

---

## WEIGHTS AND MEASURES

---

### CHAPTER 259

(H. B. No. 170—Gibbens.)

---

#### INSPECTION SCALES, WEIGHTS AND MEASURES

An Act providing for the inspection of scales, weights and measures under the jurisdiction of the state food commissioner, prescribing the powers and duties of said board, defining the standard of weights and measures, providing penalties for the violation thereof, regulating the use and sale of weights and measures, providing for the fixation of fees; and repealing Chapter 344 of the Session Laws of North Dakota for 1923.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. There is hereby created a department to be known as "Department of Weights and Measures", hereafter referred to as the department, and it shall be under the jurisdiction of the state food commissioner, hereafter referred to as the commissioner, who shall have supervision and control over all weights, weighing devices and measures in the state.

§ 2. The state food commissioner shall have power to employ such expert scaleman, deputies and other employees as may be necessary to carry out the provisions of this chapter, and fix their compensation. Such expert scaleman, deputies and employees shall each give a bond in a sum to be fixed and approved by the commissioner. The commissioner shall provide for such examination as he may deem necessary to determine the qualifications and fitness of appointees.

§ 3. The commissioner shall prescribe and adopt such rules and regulations, including such schedule of fees for services to be performed under the provisions of this chapter as he may deem necessary to carry out the provisions of this chapter, and he may change, modify and amend any or all rules and schedules whenever deemed necessary, and the rules and schedules so made shall have the force and effect of law.

§ 4. The commissioner shall take charge of, keep and maintain in good order the standard of weights and measures of the state and submit them to the Bureau of Standards of Washington, D. C., for certification when the commissioner deemed necessary; and shall keep a seal so formed as to impress the letters "ND" and the date of sealing upon the weights and measures that are sealed;

it shall test, correct and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, 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; he shall have general supervision of the weights, measures and weighing or measuring devices offered for sale; sold or used in the state, and shall 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; he shall keep a complete record of the standards, balances and all testing and sealing apparatus owned by the state, and shall bi-annually during the first fifteen days of January, make a report of his actions to the governor of the state.

§ 5. The commissioner or any of his employees shall have power to test all scales, weights, beams and measures of every kind, instruments and mechanical devices for measurement, and tools, applicances or accessories connected with any or all such instruments for measurement that are kept, offered or exposed for sale, or sold or used or employed within this State by any person in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by any person for sale, hire or reward; and he shall, at least once in each year, and as much oftener as may be deemed necessary, see that the weights, measures and all apparatus used in the State are correct. In the general performance of this duty the commissioner, or any of his employees, may enter or go into and upon any land, place, building or premises, to stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon or any dealer whatsoever, and require him, if necessary, to proceed to some place which the scaler may specify for the purpose of making proper tests. Scales, weights, measures or weighing or measuring instruments that are found, upon inspection, to correspond with the standards in the possession of the department shall be sealed with proper devices to be approved by the commissioner. Any employee shall condemn, seize, and destroy incorrect weights, measures or weighing or measuring devices which, in the judgment of the commissioner, cannot be satisfactorily repaired, and such as are incorrect and yet may be repaired, shall be marked as "condemned for repair", in the manner to be prescribed by the commissioner. The owners or users of any scales, weights, measures or weighing or measuring instrument which have been so disposed of shall have the same repaired or corrected within thirty days, and the same shall not be used or disposed of in any way without the consent of the commissioner.

§ 6. Any person who shall offer or expose for sale, sell or use, or have in his possession a false scale, weight or measure, or

weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed within one year, as provided by this law, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure or weighing or measuring device, or remove any tag placed thereon by any authorized employe of the commissioner, or shall sell or offer or expose for sale less than the quantity he represents; or sell or offer or expose for sale any such commodities in the manner contrary to law; or shall sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used to, or calculated to, falsify any weight or measure, or shall refuse to pay any fee charged for testing and sealing or condemning any scale, weight or measure, or weighing or measuring device, shall be guilty of a misdemeanor, and shall, upon conviction, be fined a sum not less than twenty dollars nor more than one hundred dollars or by imprisonment for not less than ten days nor more than ninety days, and the costs of such proceeding. No scale, weight, measure, or weighing or measuring device that has been sealed by the commissioner shall be used, sold or exposed for sale until the fee charged for the service has been paid.

§ 7. Any person hindering, impeding or restricting in any way any employe of the commissioner while in the performance of his official duty shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for not less than ten days nor more than ninety days for each offense.

§ 8. The regulatory department and all authorized employes under the provisions of this act are hereby authorized and empowered to seize for use as evidence any false weight, measure or weighing or measuring device or package or kind of commodity found to be used, retained or offered or exposed for sale or sold in violation of the terms of this act.

§ 9. The state commissioner of agriculture and labor, the boards of county commissioners of the various counties, and the sheriffs of the various counties shall deliver to the commissioner all standards of weights and measures, balances, testing apparatus and sealing equipment now in their possession, belonging to the state, within ninety days after the passage of this act.

§ 10. The commissioner shall have the power and authority to dispose of by sale, any and all standards of weights and measures, balances, testing apparatus and sealing equipment which may come into its possession and custody under the provisions of section 9 of this chapter and of any other standards of weights and measures, balances, testing apparatus and sealing equipment which may come

into its custody and possession in the performance of the duties imposed by this chapter whenever the commissioner 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 by this chapter upon the commissioner. Any moneys derived by the commissioner from such sale or disposal shall be disposed of by the commissioner in the same manner as is provided for in this chapter for the disposal of fees for services performed under the provisions of this chapter.

§ 11. The commissioner shall charge and collect fees in accordance with the schedules made and approved by the commissioner for the regular annual inspection of scales, weights, measures or weighing and measuring devices. Such fees shall be collected from the owner of such scales, weights, measures or weighing and measuring devices. For all inspections other than the regular annual inspection, the cost of the inspection shall be in accordance with schedules made and approved by the commissioner for such services and shall be paid by the owner when the same is performed at his request; and when made at the request of some other person the cost shall be paid by the owner if the scale, weight, measure and weighing or measuring device is found to be incorrect; otherwise by the person making the request, provided, however, that the fees fixed by the commissioner under this section shall not exceed the following:

For inspection and sealing railroad and track scales of capacity of twenty tons and upwards .....	\$3.00
For inspecting and sealing dormant scales, each .....	2.00
For inspecting and sealing movable platform scales .....	1.00
For inspecting and sealing beams weighting one hundred pounds and upwards .....	.25
For inspecting and sealing hopper scales, each .....	1.50
For inspecting and sealing counter scales, each .....	.25
For inspecting and sealing every patent balance, beam, steelyard or other instrument used for weighing other than the above enumerated, each .....	.25
For inspecting and sealing any two-bushel or one-bushel measure .....	.25
For inspecting and sealing any other dry measure, each .....	.10
For inspecting and sealing liquid measures of a capacity of five gallons or more, each .....	.25
For inspecting and sealing anything less than one gallon .....	.10

For inspecting and sealing liquid measures of less than five gallons and not less than one gallon .....	.15
For inspecting and sealing any board or cloth measure, each ....	.10
Provided, that when any establishment uses more than three of such scales the fee for inspection of which is twenty-five cents each, then any further number shall be tested for fifteen cents each, and with each scale tested and sealed by him he shall inspect and seal one set of weights without any additional charge or compensation.	
For inspecting and sealing any two-bushel or one-bushel measure, each .....	.25
For inspecting and sealing any other dry measure, each .....	.10
For inspecting and sealing liquid measures of a capacity of five gallons or more, each .....	.25
For inspecting and sealing liquid measures of less than five gallons of not less than one gallon .....	.15
For inspecting and sealing anything less than one gallon .....	.10
For inspecting and sealing any board or cloth measure, each ....	.10

When the inspector and sealer shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted, misconstructured, out of repair or in any other conditions which can be remedied by him, it shall be his duty to correct such scale or measure and he shall receive for such service fifty cents per hour for the actual time consumed in making such corrections and shall receive just compensation for any material used in such correction.

§ 12. All fees collected by the commissioner under the provisions of Section 11 of this chapter and all penalties collected under the provisions of this chapter shall be paid into the state regulatory fund.

§ 13. All office expenses, all costs and expenses of equipment, all salaries, and all expenditures necessarily incurred in the enforcement of this act, shall be paid on proper warrant, from the "state regulatory fund" heretofore created; and all fees collected under the provisions hereof shall be covered into such fund. The said food commissioner shall so fix and determine the fees authorized under the provisions of section 11 of this act, that the sums so collected as fees shall as nearly as may, equal the expense of the enforcement hereof; it being the intent and purpose of this act that this department shall become self-sustaining, and to that end the commissioner is hereby required to keep separate and accurate records of all expenses incurred and all fees collected and to furnish such information annually to the state board of administration.

§ 14. The word "person" shall be construed to mean person or persons, corporation, partnership, stock company, or the agent or employee thereof.

§ 15. This act shall not apply to nor repeal Sections 1 to 10, inclusive, of Chapter 239, Session Laws of 1919.

§ 16. The commissioner shall establish uniform tolerance or reasonable variances to take care of unavoidable shrinkage and of scale variances in handling and weighing of any of the articles mentioned in Chapter 239, Session Laws of 1919.

§ 17. Chapter 344 of the Session Laws of North Dakota for 1923, and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1929.

---

## WORKMEN'S COMPENSATION

---

### CHAPTER 260

(H. B. No. 83—Cox by Request.)

---

#### COMPENSATION SCHEDULE—WORKMEN'S COMPENSATION BUREAU

An Act to amend and re-enact Section 3 of Chapter 162 of the Session Laws of the State of North Dakota for the year 1919 and acts amendatory thereof, relating to the workmen's compensation act.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

SCHEDULE OF COMPENSATION—WORKMEN'S COMPENSATION FUND—AMENDMENT.] That Section 3 of Chapter 162 of the Session Laws of the State of North Dakota for the year 1919, and acts amendatory thereof, be and the same is hereby amended and re-enacted to read as follows:

§ 3. On and after July 1, 1919, it shall be the duty of the workmen's compensation bureau hereinafter created to disburse compensation from the North Dakota workmen's compensation fund to any employee subject to this act for injury arising in the course of employment in accordance with the following provisions:

A. Immediately after an injury sustained by an employee and during the resulting period of disability, the North Dakota