

Chapter 45.75. WEIGHTS AND MEASURES ACT

Article 01. STANDARD WEIGHTS AND MEASURES

Sec. 45.75.010. Systems of weights and measures.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all commercial purposes in the state. The definitions of basic units of weight and measure, the tables of weight and measure, and weight and measure equivalents, as published by the National Bureau of Standards or its successor organization, the National Institute of Standards and Technology, govern weighing and measuring equipment and transaction in the state.

Sec. 45.75.020. State standards of weight and measure.

The weights and measures obtained by the state in conformity with them and certified by the National Bureau of Standards or its successor organization, the National Institute of Standards and Technology, are the state standards of weight and measure. The state standards shall be kept in a safe and suitable place in the office or laboratory of the Department of Transportation and Public Facilities. They may not be removed from the office or laboratory except for repairs or for certification. The state standards shall be used only in verifying the office standards and for scientific purposes.

Sec. 45.75.030. State director and inspectors of weights and measures.

The commissioner of transportation and public facilities is ex officio state director of weights and measures. The director may appoint state inspectors.

Sec. 45.75.040. General powers and duties of director.

The director is the custodian of the state standards of weight and measure and of the other standards and equipment provided for by this chapter. The director shall keep accurate records of the standards and equipment. The director shall enforce this chapter. The director shall supervise the weights and measures offered for sale, sold, or in use in the state.

Sec. 45.75.050. Adoption of regulations.

(a) The director shall adopt regulations for the enforcement of this chapter under AS 44.62 (Administrative Procedure Act). These have the effect of law.

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for a commodity in package form;

(2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;

(3) exemptions from the sealing or marking requirements of AS 45.75.120 for weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question;

(4) for classes of weights and measures of a character that retesting is unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.080 for testing, and schedules fixing the frequency of required retests for classes of devices exempted; and

(5) in the implementation of AS 19.10.060 (b), provisions governing the size, weight, and load limitations established under AS 19.10.060 ; the issuance of permits for overweight and oversize vehicles; and the operation of weigh stations.

(c) The regulations must include specifications, tolerance, and regulations for weights and measures of the character of those specified in AS 45.75.080 , designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those that

(1) are not accurate;

(2) are of such construction that they are not reasonably permanent in their adjustment or will not repeat their indications correctly; or

(3) facilitate the perpetration of fraud.

(d) The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments to them, as recommended by the National Bureau of Standards or its successor organization, the National Institute of Standards and Technology, and published in the National Bureau of Standards or its successor organization, the National Institute of Standards and Technology, Handbook 44 and supplements to it, or in any publication revising or superseding Handbook 44, are the specifications, tolerances, and regulations for commercial weighing and measuring devices of the state, except as specifically modified, amended, or rejected by a regulation adopted by the director.

(e) For the purposes of this chapter, apparatus is correct when it conforms to the requirements adopted in accordance with this section; other apparatus is considered incorrect.

(f) The director shall adopt regulations establishing reasonable fees for testing, inspection, and other services provided under this chapter, and procedures for collecting the fees.

Sec. 45.75.060. Office and working standards and equipment.

The state shall supply the Department of Transportation and Public Facilities with a duplicate set of state standards of weight and measure, referred to in this chapter as office standards. The state shall supply field standards and the equipment that is necessary to carry out this chapter. The office standards and field standards shall be verified upon their initial receipt and at least once each year afterward. The office standards shall be verified by direct comparison with the state standards. The field standards shall be verified by comparison with the office standards.

Sec. 45.75.070. Testing and inspection of local standards and weights and measures at state-supported institutions.

(a) At least once every five years, the director shall test the standards of weight and measure obtained by a city that has appointed a sealer of weights and measures, and shall approve them if they are correct. The director shall inspect the standards at least once every two years.

(b) The director shall from time to time test all weights and measures used in checking the receipt or disbursement of supplies in every institution maintained by money appropriated by the legislature, and shall report the findings, in writing, to the supervisory board and to the executive officer of the institution concerned.

Sec. 45.75.080. General testing.

(a) The director may inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. The director shall, at least annually and more often as considered necessary, inspect and test, to ascertain if they are correct, all weights and measures commercially used in

(1) determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight or of measure;

(2) computing the basic charge or payment for services rendered on the basis of weight or of measure or count; or

(3) determining weight or measurement when a charge is made for this determination.

(b) However, in the case of single-service devices, that is, devices designed to be used commercially only once and to be then discarded, and in the case of devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing of each individual device is not required and the

inspecting and testing requirements of this section are satisfied when inspections and tests are made on representative samples of the devices. The lots from which representative samples are inspected and tested are held correct or incorrect upon the basis of the results of the inspections and tests on the samples.

Sec. 45.75.090. Investigations.

The director shall investigate complaints of violations of this chapter, and shall initiate and conduct the investigations that the director considers appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Sec. 45.75.100. Inspection of packages.

(a) The director shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with law. When packages or amounts of commodities do not contain the amounts represented, or are kept, offered, or exposed for sale in violation of law, the director may order them off sale and may mark or tag them to show they are illegal. The director may use recognized sampling procedures. Compliance of a given lot of packages shall be determined on the basis of the result obtained on a sample selected from and representative of the lot.

(b) A person may not

(1) sell, or keep, offer, or expose for sale in intrastate commerce a package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section until the package or amount of commodity has been brought into full compliance with all legal requirements; or

(2) dispose of a package or amount of commodity that is ordered off sale or marked or tagged as provided in this section and that does not meet legal requirements, except with the specific approval of the director.

Sec. 45.75.110. Stop-use, stop-removal and removal orders.

(a) The director may issue stop-use orders, stop-removal orders, and removal orders for weights and measures used or capable of being used commercially. The director may issue stop-removal orders and removal orders for packages or amounts of commodities kept, offered, or exposed for sale whenever the director considers it necessary or expedient in enforcing this chapter.

(b) A person may not use, remove from the premises specified, or fail to remove from the premises specified a weight, measure, or package or amount of commodity contrary to a stop-use order, stop-removal order, or removal order issued under this section.

Sec. 45.75.120. Disposition of correct and incorrect apparatus.

(a) The director shall approve for use and seal or mark with appropriate devices the weights and measures that the director finds upon inspection and test to be correct as provided in AS 45.75.050 , and shall reject and mark or tag as "rejected" the weights and measures that the director finds, upon inspection or test, to be incorrect as provided in AS 45.75.050 but which in the director's best judgment are susceptible of satisfactory repair. This sealing or marking is not required for weights and measures exempted by regulation of the director.

(b) The director shall condemn, and may seize and destroy weights and measures found to be incorrect that, in the director's best judgment, are not susceptible of satisfactory repair. Weights and measures that are rejected may be confiscated and destroyed by the director if not corrected as required by AS 45.75.180 or if used or disposed of contrary to the requirements of AS 45.75.180 .

Sec. 45.75.130. Police powers and right of entry and stoppage.

In the enforcement of this chapter and any other law dealing with weights and measures the director has special police powers. The director may arrest, without formal warrant, any person violating the law, and seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity, used, retained, offered or exposed for sale, or sold in violation of law. In performing the director's duties, the director may enter, without formal warrant, any structure or premises, and stop any person and require the person to proceed to a specified place.

Sec. 45.75.131. Issuance of citations.

(a) A peace officer or an employee of the Department of Transportation and Public Facilities who is authorized by the commissioner of transportation and public facilities to enforce this chapter may issue a citation to a person who

(1) violates a weight, size, or load limitation adopted by the Department of Transportation and Public Facilities under AS 19.10.060 ;

(2) violates the terms of an overweight or oversize vehicle permit issued under AS 19.10.060 (b);

(3) violates a regulation adopted under AS 28.05.011 (a)(2) or under AS 19.10.060 (b) and AS 45.75.050 (b)(5); or

(4) commits a violation identified under AS 45.75.380 .

(b) A citation issued under this section must be in writing. A person receiving the citation is not required to sign a promise to appear in court.

(c) The time specified in the notice to appear on a citation issued under this section must be at least 15 days after the issuance of the citation, unless the person cited requests an earlier hearing.

(d) The commissioner of public safety is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book and each citation contained in it. The commissioner of public safety shall require and retain a receipt for every book issued to an employee of the Department of Transportation and Public Facilities designated by the commissioner of transportation and public facilities to provide investigative services to enforce provisions of this chapter.

(e) A peace officer or an employee who issues a citation under this section shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The peace officer or employee who issued the citation may not dispose of it or copies of it or of the record of its issuance except as required under this subsection and (f) of this section.

(f) The commissioner of public safety shall require the return of a copy of every citation issued under this section and of all copies of every citation that has been spoiled or on which an entry has been made and not issued to an alleged violator. The commissioner of public safety shall also maintain in connection with every citation issued a record of the disposition of the charge by the court in which the original or copy of the citation was deposited.

(g) If the form of citation issued under this section includes the essential facts constituting the offense charged and is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, the citation when filed with a court having jurisdiction is considered to be a lawful complaint for the purpose of prosecution.

(h) Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, or bail has been forfeited under AS 45.75.133, a person who fails to appear in court to answer a citation issued under this section, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

Sec. 45.75.133. Bail forfeiture.

(a) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If the person who has been cited can dispose of the

violation without court appearance, the issuing peace officer or employee shall write on the citation the amount of bail forfeiture applicable to the violation.

(b) A person cited for a violation for which a bail forfeiture amount has been established under (a) of this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the employee

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(c) When the cited person has forfeited bail under (b) of this section, the court shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for the violation. The clerk of the court accepting the bail forfeiture shall provide the offender with a receipt stating that fact if requested.

(d) A cited person who fails to pay the bail forfeiture amount established under (a) of this section or to appear in court as required, is guilty of a class B misdemeanor.

(e) Notwithstanding other provisions of law, if a person cited for a violation for which a bail forfeiture amount has been established under (a) of this section appears in court and is found guilty, the court may not impose a penalty that exceeds the bail forfeiture amount for that offense established under (a) of this section.

Sec. 45.75.140. Powers and duties of deputy director and inspector.

The powers and duties of the director specified in AS 45.75.070 - 45.75.130, 45.75.170, and 45.75.380 shall also be exercised by the deputy director and inspectors, when acting under the instructions and at the direction of the director.

Sec. 45.75.150. Appointment of city sealers and deputy sealers of weights and measures.

(a) A city may appoint a sealer of weights and measures, and the deputy sealers of weights and measures it needs. If the city appoints a sealer, it shall obtain at its expense the standards of weights and measures and the additional equipment, for use in the enforcement of this chapter in the city, that the director prescribes.

(b) When the standards of weight and measure provided by a city are examined and approved by the director, they are the official standards for the city. At least every five years, the sealer shall make or arrange to have made comparisons between the field standards and appropriate standards of a higher order belonging to the city or to the state, in order to maintain the field standards in accurate condition.

Sec. 45.75.160. City sealers and deputy sealers.

The sealer of a city, and a deputy sealer when acting under the instructions and direction of the sealer, have the same powers and shall perform the same duties within the city as those granted to and imposed upon the director by AS 45.75.080 - 45.75.130 and 45.75.380.

Sec. 45.75.170. Concurrent jurisdiction.

In each city having a sealer of weights and measures, the director has concurrent authority to enforce this chapter.

Sec. 45.75.180. Duty of owners of incorrect apparatus.

Weights and measures rejected by the director or a sealer remain subject to the control of the rejecting authority until suitable repair or disposition of them is made as required by this section. The owner of a rejected weight and measure shall correct it within 30 days or a longer period authorized by the rejecting authority; or, may dispose of it in the manner authorized by the rejecting authority. Rejected weights and measures may not again be used commercially until officially re-examined and found to be correct or until specific written permission for their use is issued by the rejecting authority.

Sec. 45.75.190. Method of sale of commodities.

(a) Commodities in liquid form may be sold only by liquid measure or by weight. Except as otherwise provided in this chapter, commodities not in liquid form may be sold only by weight, by measure of length or area, or by count. However, liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if the method gives accurate information as to the quantity of commodity sold.

(b) The provisions of this section do not apply to

(1) commodities when sold for immediate consumption on the premises where sold;

(2) vegetables when sold by the head or bunch;

(3) commodities in containers standardized by a law of this state or by federal law;

(4) [Repealed, Sec. 2 ch 24 SLA 1982].

(5) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;

(6) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, and crushed stone, when sold by cubic measure; or

(7) unprocessed vegetable and animal fertilizer sold by cubic measure.

(c) The director may adopt reasonable regulations necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative.

Sec. 45.75.200. Declarations of quantity and origin on packages.

(a) Except as otherwise provided in this chapter, a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of

(1) the net quantity of the contents in terms of weight, measure, or count;

(2) in the case of a package kept, offered, or exposed for sale, or sold in a place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; and

(3) the identity of the commodity in the package unless it can easily be identified through the wrapper.

(b) In the declaration required under (a)(1) of this section the qualifying term "when packed" or other words of similar import, or a term qualifying a unit of weight, measure, or count such as for example "jumbo," "giant," "full," and the like that tends to exaggerate the amount of commodity in a package, may not be used.

(c) Under (a)(1) of this section the director shall, by regulation, establish

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

(2) exemption as to small packages; and

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

(d) The marking provisions of this section do not apply to unwrapped loaves of bread.

Sec. 45.75.210. Declarations of unit price on random packages.

In addition to the declarations required by AS 45.75.200 , a commodity in package form, which is one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of

the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Sec. 45.75.220. Misleading packages.

A commodity in package form may not be so wrapped, or put in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container may not fall below the reasonable standard of fill which the director prescribes for the commodity.

Sec. 45.75.225. Advertising packages for sale.

(a) When 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.

(b) When the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that is required to appear first and without parentheses on the package need appear in the advertisement.

(c) There may not be included as part of the declaration required by this section such qualifying terms as "when packed," "minimum," "not less than," or other terms of similar import nor terms qualifying a unit or weight, measure, or count such as "jumbo," "giant," "full," which tend to exaggerate the amount of commodity in the package.

Sec. 45.75.230. Misrepresentation of price.

When a commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price may not be misrepresented, and the price may not be represented in a manner calculated or tending to mislead or deceive an actual or prospective purchaser. When 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 numeral expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.

Sec. 45.75.240. Meat, poultry, and sea food.

(a) Except as provided in (b) of this section, meat, meat products, poultry, and sea food except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or sea food is combined with or associated with some other food element to form either a distinctive food product or a food combination, the food product or combination shall be offered or exposed for sale and sold by weight. The quantity representation may be the total weight of the product or

combination, and a quantity representation need not be made for each of the several elements of the product or combination.

(b) This section does not apply to meat, meat products, poultry or sea food that is for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal not to be consumed on the premises where sold.

Sec. 45.75.250. - 45.75.280 Bread; butter, oleomargarine, and margarine; fluid dairy products; flour, corn meal, and hominy grits. [Repealed, Sec. 2 ch 24 SLA 1982].

Repealed or Renumbered

Sec. 45.75.282. Bulk deliveries sold in terms of weight and delivered by vehicle.

(a) When a vehicle delivers to an individual purchaser a commodity in bulk, and it is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket that must clearly state in ink or by means of other indelible marking equipment, and equal in clarity to type or printing

(1) the name and address of the vendor,

(2) the name and address of the purchaser, and

(3) the net weight of the delivery expressed in pounds, and if the net weight is derived from determinations of gross and tare weights, these weights shall also be stated in terms of pounds.

(b) One of the tickets provided for in (a) of this section shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or surrendered, on demand, to the director, or the deputy director, or an inspector, or a sealer, or a deputy sealer, who, if retaining it as evidence, shall issue a weight slip in place of it.

(c) If the purchaser carries away the purchase, the vendor is required only to give the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to the purchaser.

Sec. 45.75.288. Furnace and stove oil.

Furnace and stove oil shall be sold by liquid measure or by net weight. When a delivery of liquid fuel is made in non-package form and in an amount greater than 10 gallons if the sale is by liquid measure, 100 pounds or greater if the sale is by weight, the purchaser shall receive from the vendor a delivery ticket or written statement that clearly states in ink or by means of other indelible marking equipment equal in clarity to type or printing

(1) the name and address of the vendor;

- (2) the name and address of the purchaser;
- (3) the identity of the type of fuel delivered;
- (4) the price per gallon or per pound of the fuel delivered;
- (5) if a sale is by liquid measure, the liquid volume of the delivery, together with any meter readings from which the liquid volume was computed, expressed in terms of the gallon and its binary or decimal subdivisions; and
- (6) if a sale by weight, the net weight of the delivery, together with any weighing scale readings from which the net weight was computed, expressed in terms of tons or pounds avoirdupois.

Sec. 45.75.290. Coal, coke, and charcoal.

(a) Coal, coke, and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke, or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there are clearly stated

- (1) the name and address of the vendor;
- (2) the name and address of the purchaser; and
- (3) the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds.

(b) One of the tickets provided for under (a) of this section shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director, or the deputy director or an inspector, or a sealer or deputy sealer, who, if retaining it as evidence, shall issue a weight slip in place of it for delivery to the purchaser. If the purchaser carries away the purchase, the vendor is required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to the purchaser.

Sec. 45.75.300. Textile products.

It is unlawful to keep for the purpose of sale, offer or expose for sale, or sell textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for wholesale or retail sale, unless the bolt or roll, or other unit, is definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight, in terms of avoirdupois pounds or ounces, subject to the following limitations and requirements:

(1) a unit of twine or cordage may be marked to show its net measure in terms of feet; readywound bobbins not sold separately are not required to be individually marked, but the package containing the bobbins shall be marked to show the number of bobbins contained in it and the net weight or measure of the thread on each bobbin; a unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting, or embroidery thread or yarn, except nylon hand-knitting yarn, that is not composed in whole or in part of wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder; a retail unit of a textile product sold only for household use consisting of a package containing two or more similar individual units that are not sold separately shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this does not apply where the individual units are separately marked; a unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of the yarn, except that any such unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed 50 yards, may be marked to show its linear measure only;

(2) the marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer, or distributor of the product, or a trademark, symbol, brand, or other mark that identifies the manufacturer, packer, or distributor;

(3) reasonable tolerances shall be permitted, and these must be included in regulations for the enforcement of this section that are adopted by the director;

(4) this section does not apply to the following textile products when sold at wholesale in bulk by net weight: cordage, agricultural bag sewing threads, twines, yarns that are to be processed, and yarns that are to be industrially converted into end-use products.

Sec. 45.75.310. Berries and small fruits. [Repealed, Sec. 2 ch 24 SLA 1982].

Repealed or Renumbered

Sec. 45.75.320. Construction of contracts.

Fractional parts of a unit of weight or measure mean like fractional parts of the value of the unit as prescribed or defined in AS 45.75.010 and 45.75.390, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

Sec. 45.75.330. Injunction.

The director may apply to a court for a temporary or permanent injunction restraining a person from violating a provision of this chapter.

Sec. 45.75.340. Presumptive evidence.

For the purposes of this chapter, proof of the existence of a weight or measure or a weighing or measuring device in or about a building, enclosure, stand, or vehicle in which or from which it is shown that buying or selling is commonly carried on is, in the absence of conclusive evidence to the contrary, presumptive proof of the regular use of the weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of the building, enclosure, stand, or vehicle.

Sec. 45.75.350. Validity of prosecutions.

Prosecutions for violation of this chapter are valid and proper notwithstanding the existence of another valid general or specific law of this state dealing with matters that may be the same as or similar to those covered by this chapter.

Sec. 45.75.360. Hindering or obstructing officer and penalty. [Repealed, Sec. 5 ch 85 SLA 1987].

Repealed or Renumbered

Sec. 45.75.370. Impersonation of officer and penalties. [Repealed, Sec. 21 ch 166 SLA 1978. For current law, see AS 11.56.830].

Repealed or Renumbered

Sec. 45.75.380. Offenses and penalties.

(a) A person commits a violation subject to the penalty specified in AS 12.55.035 (b)(5) if the person does one or more of the following acts:

(1) uses or has in possession for the purpose of using for a commercial purpose specified in AS 45.75.080 , sells, offers, or exposes for sale, or hire, or has in possession for the purpose of selling or hiring, an incorrect weight or measure or a device or instrument used to or calculated to falsify a weight or measure;

(2) uses or has in possession for current use, in buying or selling a commodity or thing, or for hire or award, or in the computation of a basic charge or payment for services rendered on the basis of weight or measurement, or in the determination of weight or measurement when a charge is made for determination, a weight or measure that has not been tested and sealed by the appropriate authority within one year, unless

(A) the person gives written notice to the appropriate authority to the effect that the weight or measure is available for examination, or is due for reexamination, as the case may be;

(B) the person receives specific written permission to use the weight or measure from the appropriate authority; or

(C) the weight or measure is exempt from sealing or annual testing requirements by AS 45.75.080 or by a regulation adopted under AS 45.75.050;

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

(4) removes from a weight or measure, contrary to law or regulation, a tag, seal, or mark placed on it by the appropriate authority;

(5) sells or offers for sale less than the quantity the person represents of a commodity, thing, or service;

(6) takes more than the quantity the person represents of a commodity, thing, or service when, as buyer, the person furnished the weight or measure that the seller used to determine the amount of the commodity, thing, or service;

(7) keeps for the purpose of sale, advertises, or offers for sale, or sells a commodity, thing, or service in a condition or manner contrary to law or regulation;

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

(9) hinders or obstructs the director, an inspector, a sealer, or a deputy sealer in the performance of official duties under this chapter;

(10) violates a provision of an overweight or oversize vehicle permit issued under AS 19.10.060 (b);

(11) violates a weight, load, or size limitation established under AS 19.10.060 or a regulation adopted under AS 19.05.020 , AS 19.10.060 (b), or AS 45.75.050 (b)(5);

(12) violates a provision of this chapter or a regulation adopted under this chapter for which a specific penalty is not prescribed.

(b) Notwithstanding the maximum fine for a violation provided under (a) of this section, a person who violates a regulation or special permit governing the weight limit of a motor vehicle shall pay a penalty of \$.05 for each pound of weight over the authorized weight limit for the vehicle.

Sec. 45.75.390. Definitions.

In this chapter

- (1) "barrel," when used in connection with fermented liquor, means a unit of 31 gallons;
- (2) "commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for wholesale or retail sale, but does not include an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter; an individual item or lot of a commodity not in package form, but on which there is marked a selling price based on an established price per unit of weight or of measure, is a commodity in package form;
- (3) "consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions;
- (4) "cord," when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed;
- (5) "director" means the state director of weights and measures and "deputy director" means the deputy state director of weights and measures;
- (6) "inspector" means a state inspector of weights and measures;
- (7) "intrastate commerce" means commerce or trade that is begun, carried on, and completed wholly within the limits of the state;
- (8) "nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only;
- (9) "sealer" means a sealer of weights and measures and "deputy sealer" means a deputy sealer of weights and measures of a city;
- (10) "sell" includes barter and exchange;
- (11) "ton" means a unit of 2,000 pounds avoirdupois weight;
- (12) "weight" in connection with a commodity means net weight; when a commodity is sold on the basis of weight, the net weight of the commodity shall be used, and all contracts concerning the commodity shall be so construed;

(13) "weight and measure" means every weight and measure, instrument and device for weighing and measuring, and every appliance and accessory associated with an instrument and device.

Sec. 45.75.400. Short title.

This chapter may be cited as the Weights and Measures Act.