who to pay fee for weighing.

When a dealer in coal in any city or town in this State, where public scales are kept, may be requested by a person buying as much as five hundred pounds of coal at any one time to weigh such coal upon the public scales, such dealer shall do so upon such request, the person buying the coal to pay the fee for weighing same, if such shall be of proper weight, otherwise such fee shall be paid by the dealer. Any dealer refusing to weigh or to have weighed such coal as required in this section, or to pay such fee for weighing the same as herein required, shall be fined the sum of five dollars for each offense. [1924]

Sec. 59-129. Ice.

It shall be unlawful to sell ice in this Commonwealth in any other manner than by weight. All ice shall be correctly weighed by the seller at the time of delivery to the purchaser. All agents or employees of any person engaged in the sale and delivery of ice shall be provided with suitable and correct weighing devices to be used for the purpose of correctly weighing each piece of ice delivered, and it shall be unlawful for any such agent or employee to report or make a charge for any quantity of ice in excess of the quantity, in pounds, or fractions thereof, actually delivered according to the correct weight thereof. It shall be unlawful for any person delivering ice to refuse, on demand, to allow the purchaser to witness the weighing of the same at the time of delivery, or to refuse, on demand, to furnish the purchaser with a weight slip at the time of delivery, containing the name of the seller and the number of pounds sold, and signed by the agent or employee of the seller. [1926]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 9—Weights and Measures, Miscellaneous Commodities and Containers—Continued.

Sec. 59-130. Berries and small fruits.

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. [1924]

Sec. 59-131. Standard barrel for dry commodities other than apples and cranberries.

The standard barrel for fruits, vegetables, and other dry commodities other than apples and 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-three cubic inches, shall be a standard barrel. [1924]

Sec. 59-132. Standard barrels for cranberries.

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 measurements; and the thickness of staves not greater than four-tenths of an inch. [1924]

Sec. 59-133. Unlawful to sell, ship or use other barrels.

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 the two preceding sections known as the third, half or three-quarters barrel; provided, however, that nothing in such sections shall apply to barrels used in packing or shipping apples and commodities sold exclusively by weight or numerical count; and provided, further, that no barrel shall be deemed below standard within the meaning of such sections 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. [1924]

Sec. 59-134. Standard barrels for lime.

There is hereby established a large and a small barrel of lime, the large barrel to consist of two hundred and eighty pounds and the small barrel to consist of one hundred and eighty pounds, net weight.

It shall be unlawful for any person to sell or offer for sale lime in this State in barrels unless there shall be stenciled or otherwise clearly marked on one or both heads of the small barrel the figures "180 lbs. net" and of the large barrel the figures "280 lbs. net", and on either barrel in addition the name of the manufacturer of the lime and where manufactured.

When lime is sold in containers of less capacity than the standard small barrel, it shall be sold in fractional parts of such standard small barrel, and the net weight of lime contained in such container shall be stenciled or otherwise be clearly marked thereon, together with the name of the manufacturer thereof, and the name of the brand, if any, under which it is sold.

It shall be unlawful to pack, sell or offer for sale in this State any barrels or other containers of lime which are not marked as provided in this section, or to sell, charge for, or purport to deliver as large or small barrel or a fractional part of such small barrel of lime, any less weight of lime than is established by the provisions of this section.

A violation of any of the provisions of this section shall be a misdemeanor. [1922]

Sec. 59-135. Containers of cement.

Every barrel, box or package of cement sold or offered for sale in this State shall have plainly marked thereon the name and address of the manufacturer and the number of pounds net such barrel box or package contains. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [1922]

Code 1948, Vol. 2, Title 59, Ch. 6, Art. 10—Weights and Measures, Violations.

Sec. 59-136. Hindering or obstructing sealers.

Any person who shall hinder or obstruct in any way the Commissioner or any county or city sealer in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty, nor more than two hundred dollars, or by imprisonment in jail for not more than three months, or by both such fine and imprisonment. [1924]

Sec. 59-137. Impersonating sealers.

Any person who shall impersonate in any way the Commissioner, or any county or city sealer, by the use of his seal or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. [1924]

Sec. 59-138. Miscellaneous offenses.

No person, by himself or by his servant or agent, or as the servant or agent of another person, shall:

(1) Offer or expose for sale, sell, use in the buying or selling of any commodity or thing or for hire or award, or use in the computation of any charge for services rendered on the basis of weight or measure, or use 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 Commissioner or by a sealer or deputy sealer of weights and measures within one year;

(2) Dispose of any condemned weight, measure, or weighing or measuring device contrary to law, or remove any tag placed thereon by the Commissioner or by a sealer of weights and measures;

(3) Sell or offer or expose for sale less than the quantity he represents;

(4) 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 the commodity is determined;

(5) Keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law;

(6) Violate any provision of this chapter [Secs. 59-71—59-140] for which a specific penalty has not been provided; or

(7) 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. [1924; last amended 1932.]

Sec. 59-139. Same: Punishment.

Any person violating the preceding section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty nor more than two hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction, and upon a second or subsequent conviction he shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in jail for not more than one year, or by both such fine and imprisonment. [1924; last amended 1932.]

Sec. 59-140. Seizure for use as evidence of false or unsealed weights, measures, etc.

The Commissioner and the county and city sealers may 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. [1924; last amended 1926.]

Code 1948, Vol. 1, Title 3, Ch. 8—Commercial Fertilizers.

Sec. 3-80. Definition.

The term "commercial fertilizer or fertilizer material" when used in this chapter [Secs. 3-80—3-117], shall not be held to include lime, land plaster, ashes, common salt or unground tobacco stems when sold as such, unmixed with other fertilizer materials. [1889-90; last amended 1920.]

Sec. 3-82. Registration.

All manufacturers, dealers, or agents who may desire to sell or offer for sale hereafter in this State any fertilizer or fertilizer material, shall register annually with the Commissioner [of Agriculture and Immigration], upon forms furnished by the Commissioner, the name of each brand of fertilizer or fertilizer material, which they may desire to sell or offer for sale in this State, either by themselves, or their agents, together with the name and address of the manufacturer, the weight of the package, and the guaranteed analysis thereof. [1889-90; last amended 1946.]

Sec. 3-86. Marking requirements.

All manufacturers, dealers or agents before selling or offering for sale, in this State, any commercial fertilizers, or fertilizer material, shall brand on, or attach to, each bag, barrel, or package, * * * the weight of the package, * * *. The following items shall be branded or stamped on, or affixed to, the packages in the following order, * * *

Mixed Fertilizers:

First.—Weight of package in pounds; [1889-90; last amended 1946.]

* * * * *

Sec. 3-95. Penalty for violations.

Any manufacturer, dealer or agent who shall sell, or offer for sale, in this State any fertilizer or fertilizer material which has not been previously registered with the Commissioner [of Agriculture and Immigration], or which has not been branded or tagged as hereinbefore provided, * * * shall be guilty of a misdemeanor, and subject to a fine or forfeiture of not less than twenty-five dollars nor more than two hundred dollars for each and every offense when prosecuted to conviction in the manner now provided by law in prosecutions for violation of the revenue laws of this State. [1889-90; last amended 1915.]

Code 1948, Vol. 1, Title 3, Ch. 8—Commercial Fertilizers—Continued.

Sec. 3-99. Rules for enforcement.

The Commissioner [of Agriculture and Immigration] shall, with the approval of the Board [of Agriculture and Immigration], adopt all needful rules and regulations which in his judgment shall be best for carrying out the provisions of this chapter [Secs. 3-80—3-117]. [1889-90; last amended 1920.]

Code 1948, Vol. 1, Title 3, Ch. 9—Agricultural Liming Materials.

Sec. 3-118. Registration required.

All manufacturers, dealers or agents who may desire to sell or offer for sale in the State of Virginia any agricultural liming material, or agricultural liming material with potash, shall be required to register annually with the Commissioner [of Agriculture and Immigration], upon forms furnished by the Commissioner, the name of each brand of agricultural liming material, or agricultural liming material with potash, which they may desire to sell or offer for sale in this State, either by themselves or their agents, together with the name and address of the manufacturer, the weight of the bag, barrel or package, and the guaranteed analysis thereof. [1910; last amended 1940.]

Sec. 3-122. Act applies only to calcined liming materials.

The word "lime", as used in Secs. 3-118 to 3-123, is specifically restricted to calcined liming materials, and it shall not be permissible to use the term anywhere on a bag or package containing liming materials, or liming materials with potash, or a tag attached to the same if the contents of such bag or package is not a calcined liming material. [1910; last amended 1940.]

Sec. 3-124. Marking requirements.

All manufacturers, dealers or agents, before selling or offering for sale in this State any agricultural liming material, or agricultural liming material with potash, shall brand on, or attach to, each bag, barrel or package, * * * the weight of the package, * * * [1910; last amended 1940.]

Sec. 3-129. Seizure.

The Commissioner [of Agriculture and Immigration] may cause to be seized and held any lot of agricultural liming material or agricultural liming material with potash found to violate any of the provisions of this chapter [Secs. 3-118—3-137] until the law has been complied with or said violation otherwise disposed of. [1910; last amended 1940.]

Sec. 3-133. Enforcement; rules and regulations.

The Commissioner [of Agriculture and Immigration] is hereby charged with the enforcement and carrying out of the provisions of this chapter [Secs. 3-118—3-137], * * *. He shall, by and with

the approval of the Board [of Agriculture and Immigration], adopt all needful rules and regulations for carrying out the requirements of this chapter, * * *. [1910; last amended 1940.]

Acts of Assembly 1948, Ch. 468—"Virginia Insecticide, Fungicide and Rodenticide Law."

Sec. 2. Definitions.

For the purposes of this act—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses (except viruses on or in living man or other animals) which the Commissioner shall declare to be a pest.

* * * * *

o. The term "Board of Agriculture" or "Board" means the Virginia Board of Agriculture and Immigration.

p. The term "Commissioner" means the Virginia Commissioner of Agriculture and Immigration.

* * * * *

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

* * * * *

u. The term "misbranded" shall apply—

1. to any economic poison or device—

(a) if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

* * * * *

(g) if any word, statement, or other information required by or under the authority of this act to appear on the labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; [1948]

* * * * *

Sec. 3. Prohibited acts; marking requirements.

A. It shall be unlawful for any person to distribute, sell or offer for sale within this Commonwealth or deliver for sale within this Commonwealth or deliver for transportation or transport in intrastate commerce or between points within this Commonwealth through any point outside this State any of the following:

* * * * *

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing

* * * * *

(c) the net weight or measure of the content subject, however, to such reasonable variations as the Commissioner may permit.

* * * * *

B. It shall be unlawful—

* * * * *

(3) for any person to give a guaranty or undertaking provided for in section eight which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section eight may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; [1948]

* * * * *

Sec. 4. Injunction.

In addition to the remedies herein provided the Commissioner of Agriculture is hereby authorized to apply to an appropriate court for, and such court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction restraining any person from violating any provision of section three irrespective of whether or not there exists an adequate remedy at law. [1948]

Sec. 7. Penalty for violations; notice; minor violations.

(a) If it shall appear from the examination or evidence that any of the provisions of this act or the rules and regulations issued thereunder have been violated, the Commissioner may cause notice of such violations to be given to the registrant, distributor, and possessor from whom said sample or evidence was taken. Any party so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the Board of Agriculture and Immigration. * * * Any person convicted of violating any provision of this act or the rules and regulations issued thereunder shall be adjudged guilty of a misdemeanor and shall be punished in the discretion of the court.

(b) Nothing in this article shall be construed as requiring the Commissioner to report for the institution of proceedings under this act, minor violations of this act, whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1948]

Sec. 8. Guaranty protection.

A. The penalties provided for violations of section three A of this act shall not apply to—

* * * * *

(4) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this act, designating this act. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this act. [1948]

* * * * *

[Ed. NOTE.—This section also provides for exemptions including those economic poisons used officially by State or Federal officials, used experimentally, and intended for export.]

Sec. 9. "Stop sale" orders.

It shall be the duty of the Commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of economic poison and to hold at a designated place when the Commissioner finds said economic poison is being offered or exposed for sale in violation of any of the provisions of this act until the law has been complied with and said economic poison is released in writing by the Commissioner or said violation has been otherwise legally disposed of by written authority; * * * [1948]

Sec. 10. Seizure.

Any lot of economic poison not in compliance with the provisions of this act shall be subject to seizure on complaint of the Commissioner to a court of competent jurisdiction in the area in which said economic poison is located. * * * [1948]

Code 1948, Vol. 1, Title 3, Ch. 16, Art. 1—Inspection of Various Commodities.

Sec. 3-284. Certain sections continued in force.

Sections 1400 to 1443, inclusive, of the Code of 1919, as to inspection of flour and other commodities, are continued in force. [1948]

Sec. 1400. Inspectors appointed by Governor.

Inspectors may be appointed of any of the following commodities, to wit: flour, corn meal, bread, salt, fish, pork, beef, tar, pitch, turpentine, lumber, hemp, butter, or lard, but no inspection shall be required or made of lumber exported from the State by the party who shall have cut the same on his own land, except at the request of such party. Such appointment shall be made annually, in September or October, by the Governor, for the several counties, cities, and towns in which it may be necessary to

Code 1948, Vol. 1, Title 3, Ch. 16, Art. 1—Inspection of Various Commodities—Continued.

appoint such inspectors. The same person may be appointed inspector of two or more of said commodities; but there shall not be in the same city or town more than one, nor in the same county more than six inspectors of the same commodity. [1887]

Sec. 1407. Barrels containing flour, meal, and bread: How made.

All barrels containing flour, meal, and bread, offered for inspection, shall be made of good seasoned timber, either split or sawed, with ten hoops, well nailed with four nails in each chine hoop and three nails in each bilge hoop. The stave shall be twenty-seven inches long, and the head seventeen inches and a half in diameter. In half barrels the staves shall be twenty-three inches long and the head twelve and a half inches in diameter. [1887]

Sec. 1408. Same: What quantity to contain.

Each barrel of flour or corn meal shall contain one hundred and ninety-six pounds of flour or meal and each half barrel ninety-eight pounds; and in case of deficient quantity, any person offering such flour or meal for inspection shall forfeit eight cents for each pound of such deficiency not exceeding three, and seventeen cents for each pound over three. [1887]

Sec. 1409. Size of fish barrels.

All fish offered for inspection shall be packed, all of one kind in barrels of well-seasoned strong timber, clear of sap, not less than five-eighths of an inch thick, made tight, with at least twelve hoops, containing not less than twenty-eight gallons. * * * [1887]

Sec. 1410. Beef and pork: Weight of barrel.

All barrels containing pork or beef offered for inspection shall be made of the same kind of timber, and of the same thickness and strength, as is prescribed for fish barrels, and shall contain at least two hundred and four pounds net of good, clean, fat, sound, merchantable meat, well salted between each layer, and well pickled. There shall not be more than two heads in any one barrel of pork, and the whole shall be well salted and cured before it is packed. [1887]

Sec. 1413. Lumber: Staves.

All lumber offered for inspection shall be of the following dimensions and quality:

First, Long butt staves.—Long butt staves, five feet six inches long; short butts, four feet six inches long; and both five inches wide, two inches thick on the thin edge, and not more than two and a half inches thick in any place when dressed;

Second, Pipe and hoghead staves.—Pipe staves, four feet six inches long, three inches wide, and three-quarters of an inch thick on the thin edge,

when dressed; hoghead staves, three feet six inches long, three inches wide, and three-quarters of an inch thick on the thin edge, when dressed; rough hoghead staves of the same dimensions as the dressed;

Third, Barrel staves.—Barrel staves, when dressed, and rough barrel staves, shall be two feet eight inches long, three inches wide, and three-quarters of an inch thick;

Fourth, Hoghead heading.—Hoghead heading shall be twenty-eight, thirty, and thirty-two inches long, with a due proportion of pieces of each length; they shall be five inches wide, and three-quarters of an inch thick on the thin edge, when dressed; and all of the above-mentioned lumber shall be of good white oak;

Fifth, Red oak hoghead staves.—Red oak hoghead staves shall be three feet six inches long, three and a half inches wide including sap, and three inches wide clear of sap, and three-fourths of an inch thick on the thin edge, when dressed;

* * * * *

Seventh, Shingles.—Building shingles shall be twenty-two inches long, four inches wide, and five-eighths of an inch thick at the butt, when dressed; and shall be free from sap; [1887]

* * * * *

Sec. 1411. Barrel for pitch, tar, and turpentine.

All barrels of pitch, tar, or turpentine offered for inspection shall contain at least thirty-one gallons and a half, and be full of good, clean, sound, and merchantable tar, pitch, or turpentine. [1887]

Sec. 1411a. Paint, turpentine and linseed oil: Marking requirements; enforcement; penalty; exemptions.

(1) No person, firm or corporation shall offer for sale, expose for sale or sell within this State any paint, turpentine or linseed oil, or any substitute therefor, marked and branded in any manner so as to tend to deceive the purchaser thereof as to its nature or composition, or which is not labeled or marked as hereinafter provided.

(2) For the purpose of this act [Sec. 1411a] an article shall be deemed to be improperly marked or misbranded:

* * * * *

(c) If the package or container, or its label shall bear any statement, design or device regarding the ingredients or substance contained therein, which statement, design or device shall be false or misleading in any particular.

(3) The term "paint" as used in this act shall include oxide of zinc, red lead and white lead (basic carbonate or basic sulphate), dry or in any kind of oil, or any compound intended for the same use; paste or semi-paste paint, and liquid or mixed paint for use on buildings, fences, and structures.

(4) The label required by this act shall clearly and distinctly state, in the English language with

letters and type of such size and shape as to be easily legible, the name and residence of the manufacturer of the paint, or of the distributor thereof, or of the party for whom the same is manufactured, * * *; such label shall also show the net measure of the contents of the container in United States standard gallons or fraction thereof in case of liquid or mixed paints, and in weight avoirdupois in the case of paste or semi-paste paints.

* * * * *

(8) The commissioner of agriculture and immigration shall be charged with the proper enforcement of this act, and shall, with the approval of the board of agriculture and immigration, have authority to establish and promulgate such rules and regulations in regard to inspection, analysis and sales of paints, turpentine and linseed oils or compounds or substitutes thereof as may be necessary and proper and as in his judgment will best carry out the provisions of this act. * * *

(9) Whoever violates any of the provisions of this act or any section thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned in jail not more than sixty days, for each offense.

* * * * *

(11) Nothing herein shall apply to sales by any manufacturer or jobber in quantities to any industrial plant, or to public service corporations, and any manufacturer, or jobber, may have on hand, keep or store in this State, paints, linseed oil, or turpentine not marked or branded in accordance with this act, if the same are intended to be shipped into another State. [1922; last amended 1948.]

Sec. 1412. Salt barrels: How made.

All barrels containing salt offered for inspection shall be made of good, seasoned materials, with at least ten hoops, with four nails in each chine hoop, and three nails in each upper bilge hoop, and not exceeding thirty inches in length and eighteen inches in diameter across the head within the chine. [1887]

Sec. 1414. Hemp boxes: Size.

All hemp offered for inspection shall be strong, dry, sound, and merchantable, and shall be prized, either before or when inspected, in bale boxes, three feet two inches long in the clear, three feet deep, one foot eight inches wide at the bottom, and two feet at the top. [1887]

Sec. 1415. Weight and tare to be marked on containers.

Every barrel of flour, corn meal, bread, fish, pork, beef, tar, batch or turpentine; every barrel, box, or bag of salt, and every bale of hemp made, packed or filled in this State and offered for inspection shall have the weight and tare thereof marked thereon by the manufacturer, packer, or filler thereof. [1887]

Sec. 1417. Penalty for violating preceding section.

For every barrel, box, bag, or bale of any of the commodities mentioned in the * * * preceding section, offered for inspection, or removed from the manufactory contrary to * * * said section, the person offering the same for inspection, or the manufacturer, shall forfeit fifty cents; and if any person wilfully put a false tare or weight on any such barrel, box, bag, or bale, he shall forfeit one dollar on every such barrel, box, bag, or bale. [1887]

Sec. 1421. Salt barrels: Gross weight and tare to be marked; weight of empty barrel.

If an inspector of salt judge the same to be merchantable, and, if packed in barrels, that they are such as are required, he shall mark or brand each barrel, box, or bag, in a durable way, with the name of his county, and with the quality thereof, as number "one," "two," or "three." He shall also weigh each barrel, box, or bag, and mark the same in like manner, with the gross weight, and with the tare, allowing for each barrel of salt twenty-eight pounds for the tare. But if he finds that the barrel exceeds that tare, he shall cause the true tare to be marked thereon, for which he shall have an extra fee of one cent on each barrel, bag, or box. [1887]

Sec. 1422. Alum salt: Marking requirements.

In the case of alum salt (not to be exported in bulk), the inspector may examine the same in bulk, if desired, but shall, after it is packed, weigh and mark or brand the same, as directed in the preceding section, and also with the words "alum salt." [1887]

Sec. 1423. When inspector may pass or weigh salt.

No inspector shall pass any salt in a barrel of larger dimensions than is prescribed; nor shall any salt be weighed by him until it lies twenty-four hours, at least, and such additional time after packing, as the inspector shall deem sufficient for draining it. [1887]

Sec. 1427. Hemp: Marking requirements.

If any inspector judge any hemp offered to him for inspection to be strong, dry, sound, and merchantable, and packed in bale boxes of the proper size, he shall annex thereto a label, stamped with the quality and weight of each bale, distinguishing such as is clean, as well as dry and well conditioned, as "first" quality, and such as is not perfectly clean, though dry and well conditioned, as "second" or "third" quality. [1887]

Sec. 1435. When packages to be reweighed: Expense of re-packing.

An inspector, if he suspects any commodity on which the tare is marked to be falsely marked, or if the purchaser request it, shall unpack any barrel or other parcel of such commodity, and if he find

Code 1948, Vol. 1, Title 3, Ch. 16, Art. 1—Inspection of Various Commodities—Continued.

the tare greater than is marked, the manufacturer or packer and filler who sold the same shall pay the expense of unpacking or repacking, in addition to any penalty imposed by law. But if otherwise, the said expense shall be paid by the inspector, if he acted on his own suspicion, or by the purchaser, if the trial was made at his request. [1887]

Sec. 1436. Inspectors to enforce laws.

Every inspector shall endeavor to enforce the law as to the inspection of commodities of which he is inspector, and in every case in his knowledge of any violation thereof, shall inform the attorney for the Commonwealth of his county or city. [1887]

Sec. 1439. Penalty for selling articles falsely marked.

If any person sell, or offer to sell, any commodity in barrels, or other package or parcel, known by him to be of less weight, size, and gauge (after allowing for ordinary shrinkage and loss of weight) than is required by law, or than is marked or branded thereon, or than is stated in the certificate of the inspector thereof, he shall forfeit ten dollars for every such barrel, package, or parcel so sold or offered for sale. [1887]

Sec. 1441. Penalty on inspector for falsely marking, etc.

If any inspector or culler mark or brand any barrel or other package of any such commodity, or give a certificate of his having inspected any lumber or salt in bulk, without having actually inspected the same, or pass or brand any such commodity as merchantable which he knows to be unfit to pass (unless ordered by reviewers, according to law), or permit any other person to use his mark or brand for that purpose, or be guilty of any wilful neglect or omission of his duty as inspector, he shall be fined fifty dollars for every such offense. [1887]

Code 1948, Vol. 1, Title 3, Ch. 16, Art. 3—"Virginia Food Act," Misbranding.

Sec. 3-307. Definitions.

For the purpose of this article [Secs. 3-306—3-322]:

(1) The term "Commissioner" means the Commissioner of Agriculture and Immigration. The term "Board" means the Board of Agriculture and Immigration.

* * * * *

(3) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(4) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word,

statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(5) The term "immediate container" does not include package liners.

(6) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

* * * * *

(10) The provisions of this article regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; the sale of any such article; and the supplying of any such articles in the conduct of any food establishment. [1940]

* * * * *

Sec. 3-308. Prohibited acts.

The following acts and the causing thereof within the State are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded.

(b) The adulteration or misbranding of any food.

(c) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The dissemination of any false advertisement.

* * * * *

(f) The giving of a guaranty or undertaking concerning a food, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing, or having a place of business, or an agent or representative on whom process may be served, in the State, from or through whom he received the food in good faith. [1940]

* * * * *

Sec. 3-309. Injunctions.

In addition to the remedies hereinafter provided the Commissioner is authorized to apply to any court of record having general chancery jurisdiction in this State for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of Sec. 3-308 irrespective of whether or not there exists an adequate remedy at law. * * * [1940]

Sec. 3-310. Violation a misdemeanor; guaranty protection.

(a) Any person who knowingly violates any of the provisions of Sec. 3-308 shall be guilty of a misdemeanor and shall on conviction thereof be punished in the manner provided by law for the punishment of misdemeanors.¹

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated subsections (a) or (c) of Sec. 3-308 if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing, or having a place of business, or an agent or representative on whom process may be served, in the State, from or through whom he received in good faith any food, to the effect that such food is not adulterated or misbranded within the meaning of this article, designating this article. [1940]

* * * * *

¹ See Sec. 19-265, page 1054. See also Sec. 3-339, this page, punishment for violating Title 3.

Sec. 3-313. Notice or warning as to minor violation.

Nothing in this article [Secs. 3-306—3-322] shall be construed as requiring the Commissioner to report for the institution of proceedings under this article, minor violations of this article, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1940]

Sec. 3-314. Regulations as to fill of container.

Whenever in the judgment of the Commissioner such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate regulations fixing and establishing for any food or class of food * * * fill of container, * * * [1940]

Sec. 3-316. When food deemed misbranded.

A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

* * * * *

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing * * * (3) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (3) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.

* * * * *

(2) A food for which a standard or standards of fill of container have been prescribed by regulations as provided by Sec. 3-314, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as

such regulations specify, a statement that it falls below such standard. [1940]

* * * * *

Sec. 3-318. Regulations.

(a) The authority to promulgate regulations for the efficient enforcement of this article [Secs. 3-306—3-322] is hereby vested in the Board, unless specially conferred on the Commissioner. The Board is hereby authorized to make the regulations promulgated under this article conform, in so far as practicable with those promulgated under the federal act [21 U. S. C. Sec. 301 et seq.; 52 Stats. 1040 et seq.]. [1940]

* * * * *

Code 1948, Vol. 1, Title 3, Ch. 16, Art. 4—"Virginia Food Act," Seizure and Penalties.

Sec. 3-329. Authority to seize food products.

The Commissioner, or any person by the Commissioner duly appointed for that purpose, is authorized at all times to seize and take possession of any and all food and dairy products, substitutes therefor, or limitation thereof kept for sale, exposed for sale, or held in possession or under control of any person which in the opinion of the Commissioner, or his deputy, or such person by him duly appointed, shall be contrary to the provisions of laws which now exist or which may be hereafter enacted. [1908]

Sec. 3-339. Punishment for failure to comply with requirements of title.

Any manufacturer, dealer or person who refuses to comply upon demand with the requirements of chapters 16, 17, 18, 24 and 27 of this title or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other person in the performance of his duty in connection with such chapters, shall be guilty of a misdemeanor, and, unless otherwise specified, upon conviction be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned not more than one hundred days, or both, in the discretion of the court; and such fines, less the legal costs, shall be paid into the State Treasury. [1908]

Code 1948, Vol. 1, Title 3, Ch. 17, Art. 4—Milk and Cream.

Sec. 3-401. Glassware: Testing; fees; marking.

No bottle, pipette or other measuring glass or utensils shall be used in this State by any inspector of milk or cream, or by any person in any milk inspection laboratory, in determining by the Babcock or any other centrifugal machine, the percentage of fat in milk or cream for the purposes of the inspection or by any person in any milk depot, creamery, cheese factory, condensed milk factory, or other place, in

Code 1948, Vol. 1, Title 3, Ch. 17, Art. 4—Milk and Cream—Continued.

determining by the Babcock or other centrifugal machine, the composition or value of milk or cream as a basis for payment in buying or selling, until it has been tested for accuracy and verified by the Chief Chemist, his assistants or other experts of the Department of Agriculture and Immigration of Virginia. Every such bottle, pipette or other measuring glass or utensil shall be submitted to the Commissioner of Agriculture and Immigration by the owner or user thereof to be tested for accuracy before the same is used in this State for the purposes aforesaid. The Commissioner shall cause the bottle, pipette or other measuring glass or utensil so submitted, after the fees herein provided have been paid, to be tested in the laboratory of the Department of Agriculture and Immigration. The owner or user shall pay to the Commissioner, as a fee for making the test, a sum not exceeding five cents for each bottle, pipette or other measuring glass or utensil tested. Any bottle, pipette or other measuring glass or utensil that has been so tested and verified shall be marked by the Chief Chemist, his assistants or other experts of the Department of Agriculture and Immigration, to indicate the fact of such test or verification; or if tested and found to be inaccurate may be marked by him or them to indicate that it is inaccurate. No bottle, pipette or other measuring glass or utensil that has been marked by the Chief Chemist, his assistants or other experts of the Department of Agriculture and Immigration to indicate that it is inaccurate shall be used in this State by any person in determining the composition or value of milk or cream. [1916]

Sec. 3-402. Inspection of centrifugal machines and scales; when condemned; fees.

Every Babcock or other centrifugal machine, or cream test or butter fat test scale, used in this State by any inspector of milk or cream or by any person in any milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by any person in any milk depot, ice cream factory, confectionery, creamery, cheese factory, condensed milk factory, laboratory or other place for determining the composition or value of milk or cream as a basis for payment in buying or selling, shall be subject to inspection at least once in each year by the Commissioner, his assistants or agents. The owner or user of any such scale shall pay to the Commissioner as a fee for making such annual inspection the sum of one dollar for each scale inspected. Any Babcock or other centrifugal scale so used, that is not in the opinion of the Commissioner or his assistants or agents in condition to give accurate results, may be condemned by the Commissioner or his assistants or agents. No Babcock or other centrifugal machine or scale that has been condemned by the Commissioner or his assistants or agents as not in condition to give accurate results

shall be used in this State by any person for determining the composition or value of milk or cream, unless the machine or scale be changed to the satisfaction of the Commissioner or his assistants or agents, and approved by him. [1916]

Sec. 3-406. Standard capacity of measures.

In the use of the Babcock or other centrifugal machine, the standard milk measurer or pipettes shall have a capacity of seventeen and six-tenths cubic centimeters and the standard test tubes or bottles for milk shall have a capacity of two cubic centimeters for each ten per centum marked on the necks thereof. [1916; last amended 1940.]

Sec. 3-407. Units for testing cream.

Cream shall be tested by weight and the standard units for testing shall be eighteen grams, and nine grams, and it is hereby made a violation of the provisions of this article [Secs. 3-401—3-415] to use any other standard of milk or cream measure where milk or cream is purchased by or furnished to creameries or cheese factories, and where the value of the milk or cream is determined by the per centum of butter fat contained in the same by the Babcock or other centrifugal test or cream test or butter fat test scales. [1916; last amended 1940.]

Sec. 3-409. Test of glassware and inspection of machines.

It shall be the duty of the Commissioner and he is authorized, to test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him as provided in Sec. 3-401, to inspect or cause to be inspected at least once each year every Babcock or other centrifugal machine or cream test or butter fat test scales used in this State * * *. [1916]

Sec. 3-410. False manipulation and reading.

Any person who shall by himself or as the officer, servant, agent or employee of any person, firm or corporation, falsely manipulate or under-read or over-read the Babcock test or any other contrivance used for the purpose of determining the amount of milk fat in milk or cream, or who shall make any false determination of any test or contrivance used for the purpose of determining the amount of milk fat in any dairy products, shall be guilty of a misdemeanor.¹ [1916]

¹ See Sec. 19-265, page 1054, punishment for misdemeanor. See also Sec. 3-339, page 1047, punishment for violating Title 3.

Sec. 3-412. Commissioner to enforce; parties exempt.

It shall be the duty of the Commissioner to see that the provisions of this article [Secs. 3-401—3-415] are complied with, and he may in his discretion prosecute or cause to be prosecuted any person violating any of its provisions. But they shall not be construed to affect any persons using any centrifugal or other machine or test in determining the composition or value of milk or cream when such determina-

tion is made for the information of such persons only and not for purposes of inspection, or as a basis for payment in buying or selling. [1916]

Code 1948, Vol. 1, Title 3, Ch. 18—Bread.

Sec. 3-479. Marking requirements; tolerances.

All bread stored, sold, offered or exposed for sale by the loaf shall have conspicuously affixed thereon a label on which shall be printed in the English language in letters and figures not smaller than one-fourth inch in height, the net weight of the loaf, when baked. The name and address of the baker or manufacturer of the loaf shall also be shown on the same label.

The Commissioner [of Agriculture and Immigration], with the approval of the Board [of Agriculture and Immigration], shall adopt and establish such reasonable tolerances or variations within which the weights of loaves shall be kept; provided, however, that such tolerances and variations shall not exceed one ounce per loaf on loaves weighing less than one pound or two ounces on loaves weighing more than two pounds twelve hours after baking. [1920]

Sec. 3-481. Enforcement.

The Commissioner [of Agriculture and Immigration] is charged with the enforcement of the provisions of this chapter [Secs. 3-477—3-482.]. [1920]

Sec. 3-482. Penalty for violations.

Any person, firm or corporation who shall violate any of the provisions of this chapter [Secs. 3-477—3-482] shall be subject to a fine of not less than ten dollars, nor more than one hundred dollars, and each day's continuance of any practice, act or condition prohibited herein shall constitute a separate offense within the meaning of this chapter. [1920]

Code 1948, Vol. 1, Title 3, Ch. 20, Art. 1—Apples.

Sec. 3-507. Standards and rules as to quantity; closed packages.

The Board of Agriculture and Immigration is directed to establish and promulgate, from time to time, official standard grades for apples, by which the quantity, * * * may be determined, and prescribe and promulgate rules and regulations governing markings which shall be required upon all closed packages of apples for the purpose of showing the name and address of the producer or packer, the variety, quantity, quality and size of the product, or any of them, * * * [1927; last amended 1936.]

Sec. 3-509. Enforcement.

The Board of Agriculture and Immigration shall be charged with the enforcement of this article [Secs. 3-506—3-512] * * * [1927; last amended 1936.]

Sec. 3-511. Penalty for violations.

Any person, firm, company, organization or corporation, who shall violate any of the provisions of this article [Secs. 3-506—3-512], shall be punishable by a fine of not less than ten dollars nor more than five hundred dollars for each offense. [1927; last amended 1934.]

Code 1948, Vol. 1, Title 3, Ch. 21, Art. 1—Agricultural Products, Containers.

Sec. 3-527. Establishment of standards for capacity and marking of containers.

In the administration of the Division [of Markets], the Director [of Division of Markets] shall exercise and discharge the following powers and duties, under the supervision of the Commissioner [of Agriculture and Immigration].

(a) He shall investigate * * * the most advantageous methods of packing, storing and standardizing agricultural products, and may establish and publish official standards for capacity and marking of open or closed, filled or unfilled receptacles for agricultural products * * *

(c) The director is authorized to make and establish rules and regulations for carrying out the purposes of this chapter [Secs. 3-526—3-533], such rules and regulations to become effective when approved by the Commissioner and Board [of Agriculture], and enforceable by action or proceedings in any court of competent jurisdiction. [1916; last amended 1924.]

Code 1948, Vol. 1, Title 3, Ch. 23—Commercial Feeding Stuffs.

Sec. 3-613. Penalties for violations.

Any person, firm or corporation, either directly or through any agent, who shall manufacture, sell, expose for sale, or have in his possession with intent to sell, any concentrated commercial feeding stuff which is adulterated or misbranded within the meaning of this chapter [Secs. 3-610—3-646], or within the rules and regulations prescribed in accordance with the provisions of this chapter by the Commissioner [of Agriculture and Immigration], with the approval of the Board [of Agriculture and Immigration], or who shall violate any of the provisions of this chapter, a punishment for which is not otherwise specifically prescribed in this chapter, shall be guilty of a misdemeanor, and for such offense shall be fined not exceeding two hundred dollars for the first offense, and for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both fine and imprisonment, in the discretion of the court; and such fines, less legal cost and charges, shall be paid into the State treasury. [1910]

Sec. 3-619. Definition; construction and application of act.

The term concentrated commercial feeding stuffs, as used in this chapter [Secs. 3-610—3-646], shall be

Code 1948, Vol. 1, Title 3, Ch. 23—Commercial Feeding Stuffs—Continued.

held to include all feeds intended for feeding to live stock and poultry, except hays, straws and corn stover, when the same are not mixed with other materials, nor shall it apply to the whole unmixed seeds or grains of cereals, when not mixed with other materials; nor shall it include the pure products of wheat, known as middlings, shorts and bran, made from wheat only; nor the pure products of corn, known as corn meal, hominy, grits and corn bran.

Nothing contained in this chapter shall be construed to exempt any products intended for feeding to domestic animals, from a printed statement certifying the net weight of the contents of the package, the name under which it is offered for sale, and the name and address of the manufacturer of the product, but when the products shall be sold and delivered to the consumer at the place of manufacture, the miller or manufacturer thereof shall not be required to furnish the printed statement hereinbefore provided for; nor shall this chapter apply to the by-products of wheat as hereinbefore expressed, nor to corn meal, hominy, grits or corn bran, when the sales thereof are made by farmers growing the wheat and corn from which such products are made. [1910]

Sec. 3-620. Marking requirements; standard weight packages.

Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale within this State, shall have affixed thereto, or printed thereon, in a conspicuous place on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying the net weight of the package; * * * But all concentrated commercial feeding stuffs shall be in standard weight bags or packages of twenty-five, fifty, seventy-five, one hundred, one hundred and twenty-five, one hundred and forty, one hundred and fifty, one hundred and seventy-five and two hundred pounds. [1910]

Sec. 3-626. Rules and regulations for enforcement.

The Commissioner [of Agriculture and Immigration], with the approval of the Board [of Agriculture and Immigration], shall from time to time adopt rules and regulations for carrying out the provisions of this chapter [Secs. 3-610—3-646], * * * [1910]

Code 1948, Vol. 1, Title 3, Ch. 25—Dog Food.

Sec. 3-677. Definitions; enforcement.

(a) The term "dog food in cans", hereinafter referred to as "canned dog food", means any article of food, whether simple, mixed or compound, packed in cans or hermetically sealed containers and used for food for dogs and cats.

(b) The term "Commissioner" means the Commissioner of Agriculture and Immigration, who is

charged with the enforcement of the law and regulations governing the distribution of canned dog food in the State.

(c) The term "distributor" means any manufacturer, importer, wholesaler, retailer, or any person manufacturing, distributing, selling, offering, or exposing for sale any canned dog food as hereinbefore defined. [1940]

* * * * *

Sec. 3-678. Mislabelled cans prohibited.

No person shall, within this State, manufacture, sell, distribute, offer, or expose for sale any canned dog food which is adulterated or mislabeled within the meaning of this chapter [Secs. 3-677—3-689]. [1940]

Sec. 3-680. When deemed mislabeled.

Canned dog food shall be deemed to be mislabeled:

(a) If it is not labeled; or

(b) If the label contains any inaccurate statements, or does not conform in all particulars with the label approved by the Commissioner in connection with the registration of the distributor's canned dog food under this chapter [Secs. 3-677—3-689]. [1940]

Sec. 3-683. Registration; marking requirements.

The certification made by a distributor for the purpose of registration of any brand or kind of canned dog food shall contain the following information and such other information as the Commissioner may require, for the purpose of ascertaining whether the brand or kind of such dog food submitted for registration conforms with the provisions of this chapter [Secs. 3-677—3-689] and all regulations issued thereunder:

* * * * *

(c) A copy of the label of the brand or kind of canned dog food which is being submitted for registration. The label must have imprinted thereon, in a conspicuous manner, a clear and legible statement in the English language, which covers the following:

(l) The net weight of the contents. [1940]

* * * * *

Sec. 3-687. Penalties for violations.

Any violation of the provisions of this chapter [Secs. 3-677—3-689], or failure to comply with such provisions, shall be a misdemeanor, and punishable as such.

A violation of any of the provisions of this chapter by a partnership, corporation or association shall also be deemed a violation by the individual partners, directors, officers, agents or employees of such partnership, corporation or association, who personally ordered, did, or knowingly permitted any of the acts or omissions constituting in whole or in part such violations. [1940]

Sec. 3-689. Seizure.

Canned dog food may be inspected and seized by the Commissioner under the provisions of Sec. 3-329.¹ [1940]

¹ See page 1047.

Code 1948, Vol. 1, Title 3, Ch. 27—Oleomargarine.

Sec. 3-704. Marking requirements.

Manufacturers, dealers or agents selling, exposing or offering for sale oleomargarine or substitutes for pure butter, or process or renovated butter, shall first display signs in conspicuous places, and as directed by the Commissioner of Agriculture and Immigration, or his agents, or assistants, in their storehouses and sales rooms bearing the following words, and no others, printed in black letters one inch square on a white background (as the case may be): "We sell oleomargarine here", "We sell process (or renovated) butter here", and each tub, box, container and package of oleomargarine or process or renovated butter shall be plainly marked with the net weight of the contents of the package and the word "oleomargarine" or "process (or renovated) butter", as the case may be, to clearly indicate that the product is oleomargarine or process (or renovated) butter, and where sales of oleomargarine, process butter, or renovated butter are made by retail from bulk, the container or wrapper in which the product is delivered to the purchaser shall be plainly marked with the net weight of the contents of the package and the word "oleomargarine" or "process (or renovated) butter", as the case may be. [1916]

Sec. 3-705. Penalties for violations; enforcement.

Any person, firm or corporation, who shall violate any of the provisions of Secs. 3-700 to 3-704 shall be guilty of a misdemeanor, and for such offense shall be fined not exceeding two hundred dollars. The Commissioner is charged with the enforcement of the provisions of such sections. [1916]

Code 1948, Vol. 1, Title 4, Ch. 1—Alcoholic Beverages.

Sec. 4-7. Board to determine capacity of containers and contents of labels.

The functions, duties and powers of the Board [Virginia Alcoholic Beverage Control Board] shall be as follows:

* * * * *

(h) To determine the nature, form and capacity of all packages to be used for containing alcoholic beverages to be kept or sold under this chapter [Secs. 4-1—4-98], and to prescribe the form and contents of all labels and seals to be placed thereon; [1934; last amended 1936.]

* * * * *

Code 1948, Vol. 1, Title 28, Ch. 5, Art. 15—Oyster Measures.

Sec. 28-188. Standard measures; penalty for violations; seizures.

It shall not be lawful at any time for any person to buy or sell oysters in this State in the shell by any other than one-half bushel or one bushel metallic measures, and such measures shall be iron circular tubs with straight sides and straight solid bottoms with holes in bottom, if desired, for draining, such holes to be no larger, however, than one inch in diameter. A half-bushel tub shall have the following dimensions, all measurements to be from inside to inside: Fifteen inches across the top, thirteen inches across the bottom, and seventeen inches diagonally from the inside chine to the top; and a bushel tub shall measure eighteen and one-half inches across the top, seventeen inches across the bottom, and twenty-one and one-half inches diagonally from the inside chine to the top.

When the oysters are bought or sold out of the shell, they shall be measured by the gallon, half-gallon, quart, pint, etc.

Any person violating any provision of this section shall be fined not less than twenty-five nor more than one hundred dollars for each offense. Moreover, if any inspector or other oyster official have reason to believe that measures not conforming to the above requirements are used on board any vessel or craft, or in any oyster house, he is hereby empowered to search for, seize and destroy such unlawful measures. [1910; last amended 1936.]

Sec. 28-189. Same: Penalty on inspector for not sealing; destruction of unauthorized measures.

If any inspector fails to comply with the requirements for inspecting and sealing, he shall be fined twenty dollars for each offense. If an inspector has reason to believe that other measures are used on board any vessel or craft than such as are hereinbefore prescribed, he shall seize and destroy such measures. [1887; last amended 1936.]

Code 1948, Vol. 2, Title 45, Ch. 1—Mine Scales, Violations of Title.

Sec. 45-17. Penalties for violations.

* * * * *

(b) The State Mine Inspector, or any district inspector, or any operator, mine superintendent, general manager, mine foreman or other employee of any mining company, or any other person, who shall violate any of the provisions of this title [Secs. 45-1—45-93], shall be guilty of a misdemeanor and, upon conviction thereof, shall, unless a different penalty is expressly provided in this title, be fined not less than ten dollars nor more than five hundred dollars, or be imprisoned in jail not less than ten days nor more than one year, in the discretion of the court or jury

Code 1948, Vol. 2, Title 45, Ch. 1—Mine Scales, Violations of Title—Continued.

trying the case, except as otherwise provided in this title. [1940]

* * * * *

Code 1948, Vol. 2, Title 45, Ch. 6—Mine Scales, Supervision and Weighmen.

Sec. 45-88. State mine inspector as inspector of weights and measures.

The State Mine Inspector shall be the inspector of weights and measures for the purpose of inspecting, testing and ascertaining whether the scales or measures, which are kept at coal mines for the purpose of weighing or measuring coal produced therefrom, are correct, and for such purpose shall have the authority vested in and be charged with the duties imposed upon inspectors of weights and measures by general law. [1940; last amended 1944.]

Sec. 45-89. Weighmen and checkweighmen.

Every operator shall employ a weighman, who shall correctly weigh all coal that is to be paid for by weight, and the miners or coal loaders working in any mine shall have the right to employ a checkweighman, who shall be a worker employed at the same mine, provided a majority of the miners or loaders voting after at least three days' notice of the time and place of election shall have elected so to do, by secret ballot. The checkweighman, when so employed, shall have the right to inspect and check the weighing of coal mined at such mine. It shall be the duty of the weighman and checkweighman, at reasonable intervals and without inconvenience to the operation of the mine, to ascertain the correct tare weight of all mine cars by weighing while empty and in usual working condition.

When the checkweighman is employed by the miners working at any mine the miners shall mutually agree as to the basic rate of pay, per hour, per day or per ton, of the checkweighman and the method of collection and payment. Should the majority of the miners voting at any mine fail to employ a checkweighman, then the person employed by the operator, corporation, company or person as weighman shall alone perform that duty. Before the weighman or checkweighman enter upon the discharge of the duties of their employment, they shall take and subscribe an oath or affirmation to abstain from the use of intoxicating liquors during the hours of work, to honestly and impartially do and perform the duties of their employment and to do equal and exact justice between employers and employees concerned in the matter of their employment to the best of their judgment, skill and ability.

When the weighman is mutually selected by the consent of a majority of the miners working in any mine and the operator or his agent, it shall not be considered necessary to employ a checkweighman,

but at any time that either of the parties to the agreement becomes dissatisfied with the weighman, then by joint action they may dismiss him on ten days' notice or the miners may employ a checkweighman. [1940; last amended 1944.]

Sec. 45-90. Operator to provide scales.

The operator shall provide at such mine suitable tipples or dumping points, and accurate scales for the weighing of coal for which the miners are to be paid, or other suitable means of measuring the coal for which the miners are to be paid, on the basis of measure. [1940]

Code 1948, Vol. 2, Title 54, Ch. 15, Art. 8—Drugs and Cosmetics.

Sec. 54-463. When drug deemed misbranded.

A drug shall be deemed to be misbranded:

* * * * *

(2) If its labeling is false, deceiving or misleading in any particular.

* * * * *

(4) If in package form it fails to bear a label containing * * * (b) an accurate statement of the quantity of the contents in either terms of weight, measure, or numerical count, except granular effervescent salts; provided, that under subdivision (b) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board [State Board of Pharmacy], where compliance with such provisions would be impracticable.

(5) If any word, statement, or other information required on the label under any provision of this article [Secs. 54-461—54-474] is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package.

* * * * *

(8) (a) If it is a drug and its container is so made, formed, or filled as to mislead the purchaser; * * * [1919; last amended 1948.]

Sec. 54-466. When cosmetic deemed misbranded.

A cosmetic shall be deemed to be misbranded:

* * * * *

(2) If its labeling is false or misleading in any particular, * * *

(3) If in package form it fails to bear a label containing * * * (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under subdivision (b) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations

prescribed by the Board [State Board of Pharmacy], where compliance with such provisions would be impracticable.

(4) If any word, statement, or other information required on the label under any provision of this article [Secs. 54-461—54-474] is not prominently placed thereon in such manner as to be easily seen and in such terms as to be readily understood by the purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package. [1938; last amended 1948.]

Sec. 54-469. Prohibited acts.

The following acts and the causing thereof are hereby prohibited:

(1) The introduction or delivery for introduction into commerce of any drug or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any drug or cosmetic in commerce.

(3) The receipt in commerce of any drug or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof in the original unbroken package for pay or otherwise.

(4) The dissemination of a false advertisement by any means for the purpose of inducing, directly or indirectly, the purchase of drugs or cosmetics.

Provided, however, there shall be no prosecution of any licensed retail merchant for violation of the provisions of this section until the retail merchant has been adequately warned by the State Board of Pharmacy that the drug or cosmetic in question is adulterated or misbranded. [1938]

Sec. 54-470. Guaranty protection.

No dealer shall be prosecuted under the provisions of this article [Secs. 54-461—54-474] who can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in this State or in the United States, from whom he purchased such articles that the same when purchased in this State are not adulterated or misbranded within the meaning of this article, or if purchased out of this State, but within the United States, when the dealer can establish a guaranty signed by the person or persons, residing in the United States, from whom he has purchased such articles to the effect that the same are not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. Such guaranty, to afford protection in either case, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case the party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this article. [1919; last amended 1948.]

Sec. 54-471. Examination by Board of pharmacy; notices of violations; prima facie evidence.

The examination of specimens of drugs shall be made under the direction and supervision of the Board [State Board of Pharmacy], for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this article [Secs. 54-461—54-474]. If it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this article, the Board shall cause notice thereof to be given to the party from whom such sample was obtained. * * *

* * * In all prosecutions arising under this article the certificate under oath of the analyst or other officer making the analysis or examinations therein shall be prima facie evidence of the facts therein certified. [1919]

Sec. 54-474. Penalties for violations.

It shall be unlawful for any person to manufacture, sell or offer for sale any drug or cosmetic which is adulterated or misbranded, within the meaning of this article [Secs. 54-461—54-474]. Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars or imprisoned in jail not exceeding six months, or both, in the discretion of the court. For each subsequent offense and conviction thereof he shall be fined not exceeding two hundred dollars or imprisoned in jail not exceeding six months, or both, in the discretion of the court. [1919; last amended 1948.]

* * * * *

Code 1948, Vol. 2, Title 54, Ch. 15, Art. 11—"Uniform Narcotic Drug Act."

Sec. 54-505. Marking requirements.

Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1934]

Sec. 54-515. Enforcement.

It shall be the duty of the Board [State Board of Pharmacy], its officers, agents, inspectors and representatives, and of all peace officers within the State, and of all attorneys for the Commonwealth, to enforce all provisions of this article [Secs. 54-487—54-519], except those specifically delegated, and to co-operate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs. [1934]

Code 1948, Vol. 2, Title 54, Ch. 15, Art. 11—"Uniform Narcotic Drug Act"—Continued.

Sec. 54-524. Penalties for violations.

Any person violating any provision of this article [Secs. 54-487-54-519] shall upon conviction be punished, for the first offense, by a fine not exceeding one hundred dollars, or by imprisonment in jail for not exceeding one year, or by both such fine and imprisonment; and to any subsequent offense, by a fine not exceeding one thousand dollars, or by imprisonment for not exceeding five years in the penitentiary, or by both such fine and imprisonment. [1934]

Code 1948, Vol. 2, Title 61, Ch. 4—Tobacco Warehouses.

Sec. 61-101. Sampling, weighing and branding tobacco.

The samplers shall uncase and break every hogshead, cask, tierce, or box of tobacco brought to their respective warehouses to be sampled; weigh and sample it, and mark, or brand the same, as "Virginia" or "Western", according to the facts; and also, with the name of the warehouse, the tare of the hogshead, cask, tierce, or box; the quantity of net tobacco therein, and the condition thereof. The net weight shall be ascertained by weighing the hogshead, cask, tierce, or box, before it is uncased, and deducting therefrom the weight of the empty hogshead, cask, tierce or box. The sample shall not exceed eight pounds in weight, and shall belong to the buyer of the tobacco from whom it was taken. [1887]

Sec. 61-108. Weighing leaf tobacco; itemized statements furnished seller; penalty for violations.

All leaf tobacco sold upon the floor of any tobacco warehouse in the State shall first be weighed by some reliable person who shall have first sworn and subscribed to the following oath: * * *

The proprietor of each and every warehouse shall render to each seller of tobacco at his warehouse a bill plainly stating the amount charged for weighing and handling, * * *

For each and every violation of the provisions of this section a penalty of ten dollars may be enforced, and the same may be recovered by anyone so offended. [1899; last amended 1900.]

Sec. 61-134. Proprietors to furnish scales, etc.

The proprietor of every warehouse shall have proper scales or balances and weights, and all other proper conveniences provided, and see that they are kept in repair, and that the weights conform to the lawful standard. [1899; last amended 1900.]

Code 1948, Vol. 1, Title 19, Ch. 11—Misdemeanors.

Sec. 19-265. Punishment when not otherwise prescribed.

A misdemeanor, for which no punishment or maximum punishment is prescribed by statute, shall be punished by fine not exceeding five hundred dollars or confinement in jail not exceeding twelve months, or both, in the discretion of the jury of the trial justice, or of the court trying the case without a jury. [1887]

Code 1948, Vol. 1, Title 18, Ch. 7, Art. 4—False Advertising.

Sec. 18-189. Unlawful acts; penalty.

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or other publications, or in the form of a book, notice, handbill, poster, blue-print, map, bill, tag, label, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, land, lot or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars, or confined in jail for a period of not less than ten days nor more than sixty days, or by both such fine and imprisonment. The words "untrue, deceptive and misleading", as used in this section, shall be construed as including the advertising in any manner by any person of any goods, wares or merchandise as a bankrupt stock, receiver's stock or trustee's stock, if such stock contains any goods, wares or merchandise put therein subsequent to the date of the purchase by such advertiser of such stock, and if such advertisement of any such stock fails to set forth the fact that such stock contains other goods, wares or merchandise put therein, subsequent to the date of the purchase by such advertiser of such stock in type as large as the type used in any other part of such advertisement, including the caption of the same, it shall be a violation of this section. [1924; last amended 1930.]

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Pierce's Perpetual Code 1943—Department of Agriculture.

Sec. 229-1. Divisions.

The department of agriculture shall be organized into, and consists of, five divisions, to be known respectively as, (1) the division of agriculture, (2) the division of horticulture, (3) the division of dairy and live stock, (4) the division of foods, feeds, drugs, and oils, and (5) the division of weights and measures. The director of agriculture shall have charge and general supervision of the department * * * [1921]

Sec. 229-11. Powers of director: To appoint supervisor of weights and measures; assistants.

The director of agriculture shall have the power to appoint and deputize an assistant director, to be known as the supervisor of weights and measures, who shall have charge and supervision of the division of weights and measures, and, with the approval of the director, shall have power to appoint and deputize such sealers, testers, and inspectors, and to appoint and employ such clerical and other assistants, as may be necessary to carry on the work of the division. [1921]

Sec. 229-13. Powers transferred.

The director of agriculture shall have power, and it shall be his duty, to exercise all the powers and perform all the duties now vested in, and required to be performed by, the commissioner of agriculture, and to exercise such other powers and perform such other duties as may be provided by law. [1921]

Sec. 229-23. Same: Weights and measures; transfer of powers to director.

The director of agriculture shall have the power, and it shall be his duty, through and by means of the division of weights and measures:

(1) To exercise all the powers and perform all the duties relating to weights and measures, now vested in, and required to be performed by, the secretary of state, the superintendent of weights and measures, the deputy superintendent of weights and measures, the inspector of weights and measures, and the state sealers. [1921]

Pierce's Perpetual Code 1943—Weights and Measures.

Sec. 996-1. State standards; false standards.

The weights and measures, received from the United States under a resolution of congress approved June 14, 1836, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or renewal thereof, and such as shall be supplied by the state in conformity therewith and certified by the national bureau of standards, shall be the state standards, by which all county and municipal standards of weights and measures shall be tried, approved and sealed.

All weights, measures, scales, scale beams, patent balances, steelyards, automatic or computing scales, or other instruments for weighing or measuring, by which any merchandise, commodity, or thing is bought or sold by weight or measure, or offered or exposed for sale, shall conform to the state standards herein prescribed. Any weight, measure, scale, scale beam, patent balance, steelyard, automatic or computing scale or other instrument or device for weighing or measuring which does not conform to such state standards is hereby declared to be a false weight or measure. [1927]

Sec. 996-3. Director of agriculture: Powers and duties.

The director of agriculture through and by means of the division of weights and measures shall take charge of the state standards, cause them to be kept in a safe and suitable place in the office of the division of weights and measures, from which they shall not be removed except for repairs or for certification, and shall take all other necessary precautions for their safe keeping; 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; shall at least once in five years try and prove by the state standards all weights, mea-

asures and other apparatus which may belong to any county or city, and shall seal such when found to be accurate, by stamping on them with seals which he shall have and keep for that purpose, the letter "W" and the last two figures of the year in which the same are sealed; shall have and keep a general supervision of the weights, measures and weighing and measuring devices offered for sale, sold or in use in the state; shall, upon written request of any citizen, firm, corporation or educational institution in the state, test or calibrate weights, measures, weighing or measuring devices and instruments or appliances used as standards in this state; shall at least once annually, test all scales, weights, measures, weighing or measuring devices or instruments used in determining the quantities of the receipts or disbursements of supplies for the maintenance of which moneys are appropriated by the legislature, and report in writing his findings to the director of business control or the supervising board, and to the executive officer, of the institution concerned, and at the request of such director, board or executive officer, shall appoint in writing one or more employes, then in the actual service of each institution, who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies; shall keep a complete record of the standards, balances and other apparatus belonging to the state and take receipt for the same from his successor in office; shall annually, on the first day of October, make to the governor a report of the work done by his office; shall inspect all standards and apparatus used by the state and cities having a population of more than fifty thousand, at least once in two years, and keep a record of the same; shall at least once in two years visit the various cities in the state having a population of fifty thousand, in order to inspect the work of the city sealers, and in the performance of such duties may inspect the weights, measures, and weighing or measuring devices or instruments of any citizen, firm or corporation, except track scales used by common carriers by railroad, and shall have the same powers as the city sealer of weights and measures; shall issue, from time to time, regulations for the guidance of state and city sealers, which regulations shall govern the procedure to be followed by such officers in the discharge of their duties. [1927]

Sec. 996-5. Department and city standards.

The director of agriculture, and the council or other governing body of each city having a population of more than fifty thousand, shall procure and keep at all times a complete set of weights, measures, weighing and measuring devices and other apparatus, of such materials and construction as the director of agriculture may direct. All such weights, measures, devices and other apparatus having been tried and accurately proven by the director of agriculture through and by means of the division of weights and measures, shall be sealed and certified

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to by the director; and shall then be deposited with and preserved by the city sealer as public standards for such city, and by the director for use as public standards in any county in the state. Whenever the council or other governing body of any such city shall neglect for six months so to do, the city clerk or comptroller of said city, on notification and request by the director of agriculture or the supervisor of weights and measures, shall provide such standards and cause the same to be tried, proved, sealed and deposited at the expense of such city. [1927]

Sec. 996-7. Testing; sealing; condemning; prosecutions.

The director of agriculture, the supervisor of weights and measures, and the duly appointed and deputized sealers, testers and inspectors of the division of weights and measures, shall have the power to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, and other instruments or mechanical devices for ascertaining the quantity of any article by weight, and all measures, and other instruments or mechanical devices for ascertaining the size or dimensions of any article, or the quantity thereof, by measurement, and all tools, appliances and accessories connected with any such weighing or measuring instrument or device, kept for the purpose of sale or sold, or used or employed by any person or corporation, or any agent, lessee or employe, in ascertaining the weight, size, quantity, extent, dimension or area of any article for distribution or consumption, offered for sale, or sold or purchased, or stored or transported, except track scales used by common carriers by railroad; and shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold, or purchased, or in the process of delivery, in order to determine whether the same contain the amount represented, and whether they are being offered for sale or sold, or have been purchased, in the manner provided by law; and may, for the purposes above mentioned and in the performance of official duty, without formal warrant, enter into or upon any stand, place, building or premises, and stop any vendor, peddler, junk dealer or the person in charge or any coal wagon, wood wagon, ice wagon or delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some specified place, for the purpose of making proper tests. Whenever any such officer finds a violation of any statute relating to weights or measures, he shall cause the person violating such statute to be prosecuted. Whenever any such officer inspects, tests and tries any weight, measure or weighing or measuring instrument or device and ascertains that it is correct and corresponds, or causes it to correspond, with the standards in his possession, he shall

scal or mark such weight, measure or weighing or measuring instrument or device with appropriate devices to be approved by the director of agriculture, and shall condemn and seize and may destroy any incorrect weight, measure or weighing or measuring instrument or device which cannot be repaired, and shall mark or tag any such weight, measure or weighing or measuring instrument or device found to be incorrect and that may be repaired with the words "condemned for repairs" in a manner prescribed by the director of agriculture. The owner or user of any weight, measure or weighing and measuring instrument or device which shall have been so marked or tagged "condemned for repairs," shall have the same repaired or corrected within ten days and shall not use or dispose of the same in any way, but shall hold the same subject to the orders of the officer condemning the same. [1927]

Sec. 996-9. City sealers: Appointment; powers.

There shall be, in each city of the first class having a population of more than fifty thousand, a city sealer of weights and measures, to be appointed by the mayor, or other chief executive officer, from a list to be furnished by, and under the rules of, the civil service board, where such board exists; otherwise he shall be appointed by the mayor or chief executive officer by and with the advice and consent of the council or other governing body. He shall perform in said city the duties and shall have like powers as the director of agriculture acting by and through the division of weights and measures: Provided, however, That in every case where any city of the first class has heretofore made, or may hereafter make provision by charter or ordinance for the enforcement of proper legal weights and measures, vesting general supervision and direction in any official at the head of any department of such city, such official for the purpose of this act [Secs. 996-1—996-17, 996-27—996-53], shall be ex-officio sealer of weights and measures in such city, and he and his subordinates shall have the duties and powers of city sealers of weights and measures, and the powers of such cities relative to weights and measures shall be additional to the powers granted such city by law and charter: And provided further, That the director of agriculture and the officers of the division of weights and measures shall exercise no powers and discharge no duties in any city of the first class having its own sealer of weights and measures, except as in this act hereinabove provided. [1927]

Sec. 996-11. False weights and measures: penalty.

Any person, who, by himself or his servant or agent or as the servant or agent of another, shall use 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 or under the direction of the director of agriculture or a city sealer within one year, in the buying or selling of any

commodity, or thing, or in the storage thereof, or in the transportation thereof, except track scales used by common carriers by railroad; or who shall dispose of any condemned weight, measure or weighing and measuring device contrary to law, or remove any tag placed thereon by any authorized officer under the provisions of this act; or any person who, by himself, or by his servant or agent, or as the servant or agent of another, shall sell or offer or expose for sale, or purchase or store or transport less than the quantity he represents, or sell or offer or expose for sale or purchase, store or transport any such commodities in a manner contrary to law; or any person who by himself or by his servant or agent or as the servant or agent of another shall sell or offer for sale, or have in his possession for the purpose of selling, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor ¹ upon the first conviction, but upon a second and each subsequent conviction he shall be guilty of a gross misdemeanor. ² [1927]

¹ See Sec. 112-27, page 1074.

² See Sec. 112-29, page 1074.

Sec. 996-13. Officers are policemen; arrests and seizures.

The director of agriculture, the supervisor of weights and measures and all duly appointed sealers, testers and inspectors of the division of weights and measures and all duly appointed and qualified city sealers of weights and measures, are hereby made special policemen, and are authorized and empowered to arrest, without warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence, and without warrant, any false weight, measure or weighing or measuring device or packages or amounts of commodities found to be used, retained or offered or exposed for sale, or sold, or purchased, stored or transported contrary to the provisions of this act [Secs. 996-1—996-17, 996-27—996-53]. [1927]

Sec. 996-15. Obstructing officers; penalty.

Any person who shall hinder or obstruct, in any way, the director of agriculture, the supervisor of weights and measures, any duly appointed and deputized sealer, tester, or inspector of the division of weights and measures, or any city sealer, in the performance of his official duties, shall be guilty of a misdemeanor. ¹ [1927]

¹ See Sec. 112-27, page 1074.

Sec. 996-17. Butter: Standard packages; marking requirements.

A standard package or container of butter in this State shall contain sixteen (16) ounces net weight or thirty-two (32) ounces net weight, and a standard package or container need have no statement of the net weight of its contents, but it shall be unlawful to offer for sale or sell butter in any package or container where the net weight thereof is more or less

than the standards herein prescribed without having said package or container labeled in plain English words or figures with the correct net weight of its contents expressed in pounds and ounces together with the name of the manufacturer or jobber. [1927]

Sec. 996-19. Bread: Weights.

It shall be unlawful for any person to manufacture, sell or offer or expose for sale, any bread except in the following weights, which shall be the net weights twelve hours after baking; one pound, one and one-half pounds, two pounds, three pounds, four pounds and five pounds, or other pound weights: Provided, That variations at the rate of one ounce per pound over, and one ounce per pound under, the above specified unit weights are permitted in individual loaves, but the average weight of not less than twelve loaves of any one unit of any one kind shall not be less than the weight hereinabove prescribed. It shall be unlawful to sell or expose for sale bread in a loaf of such form that it has the appearance and size of a loaf of greater weight. [1937]

Sec. 996-21. Same: Definitions.

As used in this act [Secs. 996-19—996-25]:

(a) "Pullman Bread" means bread baked in pans all six sides of which are enclosed;

(b) "Open-top" or "hearth bread" means bread baked in pans or forms the top or top and sides of which are not enclosed. [1937]

Sec. 996-23. Same: Size of loaves.

"Open-top" or "hearth bread" shall be baked in pans or forms the length and width of which shall not exceed the following:

One pound bread, length nine (9) inches, width four and one half (4½) inches;

One and one half pound bread, length twelve and one quarter (12¼) inches, width four and one half (4½) inches. [1937]

Sec. 996-25. Same: Pullman loaves.

"Pullman bread" shall be baked in pans the length and cubic content of which shall not exceed the following:

One pound, nine (9) inch [es] length, one hundred forty-four (144) cubic inches;

One and one half pound, length thirteen (13) inches, two hundred and eight (208) cubic inches;

Two pound, sixteen (16) inches length, two hundred fifty-six (256) cubic inches;

Three pound, twenty (20) inch [es] length, four hundred five (405) cubic inches. [1937]

Sec. 996-26. Flour, corn meal, hominy, and hominy grits: Standard weight containers; exceptions; violation a misdemeanor.

It is unlawful for any person, partnership, corporation, company, cooperative society, or organiza-

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tion to pack for sale, sell, offer or expose for sale any of the following commodities, except in containers of net avoirdupois weights of five, ten, twenty-five, fifty, and one hundred pounds, and multiples of one hundred pounds; wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: Provided, That these provisions shall not apply to (1) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (2) the sale of flours and meals to commercial bakers or blenders in containers of more than one hundred pounds or for export, or (3) flours, meals, hominy and hominy grits packed in containers the net contents of which are less than five pounds, or (4) the exchange of wheat for flour by mills grinding for toll.

Any violation of this act [section] is a misdemeanor.¹ [1945]

¹ See Sec. 112-27, page 1074.

Sec. 996-27. Potatoes: Standard containers; marking requirements.

The standard container of potatoes in this State shall contain one hundred (100) pounds net weight, and need bear no statement of the weight of its contents, but it is unlawful to sell or offer for sale potatoes by the container which contains more or less than one hundred (100) pounds, unless each container is labeled in plain English words and figures, not less than one inch (1") in height, with its true net weight. [1927; last amended 1945.]

Sec. 996-29. Standard berry boxes.

A standard berry box for selling or offering for sale blackberries, currants, strawberries, cranberries, blueberries, gooseberries, cherries and similar berries in packages containing less than one bushel, shall be a dry quart containing 67.2 cubic inches or a dry pint containing 33.6 cubic inches, or a dry half-pint containing 16.8 cubic inches, and it shall be unlawful to sell or offer for sale or use for the purpose of selling or offering for sale any of the berries named in this section, berry boxes of any other interior capacity than 67.2 or 33.6 or 16.8 cubic inches, unless the same be labeled in plain English words or figures with the correct interior capacity expressed thereon in cubic inches; and all containers must be well filled: Provided, That nothing in this section shall be construed to prevent the sale or offering for sale of any of the articles therein mentioned by weight. [1927; last amended 1937.]

Sec. 996-31. Coal: Standard sacks.

A standard sack of coal in this state shall contain one hundred (100) pounds net weight, and a standard sack of coal need have no statement of the net

weight of its contents, but it shall be unlawful to offer for sale or sell coal in sacks containing more or less than one hundred (100) pounds net weight, unless such sacks be labeled in plain English words or figures with the true net weight of the contents expressed in pounds, and it shall be unlawful for any person, firm or corporation, or their agents, servants or employes, to misrepresent any coal offered for sale or to sell coal of any particular name or designation, or from any particular mine under the name or designation of another coal or mine. [1927]

Sec. 996-33. Milk: Measures.

It shall be unlawful for any person, firm, or corporation to sell milk, cream or buttermilk in this state, in bottles unless such bottles contain either one-half pint, one pint, one quart, one-half gallon or one gallon standard liquid measure. [1927]

Sec. 996-35. Vinegar: Measures.

Standard bottles for selling or offering for sale vinegar in this state shall contain one-half pint, one pint, one quart, one-half gallon or one gallon standard liquid measure and whenever vinegar is sold or offered for sale in such standard bottles no statement of the net measure of the contents thereof need be given thereon, but it shall be unlawful for any person, firm or corporation to offer for sale or sell vinegar in this state in bottles containing more or less than the standard amount in this section, unless such bottles shall be labeled in plain English words and figures with the true net measurement thereof stated in liquid ounces. [1927]

Sec. 996-37. Wholesale weights.

It shall be unlawful for any person, firm or corporation to buy at wholesale in this state any article or commodity upon the basis of weight or measure unless the same be bought upon the basis of the true net weight or measure, and unless the scales, measures or weighing or measuring devices used by the buyer in determining the quantity bought shall bear the seal of a state or a city sealer of weights or measures and conform to the standards provided by this act [Secs. 996-1-996-17, 996-27-996-53]. [1927]

Sec. 996-39. Ice scales and tongs.

It shall be the duty of every vendor of ice in this state, at the time of the actual delivery of any ice sold, to weigh the quantity of ice delivered and for that purpose to use a steelyard balance or other weighing device for weighing such ice, which shall have been duly adjusted and sealed by a duly appointed state or city sealer of weights and measures in accordance with the provisions of this act [Secs. 996-1-996-17, 996-27-996-53], and all ice delivered to a consumer within this state shall be sold by avoirdupois weight unless it is otherwise specially

agreed upon between the buyer and the seller, and each and every pair of ice tongs used in the delivery of ice in this state shall have conspicuously stamped thereon the true and exact avoirdupois weight of such tongs. [1927]

Sec. 996-41. True weights.

It shall be unlawful for any vendor, or his servant, agent or other employe, in this state, to offer for sale, or sell, or sell and deliver any commodity ordinarily and usually sold in bulk or quantity by weight or measure, unless the same be weighed, or measured, as the case may be, upon or by an officially tested and approved weighing or measuring device, and unless that portion of such commodity so offered for sale or sold by weight or measure shall be the true net weight or measure. [1927]

Sec. 996-43. Wood: Measurement; sales ticket.

It shall be unlawful for any vendor of firewood in this state, or his servant, agent or employe to offer for sale or sell any firewood in any quantity or by any measure except by the cord or fractional part thereof. The standard measurement of a cord of firewood in this state shall be one hundred twenty-eight (128) cubic feet: Provided, however, That firewood sixteen (16) inches or less in length may be sold without being measured as above provided, but if so sold by the unit or load or fractional part thereof, such wood shall be measured by throwing the same loosely or at random into a rectangular box or container and when so measured one hundred ninety-two (192) cubic feet shall constitute a unit or load of wood, and it shall be the duty of every vendor of firewood, his servant, agent or employe, with every delivery of firewood, to deliver to the purchaser a sales ticket or bill in writing containing the vendor's name and address, and a true statement of the quantity delivered and the price thereof and the kind and condition of the same. [1927]

Sec. 996-45. Standard wholesale container for cranberries.

A standard wholesale package or container for cranberries in this state shall contain one thousand nine hundred forty-two (1,942) cubic inches or the equivalent of one-third of a United States cranberry barrel, and need have no statement of its cubical contents, but shall be marked in plain letters, not less than one-quarter inch in height, "One-third United States Cranberry Barrel", or the net weight of the contents thereof, but it shall be unlawful for any person, firm or corporation to offer cranberries for sale at wholesale in this state, in packages or containers, the cubical contents of which are less than the standard defined, unless each such package or container be marked in plain letters and figures, not less than one-quarter inch in height, with the cubical contents of the container in inches, or the net weight of the contents. [1927]

Sec. 996-47. Milk cans: To be stamped and sealed.

It shall be the duty of every person, firm or corporation using milk cans or other vessels for the shipping, sale or dispensing of milk to have the liquid capacity, United States standard, of every such can or vessel measured and plainly sealed or stamped thereon by a duly authorized officer of the division of weights and measures or a city sealer in the manner provided in this act [Secs. 996-1—996-17, 996-27—996-53], and it shall be unlawful for any person, firm or corporation to own and use milk cans or other vessels for shipping, selling or dispensing milk, or ship, sell or dispense milk by measurement for consideration in a can or vessel that has not been officially sealed and its liquid capacity plainly stamped thereon, and upon conviction of a violation of this section the person so convicted shall, in addition to other penalties provided by law, forfeit all unsealed milk cans or vessels found in his possession: Provided, That this shall not apply where milk is sold by weight and on butter fat content. [1927]

Sec. 996-49. Standard box for apples and pears; special box.

The standard size of an apple box in this state, shall be eighteen inches long, eleven and one-half inches wide, and ten and one-half inches deep, inside measure; and the standard size of a pear box in this state, shall be eighteen inches long, eleven and one-half inches wide, and eight and one-half inches deep, inside measure, and it shall be unlawful for any person to offer for sale or sell apples or pears in this state by the box, unless the box containing the same conform to the above standard: Provided, That apples or pears may be packed and sold in special boxes if the net weight and contents are stamped thereon in plain letters and figures not less than one-half inch in height, and marked "Special Box." [1927; last amended 1945.]

Sec. 996-51. Coal: Gross ton; net ton.

Two thousand two hundred forty (2240) pounds avoirdupois shall constitute a gross ton of coal, and two thousand (2000) pounds shall constitute a net ton of coal, in this state, and it shall be unlawful for any person, firm or corporation to sell and deliver less than two thousand (2000) pounds of coal for a ton, or less than the true weight of coal according to the standard provided in this section for a fractional part of a ton of coal. [1927]

Sec. 996-53. Blanket penalty.

Every person found guilty of violating or failing to comply with any of the provisions of this act [Secs. 996-1—996-17, 996-27—996-53] for which no specific penalty is prescribed herein, shall be deemed guilty of a misdemeanor,¹ and for each subsequent offense he shall be deemed guilty of a gross misdemeanor.² [1927]

¹ See Sec. 112-27, page 1074.

² See Sec. 112-29, page 1074.

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Sec. 996-55. Weight and tare of hops.

The amount of tare to be deducted from the gross weight of each bale of hops grown and hereafter sold in this state is hereby fixed at five pounds per bale. Five yards of baling cloth is the maximum quantity to be used in making the bale, and the standard weight of each yard of baling cloth is hereby fixed at from twenty-four to thirty ounces. The standard weight for a bale of hops is hereby fixed at from one hundred and seventy-five to two hundred and ten pounds. Any vendor of hops using heavier sacking than that specified in this section or using any extraneous matter in the baling thereof shall have the same deducted as additional tare. [1890]

Pierce's Perpetual Code 1943—Cities.

Sec. 364-11. Cities of first class: May regulate weights and measures.

Any such city [of the first class] shall have power:

* * * * *

Sixteenth, to establish and regulate markets, and to provide for the weighing, measuring and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof. [1890]

* * * * *

Sec. 379-57. Cities of second class: May regulate markets and the weighing of coal and wood.

The city council of such city [of the second class] shall have power and authority:

* * * * *

17. To establish and regulate markets and market places.

* * * * *

42. To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office and the fees he shall receive for his services: Provided, That such fees shall in all cases be paid by the parties requiring such service. [1890]

* * * * *

Pierce's Perpetual Code 1943—False Weights and Measures.

Sec. 116-7. Concealing foreign matter in merchandise.

Every person who, with intent to defraud, shall place or conceal any foreign substance in any barrel, bag, bale, box or other package containing any article of merchandise, shall be guilty of a gross misdemeanor.¹ [1909]

¹ See Sec. 112-29, page 1074.

Sec. 116-59.¹ Using false weights and measures.

Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly misrepresenting the quantity thereof bought or sold; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it or permit it to be used in violation of the foregoing provisions of this section, shall be guilty of a gross misdemeanor.² [1909]

¹ For later law, see Sec. 996-11, page 1058.

² See Sec. 112-29, page 1074.

Pierce's Perpetual Code 1943—Commercial Feeding Stuffs and Fertilizers.

Sec. 250-29. Commercial feeding stuffs and fertilizers: Rules and regulations.

The director [of agriculture] is hereby empowered to prescribe and enforce such reasonable rules and regulations and make such definitions relating to concentrated commercial feeding stuff, fertilizer, or livestock remedy as he may deem necessary to carry into effect the full intent and meaning of this act [Secs. 250-1—250-117]. * * * [1939]

Sec. 250-65. Commercial feeding stuff: Definition.

The term "commercial feeding stuff" as used in this act [Secs. 250-1—250-117] shall be defined to be a substance used, sold, offered or exposed for sale as food for domestic animals: *Provided, however*, That the expression "commercial feeding stuff" shall not include whole hay, straw, stover, and silage, where no other materials are added and no part of the whole removed; wheat flours or other flours; unmixed, single grains, whole seeds, or unmixed meals made from unmixed whole grains of wheat, rye, barley, oats, corn, peas, or other cereal, and no part of the whole removed: *Provided, further*, That the Director [of agriculture] will permit the sale as such, or use as an ingredient in manufactured feeds of re-cleaned screenings containing singly or in any combination whole, weevily or cracked peas, wheat, wheat white caps, barley, oats, rye, but not including more than one per cent (1%) of all other materials, and under such conditions and safeguards as he may prescribe, of any materials not conforming to analysis standards and restrictions elsewhere set forth in the act, when sold singly or when mixed with molasses, or when incorporated in a commercial feeding stuff. [1939; last amended 1949.]

Sec. 250-67. Same: "Sack" defined.

The term "standard sack" shall mean a sack of concentrated commercial feeding stuff containing one hundred (100) pounds net weight. [1939]

Sec. 250-69. Same: Marking requirements.

It shall be unlawful to distribute, sell, offer for sale, or advertise for sale, concentrated commercial feeding stuff in sacks containing more than fifty (50) pounds except the standard one hundred (100) pound sack, unless each sack is labeled in a conspicuous manner on the face of the sack with the true net weight of the contents of the said sack in plain English words and figures at least two (2) inches in height, and any advertisement covering other than standard sacks of concentrated commercial feeding stuff shall state in a conspicuous manner the true net weight of the contents of each such sack. [1939]

Sec. 250-71. Same: Bulk shipments; marking requirements.

(a) Any person who shall sell, offer, or expose for sale in this state any commercial feeding stuff, shall include in the invoice of every bulk shipment, or shall affix or cause to be affixed to every package or sample of such commercial feeding stuff, in a conspicuous place on the outside thereof, a tag or label which shall have plainly printed thereon in the English language the number of net pounds of commercial feeding stuff contained in the package of bulk shipment, * * * [1939; last amended 1949.]

Sec. 250-83. Commercial fertilizer defined.

"Commercial fertilizer" shall mean any substance, including any combination or mixture of substances whose aggregate content of nitrogen, available phosphoric acid, and available potash is sixteen per cent (16%) or more, and which is designed and fit for use as a source of plant food to increase crop yields or plant growth, except unmanipulated animal manures. [1939]

Sec. 250-85. Fertilizer material defined.

"Fertilizer material" shall mean any mineral substance, any organic substance, mixture of mineral substances, and mixture of mineral and organic substances, except unmanipulated animal manures, hays, straw, and peats, which has an aggregate content of less than sixteen per cent (16%) of nitrogen, available phosphoric acid, available potash, or contains other essential plant nutrients in any amounts, and is designed for use principally as a source of plant food to increase crop yields or plant growth. [1939]

Sec. 250-87. Soil builders defined.

"Soil builder" shall mean any mineral substance, mixture of mineral substances, and mixture of mineral and organic substances, except sand and soil, used principally to add calcium, nitrogen, potassium, phosphorus, magnesium, or sulfur to the soil or as a means of producing physical or chemical changes in the soil for the purpose of improving plant growth. [1939]

Sec. 250-89. Marking requirements.

No lot, parcel, or package of, or receptacle containing, commercial fertilizer, fertilizer material, or soil builder shall be sold, offered, or exposed for sale within this state unless the same shall have attached thereto or printed thereon a plainly printed label, stating the name, brand, and trademark, if any there be, under which the product is sold; also the number of net pounds of commercial fertilizer, fertilizer material, or soil builder contained therein, * * * [1939]

Sec. 250-111. Penalty for violations of feed and fertilizer law.

Any person who violates any of the provisions of this act [Secs. 250-1—250-117] shall be guilty of a misdemeanor and upon conviction thereof, shall be for the first offense fined not more than one hundred dollars (\$100), and for the second and each subsequent offense not more than five hundred dollars (\$500.00). [1939]

Pierce's Perpetual Code 1943—Milk and Cream.

Sec. 496-31. Bottles and pipettes for testing; Markings; bond of manufacturer; penalty against manufacturer and dealer; specifications; tests.

All bottles and pipettes used in measuring milk or milk products for making determination of the per cent. of fat in or quality of said milk or milk products shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed" and in the side of the pipette or the side or bottom of the bottle the name, initials, or trade mark of the manufacturer and his designating number, which designating number shall be different for each manufacturer and may be used in identifying bottles. The designating number shall be furnished by the commissioner [director] of agriculture upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of one thousand dollars (\$1,000.00) with sureties to be approved by the attorney-general, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished, shall be kept in the office of the department of agriculture.

Any manufacturer who sells Babcock or other milk, cream or butter test bottles or milk pipettes, to be used in this state, that do not comply with the provisions of this section shall suffer the penalty of five hundred dollars (\$500.00) 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 determining the per cent. of milk fat in milk or milk products, any bottles or pipettes purchased after this law takes effect that do not comply with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor.¹

The commissioner [director] of agriculture shall prescribe specifications with which the glassware

Pierce's Perpetual Code 1943—Milk and Cream—Continued.

mentioned in this section shall comply. The unit of graduation for all Babcock or other glassware shall be the true cubic centimeter or the weight of one gram of distilled water at four degrees centigrade.

Inspectors of the department of agriculture are not required to seal Babcock milk, cream or butter test bottles or milk pipettes marked as in this section provided, but they shall from time to time make test of individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain whether the above provisions are being complied with and they shall report immediately to the commissioner [director] of agriculture violations found. [1919; last amended 1927.]

¹ See Sec. 112-27, page 1074.

Sec. 496-35. Temperature for testing purposes; true weights; cream to be weighed into test bottle.

In all tests made of milk or cream to determine the amount of milk fat therein the Babcock tester must be read at the proper temperature which is hereby declared to be not less than one hundred and thirty degrees Fahrenheit and not more than one hundred and forty degrees Fahrenheit, and all payments for or sales of milk or cream made on the basis of measurement or weight shall be made according to the true weight and measurement which is hereby declared to be seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream. In all tests for cream, the cream shall be weighed into the test bottle. [1921]

Sec. 496-37. Weighing for cream tests.

The sensibility of all scales used for weighing cream samples into the test bottles used in making any test with the Babcock tester shall be not more than thirty milligrams, and the standard weights shall be nine grams and eighteen grams. [1919]

Sec. 496-41. False weights or tests.

No person, firm or corporation selling, delivering or hauling milk or cream, and no person, firm or corporation receiving or purchasing milk or cream by weight, grade or test, or either, or by measure, grade or test, or either, shall with intent to deceive, defraud or mislead as to the weight, grade, measure, or test thereof, manipulate, change or alter such measure, test, grade or weight, or make or return to any person any false, deceitful, inaccurate or untrue statement of such weight, grade, test or measure, or use any measure, grading or testing apparatus which does not comply with the standards defined therefor in this act [Secs. 496-1—496-297] or which has been condemned as inaccurate by the department of agriculture. [1927]

Sec. 496-67. Testing at plants.

The department of agriculture shall conduct tests at any creamery, milk plant, cheese factory, milk

condensing plant or factory of milk products where there is reason to believe that milk or cream purchased or sold upon any basis of test, weight, grade or measure is not being tested, weighed, graded or measured accurately. [1927]

Sec. 496-143. Enforcement; rules and regulations.

It shall be the duty of the department of agriculture to enforce the provisions of this act [Secs. 496-1—496-297], and said department is hereby empowered and authorized to make, issue and promulgate from time to time such rules and regulations to carry out the provisions of this act for the enforcement thereof * * * [1927]

Sec. 496-147. Penalty for violation.

Any person who shall violate or fail to comply with the provisions of this act [Secs. 496-1—496-297], or any section or provision or part of a section or provision thereof, shall, unless otherwise herein provided, be guilty of a misdemeanor.¹ [1927]

¹ See Sec. 112-27, page 1074.

Pierce's Perpetual Code 1945—"Uniform Washington Food, Drug, and Cosmetic Act."

Sec. 570f-57. Federal act defined.

The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act, approved on June 25, 1938. (Ti. 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.) [1945]

Sec. 570f-61. Sale defined.

The term "sale" means any and every sale and includes (a) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (b) exposure, offer, or any other proffer; (c) holding, storing, or any other possessing; (d) dispensing, giving, delivering, serving, or any other supplying; and (e) applying, administering, or any other using. [1945]

Sec. 570f-63. Director defined.

The term "director" means the Director of the Department of Agriculture of the State of Washington and his duly authorized representatives. [1945]

Sec. 570f-67. Food defined.

The term "food" means (a) articles used for food or drink for man or other animals, (b) chewing gum, and (c) articles used for components of any such article. [1945]

Sec. 570f-69. Drug defined.

The term "drug" means (a) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) articles (other than food) intended to affect the

structure or any function of the body of man or other animals; and (d) articles intended for use as a component of any article specified in clause (a), (b), or (c); but does not include devices or their components, parts, or accessories. [1945]

Sec. 570f-73. Cosmetic defined.

The term "cosmetic" means (a) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (b) articles intended for use as a component of any such article; except that such term shall not include soap. [1945]

Sec. 570f-77. Label defined.

The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act [Secs. 570f-51—570f-259] that any word, statement or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1945]

Sec. 570f-79. Immediate container defined.

The term "immediate container" does not include package liners. [1945]

Sec. 570f-93. Prohibited acts.

The following acts and causing thereof are hereby prohibited:

(a) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(c) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

* * * * *

(e) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

* * * * *

(i) The giving of a guaranty or undertaking in intrastate commerce, referred to in section 26 [Sec. 570f-101], that is false.

* * * * *

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a food, drug, device, or cosmetic, or the doing of any other act with respect to a food, drug, device, or cosmetic, or the labeling or advertisement

thereof, which results in a violation of this act [Secs. 570f-51—570f-259]. [1945]

* * * * *

Sec. 570f-95. Injunction.

(a) In addition to the remedies hereinafter provided the Director [of agriculture] is hereby authorized to apply to the Superior Court of Thurston County for, and such Court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of section 22 [Sec. 570f-93], without proof that an adequate remedy at law does not exist. [1945]

* * * * *

Sec. 570f-97. Penalties for violations.

Any person who violates any provision of section 22 [Sec. 570f-93] shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than two hundred dollars (\$200); but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than thirty (30) days or a fine of not more than five hundred dollars (\$500), or both such imprisonment and fine. [1945]

Sec. 570f-99. Violation with intent to defraud; penalty.

Notwithstanding the provisions of section 24 [Sec. 570f-97] * * * in case of a violation of any provision of section 22 [Sec. 570f-93], with intent to defraud or mislead, the penalty shall be imprisonment for not more than ninety (90) days, or a fine of not more than one thousand dollars (\$1,000), or both such imprisonment and fine. [1945]

Sec. 570f-101. Excepted acts.

No person shall be subject to the penalties of section 24 [Sec. 570f-97]:

(1) For having violated section 22 [Sec. 570f-93] (c) if he establishes that he received and sold such articles in good faith, unless he refuses on request of the Director [of agriculture] to furnish the name and address of the person in the State of Washington from whom he received such articles and copies of all available documents pertaining to his receipt thereof; or

(2) For having violated section 22 [Sec. 570f-93] (a), (c), * * *, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the State of Washington from whom he received such article in good faith, to the effect that such article complies with this act [Secs. 570f-51—570f-259]; or

(3) For having violated section 22 [Sec. 570f-93] (e), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the State of Washington from whom he received such advertisement in good faith. to the

Pierce's Perpetual Code 1945—"Uniform Washington Food, Drug, and Cosmetic Act"—Continued.

effect that such advertisement complies with this act; or

(4) For having violated section 22 [Sec. 570f-93] (i), if he establishes that he gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him, which guaranty or undertaking was to the same effect and was signed by, and contained the name and address of, a person in the State of Washington. [1945]

Sec. 570f-119. Minor violations.

Nothing in this act [Secs. 570f-51—570f-259] shall be construed as requiring the Director [of agriculture] to report for the institution of proceedings under this act, minor violations of this act, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1945]

Sec. 570f-123. Food; Standard of fill of containers.

Whenever in the judgment of the Director [of agriculture] such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing any standard of fill of container, consideration shall be given to and due allowance shall be made for product or volume shrinkage or expansion unavoidable in good commercial practice, and need for packing and protective material. * * * [1945]

Sec. 570f-125. Same: Rules to conform to federal acts.

The definitions and standards of identity, the standards of quality and fill of container, and the label requirements prescribed by regulations promulgated under this section shall conform, in so far as practicable, with those prescribed by regulations promulgated under section 401 of the Federal act and to the definitions and standards promulgated under the meat inspection act approved March 4, 1907, as amended. [1945]

Sec. 570f-129. Food deemed adulterated if substance is added to increase weight.

A food shall be deemed to be adulterated * * * (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is. [1945]

Sec. 570f-135. When food deemed misbranded.

A food shall be deemed to be misbranded (a) if its labeling is false or misleading in any particular;

* * * or (d) if its container is so made, formed or filled as to be misleading. [1945]

Sec. 570f-137. Food in package form, when deemed misbranded.

If a food is in package form, it shall be deemed to be misbranded, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this section, reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the Director [of agriculture]. [1945]

Sec. 570f-145. Food deemed misbranded if below standard of fill of container.

If a food purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations as provided by section 37 [Sec. 570f-123], and it falls below the standard of fill of container applicable thereto, it shall be deemed to be misbranded unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1945]

Sec. 570f-161. Food in transit for packaging, exempt from labeling requirements.

Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this act [Secs. 570f-51—570f-259], while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this act. [1945]

Sec. 570f-175. When drug deemed misbranded.

A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular. [1945]

Sec. 570f-177. Drugs in package form, when deemed misbranded.

If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the Director [of agriculture]. [1945]

Sec. 570f-191. Drugs deemed misbranded if its container is misleading.

A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; * * * [1945]

Sec. 570f-195. Drug in transit for packaging, exempt from labeling requirements.

A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this act [Secs. 570f-51—570f-259], while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this act. [1945]

Sec. 570f-221. When cosmetics deemed misbranded.

A cosmetic shall be deemed to be misbranded (a) if its labeling is false or misleading in any particular; or (b) if in package form, unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Director [of agriculture]. [1945]

Sec. 570f-225. Cosmetics in transit for packaging, exempt from labeling requirements.

A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this act [Secs. 570f-51—570f-259], while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this act. [1945]

Pierce's Perpetual Code 1943—Honey.

Sec. 571-3. Definitions: Director.

The term "director" means the Director of Agriculture of the State of Washington or his duly authorized representative. [1939]

Sec. 571-5. Same: Container.

The term "container" shall mean any box, crate, chest, carton, barrel, keg, bottle, jar, can or other receptacle containing honey. [1939]

Sec. 571-7. Same: Sub-Container.

The term "sub-container" shall mean any section box or other receptacle used within a container. [1939]

Sec. 571-9. Same: Section box.

The term "section-box" shall mean the wood or other frame in which bees have built a small comb of honey. [1939]

Sec. 571-15. Same: Label.

The term "label" shall mean a display of written, printed or graphic matter upon the immediate container of any article. [1939]

Sec. 571-19. Same: Slack filled.

The term "slack filled" shall mean that the contents of any container occupy less than ninety-five per cent (95%) of the volume of the closed container. [1939]

Sec. 571-27. Same: Honey.

The term "honey" as used herein is the nectar of floral exudations of plants, gathered and stored in the comb by honey bees (*apis mellifica*). It is laevorotatory, contains not more than twenty-five per cent (25%) of water, not more than twenty-five one-hundredths of one per cent of ash, not more than eight per cent (8%) of sucrose, its specific gravity is 1.412, its weight not less than eleven (11) pounds twelve (12) ounces per standard gallon of 231 cubic inches at sixty-eight (68) degrees Fahrenheit. [1939]

Sec. 571-41. Same: Marked.

The term "marked" shall mean printed in the English language on the top, front or side of any container containing honey: Provided, That it shall not be necessary to mark honey sold by the producer thereof to any distributor, packer or manufacturer with the net weight, color or grade if the honey is to be used in the manufacture of honey products or is to be graded and packaged by the distributor or packer for resale. [1939]

Sec. 571-57. Enforcement; rules and regulations.

The director is hereby empowered, through his duly authorized agents, to enforce all provisions of this act [Secs. 571-1—571-89]. The director shall have the power to define, promulgate and enforce such reasonable regulations as he may deem necessary in carrying out the provisions of this act. [1939]

Sec. 571-59. Possession as prima facie evidence.

Possession by any person, of any honey which is sold, exposed or offered for sale in violation of this act [Secs. 571-1—571-89] shall be prima facie evidence that the same is kept or shipped to the said person, in violation of the provisions of this act. [1939]

Sec. 571-61. Seizures.

The director is hereby authorized to seize upon and to take into his possession such honey and thereupon apply to the superior court of the county in

Pierce's Perpetual Code 1943—Honey—Continued.

which said honey is seized for an order directing them to dispose of or sell the same and apply the proceeds of the same to the general fund: Provided, however, That the director shall first give notice to the person in whose possession such goods are found, or, if in the possession of a common carrier, then the consignee of such honey, notifying such person that he has seized such honey, and the reasons therefor, * * * [1939]

Sec. 571-63. Marking requirements.

It shall be unlawful to deliver for shipment, ship, transport, sell, expose or offer for sale any containers or sub-containers of honey within this state unless they shall be conspicuously marked with the name and address of the producer or distributor, the net weight of the honey, * * * [1939]

Sec. 571-69. Same.

When any markings are used or required to be used under this act [Secs. 571-1—571-89] on any container of honey to identify the container or describe the contents thereof, such markings must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded in the English language, in letters large enough to be discernible by any person, on the front, side or top of any container. [1939]

Sec. 571-71. "Slack filled" containers to be so marked.

Any slack filled container shall be conspicuously marked "slack filled." [1939]

Sec. 571-73. Refilling containers.

It shall be unlawful to sell, offer, or expose for sale to the consumer any honey in any second hand or used containers which formerly contained honey, unless all markings as to grade, name and weight have been obliterated, removed or erased. [1939]

Sec. 571-83. Penalties for violations.

Any person who violates any of the provisions of this act [Secs. 571-1—571-89] shall be guilty of a misdemeanor, and upon violation thereof shall be punishable by a fine of not more than five hundred dollars (\$500) or imprisonment in the county jail for a period of not more than six (6) months or by both such fine and imprisonment. [1939]

Pierce's Perpetual Code 1943—Macaroni Factories.

Sec. 572-41. Prohibited acts.

In addition to the acts by this act [Secs. 572-1—572-45] made unlawful, it shall be unlawful in connection with the operation of any macaroni factory or the sale or distribution of any macaroni product:

(a) To sell, advertise, describe, brand, mark, label or pack macaroni or any simulation or imitation thereof in a manner which is calculated to mislead or deceive or has the tendency or capacity or effect

of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, substance, character, nature, origin, size, material, content, composition, color, preparation, or manufacture of such products or in any material respect.

(c) To use photographs, cuts, engravings, illustrations or pictorial or other adoptions or devices of industry products in catalogs, sales literature or advertisements or on packages or containers or otherwise in such manner as to have the capacity and tendency or effect of misleading or deceiving the purchaser or consuming public as to the grade, quality, quantity, substance, character, nature, origin, size, material content, composition, coloring, preparation or manufacture of such products. [1939]

Sec. 572-43. Violation a misdemeanor.

Any person violating any provision of this act [Secs. 572-1—572-45] shall be guilty of a misdemeanor.¹ Each day such violation continues shall constitute a separate offense. [1939]

¹ See Sec. 112-27, page 1074.

Pierce's Perpetual Code 1943—Grain Warehouses.

Sec. 598-21. Director of agriculture: Powers.

When the director of agriculture shall be appointed, qualify, assume and exercise the duties of his office, under the provisions of chapter 7 of the Laws of 1921, he shall, through and by means of the division of agriculture, exercise all the powers and perform all the duties by this act [Secs. 598-21—598-81] vested in, and required to be performed by, the public service commission of Washington. [1921]

Sec. 598-29. Negligence or corruption of inspectors.

Any inspector who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect, sample or weigh any commodity¹ included within the provisions of this act [Secs. 598-21—598-81] improperly, * * * shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) or imprisoned in the county jail not less than six months nor more than one year, or by both such fine and imprisonment, in the discretion of the court. [1911; last amended 1919.]

¹ Grain, hay, peas, hops, grain and hay products, malt, peanuts, flax and seeds.

Sec. 598-31. State inspection and weighing points.

The cities of Seattle, Tacoma, Spokane, Everett and Yakima shall be provided with state inspection and weighing under this act [Secs. 598-21—598-81].

Such other cities and towns or districts where commodities included in the provisions of this act [grain, hay, peas, hops, grain and hay products, malt, peanuts, flax and seeds], are received or shipped by common carrier, and the shipments are such as would reasonably justify and render necessary the inspection and weighing thereof, may be designated by the commission¹ as inspection points and be provided with state inspection and weighing: Provided, That the expenditure for the inspection and weighing at each of such points designated by the commission shall not exceed the receipts of the fees at such place. [1911; last amended 1921.]

¹ Now Director of Agriculture; see Sec. 598-21, page 1068.

Sec. 598-39. Weighing on request; scales; testing; sealing; certificate; fees; rules and regulations governing dockage.

* * * The director [of agriculture] may authorize the weighing and grading upon request of any interested party, of commodities of commerce other than grain or hay, such as grain or hay products, rice, beans and other similar articles, nitrates and other fertilizers, sulphur and other chemicals used in the arts or in manufacturing, when same are received from or delivered to any rail or water carrier in the state in commercial transportation, and may authorize the certification of the weights and grades thereof. Fees for such service, sufficient to cover the cost thereof, shall be fixed by the director. * * * The director shall after such hearing, make and issue reasonable rules and regulations governing the dockage which shall be made on inferior grades and in all executory contracts thereafter entered into where the price or amount to be paid therefor depends upon terminal weight or grade, such rules and regulations shall control the dockage in so far as the same affects the price to be paid, and such rules and regulations shall become part of the contract of sale unless expressly agreed to the contrary in such executory contract. [1911; last amended 1923.]

* * * * *

Sec. 598-43. Fees for weighing, etc.

The director of agriculture shall fix the fees for inspection, grading and weighing of the commodities included in the provisions of this act [Secs. 598-21—598-81], which fees shall not exceed eight cents (8¢) a ton for sack grain and six cents (6¢) a ton for bulk grain. The fees for inspection, grading and weighing of such commodities shall be a lien upon such commodity so weighed, graded and/or inspected to be paid by the carrier transporting the same and treated by it as an advanced charge, except when the bill of lading contains the notation "Not for terminal weight and grade," and the commodity is not unloaded at a terminal warehouse. The director of agriculture shall so adjust the fees to be collected under this act as to meet the expenses necessary to carry out the provisions hereof, and may

prescribe a different scale of fees for different localities. The director of agriculture may also prescribe a reasonable charge for service performed at places other than public terminal warehouses in addition to the regular fees when necessary to avoid rendering the services at a loss to the state. * * * [1911; last amended 1935.]

Sec. 598-45. Chief inspector to have exclusive control of weighing.

The chief inspector, and inspectors, shall, at the places provided for state inspection under this act [Secs. 598-21—598-81], have exclusive control of the weighing and grading of the commodities which shall be inspected under the provisions of this act and the action and certificates of such inspectors in the discharge of their duties, as to all commodities weighed or inspected by them, shall be conclusive upon all parties interested: Provided, however, An appeal may be taken to the commission,¹ whose decision shall be final. Suitable books and records shall be kept in which shall be entered a faithful and true record of every carload, or cargo or part of cargo of commodities inspected or weighed by them, showing the number and initial or other designation of the vehicle or boat containing such carload, or cargo or part of cargo, its weight, the kind of commodity, and its grade, and if graded below standard No. 1 grade, the reason for such grade, if of inferior grade the amount of such dockage, the amount of fees and forfeitures and disposition of same, and for each vehicle or cargo, or part of cargo, of commodity inspected, they shall give a certificate of inspection showing the kind and grade of the same and the reason for all grades below No. 1, the amount to be allowed for dockage, if any, the number of sacks, bales or other parcels thereof, with the grade or grades and weight of same, if requested to do so by consignor or consignee. They shall also furnish the agent of the railroad company, or other carrier over which such commodity was shipped or carried, a certificate showing the weight thereof, if requested to do so. They shall also keep a true record of all appeals, decisions and a complete record of every official act, which books and records shall be open to inspection by any party in interest. [1911; last amended 1919.]

¹ Now Director of Agriculture; see Sec. 598-21, page 1068.

Sec. 598-51. Exports reinspected; grain not to be weighed, when.

All grain and hay received at terminal warehouses shall be inspected and weighed by the inspector and when exported shall, if requested, be reinspected and graded in like manner and a certificate of grade issued, a reasonable fee to be charged for such reinspection, said fee to be fixed by the commission.¹ All other grain and hay received in carload lots, or, when shipped by water in lots containing more than thirty tons of grain or twelve tons of hay at inspection points, not unloaded

Pierce's Perpetual Code 1943—Grain Warehouses—
Continued.

at terminal warehouse, shall be weighed, inspected and graded, unless the bill of lading contains a notation "Not for terminal weight and grade." [1911; last amended 1919.]

¹ Now Director of Agriculture; see Sec. 598-21, page 1068.

Sec. 598-53. Warehouse bond and license.

Each person, firm, corporation or association of persons operating any public warehouse subject to the provisions of this act [Secs. 598-21—598-81] shall, on or before the first day of July of each year, give a bond to the state of Washington, with surety to be approved by the director of agriculture in a sum equal to five cents per bushel of the grain capacity of any such warehouse, as may be determined by the director of agriculture, but in no case less than the sum of five thousand dollars (\$5,000.00), * * *. Every such person, firm, corporation, or association of persons shall, on or before July 1st of each year, procure from the director of agriculture a license for each such warehouse so owned or operated for the ensuing year before transacting business at such public warehouse or warehouses: Provided, That no such licenses shall be issued before the bond hereinbefore required shall have been given and approved * * *. [1911; last amended 1933.]

Sec. 598-71. Track scales; city inspection of scales.

Any railroad delivering grain or hay in cars at any of the places provided with state inspection under this act [Secs. 598-21—598-81] * * * shall provide at such place or places as the commission¹ may designate, suitable track scales for weighing cars of grain or hay. Such scales shall be under the control of the commission. It shall be the duty of the commission to require the railroad company to correct all scales so provided as often as may be necessary to insure the correct weighing of grain or hay. Whenever scales have been installed by any railroad company as above provided such scales shall be used in weighing all grain or hay received over the line of such railway and it shall be the duty of the railroad company to weigh cars loaded with grain, hay or other commodities included in the provisions of this act, while loaded, and to reweigh the car when the load has been removed therefrom. Failure or neglect to carry out the provisions of this act by any railroad company shall subject it to a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred dollars (\$100.00) for each offense: Provided, That if any terminal warehouse in inspection cities are provided with proper scales and weighing facilities, the chief inspector or his deputy may weigh the grain upon the scales so provided. The commission at least once each year shall cause to be examined, tested and corrected all scales used in weighing grain or hay in any of the cities designated as inspection points in this act or such

places as may be hereinafter designated, and after such scale is tested, if found to be correct and in good condition, to seal the weights with a seal provided for that purpose and issue to the owner or proprietor a certificate authorizing the use of such scales for weighing grain or hay for the ensuing year, unless sooner revoked by the commission. If such scales be found to be inaccurate or unfit for use, the commission shall notify the party operating or using them, and the party thus notified shall, at his own expense, thoroughly repair the same before attempting to use them, and until thus repaired to the satisfaction of the commission, the certificate of such party shall be suspended or revoked, in the discretion of the commission. The party receiving such certificate shall pay to the commission a reasonable fee for such inspection and certificate to be fixed by the commission, which sum shall be paid into the state treasury. It shall be the duty of the said commission to see that the provisions of this section are strictly enforced. [1911; last amended 1921.]

¹ Now Director of Agriculture; see Sec. 598-21, page 1068.

Sec. 598-75. Shipper's weight and grade, where conclusive.

When grain, hay or peas are shipped to points where inspection is provided and the bill of lading does not contain the notation "Not for terminal weight and grade" and the grain or hay is unloaded by or on account of the consignee or his assignee without being inspected or weighed by a duly authorized inspector under the provisions of this act [Secs. 598-21—598-81], the shipper's weight and grade shall be conclusive and final and shall be the weight and grade upon which settlement shall be made with the seller, and the consignee or his assignee, by whom such grain, hay or peas are so unlawfully unloaded shall be liable to the seller thereof for liquidated damages in an amount equal to ten per cent of the scale [sale] price of such hay, grain or peas computed on the basis of the shipper's weight and grade. [1911; last amended 1919.]

Sec. 598-77. Penalties for violation.

Any railroad company or common carrier or other corporation, and any warehouseman, which shall violate or fail to comply with any provision of this act [Secs. 598-21—598-81], or which fails, omits or neglects to obey, observe or comply with any order, rule or any direction, demand or requirement of the commission¹ made under the provisions of this act, shall be subject to a penalty of not to exceed the sum of one thousand dollars (\$1,000.00) for each and every offense, and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall be, and be deemed to be, a separate and distinct offense. [1919]

* * * * *

¹ Now Director of Agriculture; see Sec. 598-21, page 1068.

Sec. 599-7. Grain to be weighed by state inspector.

It shall be unlawful for any grain warehouseman to receive in any public terminal grain warehouse any grain that has not been inspected and weighed in by a duly authorized grain inspector of the state of Washington, or to deliver out of any Class A grain warehouse any grain that has not been weighed out by a duly authorized state grain inspector. [1915]

Sec. 599-21. Class B warehouse receipts; inspection and weighing of grain; deliveries.

It shall be unlawful for any warehouseman conducting a Class B grain warehouse to receive any grain into his warehouse without having the same inspected and weighed in by a state grain inspector, and it shall be the duty of every such warehouseman, to, upon request, issue or cause to be issued a receipt for each consignment of grain received, showing the weight, kind and grade of such grain, the name of the owner thereof and the date when the same was received, but such receipts shall not be entitled to registration and grain shall be delivered from such warehouse without the supervision of the registrar of warehouse receipts. [1915]

Sec. 599-23. Fees for inspection and weighing.

The fees for weighing out grain from a Class A grain warehouse and for inspecting out grain in case the owner desires inspection out, shall be fixed by the public service commission¹ of Washington, and the state grain inspectors, may, when requested so to do by persons desiring grain inspected out, issue certificates of inspection in accordance with the names of the grains used in the markets to which the grain is to be shipped. [1915]

¹ Fees fixed by Director of Agriculture; see Sec. 598-43, page 1069.

Sec. 599-29. Penalty for violation.

Every person violating any provisions of this act [Secs. 599-1—599-31], for the violation of which a specific penalty is not provided, and every person failing to comply with the provisions of this act shall be guilty of a gross misdemeanor.¹ [1915]

¹ See Sec. 112-29, page 1074.

Pierce's Perpetual Code 1943—Fruits and Vegetables, Containers.

Sec. 635-3. Director of agriculture to make rules and regulations governing containers for fruits and vegetables.

The Director of Agriculture shall have the power and it shall be his duty:

* * * * *

(h) To make, adopt, issue and publish from time to time, and enforce general rules and regulations governing the grading, packing, and the size and dimensions of commercial containers of fruits, vegetables and nursery stock. [1915; last amended 1913.]

* * * * *

Pierce's Perpetual Code 1943—Economic Poisons.

Sec. 635-19. Definitions.

The definitions as given in this act [Secs. 635-19—635-53] shall apply as defined, unless the context clearly indicates otherwise.

(a) "Economic poisons" includes any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, bacteria, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the Director may declare to be, a pest, which may infest or be detrimental to vegetation, man, animals or households, or be present in any environment whatsoever;

* * * * *

(f) "Department" means the department of agriculture;

(g) "Director" means the Director of the Department of Agriculture;

* * * * *

(i) "Sell" includes "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter" or "trade." [1941]

Sec. 635-25. When deemed misbranded.

Economic poison is misbranded when:

* * * * *

(f) In package form, and the contents, if stated in terms of weight or measure, are not plainly and correctly stated on the outside of the package. [1941]

* * * * *

Sec. 635-29. Unlawful sales.

It is unlawful to sell any adulterated or misbranded economic poison. [1941]

Sec. 635-31. Guaranty protection.

In any prosecution of any agent or dealer under the provisions of section 6 [Secs. 635-29] it is a complete defense to prove that the adulterated or misbranded economic poison which is the basis of said prosecution was guaranteed by the party from whom said agent or dealer purchased the same to be not adulterated or misbranded. [1941]

Sec. 635-47. Seizures.

The Director may seize and quarantine any economic poison which is adulterated, or misbranded within the meaning of this act [Secs. 635-19—635-89], or detrimental to agriculture or to the public health, or which is otherwise not in conformity with any provision of this act. It shall be unlawful for any person to transport, destroy or dispose of any quarantined economic poison without securing a permit from the Director. [1941]

Pierce's Perpetual Code 1943—Intoxicating Liquors.

Sec. 678-5. Enforcement.

The administration of this act [Secs. 678-1—678-267], including the general control, management and supervision of all state liquor stores, shall be vested in the liquor control board, constituted under this act. [1933]

Sec. 678-23. Packages: Board to determine capacity.

1. The board, subject to the provisions of this act [Secs. 678-1—678-267] and the regulations, shall

* * * * *

d. determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this act; [1933; last amended 1935.]

* * * * *

Sec. 678-137. Wine labels.

Every person producing, manufacturing, bottling or distributing wine shall put upon all packages a distinctive label such as will provide the consumer with adequate information as to * * * the net contents of the package, * * * [1933; last amended 1939.]

Pierce's Perpetual Code 1943—Mine Scales.

Sec. 742-147. Operators to provide scales and test weights; weighman; check weighman; oaths; penalty for violating section.

(a) The operator of every coal mine where the miners are paid by the weight of their output, shall provide at such mine suitable and accurate scales for the weighing of such coal, and a correct record shall be kept of all coal so weighed, and each day's record shall be posted where it is open at all hours to the inspection of miners. Sufficient weights shall be furnished by the operator for the purpose of testing the accuracy of said scales: Provided, however, That where a checkweighman is employed the operator shall not be required to post each day's record.

(b) The miners employed by or engaged in working at any coal mine in this state shall have the privilege, if they desire, of employing at their expense a check weighman, whose compensation shall be deducted by the mine operator before paying the wages due the miner, and who shall have like rights, powers and privileges in the weighing of coal as the regular weighman, and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be conspicuously posted in the weigh office.

(c) The weighman and checkweighman employed at any mine shall subscribe an oath or affirmation before a justice of the peace, or other officer authorized to administer oaths, in form as follows, to-wit: * * *

(d) Any weigher of coal, check weighman, or any person so employed, who shall knowingly violate any of the provisions of this or the preceding sec-

tion, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) for each offense, or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment, proceedings to be instituted in any court having jurisdiction therein. [1917]

Sec. 742-325. Weighing coal before screening.

It shall be unlawful for any mine owner, lessee or operator of coal mines in the state of Washington, employing miners at ton rates, to pass the output of coal mined by said miners over any screen or other device which will take any part from the value thereof before the same shall have been duly weighed and credited to the employee sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of the state of Washington [1917]

Pierce's Perpetual Code 1943—Railroad Track Scales.

Sec. 819-21. Freight weighing.

The commission [Public Service Commission] shall have power to enforce reasonable regulations for the weighing of cars and freight offered for shipment over any line of railroad, and to test the weights made by any railroad and scales used in weighing freight on cars. [1911]

Sec. 820-23. Railroads to provide facilities for testing track scales; test car; track scales tested; fees.

It shall be the duty of all railroads operating in this state, to provide suitable facilities for the testing of all track scales used by such railroads. The commission [Public Service Commission] is hereby authorized, after a hearing, upon its own motion and after notice to the railroads operating in this state, to order a suitable car or other device or facility to be provided by the railroad companies operating in this state, to be used in testing the track scales used by such railroads, the expenses of providing such car, device or facility to be equitably and reasonably apportioned among the different railroad companies by the commission. Such car, device or facility shall be used by the commission to test the accuracy of all track scales, and the different railroad companies shall transport and move such car, device or facility without charge therefor, to the different places designated by the commission under such reasonable rules and regulations as the commission may prescribe. Such car, device or facility may be used in adjoining states to test the scales of railroad companies and for that purpose may be taken beyond the limits of the state under such reasonable rules and regulations for the due care and return thereof as the commission may prescribe. The commission is hereby authorized to prescribe and collect a reasonable fee sufficient to cover the cost and expenses connected therewith for the inspection and testing of all scales. [1911]

Pierce's Perpetual Code 1943—Gas, Electric and Water Meters.

Sec. 819-51. Testing; sealing; testing upon request; fees.

The commission [Public Service Commission] may appoint inspectors of gas and water meters whose duty it shall be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all gas and water meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat or power, or the quantity of water furnished for any purpose by any public service company to or for the use of any person or corporation, and when found to be or made to be correct such inspectors shall seal all such meters and each of them with some suitable device to be prescribed by the commission.

No public service company shall thereafter furnish, set or put in use any gas or water meter which shall not have been inspected, proved and sealed by an inspector of the commission under such rules and regulations as the commission may prescribe.

The commission may appoint inspectors of electric meters whose duty it shall be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat or power by any public service company to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device to be prescribed by the commission. No public service company shall furnish, set or put in use any electric meters the type of which shall not have been approved by the commission.

Every gas company, electrical company and water company shall prepare and maintain such suitable premises, apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas, electric or water meters furnished for use by it by which apparatus every meter may be tested.

If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested, and if the same, on being so tested, shall be found to be more than four per centum if an electric meter, or more than two per centum if a gas meter, or more than two per centum if a water meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the gas company, electrical company or water company, and if the same, on being so tested shall be found to be correct within the limits of error prescribed by the provisions of

this section, the expense of such inspection and test shall be borne by the consumer.

The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary, and shall fix the uniform and reasonable charges for the inspection and testing of meters upon complaint. [1911]

Pierce's Perpetual Code 1943 — Railroads, Lumber Weighing Facilities.

Sec. 835-37. Scales to be provided.

That all railroad companies operating as common carriers within the limits of this state shall hereafter be required to provide scales, and weigh at junction or at some common point within this state all cars loaded with lumber, shingles or other forest products for shipment. [1905]

Sec. 835-39. Freight charges based on weights.

All charges for freight on said commodities, except where error is apparent, shall be based on the weights determined by the weighing stations within the limits of this state, and all bills of lading of railroad companies operating within the limits of this state shall specify these provisions: Provided, This act [Secs. 835-37—835-47] shall not apply to switching charges or to the handling of logs where the charges is [sic] by the car or by the thousand feet. [1905]

Sec. 835-41. Weight statement to shipper.

Any railroad company's employe acting as weigher shall upon request of any shipper give him a statement showing gross and net weight of any shipment by him. Sworn count and weight of shipper shall be presumptive evidence of true weight where error in railroad's weights is apparent. [1905]

Sec. 835-43. Separate weighing.

All cars shall be weighed on the scales separately, and not attached to other cars, and at a stand-still. [1905]

Sec. 835-45. Penalty for violations.

In case of violation of the provisions of this act [Secs. 835-37—835-47] by any railroad company, it shall pay a penalty of twenty dollars (\$20) for every car it shall neglect to weigh and bill within the state as above provided, to be recovered from such company in action where there is any agent of such railroad company who may be served with process, and the penalties recovered under this act shall be paid into the county treasury in such county where action is taken. [1905]

Sec. 835-47. Private contract regarding weights permitted, when.

Nothing contained in this bill shall interfere with the right of the shipper and carrier to enter into a private contract regarding weights when it is impracticable to weigh. [1905]

Session Laws 1949, Ch. 121—Anti-Freeze.

Sec. 1. Definition.

As used in this act [Secs. 1-11], unless the context or subject matter otherwise require: (1) "Anti-freeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; and (2) "person" shall include individuals, partnerships, corporations, companies and associations. [1949]

Sec. 3. When deemed misbranded.

An anti-freeze shall be deemed to be misbranded: (1) If its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing the name and place of business of the manufacturer or distributor and an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package. [1949]

Sec. 5. Enforcement.

The Department of Agriculture shall enforce the provisions of this act [Secs. 1-11] * * * [1949]

Sec. 11. Penalty for violations.

Any person violating or failing to comply with any of the provisions of this chapter [Secs. 1-11] or any rule, regulation, definition, or standard of quality issued pursuant hereto is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars, or by imprisonment for not less than ten days or not more than thirty days, or by both fine and imprisonment. [1949]

Pierce's Perpetual Code 1943—Misdemeanors.

Sec. 112-27. Punishment of misdemeanor when not fixed.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not more than ninety days, or by a fine of not more than two hundred and fifty dollars. [1909]

Sec. 112-29. Punishment of gross misdemeanor when not fixed.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both. [1909]

Sec. 112-33. Prohibited acts; misdemeanors.

Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor. [1909]

Pierce's Perpetual Code 1943—False Advertising.

Sec. 116-39. Unlawful acts; misdemeanor.

Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor:¹ Provided, That the provisions of this act [section] shall not apply to any owner, publisher, agent, or employee of a newspaper for the publication of such advertisement published in good faith and without knowledge of the falsity thereof. [1913]

¹ See Sec. 112-27, this page.

WEST VIRGINIA

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Sec. 4506. Definitions.

The words "weights," "measures" or "weighing or measuring devices" as used in this article [Secs. 4506-4542] 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 article shall be construed to include barter and exchange. [1915; last amended 1919.]

Sec. 4507. State standards.

The weights and measures received from the United States under a resolution of congress approved June fourteen, eighteen hundred and thirty-six, and such new weights and measures as have been or shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the national bureau of standards, shall be the state standards of weights and measures. Such state standards may be kept at the state university in its physical laboratory, or elsewhere at the discretion of the commissioner of weights and measures. [1915; last amended 1931.]

Sec. 4508. Office and working standards.

In addition to the state standards of weights and measures provided for in this article [Secs. 4506-4542], there shall be supplied by the State at least one complete set of copies of these standards, 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 article, to be known as working standards. Such weights, measures and apparatus shall be verified by the state commissioner, or at his discretion by his deputy or inspectors, upon the initial receipt of such weights, measures and apparatus 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 letters "W. V." and the last two figures of the year with seals which the state commissioner shall have and keep for that purpose. The office standards shall be used in making all comparisons of weights, measures and weighing and measuring devices submitted for test in the office of the commissioner, and the state standards shall be used only in verifying the office standards and for scientific purposes. [1915]

Sec. 4509. Commissioner of weights and measures; deputies and inspectors.

The state commissioner of labor shall be ex officio commissioner of weights and measures, and he shall be authorized to appoint such deputies and inspectors as may be required to carry out the provisions and purposes of this article [Secs. 4506-4542] within the limits of such appropriation as may be made by the legislature for the maintenance of the work of the department of labor. [1915; last amended 1937.]

Sec. 4510. Bond of commissioner.

The state commissioner of labor shall forthwith, on his appointment, give bond in the penal sum of five thousand dollars, for the faithful performance of the duties of his office as state commissioner of weights and measures, 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, which bond shall be approved as to form by the attorney general, and as to sufficiency by the governor. [1915; last amended 1931.]

Sec. 4511. Standards: Care; certification; reports; assistant commissioner.

The commissioner of weights and measures shall take charge of the standards adopted by this article [Secs. 4506-4542] as the standards of the State, and

cause them to be kept in a safe and suitable place, from which they shall not be removed except for repair or for certification, and he shall take all other necessary precautions for their safekeeping. 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 the same from his successor in office. He shall annually, on the first day of January, make to the governor a report of all work done by his office. The director of the physical laboratory of West Virginia University shall be the assistant commissioner of weights and measures. It shall be his duty, upon the request of the commissioner, to make or cause to be made at said physical laboratory all such tests, calibrations and determinations as may be necessary for the carrying out of this article. [1915]

Sec. 4512. Power of commissioner to administer oaths and compel testimony.

In the exercise of his powers and the performance of his duties under this article [Secs. 4506-4542], the commissioner of weights and measures shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of books, papers, accounts and documents. In case of failure on the part of any person to comply with any proper order of the commissioner, or any subpoena issued in behalf of the commissioner, or on the refusal of any witness to testify with reference to any matters upon which such witness may be lawfully interrogated, it shall be the duty of the circuit court of any circuit, upon application of the commissioner, to compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1915]

Sec. 4513. Inspection and sealing of weights and measures of county or city; inspecting work of local sealers.

The commissioner of weights and measures, or his assistant commissioner, 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 to purchase and keep standards of weights and measures by the provisions of this article, and shall seal such when found to be accurate by stamping on them the letters "W. V." and the last two figures of the year with seals which he shall have and keep for that purpose.

The state commissioner, or his assistant, 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 the pur-

pose 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 appliances of any person, and shall have the same powers as the local sealer of weights and measures. [1915; last amended 1931.]

Sec. 4514. Supervision by commissioner; tests on request or at state institutions.

The state commissioner of weights and measures shall have and keep a general supervision of the weights and measures and weighing and measuring devices offered for sale, sold, or in use in the State. He, or his assistant commissioner, deputy, or inspectors, at his direction, shall, upon the written request of any citizen, 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 assistant commissioner, 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 state board of control and to the executive officer of the institution concerned, and, at the request of such board or executive officer, the 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 and disbursements of supplies. [1915]

Sec. 4515. Commissioner's duties.

The state commissioner shall have the power, and it shall be his duty, either personally or by deputy or through the agency of a county or city sealer of weights and measures, 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 by any proprietor, agent, lessee, or employee in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted by such person or persons for sale, hire or award; 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 a year, and as much oftener as he may deem necessary, see that all weights, measures and weighing or measuring devices are correct. He and his authorized deputies may, for the purpose above mentioned, and in the general performance

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of their official duties, enter and go into or upon, without formal warrant, any stand, place, building, or premises, or stop any dealer whatsoever, and require him, if necessary, to proceed to some place which the state commissioner may specify, for the purpose of making the proper tests. Whenever the state commissioner finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1915]

Sec. 4516. Sealing.

Whenever the state commissioner compares weights, measures, or weighing or measuring instruments, 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 instruments with appropriate devices. [1915]

Sec. 4517. Condemnation.

The state commissioner shall condemn and seize 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 may be repaired, he shall mark or tag as "condemned for repairs." The owner or user of any weight, measure, or weighing or measuring device of which such disposition is made, shall have the same repaired or corrected within ten days, and the owner or user may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the commissioner. Any weights, measures, or weighing or measuring devices which have not been repaired as required above, shall be seized by the commissioner. Any weight, measure, or weighing or measuring device seized under the foregoing provisions of this section may be kept by the commissioner, or delivered by him to the prosecuting attorney of the county to be by him kept, for use as evidence in the prosecution of the owner or user thereof for violation of any of the provisions of this article [Secs. 4506-4542]. If the owner or user be convicted in such prosecution, and the court or justice find that such weight, measure, or weighing or measuring device was properly seized in compliance with the provisions of this section, the court of justice shall then order the same to be destroyed. If any such weight, measure, or weighing or measuring device be so seized and not kept for use as evidence as aforesaid, it shall be kept by the commissioner for a period of ten days, during which time the owner or user thereof may serve written notice upon the commissioner to the effect that he denies that the weight, measure, or weighing or measuring device was properly seized. Upon the service of such notice, the commissioner shall, not later than ten days thereafter, serve written notice upon such owner or user to the effect that at a specified hour on a specified

day, which day shall be not less than five nor more than thirty days from the day when such notice is served on the owner or user, application will be made to a justice of the peace, named in the notice, of the county in which such weight, measure, or weighing or measuring device was seized, for an order that the same be destroyed. Whereupon, the justice, at the time appointed in such notice, shall proceed to determine whether such seizure was properly made, and, in accord with his finding, shall order that the weight, measure, or weighing or measuring device be released or destroyed. From such order there may be an appeal to the circuit court of the county in the manner provided by law for appeals from judgments of justices in other cases. Pending any such appeal, the property seized shall remain in the custody of the commissioner. If it be adjudicated that the seizure was proper, the contestant shall be adjudged to pay all costs incurred before the justice and in the circuit court. If the propriety of the seizure be not contested as aforesaid, the property seized shall be destroyed by the commissioner [1915; last amended 1931.]

Sec. 4518. Deputies and inspectors; general duties.

The powers and duties given to and imposed upon the state commissioner of weights and measures by sections seven, ten, eleven and twelve (Secs. 4512, 4515, 4516, and 4517) are hereby given to and imposed upon his deputies and inspectors also, when acting under his instructions and at his direction [1915]

Sec. 4519. County sealers; deputies.

Except in counties where the county court shall appoint a sealer of weights and measures as herein after provided, the sheriff of the county shall be ex officio county sealer of weights and measures in his county. Whenever the county court of any county shall deem it necessary, it may appoint and fix the salary of one sealer and one or more deputy sealers of weights and measures. Such sealer or deputies when not appointed merely for some temporary purpose, shall hold office for a term of four years from the date of their appointment, unless removed for just cause, and all deputies shall have the same power and may perform the same duties as the county sealer when acting under his instructions and at his direction. No fee shall be charged by the county sealer or his deputy or by the county for inspecting, testing, sealing, repairing or adjusting weights, measures, or measuring devices. [1915; last amended 1931.]

Sec. 4520. City sealers; deputies; regulation.

There may be a city sealer of weights and measures in cities of not less than twenty-five thousand population, according to the latest official statement of 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, to be appointed by the mayor, by and with the advice and consent of the common council. He shall hold office for a term of two years, unless removed for just cause, and receive a salary to be determined by the appointive power. There may in like manner be appointed for any such city one or more deputy sealers of weights and measures. All deputies appointed shall have the same power and perform the same duties as the city sealer when acting under his instructions and his direction. No fee shall be charged by the city sealer or his deputy or by the city for testing, trying, adjusting or repairing any weights or measures, or weighing and measuring device. [1915; last amended 1931.]

Sec. 4521. Combined territory for one set of standards and one sealer.

Nothing in sections fourteen and fifteen (Secs. 4519, 4520) of this article [Secs. 4506-4542] shall be construed to prevent two or more counties, or a county and any city therein, from combining the whole or any part of their districts, as may be agreed upon by the county courts of the counties, or such county court and the mayor and common council of the city, and employing one set of standards and one sealer, upon the written consent of the state commissioner of weights and measures. A county sealer or city 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. [1915]

Sec. 4522. County and city sealer; bond.

Each county or city sealer or deputy sealer of weights and measures appointed under the provisions of sections fourteen, fifteen, or sixteen (Secs. 4519, 4520, 4521) of this article [Secs. 4506-4542] shall forthwith upon his appointment give bond in the penal sum of one thousand dollars, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office. [1915; last amended 1919.]

Sec. 4523. Procurement and certification of county and city standards.

The county court of each county and the common council of each city required to appoint a sealer under the provisions of this article [Secs. 4506-4542] 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 material and construction as the state commissioner of weights and measures may direct. All such weights, measures, and other apparatus, having been tried and accurately proved by the state commissioner, shall be sealed and certified by him as hereinbefore provided, and shall then be deposited with and preserved by the county or city sealer as public standards for such county or city. Whenever the

county court of such county or the common council of such city shall neglect for six months so to do, the county clerk of such county, or the city clerk or recorder of such city on notification and request by the 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. [1915]

Sec. 4524. County and city sealers: Powers; duties; rules and regulations.

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 commissioner of weights and measures in sections ten, eleven and twelve (Secs. 4515, 4516, 4517) of this article [Secs. 4506-4542]. The rules and regulations for the guidance of county and city sealers of weights and measures issued by the bureau of weights and measures of Washington, D. C., known as circular No. two, or any subsequent rules and regulations issued by such bureau of weights and measures, shall be the rules and regulations governing the inspectors and county and city sealers in the performance of their duties. And the commissioner shall issue from time to time such additional regulations, not inconsistent with those issued by authority of the federal government, as he may deem necessary for the guidance of the county and city sealers. [1915; last amended 1931.]

Sec. 4525. Same: Records; reports.

The county or city sealer shall keep a complete record of all his official acts, and shall submit monthly reports, and shall make an annual report duly sworn to on the first day of July, to the state commissioner of weights and measures, on blanks furnished by the commissioner. [1915; last amended 1937.]

Sec. 4526. Arrests and seizures.

The commissioner of weights and measures, his assistant, 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 one found by them violating any of the statutes in relation to weights and measures, and to seize for use as evidence, any false or unsealed weight, measure or weighing and measuring device or package or amount of commodity found to be used, retained, or offered or exposed for sale or sold in violation of the law. [1915; last amended 1931.]

Sec. 4527. Obstruction of officers.

Any person who shall hinder or obstruct in any way commissioner of weights and measures, his assistant, deputy, or inspectors, or any county or city sealer or deputy sealer of weights and measures, in the performance of his official duty, shall be guilty

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of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than two hundred dollars, or by imprisonment in the county jail for not less than three months, or by both such fine and imprisonment. [1915]

Sec. 4528. Impersonation of officers.

Any person who shall impersonate in any way the commissioner of weights and measures, his assistant, 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 one hundred nor more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. [1915]

Sec. 4529. Packaged commodities: Standard weight containers for flours, corn meals, hominy and hominy grits; exceptions; marking requirements for all packaged commodities; tolerances; exemptions; "package" defined.

It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: Provided, however, That the provisions hereof shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than one hundred (100) pounds, or (c) flours, meals, hominy and hominy grits packed in cartons the net contents of which are less than five (5) pounds, or (d) the exchange of wheat for flour by mills grinding for toll.

It shall also 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 weights, measures, or numerical count: Provided, however, That reasonable variations or tolerances and also exemptions as to small packages shall be established by rules and regulations made by the commissioner of weights and measures: Provided further, That this section shall not be construed to apply to medicinal articles and to those commodities in packages the

manner of sale of which is specifically regulated by the provisions of other sections of this article.

The word "package" as used in this section shall be construed to include the package, carton, case, basket, can, box, barrel, half barrel, hamper, keg, drum, jug, jar, crock, bag, pail, wrapping parcel, package, bottle, phial, or other receptacle put up by the manufacturer; or, when put up prior to the order of the commodity, by the vendor; which may be labeled, branded, stenciled, or otherwise marked, or which may be suitable for labeling, branding, stenciling, or marking otherwise, making one complete package of the commodity. The word "package" shall be construed to include both the wholesale and the retail package: Provided, That a box or carton used for shipping purposes containing a number of similar packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of contents. [1915; last amended 1945.]

Sec. 4530. Butter and oleomargarine: Sold by weight only; marking requirements; exception.

It shall be unlawful for any person to sell or offer for sale any butter, renovated or process butter, or oleomargarine in any other manner than by weight. Whenever such butter, renovated or process butter, or oleomargarine, is sold, offered or exposed for sale in the form of prints, bricks or rolls, 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 of such print, brick or roll. When such statement is made part of the printed matter on the label, wrapper or carton of any such print, brick or roll, the statement as to net weight shall be in gothic type not less than one-quarter of an 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: Provided, however, That this section shall not apply to farmers who manufacture and sell their own butter. [1915; last amended 1919.]

Sec. 4531. Bottles for milk or cream: Capacity; variations; designating numbers; bond of manufacturer penalties.

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, when filled within one-fourth of an inch of the cap seat or stopple in the case of those bottles having an inside diameter immediately below the cap seat or stopple of over two inches. The following variations on individual bottles or jars may be allowed, but the average contents of not less than twenty-five bottles selected at random from at least four times the number tested must not be in error more than one

quarter of those tolerances: Six drams above and six drams below on the half gallon; five drams above and five drams below on the three pints; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the gill. Bottles or jars use [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, initial, or trademark 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 commissioner of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of one thousand dollars, with sureties to be approved by the attorney general, conditioned upon his 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 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 five hundred dollars, to be recovered by the attorney general in an action against the offender's bondsmen to be brought in the name of the State of West Virginia. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of this section as to markings and capacity, shall be deemed guilty of using a false and insufficient measure.

Sealers of weights and measures are not required to seal bottles or jars 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 various dealers in the territory over which they have jurisdiction in order to ascertain if the above provisions are being complied with, and they shall immediately report violations found to the state commissioner of weights and measures. [1915; last amended 1919.]

Sec. 4532. Bushel and its subdivisions.

A bushel, half bushel, peck, half peck, quarter peck, quart and pint of the respective articles hereinafter mentioned, except when sold in baskets or containers as provided in sections thirty-two and thirty-three [Secs. 4537 and 4538] of this article [Secs. 4506-4512], shall be the amount of weight, avoirdupois, as shown by the following table:

Commodity	Bushel		Half bushel		Peck		Half peck		Quarter peck		Quart		Pint		
	Lbs.		Lbs.		Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.	
Apples (green).....	48	24	12	--	6	--	3	--	1	8	--	1	8	--	12
Apples (dried).....	24	12	6	--	3	--	1	8	--	1	8	--	1	8	--
Alfalfa seed.....	60	30	15	--	7	8	3	12	1	14	--	1	14	--	15
Apple seed.....	40	20	10	--	5	--	2	8	1	4	--	1	4	--	10
Beans (dried, shelled).....	60	30	15	--	7	8	3	12	1	14	--	1	14	--	15
Beans, castor.....	46	23	11	8	5	12	2	14	1	7	--	1	7	--	11½
Beans (unshelled).....	38	19	9	8	4	12	2	6	1	3	--	1	3	--	9½
Beans (stringed).....	24	12	6	--	3	--	1	8	--	1	8	--	1	8	--
Beans (limas).....	56	28	14	--	7	--	3	8	1	12	--	1	12	--	14
Beans, soy.....	58	29	14	8	7	4	3	10	1	13	--	1	13	--	14½
Beans, scarlet pole.....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½
Beets.....	56	28	14	--	7	--	3	8	1	12	--	1	12	--	14
Blackberries.....	48	24	12	--	6	--	3	--	1	8	--	1	8	--	12
Blue grass seed.....	14	7	3	8	1	12	--	14	--	7	--	1	7	--	3½
Blue grass seed, English.....	22	11	5	8	2	12	1	6	--	11	--	1	11	--	5½
Broom corn seed.....	57	28½	14	4	7	2	3	9	1	12½	--	1	12½	--	14¼
Buckwheat.....	48	24	12	--	6	--	3	--	1	8	--	1	8	--	12
Barley.....	48	24	12	--	6	--	3	--	1	8	--	1	8	--	12
Bran.....	20	10	5	--	2	8	1	4	--	10	--	1	10	--	5
Cabbage.....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½
Canary seed.....	60	30	15	--	7	8	3	12	1	14	--	1	14	--	15
Carrots.....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½
Cement.....	100	50	25	--	12	8	6	4	3	2	1	10			10
Charcoal.....	20	10	5	--	2	8	1	4	--	10	--	1	10	--	5
Cherries (with stems).....	56	28	14	--	7	--	3	8	1	12	--	1	12	--	14
Cherries (without stems).....	64	32	16	--	8	--	4	--	2	--	1	--	2	--	11½
Chestnuts.....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½
Clover seed.....	60	30	15	--	7	8	3	12	1	14	--	1	14	--	15
Coal.....	80	40	20	--	10	--	5	--	2	8	1	4	1	4	10
Coke.....	40	20	10	--	5	--	2	8	1	9	--	1	9	--	12½
Corn (cracked).....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½
Corn (ear dry).....	68	34	17	--	8	8	4	4	2	2	1	2	1	2	10
Corn (ear green).....	72	36	18	--	9	4	4	8	2	4	1	2	1	2	11
Corn (shelled).....	56	28	14	--	7	--	3	8	1	12	--	1	12	--	14
Corn (sweet).....	50	25	12	8	6	4	3	2	1	9	--	1	9	--	12½

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Commodity	Bushel		Peck		Half peck		Quarter peck		Quart		Pint	
	Lbs.	Lbs.	Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.	Lbs.	Ozs.
Corn meal.....	48	24	12	--	6	--	3	--	1	8	--	12
Corn meal (bolted).....	46	23	11	8	5	12	2	14	1	7	--	11½
Cotton seed.....	32	16	8	--	4	--	2	--	1	--	--	8
Cotton seed (S.I.).....	44	22	11	--	5	8	2	10	1	6	--	11
Cranberries.....	36	18	9	--	4	8	2	4	1	2	--	9
Cucumbers (green).....	50	25	12	8	6	4	3	2	1	9	--	12½
Currants.....	40	20	10	--	5	--	2	8	1	4	--	10
Flax seed.....	56	28	14	--	7	--	3	8	1	12	--	14
Gooseberries.....	40	20	10	--	5	--	2	8	1	4	--	10
Grapes (with stems).....	48	24	12	--	6	--	3	--	1	8	--	12
Grapes.....	60	30	15	--	7	8	3	12	1	14	--	15
Hair (washed).....	4	2	1	--	--	8	--	4	--	2	--	1
Hair (unwashed).....	8	4	2	--	1	--	8	--	4	--	2	--
Hemp seed.....	44	22	11	--	5	8	2	12	1	6	--	11
Herds grass.....	45	22½	11	4	5	10	2	13	1	6½	--	11¼
Hickory nuts.....	50	25	12	8	6	4	3	2	1	9	--	12½
Hominy.....	60	30	15	--	7	8	3	12	1	14	--	15
Horse radish.....	50	25	12	8	6	4	3	2	1	9	--	12½
Huckleberries.....	52	26	13	--	6	8	3	4	1	10	--	13
Hungarian grass.....	50	25	12	8	6	4	3	2	1	9	--	12½
Kaffir corn.....	56	28	14	--	7	--	3	8	1	12	--	14
Kale.....	15	7½	3	12	1	14	--	15	--	7½	--	3¾
Lime (unslaked).....	70	35	17	8	8	12	4	6	2	3	1	1½
Lime (slaked).....	40	20	10	--	5	--	2	8	1	4	--	10
Malt.....	34	17	8	8	4	4	2	2	1	1	--	8½
Millet.....	50	25	12	8	6	4	3	2	1	9	--	12½
Millet (Japan).....	35	17½	8	12	4	6	2	3	1	1½	--	8¾
Oats.....	32	16	8	--	4	--	2	--	1	--	--	8
Onions.....	55	27½	13	12	6	14	3	7	1	11½	--	13¾
Onions (bottom sets).....	32	16	8	--	4	--	2	--	1	--	--	8
Onions (top sets).....	28	14	7	--	3	8	1	12	--	14	--	7
Orchard grass.....	14	7	3	8	1	12	--	14	--	7	--	3¾
Osage Orange seed.....	33	16½	8	4	4	2	2	1	1	1	--	8½
Parsnips.....	42	21	10	8	5	4	2	10	1	5	--	10½
Peaches.....	48	24	12	--	6	--	3	--	1	8	--	12
Peaches (dried).....	33	16½	8	4	4	2	2	1	1	1	--	8½
Peanuts.....	23	11½	5	12	2	14	1	7	--	11½	--	5¾
Pears.....	50	25	12	8	6	4	3	2	1	9	--	12½
Peas (dry).....	60	30	15	--	7	8	3	12	1	14	--	15
Peas (green, shelled).....	50	25	12	8	6	4	3	2	1	9	--	12½
Peas (green, unshelled).....	30	15	7	8	3	12	1	14	--	15	--	7½
Peas (wrinkled).....	56	28	14	--	7	--	3	8	1	12	--	14
Plums.....	60	30	15	--	7	8	3	12	1	14	--	15
Potatoes (Irish).....	60	30	15	--	7	8	3	12	1	14	--	15
Potatoes (sweet).....	50	25	12	8	6	4	3	2	1	9	--	12½
Quinces.....	48	24	12	--	6	--	3	--	1	8	--	12
Rape seed.....	50	25	12	8	6	4	3	2	1	9	--	12½
Raspberries.....	48	24	12	--	6	--	3	--	1	8	--	12
Red top grass seed.....	14	7	3	8	1	12	--	14	--	7	--	3¾
Rice corn (shelled).....	56	28	14	--	7	--	3	8	1	12	--	14
Rice corn (unshelled).....	45	22½	11	4	5	10	2	13	1	6½	--	11¼
Rutabagas.....	50	25	12	8	6	4	3	2	1	9	--	12½
Rye.....	56	28	14	--	7	--	3	8	1	12	--	14
Rye meal.....	50	25	12	8	6	4	3	2	1	9	--	12½
Salt (coarse).....	70	35	17	8	8	12	4	6	2	3	1	1½
Salt (fine).....	50	25	12	8	6	4	3	2	1	9	--	12½
Sand.....	130	65	32	8	16	4	8	2	4	1	2	½
Shorts.....	20	10	5	--	2	8	1	4	--	10	--	5
Sorghum seed.....	57	28½	14	4	7	2	3	9	1	12½	--	14½
Spelt or speltz.....	40	20	10	--	5	--	2	8	1	4	--	10
Spinach.....	15	7½	3	12	1	14	--	15	--	7½	--	3¾
Strawberries.....	48	24	12	--	6	--	3	--	1	8	--	12
Timothy seed.....	45	22½	11	4	5	10	2	13	1	6½	--	11¼
Tomatoes.....	56	28	14	--	7	--	3	8	1	12	--	14
Turnips.....	55	27½	13	12	6	14	3	7	1	11½	--	13¾
Walnuts.....	50	25	12	8	6	4	3	2	1	9	--	12½
Wheat.....	60	30	15	15	7	8	3	12	1	14	--	15

Sec. 4533. Ton.

A ton shall contain two thousand pounds. [1919; last amended 1931.]

Sec. 4534. Barrel of flour.

One barrel of flour shall contain one hundred and ninety-six pounds, one-half barrel ninety-eight pounds, one-quarter barrel forty-nine pounds, one-eighth barrel twenty-four and one-half pounds, and one-sixteenth barrel twelve and one-quarter pounds, net weight. [1915; last amended 1931.]

Sec. 4535. Standard lime barrel.

There is hereby established a large and a small barrel of lime, the large barrel to consist of two hundred and eighty pounds and the small barrel to consist of one hundred and eighty pounds, net weight. [1915; last amended 1931.]

Sec. 4536. Standard barrel for fruits and other commodities; cranberries.

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 stave, 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; 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 head, 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. [1915; last amended 1931.]

Sec. 4537. Standards for climax baskets.

Standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively:

(a) The standard two-quart Climax basket shall be of the following dimensions; length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used;

(b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-

eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used;

(c) The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. [1931]

Sec. 4538. Standard container for small fruits and vegetables.

The standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities, namely, dry one-half pint, dry pint, dry quart, or multiples of the dry quart:

(a) The dry half pint shall contain sixteen and eight-tenths cubic inches;

(b) The dry pint shall contain thirty-three and six-tenths cubic inches;

(c) The dry quart shall contain sixty-seven and two-tenths cubic inches. [1931]

Sec. 4539. Sale of commodities to be by net weight; construction of contracts.

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 article, it shall be understood and construed to mean the net weight of the commodity. [1915]

Sec. 4540. Log rule.

"Doyle and Scribner's combined rules" for the measurement of logs, lumber and timber of all kinds is hereby established as the lawful rule in this State for the measurement of all kinds of lumber, logs and timber, unless some other rule be agreed to. [1883; last amended 1919.]

4541. Offenses; penalties.

Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall knowingly offer or expose for sale, sell, use in the buying and selling of any commodity or thing or for hire or reward, or retain in his possession, a false weight or measure or weighing or measuring device which has not been sealed by a sealer or deputy sealer of weights and measures, within one year, or shall dispose of any measure or weighing or measuring device contrary to law, or remove any tag placed thereon by a sealer or deputy sealer of weights and

Code of 1943 Annotated, Ch. 47, Art. 1—Weights and Measures—Continued.

measures; or who shall sell or offer or expose for sale less than the quantity he represents, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weights, measures, or weighing device by means of which the amount of commodity 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 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 weights or measures; or who shall violate any provision of this article for which a specific penalty has not been provided, shall be guilty of a misdemeanor, and, upon the first conviction, shall be fined not less than ten nor more than one hundred dollars, or imprisoned for not more than sixty days, or both fined and imprisoned; and upon a second or subsequent conviction, he shall be fined not less than ten nor more than five hundred dollars, or imprisoned in the county jail for not more than sixty days, or both fined and imprisoned. [1915]

Code of 1943 Annotated, Ch. 8, Art. 4—Municipal Corporations, General Powers.

Sec. 494. Weighing of hay, coal, and other articles.

The council shall have plenary power and authority therein by ordinance or resolution as the case may require * * * ; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town; * * *. [1868; last amended 1947.]

Code of 1943 Annotated, Ch. 8A, Art. 4—Municipal Corporations, Class I and II Cities.

Sec. 591(18). Classification.

Pursuant to the mandate of the Municipal Home Rule Amendment, municipal corporations are hereby classified by population into four classes as follows:

(1) Every municipal corporation, the population of which exceeds fifty thousand persons, shall be a class I city;

(2) Every municipal corporation, the population of which is more than ten thousand and not more than fifty thousand persons shall be a class II city;

* * * * *

Transition from one to another class of municipal corporation shall occur automatically when the requisite population qualification has been met. [1937]

Sec. 591(92). Special powers.

A class I or class II city shall have the power:

* * * * *

(3) To provide for a sealer of weights and meas-

ures who shall exercise his powers in accordance with article one, chapter forty-seven (Sec. 4506 et seq.) of the official Code. [1937]

¹ See pages 1076-1083.

Code of 1943 Annotated, Ch. 16, Art. 8A—"Uniform Narcotic Drug Act."

Sec. 1385(10). Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. * * * [1935]

Sec. 1385(22). Enforcement.

The state board of pharmacy, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all prosecuting attorneys of the state shall enforce all provisions of this article [Secs. 1385 (1)—1385 (26)], except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1935]

Sec. 1385(23). Penalty for violations.

Any person violating any provision of this article [Secs. 1385 (1)—1385 (26)], * * *, shall upon conviction be punished, for the first offense, by a fine not exceeding one hundred dollars, or by imprisonment in jail for not exceeding one year, or by both such fine and imprisonment; and for any second or subsequent offense, by a fine not exceeding one thousand dollars, or by imprisonment for not exceeding five years in the penitentiary, or by both such fine and imprisonment. [1935; last amended 1939.]

* * * * *

Code of 1943 Annotated, Ch. 19, Art. 2—Agricultural Products, Markets.

Sec. 1915. Definitions.

For the purpose of this article [Secs. 1915-1924 (1)] the following definitions shall prevail:

* * * * *

(b) Agricultural products include livestock and livestock products, poultry and poultry products, fruits and fruit products, vegetables and vegetable products, grains and hays and the products derived therefrom, tobacco, syrups, honey, and other products derived from the business of farming; including such other products as may be manufactured, derived, or prepared from agricultural products, raw or processed, which are used as food for man or other animals.

(c) Commissioner means the "commissioner of

agriculture" of the state of West Virginia. [1939]

Sec. 1917. Commissioner to establish weights, and rules.

* * * The commissioner * * * shall have authority to establish and publish weights, grades, standards, classifications, and rules and regulations for the production, handling, and distribution of agricultural products in this state, * * *. [1939]

Sec. 1921. Unlawful sales; marking requirements.

It shall be unlawful for any person to sell, offer, or expose for sale, or exchange or have in his possession with intent to sell, offer or expose for sale or exchange any agricultural product in this state * * *

(8) If its labeling is false or misleading; or

(11) If its container is so made, formed, or filled as to be misleading; or

(12) If the labeling thereon does not identify the producer, manufacturer or handler thereof, and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; or

(13) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

Nothing herein contained shall prohibit the sale of livestock for immediate slaughter in accordance with the meat inspection regulations of the United States department of agriculture. [1939]

Sec. 1924. Enforcement; rules and regulations.

The commissioner of agriculture shall be charged with the enforcement of this article [Secs. 1915-1924 (1)] and shall have authority to make and enforce rules and regulations for the administration of this article. [1939]

Sec. 1924(1). Penalty for violations.

Any person who shall violate any of the provisions of this article [Secs. 1915-1924 (1)], or who shall obstruct or hinder the commissioner or any officer or employee, in the performance of his duties under this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offense, be fined not more than one hundred dollars, and upon conviction for each subsequent offense be fined not more than five hundred dollars, and in addition to such fine may be confined in the county jail for not more than ninety days. [1939]

Code of 1943 Annotated, Ch. 19, Art. 2A—Agricultural Products, Public Markets.

Sec. 1924(2). Public market defined.

A public market is any place of business where livestock, poultry, and other agricultural or horticultural products are received and sold at public auction. [1939]

Sec. 1924(3). State regulation.

All public markets, as defined in section one [Sec. 1924 (2)], are hereby declared to be affected with a public interest and subject to regulation by the state for the general welfare as in this article [Secs. 1924 (2) —1924 (20)] provided. [1939]

Sec. 1924(5). Permit required.

It shall be unlawful for any public market to be operated in this state without first having obtained from the commissioner of agriculture of West Virginia a permit therefor. * * * [1939]

Sec. 1924(8). Revocation of permits.

The commissioner may at any time, for violations of this article [Secs. 1924 (2) —1924 (20)], upon not less than fifteen days' notice to the grantee of such permit and an opportunity to be heard, revoke or suspend any permit theretofore granted. [1939]

Sec. 1924(9). Bond required.

Before the granting of any such permit, the applicant shall execute and deliver to the commissioner a surety bond conditioned as the commissioner may require and acceptable to him, * * * [1939]

Sec. 1924(11). Weighman: License; sale of livestock by weight.

It shall be unlawful for any person to serve in the capacity of weighman, or auctioneer at any public market without first having secured a license. Applications for such licenses shall be made on forms furnished by the commissioner and shall be accompanied by a fee of two dollars and fifty cents for either weighman or auctioneer and shall contain such information as may be required.

All livestock sold by weight at any public market shall be sold subject to weight at place of sale on day sold by auctioneer. [1939]

Sec. 1924(14). Unlawful for licensed weighman to buy or trade at market in which employed; false weighing.

It shall be unlawful for any weighman, grader, or auctioneer, licensed in accordance with the provisions of this article [Secs. 1924 (2) —1924 (20)], to buy or trade in any livestock or other agricultural and horticultural products, graded, weighed, or auctioned by him, either for himself or partnership at any public market in which he is employed, or to misweigh or falsely report any weights or otherwise fraudulently manipulate the scales to produce a weight other than the true and actual weight of any livestock, poultry, or other agricultural and horticultural products consigned to and sold at any public market. [1939]

Sec. 1924(18). Enforcement; rules and regulations.

The commissioner shall be charged with the enforcement of this article [Secs. 1924 (2) —1924 (20)]. He shall have full authority and power to make and enforce rules and regulations necessary to carry out the provisions of this article, and may employ such

Code of 1943 Annotated, Ch. 19, Art. 2A—Agricultural Products, Public Markets—Continued.

agents or other assistants as he may deem necessary for the proper enforcement of this article.

In the event any of the provisions or requirements of this article should be a duplication or in conflict with the authority exercised by the secretary of agriculture under the Packers and Stockyard Act of the United States Congress, then the provisions and requirements of this article shall not apply. [1939]

Sec. 1924(20). Penalty for violations.

Any person, firm, association, or corporation violating any of the provisions of this article [Secs. 1924 (2)—1924 (20)], or of the rules and regulations adopted pursuant to the provisions thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars for the first offense, and not less than four hundred dollars nor more than one thousand dollars for the second offense. [1939]

Code of 1943 Annotated, Ch. 19, Art. 5—Fruits and Vegetables, Closed Packages.

Sec. 1958. Rules and regulations governing marking requirements.

The commissioner of agriculture shall establish and promulgate from time to time official standard grades for all closed packages of fruits and vegetables, by which the quantity, quality and size may be determined, and prescribe and promulgate rules and regulations governing the markings which shall be required upon packages of fruits and vegetables for the purpose of showing the name and address of the producer or packer, the variety, quantity, quality and size of the product. [1929]

* * * *

Sec. 1959. Markings on packages.

Whenever such standards for the grade or other classification of fruits and vegetables under this article [Secs. 1958–1965] becomes effective, every closed package containing fruits or vegetables grown and packed in this State and sold, offered or exposed for sale, or packed for sale or transported for sale, by any person, firm, organization or corporation, shall bear conspicuously upon the outside thereof, in plain words and figures, such markings as are prescribed by the commissioner of agriculture of West Virginia under the provisions of this article. [1929]

Sec. 1960. Enforcement.

The commissioner of agriculture of West Virginia shall be charged with the enforcement of the provisions of this article [Secs. 1958–1965] * * *. [1929]

Sec. 1962. Penalties for violations.

Any person, firm, organization or corporation, who shall violate any of the provisions of this article

[Secs. 1958–1965], shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five nor more than five hundred dollars for each offense. [1929]

Sec. 1963. Exemption from prosecution.

No person, firm, organization or corporation shall be prosecuted under the provisions of this article [Secs. 1958–1965]:

(a) When he or it can establish by satisfactory evidence that he or it was not a party to the packing, grading or marking of such fruits or vegetables;

(b) When he or it can establish that the fruits or vegetables offered for sale have passed inspection by an authorized inspector of this State and bear the official West Virginia inspection stamp, or by an inspector of the United States department of agriculture and found to be packed in accordance with the requirements of the commissioner of agriculture of West Virginia. [1929]

Code of 1943 Annotated, Ch. 19, Art. 11—Milk and Cream.

Sec. 2038(2). Babcock test: Fraudulent manipulation; quantities used for test.

It shall be unlawful for any person, association, copartnership, or corporation, their agents or servants, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount or percentage of butterfat contained therein, to underread, overread, or otherwise fraudulently manipulate the test, commonly known as the Babcock test used for determining the percentage of such fat in said milk or cream, or to falsify the record thereof, or to make the Babcock reading except when the fat has a temperature of one hundred thirty to one hundred forty-five degrees Fahrenheit, or to use for such test quantities other than seventeen and six-tenths cubic centimeters in the case of milk, and nine grams or eighteen grams in the case of cream. In all tests of cream the cream shall be weighed and not measured into the test bottle. [1931]

Sec. 2038(3). Same: Standard glassware to be used; approval required for non-standard glassware.

No person, association, copartnership, or corporation, purchasing milk or cream, and paying for the same, on the basis of the percentage of butterfat contained therein, shall, if the percentage of butterfat is ascertained by the said "Babcock test," use any test glassware except standard Babcock test glassware which has been previously approved by the commissioner of agriculture. If the proportion of butterfat is determined by any method other than the "Babcock test," no utensil or instrument shall be used in such determination until the same has been inspected and approved by the commissioner of agriculture. [1931]

Sec. 2038(8). True weight to be used as basis for payment.

No person, association, copartnership, or corporation purchasing or selling milk or cream, or both, by weight, and no agent or servant of any such person, association, copartnership or corporation shall fraudulently use, as the basis of payment for such purchase, any weight other than the true weight of the milk or cream so purchased or sold. [1931]

Sec. 2038(11). Enforcement.

The commissioner of agriculture shall be charged with the enforcement of the provisions of this law [Sec. 2038 (1)—2038 (13)]; and may make such rules and regulations as he may deem advisable in carrying out the provisions of this law as long as they are not inconsistent with this law. Nothing contained in this section shall be construed to prevent an individual from prosecuting anyone violating any of the provisions of this law. * * * [1931]

Sec. 2038(12). Penalty for violations.

Any person violating any of the provisions of this law [Secs. 2038 (1)—2038 (13)] shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than thirty days, or both, in the discretion of the court. [1931]

Code of 1943 Annotated, Ch. 19, Art. 14—Commercial Feeding Stuffs.

Sec. 2077. Definition.

The term "commercial feeding stuffs," as used in this article [Secs. 2077—2087], or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean all feeding stuffs used for feeding animals and birds, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo; whole hays, straws and corn stover, when unmixed with other materials, together with all other unmixed materials containing sixty per cent, or more, of water. [1919; last amended 1945.]

Sec. 2078. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within the State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; [1919; last amended 1929.]

* * * * *

Sec. 2083. Bulk sales.

Whenever any commercial feeding stuffs as defined in section one (Sec. 2077) are offered or ex-

posed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or persons keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section two (Sec. 2078), and when such feeding stuffs are sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a card or cards upon which appears the statement required by the provisions of section two (Sec. 2078). [1919; last amended 1929.]

Sec. 2085. Enforcement; rules and regulations; stop sale order.

The commissioner of agriculture is hereby charged with the enforcement of the provisions of this article [Secs. 2077—2087]; and is empowered to prescribe and enforce rules and regulations consistent with this article in carrying out its provisions. * * *

Whenever it appears that any commercial feeding stuff is being offered or exposed for sale in this state in violation of any of the provisions of this article, the commissioner is hereby authorized to issue a written or printed "Stop Sale" order or "Embargo", and it shall be unlawful for any person, firm, corporation or manufacturer to permit any such commercial feed to be moved or disposed of in any manner except upon written order of the commissioner of agriculture or by court order. The commissioner shall cause notice of such violation to be given to the person affected thereby, and any person so notified shall be given an opportunity to be heard under such rules and regulations as the commissioner may prescribe. * * * [1919; last amended 1947.]

Sec. 2087. Penalty for violations.

Any manufacturer, importer, jobber, firm, association, corporation or person, who shall sell, offer or expose for sale, or distribute, in this State, any commercial feeding stuffs without having attached thereto or furnished therewith such labels or tags, as required by this article [Secs. 2077—2087], or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the commissioner or his authorized agent in the performance of his duty in connection with the provisions of this article, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section one (Sec. 2077) without complying with the requirements of the provisions of this article; * * * shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars for the first violation, and not less than one hundred nor more than two hundred dollars for each subsequent violation. [1919; last amended 1929.]

1947 Cumulative Supplement to Code of 1943 Annotated, Ch. 19, Art. 15—"West Virginia Fertilizer Law of 1947."

Sec. 2089. Enforcing official.

This article [Sec. 2088-2096 (1k)] shall be administered by the commissioner of agriculture of the state of West Virginia, hereinafter referred to as the "commissioner." [1947]

Sec. 2090. Definitions.

When used in this article [Sec. 2088-2096 (1k)]:

* * * * *

(e) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any other recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(f) The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

* * * * *

(j) The term "ton" means a net ton of two thousand pounds avordupois. [1947]

* * * * *

Sec. 2092. Marking requirements.

(a) Any mixed fertilizer or fertilizer material offered for sale or sold or distributed in this state in bags, barrels, or other containers commonly used, shall have placed on or affixed to the container the net weight * * *, printed either (1) on tags to be affixed to the end of the package, or (2) directly on the package: * * *

(b) If transported in bulk, the net weight * * *, shall accompany delivery and be supplied to the purchaser. [1947]

Sec. 2096(1g). "Stop sale" orders.

It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of mixed fertilizer or fertilizer material, and to hold at a designated place when the commissioner finds said mixed fertilizer or fertilizer material is being offered or exposed for sale in violation of any of the provisions of this article [Sec. 2088-2096 (1k)], until the law has been complied with and said mixed fertilizer or fertilizer material is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the mixed fertilizer or fertilizer material so withdrawn when the requirements of the provisions of this article have been complied with, and upon payment of all costs and expenses incurred in connection with the withdrawal. [1947]

Sec. 2096(1i). Penalty for violations.

If it shall appear from the examination of any mixed fertilizer or fertilizer material or other evidence that any of the provisions of this article [Sec. 2088-2096 (1k)], or the rules and regulations issued thereunder, have been violated, the commissioner shall cause notice of such violation to be given to the registrant, distributor, and possessor from whom said sample or other evidence was taken; any party so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the commissioner. If it appears after such hearing that any of the provisions of this article or the rules and regulations issued thereunder have been violated, the commissioner may and is hereby authorized to prosecute, in any court of competent jurisdiction, any person violating the provisions of this article. Any person convicted of violating any provisions of this article or the rules and regulations issued thereunder shall be adjudged guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than two hundred dollars for the first offense, and not less than two hundred dollars nor more than five hundred dollars for each subsequent offense. [1947]

Code of 1943 Annotated, Ch. 19, Art. 15A—Agricultural Lime.

Sec. 2096(2). Definition.

The term "agricultural lime" as used in this article [Secs. 2096 (2)-2096 (11)], or in any rule or regulation authorized hereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean any neutralizing substance containing calcium and magnesium in form and condition and quantity suitable for neutralizing soil acidity, excepting only the products of kilns, crushers and marl beds when sold at the bed, crusher or kiln without brand name or trade mark and delivered in bulk to users in the community in which said kiln, crusher or marl bed is located, who are presumed to know the quality of the product, and air-slacked lime waste, gas-house lime and tanners lime when sold as such. [1937]

Sec. 2096(3). Marking requirements.

Every bag, barrel, package or bulk shipment of agricultural lime sold, offered or exposed for sale in this State shall have branded thereon or conspicuously attached thereto a statement showing * * * the net weight of the package; * * * [1937]

Sec. 2096(7). Bulk sales.

Whenever any agricultural lime as defined in section one [Sec. 2096 (2)] is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement re-

quired by the provisions of section two [Sec. 2096 (3)], and when such agricultural lime is sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a card or cards upon which appears the statement required by the provisions of section two [Sec. 2096 (3)]. [1937]

Sec. 2096(9). Enforcement.

The enforcement of the provisions of this article [Secs. 2096 (2)–2096 (11)] shall be vested in the state department of agriculture, and the commissioner of agriculture is authorized to make and enforce such rules and regulations as may be necessary to carry out the intent and purpose of this article. * * * [1937]

Sec. 2096(11). Penalty for violations.

Any person who shall sell, offer or expose for sale any agricultural lime without first having secured certificate of registration as provided by section three [Sec. 2096 (4)] of this article [Secs. 2096 (2)–2096 (11)] or without having branded on or attached to the bag, barrel, package, or bulk shipment of such agricultural lime the statement required by section two [Sec. 2096 (3)] of this article, or who shall receive or remove any agricultural lime without its having been registered or branded as provided by this article, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty nor more than one hundred dollars for the first offense, and not less than fifty nor more than five hundred dollars for each subsequent offense. [1937]

Code of 1943 Annotated, Ch. 21, Art. 5—Labor, Checkweighman.

Sec. 2357.¹ Checkweighman where wages depend on production.

Where the amount of wages paid to any of the persons employed in any manufacturing, mining, or other enterprise employing labor, depends upon the amount produced by weight or measure, the persons so employed may, at their own cost, station or appoint at each place appointed for the weighing or measuring of the products of their labor a checkweighman or measurer, who shall in all cases be appointed by a majority ballot of the workmen employed at the works where he is appointed to act as such checkweighman or measurer. [1901]

¹ See Sec. 2455, page 1090; checkweighman at coal mines.

Code of 1943 Annotated, Ch. 22, Art. 2—Mine Scales.

Sec. 2452. Scales and measures to be procured; testing.

It shall be the duty of every corporation, company or person, engaged in the business of mining and selling coal by weight or measure, to procure and constantly keep on hand, at the proper place, the necessary scales and measures and whatever else

may be necessary to correctly weigh and measure the coal as mined by such corporation, company or person.

It shall be the duty of the sealer of weights and measures for every county in which coal is so mined and sold to visit each coal mine operated therein, and where such scales and measures are kept, at least once in each year, and test the correctness of such scales and measures. The owner or operator of such coal mine, or any two or more of the miners working therein, may in writing require his attendance at the place where such scales and measures are kept, at other times, in order to test the correctness thereof, and it shall be his duty to comply with such request as soon as he can after receiving the same.

If in any such county there be no sealer of weights and measures, the duties herein required to be done and performed by such sealer shall be done and performed by the inspector of mines for the district of which such county forms a part. In any county in which the mine inspector is required so to act, the county court of such county shall furnish him with whatever is necessary to enable him to discharge his duties, if such court has procured the weights and measures and balances provided for by article one, chapter forty-seven (Secs. 4506 et seq.¹) of this Code; and if not, the state sealer of weights and measures shall furnish him with whatever may be necessary to enable him to discharge the duties required of him. The things so furnished him, in either case, shall be returned by him to the person from whom he received them as soon as possible after he has performed the duties for which he received them. It shall be the duty of every corporation, company or person so engaged in the business of mining coal to procure and constantly keep on hand a sealed weight of at least fifty pounds, and a sealed measure of at least one bushel, to be used for the purposes herein set forth. [1891; last amended 1931.]

¹ See pages 1076–1083.

Sec. 2452(1). Testing: Cooperative arrangement.

The chief of the department of mines with respect to the duties of himself and his inspectors to test the correctness of scales and measures used for the weighing and measurement of coal mined by any corporation, company or person in any county in which there is no sealer of weights and measures as is provided in section seventy-three, article two, chapter twenty-two (Sec. 2452) of the code of West Virginia, one thousand nine hundred thirty-one, and the commissioner of labor with respect to his duties as ex officio commissioner of weights and measures, are hereby authorized and empowered to enter into such cooperative arrangement or agreement as may appear to be reasonably necessary and expedient concerning the testing of the correctness of such scales and measures, to the end that any of the powers, rights and duties of the chief of the department of mines and his inspectors with respect

Code of 1943 Annotated, Ch. 22, Art. 2—Mine Scales
—Continued.

thereto may be assumed, taken over and exercised by said commissioner of labor, his deputies and inspectors. By such arrangement or agreement, the said chief of the department of mines may agree to pay to the said commissioner of labor, his deputies and inspectors from any moneys appropriated for the department of mines for personal services or current expenses such sum or sums as may be reasonably necessary to compensate or aid in compensating said commissioner of labor, his deputies and inspectors for the assumption and exercise of said powers, rights and duties. [1939]

Sec. 2453. Coal cars: Marking and weighing.

Each car used by any such corporation, company or person in removing coal from any coal mine shall be numbered by consecutive numbers plainly marked, and placed and kept thereon as long as such car is so used. And if the coal from such mine is mined, and the miners are paid according to the weight thereof for mining the same, every such car so used shall be weighed upon such tested scales, and the weight thereof shall be plainly marked, and placed thereon as long as such car shall be used as aforesaid. If the coal at any such mine is mined, and the miners thereof are paid for mining the same by measure, the number of bushels of coal such car will hold when loaded to its capacity shall also be plainly marked, and placed and kept thereon as long as such car is so used as aforesaid. And no car shall be used for the purpose aforesaid until the provisions of this section are complied with. [1891]

Sec. 2454. Weighing coal before screening.

All coal so mined and paid for by weight shall be weighed before it is screened, and shall be paid for according to the weight so ascertained, at such price per ton as may be agreed on by such owner or operators and the miners who mined the same. And coal mined and paid for by measure shall be paid for according to the number of bushels marked upon each car in which it is removed from the mine, and before it is screened, and the price paid for each bushel so ascertained shall be such as may be agreed upon as aforesaid. [1891; last amended 1937.]

Sec. 2455. Weighman and checkweighman; employment; duties; oath.

Every such corporation, company or person shall employ a weighman, and the miners working in any such coal mine may employ a checkweighman as provided in section eight (Sec. 2357¹) article five, chapter twenty-one of this Code, and the two so employed shall supervise the weighing of each car while empty, and the weighing of the same when loaded with coal so paid for by weight, and measuring of the number of bushels therein, when necessary, so paid for by measure. Where such check-

weighman is employed by the miners working at such mine, the corporation, company or person operating the same shall furnish such checkweighman with a check or number and pay him for all coal placed to his check or number the same per ton as is paid to the miners. If the miners fail to employ such checkweighman, then the person so employed by such corporation, company or person shall perform that duty. Each of the persons so employed, before entering upon the discharge of the duties of his employment, shall take and subscribe an oath or affirmation that he will honestly and impartially do and perform the duties of his employment, and do equal and exact justice between employers and employees interested in the matter of his employment, to the best of his judgment, skill and ability.

Where the weighman is mutually selected by the consent of a majority of the miners working in any mine and the operator or agent of said company, it shall not be considered necessary to employ a checkweighman, but at any time that either of the parties to said agreement shall become dissatisfied with said weighman, they may dismiss him on ten days' notice, or the miners may employ a checkweighman. [1891; last amended 1931.]

¹ See page 1089.

Sec. 2456. Penalties for violations.

Any corporation, company or person violating any of the provisions of the four next preceding sections shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for each offense, be fined not less than twenty-five nor more than five hundred dollars. And the officer, agent or employee of the corporation or company whose duty it was to do or perform the act, or cause it to be done and performed, which is the subject of the indictment, may be indicted jointly with the corporation or company; and upon conviction thereof, in the discretion of the court, he may be imprisoned in the county jail not less than ten nor more than sixty days. [1891]

Sec. 2457. Mines subject to weighing and measuring provisions.

None of the provisions of the five next preceding sections, except those relating to checkweighmen, shall apply to any corporation, company or person owning or operating a coal mine in which fewer than ten miners are employed. [1891; last amended 1931.]

Code of 1943 Annotated, Ch. 24. Art. 2—Gas, Electric and Water Meters.

Sec. 2557. Inspection and correction of meters; fees.

* * * * *
* * * The commission [public service commission] shall, when and as necessary, appoint inspectors of gas, electric and water meters. And, when such inspectors are required to act, it shall be their duty to inspect, examine, prove and ascertain the

accuracy of any gas, electric, or water meters used or intended to be used for measuring or ascertaining the quantity of gas, electricity or water furnished to, by or for the use of any person, firm or corporation, and, when found to be correct, or made correct, the inspector shall stamp or mark each of such meters with some suitable device, which device shall be recorded in the office of the commission. No public utility shall furnish or put in use any gas, electric or water meter which shall not have been inspected, proved and stamped or marked by an inspector of the commission: Provided, That in cases of emergency, gas, electric or water meters may be installed and used before being inspected, but notice thereof shall be immediately given to the public service commission by the public utility installing the same, and such meters shall be inspected, proved and stamped or marked, as soon thereafter as practicable. Every gas, electric and water utility shall provide and keep in and upon its premises suitable and proper apparatus, to be approved and stamped or marked by the commission, for testing and proving the accuracy of gas, electric and water meters furnished for use by it and by which apparatus every meter may and shall be tested on the written request of the consumer to whom the same shall be furnished, and in his presence if he so desires.

If any person, firm or corporation to or by whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested. If the same on being tested shall be found to be two per cent from being correct, or shall be found to be to the prejudice of the user, the inspector shall order the owner of such meter forthwith to remove the same and to place instead thereof a correct meter. The expense of such inspecting and testing shall be borne by the owner if such meter be found to be incorrect by two percent or more. If the meter, on being so tested, shall be found to be correct, or within two per cent of being correct, the expense of

such inspection and testing shall be borne by the user. A uniform charge and rule shall be fixed by the commission for this service: Provided, That nothing in this chapter [Sec. 2546-2577] shall prevent the commission from changing and modifying the method of inspecting meters and adopting such rules and regulations therefor as to the commission may seem just and proper. [1913; last amended 1931.]

Code of 1943 Annotated, Ch. 61, Art. 3—False Advertising.

Sec. 5979. Unlawful acts; penalty.

Any person, firm, corporation or association, or their agents or employees, who, with intent to sell, or in any wise dispose of, merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or over any radio station, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue and deceptive, shall be guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine of not less than ten nor more than one hundred dollars, and such violation, by an agent or employee, shall be deemed an offense as well by the principal or employer, and they may be indicted for the same, either jointly or severally. [1915; last amended 1945.]

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Sec. 98.01. State standards.

The weights and measures and the scales and beams, received from the United States under a resolution of congress, approved June 14, 1836, and such new weights and measures and scales and beams in addition thereto or in renewal thereof, and such as shall be made under the direction of the state department of agriculture in conformity therewith, and certified to by the national bureau of standards shall be the state standards. [1935; last amended 1943.]

Sec. 98.02. Custody and use of state standards; authority and
duties of department; testing for state institutions; regula-
tions.

(1) The state department of agriculture shall take charge of the standards adopted by section 98.01 as the standards of the state; cause them to be kept in a fire-proof building belonging to the state, from which they shall not be removed except for repairs or for certification; and take all other necessary precautions for their safekeeping. The department shall maintain the state standards in good order and shall submit them once in ten years to the national bureau of standards for certification. The department shall keep a seal which shall be so formed as to impress the letters "Wis." upon the weights and measures, scales, and beams sealed by it, and it shall correct the standards of the several cities, and as often as once in five years, compare the same with those in its possession, and shall seal the same when tried and proved to be in conformity to the state standards.

(2) The department shall have and keep a general supervision of the weights and measures and the weighing and measuring devices of the state, and in use in the state. It or its inspectors by its direction shall, upon the written request of any citizen, firm, or corporation, or educational institution of the state, test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in this state.

(3) The department, or its inspectors by its direction, shall at least once annually test all scales, weights and measures used in checking the receipt or disbursement of supplies in every institution under the jurisdiction of the state department of public welfare, state board of health and superintendent of public instruction; and report in writing its findings to such state agency and to the executive officer of the institution concerned; and at the re-

quest of such officer appoint in writing one or more employes, then in the actual service of such institution, who shall act as special deputies for the purpose of checking the receipt and disbursement of supplies.

(4) The department shall keep a complete record of the standards, balances, and other apparatus belonging to the state. The department shall as soon as practicable after the thirtieth day of June in each even-numbered year make to the governor a report of the work done by the department. The department, or its deputy or inspectors by its direction, shall inspect all the standards used by the cities at least once in each two years and shall keep a record of the same.

(5) The department, or its inspectors by its direction, shall at least once in two years visit the various cities of the state in order to inspect the work of the local sealers; and in the performance of such duties, it or its inspectors by its direction may inspect the weights, measures, balances, or any weight or measuring appliance of any person, firm, or corporation and shall have the same powers as the local sealer of weights and measures. The department shall issue from time to time, regulations for the guidance of all sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. In said regulations it shall prescribe the amount of tolerance to be allowed, and may make reasonable regulations regarding the varieties or kinds of devices, attachments or parts entering into the construction or installation of weights and measures or weighing or measuring appliances which shall have for their object the tendency to secure correct results in the use of such appliances.

(6) In all territory within this state, except in cities subject to the provisions of section 98.01, the department shall have the power, except as otherwise provided in sections 126.20,¹ 126.21¹ and 126.25,² and in sections 196.16³ and 196.17³ of the statutes, to inspect, test, try and ascertain if they are correct, all weights, measures or weighing or measuring devices kept, offered or exposed for sale, or sold, and it shall be its duty to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or measurements used or employed within said territory by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things,

produce or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire or award. The department shall have the power to, and shall from time to time by its agents, inspectors, or sealers, weigh or measure and inspect packages or amounts of commodities of whatsoever kind, kept for the purpose of sale, or exposed for sale, sold, or in the process of delivery, in order to determine whether the same contains the amounts represented and whether they are offered for sale or sold in the manner in accordance with law. [1935; last amended 1943.]

¹ Secs. 126.20 and 126.21, weighing of grain, see page 1107.
² Sec. 126.25, providing for oath and bond of chief inspector of grain, not included in this publication.

³ Secs. 196.16 and 196.17, gas and electric meters, see page 1111.

Sec. 98.03. City standards.

Each city appointing a sealer under section 98.04 shall procure and shall keep at all times a complete set of weights and measures, scales, and beams in exact conformity to the state standards, except that they may be made of such materials as the department may direct; weights and measures, scales, and beams having been tried and accurately proved by it shall be sealed and certified to by the department, and shall be deposited with the city sealer as public standards. Whenever such city shall neglect for six months so to do, the city clerk, on notification and request by the department, shall provide such standards and cause the same to be so tried, proved, sealed, certified, and deposited at the expense of the city. [1935]

Sec. 98.04. City sealers.

(1) There shall be a city sealer of weights and measures in all cities having a population of more than 5,000 inhabitants according to the last official United States census, without counting inmates of any state penal institution or insane hospital therein situated. Any city under 5,000 inhabitants may adopt the same by a majority vote of the members of the common council. Such action may be repealed by a like vote of the members of the common council. The city sealer shall be appointed by the mayor from a list to be furnished by the state or local civil service board under the rules of said board, except that in cities of the fourth class he shall be appointed as determined by the city council. He shall be paid a salary to be fixed by the board or body authorized to fix the salaries of city officials, and shall be provided with suitable office quarters in said city, and no fees shall be charged by him or by the city for inspection or testing of weights, measures or weighing or measuring devices.

(2) Except as otherwise provided in sections 126.20¹, 126.21¹ and 126.25¹, and in sections 196.16¹ and 196.17¹, the city sealer shall within his city have the power to inspect, test, try, and ascertain if they are correct, all weights, measures, or weighing or measuring devices, kept, offered, or ex-

posed for sale or sold, and it shall be his duty to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments, or mechanical devices for measurement, and tools, appliances, or accessories connected with any or all such instruments or measurements, used or employed within the city by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire, or award. The city sealer 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, 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.

(3) He shall, at least once in each year or as much oftener as he may deem necessary, see that all weights, measures, and weighing and measuring apparatus used in the city are correct and that the same are in compliance with the regulations issued by the department. He may for the purpose above mentioned, and in the general performances of his official duties, with or without formal warrant, enter or go in or upon any stand, place, building, or premises; or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the purpose of making the proper tests.

(4) Whenever the city sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. Whenever the sealer compares weights and measures and finds that they correspond or causes them to correspond with the standards in his possession, and with the regulations issued by the department, he shall seal or mark the same with appropriate devices to be approved by the department. The sealer shall condemn and seize and may destroy incorrect weights and measures and weighing or measuring instruments which cannot be repaired; and such are incorrect and yet may be repaired, he shall mark or tag as "condemned for repairs" in a manner prescribed by the department.

(5) The city sealer shall keep a complete record of the work done by him and shall make a quarterly report to the mayor, which report shall be filed with the city clerk, and a quarterly report duly sworn to, to the department, these quarterly reports to cover the three-month periods beginning July first, October first, January first, and April first, respectively, and to be submitted not later than twenty days following the expiration of the period covered by the report.

(6) The city sealer of weights and measures shall forthwith on his appointment execute and file an

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official bond, with sureties approved by the appointing power.

(7) Nothing contained in sections 98.01 to 98.16, inclusive, shall be construed as prohibiting cities subject to the provision of this section from enforcing ordinances regulating weights and measures, heretofore or hereafter enacted not in conflict with said sections or the regulations of the department issued in pursuance thereof; nor as prohibiting cities from employing city sealers of weights and measures to perform other public services not inconsistent with their duties as sealers of weights and measures, with or without extra compensation, as determined and fixed by the city; provided, that where such services are rendered to another city department, the cost of such services be charged to the city department receiving same. [1931; last amended 1941.]

¹ See footnotes 1, 2, and 3 following Section 98.02, page 1094.

[**ED. NOTE.**—In Wisconsin Statutes 1947, following the foregoing section, it is stated: "City has right to add to duties imposed on sealer of weights and measures that of testing gas and electric meters. 27 Atty. Gen. 238."]

Sec. 98.06. Sealers at large.

In all territory not within cities subject to the provisions of section 98.04 the inspectors of weights and measures appointed or designated by the department shall act as sealers of weights and measures, with like authority and duties as prescribed for city sealers in section 98.04. [1935]

Sec. 98.07. Sealer's liability.

If any sealer of weights and measures shall neglect to perform any duty imposed by law or shall prove and seal any weight, measure, scale or beam by any public standard which shall not have been tried, proved and sealed as prescribed by this chapter [Secs. 98.01-98.26] he shall forfeit for each such offense ten dollars. [1935]

Sec. 98.08. Police powers of sealers.

(1) There is hereby conferred upon the department, its inspectors, and all sealers of weights and measures, police power; such inspector and sealers shall be provided by the department with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the same, upon demand, to any person questioning their powers, and they are hereby empowered and authorized to make arrests, with or without formal warrant, of any person or persons violating the provisions of any statute relating to weights and measures. [1935]

Sec. 98.09. Weight and ton defined; contracts.

When any commodity shall be sold by weight it shall be understood to mean the net weight, and all contracts concerning goods or commodities sold by weight shall be construed accordingly unless such construction would be manifestly inconsistent with

the special agreement of the parties contracting. When any commodity is sold by the ton it shall be understood to mean the net weight of twenty hundred avoirdupois pounds unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. [1935]

Sec. 98.10. Dry commodity standards.

(1) Whenever any of the articles or commodities mentioned in this section shall be sold by the bushel, or fractional part thereof, and no special agreement as to the weight thereof shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight, and shall be computed as follows: ¹

	<i>Pounds per Bushel</i>
Wheat	60
Peas	60
Potatoes	60
Clover seed	60
Beans	60
Alfalfa	60
Alsike	60
Indian corn	56
Rye	56
Lima beans	56
Wrinkled peas	56
Flaxseed	56
Rutabagas	56
Tomatoes	56
Sweet potatoes	51
Corn meal	50
Rape seed	50
Millet seed	50
Beets	50
Green cucumbers	50
Rye meal	50
Carrots	50
Buckwheat	50
Hickory nuts	50
Onions	50
Fine salt	50
Barley	48
Peaches	48
Pears	48
Hungarian grass seed	48
Blue grass seed	14
Redtop seed	14
Castor beans	46
Timothy seed	45
Rough rice	45
Hemp seed	44
Parasnips	44
Apples	44
Sea island cotton seed	44
Turnips	42
String beans	30
Green beans	30
Green peas in the pod	30
Spinach	14
Oranges	46
Cranberries	35
Barley malt	34
Dried peaches	33
Oats	32
Onion sets	32
Upland cottonseed	30
Dried apples	25
Bran	20
Shorts	20
Coarse salt	70
Lime	70

	<i>Pounds per Bushel</i>
Unslaked lime -----	80
Plastering hair -----	8
Hemlock bark -----	2 2,200

For a fractional part of a bushel a like fractional part of the above weights shall be required.

All dry commodities not otherwise specified in this section shall be bought or sold only by standard dry measures, standard weight, or numerical count except where parties otherwise agree in writing. [1935]

¹ A slight change has been made in the arrangement for convenience of reference.

² Pounds per cord.

Sec. 98.11. Standard bushel.

The bushel in struck measure shall contain two thousand one hundred fifty and forty-two hundredths cubic inches. The half bushel and the parts thereof shall correspond in capacity to that of the bushel and shall be the standard measure for fruits, vegetables, and other dry commodities customarily sold by heaped measure; and in measuring such commodities, the half bushel or other smaller measure shall be heaped as high as may be without special effort or design. [1935]

Sec. 98.12. Milk bottles.

(1) For the sale of milk or cream at retail, no bottle shall be used unless its capacity is one gallon, half gallon, one quart, third quart, one pint, or half pint; every such bottle shall be delivered filled to the bottom of the cap seat, stopple or other designating mark. The following variations on individual bottles may be allowed, but the average contents of not less than 25 bottles selected at random from at least 4 times the number tested must not be in error by more than one-quarter of such tolerances: 8 drams above and 8 drams below on the gallon; 6 drams above and 6 drams below on the half gallon; 4 drams above and 4 drams below on the quart; 3 drams above and 3 drams below on the pint; 2 drams above and 2 drams below on the third quart and on the half pint respectively. When milk or cream is pasteurized in the bottle in which it is to be sold or delivered, such bottle may have a capacity sufficient to permit of the expansion of the contents in the process of heating, but such bottle shall have clearly marked thereon by a line or other designating mark the point to which such bottle is filled when containing the respective capacities provided for in this section, at sixty-eight degrees Fahrenheit (twenty degrees centigrade). The department shall prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of this section. Bottles so used 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 the trade-mark of the manufacturer and 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 department upon application by the manufacturer, and upon filing by the manufacturer of a bond in the sum of \$1,000 with sureties to be approved by the attorney-general, conditioned upon their conformance with the requirements of this section. A record of the bonds furnished, the designating numbers, and to whom furnished, shall be kept in the office of the department.

(2) Any manufacturer who sells milk or cream bottles to be used in this state that do not comply as to capacity and markings with this section shall forfeit \$500, to be recovered by the attorney-general in an action against the offender's bondsmen, brought in the name of the state. Any person who uses, for the sale of milk or cream at retail, bottles that do not comply with this section as to markings and capacity, shall be punished by a fine of not more than \$100, or by imprisonment not more than six months, or by both such fine and imprisonment.

(3) Sealers of weights and measures are not required to seal bottles for milk or cream marked as in this section provided, but they 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 whether the above provisions are being complied with, and they shall report violations found immediately to the department. [1935; last amended 1945.]

Sec. 98.13. Babcock test.

(1) In the use of the Babcock test all persons shall use only the standard Babcock testing glassware, which complies with the following specifications, to wit:

(a) Milk pipettes shall have a capacity of 17.6 cubic centimeters.

(b) Milk test bottles shall have a calibrated neck with a capacity equivalent to 0.2 cubic centimeters for each one per cent marked thereon; and after January 1, 1948, only bottles with a total per cent graduation of 8 shall be used.

(c) Cream test bottles shall receive a charge of either 9 grams or 18 grams. The 9 gram bottle shall only be used with a 9 gram charge and the 18 gram bottle shall only be used with an 18 gram charge.

The calibrated neck of the 9 gram bottle shall have a capacity equivalent to 0.1 cubic centimeters for each one per cent marked thereon and the calibrated neck of the 18 gram bottle shall have a capacity equivalent to 0.2 cubic centimeters for each one per cent marked thereon.

(d) This section shall not be construed to prohibit the use of the Mojonnier or ether extraction test methods.

(e) No other basis of milk fat measure where milk or cream is purchased by or sold to dairy plants when the value of said milk or cream is determined

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by per cent of milk fat content or by the Babcock test shall be used.

(1) Any person violating the provisions of this section shall be punished by a fine of not more than \$250.00.

(2) In sampling cream or milk from which composite tests are to be made to determine the per cent of butter fat contained therein, no such sample or sampling shall be lawful unless a sample be taken from each weighing and the quantity thus used shall be proportioned to the total weight of the cream or milk tested, and each weighing of milk or cream shall be thoroughly agitated immediately before taking a sample to insure a sample truly representing the aggregate from which taken.

(3) All purchasers of milk or cream from the producer, when using the Babcock test as a standard to determine the value of any milk or cream received or bought by such purchaser, shall, when paying for such milk or cream, include an itemized statement to each patron showing the daily number of pounds of milk delivered, the total amount of butter-fat content or test, transportation costs, and other charges and deductions for the period of time for which payment is made; except that the daily weights need not be shown on such statement if weight slips are furnished daily to producers.

(4) Whenever milk is sold under an agreement, express or implied, that the value of the same shall be determined by its proportion of butter fat, the price to be paid shall be based on a three and five-tenths per cent butter fat standard. [1935; last amended 1947.]

* * * * *

Sec. 98.14. Standardization of Babcock glassware.

(1) All bottles and pipettes used in measuring milk or milk products for making determination of the per cent of fat in said milk or milk products shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "Sealed," and in the side of the pipette or the side or bottom of the bottle the name, initials, or trademark of the manufacturer and his designating number, which designating number shall be different for each manufacturer and may be used in identifying bottles. The designating number shall be furnished by the department upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of one thousand dollars with sureties to be approved by the attorney-general, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished, shall be kept in the office of the department.

(2) Any manufacturer who sells Babcock milk, cream or butter test bottles or milk pipettes, to be used in this state, that do not comply with the pro-

visions of this section shall suffer the penalty of five hundred dollars 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. No dealer shall use, for the purpose of determining the per cent of milk fat in milk or milk products, any bottles or pipettes that do not comply with the provisions of this section relating thereto.

(3) The department shall prescribe specifications with which the glassware mentioned in this section shall comply. The unit of graduation for all Babcock glassware shall be the true cubic centimeter or the weight of one gram of distilled water at four degrees centigrade.

(4) Sealers of weights and measures are not required to seal Babcock milk, cream or butter test bottles or milk pipettes marked as in this section provided, but they shall from time to time make tests of individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain whether the above provisions are being complied with and they shall report immediately to the department violations found. [1935]

Sec. 98.15. Reading of test.

It shall be unlawful for any person, by himself, his servant or agent or as the servant or agent of another to falsely manipulate or underread or overread or make any false determination by the Babcock test or any other contrivance used for determining the quality or value of milk or cream delivered to a creamery, cheese factory, or condensed milk factory, or when sold or purchased. [1935]

Sec. 98.16. Standard barrels, crates and boxes; liquids, beer and other fermented liquids; unslaked lime; fruits and vegetables; standard weights of containers for flour, corn meal, hominy and hominy grits.

(1) A barrel for liquids shall contain thirty-one and one-half gallons, and a hogshhead two barrels.

(2) A barrel for beer, ale, porter or other similar fermented liquors shall contain thirty-one gallons, each gallon to contain two hundred thirty-one cubic inches; a half barrel, fifteen and one-half gallons; a quarter barrel, seven and three-fourths gallons; an eighth barrel, three and seven-eighths gallons. The capacities of the barrel and its subdivisions enumerated above shall apply to all containers in which beer, ale, porter or other similar fermented liquors are commonly sold, known as barrels, kegs, casks, or any other container made of staves, hoops and flat-heads. Reasonable tolerances shall be prescribed by the department for the containers above designated.

(3) (a) A barrel of wheat flour, rye flour, buckwheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits measured by weight shall contain 200 pounds.

(b) All sales of any of the commodities mentioned in paragraph (a) in containers of less than one barrel

shall be in containers of net avoirdupois weights of 2 pounds, 5 pounds, 10 pounds, 25 pounds, 50 pounds and 100 pounds.

(4) A barrel for potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruit as provided in subsection (6) of this section.

(5) A barrel of unslaked lime shall contain two hundred pounds.

(6) The standard barrel for apples or pears or other fruit, unless otherwise specifically defined, shall have an interior capacity of seven thousand and fifty-six cubic inches, and shall not be less than twenty-six inches between the heads inside; the diameter of the heads shall be seventeen and one-eighth inches, including the beveled edge; the outside bilge or circumference shall be not less than sixty-four inches, the thickness of the staves being four-tenths of an inch; provided, however, that any barrel of a different form, but of an interior capacity of seven thousand and fifty-six cubic inches, shall be a legal barrel.

(7) The standard barrel for cranberries shall measure not less than twenty-five and one-quarter inches between the heads inside; the diameter of the heads shall be sixteen and one-quarter inches, including the beveled edge; the outside bilge, or circumference, shall measure not less than fifty-eight and one-half inches, the thickness of the staves being four-tenths of an inch. But any barrel of different form, but of the same interior capacity shall be considered a legal barrel.

(8) A standard crate, box or basket for apples, pears, plums, peaches, and other fruits not secondarily contained in quart or other boxes within such crate, box or basket, shall have an interior capacity of two thousand one hundred fifty cubic inches exclusive of cover.

(9) A bushel crate of cranberries or blueberries shall have an interior capacity of one bushel struck measure.

(10) All sales of blackberries, blueberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries in quantities of less than one bushel shall be by the quart, pint, or half-pint, dry measure, and all berry boxes or baskets sold, used, or offered for sale within the state shall be of the interior capacity of not less than one quart, pint or half-pint, dry measure. In addition to the penalty prescribed in section 98.26, the illegal boxes and baskets and the fruit therein contained may be confiscated in case of violation of the provisions of this subsection.

(11) All sales of fresh fruits or vegetables in containers of less than one bushel dry capacity measure shall be in containers of the standard capacity of one quart, two quarts, three quarts, four quarts, five quarts, six quarts, eight quarts, sixteen quarts or twenty-four quarts standard dry measure, and such receptacles shall in fact contain the full capacity of

such fresh fruits or vegetables, or if in other than standard containers such receptacles for fresh fruits or vegetables shall be plainly and conspicuously marked to indicate the true net weight, measure or numerical count of such fruits or vegetables.

(13) All contracts for the sale of apples, pears, cranberries, or other fruits, potatoes or other vegetables, by the barrel or crate, unless it is otherwise expressly stipulated in writing, shall be construed to mean barrels or crates of the capacity prescribed in subsections (4), (6), (7), (8) and (9) of this section.

(14) (a) Nothing in this section shall be construed as preventing the sale and shipment into other states of barrels, crates, berry boxes, or baskets of other capacities than those herein specified, nor as prohibiting the use of barrels, crates, berry boxes, or baskets of other capacities than those herein specified for the sale and shipment therein into other states of any of the commodities named or designated in this section.

(b) The requirement of subsection (3) (b) shall not apply to (1) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (2) the sale of flours and meals to commercial bakers or blenders or for export in containers of more than 100 pounds, or (3) specialty cake and pancake-making flours packed in containers the net contents of which are less than 3 pounds, or (4) the exchange of wheat for flour by mills grinding for toll.

(c) The requirement of section 98.04 (4) as to sealing by the sealer of weights and measures shall not be construed as applying to the barrels, crates, boxes, baskets or other containers designated in this section. [1935; last amended 1947.]

Sec. 98.17. Hop boxes.

The standard size of boxes used for picking hops shall be not exceeding three feet long, one and one-half feet wide and two feet deep, inside measure. [1935]

Sec. 98.18. Standard for grain.

No person shall sell, buy or receive in store any grain at any weight or measure per bushel other than the standard weight or measure per bushel fixed by law; and for any violation hereof the offender shall forfeit not less than five nor more than fifty dollars. [1935]

Sec. 98.19. Grain tester, how used.

No person shall determine the grade of any grain which is bought or received in store at any mill, elevator, warehouse or storehouse by the use of any grain tester that is not sealed in accordance with the United States standard of measure and which sealer is not in accordance therewith at the time it is used. When grain is tested at the instance of the seller the tester shall be filled by pouring the grain into it from a scoop or a similar vessel, and when the

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tester is filled it shall be struck or leveled with three zigzag movements of a straight edge. Any person who shall violate the provisions of this section and thereby cheat or defraud the seller or buyer of any grain shall be punished as is provided in section 98.25. [1935]

Sec. 98.20. Cotton duck: Definition; marking requirements; misrepresentation of true weight.

(1) That for the purposes of this section, cotton duck or canvas shall be deemed to include all cotton duck or canvas, whether single filling, double filling, roll or wide duck.

(2) That for the purposes of this section, the equivalent of thirty-six inches in length by twenty-nine inches in width or seven and one-fourth square feet of cotton duck or canvas shall constitute a yard, and an ounce shall be one-sixteenth part of a pound avoirdupois.

(3) Any person, company or corporation who shall manufacture for sale or who may offer or expose for sale any cotton duck or canvas, or any article other than clothing and wearing apparel composed or made in whole or in part of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture.

(4) It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell or endeavor to sell any cotton duck or canvas as herein defined, or any articles other than clothing and wearing apparel, composed or made in whole or in part of any cotton duck or canvas without having marked thereon the true and correct weight of said canvas or cotton duck by ounces per yard, together with a description by name of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of said canvas or cotton duck by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture.

(5) It shall be unlawful for any person or corporation either individually or in representative capacity, selling, carrying for sale or endeavoring to sell any awnings, paulins, wagon covers, tents, grain and hay covers, stable or tent tops to misstate, or misrepresent, or conceal the true and correct size and dimensions thereof.

(6) It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by this section or cause, or permit the same to be done with intent to mislead,

deceive, or to violate any of the provisions of this section. [1935]

Sec. 98.21. Bread: Standard loaves; enforcement.

(1) All bread manufactured, procured, made or kept for sale, offered or exposed for sale, or sold, in the form of loaves for use or consumption within this state, shall be one of the following weights and no other, namely; one pound, one and one-half pounds, or multiples of one pound avoirdupois weight, provided, however, that a variation or tolerance of one and one-fourth ounces in excess or one and one-fourth ounces in deficiency per pound from the weights provided for in this section be allowed in the weight of individual loaves of bread; and the weight of individual loaves of bread shall be held to be the average of at least ten loaves of the same approximate weight and same manufacturer, if that number is available at the time of weighing in any place where bread is manufactured, procured, made or kept for sale, offered or exposed for sale, or sold. If ten loaves are not available, then the weight of individual loaves shall be held to be the average of all available loaves of the same approximate weight and same manufacturer, at the time of weighing in any place where bread in loaves is manufactured, procured, made or kept for sale, offered or exposed for sale, or sold, but in no case shall said number be less than five.

(2) The provisions of this section shall not apply to rolls, buns, biscuits, crackers and similar articles weighing less than four ounces avoirdupois each, nor to stale bread, provided that such bread be conspicuously marked "stale bread," or placed in a container conspicuously marked "stale bread," and sold as and for stale bread.

(3) No person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another person, firm or corporation, shall manufacture, procure, make or keep for sale, offer or expose for sale, or sell, bread in the form of loaves of weights other than provided for in subsection (1) of this section and in excess of the tolerances provided for therein.

(4) City sealers of weights and measures, co-ordinately with the state department of agriculture, shall enforce the provisions of this section. [1935; last amended 1943.]

Sec. 98.22. Inspection of fuel deliveries.

It shall be unlawful to sell or offer to sell in this state any coal, charcoal, or coke in any other manner than by weight. No person, firm, or corporation shall deliver any coal, charcoal, or coke without each such delivery being accompanied by a delivering ticket and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity, or quantities of coal, charcoal, or coke, contained in the cart, wagon, or other vehicle used in such de-

liveries, 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 sealer of weights and measures upon his demand, for his inspection, and this ticket or weight slip issued by the sealer when the sealer desires to retain the original shall be delivered to said purchaser of said coal, 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 over to the purchaser must be given to the purchaser at the time the sale is made. [1935]

Sec. 98.23. Cheese purchased at wholesale to be weighed before delivery.

Every person, firm or corporation that purchases or engages in the business of purchasing cheese in quantities of fifty pounds or more, in this state shall, in all cases except where otherwise agreed by express contract, correctly weigh or cause to be correctly weighed, each and every box or package thereof, at or before the time that such cheese shall be delivered to the purchaser, or to any common carrier for the purchaser for shipment, and every such person, firm or corporation shall make payment for all such cheese purchased, according to the weight so ascertained, and at the price or amount therefor agreed upon with the owner or vendor of such cheese at the time of such delivery, except for such cheese as shall be found to be of inferior quality by a test thereof made at or before the time of such delivery. [1935]

Sec. 98.24. Sale of growing crops; weighing.

Any person, firm or corporation transacting business in this state, that shall enter into any contract for the purchase of any crop that is not ready for immediate delivery, shall in all cases weigh, or cause to be weighed, the crop so purchased, at or before the time such crop is delivered to the purchaser, or to a common carrier at the direction of the purchaser for shipment, and every such person, firm or corporation shall ultimately make payment in full for all of the crop so purchased according to the weight so ascertained * * * and in case any purchaser shall fail or refuse to comply with his contract as provided in this section, the vendor, in any action prosecuted by him to recover for any crop sold to such purchaser, shall recover as damages for such failure or refusal, double the contract price of such crop at the weight thereof when ready for delivery and offered to or accept by the purchaser. [1935]

Sec. 98.25. False weights and measures.

(1) Any person who, by himself or by his agent or servant, or as the agent or servant of another, shall use in the buying or selling of any commodity or thing, or for hire or award, or retain in his possession, any false weight or measure or weighing device; or who shall sell or offer for sale, or have in his posses-

sion for the purpose of selling, any false weight or measure or weighing or measuring device, or any device or instrument to be used or calculated to falsify any weight or measure; or who shall use or retain in his possession, except as expressly provided by statute any weight or measure or weighing or measuring device which has not been sealed by a sealer of weights and measures within one year; or who shall sell, or offer or expose for sale, or keep for the purpose of sale a lesser quantity of any commodity than he represents such quantity to be, or shall take or attempt to take more than the quantity he represents, when, as buyer, he furnishes the weight, measure, or weighing or measuring device, by means of which the amount of commodity is determined; or who shall sell or offer or expose for sale, or keep for the purpose of sale any commodity in a manner contrary to law; or who shall violate any provisions of sections 98.01 to 98.24, for which a specific penalty has not been prescribed; shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

(2) Or any person who wilfully, with intent to cheat or defraud the buyer or seller of electric current, gas, water, or steam, shall make or cause to be made or aid in the making of any electric conductor, gas pipe, water pipe, steam pipe, or other instrument or contrivance, or any connection as to conduct or supply or intended to conduct or supply electric current, gas, water, or steam to any lamp or motor or machine or burner or orifice or appliance from which such electricity, gas, water, or steam may be consumed or utilized, without passing through or being registered by a meter; or any person who shall wilfully use a false meter for the measurement of electric current, gas, water, or steam in the buying or selling of the same; or who shall wilfully obstruct or interfere with the working of any meter used for such purposes, so as to cause or be intended to cause a false registration of the amount of electric current, water, gas, or steam consumed with the intent to cheat or defraud the seller or buyer of such electric current, gas, water, or steam, shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding five hundred dollars; but in case the amount of damages occasioned by such cheat or fraud shall not exceed twenty dollars, he shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding one hundred dollars; and in computing the amount of damages occasioned, the value of such electric current, water, gas, or steam shall be the regular current price therefor, charged to the consumer by the seller thereof.

(3) Sections 98.01 to 98.24 do not prohibit the use, in good faith, of any unsealed weight or measure or weighing or measuring device acquired by any person after the sealer's last visit to him for the purpose of sealing his weights and measures, or

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inspecting any sealed weight or measure or weighing or measuring device in his possession after the expiration of one year next after the last inspection and sealing thereof, provided the person has notified the city sealer, in cities subject to the provisions of section 98.04, or, in all other cases, the department, in writing, signed by him, of the fact that he has such weight or measure or weighing or measuring device, giving the number and a general description thereof, and the place where it may be found, and has received a written and signed acknowledgment of said notice from the city sealer or the department. [1935; last amended 1943.]

Sec. 98.26. Penalties.

(1) Any person, firm or corporation who shall violate any of the provisions of sections 98.13, 98.14, 98.15, subsection (10) of section 98.16, sections 98.20, 98.21 or 98.23 shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days nor more than sixty days.

(2) Whoever in any manner whatsoever impersonates or hinders the state department of agriculture or any inspector or any sealer of weights and measures, in the performance of their official duties shall be punished by a fine of not less than ten nor more than one hundred dollars. [1935; last amended 1943.]

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Sec. 93.01. Definitions of terms used in chapters 93 to 100.

The following terms, wherever used in chapters 93 to 100 or in any order, regulation or standard made thereunder, have the meaning here indicated, unless the context otherwise requires:

(1) "Department" means the state department of agriculture.

(2) "Director" means the director of the department.

* * * * *

(5) "Marketing," as applied to receptacles, means using receptacles in marketing food products or farm products.

(6) "Possession," as applied to receptacles, means possessing them in the course of possessing food products or farm products for commercial purposes.

(7) "Possession," when used in sections 93.09 and 93.10, means possession after the product or receptacle is ready for marketing.

(8) "Products" include all articles and commodities in general use.

(9) "Food products" includes all articles and commodities used for food, drink, confectionery or condiment.

(10) "Farm products" includes all products of

agriculture, horticulture, dairying, live stock, poultry and bee raising.

(11) "Grade" includes, in the case of food products or farm products, grade according to quality, quantity, type, variety, size, weight, dimensions or shape of the products, and, in the case of receptacles, grade according to quality, type, size, weight, content, dimensions, or shape of the receptacle. [1935; last amended 1945.]

* * * * *

Sec. 93.07. Rules and regulations; enforcement.

It shall be the duty of the department: (1) To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of the provisions of chapters 93 to 100, which regulations shall have the force of law.

* * * * *

(23) To enforce the provisions of chapters 93 to 100 and all other laws entrusted to its administration, and especially:

(a) To enforce the laws regarding the production, manufacture and sale, offering or exposing for sale or having in possession with intent to sell, of any dairy, food or drug product, the adulteration or misbranding of any articles of food or drink, or condiment or drug and to inspect any milk, butter, cheese, lard, syrup, coffee, tea or other article of food, drink or condiment or drug made or offered for sale within this state which it may suspect or have reason to believe to be impure, unwholesome, misbranded, adulterated or counterfeit, or in any way unlawful, and to prosecute or cause to be prosecuted any person engaged in the manufacture or sale, offering or exposing for sale or having in possession with intent to sell, of any adulterated dairy product or of any adulterated, misbranded, counterfeit, or otherwise unlawful article or articles of food, drink, condiment or drug. [1935; last amended 1947.]

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Sec. 93.08. Right of entry.

The department and its authorized agents have power to enter, within reasonable hours, any field, orchard, garden, packing ground, building, freight or express office, warehouse, car, vessel, vehicle, room, cellar, storehouse, cold storage plant, packing house, stockyard, railroad yard or any other place, which it may be necessary or desirable for them to enter in performing their duties or in enforcing the laws entrusted to their administration. They have power, for such purposes, to open any box, carton, parcel, package or other receptacle, inspect the contents thereof, and, upon payment or tender of

the market value, to take samples of any product contained therein. [1935; last amended 1943.]

Sec. 93.09. Standards and regulations for receptacles for food and farm products.

(1) The department, after public hearing, may establish standards for the grade of food products and farm products and for receptacles therefor and may prescribe regulations governing the marks or tags which may be required upon food products or farm products or upon receptacles therefor, for the purpose of showing the name, address or serial number of the person producing or marketing the product or receptacle, the grade of the product or receptacle, * * * or the quality, type, size, weight, content, dimensions or shape of the receptacle.

(2) No standard or regulation under this section, which is repugnant to any requirement made mandatory under federal law, shall apply to products or receptacles which are being shipped from the state in interstate commerce.

(3) No standard shall apply to products or receptacles coming from outside the state but such products or receptacles may be required to be marked or tagged to indicate that they came from outside the state and to show any other fact regarding which marking or tagging may be required under this section; provided, that such products or receptacles, at the time when marking or tagging is required, have ceased to be in interstate commerce.

* * * * *

(8) Whenever any standard or regulation under this section has become effective, no person marketing or having in his possession for commercial purposes any product or receptacle to which the standard is applicable shall represent such product or receptacle, unless in a manner authorized by the department, as being of any grade other than a grade contained in such standard, except as to products or receptacles included in subsections (2) and (3) of this section; and no person marketing or having in his possession for commercial purposes any product or receptacle to which the standard is applicable shall represent such product or receptacle as being of a grade contained in the standard, when as a matter of fact such product or receptacle is below the requirements of such grade and no person shall market or have in his possession for commercial purposes any product or receptacle unless the marking or tagging thereon conforms to the regulation prescribed under this section; and no person shall market or have in his possession for commercial purposes any product or receptacle, to which any such marking or tagging regulation is applicable, if such marking or tagging thereon is false or misleading; provided, that representing a product or receptacle as being of a grade contained in the standard, when as a matter of fact such prod-

uct or receptacle is below the requirements of such grade, shall not be a violation of this section, if the product or receptacle bears the official certificate of an inspector licensed under section 93.11; provided, further, that possession, under this section, shall not include possession by a carrier or other bailee. [1935; last amended 1943.]

* * * * *

Sec. 93.10. Same: Inspector's certificate.

(1) The department, as a means of enforcing the standard for the grade of any food product or farm product or for any receptacle therefor, may, by general order, after public hearing, require any such product or receptacle to bear the official certificate of an inspector licensed under section 93.11. [1935]

* * * * *

Sec. 93.21. Penalty for obstructing officers and violating regulations.

* * * * *

(2) Any person who obstructs the department or any of its subordinates in the performance of their duty by refusing him entry to any place he is authorized to enter or by refusing to deliver to him a sample of any article of food, drink or drug made, sold, offered or exposed for sale by the person to whom request therefor is made, if the value thereof is tendered, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment in the county jail not less than ten days nor more than sixty days.

(3) Any person who * * * wilfully violates or refuses, neglects or fails to obey any order or regulation made under the provision of this chapter [Secs. 93.01-93.22], shall forfeit for each such offense not to exceed two hundred dollars. [1935]

* * * * *

Statutes 1947, Vol. 1, Title XII, Ch. 94—Promotion of Agriculture.

Sec. 94.64. Commercial fertilizers: Marking requirements.

(1) Every person who shall, in this state, sell or expose for sale any commercial fertilizer or any material used for fertilizing purposes, excepting agricultural lime and the dung of poultry and domestic animals in their natural condition selling for less than ten dollars per ton, shall affix to every package of such fertilizer or material in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly certifying the number of net pounds therein, * * *. [1935; last amended 1945.]

[ED. NOTE.—For enforcement by Department of Agriculture, see Sec. 93.07, page 1102.]

Sec. 94.665. Agricultural lime: Definitions; license; weight statement; vehicle ton weight capacity; enforcement; right of entry; violations; penalty.

- (1) Unless the context requires otherwise:
 - (a) "Agricultural lime" for the purposes of this

Statutes 1947, Vol. 1, Title XII, Ch. 94—Promotion of Agriculture—Continued.

section, includes and means ground, crushed or pulverized limestone used for liming soils, which limestone contains all of the finer material produced in the grinding process. Quick lime, hydrated lime, marl, wood ashes, paper mill sludge, beet sugar factory waste, mine tailings, limestone screenings, gypsum and other industrial by-products are not included in the definition of "agricultural lime".

(b) "Person" means an individual, firm, association, corporation or county.

(2) No person shall engage in the business of selling or distributing agricultural lime in this state without first obtaining a license therefor from the department of agriculture unless he is engaged in the business of selling or distributing such product produced by another already licensed to do business under this section.

* * * * *

(6) (a) Every person engaged in the business of selling or distributing agricultural lime, shall furnish each purchaser on final delivery of a lot or order of agricultural lime a written statement showing total amount delivered in tons * * *. Each vehicle transporting agricultural lime not sold on a scale weight basis shall have plainly marked thereon the ton weight capacity when level full, assuming for the purpose of this provision that a ton of agricultural lime occupies 20 cubic feet. * * *

(c) All weights as called for under paragraph (a) shall be expressed on the basis of not more than 8 per cent of moisture. * * *

(7) The department [of agriculture] shall enforce the provisions of this section by inspectors, chemical analyses and other appropriate methods, but all samples shall be taken from the operating mill, and for such purposes employes and agents of the department shall have free access during business hours to all places of business, buildings and vehicles used in the manufacture, transportation, sale or storage of agricultural lime.

* * * * *

(9) Any person that shall sell, offer or expose for sale, or have in his possession with intent to sell any agricultural lime in violation of any of the provisions of this section shall forfeit to the state an amount not to exceed \$50 for the first violation and not to exceed \$200 for any subsequent violation. [1945]

Sec. 94.67. Insecticides and fungicides: Unlawful to sell misbranded articles; rules and regulations.

(1) It shall be unlawful for any person to manufacture, sell or offer for sale, within the state of Wisconsin any insecticide or fungicide which is adulterated or misbranded within the meaning of sections 94.67 to 94.71.

* * * * *

(3) The department [of agriculture] shall promulgate uniform rules and regulations for enforcing this section, including the collection and examination of insecticides and fungicides, manufactured or offered for sale in this state for the purpose of determining whether such articles are adulterated or misbranded within the meaning of this section * * *. [1935]

Sec. 94.68. Same: Definition.

The term "insecticide" as used in sections 94.67 to 94.71 shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "paris green" shall include the product sold in commerce as paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" shall include any substance or mixture intended to be used for preventing, destroying, repelling or mitigating any fungus that may infest vegetation or be present in any environment whatsoever. [1935]

Sec. 94.70. Same: When deemed misbranded.

* * * * *

(2) For the purpose of sections 94.67 to 94.71, an article shall be deemed to be misbranded:

(a) In the case of insecticides, paris greens, lead arsenates and fungicides: * * *; third, if the quantity of the contents be not plainly and correctly stated on the outside of the package. [1935]

* * * * *

Sec. 94.71. Same: Guaranty protection; condemnation.

(1) No dealer or agent shall be prosecuted under the provisions of sections 94.67 to 94.71, when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other person residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of sections 94.67 to 94.71. Said guaranty, to afford protection, shall contain the name and address of the person making the sale of such articles to such dealer or agent, and in such case said person shall be amenable to the fines and other penalties, which would otherwise attach to the dealer or agent.

(2) Any insecticide or fungicide that is condemned as being adulterated or misbranded, shall be confiscated and disposed of by destruction, or in such other manner as the inspector may direct. [1935]

Sec. 94.77. Same: Penalties for violations.

(5) Any person who violates any provision of sections 94.67 to 94.71 shall be punished by a fine of not more than \$100 for the first offense; and for each subsequent offense not less than \$100 nor more than \$500, or imprisonment in the county jail not to exceed one year or by both such fine and imprisonment. [1935; last amended 1943.]

Sec. 94.72. Commercial feed.

(1) The term "commercial feed" shall be held to include all materials used for feeding animals or birds, except the following:

(a) Unmixed whole seeds or grains; as defined by United States grain standards.

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo and other seeds or grains. Such unmixed meals shall not be sold in violation of subsection (3).

(c) Whole hays, straws, cottonseed hulls, stover and silage, when unmixed with other materials.

(2) All manufacturers, importers, jobbers, firms, associations, corporations or persons shall before selling, offering or exposing for sale or distributing in this state any brand of commercial feed have printed on, or attached to each bag, package, carton or delivered with each bulk lot a plainly printed statement, hereafter referred to as the label, in a conspicuous place on the outside, containing a legible and clearly printed statement in the English language clearly and truly stating:

(a) The net weight of the contents of the package, bag, carton or bulk lot;

(13) The department may:

(a) Enforce the provisions of this section and prescribe and enforce administrative rules and regulations which shall be in harmony with the provisions of this section and the official pronouncements of the association of American feed control officials;

(b) Temporarily order withdrawn from sale any lot of feed which is found to be sold, offered or exposed for sale or distributed in this state in violation of any of the provisions of this section.

(14) (a) Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale or distribute in this state, any commercial feeds, who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said department or its authorized agent in the performance of his duty in connection with the provisions of this section or who shall sell, offer or expose for sale or distribute in this state any commercial feeds as defined in subsection (1) without complying with the requirements of the provisions of this section or * * *, or who shall sell any commercial feed which carries any false or mislead-

ing statements upon or attached to the package, * * *, or if the number of net pounds set forth upon the package is not correct, or who shall violate any other provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than fifty dollars for the first violation and not less than fifty dollars for each subsequent violation. [1935; last amended 1943.]

Statutes 1947, Vol. 1, Title XII, Ch. 95—Livestock Remedies.

Sec. 95.64. Definition; marking requirements.

(1) The term "live stock remedy" as used in sections 95.64 to 95.66 shall include all devices, remedies, cures, tonics, powders, proprietary medicines, condimental feeds, medicated stock foods and similar preparations for the treatment or prevention of any disease of live stock, poultry or other domestic animals and administered internally for their stimulating, invigorating, curative or other powers; but excluding all medicines manufactured, sold and recommended primarily for human use.

(2) No person by himself, his servant or agent shall sell, offer or expose for sale or have in his possession with intent to sell any live stock remedy which * * *:

(c) Does not have printed or written upon the label of each package as sold at retail, in type not less than one-fourth the largest type on the package:

4. The net contents, by weight or measure, of such package; [1935; last amended 1943.]

Sec. 95.69. Violations; penalty.

Any person who shall violate any of the provisions of this chapter [Secs. 95.01-95.69] shall upon conviction for the first offense be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not less than 10 days nor more than 60 days, or by both such fine and imprisonment and upon conviction for any subsequent offense by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail not less than 30 days nor more than 6 months, or by both such fine and imprisonment. [1935; last amended 1945.]

[ED. NOTE.—For enforcement of Chapter 95 by Department of Agriculture, see Sec. 93.07, page 1102.]

Statutes 1947, Vol. 1, Title XII, Ch. 97—Food.

Sec. 97.01. Definition of food.

* * * The term "food" as used in this chapter [Secs. 97.01-97.75] includes all articles used for food or drink or condiment by man, whether simple, mixed or compound, and all articles used or intended for use as ingredients in the composition or preparation thereof. [1935]

Statutes 1947, Vol. 1, Title XII, Ch. 97—Food—Continued.

Sec. 97.305. Labeling of macaroni and noodles.

* * * All products [macaroni and noodles] are to be labeled with the net weight and with the name and address of the manufacturer, packer or dealer. [1937]

Sec. 97.39. Condensed or evaporated skim milk: Weight of container.

(3) It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange, or expose for sale or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated skim milk in containers holding less than 10 pounds avoirdupois net weight. * * * [1935; last amended 1945.]

Sec. 97.50. Cheese food compounds: Marking requirements.

(2) No person, by himself, his servant or agent or as the servant or agent of another person shall offer for sale, exchange, sell, deliver or have in possession with intent to sell any cheese food compound or mixture unless each package, receptacle or container in which the aforesaid compounds or mixtures are sold shall bear an informative label, plainly separated from other reading matter, showing * * * the net weight * * *.

(3) Any cheese food compound or mixture, the label or package of which shall bear any statement, design or device which shall be deceptive or misleading in any particular is declared to be misbranded. [1933; last amended 1935.]

Sec. 97.60. Foods: False branding of weight, measure, count, or contents; exceptions.

(1) No person shall manufacture or solicit or take orders for delivery or sell, exchange, deliver or have in possession with the intent to sell, exchange or expose, or offer for sale or exchange any article of food within the meaning of section 97.01 which is misbranded within the meaning of this section.

(2) The term "misbranded," as used herein, shall apply:

(a) To articles of food, or articles which enter into the composition of food, which, or the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular;

(c) To articles of food in package form if the actual quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; reasonable variations, however, shall be permitted from the stated weight, measure or numerical count,

and the department [of agriculture] shall establish tolerances for the same by rules and regulations;

(3) The term "label" as used in this section * * * or in any other section of the statutes, relating to the adulteration or misbranding of food, unless otherwise specifically described and provided therein, shall apply to any printed, pictorial, or other matter upon or attached to any package of a food product or any container thereof.

(4) The term "package" as applied to articles of food shall mean a closed receptacle of any kind in which an article of food is kept in stock and which with its contents is sold to the public.

(5) The provisions of paragraphs (c) and * * * of subsection (2) of this section shall not apply to foods in package form when dispensed for consumption on the premises, or when the numerical count of the inclosed units is less than six, or when the net weight of the contents of the package is less than three ounces avoirdupois; or in case of liquids when the contents of the package are less than one fluid ounce; or to fruits and vegetables when such fruits and vegetables are sold by the standard barrel, standard crate, standard box or basket or other standard receptacle as provided in section 98.16.¹ [1935]

¹ Sec. 98.16, see page 1098.

Sec. 97.64. Same: False advertising.

(1) No person, firm, corporation or association shall, with intent to sell, or increase the consumption thereof, or create an interest therein, make, publish, disseminate, circulate, or place before the public in this state, or cause, directly or indirectly to be made, published, disseminated, or placed before the public in this state, in a newspaper or other publication, or in the form of a book notice, handbill, poster, bill, circular or pamphlet, or in any other manner, an advertisement of any sort regarding articles of food, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading. [1935]

Sec. 97.65. Same: Weight to be set forth in advertisement.

No person shall, himself, or by his servant or agent, or as the servant or agent of any other person, advertise for sale any article of food in package form when the retail price is mentioned in such advertisement unless the actual weight or volume of the contents of such package as stated on the label shall be plainly and conspicuously set forth in such advertisement in not less than ten point type. [1933; last amended 1935.]

Sec. 97.72. Penalties.

(4) Any person who violates any provision of this chapter [Secs. 97.01-97.75] for which a specific penalty is not prescribed * * * shall be pun-

ished by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not less than 30 days nor more than 60 days, or by both such fine and imprisonment. * * * [1935; last amended 1943.]

[ED. NOTE.—For enforcement of Chapter 97 by the Department of Agriculture, see Sec. 93.07, page 1102.]

Statutes, 1947, Vol. 1, Title XII, Ch. 97—Antifreeze.

Sec. 97.73. Definitions; marking requirements; enforcement; penalties for violations.

As used in this section, unless the context otherwise requires:

(a) "Antifreeze" includes all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines in order to prevent freezing of the cooling liquid or to lower its freezing point.

* * * * *

(c) "Department" means the state department of agriculture.

* * * * *

(3) Antifreeze shall be deemed to be misbranded if,

(a) Its labeling is false or misleading in any particular; or

(b) When in package form it does not bear a label containing * * * an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

* * * * *

(5) The department shall enforce the provisions of this section * * *.

(7) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 and not exceeding \$500 for each offense. [1949]

Statutes 1947, Vol. 1, Title XIV, Ch. 126—Weighing of Grain.

Sec. 126.05. Grain and warehouse commission: Weighing of grain.

(1) The commission [grain and warehouse commission] shall weigh all grain received in Superior, and all grain received in or shipped from public warehouses.

* * * * *

(4) The commission shall appoint a chief inspector and one or more deputy inspectors, a weighmaster and one or more deputy weighmasters, a chief chemist and one or more deputy chemists.

(5) The commission shall adopt and publish regulations governing inspection, weighing and

grading of grain delivered to or shipped from public warehouses in said city; and such further regulations as will enable it to administer this chapter [Secs. 126.01-126.80]. [1945]

* * * * *

[ED. NOTE.—In Wisconsin Statutes 1947, following the foregoing section, it is stated: "Grain and warehouse commission is authorized by (1) to weigh all grain received in Superior for milling or storage, or milled or stored in Superior, or bought or sold in Superior, regardless of whether it is kept in public warehouse, and also to weigh grain shipped from public warehouses. 29 Atty. Gen. 111."]

Sec. 126.20. Inspection; test of scales; penalty.

All persons owning or interested in grain in any public warehouse and all inspectors may, during ordinary business hours, examine all grain in any public warehouse and the warehouse itself, and all proper facilities shall be extended to such person by the warehouseman, his agents and servants, for such examination. All scales in public warehouses shall be subject to examination and test by any inspector, weighmaster or scaler of weights and measures at any time when required by any person whose grain was or is to be weighed on such scales. The expense of the test by an inspector or scaler shall be paid by the warehouseman if the scales are found incorrect, but not otherwise. [1945]

Sec. 126.21. Weighmaster.

(1) The weighmaster and his deputies shall have exclusive control of the weighing of grain received into any mill or stored in or delivered to or shipped from public warehouses and the inspection of scales upon which grain is weighed; and the action or certificates of the weighmaster or his deputies, in the discharge of their duties, shall be conclusive as to the matters contained in said certificates.

(2) The fees for weighing grain shall be paid by the warehouseman, and may be added to the charges for storage.

(3) Neither the weighmaster nor any deputy shall be a member of any board of trade or association of like character. They shall each give a bond to and approved by the commission in the sum of \$2,000 conditioned for the faithful discharge of their duties.

(4) Any person who refuses access or prevents the weighmaster or his deputies from access to scales in the performance of their duties shall forfeit \$100 to be recovered in an action by the commission [grain and warehouse commission], and all moneys collected shall be turned into the state treasury. [1945]

Sec. 126.28. Commission to fix charges for weighing.

The chief inspector and deputy inspectors shall be governed by rules and regulations promulgated by the commission [grain and warehouse commission]. The commission shall fix the rates of charges¹ for inspection and weighing grain and the

Statutes 1947, Vol. 1, Title XIV, Ch. 126—Weighing of Grain—Continued.

manner in which the charges shall be collected. [1945]

¹ See Sec. 126.46, this page, which provides that the fees charged shall be sufficient to defray the expenses of the commission.

Sec. 126.33. Liens; weighing charge.

The charge for inspecting and weighing grain under this chapter [Secs. 126.01–126.80] is a lien on the grain; and whenever the grain is in transit the charges shall be treated as advanced charges to be paid by the common carrier in possession of the grain at the time of inspection. [1945]

Sec. 126.40. Supervision by commission.

The commission [grain and warehouse commission] shall exercise constant supervision over housing and marketing grain in every city in which a public warehouse is located; over handling, inspecting, weighing and storing the same; and over the management of the public warehouses. The commission shall investigate all complaints of fraud or oppression in the grain trade and in the handling and housing of grain in such cities, and, at least 3 times annually, shall verify by measurement the amount of grain in each public warehouse. [1945]

Sec. 126.41. Weighing regulations to be published.

The regulations adopted by the commission [grain and warehouse commission] for weighing and inspecting grain shall be published in a daily newspaper in each city which has a public warehouse. [1945]

Sec. 126.46.¹ Weighing and inspecting fees to defray expenses.

The fees for weighing, inspection and other services performed under this chapter [Secs. 126.01–126.80] shall be so fixed as to make the work of the commission [grain and warehouse commission] self-sustaining. [1945]

¹ See Sec. 126.28, page 1107; power to fix rates.

Sec. 126.47. Chief weighmaster to keep record; weight certificate; prima facie evidence.

The chief weighmaster shall keep a correct record of all grain weighed, giving the amount of each weight, the number and contents of each car weighed, the place where weighed and the date; and of all grain weighed into boats and the date and amount thereof, and the name of the boat. He shall, upon the payment of the weighing charges, give under his hand and the seal of the state a certificate of the weight of the grain, the date weighed, amount and kind of grain and where weighed, and the name or initial and number of the car or boat from or into which the same was weighed. Such certificate is prima facie evidence of the facts therein contained. [1945]

[ED. NOTE.—In Wisconsin Statutes 1947, following the foregoing section, it is stated: "What seal is meant? There is no provision in ch. 126 for an official seal. Naturally one would expect the seal to be that of the commission. The state's seal is with the secretary of state. (Bill 321-5)"]

Sec. 126.53. Penalties for violations.

(1) Any person who violates any provision of this chapter [Secs. 126.01–126.80] or fails to perform any duty required by any provision hereof (when the punishment is not otherwise specifically provided) shall be fined not less than \$10 nor more than \$100 and shall be liable to all persons aggrieved thereby for treble the amount of damages suffered.

(2) Any person who alters, changes or modifies any certificate issued under authority of the commission [grain and warehouse commission] shall be fined not less than \$100 nor more than \$500 and shall be liable to the commission in damages 3 times the amount incurred by reason of such alterations, changes or modifications. [1945]

Sec. 126.57. Locus of sale; weighing.

In all sales of grain to be delivered in Superior or where the purchase price is to be determined by weighing the grain in Superior or where delivery or weighing is contemplated or afterwards takes place there, the sales shall be deemed to have been made in said city within the provisions of this chapter [Secs. 126.01–126.80] and the grain shall be inspected and weighed under this chapter. [1945]

Sec. 126.58. Presumption of sale.

All grain delivered from any warehouse to cars or boats in Superior, is presumed to have been delivered upon, or in fulfillment, in whole or in part, of a contract for the sale thereof and shall be weighed and inspected under this chapter [Secs. 126.01–126.80] at the time of delivery. But this section does not apply to the use of boats for storage out of navigation season, provided the grain is afterwards returned to the warehouse for inspection and weighing. [1945]

Sec. 126.59. Unauthorized weighing; penalty.

Only the chief weighmaster or his deputy shall weigh grain received into any warehouse or mill in Superior or shipped out of such warehouse or mill. Any violation of this section shall be punished by a fine of not less than \$100. The section does not prevent the owner of grain from weighing his grain where the weighing does not relate to a sale or delivery or payment for said grain and is solely for his private use; but the burden of proving that the weighing is for his private use shall be upon him. [1945]

Sec. 126.61. No delivery until fees paid.

No railway company shall deliver in Superior any inspected grain until the fees for inspection are paid as provided in section 126.33; and for a violation of

this section, it shall be liable to the commission for 3 times the amount of the fees so unpaid. [1945]

Sec. 126.62. Refusal by warehouseman to pay charges; sales.

In case any consignee of grain or other person to whom grain is ordered delivered refuses to pay the inspection charges or refuses to receive the grain upon which said charges are a lien, by reason of the railway company insisting upon payment of such charges, the company shall immediately notify the consignor or owner of the grain of the refusal and shall collect the charges from him, and in case the charges are not paid promptly the company may upon one day's notice (oral or in writing or by telegram) sell the grain in the open market in Superior, and out of the proceeds of sale pay the expenses, inspection fees, weighing charges and transportation charges, and pay the balance to the person entitled thereto. [1945]

Sec. 126.64. Penalty for sale without inspection; locus of sale.

No person shall sell or offer grain for sale in Superior, until it has been inspected, or deliver any grain in said city in pursuance of any contract made elsewhere, to any person, warehouse or mill, or from any such warehouse to cars or boats, until inspection is made. Any person violating this section or participating in any such sale or delivery or receiving such grain shall be fined not less than \$100 or imprisoned not exceeding 90 days or both. Every sale, offer for sale or delivery of grain within the meaning of this section shall be deemed made in said city, notwithstanding the contract was made elsewhere, if such grain, at the time, is within the city or is thereafter delivered in said city. In determining whether there is a delivery in the city, no delivery to a common carrier outside of the city is deemed a delivery to the purchaser unless the exact amount of the purchase price has been paid. This section does not prohibit making executory contracts for the delivery of grain if they provide for the inspection and weighing of the grain under the supervision of the commission [grain and warehouse commission]. [1945]

Sec. 126.70. No shipment until weighed; penalty.

No grain shall be delivered from any warehouse in Superior to any boat or car until the grain has been inspected, graded and weighed under the supervision of the commission [grain and warehouse commission], and the fees for inspection, grading and weighing paid on demand contemporaneously with such delivery. Any violation of this section shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment. [1945]

Sec. 126.71. Penalty for obstructing weighmaster.

Any person who resists or interferes with the chief inspector or deputy, or the weighmaster or his

deputy, while engaged in the performance of his duty, shall be punished by imprisonment in the county jail not more than 6 months, or by fine not exceeding \$200, or by both such fine and imprisonment. [1945]

Sec. 126.72. Construction of chapter 126.

This chapter shall be liberally construed to insure an honest inspection, grading and weighing of grain between sellers and purchasers in the market at Superior, and of all grain delivered to or by any elevator in said city, and to prevent fraud therein. [1945]

[Ed. NOTE.—In Wisconsin Statutes 1947, following the foregoing section, it is stated: "The intent of old 126.72 would probably be more exactly expressed if "public warehouse" were substituted for "elevator." However the value of this section is open to question. * * * (Bill 321-5)".]

Sec. 126.74. Milwaukee excepted.

This chapter [Secs. 126.01–126.80] does not apply to cities of the first class. [1945]

Statutes 1947, Vol. 1, Title XV, Ch. 161—Narcotic Drugs.

Sec. 161.10. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein.* * * [1935]

Sec. 161.19. Enforcement.

(1) It is the duty of the state board of health and state board of pharmacy, their officers, agents, inspectors and representatives, and of all peace officers within the state, and of all district attorneys, to enforce all provisions of this chapter [Secs. 161.01–161.275], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs. [1935; last amended 1939.]

* * * * *

Sec. 161.20. Penalty for violations.

Any person violating any provision of this chapter [Secs. 161.01–161.275] shall upon conviction be punished, for the first offense, by a fine not exceeding two hundred dollars, or by imprisonment in jail for not exceeding three months, or by both such fine and imprisonment, and for any subsequent offense, by a fine not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in state prison for not exceeding five years, or by both such fine and imprisonment. [1935]

Statutes 1947, Vol. 1, Title XVI, Ch. 167—Match Boxes and Containers.

Sec. 167.07. Match boxes and containers.

* * * * *

(2) * * *; all matches shall be packed in boxes or suitable packages, containing not more than seven hundred matches in any one box or package; provided, however, that when more than three hundred matches are packed in any one box or package, the said matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions, and all boxes containing three hundred and fifty or more matches shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than one and one-quarter inches wide; said strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

(3) All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case, shall not exceed the following number:

Number of boxes	Nominal number of matches per box
One-half gross	700
One gross	500
Two gross	400
Three gross	300
Five gross	200
Twelve gross	100
Twenty gross	over 50 and under 100
Twenty-five gross	under 50

No shipping container or case constructed of fiber board, corrugated fiber board, or wood, nailed or wirebound, shall exceed a weight, including its contents, of seventy-five pounds; and no lock-cornered wooden case containing matches shall have a weight, including its contents, exceeding eighty-five pounds; nor shall any other article or commodity be packed with matches in any such container or case:

* * *

(4) Any person, association or corporation violating any of the provisions of this section shall be fined for the first offense not less than \$5 nor more than \$25, and for each subsequent violation not less than \$25. [1945]

Statutes 1947, Vol. 1, Title XVII, Ch. 195—Weighing of Freight.

Sec. 195.03. Powers and duties of commission.

* * * * *

(15) The commission [public service commission] may prescribe rules and regulations covering the charges and manner of conducting the business of public elevators and warehouses upon railroad ground.

(16) The commission may make reasonable regulations for furnishing cars to shippers, and for moving, loading and unloading cars and for weighing

cars and freight, and to test railroad weights and scales used in weighing freight or cars. [1943]

* * * * *

Sec. 195.07. Law enforcement.

(1) The commission [public service commission] shall inquire into the neglect or violation of the laws of this state by railroads and public utilities (as defined in chapters 195 and 196), or by the officers, agents or employees thereof, or by persons operating railroads or public utilities, and shall have the power, and it shall be its duty, to enforce all laws relating to railroads or public utilities, and report all violations thereof to the attorney-general. [1943]

* * * * *

Sec. 195.22. Railroads to weigh correctly.

* * * * *

(3) Every railroad shall correctly weigh all freight shipped by weight and shall also correctly weigh all empty cars when freight is shipped in carload lots. [1943]

Sec. 195.23. Livestock scales.

At every point at which any railroad maintains a stockyard and an agent, from which point twenty-five carloads or more of stock were shipped during each of the four preceding years, such railroad shall maintain suitable platform scales properly housed and available for the weighing of live stock. The capacity of such scales may be prescribed by the commission upon the application of the railroad or of any person shipping live stock from such point during the preceding year; provided that upon such notice as the commission may prescribe to each person who shipped live stock during the preceding year from any such point upon its line, any railroad may apply to the commission for and may obtain an order exempting such point from the operation of this section upon proof that the probable benefit to accrue to shippers in their dealings with the railroad will not warrant the financial burden that would be imposed upon it by the installation of such scales, and in the determination of such benefits or burdens the commission shall not consider any benefit that might accrue to shippers in their dealings with other than the carrier concerned. [1943]

Sec. 195.36. General penalty upon railroads.

If any railroad shall violate any provision of this chapter [Secs. 195.01–195.39], or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by the commission [public service commission], or any judgment or decree made by any court upon its application, for every such violation, failure or refusal in respect to any matter prescribed by this chapter such railroad shall forfeit not less than one hundred dollars nor more than ten thousand dollars. The

act, omission or failure of any officer, agent or other person employed by any railroad, acting within the scope of his employment, shall be deemed to be the act, omission or failure of such railroad. [1943]

Sec. 195.38. Freight bills; examination; refunds.

Within three years after the delivery of any shipment of property at destination, any person, firm or corporation may submit to the public service commission, by mail or in person, any railroad or express company expense bill or receipt showing charges paid for transportation of such property by freight or express for the purpose of having the same examined with respect to the correctness of weights, rates and charges indicated thereon. Upon receipt of any such expense bill or receipt the commission shall make such examination as is necessary, and if it shall be found that any such weights, rates or charges are incorrect, the commission shall order the express or railroad company in error to refund to the person, firm or corporation which submitted such expense bills or receipts, any over or excessive charges paid by such person, firm or corporation; provided, however, that the public service commission shall not be required to audit or examine more than fifteen such expense bills or receipts from any one shipper or consignee in any one calendar month. [1943]

Statutes 1947, Vol. 1, Title XVII, Ch. 196—Public Utilities.

Sec. 196.01. Definition.

As used in chapters 196 and 197, unless the context requires otherwise, "public utility" means and embraces every corporation, company, individual, association, their lessees, trustees or receivers appointed by any court, and every sanitary district, town, village or city that may own, operate, manage or control * * * any plant or equipment or any part of a plant or equipment, within the state, * * * for the production, transmission, delivery or furnishing of heat, light, water or power either directly or indirectly to or for the public. * * * The term "public utility" as herein defined includes any person, firm, or corporation engaged in the transmission or delivery of natural gas for compensation within this state by means of pipes or mains. [1937; last amended 1947.]

Sec. 196.02. Powers of commission.

(1) The commission [public service commission] is vested with power and jurisdiction to supervise and regulate every public utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

* * * * *

(3) The commission shall have power to adopt reasonable rules and regulations relative to all inspections, tests, audits and investigations. [1931]

* * * * *

Sec. 196.16. Standard measurements; accurate appliances.

(1) The commission [public service commission] shall fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage or other condition pertaining to the supply of the product or service rendered by any public utility, and prescribe reasonable regulations for examination and testing of such product or service and for the measurement thereof.

(2) It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurements. [1931]

* * * * *

Sec. 196.17. Tests of meters; fees.

(1) The commission [public service commission] shall provide for the examination and testing of all appliances used for measuring any product or service of a public utility.

(2) Any consumer or user may have any such appliance tested upon payment of the fees fixed by the commission.

(3) The commission shall establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance be found defective or incorrect to the disadvantage of the consumer or user.

(4) The commission may purchase materials, apparatus and standard measuring instruments for such examinations and tests. [1931]

Sec. 196.171. Examination of meters.

Any officer or agent of any public utility furnishing or transmitting gas or electric current or both or water to the public or for public purposes, for that purpose duly appointed and authorized by such utility, at all reasonable times, upon exhibiting a written authority signed by the president or a vice president and secretary or assistant secretary of the utility, or in the case of a municipally owned plant, the commissioner of public works or such other official in charge of the utility, may enter any dwelling, store, building, room or place supplied with gas, electricity or water by such utility, for the purpose of inspecting, examining, repairing, installing or removing the meters, pipes, fittings, wires and works for supplying or regulating the supply of gas, electricity or water and of ascertaining the quantity of gas, electricity or water supplied. Any person who shall, directly or indirectly, prevent or hinder any such officer or agent from so entering any such premises, or from making such inspection, examination, removal or installation at any reasonable time, shall be punished by a fine of not more than twenty-five dollars for every such offense. [1935]

Statutes 1947, Vol. 1, Title XVII, Ch. 196—Public Utilities—Continued.

Sec. 196.18. Entry on premises.

The commission [public service commission], its agents, experts or examiners may enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in this chapter [Secs. 196.01–196.855] and set up and use on such premises any apparatus and appliances and occupy reasonable space therefor. [1935]

Statutes 1947, Vol. 2, Title XXXII, Ch. 343—Scaling Logs.

Sec. 343.551. Fraud in scaling.

Any lumber or deputy lumber inspector or any other person employed to scale logs who shall purposely over or under scale or measure the same, or

knowingly report a greater or less amount than the true scale thereof, or make any record of a greater or less amount of logs than he has actually scaled, or who shall omit or neglect to scale any logs he is lawfully called upon to scale, for the purpose of defrauding another, and any person who shall procure the performance of any such act, or cause such omission or neglect, or knowingly and willingly be interested therein or profit thereby, shall be punished by imprisonment in the state prison for not more than five years nor less than one year, or in the county jail for not more than one year nor less than six months, or by fine of not more than five thousand dollars nor less than one hundred dollars. Any person who shall make any certificate of salement which salement he did not personally make shall be punished by imprisonment in the county jail not more than six months nor less than one month, or by fine of not more than five hundred dollars nor less than one hundred dollars. [1885]

WYOMING

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Art. 10—Weights and Measures.

Sec. 39—1001. Standards.

The standards of weights and measures in this state shall be those recognized or furnished by the United States. [1921]

Sec. 39—1002. Same: Verification.

In addition to the state standards of weights and measures, there shall be supplied by the state such other weights, measures and apparatus as may be found necessary to carry out the provisions of this Act [Secs. 39—1001—39—1015], to be known as working standards. Such weights, measures and apparatus shall be verified by the state superintendent of weights and measures, or his authorized assistants, at his direction, upon their initial receipt and at least once in each year thereafter, by comparison with the state standards. When found accurate upon these tests the working standards shall be sealed by stamping on them the letter "W" and the date with seals which the state superintendent of weights and measures shall have and keep for that purpose. The state standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the state superintendent of weights and measures. [1921]

Sec. 39—1003. Superintendent of weights and measures.

The commissioner of agriculture shall be ex-officio state superintendent of weights and measures. He shall take charge of the standards adopted by this Act [Secs. 39—1001—39—1015] as the standards of the state, and cause them to be kept in a safe and suitable place, 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 [10] 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 receipt for same from his successor in office. He shall annually, on the last day of September, make to the governor a report of all work done by his office. [1921]

Sec. 39—1004. Duties of superintendent.

The state superintendent of weights and measures shall have and keep a general supervision of the weights, measures, and weighing and measuring devices, offered for sale, sold, or in use in the state. When not otherwise provided by law the state superintendent of weights and measures 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 and measuring devices kept, offered or exposed for sale, sold, or used or employed

by any proprietor, agent, lessee, or employe in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted by such person or persons for sale, hire, or award, 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 as often as he may deem necessary see that all weights, measures, weighing or measuring devices used are correct. He may for the purpose above mentioned, and in the general performance of his official duties, enter or 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 dealer whatsoever, and require him, if necessary, to proceed to some place which the state superintendent of weights and measures may specify, for the purpose of making the proper tests. Whenever the state superintendent of weights and measures finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. [1921]

Sec. 39—1005. Sealing.

Whenever the state superintendent of weights and measures compares weights, measures, or weighing or measuring devices and finds that they correspond or cause 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. [1921]

Sec. 39—1006. Condemnation of incorrect weights and measures.

The state superintendent of weights and measures 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 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 or corrected within ten [10] days, and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the state superintendent of weights and measures. 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 state superintendent of weights and measures. [1921]

Sec. 39-1007. Police powers.

The state superintendent of weights and measures, and his authorized assistants, 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 amounts of commodities found to be used, retained, or offered or exposed for sale or sold in violation of law. [1921]

Sec. 39-1008. Interference with superintendent; penalty.

Any person who shall hinder or obstruct in any way the state superintendent of weights and measures, or his authorized assistants, in the performance of their 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 twenty dollars (\$20.00) or more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than three [3] months or by both such fine and imprisonment. [1921]

Sec. 39-1009. Impersonation of superintendent; penalty.

Any person who shall impersonate in any way the state superintendent of weights and measures, or his authorized assistants, by the use of his seal or the 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 one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not more than one year or by both such fine and imprisonment. [1921]

Sec. 39-1010. Sale by net weight.

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 [Secs. 39-1001-39-1015] it shall be understood and construed to mean the net weight of the commodity. [1921]

Sec. 39-1011. Standard weights per bushel; measurement of hay.

All commodities hereinafter named in this section shall be sold either by the bushel or by weight, and when sold by the bushel, the bushel shall consist of the number of pounds hereinafter stated; and whenever such commodities [as] are hereinafter named are sold in the subdivisions of the bushel, the number of pounds in such subdivision of the bushel shall consist of the fractional part of the number of

pounds as hereinafter set forth for the bushel, namely:

	<i>Pounds per bushel</i>
Barley -----	48
Beans -----	60
Beets -----	56
Carrots -----	50
Castor beans -----	46
Corn, shelled -----	56
Flaxseed -----	56
Green apples -----	48
Indian corn, in the ear -----	70
Kaffir corn -----	56
Oats -----	32
Onions -----	57
Parsnips -----	50
Peaches -----	48
Potatoes -----	60
Rice Corn -----	56
Rye -----	56
Spelz or Emmer -----	45
Sweet potatoes -----	50
Tomatoes -----	56
Turnips -----	55
Wheat -----	60

Unless otherwise agreed to between the contracting parties, the following shall constitute the legal measurement for hay in stack in the state of Wyoming: Four hundred and twenty-two (422) cubic feet shall constitute a ton of clean, native blue joint hay, after thirty (30) days' up to three (3) months' settlement in stack. As to all other kinds of hay, after the same shall have been settled in stack from sixty (60) days and up, five hundred and twelve (512) cubic feet shall constitute a ton of alfalfa or rough slough grass, after the same shall have been in the stack thirty (30) days and up to one (1) year. Four hundred and fifty (450) cubic feet shall constitute a ton of clean timothy and clover, after the same shall have been in the stack thirty (30) days, and up to one (1) year. For making measurements of hay in stack, the following is hereby made the legal method of measurement, to wit: The width and length of the stack shall be measured, and the distance from the ground against one side of the stack to the ground against the other side of the stack, directly over and opposite, shall be taken in linear feet and inches, and then the width shall be subtracted from the measurement over the stack, as above indicated, the result divided by two [2] and the result so obtained multiplied by the width, and the result thus obtained multiplied by the length, which will give the number of cubic feet contained in the stack, and the tonnage shall thereupon be determined by dividing the total number of cubic feet by the number of cubic feet allowed under the provisions of this section for a ton. [1921]

Sec. 39-1012. Weighmasters: Appointment; weight certificates; fee; penalty.

It shall be the duty of the county commissioners to see that every city and town in their county containing two thousand [2,000] or more inhabitants,

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 39, Art. 10—Weights and Measures—Continued.

is provided with public scales for the weighing of coal, hay and other merchandise sold by weight, and that every city and town council in the respective counties shall appoint a city or town weighmaster, whose services shall be paid for by the city or town appointing such weighmaster. It shall be the duty of every vendor of coal, hay and other merchandise sold in bulk, and of the agents and employes of such vendor, to cause such coal, hay and other merchandise to be weighed and a statement of such weight to be delivered to the purchaser with the article so weighed. Where such coal, hay or other merchandise is weighed on a public or city scale, the weighmaster shall charge for every such certificate of weight a fee of ten cents [10¢], which shall be paid by the vendor or producer, and shall by said weighmaster be turned into the treasury of the city or town by which he was appointed. Any person failing to comply with this requirement for weighing coal, hay or other merchandise, or failing to deliver the certificate of weight as aforesaid, shall on conviction be punished by a fine of not less than ten dollars [\$10.00] nor more than one hundred dollars [\$100.00] for each offense. [1921].

Sec. 39—1013. Rules and regulations by superintendent.

The state superintendent of weights and measures shall establish uniform tolerances or reasonable variations to take care of unavoidable shrinkage, and of scale variations in handling and weighing of any of the articles mentioned in this Act [Secs. 39—1001—39—1015], and shall adopt such rules and regulations as he may deem necessary to carry out the provisions of this chapter [article], and he may change, modify, or amend any or all rules and regulations whenever deemed necessary, and the rules and regulations so made shall have the force and effect of law. [1921]

Sec. 39—1014. Violations; penalty.

Any person, who by himself or 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 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 of weights and measures, or his authorized assistants, at his direction; or shall sell or offer or expose for sale less 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 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 violate any provision of this Act [Secs. 39—1001—39—1015], 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 or any weighing or measuring device; shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty dollars (\$20.00) or more than two hundred dollars (\$200.00), or by imprisonment for not more than three (3) months, or by 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 fifty dollars (\$50.00) or more than five hundred dollars (\$500.00), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [1921].

Sec. 39—1015. Definitions.

The word "person" as used in this Act [Secs. 39—1001—39—1015], shall be construed to import both the singular and plural, as the case demands, and shall include 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 word "sell" or "sale" as used in this act shall be construed to include barter and exchange. [1921]

Compiled Statutes 1945 Annotated, Vol. 2, Ch. 29, Art. 3—Cities of the First Class.

Sec. 29—330. Power to regulate weights and measures.

They [cities of first class¹] shall have power to purchase and own grounds for and to erect and establish and regulate markets and scales; * * * to establish and regulate standard weights and measures; to regulate the weighing and measuring of every commodity sold in this city; to provide for the inspection and weighing of hay, grain and coal, the measuring of wood and fuel to be used in the city; and to determine the place or places of the same, and to regulate and prescribe the place or places of exposing for sale, hay, coal and wood, and to fix the fees and duties of persons authorized to perform such duties. [1909]

¹ All cities having more than 4,000 inhabitants are cities of the first class.

Compiled Statutes 1945 Annotated, Vol. 1, Ch. 9, Art. 9—False Weights and Measures.

Sec. 9—911. Giving false weights in merchandise.

Every person who, in putting up in any bag, bale, box, barrel or other package, any hops, cotton, wool, grain, hay or other goods usually sold in bags, bales, boxes, barrels or other packages by weight,

puts in or conceals therein anything whatever for the purpose of increasing the weight of such bag, bale, box, barrel or package, and thereby defrauding the purchaser, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine not to exceed one hundred dollars [\$100.00]. [1884]

Sec. 9-912. Using false weights for weighing gold or other commodities.

If any person shall knowingly have, keep, or use any false or fraudulent scales or weights for weighing gold or gold dust, or any other article or commodity, every person so offending, shall, on conviction, be fined not exceeding five hundred dollars [\$500.00], or imprisonment in the county jail not exceeding six [6] months. [1876]

Sec. 9-915. Using false weights for weighing grains.

If any person shall knowingly sell by false weights or measures, or shall knowingly use false weights or measures at any threshing machine, or at any mill, in taking toll for grinding or threshing corn, wheat, rye or other grain and seeds, he shall be deemed a common cheat and shall be fined not more than one hundred dollars [\$100.00], and shall be imprisoned in the county jail not exceeding six [6] months. [1876]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 34, Art. 9—Commercial Feeding Stuffs.

Sec. 34-901. Definition.

The term "Commercial Feeding Stuffs" shall be held to include all feeding stuffs and mineral mixtures used for feeding live stock and poultry, except whole seeds or grains and except custom grinding, custom mixing or custom pelleting; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, kaffir and milo; whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials and all other materials containing sixty per cent (60%) or more of water. [1917; last amended 1949.]

Sec. 34-902. Marking requirements.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state except mineral mixtures shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel;

* * * * *

Every lot or parcel of mineral mixtures as used for live stock and poultry feeding, coming under the heading of commercial feeding stuffs, which is sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing

a legible and plainly printed statement in the English language clearly and truly certifying:

(a) the net weight of the contents of the package, lot or parcel; [1917; last amended 1949.]

* * * * *

Sec. 34-909. Violations; penalty.

Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state, any commercial feeding stuffs, without having attached thereto or furnished therewith such stamps, labels or tags as required by the provisions of this Act [Secs. 34-901—34-910], or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said Commissioner of Agriculture or his authorized agent in the performance of his duty in connection with the provisions of this Act, or who shall sell, offer or expose for sale, or distribute in this state any commercial feeding stuffs as defined in Section 1 [Section 34-901], without complying with the requirements of the provisions of this Act, * * * shall be deemed guilty of a violation of the provisions of this Act and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for the first violation and not less than one hundred dollars (\$100.00) for each subsequent violation. * * * [1917]

Sec. 34-910. Enforcement; rules and regulations.

The Commissioner of Agriculture is hereby empowered to enforce the provisions of this Act. [Secs. 34-901—34-910] and to prescribe the form of tags, stamps or labels to be used to show that the registration has been properly filed, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary, and adopt such standards and definitions, to carry into effect the full intent and meaning of this Act. [1917]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 34, Art. 10—Livestock Remedies.

Sec. 34-1001. Definitions.

The term "livestock remedy" shall be held to include all condimental feeds, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines, or other preparations of like nature in either solid or liquid form used for any animal except man and administered either internally or externally for their stimulating, invigorating, curative, or other powers. [1929; last amended 1949.]

Sec. 34-1002. Registration.

Before any manufacturer, importer, jobber, firm, association, corporation, or person shall sell, offer or expose for sale, or distribute in the state of Wyoming any live stock remedy he shall file for

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 34,
Art. 10—Livestock Remedies—Continued.

registration with the state department of agriculture, dairy, food and oil division, a statement that he desires to offer such live stock remedy for sale in this state, also a certificate in duplicate, the execution of which shall be sworn to before a notary public, or other proper official, stating: * * * third, the minimum net contents of the package, lot, or parcel of such live stock remedy (expressed by weight in the case of solids and by measure in the case of liquids), * * *. [1929]

Sec. 34-1003. Marking requirements.

Every sack, box, carton, bottle or other package of live stock remedy sold, offered or exposed for sale, or distributed within the state shall have a label affixed thereto in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truly certifying: * * * third, the minimum net contents of the sack, box, carton, bottle, or other package, * * *. [1929]

Sec. 34-1007. Enforcement; rules and regulations.

* * * The said chief of the dairy, food and oil division, state department of agriculture, is hereby empowered to enforce the provisions of this Act [Secs. 34-1001—34-1008] and to prescribe the form of labels to be used to show that the live stock remedy has been registered, and to prescribe and enforce such rules and regulations, definitions, and standards, relating to live stock remedies and to their sale, as he may deem necessary to carry into effect the full extent and meaning of this Act * * * [1929]

Sec. 34-1008. Violations; penalty.

Any manufacturer, importer, jobber, firm, association, corporation, or person who shall sell, offer or expose for sale, or distribute in this state or who shall take or receive from any firm, association, corporation, or person in this state any order for any live stock remedy as defined in Section 1 [Sec. 34-1001], * * * or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation, or person in this state for the sale of such live stock remedy, to be delivered in this state by common carrier or otherwise, without there being affixed thereto such labels as are required by the provisions of this Act [Secs. 34-1001—34-1008] * * *, or who shall impede, obstruct, hinder, or otherwise prevent, or attempt to prevent, said chief of the dairy, food and oil division, state department of agriculture, or his authorized agent, in the performance of his duty in connection with the provisions of this Act and upon conviction thereof shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) for each sub-

sequent violation. Penalties recovered under this Act shall be converted into the school fund of the county wherein the offense was committed. [1929]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 34,
Art. 11—Commercial Fertilizers.

Sec. 34-1101. Definitions.

The term "Commercial Fertilizer" means any substance, including any combination or mixture of substances, designed and fit for use in inducing increased crop yields or plant growth when applied to the soil, except unmanipulated animal and vegetable manures, liming materials, and gypsum. The term "Fertilizer Material" means any substance which is, or may be, used with another substance in the compounding of mixed fertilizers, or for direct application to the soil, principally as a source of plant food. [1937]

Sec. 34-1102. Registration.

It shall be unlawful for any person, firm or corporation to manufacture for sale, or exchange within the State of Wyoming any commercial fertilizer or fertilizer material which has not been registered as required by this Section.

Any person, firm, or corporation who may desire to manufacture for sale, any fertilizer or fertilizer material in this State shall first file with the Commissioner of Agriculture, on registration forms supplied by him, a signed statement giving the name and address of the applicant and the following information with respect to each brand or grade in the following order:

(1) Weight of each package in pounds; [1937; last amended 1947.]

* * * * *

Sec. 34-1103. Marking requirements.

Every person, firm, or corporation who manufactures for sale any commercial fertilizer or fertilizer material in this state shall mark upon each container the information required under Section 2 [Sec. 34-1102]. This information may either be branded or printed directly upon the bag or other shipping container or may be printed on a tag or label which shall be affixed to the shipping container. [1937]

Sec. 34-1104. Enforcement.

It shall be the duty of the Commissioner of Agriculture to enforce the provisions of this Act [Secs. 34-1101—34-1106]. [1937]

Sec. 34-1106. Penalties for violations.

Any person, firm, or corporation violating any of the provisions of this Act [Secs. 34-1101—34-1106] shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars. [1937]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 37,
Art. 15—Itinerant Merchants.

Sec. 37-1501. Definitions.

* * * * *

b. (1) "Itinerant merchant" shall mean, except as in this Act otherwise provided, every person, whether acting as principal, agent or employee, who shall otherwise than at an established and definite place of business buy and transport by any vehicle for purposes of sale, or transport by any vehicle and sell any merchandise or tangible personal property.

(2) "Itinerant merchant" shall not mean: (a) Any person transporting and selling products produced by such person. (b) Any merchant, producer, farmer, rancher or livestock feeder transporting commodities to or from any established place of business of such merchant, producer, farmer, rancher or livestock feeder. (c) Any motor carrier transporting merchandise or other tangible personal property for others, provided such carrier shall not buy or sell such property transported, unless such carrier shall have a bona fide and regularly established place of business within the State of Wyoming. (d) Any person buying and transporting merchandise or other tangible personal property for consumption by, or for the personal use of, such person or the family of such person and not for sale.

* * * * *

d. "Board" when used in this Act, means the State Board of Equalization for the State of Wyoming. [1939]

Sec. 37-1502. License required.

Every person, desiring to engage in business as an itinerant merchant as herein defined shall annually, before engaging in such business, make application to the Board [State Board of Equalization] for, and obtain, an itinerant merchant's license, such application to be in such form as shall be prescribed by the Board. * * * [1939]

Sec. 37-1504. Bond; honest weight or measure.

Prior to the issuance of any such license, every applicant shall file with the board [State Board of Equalization] an indemnity bond, satisfactory to the Board in the penal sum of five hundred dollars (\$500.00), conditioned that the applicant shall honestly weigh, measure and grade, * * * merchandise or other tangible personal property to be bought and sold, and conditioned upon the actual payment of checks, drafts or other securities to be delivered by applicant in his transactions as such itinerant merchant. The surety on such bond shall be a surety company authorized to engage in the surety business in this state. In such bond the surety shall appoint the Secretary of State of the State of Wyoming the agent of the surety for the service of process and shall designate the post office address of said surety to which any such process may be mailed.

Service of summons or other legal process upon the Secretary of State in any action arising out of the business of the applicant, as an itinerant merchant in this state, shall be and constitute valid legal service thereof upon the party against whom said summons is directed. * * * [1939]

Sec. 37-1509. Penalties for violations.

Any person guilty of violating any provisions of this Act [Secs. 37-1501—37-1510] shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars [\$100.00] nor less than twenty-five dollars [\$25.00], or by imprisonment in the county jail for a period of not more than sixty [60] days or less than ten [10] days, or both such fine and imprisonment, in the discretion of the court. [1939]

Sec. 37-1510. Enforcement officers.

It is hereby declared the duty of county sheriffs, county attorneys, state highway patrolmen, state officers, and their deputies, chiefs of police in cities, town marshals in towns, constables and all peace officers to enforce the provisions of this Act [Sec. 37-1501—37-1510] and to proceed against all persons violating any of the provisions thereof. [1939]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 39,
Art. 5—Paint.

Sec. 39-501. Definition.

The term "paint" as used in this Act [Secs. 39-501—39-517] shall include white lead in linseed oil or any compound intended for the same use, paste or semi-paste, and liquid or mixed paint ready for use. [1921]

Sec. 39-503. Marking requirements.

The label * * * shall also clearly and distinctly state * * * the quantity contained in the package, this in the case of liquid or mixed paints, to be designated in United States standard gallons or fractions thereof, and in case of paste or semi-paste paints such as are commonly sold by weight, to be shown by weight avoirdupois. [1921]

Sec. 39-506. Enforcement.

The commissioner of agriculture is charged with the proper enforcement of all provisions of this Act [Secs. 39-501—39-517]. [1921]

Sec. 39-513. Guaranty protection.

Under the provisions of this Act [Secs. 39-501—39-517], no dealer shall be prosecuted for selling or offering for sale any article of paint in the original, unbroken package in which it was received by said dealer, provided, he can establish a guaranty by the wholesaler, jobber, manufacturer, or other person, residing in the United States, from whom he purchased such article, to the effect that same is not adulterated or misbranded within the meaning

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 39, Art. 5—Paint—Continued.

of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the person making the sale of such article to such dealer, and in such case said person shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this Act. [1921]

Sec. 39-517. Penalties for violations.

Any person, firm or corporation violating any of the provisions of this Act [Secs. 39-501—39-517] shall be deemed guilty of a misdemeanor, and for each offense shall upon conviction thereof be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00), or by imprisonment in the county jail not to exceed sixty (60) days. [1921]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46, Art. 1—Food and Drugs.

Sec. 46-107. Food defined.

* * * The term "food" as used herein, shall include all articles used for food, drink, confectionery or condiment, by man or other animals, whether simple, mixed or compound. [1911]

Sec. 46-109. When food deemed misbranded.

* * * * *

That for the purpose of this Act [Secs. 46-101—46-120] an article shall also be deemed to be misbranded:

* * * * *

In case of food:

* * * * *

Third—If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted and also exemptions as to small packages may be established by rules and regulations made in accordance with Section 5 of Chapter 107 of the Session Laws of Wyoming, 1913 [Sec. 46-119]. [1911; last amended 1915.]

* * * * *

Sec. 46-110. Samples of food, drugs, gasoline and illuminating oils; disposition; net weight.

Representative samples of foods, drinks, drugs, gasoline and illuminating oils shall be collected by the commissioner of agriculture, or his deputies. Samples may be purchased in the open market, and if in bulk, the marks, brands, or tags upon the package, carton, wrapper or other container, and the accompanying written or printed matter shall be noted. The collector shall also note the name of the vendor and the agent through whom the sale

was actually made, together with the date of purchase. Any sample so collected shall be sealed by the collector with a seal provided for the purpose. For the purpose of this chapter [article] [Secs. 46-101—46-120] all samples which do not show the net weight properly marked on top of the box, package, or on the face of the principal label, may be disapproved by the commissioner of agriculture without further test and the absence of the net weight properly labeled shall be prima facie evidence that they are misbranded and need not be sent to the state chemist for examination, but may be certified to the county attorney directly by the commissioner of agriculture, or his deputies, without the certificate of the state chemist. [1911; last amended 1921.]

Sec. 46-116. Penalty for violations.

Any person violating any of the provisions of this Act [Secs. 46-101—46-120] shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00); and for each subsequent offense and conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or shall be sentenced to imprisonment for not more than sixty [60] days, or both, at the discretion of the court. [1911]

Sec. 46-117. Guaranty protection.

Under the provisions of this Act [Secs. 46-101—46-120], no dealer shall be prosecuted for selling or offering for sale any article of food, drug, gasoline, or illuminating oil in the original, unbroken package in which it was received by said dealer, provided, he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other person, residing in the United States, from whom he purchased such article, to the effect that same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty to afford protection shall contain the name and address of the person making the sale of such article to such dealer, and in such case said person shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this Act [Secs. 46-101—46-120]. When the examination or analysis herein provided shows that the provisions of this act have been violated, and the dealer is relieved from prosecution under this section by the production of a guaranty signed by the person residing outside of this state, then the commissioner of agriculture, in the case of foods and drugs, shall report such fact to the secretary of agriculture of the United States, or the proper officer appointed for the enforcement of act of congress approved June 30, 1906, known as the "Food and Drug Act."¹ [1911]

¹ Superseded by the Federal Food, Drug and Cosmetic Act of 1938, 21 U.S.C. Sec. 301 et seq.; 52 Stats. 1040 et seq.

Sec. 46-119. Rules and regulations.

The commissioner of agriculture, in executing the provisions of all laws which come under his jurisdiction shall accept such of the rules and regulations of the United States department of agriculture as he may deem necessary and adopt the standards of purity for foods as laid down by the United States department of agriculture, also make, promulgate and enforce such other rules and regulations as may seem necessary and proper to a prompt and effective enforcement of the laws. [1913]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46, Art. 2—"Uniform Narcotic Drug Act."

Sec. 46-210. Marking requirements.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug, in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, * * * of narcotic drug contained therein * * *. [1937]

Sec. 46-220. Enforcement.

It is hereby made the duty of the Commission of Pharmacy of the State of Wyoming, its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all county attorneys, to enforce all provisions of this Act [Secs. 46-201—46-224], except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other States, relating to narcotic drugs. [1937]

Sec. 46-221. Penalties for violations.

Any person violating any provision of this Act [Secs. 46-201—46-224] shall upon conviction be punished, for the first offense, by a fine not exceeding Three Hundred Dollars (\$300.00), or by imprisonment in the county jail for not exceeding one [1] year, or by both such fine and imprisonment; and for any subsequent offense, by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary for not exceeding three [3] years, or by both such fine and imprisonment. [1937]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46, Art. 4—Milk and Cream.

Sec. 46-407. Babcock test: Fraudulent manipulation; standard equipment; cream to be tested by weight.

No person receiving milk or cream by weight or test or by weight and test, shall fraudulently manipulate the weights of milk or cream to take unfair samples thereof, or fraudulently manipulate such samples in any way. No person buying or paying for milk or cream on the basis of the amount of fat contained therein shall under-read, over-read or

otherwise fraudulently manipulate the Babcock test used for determining the percentage of fat in milk or cream, or falsify the record thereof or read the test at any temperature except between 135 degrees and 140 degrees Fahrenheit. In the use of the Babcock test, the standard milk measure or pipettes shall have a capacity of 17.6 cubic centimeters, and the standard test tubes or bottles for milk shall have a graduated capacity of two cubic centimeters for each 10 per cent. marked on the necks thereof; cream shall be tested by weight and the standard unit for testing shall be 9 grams or 18 grams, and it shall be unlawful to use any other standards of milk or cream measure in creameries or cheese factories or any other place where milk or cream is purchased by or furnished to a receiver and the value of said milk or cream is determined by the per cent. of butter fat contained in the same. [1921]

Sec. 46-411. Enforcement.

There shall be appointed by the commissioner of agriculture, by and with the approval of the governor, a dairy inspector who shall be employed by the commissioner of agriculture to carry out the provisions of this Act [Secs. 46-401—46-412]; also to perform such other duties as may be required by the commissioner of agriculture. * * * [1921]

Sec. 46-412. Penalties for violations.

Any person violating any of the provisions of this Act [Secs. 46-401—46-412] shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100.00) or be imprisoned in the county jail not exceeding three (3) months. [1921]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46, Art. 9, Sec. 46-902—Eggs.

[ED. NOTE.—This section provides for the grading of eggs according to their size and weight, but as these provisions relate primarily to quality they are not included herein.]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46, Art. 11—Cosmetics.

Sec. 46-1101. Unlawful to sell misbranded article.

It shall be unlawful for any person, firm, or corporation to sell or offer for sale any cosmetic that is adulterated or misbranded within the meaning of this Act [Secs. 46-1101—46-1107]. [1939]

Sec. 46-1102. Definition.

The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as component of any such articles; except that such term shall not include soap. [1939]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46,
Art. 11—Cosmetics—Continued.

Sec. 46-1104. When deemed misbranded.

A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular,

(b) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Commissioner of Agriculture.

(c) If any word, statement, or other information required by or under authority of this Act [Secs. 46-1101—46-1107] to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed or filled as to be misleading. [1939]

Sec. 46-1105. Enforcement.

It shall be the duty of the Commissioner of Agriculture to enforce the provisions of this Act [Secs. 46-1101—46-1107]. The Commissioner of Agriculture, in the enforcement of this Act, shall promulgate such regulations, definitions, and standards as he may deem necessary for the proper enforcement of this Act. [1939]

Sec. 46-1107. Penalty for violations.

Any person, firm, or corporation violating the provisions of this Act [Secs. 46-1101—46-1107] shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). [1939]

Compiled Statutes 1945 Annotated, Vol. 3, Ch. 46,
Art. 12—Economic Poisons.

Sec. 46-1201. Unlawful to sell misbranded article.

It shall be unlawful for any person, firm, or corporation, to manufacture, sell or offer for sale within the State of Wyoming, any economic poison which is misbranded or adulterated within the meaning of this Act [Secs. 46-1201—46-1209]. [1943]

Sec. 46-1202. Definition.

The term economic poison as used in this Act [Secs. 46-1201—46-1209] shall include any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, weeds, rodents, or other

plant or animal pests, collectively or individually, which may infest or be detrimental to vegetation, man or other animals or households, or to be present in any environment whatsoever. [1943]

Sec. 46-1204. When deemed misbranded.

For the purpose of this Act [Secs. 46-1201—46-1209] an economic poison shall be deemed to be misbranded:

First. If its labeling is false or misleading in any particular.

Second. If in package form, unless it bears a label designating * * * an accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

* * * * *

Nothing in this Section shall be construed so as to prevent the sale at retail of an economic poison in bulk, provided the original package was correctly labeled. [1943]

Sec. 46-1206. Enforcement.

It shall be the duty of the Commissioner of Agriculture to enforce the provisions of this Act [Secs. 46-1201—46-1209]. The Commissioner of Agriculture, in the enforcement of this act, shall promulgate such regulations, definitions and standards, as he may deem necessary for the proper enforcement of this act. [1943]

Sec. 46-1209. Penalty for violations.

Any person, firm, or corporation, violating the provisions of this Act [Secs. 46-1201—46-1209] shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00). [1943]

Compiled Statutes 1945 Annotated, Vol. 4, Ch. 56,
Art. 9—Livestock Sales Rings, Scales.

Sec. 56-902. Livestock sales ring defined.

* * * * *

(d) The term "live stock sales ring" shall mean a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses mules, or goats are received, held or kept for sale and where any such live stock is sold or offered for sale at either public auction or private sale, except that the provisions of this Act [Secs. 56-901—56-918] shall not apply to:

Any place used solely for a dispersal sale of the live stock of a farmer, dairyman, live stock breeder or feeder who is discontinuing said business;

(1) The premises of any butcher, packer or processor who receives animals exclusively for immediate slaughter;

(2) Any place where an association of breeders of live stock of any class assembles and offers for

sale and sells under its own management registered live stock or breeding sires, provided said association assumes all responsibility of such sale and guarantees title of said live stock and arranges with the Board for the proper inspection of all animals sold. [1937]

Sec. 56-910. Rules and regulations by state superintendent of weights and measures.

All scales used in the operation of live stock sales rings must be inspected and tested by the State Superintendent of Weights and Measures, and he is hereby authorized to make reasonable rules and regulations relative to the method of weighing live stock at all live stock sales rings. All live stock sold by weight must be weighed on scales. [1937]

Compiled Statutes 1945 Annotated, Vol. 4, Ch. 57, Art. 5—Mine Scales.

Sec. 57-505. Weighing before screening.

It shall be unlawful for any mine owner, lessee, operator, agent or company in this state, employing miners at bushel or ton rates, or other quantities, in mining coal, to pass the output of coal mined by said miners over any screen or any device which shall take any part of the marketable coal from the amount thereof, before the same shall have been weighed and duly credited to the employees sending the same to the surface, unless otherwise agreed upon between miners and their employers. In case of any agreement where coal is credited to miners after having been screened and weighed, said miners or employees shall receive compensation for all marketable or saleable coal sent by them to the surface, and accounted for at the customary rate of weights; provided, that this section shall also apply to the class of workers in mines known as loaders engaged in mines where mining is done by machinery whenever the workers are under contract to load coal by the bushel, ton or quantity. [1911]

Sec. 57-506. Weighman; Oath; penalty.

The weighman employed at any mine shall subscribe an oath or affirmation before a justice of the peace or other officer authorized to administer oaths, to do justice between employer and employee and to weigh the output of coal from miners in accordance with the provisions of Section 1 [Sec. 57-505] * * *. Said oath or affirmation shall be kept conspicuously posted in the weigh office and any weigher of coal or person so employed who shall knowingly violate any of the provisions of the Act [Secs. 57-505-57-509] shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars [\$25.00] nor more than one hundred dollars [\$100.00] for each offense, or by imprisonment in the county jail for a period of not to exceed thirty [30] days, or by both such fine and imprisonment. [1911]

Sec. 57-507. Check weighman.

The miners employed by or engaged in working for any mine owner, lessee, operator, agent or company in this state shall have the privilege, if they so desire, of employing at their own expense a check weighman, who shall have like rights and privileges in the weighing of coal as the regular weighman and be subject to the same oath and penalties as the regular weighman. [1911]

Sec. 57-508. Owner to provide scales; testing.

The owner, lessee, operator, agent or company operating any coal mine in this state, at which miners are paid by weight, shall provide suitable and accurate scales of standard manufacture for weighing of coal which may be procured from such mines; such owner, lessee, operator, agent or company shall be required to keep United States standard weights to test said scales.

At every mine where the coal miner is paid for by weight it shall be the duty of the weighman and the check weighman to examine and balance the scales each morning, and in no case shall any coal be weighed until such scales are tested by the United States standard weights and found correct; provided, that if the weighman and check weighman shall disagree, work may continue until the inspector of mines can be present, and any erroneous weights made during such time shall be rectified. When differences shall arise between the weighman and the check weighman, or operator, of any mine, as to the correctness of the scales, the same shall be referred to the inspector of mines whose duty it shall be to see and regulate the same at once. The mine inspector of the district upon each regular visit to each mine, shall test the scales used for the weighing of coal; if for any reason, he believes the scales to be inaccurate he shall call in the county assessor, as county sealer of weights and measures, and they shall proceed to test out the scales according to United States standards; if any inaccuracies are discovered they shall direct the scales to be properly repaired or adjusted until they register approximately correct weights. Any failure on the part of the mine inspector, and county assessor when called on to perform these duties shall constitute a refusal to perform the duties of their office and upon failure to do so they shall be reported to the governor of the state in writing. The inspector of mines upon each regular visit to each mine shall test the scales used for the weighing of coal. Miners employed in the mine and others personally interested shall at all proper times have full right of access to and examination of scales or apparatus used for weighing coal in or about said mine; provided, however, the provisions of this Act [Secs. 57-505-57-509] shall not apply to mines classed as prospects, but only to those having regular output. [1911; last amended 1919.]

Compiled Statutes 1945 Annotated, Vol. 4, Ch. 57,
Art. 5—Mine Scales—Continued.

Sec. 57-509. False weighing; penalty.

Any person or persons having or using any scale or scales for the purpose of weighing the output of coal at mines so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatever by reason of which such coal is not correctly weighed and reported in accordance with the provisions of this Act [Secs. 57-505—57-507], shall be deemed guilty of a misdemeanor and shall upon conviction for each offense be punished by a fine of not less than one hundred dollars [\$100.00] nor more than three hundred dollars [\$300.00], or by imprisonment in the county jail for a period not to exceed sixty [60] days, or by both such fine and imprisonment. [1911]

Sec. 57-510. State inspector of coal mines to examine mine scales.

The state inspector of coal mines is hereby made the legal examiner of all scales, measures or other mechanical devices by which coal is weighed or measured for the purpose of ascertaining or determining the compensation which shall be paid coal mine employees, and shall examine and balance said scales, measures or devices at any time he may consider it necessary in his official visits to the mines. [1927]

Compiled Statutes 1945 Annotated, Vol. 1, Ch. 9,
Art. 9—False Advertising.

Sec. 9-904. Unlawful acts; penalty.

Any person, firm, corporation or association who, with intent to sell, or in any way dispose of any merchandise, securities, or anything offered by such

person, firm, corporation or association, directly or indirectly, to the public for sale or distribution or with intent to increase the sale or consumption thereof, or to induce the public or any person in any manner to enter into any obligation relating thereto or to acquire title to or an interest therein makes, publishes, disseminates, circulates, or places before the public or any person, or causes the same to be done, either directly or indirectly, whether by newspaper publication or otherwise, any label, notice, handbill, poster, bill, circular, pamphlet or letter, any advertisement of any kind or character regarding merchandise, securities, amusements, entertainments, exhibitions, services or any other thing or commodity offered to the public or to any person; which advertisement contains any assertion or statement, which is, in fact, untrue, deceptive or misleading, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in any sum not exceeding one hundred (\$100.00) dollars, in the discretion of the court, for every such offense and each day such publication or communication shall be published or disseminated, shall constitute a violation of the provisions of this section and shall be deemed a separate and distinct offense; provided, also, that the provisions of this section shall not apply to the publisher of any newspaper or other publication who publishes or causes to be published, disseminated, or circulated any written or printed statement prohibited by the provisions of this section, without knowledge that it is false. Within the meaning of this section an advertisement shall be defined as any notice, announcement, statement, representation, exhibition, demonstration or proclamation, whether by printing or writing. It shall be the duty of the county attorney of each county, on complaint being made to vigorously prosecute any and all offenders against the provisions of this section. [1917]

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