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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 624 Session of  
1991

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INTRODUCED BY BOWLEY, COLAIZZO, TRELLO, WOZNIAK, PRESTON, RUDY,  
ITKIN, E. Z. TAYLOR AND CAPPABIANCA, MARCH 12, 1991

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
MARCH 12, 1991

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AN ACT

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

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

22 CHAPTER 1

23 GENERAL PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the Public  
26 Weighmasters Act.

27 Section 102. Definitions.

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

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

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

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

7 "Director." The Director of the Bureau of Standard Weights  
8 and Measures in the Department of Agriculture.

9 "Secretary." The Secretary of Agriculture of the  
10 Commonwealth.

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

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

19 Section 103. Enforcement and regulations.

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

24 Section 104. Licenses.

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

30 (1) the name and address of the business or businesses

1 for which the public weighmaster will be conducting weighing;

2 (2) the name and address of the residence of the  
3 applicant; and

4 (3) the scale locations where weighing will be conducted  
5 by the weighmaster.

6 (b) Referral.--The department may refer any application for  
7 a license as a weighmaster to any city or county inspector of  
8 weights and measures for a report as to the accuracy of the  
9 statements made on the application, the suitability of the scale  
10 or scales to be used by the applicant and such other information  
11 as the department may require.

12 (c) Fee.--The applicant shall pay to the department a  
13 license fee of \$60, which shall be remitted to the State  
14 Treasurer through the Department of Revenue. The license shall  
15 be for a period of two years from the date of issue. A license  
16 may be renewed at the discretion of the department for  
17 successive periods of not more than two years each, upon payment  
18 to the department of a license fee of \$60, for remittance to the  
19 State Treasurer through the Department of Revenue.

20 (d) Display.--Each license, or a duplicate thereof, shall be  
21 kept conspicuously displayed at the place where the weighmaster  
22 is engaged in weighing. In the event of the change of any name  
23 or address appearing on any application, the licensed  
24 weighmaster shall notify the department of the change within 48  
25 hours.

26 (e) Suspension or revocation.--After a hearing, and upon due  
27 notice to the licensee, a license may be suspended or revoked by  
28 the department for dishonesty, incompetency, inaccuracy or  
29 failure to notify the department of any change of name or  
30 address stated in the application, and a license may be revoked

1 by the department without hearing if the licensed weighmaster  
2 has been found guilty of any violation of the provisions of this  
3 act or if the licensed weighmaster has ceased to be employed at  
4 the places of weighing for which the license has been issued.

5 (f) Records.--The secretary shall keep a record of all  
6 applications received and of all licenses issued.

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

10 Section 105. Weighmasters' certificates.

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

- 14 (1) The kind and size of the commodity.
- 15 (2) The name and address of the seller.
- 16 (3) The name and address of the purchaser.
- 17 (4) The license number of the vehicle and trailer or  
18 other means of permanent identification.
- 19 (5) The signature and license number of the licensed  
20 weighmaster who weighed the commodity and who issued the  
21 weighmaster's certificate.
- 22 (6) The date and hour when weighed.
- 23 (7) The gross weight in avoirdupois pounds of the  
24 vehicle and the load; the tare weight and net weight of the  
25 commodity; and, where the load is divided into lots, the net  
26 weight of each lot. All the information under this paragraph  
27 must be determined by the same weighmaster in accordance with  
28 the rules and regulations of the department.
- 29 (8) A sequential serial number.

30 Section 106. Preparation of weighmaster's certificate.

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

17 Section 107. Use of approved weighing device required.

18 When making a weight determination as provided for by this  
19 act, a licensed public weighmaster shall use a weighing device  
20 approved by the bureau in accordance with the act of May 5, 1921  
21 (P.L.389, No.187), entitled "An act to regulate and control the  
22 manufacture, sale, offering for sale, giving away, and use of  
23 weights and measures and of weighing and measuring devices in  
24 the Commonwealth of Pennsylvania; providing for the approval and  
25 disapproval of such weights, measures, and devices by the Bureau  
26 of Standards; and prescribing penalties," which is of a type  
27 suitable for the weighing of the amount and kind of material to  
28 be weighed and which has been tested and approved for use by a  
29 weights and measures officer of this Commonwealth preceding the  
30 date of the weighing.

1 Section 108. Scale requirement.

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

6 Section 109. Disposition of copies of certificates.

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

17 Section 110. License required; definition.

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

26 (b) Definition.--As used in this section, the term "public  
27 weighing" means the weighing of any commodity.

28 Section 111. Suspension or revocation of licenses.

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

1           (1) when he is satisfied, after a hearing, upon ten  
2 days' notice to the licensee, that the licensee has violated  
3 any provision of this act or of any valid regulation of the  
4 secretary affecting licensed public weighmasters; or

5           (2) when a licensed public weighmaster has been  
6 convicted in any court of competent jurisdiction of violating  
7 any provision of this act or any regulation issued under  
8 authority of this act.

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

18 Section 112. Prohibited acts.

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

20           (1) For a weighmaster to issue a false or incorrect  
21 weighmaster's certificate.

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

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

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

30           (5) For a person to use a false or incorrect



1 weighmaster's certificate or a weighmaster's certificate not  
2 bearing the signature and license number of a licensed  
3 weighmaster and the license number of the vehicle and trailer  
4 or other means of permanent identification.

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

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

12 (8) For a person to furnish a false name or address of a  
13 purchaser to the licensed weighmaster at the time of  
14 weighing.

15 (9) For a person to permit any diminution of a load  
16 before its delivery to the purchaser or purchasers of the  
17 load.

18 (10) Except as otherwise provided in this act, for a  
19 person to fail, neglect or refuse to deliver a correct and  
20 lawful weighmaster's certificate to the purchaser of a  
21 commodity whose name and address appears on the weighmaster's  
22 certificate.

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

25 (b) Prima facie evidence of short weight.--Whenever any  
26 commodity is sold and delivered to the purchaser named in the  
27 approved weighmaster's certificate and the seller or his  
28 representative neglects, fails or refuses to deliver an approved  
29 weighmaster's certificate at the time of delivery, or the net  
30 weight of the commodity is determined to be less than the net

1 amount stated on the approved weighmaster's certificate or as  
2 otherwise represented to the purchaser, such determination shall  
3 constitute prima facie evidence of short weight, and the seller  
4 may be prosecuted under this section for short weight.

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

### 13 CHAPTER 3

#### 14 PROVISIONS RELATING TO ALL COMMODITIES

##### 15 Section 301. Sales by weight.

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

##### 23 Section 302. Separation required.

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

##### 29 Section 303. Substitution of another purchaser in weighmaster's 30 certificate.

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

7       Section 304.   Authorization to inspect and direct to nearest  
8                       scales.

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

26                                       CHAPTER 5

27                       PROVISIONS RELATING TO SOLID FUEL ONLY

28       Section 501.   Weighmaster's certificate required.

29       (a)   General rule.--No person shall sell, transport over a  
30 public highway, deliver or cause to be delivered, or start out

1 to deliver, any solid fuel in a lot or lots in amounts exceeding  
2 100 pounds without each lot in each separate compartment of the  
3 vehicle or vehicle and trailer being accompanied by a  
4 weighmaster's certificate issued by a licensed weighmaster of  
5 this Commonwealth. This subsection does not apply when weighing  
6 takes place at the point of delivery or sale.

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

13 Section 502. Small lots.

14 When solid fuel is sold in lots not exceeding 100 pounds, the  
15 provisions of section 501(a) shall not apply if the solid fuel  
16 is delivered in closed containers or closed bags and the net  
17 contents of the bag or container, expressed in avoirdupois  
18 pounds, the type of coal and the name, address, city, state and  
19 zip code of the seller are plainly stamped or printed thereon or  
20 upon a tag securely attached thereto.

21 Section 503. Exception for boatloads or railroad carloads.

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

26 CHAPTER 7

27 ADMINISTRATION AND ENFORCEMENT

28 Section 701. Rules and regulations.

29 The secretary shall have the power to adopt and promulgate  
30 rules and regulations necessary to carry out the provisions of

1 this act. All previous rules and regulations shall remain in  
2 full force and effect until new or amended rules and regulations  
3 are adopted by the secretary.

4 Section 702. Penalties.

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

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

15 CHAPTER 9

16 MISCELLANEOUS PROVISIONS

17 Section 901. Sales by employer producer to employees.

18 In any case where, under the provisions of a contract, it is  
19 provided that solid fuel be sold at cost by an employer producer  
20 to his employees for their own use and consumption, such solid  
21 fuel may be sold by cubic contents instead of weight, but no  
22 solid fuel so sold shall be transported over the highways of  
23 this Commonwealth from the place of production to the residence  
24 of the employee unless the operator of the vehicle has in his  
25 possession a certificate of origin. The certificates of origin  
26 shall contain such information as may be prescribed by the  
27 department and shall be signed by the producer or his agent, and  
28 a copy of each certificate shall be kept at the place of  
29 production for at least two years.

30 Section 902. Existing licenses.

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

10   Section 903.   Repeals.

11       The following acts and parts of acts are repealed:

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

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

16   Section 904.   Effective date.

17       This act shall take effect in 60 days.