

SENATE BILL No. 1271

May 27, 2004, Introduced by Senators VAN WOERKOM, GOSCHKA, BIRKHOLZ and GARCIA and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1964 PA 283, entitled
"Weights and measures act,"
by amending section 31 (MCL 290.631), as amended by 2002 PA 208.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) A person who, by himself or herself or by the
2 person's servant or agent, or as the servant or agent of another
3 person, engages in any of the following acts is guilty of a
4 misdemeanor and may be fined not less than \$1,000.00 or not more
5 than \$10,000.00, or imprisoned for not more than 1 year, or
6 both:

7 (a) Use or have in possession for the purpose of using for
8 any commercial purpose specified in section 10, sell, offer,
9 expose for sale or hire, or have in possession for the purpose of
10 selling or hiring, incorrect weights and measures or any device
11 or instrument used or calculated to falsify any weights and

1 measures.

2 (b) Use or have in possession for current use in the buying
3 or selling of any commodity or thing, for hire or award, or in
4 the computation of any basic charge or payment for services
5 rendered on the basis of weights and measures or in the
6 determination of weights and measures, when a charge is made for
7 the determination, weights and measures that have not been tested
8 and sealed by the appropriate authority, unless 1 or more of the
9 following conditions are met:

10 (i) A properly executed and completed placed-in-service
11 report has been delivered to the director as notification that
12 the weights and measures have been placed in service by a
13 registered serviceperson.

14 (ii) Permission to use the weights and measures has been
15 received from the appropriate authority.

16 (iii) The weights and measures have been exempted from
17 sealing or testing requirements by section 10 or by rule of the
18 director issued under section 8.

19 (c) Dispose of rejected or condemned weights and measures in
20 a manner contrary to law or rule.

21 (d) Remove from weights and measures, contrary to law or
22 rule, a tag, seal, or mark placed on the weights and measures by
23 the appropriate authority.

24 (e) Sell, offer, or expose for sale less than the quantity he
25 or she represents of a commodity, thing, or service.

26 (f) Take more than the quantity he or she represents of a
27 commodity, thing, or service when, as buyer, he or she furnishes

1 the weight of the commodity, thing, or service or the measure of
2 the commodity, thing, or service by means of which the amount of
3 the commodity, thing, or service is determined.

4 (g) Advertise, offer, expose for sale, or sell a commodity,
5 thing, or service in a condition or manner contrary to law.

6 (h) Use in retail trade, except in the preparation of
7 packages put up in advance of sale and of medical prescriptions,
8 weights and measures that are not so positioned that their
9 indications may be accurately read and the weighing or measuring
10 operation observed from some position which may reasonably be
11 occupied by a customer.

12 (i) Violate a provision of this act or of the rule
13 promulgated under this act for which a specific penalty has not
14 been prescribed.

15 (j) Sell, offer, or expose for sale to licensed wholesale
16 distributors and dealers gasoline or any middle distillate
17 petroleum product on any basis other than a U.S. gallon of 231
18 cubic inches or metric equivalent unless freely requested to do
19 so in writing by a licensed wholesale distributor, dealer, or end
20 user for an annual period of time or for the length of the
21 contract. This subdivision does not apply to the sale or offer
22 for sale of number 4, 5, or 6 petroleum fuels as described as
23 having American petroleum institute gravity at 60°F of 28 or
24 less, a specific gravity greater than .8871 and does not apply to
25 the sale or exchange of gasoline or any middle distillate
26 petroleum product among petroleum refiners.

27 (k) Deliver or issue a weight quantity determination or a

1 measure quantity determination upon which a commercial
2 transaction is, or is intended to be, computed without the use of
3 weights and measures.

4 (1) Fail to pay a fee or fine imposed under this act.

5 (2) A person who, by himself or herself or by the person's
6 servant or agent, or as a servant or agent of another person,
7 fails to disclose to the department any knowledge of information
8 relating to, or observation of, any device or instrument added to
9 or modifying any weight or modifying any measure for the purpose
10 of selling, offering, or exposing for sale less than the quantity
11 represented of a commodity or calculated to falsify the weight or
12 measure, if the person is an owner or employee of an entity
13 involved in the installation, repair, sale, or inspection of
14 weights and measures, is guilty of a misdemeanor and may be fined
15 not more than \$1,000.00, or imprisoned for not more than 90 days,
16 or both.

17 (3) A person who, by himself or herself or by the person's
18 servant or agent, or as a servant or agent of another person,
19 performs any of the following acts is guilty of a felony and may
20 be fined not less than \$1,000.00 or not more than \$20,000.00, by
21 a fine of not more than twice the amount of any money gained for
22 each day on which a violation has been found, by imprisonment for
23 not more than 5 years, or by all of these penalties:

24 (a) Adds to or modifies commercial weights and measures by
25 the addition of a device or instrument that would allow the sale,
26 or the offering or exposure for sale, of less than the quantity
27 represented of a commodity or the falsification of the weights

1 and measures.

2 (b) Intentionally commits any of the acts listed in
3 subsection (1) or (2).

4 (c) Violates a prohibited act as listed in this section
5 within 24 months after 2 previous violations of this section that
6 resulted in convictions.

7 (4) When a violation results in a conviction under this act,
8 the court may assess against the defendant or his or her agent
9 the costs of investigation and the money shall be paid to the
10 agency that incurred the expense. **Beginning October 1, 2004, the**
11 **department shall maintain a list on its website indicating the**
12 **name of the person, the name of the business the person operates,**
13 **and the business address of all persons convicted of 2 or more**
14 **violations of subsection (1) (a) or (e).**