

WEIGHTS AND MEASURES ACT (EXCERPT)
Act 283 of 1964

***** 290.631.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2023 *****

290.631.amended Prohibited acts; penalties; fines; closure of facility; inspection; consent order; disposition of fines or recovered amounts.

Sec. 31. (1) An individual who, by himself or herself or by the individual's servant or agent, or as the servant or agent of another person, engages in any of the following acts is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$10,000.00, plus the amount of any economic benefit realized as a result of the violation, or both:

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

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

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

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

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

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

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

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

(f) Take more than the quantity he or she represents of a commodity, thing, or service when, as buyer, he or she furnishes the weight of the commodity, thing, or service or the measure of the commodity, thing, or service by means of which the amount of the commodity, thing, or service is determined.

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

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

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

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

(k) Deliver or issue a weight quantity determination or a measure quantity determination upon which a commercial transaction is, or is intended to be, computed without the use of weights and measures.

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

(2) An individual who, by himself or herself or by the individual's servant or agent, or as a servant or agent of another person, fails to disclose to the department any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weight or modifying any measure for the purpose of selling, offering, or exposing for sale less than the quantity represented of a commodity or calculated to falsify the weight or measure, if the individual is an owner or employee of an entity involved in the installation, repair, sale, or inspection of weights and measures, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

(3) An individual who, by himself or herself or by the individual's servant or agent, or as a servant or agent

of another person, performs any of the following acts is guilty of a felony punishable by a fine of not less than \$5,000.00 or more than \$20,000.00, by a fine of not more than twice the amount of any money gained for each day on which a violation has been found, by imprisonment for not more than 5 years, or by any combination of these penalties:

(a) Is in possession of or adds to or modifies commercial weights and measures by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or the falsification of the weights and measures.

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

(c) Violates this section within 24 months after 2 previous violations of this section that resulted in convictions.

(4) When a violation results in a conviction under this act, the court may assess against the defendant or his or her agent the costs of investigation and the money must be paid to the agency that incurred the expense.

(5) In addition to any other applicable penalties prescribed in this act, the department may assess the owner of a motor fuel delivery facility that has intentionally delivered less fuel to a retail customer than indicated by the gas pump metering device the following civil fines:

(a) For a first violation, a civil fine of \$5,000.00.

(b) For a second violation, a civil fine of \$10,000.00.

(c) For a third or subsequent violation, a civil fine of \$25,000.00.

(6) The department may close any facility that is responsible for a violation described in subsection (5) until the owner can demonstrate to the department that the problem is corrected.

(7) The department shall inspect motor fuel facilities with 3 or more violations under subsection (5) at least annually, and all inspection costs must be assessed to the owner of the weights and measures establishment for a period of not more than 2 years.

(8) Any of the fines described in subsection (5) may be embodied in a consent order under section 31a.

(9) Any civil fines or recovery of any economic benefits associated with a violation of this act and collected under this section must be paid to the general fund and credited to the department for the enforcement of this act.

History: 1964, Act 283, Eff. Aug. 28, 1964;—Am. 1975, Act 131, Eff. Mar. 31, 1976;—Am. 1983, Act 248, Imd. Eff. Dec. 15, 1983;—Am. 1986, Act 194, Eff. Sept. 15, 1986;—Am. 2002, Act 208, Imd. Eff. Apr. 29, 2002;—Am. 2006, Act 125, Imd. Eff. May 2, 2006;—Am. 2012, Act 254, Imd. Eff. July 2, 2012;—Am. 2022, Act 273, Eff. Mar. 29, 2023.

Compiler's note: Enacting section 1 of Act 125 of 2006 provides:

"Enacting section 1. It is the intention of the legislature that the department establish periodic inspection and testing of fuel delivery systems and that owners of fuel delivery systems calibrate these systems periodically."