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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2188

Session of  
1989

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INTRODUCED BY BOWLEY, MORRIS, BOYES, PISTELLA, PESCI, GIGLIOTTI,  
PRESTON, ROBBINS, MAINE, COHEN, COY, RUDY, TIGUE, LLOYD,  
ITKIN, WILLIAMS, MELIO AND TRELLO, DECEMBER 13, 1989

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
DECEMBER 13, 1989

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AN ACT

1 Providing for the licensing of public weighmasters and defining  
2 their powers and duties; regulating the sale and delivery of  
3 solid fuel and other commodities sold or priced by weight;  
4 providing for certain powers and duties of the Department of  
5 Agriculture; imposing penalties; and making repeals.

6 TABLE OF CONTENTS

- 7 Chapter 1. General Provisions
- 8 Section 101. Short title.
- 9 Section 102. Definitions.
- 10 Section 103. Enforcement and regulations.
- 11 Section 104. Licenses.
- 12 Section 105. Weighmasters' certificates.
- 13 Section 106. Preparation of weighmaster's certificate.
- 14 Section 107. Use of approved weighing device required.
- 15 Section 108. Scale requirement.
- 16 Section 109. Disposition of copies of certificates.
- 17 Section 110. License required; definition.
- 18 Section 111. Suspension or revocation of licenses.

1 Section 112. Prohibited acts.  
2 Chapter 3. Provisions Relating to all Commodities  
3 Section 301. Sales by weight.  
4 Section 302. Separation required.  
5 Section 303. Substitution of another purchaser in weighmaster's  
6 certificate.  
7 Section 304. Authorization to inspect and direct to nearest  
8 scales.  
9 Chapter 5. Provisions Relating to Solid Fuel Only  
10 Section 501. Weighmaster's certificate required.  
11 Section 502. Small lots.  
12 Section 503. Exception for boatloads or railroad carloads.  
13 Chapter 7. Violations  
14 Section 701. Penalties.  
15 Chapter 9. Miscellaneous Provisions  
16 Section 901. Rules and regulations.  
17 Section 902. Sales by employer producer to employees.  
18 Section 903. Existing licenses.  
19 Section 904. Repeals.  
20 Section 905. Effective date.

21 The General Assembly of the Commonwealth of Pennsylvania  
22 hereby enacts as follows:

23 CHAPTER 1

24 GENERAL PROVISIONS

25 Section 101. Short title.

26 This act shall be known and may be cited as the Public  
27 Weighmasters Act of 1989.

28 Section 102. Definitions.

29 The following words and phrases when used in this act shall  
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Bureau." The Bureau of Standard Weights and Measures in the  
3 Department of Agriculture of the Commonwealth.

4 "Commodity." Any product being transported by vehicle and  
5 sold or priced by weight, or any service priced by weight.

6 "Department." The Department of Agriculture of the  
7 Commonwealth.

8 "Director." The Director of the Bureau of Standard Weights  
9 and Measures in the Department of Agriculture of the  
10 Commonwealth.

11 "Secretary." The Secretary of Agriculture of the  
12 Commonwealth.

13 "Solid fuel." Anthracite, semianthracite, bituminous,  
14 semibituminous or lignite coal, briquettes, boulets, coke, gas-  
15 house coke, petroleum coke, carbon, charcoal or any other  
16 natural, manufactured or patented fuel not sold by liquid or  
17 metered measure.

18 "Vehicle." Any device in, upon or by which any property,  
19 produce, commodity or article is, or may be, transported or  
20 drawn.

21 Section 103. Enforcement and regulations.

22 The director is authorized and directed to enforce the  
23 provisions of this act and to adopt, with the approval of the  
24 secretary, such rules and regulations as are deemed necessary to  
25 carry out the provisions of this act.

26 Section 104. Licenses.

27 (a) Requirement.--No person shall make or issue a  
28 weighmaster's certificate unless licensed by the department,  
29 except as otherwise provided in this act. Application for a  
30 license shall be made upon a form prescribed by the department

1 and shall show the place where the weighmaster shall perform  
2 this function and the type and capacity of the scale to be used  
3 by the applicant. The applicant shall furnish satisfactory  
4 evidence that:

5 (1) he owns or leases a scale suitable for weighing the  
6 tare and gross weight of a vehicle or vehicle and trailer  
7 transporting commodities, or that he is employed by the owner  
8 or lessee of such a scale; and

9 (2) he has the ability to weigh accurately and to make  
10 correct weighmasters' certificates.

11 (b) Deputy weighmasters.--

12 (1) Deputy weighmasters may be employed by corporations,  
13 partnerships and associations when the following criteria are  
14 met:

15 (i) The corporation, partnership or association  
16 employs at least one currently licensed public  
17 weighmaster who is responsible for the supervision of the  
18 deputy weighmaster or weighmasters.

19 (ii) A license fee of \$50 must accompany each deputy  
20 weighmaster's application, which will be supplied by the  
21 department. Licensing shall be for a period of two years.

22 (2) At any time during the license period, any deputy  
23 weighmaster may be replaced without the payment of any  
24 additional license fee by notifying the department, within  
25 three work days, of the name of the present deputy and the  
26 name of his replacement. Notification shall be by phone,  
27 followed by a written confirmation.

28 (c) Referral.--The department may refer any application for  
29 a license as a weighmaster to any city or county inspector of  
30 weights and measures for a report as to the accuracy of the

1 statements made on the application, the suitability of the scale  
2 to be used by the applicant, and such other information as the  
3 department may require.

4 (d) Fee.--The applicant shall pay to the department a  
5 license fee of \$60, which shall be remitted to the State  
6 Treasurer through the Department of Revenue; and the State  
7 Treasurer shall return biennially \$10 of each such fee to the  
8 treasurer of the city or county wherein the scale to be used by  
9 the applicant is located. The license shall be for a period of  
10 two years from the date of issue. A license may be renewed at  
11 the discretion of the department for successive periods of not  
12 more than two years each, upon payment to the department of a  
13 license fee of \$60, for remittance to the State Treasurer  
14 through the Department of Revenue, and the State Treasurer shall  
15 return biennially \$10 of each such fee to the treasurer of the  
16 city or county wherein the scale is located. In all cases where  
17 the county inspector of weights and measures also serves as such  
18 in any city, the \$10 required to be returned to the city or  
19 county, either for a new license or a renewal license, shall be  
20 paid to the county, notwithstanding the fact that the scale is  
21 located in the city; and, in all cases where there is an  
22 agreement between a county and a city for the inspection of  
23 weights and measures in the city, payment shall be divided  
24 between the county and the city in such proportions as, under  
25 the agreement, the county and the city share the cost of  
26 inspection.

27 (e) Display.--Each license, or a duplicate thereof, shall be  
28 kept conspicuously displayed at the place where the weighmaster  
29 is engaged in weighing. In the event of the change of any name  
30 or address appearing on any application, the licensed

1 weighmaster shall notify the department of the change within 48  
2 hours.

3 (f) Suspension or revocation.--After a hearing, and upon due  
4 notice to the licensee, a license may be suspended or revoked by  
5 the department, for dishonesty, incompetency, inaccuracy or  
6 failure to notify the department of any change of name or  
7 address stated in the application, and a license may be revoked  
8 by the department without hearing if the licensed weighmaster  
9 has been found guilty of any violation of the provisions of this  
10 act or if the licensed weighmaster has ceased to be employed at  
11 the place of weighing for which the license has been issued.  
12 Upon the revocation of a weighmaster's license, the forms of  
13 weighmasters' certificates in his possession shall immediately  
14 be surrendered to the department.

15 (g) Rules.--The secretary may adopt rules for determining  
16 the qualifications of an applicant for a license as a licensed  
17 public weighmaster. The secretary shall keep a record of all  
18 applications and of all licenses issued.

19 Section 105. Weighmasters' certificates.

20 The original weighmaster's certificate shall be typewritten  
21 or made out in ink or indelible pencil, and the original and  
22 each copy of the certificate shall show all of the following:

- 23 (1) The kind and size of the commodity.
- 24 (2) The name and address of the seller.
- 25 (3) The name and address of the purchaser.
- 26 (4) The license number of the vehicle and trailer.
- 27 (5) The signature and license number of the licensed  
28 weighmaster who weighed the commodity and who issued the  
29 weighmaster's certificate.
- 30 (6) The date and hour when weighed.

(7) The gross weight in avoirdupois pounds of the vehicle and the load; the tare weight and net weight of the commodity; and, where the load is divided into lots, the net weight of each lot. All the information under this paragraph must be determined by the same weighmaster in accordance with the rules and regulations of the department.

(8) A sequential serial number.

Section 106. Preparation of weighmaster's certificate.

A licensed public weighmaster shall not enter, on a weighmaster's certificate issued by him, any weight values which he has not personally determined, and he shall make no entries on a weighmaster's certificate issued by another person. A weighmaster's certificate shall be so prepared as to show clearly what weight or weights were actually determined. If the certificate form provides for the entry of gross, tare and net weights in any case in which only the gross, the tare or the net weight is determined by the weighmaster, he shall strike through or otherwise cancel the printed entries for the weights not determined or computed. If gross and tare weights are shown on a weighmaster's certificate and both of these were not determined on the same scale and on the day for which the certificate is dated, the weighmaster shall identify on the certificate the scale used for determining each such weight and the date of each such determination.

Section 107. Use of approved weighing device required.

When making a weight determination as provided for by this act, a licensed public weighmaster shall use a weighing device approved by the bureau in accordance with the act of May 5, 1921 (P.L. 389, No.187), entitled "An act to regulate and control the manufacture, sale, offering for sale, giving away, and use of

1 weights and measures and of weighing and measuring devices in  
2 the Commonwealth of Pennsylvania; providing for the approval and  
3 disapproval of such weights, measures, and devices by the Bureau  
4 of Standards; and prescribing penalties," which is of a type  
5 suitable for the weighing of the amount and kind of material to  
6 be weighed and which has been tested and approved for use by a  
7 weights and measures officer of this Commonwealth preceding the  
8 date of the weighing.

9 Section 108. Scale requirement.

10 A licensed public weighmaster shall not use a scale to weigh  
11 a load which exceeds the normal or rated capacity of the scale,  
12 nor shall the public weighmaster engage in multiple-draft  
13 weighing where the vehicle exceeds the length of the scale.

14 Section 109. Disposition of copies of certificates.

15 The original copy of a weighmaster's certificate shall be  
16 delivered to the purchaser of the commodity specified in the  
17 certificate at the time of delivery. One copy of the certificate  
18 shall be retained at the place of weighing, and one copy may be  
19 retained by the business selling or delivering the commodity.  
20 Copies of weighmasters' certificates in possession of licensed  
21 weighmasters shall be retained for a period of two years and,  
22 during business hours, shall be subject to inspection or  
23 subpoena for use as evidence by any State, county or city  
24 inspector of weights and measures.

25 Section 110. License required; definition.

26 (a) License required.--No person shall assume the title  
27 "licensed public weighmaster" or any title or similar import,  
28 perform the duties or acts to be performed by a licensed public  
29 weighmaster under this act, hold himself out as a licensed  
30 public weighmaster, issue any weighmaster's certificate, ticket



1 memorandum or statement for which a fee is charged, or engage in  
2 the full-time or part-time business of public weighing, unless  
3 he holds a valid license as a licensed public weighmaster.

4 (b) Definition.--As used in this section, the term "public  
5 weighing" means the weighing, for any person, upon request, of  
6 property, produce, commodities or articles.

7 Section 111. Suspension or revocation of licenses.

8 (a) Authorization.--The secretary is authorized to suspend  
9 or revoke the license of any licensed public weighmaster:

10 (1) when he is satisfied, after a hearing, upon ten  
11 days' notice to the licensee, that the licensee has violated  
12 any provision of this act or of any valid regulation of the  
13 director affecting licensed public weighmasters; or

14 (2) when a licensed public weighmaster has been  
15 convicted in any court of competent jurisdiction of violating  
16 any provision of this act or any regulation issued under  
17 authority of this act.

18 (b) Petition for hearing de novo.--Any licensee whose  
19 license is suspended or revoked by the director may, within 30  
20 days after notice of the suspension or revocation, file a  
21 petition in the court of common pleas of the county in which the  
22 licensee resides, or in which the licensee performs his duties  
23 as a licensed public weighmaster, for a hearing de novo to  
24 determine whether the action of the secretary is lawful and  
25 reasonable. The court shall hear the petition and may make any  
26 appropriate order or decree.

27 Section 112. Prohibited acts.

28 (a) General rule.--It shall be unlawful:

29 (1) For a weighmaster to issue a false or incorrect  
30 weighmaster's certificate.

1           (2) For a person to solicit a weighmaster to issue a  
2 false or incorrect weighmaster's certificate.

3           (3) For a person to use or issue a weighmaster's  
4 certificate except one prepared on a form issued or approved  
5 by the department.

6           (4) For a person to print or distribute any forms of  
7 weighmasters' certificates unless authorized to do so by the  
8 department.

9           (5) For a person to use a false or incorrect  
10 weighmaster's certificate or a weighmaster's certificate not  
11 bearing the signature and license number of a licensed  
12 weighmaster and the license number of the vehicle and  
13 trailer.

14          (6) For a weighmaster knowingly to permit a  
15 weighmaster's certificate to be issued or used which purports  
16 to bear his signature and which was not in fact signed by him  
17 at a time of weighing or which expresses a gross, tare or net  
18 weight not ascertained by him.

19          (7) For a person to deliver solid fuel without an  
20 official weighmaster's certificate.

21          (8) For a person to furnish a false name or address of a  
22 purchaser to the licensed weighmaster at the time of  
23 weighing.

24          (9) For a person to permit any diminution of a load  
25 before its delivery to the purchaser or purchasers of the  
26 load.

27          (10) Except as otherwise provided in this act, for a  
28 person to fail, neglect or refuse to deliver a correct and  
29 lawful weighmaster's certificate to the purchaser of a  
30 commodity whose name and address appears on the weighmaster's

1 certificate.

2 (11) For a person to otherwise directly or indirectly  
3 violate a provision of this act.

4 (b) Prima facie evidence of short weight.--Whenever any  
5 commodity is sold and delivered to the purchaser named in the  
6 approved weighmaster's certificate and the seller or his  
7 representative neglects, fails or refuses to deliver an approved  
8 weighmaster's certificate at the time of delivery, or the net  
9 weight of the commodity is determined to be less than the net  
10 amount stated on the approved weighmaster's certificate or as  
11 otherwise represented to the purchaser, such determination shall  
12 constitute prima facie evidence of short weight, and the seller  
13 shall be prosecuted under this section for short weight.

14 (c) Prima facie evidence of diminution of load.--Whenever  
15 the gross weight of a vehicle and load and the tare weight and  
16 net weight of a commodity have been determined in accordance  
17 with the provisions of this act and the net weight of the  
18 commodity is determined to be less than that stated in a  
19 weighmaster's certificate, proof of such determination shall  
20 constitute prima facie evidence of the diminution of the load of  
21 the commodity before delivery to the purchaser.

22 CHAPTER 3

23 PROVISIONS RELATING TO ALL COMMODITIES

24 Section 301. Sales by weight.

25 No person shall sell, transport over a public highway or  
26 deliver, or start out to deliver, less than 2,000 pounds  
27 avoirdupois of weight to the ton of any commodity, or a proper  
28 proportion thereof, in quantities less than one ton; and the  
29 commodity shall be duly weighed by a licensed weighmaster of  
30 this Commonwealth on accurate scales which are suitable for

1 weighing the tare and gross weight of the vehicle or vehicle and  
2 trailer transporting the commodity and which are located in this  
3 Commonwealth and have been tested and approved by an official  
4 empowered by law to test the scales. With the exception of solid  
5 fuel, weighing may be done by a licensed weighmaster at the time  
6 of sale or delivery.

7 Section 302. Separation required.

8 When more than one type of solid fuel or other commodity is  
9 sold or delivered to a consumer, the vehicle making the delivery  
10 shall have a partition separating each type of solid fuel or  
11 other commodity, and each type shall be accompanied by a  
12 weighmaster's certificate as otherwise provided for in this act.

13 Section 303. Substitution of another purchaser in weighmaster's  
14 certificate.

15 If a person is, for practical reasons, unable to deliver a  
16 commodity to the purchaser originally designated in the  
17 weighmaster's certificate, he may substitute the name and  
18 address of another purchaser, provided that a report of the  
19 substitution is made to the licensed weighmaster within 24  
20 hours.

21 Section 304. Authorization to inspect and direct to nearest  
22 scales.

23 Any State, county or city inspector of weights and measures  
24 who finds any commodity ready for or in process of delivery may  
25 inspect the commodity as to its weight and may direct the person  
26 in charge of the delivery of the commodity to convey the  
27 commodity to the nearest available scales operated by a  
28 weighmaster designated by the inspector. The commodity inspector  
29 shall determine the gross weight of the commodity and the  
30 vehicle on which it is carried and shall direct the person in

1 charge to return to the scales immediately upon unloading the  
2 commodity. Upon return of the vehicle, the inspector shall  
3 determine the weight of the vehicle without load and determine  
4 the net weight of the load delivered. The person in charge of a  
5 vehicle containing such a commodity, or from which such a  
6 commodity has been unloaded, shall not fail to take the vehicle,  
7 upon the direction of the inspector of weights and measures, to  
8 scales required in this section, and shall not refuse to permit  
9 the commodity or vehicle to be weighed.

## 10 CHAPTER 5

### 11 PROVISIONS RELATING TO SOLID FUEL ONLY

12 Section 501. Weighmaster's certificate required.

13 (a) General rule.--No person shall sell, transport over a  
14 public highway, deliver or cause to be delivered, or start out  
15 to deliver, any solid fuel in a lot or lots in amounts exceeding  
16 100 pounds without each lot in each separate compartment of the  
17 vehicle or vehicle and trailer being accompanied by a  
18 weighmaster's certificate issued by a licensed weighmaster of  
19 this Commonwealth.

20 (b) Exception.--This section shall not apply to a producer  
21 of solid fuel who furnishes proof satisfactory to the department  
22 or to an inspector of weights and measures, that the solid fuel  
23 being transported comes from his own mine, is his own property  
24 and is being transported for a purpose other than for sale.

25 Section 502. Small lots.

26 When solid fuel is sold in lots not exceeding 100 pounds, the  
27 provisions of section 501(a) shall not apply if the solid fuel  
28 is delivered in closed containers or closed bags and the net  
29 contents of the bag or container, expressed in avoirdupois  
30 pounds, the type of coal and the name, address, city, state and

1 zip code of the seller are plainly stamped or printed thereon or  
2 upon a tag securely attached thereto.

3 Section 503. Exception for boatloads or railroad carloads.

4 Section 501(a) shall not apply to the sale of a boatload or  
5 railroad carload of solid fuel delivered directly from the boat  
6 or car to a purchaser and accepted as to weight by the purchaser  
7 on the bill of lading or other voucher issued by the carrier.

8 CHAPTER 7

9 VIOLATIONS

10 Section 701. Penalties.

11 (a) General rule.--A person, or an agent of a person, who  
12 violates any of the provisions of this act commits a summary  
13 offense and shall, upon conviction, be sentenced to pay a fine  
14 of not less than \$100 for a first offense, not less than \$200  
15 for a second offense and not less than \$300 for a third offense.

16 (b) Fourth and subsequent offenses.--A person, or an agent  
17 of a person, who violates any of the provisions of this act  
18 commits a misdemeanor of the third degree when the offense is a  
19 fourth or subsequent offense, and shall, upon conviction, be  
20 sentenced to pay a fine of \$500.

21 CHAPTER 9

22 MISCELLANEOUS PROVISIONS

23 Section 901. Rules and regulations.

24 The secretary shall have the power to adopt and promulgate  
25 rules and regulations necessary to carry out the provisions of  
26 this act. All previous rules and regulations shall remain in  
27 full force and effect until new or amended rules and regulations  
28 are adopted by the secretary.

29 Section 902. Sales by employer producer to employees.

30 In any case where under the provisions of a contract it is

1 provided that solid fuel be sold at cost by an employer producer  
2 to his employees for their own use and consumption, such solid  
3 fuel may be sold by cubic contents instead of weight, but no  
4 solid fuel so sold shall be transported over the highways of  
5 this Commonwealth from the place of production to the residence  
6 of the employee unless the operator of the vehicle has in his  
7 possession a certificate of origin. The certificates of origin  
8 shall contain such information as may be prescribed by the  
9 department and shall be signed by the producer or his agent, and  
10 a copy of each certificate shall be kept at the place of  
11 production for at least two years.

12 Section 903. Existing licenses.

13 A person who holds a valid license issued under the act of  
14 July 19, 1935 (P.L.1356, No.427), referred to as the Solid Fuel  
15 Weight Regulation Law, or the act of April 28, 1961 (P.L.135,  
16 No.64), known as the Public Weighmaster's Act, immediately prior  
17 to the effective date of this act shall, on the effective date  
18 of this act, be deemed licensed by the department under this  
19 act, and such existing licenses shall continue to be valid until  
20 their respective expiration dates, unless sooner suspended or  
21 revoked.

22 Section 904. Repeals.

23 The following acts and parts of acts are repealed:

24 Act of July 19, 1935 (P.L.1356, No.427), referred to as the  
25 Solid Fuel Weight Regulation Law.

26 Act of April 28, 1961 (P.L.135, No.64), known as the Public  
27 Weighmaster's Act.

28 Section 905. Effective date.

29 This act shall take effect in 60 days.