

**HOUSE BILL NO. 1155**

Introduced by

Agriculture Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to create and enact a new chapter to title 64 and a new section to chapter  
2 64-02 of the North Dakota Century Code, relating to public service commission regulation of  
3 price scanners and testing of weighing devices; and to amend and reenact sections 64-02-01,  
4 and 64-02-10 of the North Dakota Century Code, relating to price scanners, transient vendors,  
5 and fees; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new chapter to title 64 of the North Dakota Century Code is created and  
8 enacted as follows:

9 **Definition.** As used in this title, "price scanner" means an electronic scanning device  
10 used to determine the wholesale or retail price of an item by scanning a bar code imprinted on  
11 the item.

12 **Misrepresentation of price.** A person who misrepresents the price of a commodity  
13 offered, exposed, or advertised for sale by weight, measure, or count, is, in addition to any  
14 other penalty provided, subject to a civil penalty not to exceed five thousand dollars. The civil  
15 penalty may be compromised by the commission. The amount of the penalty when finally  
16 determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the  
17 courts of this state.

18 **Commission to monitor and test wholesale and retail price scanners.** The  
19 commission may monitor and test a price scanner on a random basis. The operator of a price  
20 scanner is responsible for its accuracy. Monitoring and testing of a price scanner must be done  
21 according to the guidelines set forth in the national institute of standards handbook no. 130,  
22 "Examination Procedure for Price Verification". If upon complaint the commission tests a price  
23 scanner and finds that the price scanner is within the guidelines outlined in handbook no. 130,

- 1 the cost of the test, unless waived by the commission, must be paid by the complainant.  
2 Otherwise the cost of the test must be paid by the operator of the scanner.

3 **SECTION 2. AMENDMENT.** Section 64-02-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **64-02-01. Definitions.** In this title:

- 6 1. "Calibrate" means to compare a standard, or weighing or measuring device, to  
7 another standard and eliminate by adjustment any variation in the accuracy of the  
8 item being compared, but does not include the field repair of a weighing or  
9 measuring device.  
10 2. "Commission" means the public service commission.  
11 3. "Test" means to measure to determine if a standard; or weighing or measuring  
12 device, is within the permitted tolerance.  
13 4. "Transient vendor" means a wholesale or retail seller of produce, fruit, nuts, or  
14 seafood that sells to the public at a temporary location, on a seasonal basis, open  
15 less than one hundred twenty business days each year.  
16 5. "Weighing or measuring device" means any scale, weight, measure, instrument, or  
17 device used or offered for use for weighing or measuring in commerce.

18 **SECTION 3. AMENDMENT.** Section 64-02-10 of the 1997 Supplement to the North  
19 Dakota Century Code is amended and reenacted as follows:

20 **64-02-10. Fees to test or calibrate weighing and measuring devices and price**  
21 **scanners.** The commission shall collect the following fees to:

- |    |  |         |
|----|--|---------|
| 22 | 1. Test railroad track or truck scale          | \$97.00 |
| 23 | 2. Test livestock and vehicle scale            | 97.00   |
| 24 | 3. Test livestock scale if the sales           |         |
| 25 | ring or buying station scale owner             |         |
| 26 | transports to the scale and furnishes          |         |
| 27 | all test weights and manpower needed           |         |
| 28 | to properly test the scale                     | \$55.00 |
| 29 | 4. Test auxiliary beam on livestock,           |         |
| 30 | motor truck, <u>and</u> motor truck dump scale | 19.00   |
| 31 | 5. Test overhead monorail, track, hopper,      |         |

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1	dormant, deck, and hanging scale	43.00
2	6. Test movable platform scale	8.00
3	7. Test counter or computing scale	8.00
4	8. Test hanging scale of fifty pound	
5	[22.68 kilograms] capacity	
6	or less	8.00
7	9. Test board of cloth measure	8.00
8	10. Test a retail motor fuel device	8.00
9	11. Test or calibrate weighing and measuring	
10	standards, per metrologist, per quarter	
11	hour or fraction thereof	12.50
12	12. Test mobile delivery gasoline and fuel	
13	oil meter	19.00
14	13. Test gasoline, LPG, or fuel oil meter	
15	on common carrier pipelines, or any	
16	other meter used in loading railway cars,	
17	transports, or other conveyances	43.00
18	14. Test propane, ag chemical, or	
19	liquid fertilizer meter	31.00
20	15. Test truck tank	61.00
21	16. Test crane scale	61.00
22	17. Test or calibrate weighing and measuring	
23	devices other than the above and those	
24	set by rule, per inspector per quarter	
25	hour or fraction thereof	9.00
26	18. Witnessing any of the above tests	Fifty percent of the applicable fee
27	19. <u>Test wholesale or retail price scanner</u>	<u>10.00</u>

28 When a rejected weighing or measuring device has been reconditioned or replaced by  
 29 new equipment, it must be retested and certified before being put into use except as otherwise  
 30 provided by rule. The fee for retest and certification is the same as for the first test and  
 31 certification.

1           When a test of a weighing or measuring device is required in addition to the regularly  
2 scheduled annual test, the commission shall charge a fee equal to the cost of operating the  
3 motor vehicle used in conducting the test. The mileage charges, as determined by the  
4 commission, must be in addition to the regular test fee and calculated to cover the costs of the  
5 additional travel. Where a test has been requested and the person requesting it fails to appear  
6 or to have the weighing or measuring device ready for testing at the arranged time, there is a  
7 charge of nine dollars a quarter hour for the time between the arranged time and the time at  
8 which the test can begin.

9           **SECTION 4.** A new section to chapter 64-02 of the North Dakota Century Code is  
10 created and enacted as follows:

11           **Exception from annual test of weighing or measuring device.** A weighing or  
12 measuring device used to conduct sales by a transient vendor is exempt from this chapter.