

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2366 Session of 2012

INTRODUCED BY MACKENZIE, HANNA, EVERETT, BAKER, CALTAGIRONE, CONKLIN, GEORGE, GINGRICH, LAWRENCE, MAHER, MARSHALL, MILLARD, MILLER, PICKETT, K. SMITH, GIBBONS, M. K. KELLER, SONNEY AND MURT, MAY 16, 2012

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, SEPTEMBER 25, 2012

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, adding the definitions of "certified parking meter
3 inspector" and "local government unit"; FURTHER PROVIDING FOR ←
4 SPECIFIC POWERS AND DUTIES OF DEPARTMENT AND REGULATIONS; and ←
5 providing for certified parking meter inspectors and for
6 general testing and inspections; AND MAKING EDITORIAL ←
7 CHANGES.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 4102 of Title 3 of the Pennsylvania
11 Consolidated Statutes is amended by adding definitions to read:
12 § 4102. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Certified parking meter inspector." An individual EMPLOYEE ←
18 OF A LOCAL GOVERNMENT UNIT INDIVIDUAL who is certified by the ←

1 Department of Agriculture to inspect and certify the accuracy of
2 parking meters.

3 * * *

4 "Local government unit." Any city, borough, township or town
5 or any home rule municipality, optional charter municipality or
6 similar general purpose unit of government which may be created
7 or authorized by statute.

8 * * *

9 ~~SECTION 1.1. SECTION 4110 (A) (4) OF TITLE 3 IS AMENDED TO~~ ←
10 ~~READ:~~

11 SECTION 1.1. SECTION 4110 (A) (4) AND (D) OF TITLE 3 ARE ←
12 AMENDED TO READ:

13 § 4110. SPECIFIC POWERS AND DUTIES OF DEPARTMENT; REGULATIONS.

14 (A) REGULATIONS.--THE DEPARTMENT SHALL ISSUE FROM TIME TO
15 TIME REGULATIONS FOR THE ENFORCEMENT AND ADMINISTRATION OF THIS
16 SUBCHAPTER, WHICH REGULATIONS, UPON BEING PROMULGATED PURSUANT
17 TO LAW, SHALL HAVE THE FORCE AND EFFECT OF LAW. THESE
18 REGULATIONS MAY INCLUDE:

19 * * *

20 (4) INSTITUTION OF A PROGRAM CONTAINING STANDARDS
21 WHEREBY INDIVIDUALS SHALL BE DEPARTMENT-CERTIFIED AS
22 CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES. CERTIFICATION
23 UNDER SUCH PROGRAM MAY BE FOR A GIVEN CATEGORY OR CATEGORIES
24 OF MEASURING OR WEIGHING DEVICES OR FOR A PARTICULAR TYPE OF
25 DEVICE EXCEPT FOR COMMERCIALY USED TRUCK-MOUNTED FUEL OIL
26 METERS AND RETAIL MOTOR FUEL DISPENSERS. THE DEPARTMENT SHALL
27 CERTIFY ONLY SUCH INDIVIDUALS WHO:

28 (I) SUCCESSFULLY COMPLETE THE APPROPRIATE TRAINING
29 COURSE OR COURSES PRESCRIBED BY THE NATIONAL INSTITUTE OF
30 STANDARDS AND TECHNOLOGY FOR THE TYPE OF CERTIFICATION

1 SOUGHT AND WHO COMPLY WITH DEPARTMENTAL CERTIFICATION
2 STANDARDS PROMULGATED UNDER THIS PARAGRAPH; AND

3 ~~(II) DO NOT HAVE AN OWNERSHIP INTEREST IN OR ARE NOT~~ ←
4 ~~AN EMPLOYEE OR AGENT OF A COMPANY OR BUSINESS ENTITY~~
5 ~~SUBJECT TO TESTING OR INSPECTION BY A CERTIFIED EXAMINER~~
6 ~~OF WEIGHTS AND MEASURES UNDER THIS CHAPTER ARE NOT THE~~ ←
7 ~~OWNER OR LESSEE OF THE DEVICES TESTED AND INSPECTED, OR~~
8 ~~AN EMPLOYEE OR AGENT OF THE OWNER OR LESSEE OF THE~~
9 ~~DEVICES TESTED AND INSPECTED.~~

10 ANY PROGRAM INSTITUTED UNDER THIS PARAGRAPH SHALL INCLUDE
11 TESTING AND INSPECTION PERFORMANCE STANDARDS, REPORTING
12 PROCEDURES, RANDOM INSPECTION AND TESTING BY [STATE] ←
13 INSPECTORS [OF WEIGHTS AND MEASURES] OF A SAMPLE OF DEVICES ←
14 INSPECTED AND TESTED BY CERTIFIED EXAMINERS OF WEIGHTS AND
15 MEASURES AND ANY OTHER TYPE OF STANDARDS OR PROCEDURES THE
16 DEPARTMENT DEEMS NECESSARY TO IMPLEMENT THE PROGRAM.

17 * * *

18 (D) REPORTS.--ON OR BEFORE MARCH 1 OF EACH YEAR AFTER THE ←
19 EFFECTIVE DATE OF THIS SUBSECTION, THE DEPARTMENT SHALL SUBMIT A
20 REPORT TO THE AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE
21 SENATE AND THE AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE
22 HOUSE OF REPRESENTATIVES WHICH SHALL DESCRIBE ALL RELEVANT
23 ACTIVITIES OF [STATE] INSPECTORS [OF WEIGHTS AND MEASURES],
24 CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES AND CITY AND COUNTY
25 SEALERS OF WEIGHTS AND MEASURES FOR THE PRECEDING CALENDAR YEAR.
26 THE REPORT SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING:

27 (1) AN IDENTIFICATION OF THE REGIONS OF THIS
28 COMMONWEALTH SERVED BY [STATE] INSPECTORS AND CITY AND COUNTY
29 SEALERS OF WEIGHTS AND MEASURES AND THE NUMBER OF SUCH
30 INSPECTORS AND CITY AND COUNTY SEALERS OF WEIGHTS AND

1 MEASURES IN EACH REGION.

2 (2) THE NUMBER OF INSPECTIONS MADE BY EACH [STATE]
3 INSPECTOR, CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES AND
4 CITY AND COUNTY SEALERS OF WEIGHTS AND MEASURES.

5 (3) THE NUMBER AND NATURE OF ENFORCEMENT ACTIONS
6 INITIATED BY EACH [STATE] INSPECTOR AND CITY AND COUNTY
7 SEALERS OF WEIGHTS AND MEASURES.

8 (4) THE DISPOSITION OF EACH ENFORCEMENT ACTION,
9 INCLUDING THE NUMBER AND NATURE OF WARNINGS ISSUED BY EACH
10 [STATE] INSPECTOR AND CITY AND COUNTY SEALERS OF WEIGHTS AND
11 MEASURES.

12 Section 2. Section ~~4112~~ 4112(B) AND (C) of Title 3 ARE ←
13 AMENDED AND THE SECTION is amended by adding ~~a subsection~~ ←
14 SUBSECTIONS to read: ←

15 § 4112. General testing and inspections.

16 * * *

17 (B) [ANNUAL INSPECTIONS] INSPECTIONS.--NOTWITHSTANDING ←
18 SUBSECTION (A), IT SHALL BE THE DUTY OF THE DEPARTMENT AT [LEAST
19 ONCE WITHIN A 12-MONTH PERIOD, OR MORE FREQUENTLY IF DEEMED
20 NECESSARY] INTERVALS NOT GREATER THAN 18 MONTHS, TO ASSURE THAT
21 ALL COMMERCIALY USED [SMALL CAPACITY RETAIL COMPUTING SCALES,
22 RETAIL PACKAGE SHIPPING SCALES,] VEHICLE SCALES, [SMALL PLATFORM
23 SCALES WHICH WEIGH ITEMS TO 1,000 POUNDS,] TRUCK-MOUNTED FUEL
24 OIL METERS, TRUCK-MOUNTED LIQUID PETROLEUM GAS METERS,
25 COMPRESSED NATURAL GAS METERS AND RETAIL MOTOR FUEL DISPENSERS
26 ARE INSPECTED AND TESTED TO ASCERTAIN IF THEY ARE CORRECT. THE
27 DEPARTMENT MAY ACCEPT REPORTS OF CERTIFIED EXAMINERS OF WEIGHTS
28 AND MEASURES AS SUFFICIENT TO MEET THE INSPECTION AND TESTING
29 [REQUIREMENTS OF THIS SUBSECTION] REGULATIONS PROMULGATED UNDER
30 SECTION 4110(A)(4) (RELATING TO SPECIFIC POWERS AND DUTIES OF

1 DEPARTMENT; REGULATIONS), PROVIDED SUCH INSPECTION AND TESTING
2 IS PERFORMED IN ACCORDANCE WITH ALL APPLICABLE STANDARDS AND
3 PROCEDURES ADOPTED UNDER SECTION 4110(A)(4) [(RELATING TO
4 SPECIFIC POWERS AND DUTIES OF DEPARTMENT; REGULATIONS)],
5 PROVIDED THAT [STATE] INSPECTORS [OF WEIGHTS AND MEASURES] SHALL ←
6 CONDUCT INSPECTION AND TESTING OF A SAMPLE OF DEVICES INSPECTED
7 AND TESTED BY CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES.

8 (B.1) TIME.--UNLESS THE DEPARTMENT IS RESPONDING TO A ←
9 CONSUMER COMPLAINT, THE DEPARTMENT SHALL CONDUCT INSPECTIONS OF
10 TRUCK-MOUNTED FUEL OIL METERS AT A MUTUALLY AGREED UPON TIME.
11 THE MUTUALLY AGREED UPON TIME SHALL NOT UNREASONABLY INTERFERE
12 WITH THE DELIVERY OF FUEL OIL DURING WINTER MONTHS. BOTH PARTIES
13 SHALL MAKE A GOOD FAITH EFFORT TO SCHEDULE THE INSPECTIONS.

14 ~~(b.1) Local government unit inspection~~ (B.2) INSPECTION of ←
15 parking meters.--Notwithstanding subsections (a) and (b), (B) ←
16 ~~AND (C) AND (B), if a local government unit or, authority ←~~
17 organized by a local government unit OR PERSON makes use of ←
18 parking meters, it shall be the duty of the local government
19 unit or, the appropriate authority at least once within a 60 ←
20 month period, or more frequently if deemed necessary by the
21 local government unit or authority responsible for conducting
22 the inspections OR THE PERSON AT INTERVALS NOT GREATER THAN 60 ←
23 MONTHS, to assure that all such parking meters are inspected and
24 tested to ascertain if they are correct. The local government
25 unit or, appropriate authority OR PERSON may accept reports of ←
26 certified parking meter inspectors as sufficient to meet the
27 inspection and testing requirements of this subsection if an ←
28 inspector conducts inspection and testing of a sample of devices
29 inspected and tested by certified parking meter inspectors. THE ←
30 DEPARTMENT SHALL MAKE INVESTIGATIONS OF PARKING METERS UNDER

1 SECTION 4116 (RELATING TO INVESTIGATIONS).

2 (C) GENERAL TESTING AND INSPECTION OF SCANNING DEVICES.-- ←
3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER TO THE
4 CONTRARY, [WITHIN THE 12-MONTH PERIOD ENDING ON JUNE 30, 1999,
5 AND EVERY 12-MONTH PERIOD THEREAFTER,] THE DEPARTMENT SHALL TEST
6 AND INSPECT [TO ASCERTAIN IF THEY ARE CORRECT] ALL COMMERCIALY
7 USED UNIVERSAL PRODUCT CODE SCANNING SYSTEMS AND PRICE LOOK UP
8 DEVICES AT INTERVALS NOT GREATER THAN 36 MONTHS TO ASCERTAIN IF
9 THEY ARE CORRECT. A CITY OR COUNTY MAY TEST AND INSPECT SUCH
10 DEVICES AND SYSTEMS IF SPECIFIED IN ITS MEMORANDUM OF
11 UNDERSTANDING ENTERED INTO WITH THE DEPARTMENT IN ACCORDANCE
12 WITH SECTION 4125 (RELATING TO DIVISION OF RESPONSIBILITIES).
13 SUCH DEVICES AND SYSTEMS SHALL BE EXEMPT FROM THE [ANNUAL] ←
14 TRIENNIAL TESTING AND INSPECTION REQUIREMENTS OF THIS SUBSECTION
15 IF THE DEVICE OR SYSTEM IS INSPECTED AT LEAST ANNUALLY ON AN
16 UNANNOUNCED BASIS AS PART OF A PRIVATE CERTIFICATION PROGRAM
17 WHICH CONFORMS WITH THE EXAMINATION PROCEDURES FOR PRICE
18 VERIFICATION AS ADOPTED BY THE NATIONAL CONFERENCE OF WEIGHTS
19 AND MEASURES.

20 * * *

21 Section 3. Section 4115 of Title 3 is amended to read:

22 § 4115. Training program.

23 (a) Inspectors and county and city sealers.--The department
24 shall establish by regulation minimum training which shall be
25 required to be met by all inspectors and county and city
26 sealers. The department shall adopt the training program
27 prescribed by the National Institute of Standards and Technology
28 for inspectors and sealers of weights and measures.

29 (b) Certified parking meter inspectors.--The department
30 shall have the authority to promulgate regulations that ←

1 establish training and certification requirements and procedures
2 for certified parking meter inspectors. Prior to the
3 promulgation of regulations under this subsection, the
4 department may issue a temporary order establishing training and
5 certification requirements and procedures for certified parking
6 meter inspectors. A temporary order shall not be effective until
7 on or after it is published in the Pennsylvania Bulletin and
8 shall remain in effect for no more than one year, unless
9 reissued or supplanted sooner by regulations.

10 SECTION 4. ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar ←
11 AS THEY ARE INCONSISTENT WITH THIS ACT.

12 Section ~~4~~ 5. This act shall take effect ~~in 90 days~~ ←
13 IMMEDIATELY. ←