

# WEIGHTS, MEASURES, AND GRADES

## CHAPTER 578

SENATE BILL NO. 2232

(Committee on State and Federal Government)

(At the request of the Public Service Commission)

### DIRECTOR OF WEIGHTS AND MEASURES

AN ACT to amend and reenact sections 36-06-05, 36-06-06, 64-02-05, 64-02-06, 64-02-07, 64-02-08, 64-02-09, 64-02-13, 64-02-14, 64-02-15, and 64-02-20 of the North Dakota Century Code, relating to changing chief inspector to director of weights and measures; and to amend and reenact section 64-02-10 of the North Dakota Century Code, relating to the fee schedule for inspection of weighing and measuring devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-06-05. WEIGHMASTER'S LICENSE - BY WHOM ISSUED - APPLICATION - BOND - RENEWAL.) The director of the department of weights and measures of the public service commission shall issue a weighmaster's license to any person of good moral character who shall:

1. Make written application therefor;
2. Pay a license fee of five dollars; and
3. File in the office of the director a bond issued by a corporate surety company authorized to do business in this state. Such bond shall run to the state of North Dakota. It shall be in the penal sum of one thousand dollars conditioned for the faithful performance of his duties as such weighmaster.

The term of such license and bond shall be for two years, and the license shall be renewable upon the same terms as are specified for an original license. The cost of the bond shall be borne by the applicant for a license. Any person injured by the wrongful conduct of the weighmaster described in the bond in the performance of his official duties as such may bring an action thereon in the name of the state of North Dakota.

SECTION 2. AMENDMENT.) Section 36-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-06-06. REVOCATION OF WEIGHMASTER'S LICENSE - NOTICE AND HEARING.) Any person may make a written complaint to the director of the department of weights and measures against any licensed weighmaster. If the complaint on its face appears to be meritorious, the director shall give the complainant and the weighmaster complained against at least twenty days' notice of the time when and place where he will hear such complaint. Such notice may be given to the complainant by mail but shall be served upon the weighmaster personally or by registered or certified mail. The notice served upon the weighmaster shall contain, or be accompanied by, a clear and concise statement of the charges made against him and shall notify him that unless an answer to such charges is served upon the director at least three days prior to the date specified for the hearing, the charges will be deemed admitted and the license canceled. At such hearing, the director may administer oaths and shall hear such evidence as may be submitted on behalf of the complainant and of the weighmaster, and upon such evidence, the director shall make his order dismissing the complaint or canceling the license, whichever is warranted in his judgment by the evidence.

SECTION 3. AMENDMENT.) Section 64-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-05. DIRECTOR AND OTHER EMPLOYEES - EMPLOYMENT - COMPENSATION.) The commission shall appoint and fix the compensation of a director of weights and measures who shall be the head of the department and shall hold his office for a term of two years or until his successor is appointed and qualified and shall be removed for cause only. The commission shall employ such expert scalemen or other employees as may be necessary to carry out the provisions of this title and shall fix their compensation.

SECTION 4. AMENDMENT.) Section 64-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-06. EMPLOYEES OF DEPARTMENT SHALL GIVE BOND.) The director, expert scalemen, and other employees shall be bonded in the state bonding fund in the penal sum of one thousand dollars each.

SECTION 5. AMENDMENT.) Section 64-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-07. DUTIES OF DIRECTOR.) The director shall:

1. Have charge of, keep, and maintain in good order the standards of weights and measures of the state and submit them to the bureau of standards at Washington, D. C. for certification when he deems it necessary;
2. Keep a seal so formed as to impress the letters "N.D."

and the date of sealing upon the weights and measures that are sealed;

3. At least once every year, and as much oftener as may be necessary, test, correct, and seal, when found to be accurate, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state, and keep a record thereof;
4. Have general supervision of the weights, measures, and weighing or measuring devices, and instruments or apparatus used as standards in the state;
5. Upon the written request of any person, test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the state;
6. Keep a complete record of the standards, balances, and all testing and sealing apparatus owned by the state;
7. Make reports to the commission of his activities in such manner and at such times as the commission may require.

SECTION 6. AMENDMENT.) Section 64-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-08. PURCHASE, LEASE, OR DISPOSAL OF APPARATUS AND EQUIPMENT BY DIRECTOR.) The director, with the approval of the commission, shall purchase or lease any apparatus or equipment necessary for carrying out the provisions of this title and may sell any and all standards of weights and measures, balances, testing apparatus, and sealing equipment which may come into his custody and possession in the performance of his duties imposed by this title, whenever he, with the approval of the commission, shall determine that any of such standards of weights and measures, balances, testing apparatus, and sealing equipment are obsolete or unsuitable for the performance of the duties imposed upon the director. Any moneys derived by the commission from any sale or disposal shall be paid into the general fund of the state treasury.

SECTION 7. AMENDMENT.) Section 64-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-09. STANDARD OF WEIGHTS AND MEASURES.) The director of weights and measures shall keep and maintain in his office the following standards of weights and measures, which shall conform to the United States standards of weights and measures:

1. One bushel;
2. One-half bushel;
3. One peck;

4. One-half peck;
5. One quart;
6. One wine gallon;
7. One wine half-gallon;
8. One wine quart;
9. One wine pint;
10. One wine gill;
11. One surveyor's chain, thirty-three standard feet in length;
12. One yard measure;
13. One foot measure;
14. One inch measure;
15. One one hundred pound weight;
16. One fifty pound weight;
17. One twenty-five pound weight;
18. One ten pound weight;
19. One one pound weight;
20. One half-pound weight;
21. One quarter-pound weight;
22. One one-eighth of a pound weight;
23. One one-sixteenth of a pound weight or one ounce weight;
24. One set of apothecaries' weights from one pound to one grain and one set of troy weights from one pound to one grain; and
25. Such other scales, beams, and balances as shall be necessary to test other weights by these standards.

Measures, weights, scales, beams, and balances are declared to be the legal standards of weights and measures for this state, and shall be used only for testing the copies thereof used in testing weighing and measuring devices. The measures mentioned in subsections 1 through 10, shall be made of copper or other suitable and substantial material. The department shall keep a record of all

county weights, measures, beams, and balances marked and tested by its employees.

SECTION 8. AMENDMENT.) Section 64-02-10 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

64-02-10. FEE SCHEDULE FOR INSPECTION OF WEIGHING AND MEASURING DEVICES.) The director or other employee of the department of weights and measures shall charge and collect fees in accordance with the following schedule:

1. For inspecting railroad track scales_____	\$45.00
2. For inspecting livestock scales eight thousand pounds capacity and under_____	20.00
3. For inspecting livestock scales eight thousand pounds capacity and over_____	45.00
4. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture_____	45.00
5. For inspecting livestock scales under the jurisdiction of Packers and Stockers Act of the federal department of agriculture, where in the discretion of the director of weights and measures or his employee, the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale_____	30.00
6. For inspecting auxiliary beam on livestock, motor truck, motor truck dump scales_____	15.00
7. For inspecting road construction truck scales__	45.00
8. For inspection of road construction hopper scales, six thousand and one pounds capacity and over__	35.00
9. For inspecting overhead track scales, hopper scales, dormant scales, and hanging scales six thousand pounds capacity and over_____	14.00
For inspecting overhead track scales, dormant scales, hanging scales, and hopper scales five thousand nine hundred ninety-nine pounds and less capacity, each_____	8.00
10. For inspecting movable platform scales_____	3.00
11. For inspecting all counter and computing scales_____	3.00

12.	For inspecting every patent balance, beam steel yard, or other instrument used for weighing other than the above enumerated, each _____	\$ 3.00
13.	For inspecting any two-bushel or one-bushel measure _____	3.00
14.	For inspecting any other dry measure, each _____	3.00
15.	For inspecting any board of cloth measure, each _____	3.00
16.	For inspecting any liquid measure or computing pump _____	3.25
17.	For each inspection of any liquid measure or computing pump in addition to the regularly scheduled annual inspection, including inspections made for new equipment which replaces a rejected measuring device _____	3.25
18.	For inspecting liquid measures of five gallons or less capacity, each _____	3.00
19.	For inspecting gasoline and fuel oil meters _____	8.00
20.	For inspecting gasoline and fuel oil meters on common carrier pipelines, and any other meters used in loading railway cars, transports, or other conveyances _____	25.00
21.	For inspecting propane and liquid fertilizer meters _____	15.00
22.	For calibrating truck tanks of one thousand gallons capacity and under _____	20.00
	Truck tanks between one thousand and one gallons and six thousand gallons _____	30.00
	Truck tanks above six thousand gallons _____	40.00
23.	For inspection of Crane scales six thousand pounds and less capacity, each _____	20.00
	For inspection of Crane scales six thousand and one pounds capacity and over, each _____	40.00

Where a rejected weighing and measuring device has been reconditioned or replaced by new equipment, the same must be reinspected and a certificate issued before being put into use, and except as otherwise provided above, the fee charged for such reinspection and certification shall be the same as for the first inspection and certification. When the director or other employee of the department of weights and measures shall find any of the instruments or articles used in weighing or measuring to be out of allowable tolerance set by the commission, it shall be his duty

to inform the owner or operator that his weighing or measuring equipment is out of tolerance and to instruct him that a competent service man is to be called to service the device and bring said device to allowable tolerance.

Whenever a special inspection of any measuring device is required, in addition to the regularly scheduled annual inspection made by the department, a charge of twenty-five cents per mile will be made unless the motor vehicle, including the testing equipment necessary to perform such special inspection, shall weigh less than ten thousand pounds gross. In the event such motor vehicle shall weigh less than ten thousand pounds gross, a charge of fifteen cents per mile will be made, and all such mileage charges shall be in addition to the regular inspection fee to cover the costs of the additional travel by the director or employee occasioned by such special inspection. Where a special inspection has been requested and the person requesting such special inspection fails to appear at the arranged hour, or fails to have the weighing or measuring device in readiness for inspection or for repair or maintenance work at the arranged hour, there shall be a charge of thirty dollars an hour for the time interval between the arranged hour and the hour at which the inspection can be commenced.

SECTION 9. AMENDMENT.) Section 64-02-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

\*64-02-13. EMPLOYEES OF DEPARTMENT TO TEST WEIGHTS AND MEASURING DEVICES ANNUALLY.) The director or any other employee of the department may test:

1. Any scale, weight, beam, or measure of any kind;
2. Any instrument or mechanical device for measurement; or
3. Any tool, appliance, or accessory connected with any instrument for measuring;

if the same is kept, offered, used, or employed, or is offered for sale or sold for the purpose of being used or employed, by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which may be offered or submitted by any person for sale, hire, or reward. The owner of any weight, measure, or any other apparatus, hereinbefore described, used in this state is responsible for the accuracy and condition of the same, and is required to have the same inspected at least once each year. If upon inspection the said weight, measure, or other apparatus shall correspond with the standards in the possession of the department, it shall be sealed with the proper device to be approved by the director or employee except that inspections and testing of farm milk tank equipment shall be made only upon a complaint received by the department specifying that such equipment is in a faulty condition, or when such testing or inspections are deemed to be necessary in the discretion of the director. Upon receipt of a complaint, the

\*NOTE: Section 64-02-13 was also amended by section 2 of House Bill No. 1364, chapter 60.

director shall cause such equipment to be tested and inspected within a reasonable period of time, and in the case where, as a result of such testing and inspection, the equipment is determined to be in accordance with the standards in the possession of the department, the cost of such inspection and testing shall be paid by the complainant; and in all other cases the cost of such testing and inspection shall be paid by the owner of the equipment.

SECTION 10. AMENDMENT.) Section 64-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-14. INCORRECT WEIGHING OR MEASURING DEVICES - POWER TO SEIZE, CONDEMN, AND DESTROY.) The director or any other employee of the department shall condemn, seize, or destroy any incorrect weight, measure, or weighing or measuring device which in his judgment cannot be satisfactorily repaired. Those weighing or measuring devices which are incorrect but which are capable of being repaired shall be marked as "condemned for repair" in the manner to be prescribed by the director. The owner or user of any scale, weight, measure, or weighing or measuring instrument which has been so marked shall have the same repaired or corrected within thirty days, and such device shall not be used or disposed of in any way without the consent of the director.

SECTION 11. AMENDMENT.) Section 64-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-15. VENDOR'S AND PEDDLER'S MEASURING AND WEIGHING APPARATUS SUBJECT TO TEST.) The director or any other employee of the department may enter into or upon any land, place, building, or premises to stop any vendor, peddler, or junk dealer, or the driver of any coal wagon, ice wagon, or delivery vehicle, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the director or employee of the department may specify for the purpose of making a proper test of weighing apparatus used by such vendor, driver, or dealer.

SECTION 12. AMENDMENT.) Section 64-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

64-02-20. DEPARTMENTAL EXPENSES.) The commission may purchase supplies and equipment and may incur necessary expenses in carrying out the provisions of this title within legislative appropriations made for such purpose. Traveling expenses shall be allowed the director and other employees of the department as provided in section 54-06-10.

Approved March 27, 1975