



STATE OF NEW JERSEY

NJLRC

NEW JERSEY LAW REVISION COMMISSION

FINAL REPORT

Relating to

TITLE 51 – WEIGHTS AND MEASURES

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NEW JERSEY LAW REVISION COMMISSION

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Introduction

The purpose of this title is consumer protection. Title 51 comprises 13 chapters regulating the sale, transportation and licensing of commodities. Administrative regulations (*N.J.A.C.* 13:47C-1.1 et seq.) supplement the statutory provisions, and state, county and municipal authorities enforce the system of controlling the trade of commodities. The mosaic of law and regulations governing weights and measures developed gradually over more than a century. As a result, the title contains many overlapping and inconsistent provisions. There are also provisions that are overly specific and deal in detail with particular subjects that are no longer of central importance.

The Report recommends replacing most of Title 51 with general and comprehensive provisions to provide a coherent and flexible basis for Weights and Measures enforcement. The proposed new law also tracks the federal Fair Packaging and Labeling Act, 15 *U.S.C.A.* Sect. 1451 et seq.

WEIGHTS AND MEASURES LAW

CHAPTER 1 - DEFINITIONS

51A:1-1. Definitions

As used in this title:

- a. “Weight and measure” or “weights and measures” means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices;
- b. “Weight” when used in connection with any commodity or service means net weight. When a commodity is sold by drained weight the term means net drained weight;
- c. “Correct” when used in connection with weights and measures means in conformance to all applicable requirements of this Act;
- d. “Primary standards” means the physical standards of the State serving as the legal reference from which all other standards for weights and measures are derived;

e. “Secondary standards” means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations;

f. “Superintendent” means the State Superintendent of Office of Weights and Measures in the Department of Law and Public Safety;

g. “Local superintendent” means county or municipal superintendent of Weights and Measures;

h. “Weights and measures officer” includes the Superintendent, local superintendents, supervisors, deputies, assistants, metrologists, officers and inspectors;

i. “Sale from bulk” means the sale of commodities when the quantity is determined at the time of sale;

j. “Package” means a standard package or random-weight package of any commodity:

(1) enclosed in a container or wrapped in any manner in advance of wholesale or retail sale; or

(2) weight or measure of which has been determined in advance of wholesale or retail sale.

k. “Net weight” means the weight of a commodity excluding any materials, substances, or items not part of the commodity, including containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupon except where the service of shipping includes the weight of packing materials.

l. “Random weight package” means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights;

m. “Standard package” means a package that is one of a lot, shipment, or delivery of packages of the same commodity with identical net contents declarations;

n. “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, time, 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. However, the term shall not include any meter, measure or scale used by a public utility subject to the jurisdiction of the Board of Public Utility Commissioners of this State for measuring any commodity or service furnished or sold by such public utility.

o. “Commodity” means any kind of good, service or amusement that is sold or intended to be sold.

Source: Uniform weights and measures law and 51:1-2.

COMMENT

The uniform law was followed for the definition's section with the exception of subsections (g) and (h), which were added to incorporate New Jersey's leadership structure. Definitions for "food" or "foods," and "physical property" are eliminated. The terms "gross weight;" "net weight;" and "tare weight" are now encompassed by the terms "net mass" or "net weight." The term "commodity in package form" has been renamed "package." Newly defined terms include: "weight;" "correct;" "primary standards;" "secondary standards;" "superintendent;" "person;" "sale from bulk;" "random weight package;" "standard package;" and "commercial weighing and measuring equipment."

An example of subsection (m) is as follows: 1 L bottles or 12 fl oz cans of carbonated soda; 500 g or 5 lb bags of sugar; 100 m or 300 ft packages of rope.

CHAPTER 2 – STANDARDS

51A:2-1. Systems of weights and measures

The International System of Units (SI) and the system of weights and measures in customary use in the United States are jointly recognized, and either one or both of these systems shall be used for all commercial purposes. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Institute of Standards and Technology (NIST) are recognized and shall govern weighing and measuring equipment and transactions.

Source: Uniform weights and measure law and 51:1-3.

COMMENT

This section is substantially identical to the uniform law. New Jersey currently has a similar section that conveys the intent of the Legislature for the use of the SI within the State.

The "International System of Units" means the modernized metric system as established in 1960 by the General Conference on Weights and Measures and interpreted or modified for the United States by the Secretary of Commerce. [See Metric Conversion Act of 1975 (Public Law 94-168, § 3(1) and § 4(4), and NIST Special Publication 814 - Metric System of Measurement; Interpretation of the International System of Units for the United States, or the Federal Register of December 20, 1990, (FR 90-21913).]

51A:2-2. Physical standards

Weights and measures that are traceable to the U.S. prototype standards supplied by the Federal Government, or approved as being satisfactory by the National Institute of Standards and Technology, shall be the primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology. All secondary standards may be prescribed by the Superintendent and shall be verified as deemed necessary by the Superintendent.

Source: Uniform weights and measures law and 51:1-4 through 51:1-9.

COMMENT

This section was derived from the uniform law. The current law was replaced by use of federal standards. The replaced sections include: (51:1-4) yard; (51:1-5) chain measurement of land; (51:1-6) Steel measuring tapes used by professional land surveyors and engineers; annual test of electronic distance measuring device; report; forms; (51:1-7) standard ton; (51:1-8) pound; avoirdupois; troy; and (51:1-9) gallon; quart.

51A:2-3. Technical requirements for weighing and measuring devices

The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices as adopted by the National Conference on Weights and Measures, published in the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," and supplements or revisions, shall apply to weighing and measuring devices in the State, except by regulation from the Superintendent.

Source: Uniform weights and measures law.

COMMENT

This section is substantially similar to the uniform law.

51A:2-4. Net Weight Standards

a. The Superintendent shall adopt and enforce regulations on tare and tolerances based on the net weight standards in Handbook 133 promulgated by the National Institute of Standards and Technology.

b. The Superintendent may adopt regulations on testing procedures for determining net weight ~~that need not be based on Handbook 133~~ widely recognized standards.

Source: New and 51:1-29.2.

COMMENT

This section was added to incorporate into New Jersey law the current practice of using Handbook 133 concerning net weight. The Department of Agriculture, the Federal Trade Commission and the Food and Drug Administration enforce the regulations in Handbook 133. Current law, section 51:1-29.2 applies Handbook 133 only to flour. While subsection (a) provides that regulations on tare and tolerances must be based on Handbook 133, subsection (b) allows regulations on testing procedures to deviate from Handbook 133 so long as they are based on other widely recognized standards.

51A:2-5. Method of Sale

a. Except as otherwise provided by the superintendent or by established trade custom and practice,

1) commodities in liquid form shall be sold by liquid measure or by weight, and

2) commodities not in liquid form shall be sold by weight, by measure, or by count.

b. The method of sale shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons.

Source: Uniform weights and measure law; 51:1-15 and 51:1-17.

COMMENT

This section is identical to the uniform law. Subsection (a)(1) is similar to section 51:1-15. Subsection (a)(2) differs from section 51:1-17 by simplifying the sale of dry commodities and eliminating the penalties section.

51A:2-6. Sale from Bulk

All bulk sales in which the buyer and seller are not both present to witness the measurement, all deliveries of heating fuel, and all other bulk sales specified by regulation of the Superintendent shall be accompanied by a delivery ticket containing the following information:

- a. the name and address of the buyer and seller;
- b. the date delivered;
- c. the quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity for example, when temperature compensated sales are made;
- d. the unit price, unless otherwise agreed upon by both buyer and seller;
- e. the identity of the product in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale; and
- f. the count of individually wrapped packages, if more than one, in the instance of commodities bought from bulk but delivered in packages.

Source: Uniform weights and measures law.

COMMENT

This section is identical to the uniform law. This section eliminates the need for a separate provision on laundry tickets (51:1-35).

51A:2-7. Declarations of Unit Price on Random Weight Packages

Any package being one of a lot containing random weights of the same commodity at the time it is offered or exposed for sale at retail, shall bear on the outside of the package a plain and conspicuous declaration of the price per net weight and the total selling price of the package.

Source: Uniform weights and measures law.

COMMENT

This section is identical to its source.

51A:2-8. Advertising Packages for Sale

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or regulation to appear on the package.

Source: Uniform weights and measures law.

COMMENT

This section is identical to its source.

51:2-9. Misrepresentation of Price, Quantity

No person shall misrepresent the price or quantity of any commodity sold, offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

Source: Uniform weights and measures law.

COMMENT

This section is identical to its source.

CHAPTER 3 – OFFICE OF WEIGHTS AND MEASURES

51A:3-1. Weights and Measures Office; County and Municipal Superintendents

a. There shall be an Office of Weights and Measures within the Division of Consumer Affairs. The Superintendent of Weights and Measures shall be the head of that Office. The governor, with the advice and consent of the Senate, shall appoint a Superintendent who is qualified by training and at least five year's weights and measures, or comparable, experience for a term of five years.

b. The Superintendent may appoint deputy and assistant superintendents, and inspectors all of whom shall devote full time to their duties. The Superintendent may also appoint clerical and other necessary staff.

c. The governing bodies of each county shall appoint a County Superintendent of Weights and Measures. The governing body of any municipality having a population of sixty thousand or more shall, and the governing body of any other municipality may, provide for the office of Municipal Superintendent of Weights and Measures by ordinance, and appoint a municipal superintendent. The clerk of the municipality shall file a certified copy of the ordinance and appointment with the Superintendent.

d. The governing body of each county and municipality shall fix the numbers of assistant local superintendents and officers and by resolution may authorize the local superintendent to appoint them. The governing body of each county and municipality may provide for the position of a local deputy superintendent and by resolution may authorize the local superintendent to appoint one assistant as deputy superintendent. The local superintendent, the deputy, and all assistant superintendents and officers shall devote full time to their duties. The local deputy superintendent and assistants shall be under the direct control of their respective local superintendents, and shall have all the powers and duties of the local superintendent in making inspections, tests and measurements.

Source: 51:1-42; 51:1-43; 51:1-44; and 51:1-45.

COMMENT

This section is substantially similar to its sources.

51A:3-2. Duties of the Office of Weights and Measures

The Office of Weights and Measures shall:

a. assure that weights and measures in commercial service within the State are suitable for their intended use, properly installed, accurate, and are properly maintained by their owner or user;

b. prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold, or purchased within the State;

c. make available to all users of physical standards or weighing and measuring equipment the precision calibration and related metrological certification capabilities of the weights and measures facilities of the Office;

e. to the extent practicable and desirable, promote uniformity between weights and measures requirements of the State and those of other States and Federal agencies and international standards; and

f. encourage desirable economic growth while protecting the consumer through the adoption by rule of such weights and measures requirements necessary to assure equity among buyers and sellers.

g. maintain the state standards and test them periodically to assure that they reflect standards maintained by the federal government.

h. test the standards used by local superintendents for accuracy.

Source: Uniform weights and measures law.

COMMENT

This section is added to outline the function of the Office of weights and measures.

51A:3-3. Powers and duties of the Superintendent

The Superintendent of Weights and Measures shall:

a. maintain traceability of the State standards to the national standards in the possession of the National Institute of Standards and Technology;

b. issue reasonable regulations for the enforcement of this Act, which regulations shall have the force and effect of law;

c. grant any exemptions from the provisions of this Act or any regulations promulgated pursuant to it when appropriate to the maintenance of good commercial practices within the State;

d. prescribe, by regulation, the appropriate term or unit of weight or measure to be used, whenever the Superintendent determines that an existing practice of declaring the quantity of a commodity or setting charges for a service by weight, measure, numerical count, time, or a combination of those methods, does not facilitate value comparisons by consumers, or creates a risk of consumer confusion;

e. allow reasonable variations from the stated quantity of contents, including those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice;

f. provide for the training of weights and measures personnel, and may establish minimum training and performance requirements to then be met by all weights and

measures personnel, whether county, municipal, or State. The Superintendent may adopt the training standards of the National Conference on Weights and Measures' National Training Program;

g. advise the county and municipal superintendents in matters relating to the duties of their offices; and

h. maintain general supervision over the county and municipal superintendents to obtain effective and uniform enforcement of the weights and measures laws throughout the state.

Source: 51:1-54; 51:1-55; 51:1-58; 51:1-59; 51:1-60; 51:1-61; 51:1-62; 51:1-66; 51:1-67; and 51:1-69.

COMMENT

Most of this section is substantially similar to its sources. Subsections (g) and (h) are new. They make it clear that the Superintendent of Weights and Measures has general supervisory power over the county and municipal offices. The wording of the subsections is derived from 52:17B-103 which gives the Attorney General supervisory power over the county prosecutors.

51A:3-4. Powers and duties of the Weights and Measures Officers

Weights and Measures officers shall:

- a. enforce the provisions of this Act;
- b. conduct investigations to ensure compliance with this Act;
- c. test annually the standards for weights and measures used by any city or county within the State, and approve those found to be correct;
- d. inspect and test commercial weights and measures kept, offered, or exposed for sale;
- e. inspect and test, to ascertain if they are correct, weights and measures commercially used:
 - 1) in determining the weight, measure, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or count, or
 - 2) in computing the basic charge or payment for services rendered on the basis of weight, measure, or count;
- f. test all weights and measures used in State funded institutions;
- g. approve for use, and may mark, commercial weights and measures found to be correct, and reject and order to be corrected, replaced, or removed commercial weights and measures found to be incorrect. Rejected weights and measures may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The Superintendent shall remove from service and may seize the weights and measures found to be incorrect that are not capable of being made correct;
- h. weigh, measure, and inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the

amounts represented and whether they are kept, offered, or exposed for sale in accordance with this Title or regulations promulgated pursuant to.

i. verify advertised prices, price representations, and point-of-sale systems to determine:

(1) the accuracy of prices and computations and the correct use of the equipment; and

(2) if a system uses scanning or coding means in lieu of manual entry, the accuracy of prices printed or recalled from a database.

j. In carrying out the provisions of this section:

(1) a Weights and Measures officer shall not weigh, measure, or inspect more packages of commodities in a manner that makes them unsaleable than is reasonably necessary to assure compliance with this act; and

(2) the Superintendent shall:

(A) issue necessary rules and regulations regarding the accuracy of advertised prices and automated systems for retail price charging (referred to as “point-of-sale systems”) for the enforcement of this section; and

(B) conduct investigations to ensure compliance.

Source: 51:1-54; 51:1-55; 51:1-58; 51:1-59; 51:1-60; 51:1-61; 51:1-62; 51:1-63; 51:1-66; 51:1-67; and 51:1-69.

COMMENT

This section is substantially similar to its sources.

51A:3-5. Salaries

a. Salaries of assistant superintendents and other staff shall be in accordance with the schedules provided by the state civil service commission.

b. The governing body of a county or municipality shall fix the salaries of the local superintendents and their assistants.

Source: 51:1-49 and 51:1-50.

COMMENT

This section is substantially similar to its sources except the amount of the Superintendent’s salary has been omitted.

51A:3-6. Civil service; tenure of office; hearing prior to discharge

a. County and municipal superintendents in counties and municipalities operating under the Civil Service Act shall be in the classified service.

b. The county superintendents and municipal superintendents and the secretaries and assistant superintendents appointed by county or municipal governing bodies or by county or municipal superintendents upon resolution of the governing bodies, shall hold office during good behavior. In counties not operating under subtitle 3 of the Civil Service Act, they shall not be removed, discharged or reduced in pay or position, except

for just cause after hearing by the governing body of the respective county or municipality. Reasonable notice of the hearing and the reasons for the proposed action shall be given to the person charged who may be represented at the hearing by counsel and offer testimony of witnesses or any other evidence in his own behalf.

Source: 51:1-52 and 51:1-53.

COMMENT

This section is identical to its sources.

51A:3-7. Special police powers

When necessary for the enforcement of this Act or regulations promulgated under it, any weights and measures officer may:

a. enter any commercial premises during normal business hours, except that if the premises are not open to the public, the officer shall first present credentials and obtain consent before entry, unless a search warrant has previously been obtained;

b. issue stop-use, hold and removal orders with respect to any weights and measures commercially used, stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale;

c. seize, for use as evidence, without formal warrant, any incorrect or unapproved weight measure package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of this Act or regulations promulgated pursuant to. Any weights and measures officer, his employer, or the State shall not be liable for damages by reason of that seizure;

d. stop any commercial vehicle and, after presentation of credentials, require the driver to proceed with the officer to a location for inspection; and

e. exercise special police powers with respect to the enforcement of this Act and arrest any violator of this Act without formal warrant.

Source: 51:1-54.1 and 51:1-106.

COMMENT

This section is substantially similar to its sources.

51A:3-8. Powers and duties of local officials

a. Any local superintendent shall have the duties and powers enumerated in this Act, excepting those duties reserved to the State by law or regulation.

b. The powers and duties of local weights and measures officers shall extend to their respective jurisdictions, except that the jurisdiction of a county official shall not extend to any municipality for which a weights and measures officer has been appointed.

c. A local weights and measures officer may act outside of the officer's jurisdiction with approval of the State Superintendent. Any fines resulting from acts outside of the officer's jurisdiction shall be paid to the State.

Source: 51:1-45; 51:1-63; 51:1-65; and 51:1-68.

COMMENT

This section is substantially similar to its sources.

51A:3-9. Weights and measures officers; training; badges or identification device

a. Each weights and measures officer shall successfully complete a course of instruction in weights and measures before assuming duties.

b. Each weights and measures officer shall be issued a badge or a similar identification device displaying an official number and shall exhibit the badge or identification on demand during the performance of official duties. The Superintendent shall design, number, register and issue badges or identification devices.

Source: 51:1-64.

COMMENT

This section is substantially identical to its source.

51A:3-10. Record keeping

a. A local superintendent shall keep a complete record of all inspections conducted by weights and measures officers and of all weights and measures examined by officers under that superintendent's authority.

b. Every local superintendent shall, not later than the fifth day of each month, send to the Superintendent, a report containing:

(1) a list of each business inspected and the date of the inspection;

(2) the number of tests made since the preceding report;

(3) the number of weights or measures found to be correct;

(4) the number of weights or measures found to be false;

(5) the number of prosecutions instituted since the preceding report, together with the name and address of the accused, the name of the court where proceedings were instituted, and the disposition; and

(6) a copy of the report of each inspection conducted

(7) other matters the Superintendent has prescribed.

c. Every municipal and county superintendent shall also make an annual report of work, in writing, to the Superintendent within ten days after the last day of the state fiscal year.

d. Within 30 days after the end of the state fiscal year, the Superintendent shall make a report to the Legislature, which shall contain recommendations or suggestions and a digest of the reports of the municipal and county superintendents.

Source: 51:1-70 through 51:1-72.

COMMENT

This section is substantially similar to its sources.

51A:3-11. Registration of commercial weighing and measuring devices required

a. All weighing and measuring devices located within the State and operated or used for commercial purposes shall be registered with the Superintendent, except for timing devices used in clothes dryers by the residents of a building or complex of buildings in which the clothes dryers are located.

b. An applicant for registration shall submit an application on a form provided by the Superintendent and pay the appropriate registration and inspection fee to the Superintendent.

c. A weighing and measuring device registration shall expire one year from the effective date of the registration.

d. A registration may be renewed annually for an additional one-year term upon submission of a properly completed renewal application on a form provided by the Superintendent and payment of the registration fee.

e. The owner of a registered weighing and measuring device shall notify the Superintendent if the device is sold, transferred or moved to a new location.

Source: 51:1-54.2.

COMMENT

This section is substantially identical to its source.

51A:3-12. Fee for regulation of measuring and weighing devices

a. The Superintendent shall establish, by regulation, a fee schedule for the regulation of weighing and measuring devices.

b. The fee schedule shall include an additional fee for late registration.

c. The fees established shall be sufficient to fully defray the cost of regulating weighing and measuring devices except that:

(1) the fee charged for scales which measure weights of less than 1,000 pounds shall not exceed \$25 per scale;

(2) the fee charged for fuel pump dispensers shall not exceed \$25 per hose, and grade of fuel dispensed through that hose and

(3) the fee charged for retail vehicle tank meters shall not exceed \$50 per meter.

d. The fees established under subsection a. of this section shall be deposited into the "Weights and Measures Fund" for the purpose of fully defraying the cost of regulating weighing and measuring devices.

Source: 51:1-54.3.

COMMENT

This section is substantially identical to its source.

51A:3-13. Weights and measures fund

a. There is established the "Weights and Measures Fund" as a non-lapsing revolving fund in the Department of Law and Public Safety into which shall be deposited all fees and penalties collected by the Superintendent under this Act.

b. The fund shall be administered by the Superintendent and shall be used to pay all expenses incurred by the Superintendent in connection with the regulation of weighing and measuring devices pursuant to this Act.

c. All counties and municipalities which have established departments of weights and measures shall be eligible to receive reimbursement from the fund established under this section for an amount certified by the Superintendent to defray all or part of the costs incurred in connection with the regulation of weighing and measuring devices pursuant to this Act. If the amount certified is to defray part of the costs, each eligible county and municipality shall receive an amount equal to the same percentage of the costs incurred.

Source: 51:1-54.4.

COMMENT

This section is substantially identical to its source.

CHAPTER 4 – WEIGHMASTERS

51A:4-1. Definitions

As used in this chapter:

a. “Public Weighing” means the weighing, measuring, or counting, upon request, of vehicles, property, produce, commodities, or articles other than those that the weigher or the weigher’s employer is either buying or selling.

b. “Public Weighmaster” means any person who performs public weighing.

c. “Private Weighmaster” means any person, not engaged in the business of weighing for hire, used by a firm, corporation, or individual after application to the Superintendent;

c. “Vehicle” means any device (except railroad freight cars) in, upon, or by which any property, produce, commodity, or article is or may be transported or drawn.

Source: Uniform weights and measures law and 51:1-73.

COMMENT

This section is similar to its source but is taken from the uniform law that is more comprehensive. The definition for “Private Weighmaster” is not found in the uniform law.

51A:4-2. Qualifications for weighmaster

a. To receive authorization to act as a weighmaster, a person must receive a license from the Superintendent. To qualify for a license, a person must:

(1) be able to weigh or measure accurately;

(2) be able to produce correct certificates; and

(3) possess other qualifications required by the Superintendent.

b. The Superintendent may determine the qualifications of the applicant based on the results of an examination of the applicant's knowledge.

Source: Uniform weights and measures law and 51:1-75.

COMMENT

This section was added to provide a guideline for the procedures to becoming a weighmaster.

51A:4-3. Issuance and records of licenses

The Superintendent shall:

a. grant licenses as public or private weighmasters to qualified applicants;

b. keep a record of all applications submitted and of all licenses issued; and

c. issue licenses for a term of three years.

Source: 51:1-74

COMMENT

This section is substantially similar to paragraph one of its source.

51A:4-4. License fees

For issuance of a new or renewal license as a public weighmaster, the applicant shall pay a fee of \$150 to the Superintendent, who shall deposit the money into the “Weights and Measures Fund”.

Source: 51:1-74

COMMENT

This section is substantially similar to paragraph two of its source.

51A:4-5. Certificate; required entries; prima facie evidence

a. A certificate is a statement of weight or measure certified by a public weighmaster.

b. The design of and the information to be furnished on a weight certificate shall be prescribed by the Superintendent and shall include:

- (1) the name and license number of the public weighmaster;
- (2) the kind of commodity weighed, measured, or counted;
- (3) the name of the owner, agent, or consignee of the commodity;
- (4) the name of the recipient of the commodity, if applicable;
- (5) the date the certificate is issued;
- (6) the consecutive number of the certificate;
- (7) the identification, including the identification number, if any, of the carrier transporting the commodity, and the identification number or license number of the vehicle;
- (8) other information needed to distinguish or identify the commodity from a like kind;
- (9) the number of units of the commodity, if applicable;
- (10) the measure of the commodity, if applicable;
- (11) the weight of the commodity and the vehicle or container (if applicable) broken down as follows:
 - (A) the gross weight of the commodity and the associated vehicle or container;
 - (B) the tare weight of the unladen vehicle or container; or
 - (C) both the gross and tare weight and the resultant net weight of the commodity; and
- (12) signature of the public weighmaster who determined the weight, measure, or count.

c. The certificate, when properly completed and signed by a public weighmaster shall be prima facie evidence of the accuracy of the measurements shown.

Source: 51:1-77; 51:1-102 and the Uniform weights and measures law.

COMMENT

This section is substantially identical to its source. Subsections (b)(1), (b)(4), (b)(10), (b)(11)(a)-(c) and (b)(12) are new and derived from the uniform law.

51A:4-6. Copies of certificates

A public weighmaster shall keep a copy of each certificate issued for six years. Certificates shall be available for inspection by any weights and measures officer during normal business hours.

Source: 51:1-79.

COMMENT

This section is substantially identical to its source.

51A:4-7. Reciprocal acceptance of certificates

The Superintendent may recognize and accept certificates issued by licensed public weighmasters of other States that recognize and accept certificates issued by licensed weighmasters of this State.

Source: Uniform weights and measures law.

COMMENT

This section was added to allow for reciprocity between states.

51A:4-8. Weighing on scales outside State authorized

The Superintendent may designate any weighmaster licensed under the provisions of this title, to weigh commodities on approved scales at points located not more than one mile outside of the state, and certificates of weight issued by them shall have the same force and effect as certificates issued under the provisions of sections 51:2-10 to 51:2-14.

Source: 51:1-80.1.

COMMENT

This section is substantially identical to its source except that the residence requirement has been broadened to allow a place of business rather than a residence in New Jersey.

51A:4-9. Vehicles transporting construction materials; certification of tare weight

A public weighmaster shall certify the tare weight of a vehicle used for the transportation of construction materials upon request by the operator of that vehicle. The weight of a commodity transported by such a vehicle shall be determined by subtracting the certified tare weight of the vehicle from its gross weight. The tare weight of the vehicle may be certified no more than seven days immediately prior to the date the gross weight of the vehicle is determined. If the tare weight of the vehicle has not been certified during the seven-day period, the tare weight may be certified by a public weighmaster, provided that the certification was within one year prior to the date the gross weight is determined, and if there is a subsequent weighing, the subsequent tare weight of the vehicle is no greater than 105 per cent or less than 95 per cent of the tare

weight certified during the one year period. A certificate issued pursuant to this section certifying the tare weight of a vehicle shall contain the wording “stored tare.” A “stored tare” certificate shall not supersede a certificate displaying the weight of record from weighing the vehicle on certified scales.

Naturally occurring aggregates used as construction materials, including crushed stone, gravel, sand, clay and clean fill that are not sold or intended for sale to an entity distinct from the seller shall not be considered a commodity for purposes of this Title. Vehicles carrying such construction materials may have only the gross vehicle weight certified.

Source: 51:1-77.1

COMMENT

This section is substantially identical to its source.

51A:4-10. Reweighing on complaint

When the correctness of the net or gross weight of any commodity for which a certificate of weight or measure has been issued by a public weighmaster is questioned, the owner, agent, or consignee may, upon complaint to a weights and measures officer have the commodity reweighed by them without charge. A public weighmaster designated by the Superintendent may reweigh the commodity.

Source: 51:1-78.

COMMENT

This section is substantially identical to its source.

51A:4-11. State-owned scales; weighmasters

The Superintendent, under the approval of the Attorney General, may appoint weighmasters within the Division of Weights and Measures for official weighing and certification regarding the operation of State-owned scales.

Source: 51:1-82.1.

COMMENT

This section is identical to its source.

51A:4-12. Fraudulent report of weight

No weighmaster shall certify or report false weight. A weighmaster who certifies or reports false weight shall be answerable to any party injured in double damages to be collected in an action at law. This section shall not apply to interstate common carriers by railroad subject to regulation by federal authority.

Source: 51:1-82.

COMMENT

This section is substantially identical to its source.

51A:4-13. Suspension and revocation of license

The Superintendent may suspend or revoke the license of any public weighmaster who is:

- a. found to have violated any provision of this Act or any regulation under this Act;
- b. convicted in any court of violating any provision of this Act or any regulation under this Act; or
- c. convicted of any crime.

Source: Uniform weights and measures law and 51:1-80.

COMMENT

This section adds to the existing law subsection (c).

51A:4-14. Enforcing officer; rules and regulations

The Superintendent may issue regulations to enforce of this chapter including regulations specifying measurement practices that must be followed by a weighmaster, including the measurement or recording of tare.

Source: Uniform weights and measures law.

COMMENT

This new provision was added to outline the duties of the Superintendent.

CHAPTER 5 – WEIGHTS AND MEASURES: INSPECTION, TESTING AND SEALING

51A:5-1. Test of weights and measures

a. Except as provided in subsection (c), all weights and measures used in commerce shall be tested and sealed at least once a year. Upon the request of any interested party, a weights and measures officer shall test any weight or measure. If it is found correct or is made correct the officer shall properly seal it. The officer shall cause it to conform as nearly as possible to the standard before sealing. Otherwise, it shall not be used and shall be disposed of as provided in this Act.

b. The Office of Weights and Measures shall collect a fee for the testing of a weight or measure established by regulation. All money collected by the Superintendent shall be deposited into the Weights and Measures Fund.

c. These weights and measures devices need not be tested and sealed:

(1) timing devices used in clothes dryers by the residents of a building or complex of buildings in which the clothes dryers are located; and

(2) any other devices exempted by the Superintendent by regulation.

Source: 51:1-84.

COMMENT

This section is substantially identical to its source. A reference to the Weights and Measures Fund was added.

51A:5-2. Only sealed weights and measures to be used

a. A device not tested and sealed according to this chapter shall not be used in the purchase or sale of goods based on weight or measurement. However, no contract is to be voided unless one of the contracting parties is injured by the use of the weight or measurement.

Source: 51:1-83.

COMMENT

This section is substantially similar to its source but omits the penalty provision. There is a single, general penalty provision for the whole Weights and Measures Law.

51A:5-3. Tests

a. Any inspection of a weight or measure made at the request of the owner, found not to conform to the legal standard, shall result in a weights and measures official serving the owner with a notice in writing that further use is illegal. Within 15 days, the owner shall deliver the defective weight or measure to the weights and measures officer for confiscation or have the weight or measure corrected or another substituted, and notify the superintendent in writing of the action taken.

b. Except where an inspection is made at the request of the owner, if the first official inspection of any weight or measure deviates from the legal standard and the nature of the deviation is not easily ascertainable by the owner, the owner may correct it. Upon failure to do so within 2 days, the weights and measures officer may take possession of and destroy the weight or measure. If the deviation is easily ascertainable by the owner, the officer shall immediately take possession of and destroy the weight or measure.

Source: 51:1-85 and 51:1-86.

COMMENT

This section is substantially identical to its sources but omits the penalty provision. There is a single, general penalty provision for the whole Weights and Measures Law

51A:5-4. Refusal to seal weight or measure constructed to defraud

A weights and measures officer shall not seal any weight or measure that is constructed to facilitate fraud. The officer shall report the matter to the Superintendent or to the local superintendent who, if satisfied upon investigation that its use is prejudicial to the best interests of the public, shall order that the weight or measure be treated as an unlawful one.

Source: 51:1-87.

COMMENT

This section is substantially similar to its source.

51A:5-5. Refusal to exhibit weights, container, documents, etc.

No person shall:

- a. refuse to exhibit any weights, measures, packages, containers, weight certificates, delivery tickets, invoices or any other documents setting forth the quantity or value of any commodity or service to a weights and measures officer for the purpose of inspection and examination;
- b. refuse to admit to a place of business, during usual hours of business.

Source: 51:1-88.

COMMENT

This section is similar to its source but eliminates duplicative language and the penalty provision. There is a single, general penalty provision for the whole Weights and Measures Law.

CHAPTER 6 – SECONDHAND WEIGHING DEVICES

51A:6-1. Definitions

As used in this chapter:

- a. “Repair” means to engage in the business of partial or complete constructing or reconstructing, repairing, altering, installing or adjusting of any commercial weighing or measuring equipment used in trade and commerce in this State.
- b. “Adjustment” and “adjusting” means any movement of any part of a weighing or measuring device except to obtain a correct zero indication.

Source: 51:1-113.

COMMENT

The definitions in this section are substantially similar to their source. Other definitions have been deleted as duplicating general definitions for the title or as unnecessary.

51A:6-2. License and registration to engage in business

No person may engage in the business of selling, trading-in, receiving, installing or repairing condemned, rebuilt or used commercial weighing or measuring equipment in this State without first obtaining a license from the Superintendent.

Application for a license shall be made to the Office of Weights and Measures on the form prescribed and furnished by the Superintendent, and shall be verified by the applicant under oath, or if the applicant is a partnership, association, or corporation, under the verification and oath of an officer or official representative.

Source: 51:1-114 and 51:1-115.

COMMENT

This section is substantially identical to its source.

51A:6-3. Examinations; qualifications; and licenses

a. Upon application, the Superintendent shall issue a license to engage in the business of repairing any equipment subject to this chapter to any person who passes an examination on technical qualifications to engage in that business. Any weights and measures officer designated by the Superintendent may conduct examinations.

b. The Superintendent shall issue regulations governing the examination of applicants for licenses to repair weighing and measuring equipment, the qualifications for limited and unlimited licenses, and the conditions for suspending or revoking licenses.

c. The Superintendent may issue an applicant a license to repair limited classes and kind of weighing and measuring equipment.

d. Licenses shall be issued for a term of one year from the date of issue and shall be renewable. Each license issued shall state the name, business address of the person to whom it is issued, whether it is a limited or unlimited license, and if limited, the classes or kinds of weighing or measuring equipment the licensee is authorized to repair.

e. The Superintendent may revoke or suspend the license of any person convicted of any violation of this act or for any of the following reasons:

- (1) willful fraud or misrepresentation practiced in procuring any license;
- (2) dishonesty;
- (3) incompetence;
- (4) conduct of a character likely to deceive or defraud the public;
- (5) lending a license by the licensee to any other person;
- (6) obtaining a fee or compensation by fraud or misrepresentation;
- (7) willful advertising or publishing of false, fraudulent or misleading statements of the licensee's business, skill, knowledge or methods of operation; and
- (8) conduct or practice at variance with this chapter.

No certificate of license shall be revoked or suspended until after a hearing. The Superintendent shall give at least ten days notice of the hearing.

Source: 51:1-116; 51:1-117; 51:1-118; 51:1-119; 51:1-120; 51:1-121 and 51:1-122.

COMMENT

This section is substantially similar to its sources.

51A:6-4. Report of repair work done by licensee

a. Any person licensed to repair weighing or measuring equipment shall report work to the Office of Weights and Measures or to the weights and measures officer of the county or municipality. The report shall contain the name and address of the person for whom the work was done, identification of the weighing or measuring equipment, nature of the work performed and the date the work was completed.

b. Within ten days, after the making of a repair, or the sale and delivery of repaired, rebuilt, exchanged, or used weighing or measuring equipment, written notice must be given to the appropriate weights and measures officer giving the name and address of the person for whom the repair was made or to whom the repaired, rebuilt, exchanged, or used weighing or measuring equipment was sold or delivered. Also within ten days, a statement shall be made by the licensee that the weighing and measuring equipment has been altered, rebuilt, or repaired conforming to the standard specifications and regulations of the Office of Weights and Measures.

Source: 51:1-123 and 51:1-124.

COMMENT

This section is substantially similar to its sources.

51A:6-5. Comparison and calibration of testing equipment

All persons engaged in any business covered by the provisions of this act shall submit their testing equipment at least once a year to a weights and measures officer for comparison and calibration. The weights and measures officer shall issue to that person a statement or a certificate of findings.

Source: 51:1-126.

COMMENT

This section is identical to its source.

51A:6-6. Record or register

a. Every person licensed pursuant to of this chapter shall maintain a record or register containing the following:

(1) The name and address of every person for whom weighing or measuring equipment is repaired.

(2) The name and address of every person to whom a repaired, rebuilt, exchanged, or used weighing or measuring apparatus or equipment has been sold or delivered.

b. These records shall be open for inspection by any weights and measures officer.

Source: 51:1-127.

COMMENT

This section is identical to its source.

51A:6-7. Fees; use

a. Every person who is in the business of selling, trading, receiving, or engaging in the repairing of condemned, rebuilt, or used commercial weighing and measuring equipment shall pay a license fee of \$150 per year.

b. Every person engaging only in the repairing of weighing and measuring equipments shall pay a fee of \$20 per year.

c. These fees shall be paid to the Superintendent who will turn over to the funds to the State Treasurer for deposit into the Weights and Measures Fund.

Source: 51:1-128.

COMMENT

This section is identical to its source.

51A:6-8. Administration of Act; rules and regulations

The Superintendent shall administer this chapter and shall make regulations necessary for its enforcement. All weights and measures officers are charged with enforcement of this Act.

Source: 51:1-129 and 51:1-130.

COMMENT

This section is identical to its sources.

51A:6-9 Exceptions to application of chapter

This chapter shall not apply to any bona fide employee of a business who repairs or installs any weighing or measuring equipment used in that business in the sale of commodities.

Source: 51:1-133.

COMMENT

This section is substantially identical to its source.

CHAPTER 7-STANDARD MERIDIAN LINE; LAND DESCRIPTIONS

51A:7-1. Official survey base established; plane co-ordinates

The official survey base for New Jersey shall be a system of plane co-ordinates known as the "New Jersey system of plane co-ordinates", which shall be a transverse Mercator projection of the Geodetic Reference System of 1980, having a central meridian 74° 30' west from Greenwich on which meridian the scale is set at one part in 10,000 too small. All co-ordinates are expressed in meters, the x co-ordinate being measured easterly along the grid and the y co-ordinate being measured northerly along the grid, the origin of the co-ordinates being on the meridian 74° 30' west from Greenwich at the intersection of the parallel 38° 50' north latitude, this origin being given the co-ordinates x=150,000 meters; y=0 meters. The precise position of this system shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, formerly the United States Coast and Geodetic Survey for first and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983 or the most recently published adjustment by the National Geodetic Survey, and whose plane co-ordinates have been computed on the system defined. Standard conversions from meters to feet shall be the adopted standards of the National Oceanic and Atmospheric Administration.

Source: 51:3-7.

COMMENT

This section is identical to its source.

51A:7-2. Connecting property surveys with system of coordinates

Any triangulation or traverse station established as described in section 51:7-1 of this title shall be used in establishing a connection between a property survey and the above-mentioned system of rectangular coordinates.

Source: 51:3-8.

COMMENT

This section is identical to its source.

CHAPTER 8-LIGHTERS

51A:8-1. Certain sales of lighters prohibited

a. No lighter shall be sold, offered for sale, given, transferred, or otherwise made available in the State of New Jersey unless its design and construction conforms with the child resistant standards of this section.

b. "Child resistant lighter" means a lighter that is designed and constructed in a manner so that it is significantly difficult for a child under the age of 5 years to operate the device so as to produce a flame or to emit a flammable liquid, vapor, or gas. "Lighter" means a mechanical flame producing device, be it of a disposable or refillable nature, designed for the purpose of lighting a fire, cigarette, cigar, or pipe, provided, however, that the term shall not include those mechanical flame producing devices that are refillable and have a gross fueled weight of at least 35 grams.

c. The Bureau of Fire Safety in the Department of Community Affairs shall promulgate regulations to effectuate the purposes of this section, including standards for the design and construction of child resistant lighters.

Source: 51:13-1; Source: 51:13-3.

COMMENT

This section is substantially identical to its sources.

CHAPTER 9 – PENALTIES

51A:9-1. Prohibited Acts

a. A person who violates any provision of this act or regulations promulgated under it for which another penalty is not specifically provided shall be liable for the first offense to a civil penalty of not less than \$100 nor more than \$250; for a second offense to a civil penalty of not less than \$250 nor more than \$500, and for each subsequent offense to a civil penalty of not less than \$500 nor more than \$750.

b. A person who unlawfully hinders a weights and measures officer in the performance of official duties or who knowingly uses false weights or measures shall be liable for the first offense to a civil penalty of not less than \$100 nor more than \$250; for a second offense to a civil penalty of not less than \$250 nor more than \$500, and for each subsequent offense to a civil penalty of not less than \$500 nor more than \$750.

c. At the discretion of the weights and measures officer, each instance of violation of may be charged separately and be the basis for a separate penalty. However, all packages from the same inspection lot which exceed the Maximum Allowable Variation (MAV) set forth in Handbook 133 that were not packaged and marked by the person charged with the violation may comprise one instance of violation, and be subject to a single penalty. The Superintendent shall establish standards regulating the exercise of discretion as to when instances of violation shall be charged separately and when instances of violation shall be grouped as a single charge.

d. No person shall be convicted of or assessed a civil penalty for a second or subsequent offense pursuant to this section unless the previous violations occurred:

(1) within one year prior to the occurrence of the second or subsequent offense; and

(2) at the same store or outlet as the second or subsequent offense.

e. This section shall not authorize the imposition of penalties for a second or subsequent offense:

(1) in conjunction with an adjudication of guilt based upon multiple counts or complaints arising from the same inspection,

(2) if one of the offenses was for incorrect weight of a product that was packaged and marked by a person other than the person charged with the violation;

(3) if, in the discretion of the court, the imposition of a penalty for a first offense would be just and proper;

f. This section shall not authorize the imposition of a penalty against a seller for understating the quantity of commodity sold, charging a lower price than that marked, or other actions that benefit of the consumer.

g. An action to assess a penalty shall be brought pursuant to the “Penalty Enforcement Law” in proceeding in the Superior Court or a municipal court. Actions shall be brought in the name of the State by any weights and measures officer. A person who does not contest the penalty and pays the penalty set by the court’s violation schedule before the date set for the court hearing need not appear unless ordered to appear by the court.

h. Nothing in this section shall prevent prosecution of acts constituting violations of this chapter as crimes or offenses under the Criminal Code.

Source: New.

COMMENT

This section replaces penalties scattered throughout current Title 51. The Commission considered and rejected a provision requiring enforcement of penalties against a manufacturer rather than the retailer

where the package was weighed and labeled by the manufacturer. However, subsection (e)(2) limits the use of violations based on such circumstances to justify higher fines for subsequent offenses. It also should be noted that when the manufacturer causes the violation, the retailer has a cause of action against the manufacturer.

51A:9-2. Injunction

The Superintendent may apply to the Superior Court for an injunction restraining any person from violating this act.

Source: 51:1-103.1.

COMMENT

This section is substantially similar to its source.

51A:9-3. Presumptive Evidence

A rebuttable presumption exists that:

a. when a weighting or measuring device is located in any place where buying or selling is commonly carried on, the device is regularly used for the business purposes of that place; and

b. when a certificate is produced indicating that a standard weight or measure has been tested and found accurate, that the standard weight or measure is accurate.

Source: 51:1-101.

COMMENT

This section is substantially similar to its source.

51A:9-4. Disposition of penalties

Penalties, when imposed or recovered in an action brought:

a. by a weights and measures officer employed by the Office of Weights and Measures shall be deposited into the Weights and Measures Fund;

b. by a county or municipal weights and measures officer shall be paid to the treasurer of the locality.

Source: 51:1-109.

COMMENT

This section is substantially similar to its source.

51A:9-5. City attorney or county prosecutor to aid in prosecution

The municipal prosecutor of the municipality where a violation of this act occurred shall assist in the prosecution of any proceedings in municipal court; the county counsel shall assist in the prosecution of any proceedings in Superior Court.

Source: 51:1-111.

COMMENT

This section is substantially identical to its source.

CHAPTER 10 – GOLD AND SILVER

51A:10-1 Sale of gold articles with false quality marks

a. No person shall sell, or possess with intent to sell, any article made in whole or in part of gold or an alloy of gold, marked on the article, or upon its tag, label or package, designed to indicate that the gold or alloy of gold is of a greater degree of fineness than it is.

b. In any test of the fineness of the gold or its alloy to determine compliance with subsection (a), the part of the gold or its alloy taken for the test, shall not contain any solder or alloy of inferior fineness used for uniting the parts of the article.

c. The article shall be considered not to be in violation of subsection (a) if the metal tested is not less than the fineness indicated by the mark by more than one karat.

Source: 51:5-1; 51:5-2.

COMMENT

This section is a simplified version of its sources.

51A:10-2. Sale of silver articles, marked "sterling" or "coin" where articles less than certain fineness

No person shall sell, or possess with intent to sell, any article made in whole or in part of silver or of an alloy of silver, marked on the article, or upon its tag, label or package, designed to indicate:

(1) "sterling silver" or "sterling" or any colorable imitation of these, unless nine hundred and twenty-five one-thousandths of the metal purporting to be silver, is pure silver;

(2) "coin" or "coin silver" or any colorable imitation of these, unless nine hundred one-thousandths of the metal purporting to be silver is pure silver; or

(3) Any mark or word, other than the word "sterling" or the word "coin" designed or intended to indicate, that the silver or alloy of silver is of a greater degree of fineness than it is.

b. In any test of the fineness of silver or its alloy to determine compliance with subsection (a), the part of the silver or its alloy taken for the test, shall not contain any solder or alloy of inferior fineness used for uniting the parts of the article.

c. The article shall be considered not to be in violation of subsection (a) if the metal tested is not less than the fineness indicated by the mark by more than ten one-thousandths parts than the fineness indicated,.

Source: 51:5-3; 51:5-4.

COMMENT

This section is a simplified version of its sources.

51A:10-3. Sale of gold or silver plated articles without indicating they are plated

No person shall sell, or possess with intent to sell, any article made in whole or in part of inferior metal, plated or covered gold, or of any alloy of gold, or silver or an alloy of silver marked on the article, or upon its tag, label or package, designed to indicate that the with any word or mark usually employed to indicate the fineness of gold or silver, unless accompanied by other words plainly indicating that the article, or some part of it is gold or silver plated, or is gold or silver filled, as the case may be.

Source: 51:5-5; 51:5-6.

COMMENT

This section is a simplified version of its sources.

51A:10-4. Buyer on basis of bulk value; duties; serialized receipts; bond

Any person in the business of buying precious metals who buys, attempts to buy or offers to buy precious metals on the basis of bulk value from any person who is not in the business of selling precious metals shall:

a. clearly and prominently display at the point of purchase (1) the buyer's name and address; and (2) the price being offered or paid by the buyer expressed as price per standard measure of weight and fineness as prescribed by the Superintendent of Weights and Measures.

b. Include the buyer's name and address in all advertisements concerning precious metals.

c. Weigh the precious metals in plain view of the seller on State certified scales with the certificate of inspection clearly and prominently displayed.

d. Test the fineness of precious metals, if any test is so performed, in plain view of the seller.

e. Issue to the seller and keep for not less than 1 year, a serialized receipt for each purchase of precious metals containing the following:

(1) The name and address of the buyer;

(2) Date of the transaction;

(3) The names of the precious metals purchased, if known;

(4) The finenesses of the precious metals purchased;

(5) The weights of the precious metals purchased;

(6) The prices paid for the precious metals at the standard measures of weight and fineness prescribed by the superintendent;

(7) The name, address and signature of the seller of the precious metals.

f. Obtain proof of identity from each person who sells precious metals to him.

g. Retain any precious metals in the form in which they were purchased for at least two business days.

h. Upon reasonable request, allow the inspection of the serialized receipts or precious metals provided for in subsections e. and g. of this section by any law enforcement officer or weights and measures official.

i. If the buyer is transient, obtain a bond in an amount and form prescribed by regulations of the Superintendent, obtained from a surety company authorized by law to do business in this State. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the buyer of precious metals. The bond shall contain a provision that it shall not be cancelled for any cause unless notice of intention to cancel is filed in the Office of Weights and Measures at least 30 days before the day upon which cancellation shall take effect.

j. Before buying, or offering to buy any precious metals, register with the police of the municipality in which the person intends to conduct business and give his name and address. A transient buyer of precious metals shall, in addition to the information required of a buyer of precious metals, provide the address at which the buyer intends to do business in the municipality and shall reregister on change of location of doing business or on resumption of business after discontinuing business for more than 20 days in the municipality.

Source: 51:6A-1; 51:6A-2

COMMENT

This section is substantially identical to its sources.

51A:10-5. Inapplicability of act to government agencies, banks, or commodity markets

This chapter is not applicable to government agencies, State or Federally chartered banks or Federally regulated commodity markets.

Source 51:6A-6.

COMMENT

This section is substantially identical to its sources.

51A:10-6. Right of municipalities to enact more restrictive ordinances or resolutions

A municipality may enforce ordinances more restrictive than this act or any rules or regulations promulgated under it.

Source 51:6A-7.

COMMENT

This section is substantially identical to its sources.

CHAPTER 11 – LIQUID FUELS

51:11-1. Definition

As used in this chapter "liquid fuels" means fuel in liquid form, which can be used for heating purposes except for oil that has a flash point of one hundred five degrees Fahrenheit or less, as determined by the Tagliabue closed cup tester or has a Saybolt Universal Viscosity at one hundred degrees Fahrenheit higher than fifty-five seconds.

Source: 51:9-1.

COMMENT

This section is substantially identical to subsection (a) of 51:9-1. The other definition in the source section, weights and measures officer, has been deleted as duplicative of a general definition.

51:11-2. Sale of liquid by volume

a. All liquid fuel shall be sold by volume.

b. Deliveries of liquid fuel exceeding 50 gallons but not exceeding 10,000 gallons shall be measured by means of a positive displacement liquid flow meter tested and sealed as to its adjusting and recording elements by a weights and measures officer; but this requirement shall not apply to liquid fuel:

(1) in containers conspicuously marked with quantity in terms of liquid measure;

(2) delivered by the entire railroad tank car or cargo direct from the vessels, railroad tank cars or bulk tank trucks or compartments of them consigned to one person and accepted by the purchaser on the original bill of lading or invoice; or

(3) which the Superintendent determines does not lend itself to metered measurement by reason of viscosity or other characteristics

c. Deliveries of quantities in excess of 10,000 gallons may be measured by a meter or from compartments that have been calibrated and whose indicators have been sealed by a weights and measures officer.

d. Any measuring device used in the sale of liquid fuel shall be of a type and construction approved by the Superintendent and calibrated, tested and sealed annually by a weights and measures officer.

e. A certificate shall be issued by a weights and measures official after the approval and sealing of a measuring device. The certificate shall be carried on the vehicle to which it applies at all times that liquid oil is delivered or possessed with intent to deliver.

f. If the volume of liquid fuel is calculated by weight, the net weight shall be determined by means of a scale of approved type and capacity, tested and sealed by a weights and measures officer. For the conversion of weight to volume and for

temperature corrections, the National Standard Petroleum Oil Tables as approved by the federal government shall be used.

Source: 51:9-2; 51:9-3; 51:9-4; 51:9-5; 51:9-6.

COMMENT

Subsection (a) is substantially identical to the first sentence of 51:9-3. The other part of 51:9-3, which requires measurement in gallons, has been deleted as unnecessary. Subsection (b) is substantially identical to 51:9-5. Subsection (c) is substantially identical to 51:9-6. Subsection (d) and (e) are substantially identical to 51:9-2. Subsection (f) is substantially identical to 51:9-4.

51:11-3. Delivery tickets

a. A delivery ticket and duplicate of it shall be issued upon the completion of delivery of liquid fuel exceeding 10 gallons. If the sale or delivery exceeds 50 gallons and is of a type of liquid fuel which is required to be measured by meter, the ticket shall be printed by means of an automatic printing device attached to and coordinated with the operating mechanism of a meter approved for the measurement of liquid fuels. One of the tickets shall be given to the purchaser and the other shall be retained by the seller for ~~one year~~ six years. The retained tickets shall be subject to inspection by any weights and measures officer.

b. On each ticket there shall be legibly expressed;

- (1) the date,
- (2) the name and address of the seller,
- (3) the name and address of the purchaser,
- (4) the quantity delivered,
- (5) the grade of liquid fuel, and
- (6) the signature of the person who made delivery or his agent.

c. Delivery tickets shall be serially numbered. No duplicate or unused ticket shall be destroyed but may be voided and kept on file.

d. This section shall not apply where there is a meter permanently attached and properly security sealed in the consuming apparatus of the consumer with the recording elements always available to the consumer. In this situation, in lieu of a delivery ticket, the seller shall provide to the consumer, a periodical statement of the amount of fuel delivered as indicated on the meter attached to the consuming apparatus. On notice to the seller, a consumer may at any time elect to discontinue use of a meter attached to the consuming apparatus and to receive delivery tickets as provided by this section.

Source: 51:9-7.

COMMENT

This section is substantially identical to 51:9-7.

51:11-4. Residential oil fill pipe

a. The owner of any residential dwelling served by a home heating oil tank shall provide that the cap of any exterior heating oil fill pipe be colored green or that the tank fill pipe be equipped with a fill tightness system with a fill cap stamped or engraved in clear letters with the words "Fuel Oil."

b. No person may pump, pour, or otherwise place home heating oil into any exterior heating oil tank fill pipe of a residential dwelling unit that does not comply with this section.

c. A person who violates this section is subject to a civil penalty not to exceed \$500 which may be collected in a summary proceeding brought pursuant to "the penalty enforcement law." The Superior Court and a municipal court shall have jurisdiction to enforce a penalty under this section.

Source: 51:9-9.1.

COMMENT

This section is substantially identical to 51:9-9.1.

51:11-5. Regulations

The Superintendent shall adopt regulations to prevent the perpetration of fraud in the sale of liquid fuel governing

a. the types of measuring devices and equipment that may be used in the delivery of liquid fuel;

b. the manner of approval, testing, or calibrating of measuring devices and equipment; and

c. the mailing and preserving of the periodical statements of meter readings sent to purchasers having meters on their consuming apparatus.

Source: 51:9-10.

COMMENT

This section is substantially identical to 51:9-10.

51:11-5. Deception as to quality of liquid fuel

a. No person shall possess or sell liquid fuel, motor oil or similar products in a manner that would tend to deceive a purchaser as to the identity or quality of the product by false representation, false labeling, substitution or adulteration.

b. A person who violates this section shall be subject to a penalty of not less than \$250 nor more than \$1000 for a first offense, and not less than \$1000 nor more than \$5000 for a subsequent offense. These penalties shall be enforced in the same manner as others in this act.

Source: 51:4-1.

COMMENT

This section is substantially identical to 51:4-1.

CHAPTER 12 – LIQUIFIED PETROLEUM GAS

51A:12-1 Sale of Liquefied Petroleum Gas.

Liquefied petroleum gas, any material composed predominantly of propane, propylene, butane, or butylene or a mixture of them, shall be sold or offered for sale by weight, by liquid measure, or by volume expressed in units employed by industry and accepted by the trade and approved by the Superintendent.

Source: 51:10-1; 51:10-2.

COMMENT

This section continues the substance of 51:10-2. The definition of liquefied petroleum gas is derived from 51:10-1.

CHAPTER 13 – LUMBER

51:13-1 Standards for grading and measuring lumber; other regulations

a. The Superintendent shall establish standards for the grading and measurement of lumber and wood products by regulation. The standards shall be in accord with applicable commercial standards of the United States Department of Commerce, the grading rules of approved grade rules writing agencies, and other industry standards and may deviate from these standards only with justifiable reasons or where standards do not exist. The superintendent may establish standards only after consultation with the manufacturers and dealers involved.

b. The superintendent may establish other regulations to implement the enforcement or administration of this chapter.

Source: 51:4-27; 51:4-31.

COMMENT

Subsection (a) contains the Superintendent's regulatory power over standards for lumber now found in 51:4-27. Subsection (b) contains the general regulatory power now found in 51:4-31.

51A:13-2. Sale of lumber in violation of regulations

No person shall sell, expose for sale, offer for sale, or manufacture for the purpose of resale in this State any lumber or wood product that

a. deviates from the applicable regulations;

b. is not labeled as required by regulations; or

c. is misrepresented or mislabeled so as to mislead or deceive a purchaser.

Source: 51:4-27; 51:4-29; 51:4-30.

COMMENT

This section collects the penalty provisions now found in the source sections. The labeling requirement in 51:4-27 and the deviation from regulations provision in 51:4-30 contain no specific penalty and are presumably enforced by administrative penalty. Misrepresentation of lumber is now made a crime by 51:4-29. As such, it duplicates theft and fraud provisions of the Criminal Code. This section would

make all of these prohibited acts subject to the general penalties found in 51A:9-1. Of course, in an appropriate case, any weights and measures violation can be prosecuted as a crime.