

# WEIGHTS AND MEASURES

## CHAPTER 311

(H. B. No. 93—Gibbens and Olafson.)

### INSPECTION SCALES, WEIGHTS AND MEASURES

An Act to amend and re-enact Chapter 259 of the 1929 Session Laws providing for an inspection of scales, weights and measures under the jurisdiction of the State Food Commissioner; prescribing powers and duties; defining the standard of weights and measures; providing licensing of gasoline pumps and coin weighing machines or scales and providing penalties for the violation of the provisions of this act.

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

§ 1. AMENDMENT.] Chapter 259, 1929 Session Laws of North Dakota is hereby amended and re-enacted to read as follows:

Chapter 259. There is hereby created a department to be known as the "Department of Weights and Measures", hereafter referred to as the "Department", and such Department shall be under the jurisdiction of the State Food Commissioner, hereafter referred to as the "Commissioner", who shall have supervision and control of all weights, weighing devices, gasoline pumps, coin weighing machine or scales and measures in this State.

§ 2. The State Food Commissioner shall appoint and fix the compensation of a chief inspector of weights and measures who shall be the head of the Department of Weights and Measures and shall hold his office for a term of two years or until his successor is appointed and qualified, and shall be removable for cause only. The Commissioner shall employ such expert scalemen or other employees as may be necessary to carry out the provisions of this Act and fix their compensation. The Chief Inspector, expert scalemen and other employees shall each give a bond to be furnished by the State of North Dakota in the sum of One Thousand (\$1000.00) Dollars, such bonds to be conditioned upon the faithful discharge of the duties of each of said officers or employees, the premiums on such bonds to be payable out of the State Regulatory Fund.

§ 3. The Commissioner shall prescribe and adopt such rules and regulations and may change and modify any or all rules, schedules and regulations whenever deemed necessary and the rules, regulations and schedules so made shall have the force and effect of law.

§ 4. The Chief Inspector shall have 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 at Washington, D. C. for certification when he deems it necessary, and shall 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; he 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 biennially during the first fifteen days of January, make a report of his actions to the Governor of the State.

§ 5. The Chief Inspector or any of the employees of the Weights and Measures Department shall have power to test all scales, weights, beams and measures of every kind, instruments and mechanical devices for measurements, and tools, appliances 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 Chief Inspector, or any of the employees of the Weights and Measures Department, may enter or go into and upon any land, place, building or premise to stop any vendor, peddler, junk dealer, coal wagon, ice wagon or delivery, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the inspector or employee of the department may specify, for the purpose of making proper test. 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 the proper devices to be approved by the Chief Inspector. The Chief Inspector or any employee shall condemn, seize or destroy incorrect weights, measures or weighing or measuring devices which in the judgment of the inspector 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 inspector. The owner or user 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 inspector.

§ 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 Act, or use the same in the buying or selling of any commodity or things, or who shall dispose of any condemned weight, measure or weighing or measuring device or remove any tag placed thereon by any authorized employee of the Commissioner or shall sell or offer or expose for sale less than the quantity it 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 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 (\$20.00) Dollars or more than One Hundred (\$100.00) Dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days and the cost of such proceedings. No scale, weight, measure or weight or measuring device that has been sealed by the inspector or employee of the Department of Weights and Measures 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 of the employees of the department while in the performance of his official duties shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty (\$20.00) Dollars nor more than One Hundred (\$100.00) Dollars or by imprisonment for not less than ten nor more than ninety days for each offense.

§ 8. The Chief Inspector, with the approval of the Commissioner, shall have power and authority to purchase or lease any apparatus or equipment necessary for carrying out the provisions of this Act and to dispose of by sale any and all standards of weights and measures, balances, testing apparatus and sealing equipment which has come into his possession and custody, and of any other 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 Act, whenever the Inspector with the approval of 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 Inspector. 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 Act for the disposal of fees for services performed under the provisions of this Act.

§ 9. The Chief Inspector or other employee of the Department or (of) weights and measures shall charge and collect fees annually in accordance with the following schedule:

For inspection and sealing of railroad and track scales of capacity of 20 tons and upwards.....	\$ 10.00
For inspection and sealing dormant or hopper scales, each....	5.00
For inspecting and sealing movable platform scales (other than coin weighing machines or scales).....	1.00
For inspecting and sealing counter or computing scales, each	.50
For inspecting and sealing any scale of fifty pound capacity or less .....	.25
For inspecting and sealing every patent balance, beam, steel yard or other instrument used for weighing other than the above enumerated, each .....	.50
For inspecting and sealing any 2 bu. or 1 bu. 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 (excluding gasoline pumps) each....	.50
For inspecting and sealing liquid measures of less than 5 gal.	.25
For inspecting and sealing any board or cloth measure, each..	.10

When the Inspector or other employees of the Department of Weights and Measures shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted, misconstructed, out of repair or in any other condition which can be remedied by him, it shall be his duty to correct such scale or measure and he shall receive for such service One (\$1.00) dollar per hour for the actual time consumed in making such corrections and shall receive just compensation for any material used in such corrections.

§ 10. All office expenses, all costs and expense of equipment, all salaries and all expenditures necessarily incurred in the performance of this Act shall be paid on proper warrant from the "State Regulatory Fund" heretofore created, and all fees collected under the provisions of this Act shall be covered into such fund. The Commissioner is hereby required to keep separate and accurate records of all expenses incurred and all fees collected.

§ 11. The word "Person" shall be construed to mean person or persons, corporations, partnerships, stock companies or the agent or employee thereof. The phrase "Public Scale" shall mean any scale or weighing device for the use of which a charge is made or compensation is derived. The phrase "Gasoline Pump" shall mean any pump, meter or similar measuring device used for measuring gasoline for sale.

§ 12 (a) Every person who shall use or display for use any public coin-weighing machine or scale or public gasoline pump shall secure a license for such machine or scale or pump from the Department. The license fee shall be One (\$1.00) Dollar per an-

num for each gasoline pump and Two (\$2.00) Dollars and twenty-five cents per annum for coin weighing machine or scale and each license shall expire on June 30th of each year. Proceeds therefrom shall be covered into the Regulatory Fund.

(b) The license shall be in the form of a metal plate bearing the words "Licensed by the State of North Dakota, No....." Each plate shall be numbered consecutively and bear the year for which the license was granted. The license plate shall be displayed prominently on the front of a coinweighing machine or pump. Absence of the license plate shall be prima facie evidence that the weighing machine or device is being operated contrary to law. After August 1st of each year, the Inspector of Weights and Measures or his duly authorized agent is hereby authorized to seize, confiscate or seal all coin-weighing machines not licensed and to seal and lock any gasoline pump not licensed.

§ 13. On or before July 1st of each and every year the owner, proprietor or managing agent operating, conducting and maintaining a public gasoline pump or public coin weighing machine or scale, shall make application to the Commissioner for an annual license. Such application shall state the name of the owner, manager or proprietor of the pump or scale to be licensed, a general description of the location of such pump or scale and shall state that such pump or scale will be operated, if licensed by the Commissioner, in accordance with the laws of this State. This application shall be made upon a blank authorized and issued by the Commissioner and such application shall be accompanied by the license fee hereinbefore specifically prescribed.

§ 14. The Commissioner shall establish uniform tolerance or reasonable variances to take care of unavoidable shrinkage or of scale variances in the handling or weighing of any commodity.

§ 15. Any person who shall violate this Act, or any part thereof wherein a special penalty has not been provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed One Hundred (\$100.00) Dollars or to be confined in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Approved March 7, 1931.