

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 509 Session of
1995

INTRODUCED BY MADIGAN, MELLOW, WENGER, SALVATORE, BELAN,
HELFRICK, BRIGHTBILL, AFFLERBACH, HECKLER, LEMMOND, RHOADES,
DELP, ROBBINS, O'PAKE AND ANDREZESKI, FEBRUARY 14, 1995

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, FEBRUARY 14, 1995

AN ACT

1 Relating to weights and measures; regulating the use and sale;
2 providing for the inspection of weighing and measuring
3 devices; regulating the sale and packaging of commodities;
4 authorizing the regulation of persons engaged in selling,
5 installing and repairing commercial weighing and measuring
6 devices; providing for certain standards, for testing and for
7 the sale and packaging of certain commodities; providing for
8 the licensing of public weighmasters and defining their
9 powers and duties; regulating the sale and delivery of solid
10 fuel and other commodities sold by weight; regulating the
11 manufacture, sale, offering for sale, giving away and use of
12 weights and measures and of weighing and measuring devices;
13 providing for the approval and disapproval of such weighing
14 and measuring devices; regulating the delivery of light fuel
15 oil to domestic consumers; providing for certain powers and
16 duties of the Department of Agriculture; imposing penalties;
17 and making repeals.

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29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 CHAPTER 1

2 GENERAL PROVISIONS

3 Section 101. Short title.

4 This act shall be known and may be cited as the Consolidated
5 Weights and Measures Act.

6 Section 102. Definitions.

7 The following words and phrases when used in this act shall
8 have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Bureau." The Bureau of Ride and Measurement Standards in
11 the Department of Agriculture.

12 "Commodity." Anything such as goods, wares, merchandise,
13 compound mixture or preparation, products of manufacture or any
14 tangible personal property which may be lawfully kept, sold or
15 offered for sale or any product being transported by vehicle and
16 sold or priced by weight or any service priced by weight.

17 "Commodity in package form." Commodity put up or packaged in
18 any manner in advance of sale in units suitable for either
19 wholesale or retail sale exclusive, however, of any auxiliary
20 shipping container enclosing packages that individually conform
21 to the requirements of this act. An individual item or lot of
22 any commodity not in package form as defined in this section but
23 on which there is a marked selling price based on an established
24 price per unit of weight or measure shall be construed to be
25 commodity in package form.

26 "Consumer package" or "package of consumer commodity." A
27 commodity in package form that is customarily produced or
28 distributed for sale through retail sales agencies or
29 instrumentalities for consumption by individuals, or use by
30 individuals for the purposes of personal care or in the

1 performance of services ordinarily rendered in or about the
2 household or in connection with personal possessions and which
3 usually is consumed or expended in the course of the consumption
4 or use.

5 "Cord." When used in connection with wood intended for fuel
6 purposes, the amount of wood that is contained in a space of 128
7 cubic feet when the wood is racked and well stowed.

8 "Department." The Department of Agriculture of the
9 Commonwealth.

10 "Director." The Director of the Bureau of Ride and
11 Measurement Standards in the Department of Agriculture.

12 "Domestic consumers." Those in residences, apartment houses,
13 stores, churches, office buildings and similar edifices, as
14 distinguished from industrial plants.

15 "Inspector." A State inspector of weights and measures.

16 "Intrastate commerce." Any and all commerce or trade that is
17 begun, carried on and/or completed wholly within the limits of
18 this Commonwealth.

19 "Introduced into intrastate commerce." The time and place at
20 which the first sale and/or delivery of a commodity is made
21 within this Commonwealth, the delivery being made either
22 directly to the purchaser or to a common carrier for shipment to
23 the purchaser.

24 "Light fuel oils." Kerosene, number one fuel oil, number two
25 fuel oil, number three fuel oil and any similar oil used for
26 domestic heating as distinguished from heavy industrial oils.

27 "Nonconsumer package" or "package of nonconsumer commodity."
28 Any commodity in package form other than a consumer package, and
29 particularly a package designed solely for industrial or
30 institutional use or for wholesale distribution only.

1 "Person." Individual, partnership, corporation, company,
2 society and association.

3 "Sealer." A sealer or deputy sealer of weights and measures
4 of a city, county or joint city-county jurisdiction.

5 "Secretary." The Secretary of Agriculture of the
6 Commonwealth.

7 "Sell" or "sale." Barter and exchange.

8 "Solid fuel." Anthracite, semianthracite, bituminous,
9 semibituminous or lignite coal, briquettes, boulets, coke, gas-
10 house coke, petroleum coke, carbon, charcoal or any other
11 natural, manufactured or patented fuel not sold by liquid or
12 metered measure.

13 "Type." A class the individual objects of which are similar
14 to another in design construction, size and material.

15 "Use in trade or commerce." Buying or selling goods, wares,
16 merchandise or services.

17 "Weights" and "measures." All weights and measures of every
18 kind, instruments and devices for weighing and measuring and any
19 appliances and accessories associated with any or all such
20 instruments and devices. The term shall include, but not be
21 limited to, the following: parking meters, postal scales and
22 other scales used to determine shipping charges, pill counters,
23 coin-operated person weighers, coin-operated air dispensers and
24 coin-operated axle and vehicle scales. The term shall not be
25 construed to include meters for the measurement of electricity,
26 gas, natural or manufactured, steam, coolant or water or the
27 counting or timing of telephone calls when the same are operated
28 in a public utility system or taxi meters. Such electricity,
29 gas, steam, coolant, water and telephone meters and taxi meters
30 are hereby specifically excluded from the purview of this act

1 and none of the provisions of this act shall be construed to
2 apply to such meters or to any appliances or accessories
3 associated therewith.

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

6 CHAPTER 3

7 WEIGHTS AND MEASURES GENERALLY

8 Section 301. Systems of weights and measures.

9 The system of weights and measures in customary use in the
10 United States and the metric system of weights and measures are
11 jointly recognized and one or both of these systems shall be
12 used for all commercial purposes in this Commonwealth. The
13 definitions of basic units of weight and measure, the tables of
14 weight and measure and weights and measures equivalents as
15 published by the National Institute of Standards and Technology
16 are recognized and shall govern weighing and measuring equipment
17 and transactions within this Commonwealth.

18 Section 302. State standards of weight and measure.

19 Such weights and measures in conformity with the standards of
20 the United States as have been supplied to the Commonwealth by
21 the Federal Government or otherwise obtained by the Commonwealth
22 for use as State standards shall, when the same have been
23 certified as being satisfactory for use as such by the National
24 Institute of Standards and Technology, be the State standards of
25 weight and measure. The State standards shall be kept in a safe
26 and suitable place in the State Metrology Laboratory, shall not
27 be removed except for repairs or for certification and shall be
28 submitted at least once in ten years to the National Institute
29 of Standards and Technology for certification. The State
30 standards shall be used only in verifying the office standards

1 and for scientific purposes.

2 Section 303. Office and working standards and equipment.

3 In addition to the State standards provided for in section
4 302, there shall be supplied by the Commonwealth at least one
5 complete set of copies of the State standards to be kept in the
6 office or laboratory of the bureau and to be known as "office
7 standards" and also such "field standards" and such equipment as
8 may be found necessary to carry out the provisions of this act.
9 The office standards and field standards shall be verified upon
10 their initial receipt and, at least once each year thereafter,
11 the office standards by direct comparison with the State
12 standards and the field standards by comparison with the office
13 standards.

14 Section 304. Director and inspectors of weights and measures.

15 There shall be a director of weights and measures and
16 inspectors of weights and measures and necessary technical and
17 clerical personnel who shall be appointed by the department and
18 who shall collectively comprise the State Bureau of Ride and
19 Measurement Standards, of which the director shall be the chief.
20 The department shall be allowed such sums for salaries for the
21 director, the inspectors and the necessary technical and
22 clerical employees, for necessary equipment and supplies and for
23 traveling and contingent expenses as shall be appropriated by
24 the General Assembly.

25 Section 305. General powers and duties of department.

26 The State Metrology Laboratory shall have the custody of the
27 State standards of weight and measure and of the other standards
28 and equipment provided for by this act and shall keep accurate
29 records of the same. The department shall enforce the provisions
30 of this chapter and keep a general supervision over the weights

1 and measures offered for sale, sold or in use in this
2 Commonwealth.

3 Section 306. Specific powers and duties of department;
4 regulations.

5 (a) Regulations.--The department shall issue from time to
6 time regulations for the enforcement and administration of this
7 chapter, which regulations, upon being promulgated pursuant to
8 the act of July 31, 1968 (P.L.769, No.240), referred to as the
9 Commonwealth Documents Law and 45 Pa.C.S. Pt. II (relating to
10 publication and effectiveness of Commonwealth documents), shall
11 have the force and effect of law. These regulations may include:

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

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

19 (3) Exemptions from the sealing or marking requirements
20 of section 313 with respect to weights and measures of such
21 character or size that such sealing or marking would be
22 inappropriate, impracticable or damaging to the apparatus in
23 question.

24 (b) Specifics.--These regulations shall include
25 specifications, tolerances and regulations for weights and
26 measures of the character of those specified in section 308
27 designed to eliminate from use without prejudice to apparatus
28 that conforms as closely as practicable to the official
29 standards those:

30 (1) that are not accurate;

1 (2) that are of such construction that they are faulty,
2 that is, that are not reasonably permanent in their
3 adjustment or will not repeat their indications correctly; or

4 (3) that facilitate the perpetration of fraud.

5 The specifications, tolerances and regulations for commercial
6 weighing and measuring devices, together with amendments thereto
7 as recommended by the National Institute of Standards and
8 Technology and published in National Institute of Standards and
9 Technology Handbook 44, and supplements thereto, or in any
10 publication revising or superseding Handbook 44, shall be the
11 specifications, tolerances and regulations for commercial
12 weighing and measuring devices of the Commonwealth except
13 insofar as specifically modified, amended or rejected by a
14 regulation issued by the department. For the purposes of this
15 chapter, apparatus shall be deemed to be correct when it
16 conforms to all applicable requirements promulgated as specified
17 in this section; other apparatus shall be deemed to be
18 incorrect.

19 (c) Method.--Regulations shall be promulgated in the manner
20 provided in the Commonwealth Documents Law.

21 Section 307. Testing and inspections of standards.

22 The State Metrology Laboratory at least once every five years
23 shall test the standards of weight and measure procured by any
24 city or county for which a sealer of weights and measures has
25 been appointed, shall approve the same when found to be correct
26 and shall inspect such standards at least once every two years.

27 Section 308. General testing and inspections.

28 When not otherwise provided by law, the department shall have
29 the powers to inspect and test to ascertain if they are correct,
30 all weights and measures kept, offered or exposed for sale. It

1 shall be the duty of the department within a 12-month period, or
2 less frequently if in accordance with a schedule issued by it or
3 more frequently if deemed necessary, to inspect and test to
4 ascertain if they are correct, all weights and measures
5 commercially used:

6 (1) in determining the weight, measurement or count of
7 commodities or things sold, offered or exposed for sale on
8 the basis of weight, measure or count; or

9 (2) in computing the basic charge or payment for
10 services rendered on the basis of weight, measure or count or
11 of devices utilized to dispense services on time.

12 With respect to single-service devices, that is, devices
13 designed to be used commercially only once and to be then
14 discarded, and with respect to devices uniformly mass produced,
15 as by means of a mold or die and not susceptible to individual
16 adjustment, tests may be made on representative samples of such
17 devices and the lots of which such samples are representative
18 shall be held to be correct or incorrect upon the basis of the
19 results of the inspections and tests on such samples.

20 Section 309. Registration program.

21 The department shall have the authority to establish, by
22 regulation, a program requiring the registration of persons
23 engaged in the business of selling, installing, servicing and
24 repairing various types of commercial weighing and measuring
25 devices. The program may prescribe minimum field standards to be
26 maintained by those persons to adequately test and place
27 weighing and measuring devices into commercial service. The
28 program may also require that those persons give adequate notice
29 to the responsible weights and measures jurisdiction of the
30 installation of a commercial weighing and measuring device.

1 Section 310. Investigations.

2 The department shall investigate complaints made to it
3 concerning violations of the provisions of this chapter and
4 shall upon its own initiative, conduct such investigations as it
5 deems appropriate and advisable to develop information on
6 prevailing procedures in commercial quantity determination and
7 on possible violations of the provisions of this chapter and to
8 promote the general objective of accuracy in the determination
9 and representation of quantity in commercial transactions.

10 Section 311. Inspection of packages.

11 The department shall, from time to time, weigh or measure and
12 inspect packages or amounts of commodities kept, offered or
13 exposed for sale, sold or in the process of delivery to
14 determine whether the same contain the amounts represented and
15 whether they be kept, offered or exposed for sale or sold in
16 accordance with law; and when such packages or amounts of
17 commodities are found not to contain the amounts represented or
18 are found to be kept, offered or exposed for sale in violation
19 of law, the department may order them off sale and may so mark
20 or tag them as to show them to be illegal. In carrying out the
21 provisions of this section, the department shall use the
22 National Institute of Standards and Technology Handbook 133,
23 latest edition, containing any amendments or supplements
24 thereto, or which may be superseded by a new handbook, except
25 insofar as specifically modified, amended or rejected by a
26 regulation issued by the department. No person shall:

27 (1) sell or keep, offer or expose for sale in intrastate
28 commerce any package or amount of commodity that has been
29 ordered off sale or marked or tagged as provided in this
30 section, unless and until such package or amount of commodity

has been brought into full compliance with all legal requirements; or

(2) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements in any manner except with the specific approval of the department.

Section 312. Stop-use, stop-removal and removal orders.

(a) Orders.--The department shall have the power to issue stop-use orders, stop-removal orders and removal orders with respect to weights and measures being or susceptible of being commercially used and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold or in the process of delivery, whenever, in the course of the department's enforcement of the provisions of this chapter, the department deems it necessary or expedient to issue such orders.

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

(c) Appeal.--Whenever an aggrieved person shall appeal or seek to enjoin enforcement of any order issued by the department pursuant to this section, such proceeding shall be brought in the court of common pleas of the judicial district in which the weight, measure or commodity was located at the time of the issuance of the department's order.

Section 313. Disposition of correct and incorrect apparatus.

(a) Approval and disapproval.--The department shall approve

1 for use and seal or mark with appropriate devices such weights
2 and measures as it finds upon inspection and test to be correct
3 as defined in section 306 and shall reject and mark or tag
4 "rejected" such weights and measures as it finds upon inspection
5 or test to be incorrect as defined in section 306, but which in
6 its best judgment are susceptible to satisfactory repair. The
7 sealing or marking shall not be required with respect to such
8 weights and measures as may be exempted therefrom by regulation
9 of the department issued under the authority of section 306.

10 (b) Seizure and disposition.--The department shall condemn
11 and may seize and may destroy weights and measures found to be
12 incorrect that in its best judgment are not susceptible to
13 satisfactory repair. Weights and measures that have been
14 rejected may be confiscated and may be destroyed by the
15 department if not corrected as required by section 320 or if
16 used or disposed of contrary to the requirements of section 320.
17 Section 314. Police powers; right of entry and stoppage.

18 (a) Seizure without warrant.--With respect to the
19 enforcement of this act and any other acts dealing with weights
20 and measures the department may seize for use as evidence
21 without formal warrant, incorrect or unsealed weights and
22 measures or amounts or packages of commodity found, prior to
23 seizure, to be used, retained, offered or exposed for sale or
24 sold in violation of law.

25 (b) Compliance.--The department is authorized to enter and
26 go into or upon, without formal warrant, any structure or
27 premises and to stop any person whosoever and to require him to
28 proceed with or without any vehicle of which he may be in charge
29 to the nearest available testing apparatus tested and approved
30 by the department, a city or a county.

1 (c) Method.--The department shall utilize the method of sale
2 of commodities as stated in the National Institute of Standards
3 and Technology Handbook 130, except insofar as specifically
4 modified, amended or rejected by a regulation issued by the
5 department.

6 Section 315. Powers and duties of director and inspector.

7 The powers and duties given to and imposed upon the
8 department by sections 307, 308, 310, 311, 312, 313, 314, 318
9 and 337 are hereby given to and imposed upon the director and
10 inspector also when acting under the instructions and at the
11 direction of the department.

12 Section 316. City and county sealers and deputy sealers of
13 weights and measures; powers and duties.

14 The sealer of a city or of a county and his deputy sealers,
15 when acting under his instructions and at his direction, shall
16 have the same powers and shall perform the same duties within
17 the city or the county for which appointed as are granted to and
18 imposed upon the director by sections 308, 310, 311, 312, 313,
19 314 and 337.

20 Section 317. City and county standards and equipment.

21 (a) Procurement of standards.--The mayor of each city and
22 the board of county commissioners of each county for which a
23 sealer has been appointed shall:

24 (1) Procure at the expense of the city or county, as the
25 case may be, such standards of weight and measure and such
26 additional equipment to be used for the enforcement of the
27 provisions of this chapter in such city or county as may be
28 prescribed by the department.

29 (2) Provide a suitable office for the sealer.

30 (3) Make provisions for the necessary clerical services,

1 supplies and transportation and for defraying contingent
2 expenses incident to the official activities of the sealer in
3 carrying out the provisions of this chapter.

4 (b) Official.--When the standards of weight and measure
5 required by this section to be provided by a city or county
6 shall have been examined and approved by the department, they
7 shall be the official standards for the city or county.

8 (c) Comparisons.--It shall be the duty of the sealer to make
9 or to arrange to have made, at least as frequently as once a
10 year, comparisons between his field standards and appropriate
11 standards of a higher order belonging to his city or county, as
12 the case may be, or to the Commonwealth in order to maintain the
13 field standards in accurate condition.

14 Section 318. Concurrent jurisdiction.

15 In cities and counties for which sealers of weights and
16 measures have been appointed as provided for by local
17 regulations, the department shall have concurrent authority to
18 enforce the provisions of this act.

19 Section 319. Division of responsibilities.

20 The department may enter into memorandums of understanding
21 with counties and with cities employing sealers of weights and
22 measures for a division of inspection responsibilities in the
23 respective jurisdiction. The agreement shall be reviewed and
24 updated annually.

25 Section 320. Duty of owners of incorrect apparatus.

26 (a) Rejected apparatus.--Weights and measures that have been
27 rejected under the authority of the department or of a sealer
28 shall remain subject to the control of the rejecting authority
29 until such time as suitable repair or disposition thereof has
30 been made as required by this section.

1 (b) Corrections.--The owners of rejected weights and
2 measures shall cause the same to be made correct within 30 days,
3 or such longer period as may be authorized by the rejecting
4 authority, or in lieu of this may dispose of the same, but only
5 in such manner as is specifically authorized by the rejecting
6 authority.

7 (c) Reexamination.--Weights and measures that have been
8 rejected shall not again be used commercially until they have
9 been officially reexamined and found to be correct or until
10 specific written permission for use is issued by the rejecting
11 authority.

12 Section 321. Method of sale of commodities.

13 (a) Liquid commodities.--General commodities in liquid form
14 shall be sold only by liquid measure or by weight, and, except
15 as otherwise provided in this chapter, commodities not in liquid
16 form shall be sold only by weight, measure of length or area or
17 by count. Liquid commodities may be sold by weight, and
18 commodities not in liquid form may be sold by count only if such
19 methods give accurate information as to the quantity of
20 commodity sold.

21 (b) Applicability.--The provisions of this section shall not
22 apply to:

23 (1) commodities when sold for immediate consumption on
24 the premises where sold;

25 (2) vegetables when sold by the head or bunch;

26 (3) commodities in containers standardized by Federal or
27 State law;

28 (4) commodities in package form when there exists a
29 general consumer usage to express the quantity in some other
30 manner;

1 (5) concrete aggregates, concrete mixtures and loose
2 solid materials such as earth, soil, gravel, crushed stone
3 and the like when sold by cubic measure; or

4 (6) unprocessed vegetable and animal fertilizer when
5 sold by cubic measure.

6 (c) Regulations.--The department may issue such reasonable
7 regulations as are necessary to assure that amounts of commodity
8 sold are determined in accordance with good commercial practice
9 and are so determined and represented as to be accurate and
10 informative to all parties at interest. In issuing these
11 regulations, the department shall recognize the method of sale
12 of commodities as stated in the National Institute of Standards
13 and Technology Handbook 130, except as otherwise modified,
14 amended or rejected by regulation.

15 Section 322. Packages; declarations of quantity and origin;
16 variations; exemptions.

17 (a) Declarations.--Except as otherwise provided in this
18 chapter, any commodity in package form introduced or delivered
19 for introduction into or received in intrastate commerce kept
20 for the purpose of sale or offered or exposed for sale in
21 intrastate commerce shall bear on the outside of the package
22 such definite, plain and conspicuous declarations of:

23 (1) The identity of the commodity in the package unless
24 the same can easily be identified through the wrapper or
25 container.

26 (2) The net quantity of the contents in terms of weight,
27 measure or count.

28 (3) In the case of any package kept, offered or exposed
29 for sale or sold any place other than on the premises where
30 packed, the name and place of business address of the

1 manufacturer, packer or distributor as may be prescribed by
2 regulation issued by the department provided that, in
3 connection with the declaration required under paragraph (2),
4 neither the qualifying term "when packed" or any words of
5 similar import nor any term qualifying a unit of weight,
6 measure or count (for example "jumbo," "giant," "full" and
7 the like) that tends to exaggerate the amount of commodity in
8 a package shall be used.

9 (b) Reasonable variations.--Under subsection (a)(2), the
10 department shall, by regulation, establish:

11 (1) Reasonable variations to be allowed which may
12 include variations below the declared weight or measure
13 caused by ordinary and customary exposure only after the
14 commodity is introduced into intrastate commerce to
15 conditions that normally occur in good distribution practice
16 and that unavoidably result in decreased weight or measure.

17 (2) Exemptions as to small packages.

18 (3) Exemptions as to commodities put up in variable
19 weights or sizes for sale intact and either customarily not
20 sold as individual units or customarily weighed or measured
21 at time of sale to the consumer.

22 (c) Other commodities.--All commodities not considered as
23 commodities in package form within the meaning of this act or
24 labeled as to net contents at the time of sale shall be counted,
25 measured or weighed in full view of the purchaser at the time of
26 sale on a weighing or measuring device approved by the
27 department and inspected as to accuracy by several State, county
28 and city inspectors of weights and measures, and a statement of
29 result of such count, measure or weight shall be made to the
30 purchaser by the person making the sale. All commodities not

1 considered as commodities in package form within the meaning of
2 this act or labeled as to net contents at the time of sale, and
3 which shall be ordered by telephone or in some manner wherein
4 the purchaser is not present at the time the commodities are
5 weighed, measured or counted, shall have marked plainly thereon
6 by the seller or his agent, the contents either by weight,
7 measure or count or a written memorandum of the same shall be
8 delivered with the commodity to purchaser.

9 Section 323. Declarations of unit price on random packages.

10 In addition to the declarations required by section 322, any
11 commodity in package form, the package being one of a lot
12 containing random weights, measures or counts of the same
13 commodity and bearing the total selling price of the package,
14 shall bear on the outside of the package a plain and conspicuous
15 declaration of the price per single unit of weight, measure or
16 count.

17 Section 324. Misleading packages.

18 (a) Packaging.--No commodity in package form shall be so
19 wrapped nor shall it be in a container so made, formed or filled
20 as to mislead the purchaser as to the quantity of the contents
21 of the package.

22 (b) Contents.--The contents of a container shall not fall
23 below such reasonable standard of fill as may have been
24 prescribed for the commodity in question by the secretary.

25 Section 325. Advertising packages for sale.

26 (a) Quantity of contents.--Whenever a commodity in package
27 form is advertised in any manner and the retail price of the
28 package is stated in the advertisement, there shall be closely
29 and conspicuously associated with such statement of price a
30 declaration of the basic quantity of contents of the package as

1 is required by law or regulation to appear on the package.

2 (b) Exaggerations prohibited.--In connection with the
3 declaration required under this section, there shall be declared
4 neither the qualifying term "when packed" nor any other words of
5 similar import nor any term qualifying a unit of weight, measure
6 or count (for example "jumbo," "giant," "full" and the like)
7 that tends to exaggerate the amount of commodity in the package.

8 (c) Dual declaration.--Where the law or regulation requires
9 a dual declaration of net quantity to appear on the package,
10 only the smaller of the two units of weight or measure need
11 appear in the advertisement.

12 Section 326. Sale by net weight.

13 The word "weight" as used in this chapter in connection with
14 any commodity shall mean net weight. Whenever any commodity is
15 sold on the basis of weight, the net weight of the commodity
16 shall be employed and all contracts concerning commodities shall
17 be so construed.

18 Section 327. Misrepresentation of price.

19 (a) Pricing.--Whenever any commodity or service is sold or
20 is offered, exposed or advertised for sale by weight, measure or
21 count, the price shall not be misrepresented nor shall the price
22 be represented in any manner calculated or tending to mislead or
23 deceive an actual or prospective purchaser.

24 (b) Unit of weight.--Whenever an advertised, posted or
25 labeled price per unit of weight, measure or count includes a
26 fraction of a cent, all elements of the fraction shall be
27 prominently displayed, and the numeral or numerals expressing
28 the fraction shall be immediately adjacent to, of the same
29 general design and style as and at least one-half the height and
30 width of the numerals representing the whole cents.

1 Section 328. Meat, poultry and seafood.

2 Except for immediate consumption on the premises where sold
3 or as one of several elements comprising a ready-to-eat meal
4 sold as a unit for consumption elsewhere than on the premises
5 where sold, all meat, meat products, poultry (whole or parts)
6 and all seafood, except shellfish offered or exposed for sale or
7 sold as food, shall be offered or exposed for sale and sold by
8 weight. The following may be sold by weight, measure or count:

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

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

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

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

19 Section 329. Butter, oleomargarine and margarine.

20 Butter, oleomargarine and margarine shall be offered and
21 exposed for sale and sold by weight and only in units of one-
22 quarter pound, one-half pound or one pound. Butter may be sold
23 in multiples of one pound. Tub butter packaged on the premises
24 where sold and in advance of sale may be sold in random weights.

25 Section 330. Fluid dairy products.

26 (a) Quantities.--All fluid dairy products, including, but
27 not limited to, whole milk, skimmed milk, cultured milk, sweet
28 cream, sour cream and buttermilk, shall be packaged for retail
29 sale only in units of one gill, one-half liquid pint, ten fluid
30 ounces, 12 fluid ounces, one liquid pint, one-third liquid

1 quart, one liquid quart, or multiples of one liquid quart, one-
2 half gallon, one gallon or multiples of one gallon.

3 (b) Small packages.--Packages in units of less than one gill
4 shall be permitted.

5 (c) Metric.--Metric equivalent packages of fluid dairy
6 products shall only be units of 125 milliliters, 250
7 milliliters, 500 milliliters, 1 liter or multiples of 1 liter.

8 Section 331. Flour, corn meal and hominy grits.

9 (a) Increments of weight.--When in package form and when
10 packed, kept, offered or exposed for sale or sold, wheat flour,
11 whole wheat flour, graham flour, self-rising wheat flour,
12 phosphated wheat flour, bromated flour, enriched flour, enriched
13 self-rising flour, enriched bromated flour, corn flour, corn
14 meal and hominy grits shall be packaged only in units of 3, 5,
15 10, 25, 50 or 100 pounds of avoirdupois weight.

16 (b) Small packages.--Packages in units of less than three
17 pounds or more than 100 pounds shall be permitted.

18 Section 332. Potatoes.

19 (a) Increments of weight.--All potatoes packed for sale,
20 offered or exposed for sale, in this Commonwealth, shall be
21 packaged in containers of net avoirdupois weights of 3, 5, 10,
22 15, 20, 25, 50 and 100 pounds and multiples of one hundred
23 pounds. Packages in units of less than three pounds shall be
24 permitted.

25 (b) Exceptions.--The provisions of this section shall not
26 apply to:

27 (1) potatoes offered to the consumer at retail from bulk
28 stock;

29 (2) the sale of potatoes to processors or for export;

30 (3) the sale of peeled, cut or sliced potatoes, or frozen

1 or dehydrated potatoes, or precooked dehydrated or dried
2 potatoes;

3 (4) the sale of seed potatoes; or

4 (5) the sale of sweet potatoes or yams.

5 Section 333. Construction of contracts.

6 Fractional parts of any unit of weight or measure shall mean
7 like fractional parts of the value of such unit as prescribed or
8 defined in sections 102 and 301 and all contracts concerning the
9 sale of commodities and services shall be construed in
10 accordance with this requirement.

11 Section 334. Hindering or obstructing officer; penalties.

12 Any person who shall hinder or obstruct in any way the
13 department, the director or any one of the inspectors or a
14 sealer or deputy sealer in the performance of his official
15 duties shall, upon conviction in a summary proceeding, be
16 sentenced to pay a fine of not less than \$20 or more than \$200
17 or to imprisonment for not more than three months, or both.

18 Section 335. Impersonation of officer; penalties.

19 Any person who shall impersonate in any way the department,
20 the director or any one of the inspectors or a sealer or deputy
21 sealer by the use of his seal or a counterfeit of his seal or in
22 any other manner commits a misdemeanor and, upon conviction,
23 shall be sentenced to pay a fine of not less than \$100 or more
24 than \$500 or to imprisonment for not more than one year, or
25 both.

26 Section 336. Prohibited acts.

27 It shall be unlawful:

28 (1) To use or have in possession for the purpose of
29 using for any commercial purpose specified in section 308,
30 sell, offer or expose for sale or hire, or have in possession

1 for the purpose of selling or hiring, an incorrect weight or
2 measure or any device or instrument used to or calculated to
3 falsify any weight or measure.

4 (2) To use or have in possession for the purpose of
5 current use for any commercial purpose specified in section
6 308 a weight or measure that does not bear a seal or mark
7 such as specified in section 313 unless such weight or
8 measure has been exempted from testing by provisions of
9 section 308 or by regulation of the secretary issued under
10 the authority of section 306.

11 (3) To dispose of any rejected or condemned weight or
12 measure in a manner contrary to law or regulation.

13 (4) To remove from any weight or measure contrary to law
14 or regulation any tag, seal or mark placed thereon by the
15 appropriate authority.

16 (5) To sell, offer or expose for sale less than the
17 represented quantity of any commodity, thing or service,
18 provided, however, that, if a commodity is prepackaged by
19 someone other than the possessor, the possessor shall not be
20 deemed to have made a representation within the purview of
21 this subsection if the representation appears on the label of
22 the prepackaged commodity.

23 (6) To take more than the quantity he represents of any
24 commodity, thing or service when, as buyer, he furnishes the
25 weight or measure by means of which the amount of the
26 commodity, thing or service is determined.

27 (7) To keep for the purpose of sale, advertise, offer or
28 expose for sale or sell any commodity except commodities
29 prepackaged by someone other than the possessor, or service
30 in a condition or manner contrary to law or regulation.

1 necessary to carry out the provisions of this chapter.

2 Section 502. Licenses.

3 (a) Requirement.--Except as otherwise provided in this
4 chapter, no person shall make or issue a weighmaster's
5 certificate unless licensed by the department. Application for a
6 license shall be made upon a form prescribed by the department.
7 The application shall contain the following:

8 (1) The name and address of the business or businesses
9 for which the public weighmaster will be conducting weighing.

10 (2) The name and address of the residence of the
11 applicant.

12 (3) The scale locations where weighing will be conducted
13 by the weighmaster.

14 (b) Referral.--The department may refer any application for
15 a license as a weighmaster to any city or county inspector of
16 weights and measures for a report as to the accuracy of the
17 statements made on the application, the suitability of the scale
18 or scales to be used by the applicant and such other information
19 as the department may require.

20 (c) Fee.--The applicant shall pay to the department a
21 license fee of \$60, which shall be remitted to the State
22 Treasurer through the Department of Revenue. The license shall
23 be for a period of two years from the date of issue. A license
24 may be renewed at the discretion of the department for
25 successive periods of not more than two years each upon payment
26 to the department of a license fee of \$60, which shall be
27 remitted to the State Treasurer through the Department of
28 Revenue.

29 (d) Display.--Each license or a duplicate thereof shall be
30 kept conspicuously displayed at the place where the weighmaster

1 is engaged in weighing. In the event of the change of any name
2 or address appearing on any application, the licensed
3 weighmaster shall notify the department of the change within 48
4 hours.

5 (e) Suspension or revocation.--After a hearing and upon due
6 notice to the licensee, a license may be suspended or revoked by
7 the department for dishonesty, incompetency, inaccuracy or
8 failure to notify the department of any change of name or
9 address stated in the application, and a license may be revoked
10 by the department without hearing if the licensed weighmaster
11 has been found guilty of any violation of the provisions of this
12 chapter or if the licensed weighmaster has ceased to be employed
13 at the places of weighing for which the license has been issued.

14 (f) Records.--The Secretary shall keep a record of all
15 applications received and of all licenses issued.

16 (g) Rules.--The secretary may adopt rules for determining
17 the qualifications of an applicant for a license as a licensed
18 public weighmaster.

19 Section 503. 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 or
27 other means of permanent identification.

28 (5) The signature and license number of the licensed
29 weighmaster who weighed the commodity and who issued the
30 weighmaster's certificate.

1 (6) The date and hour when weighed.

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

8 (8) A sequential serial number.

9 Section 504. Preparation of weighmaster's certificate.

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

27 Section 505. Use of approved weighing device required.

28 When making a weight determination as provided for by this
29 chapter, a licensed public weighmaster shall use a weighing
30 device approved by the bureau in accordance with Chapter 7 which

1 is of a type suitable for the weighing of the amount and kind of
2 material to be weighed and which has been tested and approved
3 for use by a weights and measures officer of this Commonwealth
4 preceding the date of the weighing.

5 Section 506. Scale requirement.

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

10 Section 507. Disposition of copies of certificates.

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

21 Section 508. License required; definition.

22 (a) License required.--No person shall assume the title
23 "licensed public weighmaster" or any title or similar import,
24 perform the duties or acts to be performed by a licensed public
25 weighmaster under this chapter, hold himself or herself out as a
26 licensed public weighmaster, issue any weighmaster's
27 certificate, ticket memorandum or statement, or engage in the
28 full-time or part-time business of public weighing, unless he
29 holds a valid license as a licensed public weighmaster.

30 (b) Definition.--As used in this section, the term "public

1 weighing" means the weighing of any commodity.

2 Section 509. Suspension or revocation of licenses.

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

5 (1) when he is satisfied, after a hearing, upon ten
6 days' notice to the licensee, that the licensee has violated
7 any provision of this chapter or of any valid regulation of
8 the secretary affecting licensed public weighmasters; or

9 (2) when a licensed public weighmaster has been
10 convicted in any court of competent jurisdiction of violating
11 any provision of this chapter or any regulation issued under
12 authority of this chapter.

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

22 Section 510. Prohibited acts.

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

24 (1) For a weighmaster to issue a false or incorrect
25 weighmaster's certificate.

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

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

1 (4) For a person to print or distribute any forms of
2 weighmaster's certificates unless authorized to do so by the
3 department.

4 (5) For a person to use a false or incorrect
5 weighmaster's certificate or a weighmaster's certificate not
6 bearing the signature and license number of a licensed
7 weighmaster and the license number of the vehicle and trailer
8 or other means of permanent identification.

9 (6) For a weighmaster knowingly to permit a
10 weighmaster's certificate to be issued or used which purports
11 to bear the weighmaster's signature and which was not in fact
12 signed by the weighmaster at a time of weighing or which
13 expresses a gross, tare or net weight not ascertained by the
14 weighmaster.

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

17 (8) For a person to furnish a false name or address of a
18 purchaser to the licensed weighmaster at the time of
19 weighing.

20 (9) For a person to permit any diminution of a load
21 before its delivery to the purchaser or purchasers of the
22 load.

23 (10) Except as otherwise provided in this chapter, for a
24 person to fail, neglect or refuse to deliver a correct and
25 lawful weighmaster's certificate to the purchaser of a
26 commodity whose name and address appears on the weighmaster's
27 certificate.

28 (11) For a person to otherwise directly or indirectly
29 violate a provision of this chapter.

30 (b) Prima facie evidence of short weight.--Whenever any

1 commodity is sold and delivered to the purchaser named in the
2 approved weighmaster's certificate and the seller or the
3 seller's representative neglects, fails or refuses to deliver an
4 approved weighmaster's certificate at the time of delivery, or
5 the net weight of the commodity is determined to be less than
6 the net amount stated on the approved weighmaster's certificate
7 or as otherwise represented to the purchaser, prima facie
8 evidence of short weight shall exist, and the seller may be
9 prosecuted under this section for short weight.

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

18 Section 511. Sales by weight.

19 Any commodity shall be duly weighed by a licensed weighmaster
20 of this Commonwealth on accurate scales which are suitable for
21 weighing the tare and gross weight of the vehicle or vehicle and
22 trailer transporting the commodity and which are located in this
23 Commonwealth and have been tested and approved by an official
24 empowered by law to test the scales. Weighing shall be done by a
25 licensed weighmaster at the time of sale or delivery.

26 Section 512. Separation required.

27 When more than one type of solid fuel or other commodity is
28 sold or delivered to a consumer, the vehicle making the delivery
29 shall have a partition separating each type of solid fuel or
30 other commodity, and each type shall be accompanied by a

1 weighmaster's certificate, except as otherwise provided for in
2 this chapter.

3 Section 513. Substitution of another purchaser in weighmaster's
4 certificate.

5 If a person is, for practical reasons, unable to deliver a
6 commodity to the purchaser originally designated in the
7 weighmaster's certificate, the person may substitute the name
8 and address of another purchaser, provided that a report of the
9 substitution is made to the licensed weighmaster within 24
10 hours.

11 Section 514. Authorization to inspect and direct to nearest
12 scales.

13 Any State, county or city inspector of weights and measures
14 who finds any commodity ready for or in process of delivery may
15 inspect the commodity as to its weight and may direct the person
16 in charge of the delivery of the commodity to convey the
17 commodity to the nearest available scales operated by a
18 weighmaster designated by the inspector. The commodity inspector
19 shall determine the gross weight of the commodity and the
20 vehicle on which it is carried and shall direct the person in
21 charge to return to the scales immediately upon unloading the
22 commodity. Upon return of the vehicle, the inspector shall
23 determine the weight of the vehicle without load and determine
24 the net weight of the load delivered. The person in charge of a
25 vehicle containing such a commodity or from which the commodity
26 has been unloaded shall not fail to take the vehicle, upon the
27 direction of the inspector of weights and measures, to the
28 scales required in this section and shall not refuse to permit
29 the commodity or vehicle to be weighed.

30 Section 515. Weighmaster's certificate required.

1 (a) General rule.--No person shall sell, transport over a
2 public highway, deliver or cause to be delivered or start out to
3 deliver any solid fuel in a lot or lots in amounts exceeding 100
4 pounds without each lot in each separate compartment of the
5 vehicle or vehicle and trailer being accompanied by a
6 weighmaster's certificate issued by a licensed weighmaster of
7 this Commonwealth. This subsection does not apply when weighing
8 takes place at the point of delivery or sale.

9 (b) Exception.--This section shall not apply to a producer
10 of solid fuel who furnishes proof, satisfactory to the
11 department or to an inspector of weights and measures, that the
12 solid fuel being transported comes from the producer's own mine,
13 is the producer's own property and is being transported for a
14 purpose other than for sale.

15 Section 516. Small lots.

16 When solid fuel is sold in lots not exceeding 100 pounds, the
17 provisions of section 515(a) shall not apply if the solid fuel
18 is delivered in closed containers or closed bags and the net
19 contents of the bag or container, expressed in avoirdupois
20 pounds, the type of coal and the name, address, city, state and
21 zip code of the seller are plainly stamped or printed on the
22 containers or bags or upon a tag securely attached to the
23 containers or bags.

24 Section 517. Exception for boatloads or railroad carloads.

25 Section 515(a) shall not apply to the sale of a boatload or
26 railroad carload of solid fuel delivered directly from the boat
27 or car to a purchaser and accepted as to weight by the purchaser
28 on the bill of lading or other voucher issued by the carrier.

29 Section 518. Rules and regulations.

30 The secretary shall have the power to adopt and promulgate

1 rules and regulations necessary to carry out the provisions of
2 this chapter. All previous rules and regulations shall remain in
3 full force and effect until new or amended rules and regulations
4 are adopted by the secretary.

5 Section 519. Sales by employer-producer to employees.

6 In any case where under the provisions of a contract it is
7 provided that solid fuel be sold at cost by an employer-producer
8 to his employees for their own use and consumption, the solid
9 fuel may be sold by cubic contents instead of weight, but no
10 solid fuel so sold shall be transported over the highways of
11 this Commonwealth from the place of production to the residence
12 of the employee unless the operator of the vehicle possesses a
13 certificate of origin. The certificates of origin shall contain
14 such information as may be prescribed by the department and
15 shall be signed by the producer or the producer's agent, and a
16 copy of each certificate shall be kept at the place of
17 production for at least two years.

18 Section 520. Existing licenses.

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

28 CHAPTER 7

29 Device Type Approval

30 Section 701. Approval of types of weights and measures and

1 weighing and measuring devices.

2 The bureau is authorized to pass upon each type of weight and
3 measure and weighing and measuring device manufactured, offered
4 or exposed for sale or sold or given away for the use in trade
5 or commerce or used in trade or commerce in this Commonwealth,
6 and to approve or disapprove of each type. The bureau shall
7 approve each type of weight and measure and weighing and
8 measuring device submitted to it for approval by any person if
9 such type is so designed and constructed that it conforms to or
10 gives correct results in terms of standard weights or measures
11 or in terms of values derived therefrom, and is reasonably
12 permanent in its indication and adjustment, and does not
13 facilitate the perpetration of fraud; otherwise the bureau shall
14 disapprove the same. Certificates of conformance issued under
15 the National Type Evaluation Program (NTEP), as administered by
16 the National Conference of Weights and Measures, shall be
17 recognized by the bureau. The director of the bureau may require
18 any weight or measure or any weighing or measuring instrument or
19 device to be issued a certificate of conformance, as issued by
20 the National Institute of Standards and Technology, prior to use
21 for commercial or law enforcement purposes. Weighing and
22 measuring devices sold within this Commonwealth and designed to
23 calculate a service for a charge shall only be subject to
24 provisions of this chapter upon issuance of a rule or regulation
25 by the department, specifically designating which services and
26 types of devices would be subject to type approval by the
27 bureau. When issuing such rules or regulations, the department
28 may grandfather by exemption devices already installed and used
29 for calculating a service.

30 Section 702. Submission of types for approval.

1 The submission of a type may be by sample or by
2 specifications if, in the best judgment of the bureau, such
3 specifications are adequate or in such other manner as may be
4 prescribed by the rules and regulations promulgated under the
5 authority of this chapter.

6 Section 703. Certificates of approval; notice of disapproval;
7 appeals.

8 When a type of weight or measure or weighing or measuring
9 device is approved, the bureau shall issue a certificate of
10 approval to the person submitting such type. When a type is
11 disapproved, the bureau shall notify the person submitting the
12 same of its decision, setting out the reasons therefor, together
13 with such information and references as may be useful in judging
14 of the propriety of the disapproval, and shall give the person
15 an opportunity to be heard in support of his application for
16 approval. The bureau shall then reconsider its decision. If the
17 new decision is adverse to the person and he is dissatisfied
18 with the same, he may take an appeal from this decision to the
19 department, which shall examine the matter and decide whether
20 the type should be approved or disapproved. If the person is
21 dissatisfied with the decision of the department, he may appeal
22 in accordance with the law.

23 Section 704. Manufacture, sale or use of unapproved weights,
24 measures and devices.

25 It shall be unlawful for any person to manufacture, offer or
26 expose for sale or sell or give away for use in trade or
27 commerce or to use in trade or commerce any weight or measure or
28 weighing and measuring device of a type not approved in
29 accordance with the provisions of this chapter.

30 Section 705. Marking of approved weights and measures.

1 It shall be unlawful to manufacture, offer or expose for sale
2 or sell or give away for use in trade or commerce or to use in
3 trade or commerce any weight or measure or weighing or measuring
4 device unless it shall be conspicuously, clearly and permanently
5 marked for purposes of identification with the name, initials or
6 trademark of the manufacturer, and with the manufacturer's
7 designation, which positively identifies the pattern or the
8 design of the device and in such manner as may be prescribed by
9 rules and regulations authorized by this chapter, provided,
10 however, that, whenever it shall appear to the satisfaction of
11 the bureau that any type of weight or measure or weighing or
12 measuring device is such as to render it impracticable to mark
13 it as required by this section, the bureau shall furnish a
14 certificate to that effect to any manufacturer applying for the
15 same, and such weights and measures and weighing and measuring
16 devices need not be marked as required by the provisions of this
17 section.

18 Section 706. Marking of weights and measures "not legal for
19 trade."

20 It shall be conclusively presumed that a weight or measure or
21 weighing or measuring device is intended for use in trade or
22 commerce if it is manufactured, offered or exposed for sale or
23 sold for use in this Commonwealth, or is used therein, unless it
24 shall bear a plain, legible, conspicuous and permanent statement
25 to this effect "Not legal for trade." It shall be unlawful to
26 use in trade or commerce any weight or measure or weighing or
27 measuring device which is marked as described above, provided,
28 however, that, whenever it shall appear to the satisfaction of
29 the bureau that any type of weight or measure or weighing or
30 measuring device is such as to render it impracticable to mark

1 it as required by this section or is of such design and
2 construction that it is obviously not intended for use in trade
3 or commerce, the bureau shall furnish a certificate to that
4 effect to any manufacturer applying for the same, and such types
5 of weights and measures and weighing and measuring devices need
6 not be marked as required by the provisions of this section.

7 Section 707. Rules and regulations.

8 Rules and regulations for the carrying out and enforcement of
9 the provisions of this chapter, not inconsistent with the
10 provisions thereof, shall be adopted by the department, which
11 rules and regulations shall include reasonable variations or
12 tolerances which may be allowed on weights and measures and
13 weighing and measuring devices included within the provisions of
14 this chapter, and also specifications for such weights and
15 measures and weighing and measuring devices for the guidance of
16 manufacturers in the design and construction of such weights and
17 measures and weighing and measuring devices.

18 Section 708. Sealing of approved weights and measures.

19 Inspectors of weights and measures of this Commonwealth and
20 sealers of the several counties and cities of this Commonwealth
21 may seal, for use in trade or commerce, all weights and measures
22 and weighing and measuring devices, the type of which has been
23 approved as required by the provisions of this chapter or
24 specifically exempted from the necessity of approval by the
25 provisions of this chapter when they find that the same are
26 within the tolerances prescribed under the rules and
27 regulations, provided, however, that this shall not be construed
28 as meaning that the approval of a type shall be taken as
29 evidence of the correctness of any individual weight or measure
30 or weighing or measuring device of that type, or prevent any

1 such inspector or sealer of weights and measures from
2 prohibiting the use of or confiscating any individual weight or
3 measure or weighing or measuring device which is found to be
4 inaccurate or otherwise defective or unlawfully used.

5 Section 709. Enforcement.

6 It shall be the duty of the bureau and the sealers of weights
7 and measures of the several counties and cities who shall find
8 satisfactory evidence of any violation of the provisions of this
9 chapter to cause appropriate proceedings to be commenced and
10 prosecuted, without delay, for the enforcement of the penalties
11 as provided for in this act.

12 CHAPTER 9

13 Domestic Fuel Oil

14 Section 901. Meter required.

15 (a) Metered vehicle.--No person shall deliver light fuel
16 oils to any domestic consumer unless the vehicle by which such
17 light fuel oils are delivered is equipped with a meter of a type
18 capable of furnishing a printed delivery ticket approved under
19 provisions of Chapter 7. Each meter-printed delivery ticket
20 shall bear a printed nonrepetitive serial number. All deliveries
21 of light fuel oil to such consumers shall be made by the use of
22 a meter and a meter-printed delivery ticket rendered the
23 customer at the time of delivery or with the invoice. The seller
24 or deliverer shall maintain the receipts for two years in an
25 orderly and retrievable manner.

26 (b) Delivery tickets.--The delivery tickets required under
27 subsection (a) shall be of a type approved by the department and
28 shall include the following information:

29 (1) The vendor's name and address.

30 (2) The date and time of delivery.

- 1 (3) The purchaser's name and address.
- 2 (4) Product identification.
- 3 (5) The driver's signature or employee number.
- 4 (6) The delivery vehicle's permanently assigned company
- 5 truck number.
- 6 (7) The price per gallon.
- 7 (8) The volume in terms of gallons to the nearest one-
- 8 tenth of a gallon.

9 Section 902. Small deliveries.

10 Fuel oil deliveries of 50 gallons or less may be delivered
11 without being metered, provided that the delivery be made in
12 standard measures of not less than five gallons capacity and
13 provided further that only such measures as approved by Chapter
14 7 be used.

15 Section 903. Exceptions.

16 The provisions of this chapter shall not apply to deliveries
17 of heavy fuel oils nor to deliveries of light fuel oils to
18 industrial plants, nor where either the entire truck tank load
19 of light fuel or the entire load of light fuel oil in one
20 compartment of the truck tank is delivered to a single domestic
21 consumer, provided such tank truck is of a type approved under
22 provisions of Chapter 7.

23 Section 904. Enforcement of chapter, rules and regulations.

24 (a) Duties.--It shall be the duty of the department and the
25 sealers of weights and measures of the several counties and
26 cities to enforce the provisions of this chapter.

27 (b) Regulations.--The department shall have power to adopt
28 and promulgate such rules and regulations not inconsistent with
29 the provisions of this chapter as may be deemed necessary to
30 carry into effect the intent and purpose of this chapter.

1 CHAPTER 11

2 MISCELLANEOUS PROVISIONS

3 Section 1101. Rules and regulations.

4 The secretary shall have the power to adopt and promulgate
5 rules and regulations necessary to carry out the provisions of
6 this act. All previous rules and regulations shall remain in
7 full force and effect until new or amended rules and regulations
8 are adopted by the secretary.

9 Section 1102. Offenses and penalties.

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

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

20 Section 1103. Disposition of fines.

21 Fines forfeited, recognizances and other forfeitures imposed,
22 lost or forfeited under the provisions of this act shall be
23 payable to the Commonwealth when the proceeding is instituted by
24 an agent or employee of the department.

25 Section 1104. Validity of prosecutions.

26 Prosecutions for violation of any provision of this act are
27 declared to be valid and proper notwithstanding the existence of
28 any other valid general or specific act of this Commonwealth
29 dealing with matters that may be the same as or similar to those
30 covered by this act.

1 Section 1105. Repeals.

2 The following acts and parts of acts are repealed:

3 Act of May 5, 1921 (P.L.389, No.187), entitled "An act to
4 regulate and control the manufacture, sale, offering for sale,
5 giving away, and use of weights and measures and of weighing and
6 measuring devices in the Commonwealth of Pennsylvania; providing
7 for the approval and disapproval of such weights, measures, and
8 devices by the Bureau of Standards; and prescribing penalties."

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

11 Act of May 11, 1949 (P.L.1116, No.330), entitled, as amended,
12 "An act to regulate deliveries of light fuel oil to domestic
13 consumers; conferring powers and imposing duties on the
14 Department of Agriculture and the inspectors of weights and
15 measures of the several counties and cities; and prescribing
16 penalties."

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

19 Act of December 1, 1965 (P.L.988, No.368), known as the
20 Weights and Measures Act of 1965.

21 Section 1106. Effective date.

22 This act shall take effect in 60 days.