
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2002 Session of
1991

INTRODUCED BY BILLOW, HALUSKA, STAIRS, SALOOM, STISH, FAJT,
COLE, HERSHEY, MELIO, TRELLO, KRUSZEWSKI, CORRIGAN AND
BELARDI, OCTOBER 15, 1991

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
OCTOBER 15, 1991

AN ACT

1 Amending the act of December 1, 1965 (P.L.988, No.368),
2 entitled, as amended, "An act relating to weights and
3 measures; regulating the use and sale, and providing for the
4 inspection of weighing and measuring devices; regulating the
5 sale and packaging of commodities; imposing duties and
6 conferring powers upon the Attorney General and Department of
7 Justice and certain local officials; and prescribing
8 penalties," further providing for the types of weights and
9 measures governed by the act; authorizing the regulation of
10 persons engaged in selling, installing and repairing
11 commercial weighing and measuring devices; and further
12 providing for certain standards, testing and for the sale and
13 packaging of certain commodities.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The title of the act of December 1, 1965
17 (P.L.988, No.368), known as the Weights and Measures Act of
18 1965, amended December 18, 1968 (P.L.1247, No.396), is amended
19 to read:

20 AN ACT

21 Relating to weights and measures; regulating the use and sale,
22 and providing for the inspection of weighing and measuring

1 devices; regulating the sale and packaging of commodities;
2 imposing duties and conferring powers upon the [Attorney
3 General and Department of Justice] Department of Agriculture
4 and certain local officials; and prescribing penalties.

5 Section 2. Section 2(2), (4) and (5) of the act, amended
6 December 18, 1968 (P.L.1247, No.396), are amended and the
7 section is amended by adding a definition to read:

8 Section 2. Definitions.--When used in this act, the
9 following words and phrases shall have the meanings ascribed to
10 them in this section unless the context clearly indicates
11 otherwise:

12 * * *

13 (2) "Weights" and/or "measures." All weights and measures of
14 every kind, instruments and devices for weighing and measuring
15 and any appliances and accessories associated with any or all
16 such instruments and devices[, except that the]. The term shall
17 include, but not be limited to, the following: parking meters,
18 postal scales and other scales used to determine shipping
19 charges, pill counters, coin-operated person weighers, coin-
20 operated air dispensers and coin-operated axle and vehicle
21 scales. The term shall not be construed to include meters for
22 the measurement of electricity, gas (natural or manufactured),
23 steam, coolant or water or the counting or timing of telephone
24 calls when the same are operated in a public utility system or
25 taxi meters. Such electricity, gas, steam, coolant, water and
26 telephone meters and taxi meters are hereby specifically
27 excluded from the purview of this act and none of the provisions
28 of this act shall be construed to apply to such meters or to any
29 appliances or accessories associated therewith.

30 * * *

1 [(4) "Attorney General." The Attorney General shall include
2 counsel general, attorney general, deputy attorney general,
3 assistant attorney general, special attorney general or an
4 attorney at law, designated by the attorney general or as
5 provided for in section 16 of this act.]

6 (4.1) "Department." The Department of Agriculture of the
7 Commonwealth.

8 (5) "Director." The Director of the Bureau of Standard
9 Weights and Measures of the Department of [Internal Affairs.]
10 Agriculture.

11 * * *

12 Section 3. Section 3 of the act, amended June 23, 1970
13 (P.L.423, No.141), is amended to read:

14 Section 3. Systems of Weights and Measures.--The system of
15 weights and measures in customary use in the United States and
16 the metric system of weights and measures are jointly recognized
17 and one or both of these systems shall be used for all
18 commercial purposes in the Commonwealth of Pennsylvania. The
19 definitions of basic units of weight and measure, the tables of
20 weight and measure and weights and measures equivalents as
21 published by the National [Bureau of Standards] Institute of
22 Standards and Technology are recognized and shall govern
23 weighing and measuring equipment and transactions in the State.

24 Section 4. Section 4 of the act is amended to read:

25 Section 4. State Standards of Weight and Measure.--Such
26 weights and measures in conformity with the standards of the
27 United States as have been supplied to the State by the Federal
28 government or otherwise obtained by the State for use as State
29 standards shall, when the same have been certified as being
30 satisfactory for use as such by the National [Bureau of

1 Standards] Institute of Standards and Technology be the State
2 standards of weight and measure. The State standards shall be
3 kept in a safe and suitable place in the office or laboratory of
4 the State Bureau of Standard Weights and Measures; shall not be
5 removed from the office or laboratory except for repairs or for
6 certification; and shall be submitted at least once in ten years
7 to the National [Bureau of Standards] Institute of Standards and
8 Technology for certification. The State standards shall be used
9 only in verifying the office standards and for scientific
10 purposes.

11 Section 5. Sections 6, 7, 8, 9 and 10 of the act, amended
12 December 18, 1968 (P.L.1247, No.396), are amended to read:

13 Section 6. Director and Inspectors of Weights and
14 Measures.--There shall be a director of weights and measures and
15 inspectors of weights and measures and necessary technical and
16 clerical personnel who shall be appointed by the [Attorney
17 General] department and who shall collectively comprise the
18 State Bureau of Standard Weights and Measures, of which the
19 director shall be the chief. The [Attorney General] department
20 shall be allowed such sums for salaries for the director, the
21 inspectors and the necessary technical and clerical employes,
22 for necessary equipment and supplies and for traveling and
23 contingent expenses, as shall be appropriated by the General
24 Assembly.

25 Section 7. General Powers and Duties of [Attorney General]
26 Department.--[The Attorney General] The State Metrology
27 Laboratory shall have the custody of the State standards of
28 weight and measure and of the other standards and equipment
29 provided for by this act and shall keep accurate records of the
30 same. The [Attorney General] department shall enforce the

1 provisions of this act[. He shall have] and keep a general
2 supervision over the weights and measures offered for sale, sold
3 or in use in the State.

4 Section 8. Specific Powers and Duties of [Attorney General]
5 Department; Regulations.--(a) The [Attorney General] department
6 shall issue from time to time regulations for the enforcement
7 and administration of this act, which regulations upon being
8 [filed with the Department of State under the procedures
9 established by the Administrative Agency Law, act of June 4,
10 1945 (P.L.1388), and its amendments,] promulgated pursuant to
11 the act of July 31, 1968 (P.L.769, No.240), referred to as the
12 Commonwealth Documents Law shall have the force and effect of
13 law. These regulations may include:

14 (1) Standards of net weight, measure, count and standards of
15 fill for any commodity in package form.

16 (2) Rules governing the technical and reporting procedures
17 to be followed and the report and record forms and marks of
18 approval and rejection to be used by inspectors of weights and
19 measures in the discharge of their official duties.

20 (3) Exemptions from the sealing or marking requirements of
21 section 14 of this act with respect to weights and measures of
22 such character or size that such sealing or marking would be
23 inappropriate, impracticable or damaging to the apparatus in
24 question.

25 (b) These regulations shall include specifications,
26 tolerances and regulations for weights and measures of the
27 character of those specified in section 10 of this act designed
28 to eliminate from use without prejudice to apparatus that
29 conforms as closely as practicable to the official standards
30 those (i) that are not accurate; (ii) that are of such

1 construction that they are faulty, that is, that are not
2 reasonably permanent in their adjustment or will not repeat
3 their indications correctly; or (iii) that facilitate the
4 perpetration of fraud. The specifications, tolerances and
5 regulations for commercial weighing and measuring devices,
6 together with amendments thereto as recommended by the National
7 [Bureau of Standards] Institute of Standards and Technology and
8 published in National [Bureau of Standards] Institute of
9 Standards and Technology Handbook 44, and supplements thereto,
10 or in any publication revising or superseding Handbook 44, shall
11 be the specifications, tolerances and regulations for commercial
12 weighing and measuring devices of the Commonwealth of
13 Pennsylvania except insofar as specifically modified, amended or
14 rejected by a regulation issued by the [Attorney General]
15 department. For the purposes of this act, apparatus shall be
16 deemed to be "correct" when it conforms to all applicable
17 requirements promulgated as specified in this section; other
18 apparatus shall be deemed to be "incorrect."

19 (c) Regulations [promulgated hereunder shall be effective
20 thirty days from the date of their filing with the Department of
21 State during which period interested parties may submit to the
22 Attorney General, in writing, any objections to the proposed
23 regulations and the reasons supporting such objections. In
24 addition, the Attorney General shall hold a hearing upon the
25 written request of three or more interested parties made within
26 said thirty day period, in which case the Attorney General may,
27 at his discretion, further postpone the effective date of the
28 regulation.] shall be promulgated in the manner provided in the
29 act of July 31, 1968 (P.L.769, No.240), referred to as the
30 Commonwealth Documents Law.

1 Section 9. Testing and Inspecting of Standards.--The
2 [Attorney General] State Metrology Laboratory at least once
3 every five years shall test the standards of weight and measure
4 procured by any city or county for which a sealer of weights and
5 measures has been appointed and shall approve the same when
6 found to be correct; and he shall inspect such standards at
7 least once every two years.

8 Section 10. General Testing and Inspecting.--When not
9 otherwise provided by law, the [Attorney General] department
10 shall have the powers to inspect and test to ascertain if they
11 are correct all weights and measures kept, offered or exposed
12 for sale. It shall be the duty of the [Attorney General]
13 department within a twelve-month period, or less frequently if
14 in accordance with a schedule issued by him and as much oftener
15 as he may deem necessary, to inspect and test to ascertain if
16 they are correct, all weights and measures commercially used (i)
17 in determining the weight, measurement or count of commodities
18 or things sold, offered or exposed for sale on the basis of
19 weight, measure or of count; or (ii) in computing the basic
20 charge or payment for services rendered on the basis of weight,
21 measure [or of count.], count or of devices utilized to dispense
22 services on time. With respect to single-service devices, that
23 is, devices designed to be used commercially only once and to be
24 then discarded, and with respect to devices uniformly mass-
25 produced, as by means of a mold or die and not susceptible to
26 individual adjustment, tests may be made on representative
27 samples of such devices and the lots of which such samples are
28 representative shall be held to be correct or incorrect upon the
29 basis of the results of the inspections and tests on such
30 samples.

Section 6. The act is amended by adding a section to read:

Section 10.1. Registration Program.--The department shall have the authority to establish, by regulation, a program requiring the registration of persons engaged in the business of selling, installing, servicing and repairing various types of commercial weighing and measuring devices. The program may prescribe minimum field standards to be complied with by those persons to adequately test and place weighing and measuring devices into commercial service. The program may also require that those persons give adequate notice to the responsible weights and measures jurisdiction of the installation of a commercial weighing or measuring device.

Section 7. Sections 11, 12, 13, 14, 15, 16, 18 and 19 of the act, amended December 18, 1968 (P.L.1247, No.396), are amended to read:

Section 11. Investigations.--The [Attorney General] department shall investigate complaints made to [him] it concerning violations of the provisions of this act and shall upon [his] its own initiative conduct such investigations as [he] it deems appropriate and advisable, to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this act, and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Section 12. Inspection of Packages.--The [Attorney General] department shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered or exposed for sale or sold in

1 accordance with law; and when such packages or amounts of
2 commodities are found not to contain the amounts represented or
3 are found to be kept, offered or exposed for sale in violation
4 of law, the [Attorney General] department may order them off
5 sale and may so mark or tag them as to show them to be illegal.
6 In carrying out the provisions of this section, the [Attorney
7 General, whenever possible, shall employ sampling procedures
8 recommended by the National Bureau of Standards, under which the
9 compliance of a given lot of packages will be determined on the
10 basis of the result obtained on a sample selected from and
11 representative of such lot.] department shall use the National
12 Institute of Standards and Technology Handbook 133, latest
13 edition, containing any amendments or supplements thereto, or
14 which may be superseded by a new handbook, except insofar as
15 specifically modified, amended or rejected by a regulation
16 issued by the department. No person shall (i) sell or keep,
17 offer or expose for sale in intrastate commerce any package or
18 amount of commodity that has been ordered off sale or marked or
19 tagged as provided in this section, unless and until such
20 package or amount of commodity has been brought into full
21 compliance with all legal requirements; or (ii) dispose of any
22 package or amount of commodity that has been ordered off sale or
23 marked or tagged as provided in this section and that has not
24 been brought into compliance with legal requirements in any
25 manner except with the specific approval of the [Attorney
26 General] department.

27 Section 13. Stop-Use, Stop-Removal and Removal Orders.--(a)
28 The [Attorney General] department shall have the power to issue
29 stop-use orders, stop-removal orders and removal orders with
30 respect to weights and measures being, or susceptible of being,

1 commercially used and to issue stop-removal orders and removal
2 orders with respect to packages or amounts of commodities kept,
3 offered or exposed for sale, sold or in the process of delivery,
4 whenever in the course of [his] the department's enforcement of
5 the provisions of this act [he] the department deems it
6 necessary or expedient to issue such orders.

7 (b) No person shall use, remove from the premises specified
8 or fail to remove from the premises specified any weight,
9 measure or package or amount of commodity contrary to the terms
10 of a stop-use order, stop-removal order or removal order issued
11 under the authority of this section.

12 (c) Whenever an aggrieved person shall appeal or seek to
13 enjoin enforcement of any order issued by the [Attorney General]
14 department pursuant to this section, such proceeding shall be
15 brought in the court of common pleas of the judicial district in
16 which the weight, measure or commodity was located at the time
17 of the issuance of the [Attorney General's] department's order.

18 Section 14. Disposition of Correct and Incorrect
19 Apparatus.--(a) The [Attorney General] department shall approve
20 for use and seal or mark with appropriate devices such weights
21 and measures as [he] it finds upon inspection and test to be
22 "correct" as defined in section 8 of this act and shall reject
23 and mark or tag "rejected" such weights and measures as [he] it
24 finds upon inspection or test to be "incorrect" as defined in
25 section 8 of this act, but which in [his] its best judgment are
26 susceptible to satisfactory repair. Such sealing or marking
27 shall not be required with respect to such weights and measures
28 as may be exempted therefrom by a regulation of the [Attorney
29 General] department issued under the authority of section 8 of
30 this act.

1 (b) The [Attorney General] department shall condemn and may
2 seize and may destroy weights and measures found to be incorrect
3 that in [his] its best judgment are not susceptible to
4 satisfactory repair. Weights and measures that have been
5 rejected may be confiscated and may be destroyed by the
6 [Attorney General] department if not corrected as required by
7 section 20 of this act or if used or disposed of contrary to the
8 requirements of section 20 of this act.

9 Section 15. Police Powers; Right of Entry and Stoppage.--(a)
10 With respect to the enforcement of this act and any other acts
11 dealing with weights and measures [that he is or may be
12 empowered to enforce, the Attorney General] the department may
13 seize for use as evidence without formal warrant, incorrect or
14 unsealed weights and measures or amounts or packages of
15 commodity found, prior to seizure, to be used, retained, offered
16 or exposed for sale or sold in violation of law.

17 (b) [In the performance of his official duties, the Attorney
18 General] The department is authorized to enter and go into or
19 upon, without formal warrant, any structure or premises and to
20 stop any person whatsoever and to require him to proceed with or
21 without any vehicle of which he may be in charge to the nearest
22 available testing apparatus tested and approved by the [Attorney
23 General] department, a city or a county.

24 (c) The department shall utilize the method of sale of
25 commodities as stated in the National Institute of Standards and
26 Technology Handbook 130, except insofar as specifically
27 modified, amended or rejected by a regulation issued by the
28 department.

29 Section 16. Powers and Duties of Director and Inspector.--
30 The powers and duties given to and imposed upon the [Attorney

1 General] department by sections 9, 10, 11, 12, 13, 14, 15, 19
2 and 37 of this act are hereby given to and imposed upon the
3 director and inspectors also when acting under the instructions
4 and at the direction of the [Attorney General] department.

5 Section 18. City and County Standards and Equipment.--(a)
6 The mayor of each city and the board of county commissioners of
7 each county for which a sealer has been appointed shall (i)
8 procure at the expense of the city or county, as the case may
9 be, such standards of weight and measure and such additional
10 equipment to be used for the enforcement of the provisions of
11 this act in such city or county as may be prescribed by the
12 [Attorney General] department; (ii) provide a suitable office
13 for the sealer; and (iii) make provisions for the necessary
14 clerical services, supplies and transportation and for defraying
15 contingent expenses incident to the official activities of the
16 sealer in carrying out the provisions of this act.

17 (b) When the standards of weight and measure required by
18 this section to be provided by a city or county shall have been
19 examined and approved by the [Attorney General] department, they
20 shall be the official standards for such city or county.

21 (c) It shall be the duty of the sealer to make or to arrange
22 to have made, at least as frequently as once a year, comparisons
23 between his field standards and appropriate standards of a
24 higher order belonging to his city or county, as the case may
25 be, or to the State in order to maintain such field standards in
26 accurate condition.

27 Section 19. Concurrent Jurisdiction.--In cities and counties
28 for which sealers of weights and measures have been appointed as
29 provided for by local regulations, the [Attorney General]
30 department shall have concurrent authority to enforce the

1 provisions of the act.

2 Section 8. The act is amended by adding a section to read:

3 Section 19.1. Division of Responsibilities.--The department
4 may enter into Memorandums of Understanding with counties and
5 with cities employing sealers of weights and measures for a
6 division of inspection responsibilities in the respective
7 jurisdiction. The agreement shall be reviewed and updated
8 annually.

9 Section 9. Sections 20(a) and 21(c) of the act, amended
10 December 18, 1968 (P.L.1247, No.396), are amended to read:

11 Section 20. Duty of Owners of Incorrect Apparatus.--(a)
12 Weights and measures that have been rejected under the authority
13 of the [Attorney General] department or of a sealer shall remain
14 subject to the control of the rejecting authority until such
15 time as suitable repair or disposition thereof has been made as
16 required by this section.

17 * * *

18 Section 21. Method of Sale of Commodities.--* * *

19 (c) The [Attorney General] department may issue such
20 reasonable regulations as are necessary to assure that amounts
21 of commodity sold are determined in accordance with good
22 commercial practice and are so determined and represented as to
23 be accurate and informative to all parties at interest. In
24 issuing these regulations, the department shall recognize the
25 method of sale of commodities as stated in the National
26 Institute of Standards and Technology Handbook 130, except as
27 otherwise modified, amended or rejected by regulation.

28 Section 10. Sections 22 and 28 of the act, amended June 23,
29 1970 (P.L.423, No.141), are amended to read:

30 Section 22. Packages; Declarations of Quantity and Origin;

1 Variations; Exemptions.--(a) Except as otherwise provided in
2 this act, any commodity in package form introduced or delivered
3 for introduction into or received in intrastate commerce kept
4 for the purpose of sale or offered or exposed for sale in
5 intrastate commerce shall bear on the outside of the package
6 such definite, plain and conspicuous declarations of (1) the
7 identity of the commodity in the package unless the same can
8 easily be identified through the wrapper or container; (2) the
9 net quantity of the contents in terms of weight, measure or
10 count; and (3) in the case of any package kept, offered or
11 exposed for sale or sold any place other than on the premises
12 where packed, the name and place of business address of the
13 manufacturer, packer or distributor as may be prescribed by
14 regulation issued by the [Attorney General] department:

15 Provided, That, in connection with the declaration required
16 under clause (2), neither the qualifying term "when packed" or
17 any words of similar import nor any term qualifying a unit of
18 weight, measure or count (for example "jumbo," "giant," "full,"
19 and the like) that tends to exaggerate the amount of commodity
20 in a package shall be used.

21 (b) Under clause (2) of subsection (a) of this section, the
22 [Attorney General] department shall, by regulation, establish
23 (i) reasonable variations to be allowed which may include
24 variations below the declared weight or measure caused by
25 ordinary and customary exposure only after the commodity is
26 introduced into intrastate commerce to conditions that normally
27 occur in good distribution practice and that unavoidably result
28 in decreased weight or measure; (ii) exemptions as to small
29 packages; and (iii) exemptions as to commodities put up in
30 variable weights or sizes for sale intact and either customarily

1 not sold as individual units or customarily weighed or measured
2 at time of sale to the consumer.

3 (c) All commodities not considered as commodities in package
4 form within the meaning of the act or labeled as to net contents
5 at the time of sale, shall be counted, measured or weighed in
6 full view of the purchaser at the time of sale on a weighing or
7 measuring device approved by the department and inspected as to
8 accuracy by the several State, county and city inspectors of
9 weights and measures; and a statement of result of such count,
10 measure or weight shall be made to the purchaser by the person
11 making the sale. All commodities not considered as commodities
12 in package form within the meaning of the act or labeled as to
13 net contents at the time of sale, and which shall be ordered by
14 telephone or in some manner wherein the purchaser is not present
15 at the time the commodities are weighed, measured or counted,
16 shall have marked plainly thereon by the seller or his agent,
17 the contents either by weight, measure or count, or a written
18 memorandum of the same shall be delivered with the commodity to
19 purchaser.

20 Section 28. Meat, Poultry and Seafood.--(a) Except for
21 immediate consumption on the premises where sold, or as one of
22 several elements comprising a ready-to-eat meal sold as a unit
23 for consumption elsewhere than on the premises where sold, all
24 meat, meat products, poultry (whole or parts) and all seafood,
25 except shellfish offered or exposed for sale or sold as food,
26 shall be offered or exposed for sale and sold by weight.

27 (b) [When meat, poultry or seafood is combined with or
28 associated with some other food element or elements to form
29 either a distinctive food product or food combination, such food
30 product or combination shall be offered or exposed for sale and

1 sold by weight and the quantity representation may be the total
2 weight of the product or combination and a quantity
3 representation need not be made for each of the several elements
4 of the product or combination: Provided, That, for ready-to-
5 cook, whole carcass stuffed poultry, ready-to-cook stuffed
6 poultry roasts, rolls, bars and logs, and ready-to-cook stuffed
7 poultry products designated by terms of similar import, the
8 label must show the total net weight of the poultry product and
9 in proximity thereto, a statement specifying the minimum weight
10 of poultry in the product.] The following may be sold by weight,
11 measure or count:

12 (1) Items sold for consumption on the premises.

13 (2) Items sold as one of three or more different elements,
14 excluding condiments, comprising a ready-to-eat meal sold as a
15 unit, for consumption elsewhere than on the premises where sold.

16 (3) Ready-to-eat chickens and chicken parts cooked on the
17 premises but not packaged in advance of sale.

18 (4) Sandwiches when offered or exposed for sale on the
19 premises where packed or produced and not intended for resale.

20 Section 11. Sections 30 and 32 of the act are amended to
21 read:

22 Section 30. Fluid Dairy Products.--(a) All fluid dairy
23 products, including but not limited to whole milk, skimmed milk,
24 cultured milk, sweet cream, sour cream and buttermilk shall be
25 packaged for retail sale only in units of one gill, one-half
26 liquid pint, ten fluid ounces, twelve fluid ounces, one liquid
27 pint, one-third liquid quart, one liquid quart, or multiples of
28 one liquid quart, one-half gallon, one gallon or multiples of
29 one gallon.

30 (b) Packages in units of less than one gill shall be

1 permitted.

2 (c) Metric equivalent packages of fluid dairy products shall
3 only be units of 125 milliliters, 250 milliliters, 500
4 milliliters, 1 liter or multiples of 1 liter.

5 Section 32. Potatoes.--(a) All potatoes packed for sale,
6 offered or exposed for sale, in this Commonwealth, shall be
7 packaged in containers of net avoirdupois weights of three,
8 five, ten, fifteen, twenty, twenty-five, fifty and one hundred
9 pounds and multiples of one hundred pounds. Packages in units of
10 less than three pounds shall be permitted.

11 (b) The provisions of this section shall not apply to (1)
12 potatoes offered to the consumer at retail from bulk stock; (2)
13 the sale of potatoes to processors or for export; (3) the sale
14 of peeled, cut or sliced potatoes, or frozen or dehydrated
15 potatoes, or precooked dehydrated or dried potatoes; (4) the
16 sale of seed potatoes; or (5) the sale of sweet potatoes or
17 yams.

18 Section 12. Section 34 of the act, amended June 23, 1970
19 (P.L.423, No.141), is amended to read:

20 Section 34. Hindering or Obstructing Officer; Penalties.--
21 Any person who shall hinder or obstruct in any way the [Attorney
22 General] department, the director or any one of the inspectors
23 or a sealer or deputy sealer in the performance of his official
24 duties shall upon conviction thereof, in a summary proceeding be
25 punished by a fine of not less than twenty dollars (\$20) or more
26 than two hundred dollars (\$200), or by imprisonment for not more
27 than three months, or by both such fine and imprisonment.

28 Section 13. Section 35 of the act, amended December 18, 1968
29 (P.L.1247, No.396), is amended to read:

30 Section 35. Impersonation of Officer; Penalties.--Any person

1 who shall impersonate in any way the [Attorney General]
2 department, the director or any one of the inspectors or a
3 sealer or deputy sealer by the use of his seal or a counterfeit
4 of his seal or in any other manner shall be guilty of a
5 misdemeanor, and upon conviction thereof, shall be punished by a
6 fine of not less than one hundred dollars (\$100), or more than
7 five hundred dollars (\$500), or by imprisonment for not more
8 than one year, or by both such fine and imprisonment.

9 Section 14. Section 36 of the act, amended June 23, 1970
10 (P.L.423, No.141), is amended to read:

11 Section 36. Offenses and Penalties.--[Any person who, by
12 himself or by his servant or agent, or as the servant or agent
13 of another person, performs any one of the acts enumerated in
14 clauses (1) through (9) of this section, shall upon a first
15 conviction thereof in a summary proceeding be punished by a fine
16 of not less than twenty dollars (\$20) or more than two hundred
17 dollars (\$200). Any person who, by himself or by his servant or
18 agent, or as the servant or agent of another person, who is
19 convicted of performing any one of the acts enumerated in
20 clauses (1) through (9) of this section for a second or
21 subsequent time shall be guilty of a misdemeanor, and he shall
22 be punished by a fine of not less than one hundred dollars
23 (\$100), or more than five hundred dollars (\$500), or by
24 imprisonment for not more than one year, or by both such fine
25 and imprisonment.]

26 (a) A violation of any of the acts enumerated in subsection

27 (b) by a person or agent or his servant:

28 (1) Constitutes a summary offense punishable by a fine of
29 not less than one hundred dollars (\$100).

30 (2) Constitutes a summary offense for a second offense

1 punishable by a fine of not less than two hundred dollars
2 (\$200).

3 (3) Constitutes a summary offense for a third offense
4 punishable by a fine of not less than three hundred dollars
5 (\$300).

6 (4) Constitutes a misdemeanor of the third degree for a
7 fourth and subsequent offense punishable by a fine of not less
8 than five hundred dollars (\$500).

9 (b) (1) [Use,] To use or have in possession for the purpose
10 of using for any commercial purpose specified in section 10,
11 sell, offer or expose for sale or hire, or have in possession
12 for the purpose of selling or hiring, an incorrect weight or
13 measure or any device or instrument used to, or calculated to,
14 falsify any weight or measure.

15 (2) [Use,] To use or have in possession for the purpose of
16 current use for any commercial purpose specified in section 10,
17 a weight or measure that does not bear a seal or mark such as
18 specified in section 14 unless such weight or measure has been
19 exempted from testing by provisions of section 10 or by
20 regulation of the secretary issued under the authority of
21 section 8 of this act.

22 (3) [Dispose] To dispose of any rejected or condemned weight
23 or measure in a manner contrary to law or regulation.

24 (4) [Remove] To remove from any weight or measure contrary
25 to law or regulation any tag, seal or mark placed thereon by the
26 appropriate authority.

27 (5) [Sell,] To sell, offer or expose for sale less than the
28 quantity he represents of any commodity, thing or service:
29 Provided, however, That if a commodity is prepackaged by someone
30 other than the possessor, the possessor shall not be deemed to

1 have made a representation within the purview of this subsection
2 if the representation appears on the label of the prepackaged
3 commodity.

4 (6) [Take] To take more than the quantity he represents of
5 any commodity, thing or service when, as buyer, he furnishes the
6 weight or measure by means of which the amount of the commodity,
7 thing or service is determined.

8 (7) [Keep] To keep for the purpose of sale, advertise, offer
9 or expose for sale or sell any commodity, (except commodities
10 prepackaged by someone other than the possessor) or service in a
11 condition or manner contrary to law or regulation.

12 (8) [Use] To use in retail trade, except in the preparation
13 of packages put up in advance of sale, and of medical
14 prescriptions, a weight or measure that is not so positioned
15 that its indications may be accurately read and the weighing or
16 measuring operation observed from some position which may be
17 reasonably assumed by a customer.

18 (9) [Violate] To violate any provision of this act or of the
19 regulations promulgated under the provisions of this act for
20 which a specific penalty has not been prescribed.

21 Section 15. Section 37 of the act, amended December 18, 1968
22 (P.L.1247, No.396), is amended to read:

23 Section 37. Injunction.--The [Attorney General] department
24 is authorized to apply to any court of competent jurisdiction
25 for, and such court upon hearing and for cause shown may grant,
26 a temporary or permanent injunction restraining any person from
27 violating any provision of this act.

28 Section 16. This act shall take effect in 60 days.