

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 914 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 1469

5 By: Representative George
6 By: Senator Laverty
7

For An Act To Be Entitled

10 AN ACT TO CLARIFY ARKANSAS WEIGHTS AND MEASURES
11 LAW; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO CLARIFY ARKANSAS WEIGHTS AND
14 MEASURES LAW.
15
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 4-18-301 is amended to read as follows:

21 4-18-301. Definitions.

22 For purposes of this subchapter:

23 ~~(1) "Weight(s) and measure(s)" means all weights and measures of every~~
24 ~~kind, instruments and devices for weighing and measuring, and any appliance~~
25 ~~and accessories associated with any or all such instruments and devices.~~

26 ~~(2) "Weight" as used in connection with any commodity or service means~~
27 ~~net weight. When a commodity is sold by drained weight, the term means net~~
28 ~~drained weight.~~

29 ~~(3) "Correct" as used in connection with weights and measures means~~
30 ~~conformance to all applicable requirements of this subchapter.~~

31 ~~(4) "Primary standards" means the physical standards of the state that~~
32 ~~serve as the legal reference from which all other standards for weights and~~
33 ~~measures are derived.~~

34 ~~(5) "Secondary standards" means the physical standards that are~~
35 ~~traceable to the primary standards through comparisons, using acceptable~~



1 laboratory procedures, and used in the enforcement of weights and measures
 2 laws and regulations.

3 (6) ~~"Director" means the Director of the State Plant Board.~~

4 (7) ~~"Person" means both plural and the singular, as the case demands,
 5 and includes individuals, partnerships, corporations, companies, societies,
 6 and associations.~~

7 (8) ~~"Sale from bulk" means the sale of commodities when the quantity
 8 is determined at the time of sale.~~

9 (9) ~~"Package", except as modified by Section 1 of the Application of
 10 the Uniform Packaging and Labeling Regulation, whether standard package or
 11 random package, means any commodity:~~

12 (a) ~~enclosed in a container or wrapped in any manner in advance
 13 of wholesale or retail sale or~~

14 (b) ~~whose weight or measure has been determined in advance of
 15 wholesale or retail sale. An individual item or lot of any commodity on
 16 which there is marked a selling price based on an established price per unit
 17 of weight or of measure shall be considered a package.~~

18 (10) ~~"Net mass" or "net weight" means the weight of a commodity
 19 excluding any materials, substances, or items not considered to be part of
 20 the commodity. Materials, substances, or items not considered to be part of
 21 the commodity include, but are not limited to, containers, conveyances, bags,
 22 wrappers, packaging materials, labels, individual piece coverings, decorative
 23 accompaniments, and coupons, except that, depending on the type of service
 24 rendered, packaging materials may be considered to be part of the service.~~

25 For example, the service of shipping includes the weight of packing
 26 materials.

27 (11) ~~"Random weight package" means a package that is one (1) of a lot,
 28 shipment, or delivery of packages of the same commodity with no fixed pattern
 29 of weights.~~

30 (12) ~~"Standard package" means a package that is one (1) of a lot,
 31 shipment, or delivery of packages of the same commodity with identical net
 32 contents declarations; for example, one (1) liter bottles or twelve (12)
 33 fluid ounce cans of carbonated soda; five hundred (500) gram or five (5)
 34 pound bags of sugar; one hundred (100) meters or three hundred foot (300')
 35 packages of rope.~~

36 (13) ~~"Commercial weighing and measuring equipment" means weights and~~

~~measures and weighing and measuring devices commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.~~

~~(14) "Board" means the State Plant Board.~~

~~(15) "Commodity" means an article or raw material that can be bought and sold.~~

(1) "Accurate" means a piece of equipment whose value or performance, including its indications, deliveries, records representations, capacity, or actual value, conforms to the standard within the applicable tolerances and other performance requirements.

(2) "Board" means the State Plant Board.

(3) "Commercial weighing and measuring equipment" means weights and measures and weighing and measuring devices commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

(4) "Commodity" means an article of commerce.

(5) "Correct" as used in connection with weights and measures means conformance to all applicable specification requirements of this subchapter.

(6) "Director" means the Director of the State Plant Board.

(7) "Investigator" means a state investigator of weights and measures.

(8) "Net mass" or "net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons, except that, depending on the type of service rendered, packaging materials may be considered to be part of the service. For example, the service of shipping includes the weight of packing materials.

(9)(A) "Package", except as modified by Section 1 of the Application of the Uniform Packaging and Labeling Regulation, whether standard package or random package, means any commodity:

1 (a)(i) Enclosed in a container or wrapped in any manner in
 2 advance of wholesale or retail sale or

3 (b)(ii) Whose weight or measure has been determined in
 4 advance of wholesale or retail sale.

5 (B) An individual item or lot of any commodity on which there is
 6 marked a selling price based on an established price per unit of weight or of
 7 measure shall be considered a package.

8 (10) "Person" means both plural and the singular, as the case demands,
 9 and includes individuals, partnerships, corporations, companies, societies,
 10 and associations.

11 (11) "Primary standards" means the physical standards of the state
 12 that serve as the legal reference from which all other standards for weights
 13 and measures are derived.

14 (12) "Random weight package" means a package that is one (1) of a lot,
 15 shipment, or delivery of packages of the same commodity with no fixed pattern
 16 of weights.

17 (13) "Registered service agent" means any individual, agency, firm,
 18 company, or corporation that for hire, commission, or other payment of any
 19 kind installs, services, calibrates, repairs, or reconditions a commercial
 20 weighing or measuring device, and that registers with the Director of the
 21 Arkansas Bureau of Standards.

22 (14) "Sale from bulk" means the sale of commodities when the quantity
 23 is determined at the time of sale.

24 (15) "Secondary standards" means the physical standards that are
 25 traceable to the primary standards through comparisons, using acceptable
 26 laboratory procedures, and used in the enforcement of weights and measures
 27 laws and regulations.

28 (16) "Sell" or "sale" means to barter or exchange.

29 (17) "Standard package" means a package that is one (1) of a lot,
 30 shipment, or delivery of packages of the same commodity with identical net
 31 contents declarations; for example, one (1) liter bottles or twelve (12)
 32 fluid ounce cans of carbonated soda; five hundred (500) gram or five (5)
 33 pound bags of sugar; one hundred (100) meters or three-hundred foot (300')
 34 packages of rope.

35 (18) "Weight" as used in connection with any commodity or service
 36 means net weight. When a commodity is sold by drained weight, the term means

1 net drained weight.

2 (19)(A) "Weight(s) and measure(s)" means all weights and measures of
 3 every kind, instruments and devices for weighing and measuring, and any
 4 appliance and accessories associated with any or all ~~such~~ instruments and
 5 devices.

6 (B) The term "weight(s) and measure(s)" shall not be construed
 7 to include meters for the measurement of electricity, natural or manufactured
 8 gas, or water when they are operated in a public utility system.
 9 Electricity, gas, and water meters are specifically excluded from this
 10 section.

11
 12 SECTION 2. Arkansas Code § 4-18-322 is amended to read as follows:
 13 4-18-322. Prohibited acts.

14 (a) No person shall:

15 ~~(a)(1) use~~ Use or have in possession for use in commerce any
 16 incorrect weight or measure;

17 ~~(b)(2) sell~~ Sell or offer for sale for use in commerce any
 18 incorrect weight or measure;

19 ~~(c)(3) remove~~ Remove any tag, seal, decal, or mark from any
 20 weight or measure without specific written authorization from the proper
 21 authority;

22 ~~(d)(4) hinder~~ Hinder or obstruct any weights and measures
 23 official or registered service agent in the performance of his or her duties;

24 ~~(e)(5) violate~~ Violate any provisions of this subchapter or
 25 regulations promulgated under it;

26 ~~(f)(6) sell~~ Sell or offer for sale any weight or measure for use
 27 in commerce, unless it bears an Arkansas Bureau of Standards approved seal or
 28 decal, if the seal or decal is applicable to the weight or measure;

29 ~~(g)(7) neglect~~ Neglect or refuse to exhibit a weight or measure
 30 under the person's control or in the person's possession to any weights and
 31 measures official or a registered service agent for inspection, examination,
 32 or testing as required by law; ~~or~~

33 ~~(h)(8) perform~~ Perform an annual inspection, examination, or
 34 test on a weight or measure, if that person is not a weights and measures
 35 official or a registered service agent;

36 (9) Impersonate in any way the Director of the Arkansas Bureau

1 of Standards, the deputy director, any one of the investigators, or a
2 registered agent of the Arkansas Bureau of Standards by the use of a seal or
3 decal, or in any other manner; or

4 (10) Violate any provision of this subchapter or rules
5 promulgated under § 4-18-328.

6 (b) A person may be prosecuted for a violation of this subchapter
7 notwithstanding the existence of any other valid general or specific act of
8 this state dealing with matters that may be the same as or similar to those
9 covered by this subchapter.

10
11 SECTION 3. Arkansas Code § 4-18-323 is amended to read as follows:
12 4-18-323. Civil penalties.

13 (a)(1) Assessment of penalties. Any person who by himself or herself,
14 by his or her servant or agent, or as the servant or agent of another person,
15 commits any of the acts enumerated in § 4-18-322 may be assessed by the State
16 Plant Board a civil penalty of:

17 ~~(a)(A) not~~ Not less than one hundred dollars (\$100) nor
18 more than ~~three hundred dollars (\$300)~~ six hundred dollars (\$600) for a first
19 violation;

20 ~~(b)(B) not~~ Not less than four hundred dollars (\$400) nor
21 more than ~~six hundred dollars (\$600)~~ one thousand two hundred dollars
22 (\$1,200) for a second violation within three (3) years after the date of the
23 first violation; and

24 ~~(c)(C) not~~ Not less than seven hundred dollars (\$700) nor
25 more than ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000) for a
26 third violation within three (3) years after the date of the first violation.

27 (2) For a violation to be considered as a second or subsequent
28 offense, it must be a repeat of a violation as enumerated in § 4-28-322.

29 ~~(b)(1) Administrative hearing.~~ Any person subject to a civil penalty
30 shall have a right to request an administrative hearing within ten (10)
31 calendar days after receipt of the notice of the penalty.

32 (2) The board or subcommittee thereof is authorized to conduct
33 the hearing after giving appropriate notice to the respondent.

34 (3) The decision of the board ~~shall be~~ is subject to appropriate
35 judicial review.

36 ~~(c)(1) Collection of penalties.~~ If the respondent has exhausted his or

1 her administrative appeals and the civil penalty has been upheld, he or she
2 shall pay the civil penalty within twenty (20) calendar days after the
3 effective date of the final decision.

4 (2) If the respondent fails to pay the penalty, a civil action
5 may be brought by the board in any court of competent jurisdiction to recover
6 the penalty.

7 (3) Any civil penalty collected under this section shall be
8 transmitted to the Plant Board Fund.

9
10 SECTION 4. Arkansas Code § 4-18-324 is amended to read as follows:

11 4-18-324. Criminal penalties.

12 ~~Misdemeanor.~~ Any person who intentionally commits any of the acts
13 enumerated in § 4-18-322 shall be is guilty of a Class A misdemeanor.

14
15 SECTION 5. Arkansas Code Title 4, Chapter 18, Subchapter 3 is amended
16 to add additional sections to read as follows:

17 4-18-329. Fruit and commodities -- Packing, selling, pledging, etc.,
18 with fraudulent intent -- Penalty.

19 (a) Any person who packs any fruit or other merchantable commodity
20 with the fraudulent intent of misrepresenting the contents, either as to
21 quality or quantity, shall on conviction be punished by a fine not exceeding
22 one thousand dollars (\$1,000) or imprisonment not exceeding one (1) year, or
23 both.

24 (b) Any person who sells or pledges any commodity, knowing it to be
25 packed in a fraudulent manner with the intent to cheat and deceive shall on
26 conviction be assessed a civil penalty as provided in § 4-18-323.

27
28 4-18-330. Legal weight of bushel of specific commodities.

29 The legal weight per bushel of the following shall be:

30 (1) Corn, shelled
31 56 lbs.

32 (2) Corn in ear, husked
33 70 lbs.

34 (3) Corn in ear, unhusked
35 74 lbs.

36 (4) Wheat

- 1 60 lbs.
- 2 (5) Oats
- 3 32 lbs.
- 4 (6) Cottonseed
- 5 32 lbs.
- 6 (7) Cornmeal
- 7 48 lbs.
- 8 (8) Barley
- 9 48 lbs.
- 10 (9) Rye
- 11 56 lbs.
- 12 (10) Potatoes
- 13 60 lbs.
- 14 (11) Potatoes, sweet
- 15 50 lbs.
- 16 (12) Onions
- 17 57 lbs.
- 18 (13) White beans
- 19 60 lbs.
- 20 (14) Peas
- 21 60 lbs.
- 22 (15) Flax seed
- 23 56 lbs.
- 24 (16) Blue grass seed
- 25 14 lbs.
- 26 (17) Clover seed
- 27 60 lbs.
- 28 (18) Timothy seed
- 29 60 lbs.
- 30 (19) Millet seed
- 31 50 lbs.
- 32 (20) Buckwheat
- 33 52 lbs.
- 34 (21) Red top
- 35 14 lbs.
- 36 (22) Orchard grass

- 1 14 lbs.
- 2 (23) Sorghum
- 3 50 lbs.
- 4 (24) Green apples
- 5 50 lbs.
- 6 (25) Dried apples
- 7 24 lbs.
- 8 (26) Dried peaches
- 9 33 lbs.
- 10 (27) Bran
- 11 20 lbs.
- 12 (28) Salt
- 13 50 lbs.
- 14 (29) Turnips
- 15 57 lbs.
- 16 (30) Broom corn seed
- 17 48 lbs.
- 18 (31) Johnson grass
- 19 28 lbs.

21 4-18-331. Bushel of apples – Lawful measure.

22 (a) A box nine inches (9") deep, twelve inches (12") wide, and twenty
23 inches (20") long constitutes a lawful bushel measure for apples.

24 (b) Any person violating the provisions of this section is guilty of a
25 misdemeanor and upon conviction shall be assessed a civil penalty consistent
26 with § 4-18-323.

28 4-18-332. "Cord" defined.

29 A cord shall be defined as containing one hundred twenty-eight cubic
30 feet (128 cu. ft.), and a unit of pulpwood shall be defined as containing one
31 hundred twenty-eight cubic feet (128 cu. ft.) and this shall be the basis for
32 purchase of timber or payment of labor in severing timber where the
33 production is handled on cordage basis.

35 4-18-333. Director of the Arkansas Bureau of Standards.

36 (a) The Director of the Arkansas Bureau of Standards is appointed by

1 the Governor and shall serve at the pleasure of the Governor.

2 (b) The director is vested with police powers and may:

3 (1) Arrest, with warrant, any violator of this subchapter, or
 4 any other act dealing with weights and measures; and

5 (2) Seize for use as evidence, with warrant, incorrect or
 6 unsealed weights and measures or amounts or packages of commodity found to be
 7 used, retained, offered, or exposed for sale, or sold, in violation of law.

8 (c) The director may establish divisions or offices within the
 9 Arkansas Bureau of Standards as he or she may deem necessary for the
 10 administration of the duties of the bureau.

11 (d) The director shall:

12 (1) Have custody of the state standards of weights and measures
 13 and of the other standards and equipment provided under this subchapter;

14 (2) Keep accurate records of the standards and equipment;

15 (3) Maintain a general supervision over weights and measures
 16 offered for sale, sold, or in use in the state; and

17 (4) Make a report to the Governor on the activities of his or
 18 her office at the end of each fiscal year.

19
 20 4-18-334. Staff and equipment of the Arkansas Bureau of Standards.

21 (a) The Arkansas Bureau of Standards shall be composed of a deputy
 22 director, state investigators, and technical and clerical personnel of
 23 weights and measures sufficient to accomplish the intent of this subchapter.

24 (b) The powers and duties given to and imposed upon the Director of
 25 the Arkansas Bureau of Standards by this subchapter are also given to and
 26 imposed upon the deputy director and investigators when acting at the
 27 direction of the director.

28
 29 4-18-335. State standards -- Certification.

30 (a) The weights and measures in conformity with federal standards
 31 shall, after certification for use by the National Institute of Standards and
 32 Technology, be the state standards of weight and measure.

33 (b) The state standards shall:

34 (1) Be kept in a safe and suitable place in the office or
 35 laboratory of the Arkansas Bureau of Standards;

36 (2) Not be removed from the office or laboratory except for

1 repairs or for certification;

2 (3) Be submitted at least one (1) time every ten (10) years to
 3 the National Institute of Standards and Technology for certification; and

4 (4) Be used only in verifying the office standards and for
 5 scientific purposes.

6
 7 4-18-336. Office and field standards -- Verification.

8 (a) In addition to the state standards provided under § 4-18-335, the
 9 state shall supply at least one (1) complete set of copies of the state
 10 standards to be kept in the office or laboratory of the Arkansas Bureau of
 11 Standards, which shall be known as "office standards", and also "field
 12 standards" and equipment as may be found necessary to carry out the
 13 provisions of this subchapter.

14 (b) The office standards and field standards shall be verified upon
 15 their initial receipt and at least one (1) time each following year by
 16 comparing the office standards with the state standards and comparing the
 17 field standards with the office standards.

18
 19 4-18-337. Rules and regulations -- Correct and incorrect apparatus.

20 (a) The Arkansas Bureau of Standards shall issue from time to time
 21 reasonable rules for the enforcement of this subchapter.

22 (b) These rules may include:

23 (1) A system of determining the qualifications for registration
 24 of and issuing permits to sales and service personnel who for compensation
 25 place weighing and measuring devices into commercial use in this state;

26 (2) Standards of net weight, measure, or count, and reasonable
 27 standards of fill for any commodity in package form;

28 (3) Rules governing the technical and reporting procedures to be
 29 followed and the report and record forms and marks of approval and rejection
 30 to be used by investigators of weights and measures in the discharge of their
 31 official duties;

32 (4) Rules governing the technical and reporting procedures to be
 33 followed and the report and record forms and marks of approval to be used by
 34 registered agents of weights and measures in the discharge of their official
 35 duties; and

36 (5) Exemptions from the sealing or marking requirements of § 4-

1 18-340 with respect to weights and measures of character or size that sealing
 2 or marking would be inappropriate, impracticable, or damaging to the
 3 apparatus in question.

4 (c) The rules shall include specifications, tolerances, and
 5 regulations for weights and measures specified in § 4-18-340 designed to
 6 eliminate from use without prejudice to apparatus that conform as closely as
 7 practicable to the official standards apparatus that:

8 (1) Are not accurate and correct;

9 (2) Are constructed so that they are not reasonably permanent in
 10 their adjustment or will not repeat their indications correctly; or

11 (3) Facilitate the perpetration of fraud.

12 (d) For the purposes of this subchapter, an apparatus shall be deemed
 13 to be correct when it conforms to all applicable requirements promulgated as
 14 specified in this section.

15
 16 4-18-338. Disposition of correct and incorrect apparatus.

17 (a)(1) The Director of the Arkansas Bureau of Standards shall:

18 (A) Approve for use, and seal or mark with appropriate
 19 devices, weights and measures as he or she finds upon inspection and testing
 20 to be correct as defined in § 4-18-337; and

21 (B) Reject and mark or tag as "rejected" weights and
 22 measures as he or she finds, upon inspection or test, to be incorrect as
 23 defined in § 4-18-337, but which in his or her best judgment are susceptible
 24 to satisfactory repair.

25 (2) However, the sealing or marking shall not be required with
 26 respect to weights and measures that are excepted under a rule of the
 27 director issued under § 4-18-337.

28 (b) The director shall condemn, seize, and destroy weights and
 29 measures found to be incorrect and that in his or her best judgment are not
 30 susceptible to satisfactory repair.

31 (c) Weights and measures that have been rejected may be confiscated
 32 and destroyed by the director if not corrected as required by subsections (d)
 33 and (e) of this section, or if used or disposed of contrary to the
 34 requirements of subsection (f) of this section.

35 (d) Weights and measures that have been rejected under the authority
 36 of the director or a sealer shall remain subject to the control of the

1 rejecting authority until suitable repair or disposition has been made as
2 required by this section.

3 (e) The owners of rejected or noncompliant weights and measures shall
4 cause the weights and measures to be made accurate and correct or may dispose
5 of them in the manner specifically authorized by the director.

6 (f) Weights and measures that have been rejected shall not again be
7 used commercially until they have been officially reexamined and found to be
8 accurate and correct or until specific written permission for use is issued
9 by the director.

10

11 4-18-339. Investigations.

12 The Director of the Arkansas Bureau of Standards shall investigate
13 complaints made to him or her concerning violations of this subchapter and
14 shall, upon his or her own initiative:

15 (1) Conduct investigations as he or she deems appropriate and
16 advisable to develop information on prevailing procedures in commercial
17 quantity determination and on possible violations of the provisions of this
18 subchapter; and

19 (2) Promote the general objective of accuracy and correctness in
20 the determination and representation of quantity in commercial transactions.

21

22 4-18-340. Testing generally.

23 (a) When not otherwise provided by law, the Director of the Arkansas
24 Bureau of Standards shall have the power to inspect and test to ascertain if
25 all weights and measures kept, offered, or exposed for sale are accurate and
26 correct.

27 (b) The director shall within each calendar year, or less frequently
28 if in accordance with a schedule issued by him or her or as otherwise
29 determined, inspect and test to ascertain if all weights and measures
30 commercially used in determining the weight, measurement, or count of
31 commodities or things sold or offered or exposed for sale on the basis of
32 weight, measure, or count, or in computing the basic charge or payment for
33 services rendered on the basis of weight, measure, or count are accurate and
34 correct.

35 (c)(1) However, with respect to single-service devices designed to be
36 used commercially only one (1) time and to be then discarded and devices

1 uniformly mass produced as by means of a mold or die and not susceptible to
 2 individual adjustment, tests may be made on representative samples of these
 3 devices.

4 (2) The lots of which the samples are representative shall be
 5 held to be correct or incorrect upon the basis of the results of the
 6 inspections and tests on the samples.

7
 8 4-18-341. Packages or amounts of commodities -- Inspection --
 9 Disposition of nonconforming units.

10 (a)(1) The Director of the Arkansas Bureau of Standards shall from
 11 time to time weigh or measure and inspect packages or amounts of commodities
 12 kept, offered, or exposed for sale, sold, or in the process of delivery to
 13 determine whether the packages or amounts of commodities contain the amounts
 14 represented and whether they are kept, offered, or exposed for sale, or sold,
 15 in accordance with law.

16 (2) When the packages or amounts of commodities are found not to
 17 contain the amounts represented or are found to be kept, offered, or exposed
 18 for sale in violation of law, the director may order them off sale and may so
 19 mark or tag them as to show them to be illegal.

20 (b) A person shall not:

21 (1) Sell, keep, offer, or expose for sale in intrastate commerce
 22 any package or amount of commodity that has been ordered off sale or marked
 23 or tagged as provided in this section unless the package or amount of
 24 commodity has been brought into full compliance with all legal requirements;
 25 or

26 (2) Dispose of any package or amount of commodity that has been
 27 ordered off sale or marked or tagged as provided in this section or that has
 28 not been brought into compliance with legal requirements in any manner except
 29 with the specific approval of the director.

30
 31 4-18-342. Display of price -- Fractions.

32 Whenever an advertised, posted, or labeled price per unit of weight,
 33 measure, or count includes a fraction of a cent, all elements of the fraction
 34 shall be prominently displayed and the numerals expressing the fraction shall
 35 be immediately adjacent to, of the same general design and style as, and at
 36 least one-half (1/2) the height and width of the numerals representing the

1 whole cents.

2
3 4-18-343. Testing bulk meters or liquefied petroleum gas metering
4 devices, pumps, and scales used for commercial transactions.

5 (a)(1) As used in this section, "pump" means a fuel pump that
6 dispenses products used as motor vehicle fuels, including, but not limited
7 to, gasoline, kerosene, or diesel.

8 (2) As used in this section, "bulk meter" includes, but is not
9 limited to, a pipeline terminal meter, a rack meter, or a tank truck meter.

10 (b)(1)(A) A person who owns a bulk meter or liquefied petroleum gas
11 metering device for a commercial transaction must engage a registered service
12 agent to annually inspect and test for the accuracy and correctness of the
13 device.

14 (B) The duty of the Director of the Arkansas Bureau of
15 Standards to inspect and test bulk meters or liquefied petroleum gas metering
16 devices used for commercial transactions is fulfilled by the registered
17 service agent's annual inspection and test for accuracy.

18 (2)(A) A person who owns a pump or scale for a commercial
19 transaction must engage a registered service agent to annually inspect and
20 test for the accuracy and correctness of the pump or scale.

21 (B) The director's duty to inspect and test pumps or
22 scales used for commercial transactions is fulfilled by the registered
23 service agent's annual inspection and test for accuracy.

24 (c) A registered service agent shall perform the recalibration if the
25 inspection or test indicates the bulk meter or liquefied petroleum gas
26 metering device, pump, or scale needs to be recalibrated.

27 (d)(1) After the approval of a decal by the Arkansas Bureau of
28 Standards, a registered service agent shall place an approved decal
29 conspicuously on the bulk meter or liquefied petroleum gas metering device,
30 pump, or scale which indicates that it is suitable for trade in accordance
31 with the National Institute of Standards and Technology Handbook 44 and 112,
32 as adopted by the bureau.

33 (2) A registered service company shall provide security seals
34 approved by the bureau to any individual employed as a registered technician
35 authorized to perform inspections and tests.

36 (3) A registered technician shall place an approved security

1 seal on the device to prevent any unauthorized access to the adjusting
 2 mechanism unless otherwise authorized by the bureau.

3 (e) The registered service agent shall provide a copy of all bureau-
 4 approved inspection and test reports to the bulk meter or liquefied petroleum
 5 gas metering device, pump, or scale owner and to the director.

6 (f)(1) The registered service agent shall retain a copy of all
 7 inspection and test reports for a period of three (3) years.

8 (2) The owner of the device shall retain a copy of all
 9 inspection and test reports at the device location for a period of three (3)
 10 years.

11 (g) The director may adopt a system to periodically monitor, inspect,
 12 or test bulk meters or liquefied petroleum gas metering devices, pumps, and
 13 scales inspected and tested by a registered service agent to check the
 14 accuracy of the work of the service agent.

15 (h)(1) The director may suspend or revoke the certificate of
 16 registration of a registered service agent for violating any provision of
 17 this subchapter.

18 (2) If the registration of a registered service agent has been
 19 suspended or revoked, then the service agent may not register with the bureau
 20 as a service agent for at least one (1) year.

21
 22 SECTION 6. Arkansas Code Title 4, Chapter 18, Subchapter 1 is
 23 repealed.

24 ~~4-18-101. Goods to weigh as marked—Penalty.~~

25 ~~(a) Every package, bag, or bundle of goods or merchandise shall~~
 26 ~~contain in weight what it is branded, marked, or said to contain.~~

27 ~~(b) Any person, firm, or corporation violating the provisions of this~~
 28 ~~section shall be deemed guilty of a misdemeanor and upon conviction shall be~~
 29 ~~fined not less than one dollar (\$1.00) nor more than twenty five dollars~~
 30 ~~(\$25.00) for each package, bag, or bundle sold in violation of this section.~~

31
 32 ~~4-18-102. False or short weights and measures—Penalty.~~

33 ~~Whoever knowingly buys or sells or permits any person in his employ to~~
 34 ~~buy or sell any property and make or give any false or short weights or~~
 35 ~~measure, and any person owning or having charge of any scales fixed for the~~
 36 ~~purpose of misweighing any article bought or sold, and any person having any~~

1 such scales for the purpose of weighing any property and who knowingly
2 reports any false or untrue weight, and any firm or corporation using in the
3 sale of any commodity a computing scale or device indicating the weight and
4 price of the commodity upon which scale or device the graduation or
5 indication are false or inaccurately placed, either as to weight or price,
6 shall be deemed guilty of a misdemeanor. Upon conviction he or she shall be
7 fined in any sum not less than fifty dollars (\$50.00) nor more than one
8 hundred dollars (\$100), and each sale made on any such scale or device shall
9 constitute a separate offense.

10
11 ~~4-18-103. Fruit and commodities—Packing, selling, pledging, etc.,~~
12 ~~with fraudulent intent—Penalty.~~

13 ~~(a) Any person who shall pack any fruit or other merchantable~~
14 ~~commodity with the fraudulent intent of cheating others by a~~
15 ~~misrepresentation of the contents, either as to quality or quantity, shall,~~
16 ~~on conviction, be punished by a fine not exceeding five hundred dollars~~
17 ~~(\$500) or by imprisonment at hard labor not exceeding one (1) year, or both.~~

18 ~~(b) Any person who shall sell, pledge, or hypothecate any such~~
19 ~~commodity, knowing the same to be packed in the fraudulent manner aforesaid,~~
20 ~~with the intent to cheat and deceive shall on conviction be punished as~~
21 ~~provided in § 4-18-102.~~

22
23 ~~4-18-104. Millers to keep half bushel measure and toll dishes.~~

24 ~~(a) There shall always be kept in a public mill by the owner or~~
25 ~~occupier thereof an accurate half bushel measure and an accurate set of toll~~
26 ~~dishes.~~

27 ~~(b) For each breach of any of the provisions of this section by the~~
28 ~~owner or occupier of a public mill, he or she shall forfeit and pay to the~~
29 ~~party aggrieved by such breach ten dollars (\$10.00), to be recovered by a~~
30 ~~civil action, with costs, before any justice of the peace.~~

31
32 ~~4-18-105. Legal weight of bushel of specific commodities.~~

33 ~~The legal weight per bushel of the following shall be:~~

34 ~~(1) Corn, shelled~~

35 ~~..... 56 lbs.~~

36 ~~(2) Corn in ear, husked~~

1	..... 70 lbs.
2	(3) — Corn in ear, unhusked
3	..... 74 lbs.
4	(4) — Wheat
5	..... 60 lbs.
6	(5) — Oats
7	..... 32 lbs.
8	(6) — Cottonseed
9	..... 32 lbs.
10	(7) — Cornmeal
11	..... 48 lbs.
12	(8) — Barley
13	..... 48 lbs.
14	(9) — Rye
15	..... 56 lbs.
16	(10) — Potatoes
17	..... 60 lbs.
18	(11) — Potatoes, sweet
19	..... 50 lbs.
20	(12) — Onions
21	..... 57 lbs.
22	(13) — White beans
23	..... 60 lbs.
24	(14) — Peas
25	..... 60 lbs.
26	(15) — Flax seed
27	..... 56 lbs.
28	(16) — Blue grass seed
29	..... 14 lbs.
30	(17) — Clover seed
31	..... 60 lbs.
32	(18) — Timothy seed
33	..... 60 lbs.
34	(19) — Millet seed
35	..... 50 lbs.
36	(20) — Buckwheat

- 1 52 lbs.
- 2 (21) — Red top
- 3 14 lbs.
- 4 (22) — Orchard grass
- 5 14 lbs.
- 6 (23) — Sorghum
- 7 50 lbs.
- 8 (24) — Green apples
- 9 50 lbs.
- 10 (25) — Dried apples
- 11 24 lbs.
- 12 (26) — Dried peaches
- 13 33 lbs.
- 14 (27) — Bran
- 15 20 lbs.
- 16 (28) — Salt
- 17 50 lbs.
- 18 (29) — Turnips
- 19 57 lbs.
- 20 (30) — Broom corn seed
- 21 48 lbs.
- 22 (31) — Johnson grass
- 23 28 lbs.

24
25 4-18-106. ~~Bushel of apples — What constitutes.~~

26 ~~(a) — A box nine inches (9") deep, twelve inches (12") wide, and twenty~~
27 ~~inches (20") long shall constitute a lawful bushel measure for apples.~~

28 ~~(b) — Any person violating the provisions of this section shall be~~
29 ~~guilty of a misdemeanor and upon conviction shall be fined in any sum not~~
30 ~~less than ten dollars (\$10.00) nor more than twenty five dollars (\$25.00) for~~
31 ~~each offense.~~

32
33 4-18-107. ~~"Cord" defined.~~

34 ~~A cord shall be defined as containing one hundred twenty eight (128)~~
35 ~~cubic feet, and a unit of pulpwood shall be defined as containing one hundred~~
36 ~~twenty eight cubic feet (128 cu. ft.) and this shall be the basis for~~

~~purchase of timber or payment of labor in severing where the production is handled on cordage basis.~~

~~4-18-110. Cisterns—Barrel capacity.~~

~~Whenever in any contract for the repair or construction of any cistern in this state, the capacity of which is represented in barrels, and there is no other specification of the holding capacity of the barrels, the term "barrel" shall be taken and held, in law, as meaning and intending a holding capacity which is the exact equivalent of the cubic contents of thirty-six (36) times that of the standard gallon measure of the United States which is in use and kept as required by law in the office of the Secretary of State.~~

SECTION 7. Arkansas Code Title 4, Chapter 18, Subchapter 2 is repealed.

~~4-18-201. Title.~~

~~Sections 4-18-201—4-18-220 and 4-18-222—4-18-230 may be cited as the "Weights and Measures Act of 1963".~~

~~4-18-202. Definitions.~~

~~As used in §§ 4-18-201—4-18-220 and 4-18-222—4-18-230, unless the context otherwise requires:~~

~~(1) "Barrel", when used in connection with fermented liquor, means a unit of thirty one gallons (31 gals.);~~

~~(2) "Commodity in package form" shall be construed to mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of § 4-18-201 et seq. An individual item or lot of any commodity not in package form as defined in this section but on which there is marked a selling price based on an established price per unit of weight or of measure shall be construed to be commodity in package form;~~

~~(3) "Cord", when used in connection with wood intended for fuel purposes means the amount of wood that is contained in a space of one hundred twenty eight cubic feet (128 cu. ft.) when the wood is ranked and well-stowed;~~

~~(4) "Director" and "deputy director" shall be construed to mean,~~

1 respectively, the Director of the Arkansas Bureau of Standards and the Deputy
 2 Director of the Arkansas Bureau of Standards;

3 (5) ~~"Inspector" shall be construed to mean a state inspector of~~
 4 ~~weights and measures;~~

5 (6) ~~"Intrastate commerce" shall be construed to mean any and all~~
 6 ~~commerce or trade that is begun, carried on, and completed wholly within the~~
 7 ~~limits of the State of Arkansas, and the phrase "introduced into intrastate~~
 8 ~~commerce" shall be construed to define the time and place at which the first~~
 9 ~~sale and delivery of a commodity is made within the state and delivery being~~
 10 ~~made either directly to the purchaser or to a common carrier for shipment to~~
 11 ~~the purchaser;~~

12 (7) ~~"Person" shall be construed to mean both the plural and~~
 13 ~~singular as the case demands and shall include individuals, partnerships,~~
 14 ~~corporations, companies, societies, and associations;~~

15 (8) ~~"Sealer" and "deputy sealer" shall be construed to mean,~~
 16 ~~respectively, a sealer of weights and measures and a deputy sealer of weights~~
 17 ~~and measures;~~

18 (9) ~~"Sell" and "sale" shall be construed to mean barter and~~
 19 ~~exchange;~~

20 (10) ~~"Ton" means a unit of two thousand pounds (2,000 lbs.)~~
 21 ~~avoirdupois weight;~~

22 (11) ~~"Weight" as used in connection with any commodity means net~~
 23 ~~weight. Whenever any commodity is sold on the basis of weight, the net weight~~
 24 ~~of the commodity shall be employed, and all contracts concerning commodities~~
 25 ~~shall be so construed;~~

26 (12) ~~"Weights and measures" shall be construed to mean all~~
 27 ~~weights and measures of every kind, instruments and devices for weighing and~~
 28 ~~measuring, and any appliances and accessories associated with any or all such~~
 29 ~~instruments and devices, except that the term shall not be construed to~~
 30 ~~include meters for the measurement of electricity, natural or manufactured~~
 31 ~~gas, or water when they are operated in a public utility system. Electricity,~~
 32 ~~gas, and water meters are specifically excluded from the purview of § 4-18-~~
 33 ~~201 et seq., and none of the provisions of § 4-18-201 et seq. shall be~~
 34 ~~construed to apply to these meters or to any appliances or accessories~~
 35 ~~associated therewith; and~~

36 (13) ~~"Registered service agent" means any individual, agency,~~

~~firm, company, or corporation that for hire, commission, or other payment of any kind installs, services, repairs, or reconditions a commercial weighing or measuring device, and that registers with the Director of the Arkansas Bureau of Standards.~~

~~4-18-203. Penalties.~~

~~(a) Any person who, by himself or by his servant or agent or as the servant or agent of another person, performs any one (1) of the acts enumerated in subdivisions (b)(1)-(9) of this section shall be guilty of a misdemeanor and, upon a first conviction, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or by imprisonment for not more than three (3) months, or by both fine and imprisonment, and, upon a second or subsequent conviction, he or she shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment.~~

~~(b) Any person shall be subject to the penalties prescribed in subsection (a) of this section who:~~

~~(1) Uses or has in his or her possession for the purpose of using for any commercial purpose specified in § 4-18-219, sells, offers, or exposes for sale or hire, or has in his or her possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure;~~

~~(2) Uses or has in his or her possession for the purpose of current use for any commercial purpose specified in § 4-18-219 a weight or measure that does not bear a seal or mark such as is specified in § 4-18-217, unless the weight or measure has been exempted from testing by the provisions of § 4-18-219 or by a regulation of the Director of the Arkansas Bureau of Standards issued under the authority of § 4-18-216;~~

~~(3) Disposes of any rejected or condemned weight or measure in a manner contrary to law or regulation;~~

~~(4) Removes from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority;~~

~~(5) Sells or offers or exposes for sale less than the quantity he or she represents of any commodity, thing, or service;~~

1 ~~(6) Takes more than the quantity he or she represents of any~~
 2 ~~commodity, thing, or service when as a buyer he or she furnishes the weight~~
 3 ~~or measure by means of which the amount of the commodity, thing, or service~~
 4 ~~is determined;~~

5 ~~(7) Keeps for the purpose of sale, advertises, or offers or~~
 6 ~~exposes for sale, or sells, any commodity, thing, or service in a condition~~
 7 ~~or manner contrary to law or regulation;~~

8 ~~(8) Uses in retail trade, except in the preparation of packages~~
 9 ~~put up in advance of sale and of medical prescriptions, a weight or measure~~
 10 ~~that is not so positioned that its indications may be accurately read and the~~
 11 ~~weighing or measuring operation observed from some position which may~~
 12 ~~reasonably be assumed by a customer; or~~

13 ~~(9) Violates any provision of §§ 4-18-201—4-18-220 and 4-18-~~
 14 ~~222—4-18-230 or of the regulations promulgated under the provisions of §§~~
 15 ~~4-18-201—4-18-220 and 4-18-222—4-18-230 for which a specific penalty has~~
 16 ~~not been prescribed.~~

17
 18 ~~4-18-204. Enforcement by Arkansas Bureau of Standards.~~

19 ~~(a) The Arkansas Bureau of Standards is vested with the authority to~~
 20 ~~carry out the provisions of §§ 4-18-201—4-18-220 and 4-18-222—4-18-230,~~
 21 ~~including the employment of necessary personnel.~~

22 ~~(b) The bureau, through the Director of the Arkansas Bureau of~~
 23 ~~Standards, shall enforce the provisions of §§ 4-18-201—4-18-220 and 4-18-~~
 24 ~~222—4-18-230.~~

25
 26 ~~4-18-205. Injunction restraining violation.~~

27 ~~The Director of the Arkansas Bureau of Standards is authorized to apply~~
 28 ~~to any court of competent jurisdiction for, and the court upon hearing and~~
 29 ~~for cause shown may grant, a temporary or permanent injunction restraining~~
 30 ~~any person from violating any provision of §§ 4-18-201—4-18-220 and 4-18-~~
 31 ~~222—4-18-230.~~

32
 33 ~~4-18-206. Prosecutions valid notwithstanding other valid general or~~
 34 ~~specific law.~~

35 ~~Prosecutions for a violation of any provision of §§ 4-18-201—4-18-220~~
 36 ~~and 4-18-222—4-18-230 are declared to be valid and proper notwithstanding~~

1 ~~the existence of any other valid general or specific act of this state~~
 2 ~~dealing with matters that may be the same as or similar to those covered by~~
 3 ~~§§ 4-18-201—4-18-220 and 4-18-222—4-18-230.~~

4
 5 ~~4-18-207. Presumptive evidence.~~

6 ~~For the purposes of §§ 4-18-201—4-18-220 and 4-18-222—4-18-230,~~
 7 ~~proof of the existence of a weight or measure or a weighing or measuring~~
 8 ~~device in or about any building, enclosure, stand, or vehicle in which or~~
 9 ~~from which it is shown that buying or selling is commonly carried on, in the~~
 10 ~~absence of conclusive evidence to the contrary, shall be presumptive proof of~~
 11 ~~the regular use of the weight or measure or weighing or measuring device for~~
 12 ~~commercial purposes and of that use by the person in charge of the building,~~
 13 ~~enclosure, stand, or vehicle.~~

14
 15 ~~4-18-208. Director of bureau.~~

16 ~~(a) The Director of the Arkansas Bureau of Standards shall be~~
 17 ~~appointed by the Governor and shall serve at the pleasure of the Governor.~~

18 ~~(b) With respect to the enforcement of §§ 4-18-201—4-18-220 and 4-~~
 19 ~~18-222—4-18-230, and any other acts dealing with weights and measures that~~
 20 ~~he or she is or may be empowered to enforce, the director is vested with~~
 21 ~~police powers and is authorized to arrest, with warrant, any violator of §§~~
 22 ~~4-18-201—4-18-220 and 4-18-222—4-18-230, or any other act dealing with~~
 23 ~~weights and measures and to seize for use as evidence, with warrant,~~
 24 ~~incorrect or unsealed weights and measures or amounts or packages of~~
 25 ~~commodity found to be used, retained, offered, or exposed for sale, or sold,~~
 26 ~~in violation of law.~~

27 ~~(c) The director may establish such divisions or offices within the~~
 28 ~~bureau as he or she may deem necessary for the administration of the duties~~
 29 ~~of the bureau.~~

30 ~~(d) The director shall have custody of the state standards of weight~~
 31 ~~and measure, and of the other standards and equipment provided for by §§ 4-~~
 32 ~~18-201—4-18-220 and 4-18-222—4-18-230 and shall keep accurate records of~~
 33 ~~the standards and equipment.~~

34 ~~(e) He or she shall have and keep a general supervision over weights~~
 35 ~~and measures offered for sale, sold, or in use in the state.~~

36 ~~(f) He shall annually after the end of the fiscal year, June 30, make~~

1 a report to the Governor on all of the activities of his or her office.

2
3 ~~4-18-209. Staff and equipment of bureau.~~

4 ~~(a) There shall be a deputy director, state inspectors, and technical~~
5 ~~and clerical personnel of weights and measures sufficient to accomplish the~~
6 ~~intent of §§ 4-18-201—4-18-220 and 4-18-222—4-18-230 and who,~~
7 ~~collectively, shall compose the Arkansas Bureau of Standards.~~

8 ~~(b) The powers and duties given to and imposed upon the Director of~~
9 ~~the Arkansas Bureau of Standards by §§ 4-18-208(b), 4-18-217—4-18-220, 4-~~
10 ~~18-222, 4-18-224, and 4-18-225 are given to and imposed upon the deputy~~
11 ~~director and inspectors also, when acting under the instructions and at the~~
12 ~~direction of the director.~~

13 ~~(c)(1) A bond with sureties to be approved by the State Board of~~
14 ~~Finance and conditioned upon the faithful performance of his or her duties~~
15 ~~and the safekeeping of any standards or equipment entrusted to his or her~~
16 ~~care, shall forthwith, upon his or her appointment, be given by the deputy~~
17 ~~director in the penal sum of five thousand dollars (\$5,000) and by each~~
18 ~~inspector in the penal sum of one thousand dollars (\$1,000).~~

19 ~~(2) The premiums on the bonds shall be paid by the state.~~

20 ~~(d) The director shall be allowed for salaries for himself or herself,~~
21 ~~the deputy director, the inspectors, and the necessary technical and clerical~~
22 ~~employees; for necessary equipment and supplies; and for traveling and~~
23 ~~contingent expenses such sums as shall be appropriated by the General~~
24 ~~Assembly.~~

25
26 ~~4-18-210. Hindering or obstructing bureau personnel—Penalty.~~

27 ~~Any person who hinders or obstructs in any way the Director of the~~
28 ~~Arkansas Bureau of Standards, the deputy director, any one of the inspectors,~~
29 ~~or a sealer or deputy sealer in the performance of his official duties, is~~
30 ~~guilty of a misdemeanor and, upon conviction, shall be punished by a fine of~~
31 ~~not less than one hundred dollars (\$100) nor more than one thousand dollars~~
32 ~~(\$1,000), or by imprisonment for not more than three (3) months, or by both~~
33 ~~fine and imprisonment.~~

34
35 ~~4-18-211. Impersonation of bureau personnel—Penalty.~~

36 ~~Any person who impersonates in any way the Director of the Arkansas~~

1 Bureau of Standards, the deputy director, any one of the inspectors, or a
 2 sealer or deputy sealer by the use of his seal or a counterfeit of his seal,
 3 or in any other manner, is guilty of a misdemeanor and, upon conviction,
 4 shall be punished by a fine of not less than one hundred dollars (\$100) nor
 5 more than one thousand dollars (\$1,000) or by imprisonment for not more than
 6 one (1) year, or by both fine and imprisonment.

7
 8 ~~4-18-212. Systems of weights and measures.~~

9 ~~(a) The system of weights and measures in customary use in the United~~
 10 ~~States and the metric system of weights and measures are jointly recognized,~~
 11 ~~and one or the other of these systems shall be used for all commercial~~
 12 ~~purposes in the State of Arkansas.~~

13 ~~(b) The definitions of basic units of weight and measure, the tables~~
 14 ~~of weight and measure, and weights and measures equivalents as published by~~
 15 ~~the National Bureau of Standards are recognized and shall govern weighing and~~
 16 ~~measuring equipment and transactions in the state.~~

17
 18 ~~4-18-213. Construction of contracts.~~

19 ~~Fractional parts of any unit of weight or measure shall mean like~~
 20 ~~fractional parts of the value of the unit as prescribed or defined in §§ 4-~~
 21 ~~18-202(1), (10), and (3), and 4-18-212, and all contracts concerning the sale~~
 22 ~~of commodities and services shall be construed in accordance with this~~
 23 ~~requirement.~~

24
 25 ~~4-18-214. State standards—Certification.~~

26 ~~(a) The weights and measures in conformity with the standards of the~~
 27 ~~United States which have been supplied to the state by the federal government~~
 28 ~~or otherwise obtained by the state for use as state standards shall, when~~
 29 ~~they shall have been certified as being satisfactory for use as such by the~~
 30 ~~National Bureau of Standards, be the state standards of weight and measure.~~

31 ~~(b)(1) The state standards shall be kept in a safe and suitable place~~
 32 ~~in the office or laboratory of the Arkansas Bureau of Standards.~~

33 ~~(2) They shall not be removed from the office or laboratory~~
 34 ~~except for repairs or for certification, and they shall be submitted at least~~
 35 ~~once in ten (10) years to the National Bureau of Standards for certification.~~

36 ~~(3) The state standards shall be used only in verifying the~~

1 ~~office standards and for scientific purposes.~~

2
3 ~~4-18-215. Office and field standards—Verification.~~

4 ~~(a) In addition to the state standards provided for in § 4-18-214,~~
5 ~~there shall be supplied by the state at least one (1) complete set of copies~~
6 ~~of the state standards to be kept in the office or laboratory of the Arkansas~~
7 ~~Bureau of Standards, which shall be known as "office standards", and also~~
8 ~~"field standards" and such equipment as may be found necessary to carry out~~
9 ~~the provisions of §§ 4-18-201—4-18-220 and 4-18-222—4-18-230.~~

10 ~~(b) The office standards and field standards shall be verified upon~~
11 ~~their initial receipt and at least once each year thereafter, the office~~
12 ~~standards by direct comparison with the state standards and the field~~
13 ~~standards by comparison with the office standards.~~

14
15 ~~4-18-216. Rules and regulations—Correct and incorrect apparatus.~~

16 ~~(a) The Arkansas Bureau of Standards shall issue from time to time~~
17 ~~reasonable regulations for the enforcement of §§ 4-18-201—4-18-220 and 4-~~
18 ~~18-222—4-18-230, which regulations shall have the force and effect of law.~~

19 ~~(b) These regulations may include:~~

20 ~~(1) A system of determining the qualifications for registration~~
21 ~~of, and issuing permits to, sales and service personnel who for compensation~~
22 ~~place weighing and measuring devices into commercial use in this state;~~

23 ~~(2) Standards of net weight, measure, or count, and reasonable~~
24 ~~standards of fill for any commodity in package form;~~

25 ~~(3) Rules governing the technical and reporting procedures to be~~
26 ~~followed and the report and record forms and marks of approval and rejection~~
27 ~~to be used by inspectors of weights and measures in the discharge of their~~
28 ~~official duties; and~~

29 ~~(4) Exemptions from the sealing or marking requirements of § 4-~~
30 ~~18-217 with respect to weights and measures of such character or size that~~
31 ~~sealing or marking would be inappropriate, impracticable, or damaging to the~~
32 ~~apparatus in question.~~

33 ~~(c) These regulations shall include specifications, tolerances, and~~
34 ~~regulations for weights and measures of the character of those specified in §~~
35 ~~4-18-219, designed to eliminate from use without prejudice to apparatus that~~
36 ~~conform as closely as practicable to the official standards those that:~~

1 authorized by the rejecting authority.

2 (f) ~~Weights and measures that have been rejected shall not again be~~
 3 ~~used commercially until they have been officially reexamined and found to be~~
 4 ~~correct or until specific written permission for such use is issued by the~~
 5 ~~rejecting authority.~~

6
 7 ~~4-18-218. Investigations.~~

8 ~~The Director of the Arkansas Bureau of Standards shall investigate~~
 9 ~~complaints made to him or her concerning violations of the provisions of §§~~
 10 ~~4-18-201—4-18-220 and 4-18-222—4-18-230 and shall, upon his or her own~~
 11 ~~initiative, conduct such investigations as he or she deems appropriate and~~
 12 ~~advisable to develop information on prevailing procedures in commercial~~
 13 ~~quantity determination and on possible violations of the provisions of §§ 4-~~
 14 ~~18-201—4-18-220 and 4-18-222—4-18-230, and to promote the general~~
 15 ~~objective of accuracy in the determination and representation of quantity in~~
 16 ~~commercial transactions.~~

17
 18 ~~4-18-219. Testing generally.~~

19 (a) ~~When not otherwise provided by law, the Director of the Arkansas~~
 20 ~~Bureau of Standards shall have the power to inspect and test to ascertain if~~
 21 ~~all weights and measures kept, offered, or exposed for sale are correct.~~

22 (b) ~~Except as otherwise provided in this subchapter, it shall be the~~
 23 ~~duty of the director within each calendar year, or less frequently if in~~
 24 ~~accordance with a schedule issued by him or her or more often as he or she~~
 25 ~~may deem necessary, to inspect and test to ascertain if all weights and~~
 26 ~~measures commercially used in determining the weight, measurement, or count~~
 27 ~~of commodities or things sold or offered or exposed for sale on the basis of~~
 28 ~~weight, measure, or count, or in computing the basic charge or payment for~~
 29 ~~services rendered on the basis of weight, measure, or count are accurate and~~
 30 ~~correct.~~

31 (c) ~~However, with respect to single service devices, that is, devices~~
 32 ~~designed to be used commercially only once and to be then discarded, and with~~
 33 ~~respect to devices uniformly mass produced, as by means of a mold or die, and~~
 34 ~~not susceptible to individual adjustment, tests may be made on representative~~
 35 ~~samples of these devices; and the lots of which the samples are~~
 36 ~~representative shall be held to be correct or incorrect upon the basis of the~~

1 ~~results of the inspections and tests on the samples.~~

2
 3 ~~4-18-220. Testing of weights and measures at state-supported~~
 4 ~~institutions.~~

5 ~~The director shall, from time to time, test all weights and measures~~
 6 ~~used in checking the receipt or disbursement of supplies in every institution~~
 7 ~~for the maintenance of which moneys are appropriated by the General Assembly~~
 8 ~~and shall report his or her findings, in writing, to the supervisory board~~
 9 ~~and to the executive officer of the institution concerned.~~

10
 11 ~~4-18-221. Grain elevator moisture meters.~~

12 ~~(a) The Arkansas Bureau of Standards shall periodically, at least~~
 13 ~~annually, test all moisture meters used at public grain elevators in this~~
 14 ~~state where wheat, soybeans, rice, milo, or any other grain is bought and~~
 15 ~~sold.~~

16 ~~(b) Moisture testers may be rejected for any of the following reasons:~~

17 ~~(1) The moisture testing device tested is found to be out of~~
 18 ~~tolerance with the testing machine used by the inspector by more than one-~~
 19 ~~half of one percent (0.5%), plus or minus (+ or -), on grain under twenty-two~~
 20 ~~percent (22%) moisture content or by more than one percent (1%), plus or~~
 21 ~~minus (+ or -), on grain having twenty-two percent (22%) or more moisture~~
 22 ~~content;~~

23 ~~(2) The warehouseman does not have available the latest charts~~
 24 ~~for the type of machine being used;~~

25 ~~(3) The warehouseman does not have available the proper scale or~~
 26 ~~scales and the thermometers for use with the type of machine being used; or~~

27 ~~(4) The moisture testing device is not free from excessive dirt,~~
 28 ~~cracked glass, or is not kept in good operational condition at all times.~~

29 ~~(c) It is unlawful for any person to use any moisture meter~~
 30 ~~disapproved by the bureau, and any person violating the provisions of this~~
 31 ~~section shall be guilty of a misdemeanor and upon conviction shall be subject~~
 32 ~~to a fine of not less than twenty five dollars (\$25.00) nor more than two~~
 33 ~~hundred fifty dollars (\$250).~~

34
 35 ~~4-18-222. Packages or amounts of commodities—Inspection—~~
 36 ~~Disposition of nonconforming units.~~

1 ~~(a)(1) The Director of the Arkansas Bureau of Standards shall, from~~
 2 ~~time to time, weigh or measure and inspect packages or amounts of commodities~~
 3 ~~kept, offered, or exposed for sale, sold, or in the process of delivery to~~
 4 ~~determine whether the packages or amounts of commodities contain the amounts~~
 5 ~~represented and whether they are kept, offered, or exposed for sale, or sold,~~
 6 ~~in accordance with law.~~

7 ~~(2) When the packages or amounts of commodities are found not to~~
 8 ~~contain the amounts represented or are found to be kept, offered, or exposed~~
 9 ~~for sale in violation of law, the director may order them off sale and may so~~
 10 ~~mark or tag them as to show them to be illegal.~~

11 ~~(b) In carrying out the provisions of this section, the director may~~
 12 ~~employ recognized sampling procedures under which the compliance of a given~~
 13 ~~lot of packages will be determined on the basis of the result obtained on a~~
 14 ~~sample selected from and representative of the lot.~~

15 ~~(c) No person shall:~~

16 ~~(1) Sell, or keep, offer, or expose for sale, in intrastate~~
 17 ~~commerce any package or amount of commodity that has been ordered off sale or~~
 18 ~~marked or tagged as provided in this section unless and until the package or~~
 19 ~~amount of commodity has been brought into full compliance with all legal~~
 20 ~~requirements; or~~

21 ~~(2) Dispose of any package or amount of commodity that has been~~
 22 ~~ordered off sale or marked or tagged as provided in this section and that has~~
 23 ~~not been brought into compliance with legal requirements in any manner except~~
 24 ~~with the specific approval of the director.~~

25
 26 ~~4-18-223. Fees for tests or inspections.~~

27 ~~The Arkansas Bureau of Standards shall levy no charges or fees for the~~
 28 ~~tests or inspections made under §§ 4-18-201—4-18-220 and 4-18-222—4-18-~~
 29 ~~230.~~

30
 31 ~~4-18-224. Stop use, stop removal, and removal orders.~~

32 ~~(a) The Director of the Arkansas Bureau of Standards shall have the~~
 33 ~~power to issue stop use orders, stop removal orders, and removal orders with~~
 34 ~~respect to weights and measures being or susceptible to being commercially~~
 35 ~~used, and to issue stop removal orders and removal orders with respect to~~
 36 ~~packages or amounts of commodities kept, offered, or exposed for sale, sold,~~

1 or in process of delivery, whenever in the course of his or her enforcement
 2 of the provisions of §§ 4-18-201—4-18-220 and 4-18-222—4-18-230 he or she
 3 deems it necessary or expedient to issue these orders.

4 (b) ~~No person shall use, remove from the premises specified, or fail~~
 5 ~~to remove from the premises specified any weight, measure, or package or~~
 6 ~~amount of commodity contrary to the terms of a stop-use order, stop-removal~~
 7 ~~order, or removal order issued under the authority of this section.~~

8
 9 4-18-225. ~~Sale of commodities by weight, measure, or count—~~
 10 ~~Exceptions—Regulations.~~

11 (a) ~~Commodities in liquid form shall be sold only by liquid measure or~~
 12 ~~by weight, and, except as otherwise provided in §§ 4-18-201—4-18-220 and 4-~~
 13 ~~18-222—4-18-230, commodities not in liquid form shall be sold only by~~
 14 ~~weight, by measure of length or area, or by count. However, liquid~~
 15 ~~commodities may be sold by weight and commodities not in liquid form may be~~
 16 ~~sold by count only if such methods give accurate information as to the~~
 17 ~~quantity of commodity sold.~~

18 (b) ~~The provisions of this section shall not apply to:~~

19 (1) ~~Commodities when sold for immediate consumption on the~~
 20 ~~premises where sold;~~

21 (2) ~~Vegetables when sold by the head or bunch;~~

22 (3) ~~Commodities in containers standardized by a law of this~~
 23 ~~state or by federal law;~~

24 (4) ~~Commodities in package form when there exists a general~~
 25 ~~consumer usage to express the quantity in some other manner;~~

26 (5) ~~Concrete aggregates, concrete mixtures, and loose solid~~
 27 ~~materials such as earth, soil, gravel, crushed stone, and the like when sold~~
 28 ~~by cubic measure; or~~

29 (6) ~~Unprocessed vegetable and animal fertilizer when sold by~~
 30 ~~cubic measure.~~

31 (c) ~~The Director of the Arkansas Bureau of Standards may issue such~~
 32 ~~reasonable regulations as are necessary to assure that amounts of commodity~~
 33 ~~sold are determined in accordance with good commercial practice and are so~~
 34 ~~determined and represented as to be accurate and informative to all parties~~
 35 ~~at interest.~~

36

1 4-18-226. ~~Information required on packaged commodities—Variations—~~
 2 ~~Exemptions.~~

3 ~~(a) Except as otherwise provided in §§ 4-18-201—4-18-220 and 4-18-~~
 4 ~~222—4-18-230, any commodity in package form introduced or delivered for~~
 5 ~~introduction into or received in intrastate commerce, kept for the purpose of~~
 6 ~~sale, or offered or exposed for sale in intrastate commerce shall bear on the~~
 7 ~~outside of the package a definite, plain, and conspicuous declaration of:~~

8 ~~(1) The identity of the commodity in the package unless the same~~
 9 ~~can easily be identified through the wrapper or container;~~

10 ~~(2) The net quantity of the contents in terms of weight,~~
 11 ~~measure, or count; and~~

12 ~~(3) In the case of any package kept, offered, or exposed for~~
 13 ~~sale or sold any place other than on the premises where packed, the name and~~
 14 ~~place of business of the manufacturer, packer, or distributor.~~

15 ~~(b) However, in connection with the declaration required under~~
 16 ~~subdivision (a)(2) of this section, neither the qualifying term "when packed"~~
 17 ~~or any words of similar import, nor any term qualifying a unit of weight,~~
 18 ~~measure, or count, for example, "jumbo", "giant", "full", and the like, that~~
 19 ~~tends to exaggerate the amount of commodity in a package shall be used.~~

20 ~~(c) Additionally, under subdivision (a)(2) of this section the~~
 21 ~~director shall, by regulation, establish:~~

22 ~~(1) Reasonable variations to be allowed, which may include~~
 23 ~~variations below the declared weight or measure caused by ordinary and~~
 24 ~~customary exposure, only after the commodity is introduced into intrastate~~
 25 ~~commerce, to conditions that normally occur in good distribution practice and~~
 26 ~~that unavoidably result in decreased weight or measure;~~

27 ~~(2) Exemptions as to small packages; and~~

28 ~~(3) Exemptions as to commodities put up in variable weights or~~
 29 ~~sizes for sale intact and either customarily not sold as individual units or~~
 30 ~~customarily weighed or measured at time of sale to the consumer.~~

31 ~~(d) In addition to the declarations required by subsection (a) of this~~
 32 ~~section, any commodity in package form, the package being one of a lot~~
 33 ~~containing random weights, measures, or counts of the same commodity and~~
 34 ~~bearing the total selling price of the package, shall bear on the outside of~~
 35 ~~the package a plain and conspicuous declaration of the price per single unit~~
 36 ~~of weight, measure, or count.~~

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~~4-18-227. Misleading packages or containers—Standard of fill.~~

~~(a) No commodity in package form shall be so wrapped nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the package.~~

~~(b) The contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the Director of the Arkansas Bureau of Standards.~~

~~4-18-228. Advertisement of commodity in package form.~~

~~Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with the statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package. However, in connection with the declaration required under this section there shall be declared neither the qualifying term "when packed" nor any other words of similar import, nor any term qualifying a unit of weight, measure, or count, for example, "jumbo", "giant", "full", and the like, that tends to exaggerate the amount of commodity in the package.~~

~~4-18-229. Misrepresentation of price prohibited.~~

~~Whenever any commodity or service is sold or is offered, exposed, or advertised for sale by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser.~~

~~4-18-230. Display of price—Fractions.~~

~~Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (1/2) the height and width of the numerals representing the whole cents.~~

~~4-18-231. Testing bulk or liquefied petroleum gas metering devices,~~

1 ~~pumps, and scales used for commercial transactions.~~

2 ~~(a) As used in this section, "pump" means a gasoline, kerosene, or~~
 3 ~~diesel fuel pump.~~

4 ~~(b)(1)(A) Beginning January 1, 2004, a person who owns a bulk or~~
 5 ~~liquefied petroleum gas metering device for a commercial transaction must~~
 6 ~~engage a registered service agent to annually inspect and test for the~~
 7 ~~accuracy of the device.~~

8 ~~(B) The duty of the Director of the Arkansas Bureau of~~
 9 ~~Standards to inspect and test bulk or liquefied petroleum gas metering~~
 10 ~~devices used for commercial transactions is fulfilled by the registered~~
 11 ~~service agent's annual inspection and test for accuracy.~~

12 ~~(2)(A) Beginning January 1, 2004, a person who owns a pump or~~
 13 ~~scale for a commercial transaction must engage a registered service agent to~~
 14 ~~annually inspect and test for the accuracy of the pump or scale.~~

15 ~~(B) The director's duty to inspect and test pumps or~~
 16 ~~scales used for commercial transactions is fulfilled by the registered~~
 17 ~~service agent's annual inspection and test for accuracy.~~

18 ~~(c) A registered service agent shall perform the recalibration, if the~~
 19 ~~inspection or test indicates the bulk or liquefied petroleum gas metering~~
 20 ~~device, pump, or scale needs to be recalibrated.~~

21 ~~(d) After the approval of a decal by the bureau, a registered service~~
 22 ~~agent shall place an approved decal conspicuously on the bulk or liquefied~~
 23 ~~petroleum gas metering device, pump, or scale which indicates that it is~~
 24 ~~suitable for trade in accordance with the National Institute of Standards and~~
 25 ~~Technology Handbook 44, as adopted by the bureau.~~

26 ~~(e) The registered service agent shall provide a copy of all bureau-~~
 27 ~~approved inspection and test reports to the bulk or liquefied petroleum gas~~
 28 ~~metering device, pump, or scale owner and to the director.~~

29 ~~(f) The registered service agent shall retain a copy of all inspection~~
 30 ~~and test reports for a period of three (3) years.~~

31 ~~(g) The director may adopt a system to periodically monitor, inspect,~~
 32 ~~or test bulk or liquefied petroleum gas metering devices, pumps, and scales~~
 33 ~~inspected and tested by a registered service agent to check the accuracy of~~
 34 ~~the work of the service agent.~~

35 ~~(h)(1) Beginning January 1, 2004, the director may suspend or revoke~~
 36 ~~the certificate of registration of a registered service agent for violating~~

1 ~~any provision of this subchapter.~~

2 ~~(2) If the registration of a registered service agent has been~~
3 ~~suspended or revoked, then the service agent may not register with the bureau~~
4 ~~as a service agent for at least one (1) year.~~

5 ~~(i) Any inspections or tests performed by registered~~
6 ~~service agents on bulk or liquefied petroleum gas metering devices, pumps, or~~
7 ~~scales from January 1, 2003, to December 31, 2003, will be accepted by the~~
8 ~~bureau as the annual test for these weights and measures, if a copy of the~~
9 ~~bureau approved inspection and test report is provided to the director.~~

10
11 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that the Arkansas Bureau of
13 Standards of the State Plant Board performs valuable services for the
14 consumers of the State of Arkansas; that the current law pertaining to
15 weights and measures contains outdated and superseded language which hinders
16 interpretation and enforcement by the Arkansas Bureau of Standards; and that
17 these revisions are necessary to ensure the proper enforcement of weights and
18 measures standards in the State of Arkansas. Therefore, an emergency is
19 declared to exist and this act being immediately necessary for the
20 preservation of the public peace, health, and safety shall become effective
21 on:

22 (1) The date of its approval by the Governor;

23 (2) If the bill is neither approved nor vetoed by the Governor,
24 the expiration of the period of time during which the Governor may veto the
25 bill; or

26 (3) If the bill is vetoed by the Governor and the veto is
27 overridden, the date the last house overrides the veto.

28
29
30 APPROVED: 3/18/2005

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