

2024 Regular Session

HOUSE BILL NO. 240

BY REPRESENTATIVE ROMERO

WEIGHTS/MEASURES: Provides relative to the Louisiana Weights and Measures Law

1 AN ACT

2 To amend and reenact R.S. 3:4602, 4622(B)(1), (2), and (3), (C), (D), (E), (F), and (G), and
3 4624 and to enact R.S. 3:4622(H), relative to weighing and measuring devices; to
4 provide for definitions; to provide relative to subsequent inspections of weighing and
5 measuring devices and fees; to provide for the authority of the commissioner of
6 agriculture and forestry; to provide for penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 3:4602, 4622(B)(1), (2), and (3), (C), (D), (E), (F), and (G), and 4624
9 are hereby amended and reenacted and R.S. 3:4622 (H) is hereby enacted to read as follows:

10 §4602. Definitions

11 As used in this Chapter, the following terms shall have the following
12 meanings:

13 (1) "Annual inspection" means the first inspection completed by the
14 department on a commercial weighing and measuring device in a calendar year.

15 ~~(1)~~ (2) "Basket" means a one and one-half bushel circular container that may
16 be used for the measurement of oysters to be sold or purchased.

17 ~~(2)~~ (3) "Bulk transfer" means any transfer of motor fuel from one location
18 to another by pipeline tender or marine delivery within a bulk transfer/terminal
19 system, including but not limited to the following:

1 (a) A marine vessel movement of motor fuel from a refinery or terminal to
2 a terminal.

3 (b) Pipeline movements of motor fuel from a refinery or terminal to a
4 terminal.

5 (c) Book transfer of motor fuel within a terminal between licensed suppliers
6 prior to completion of removal across the rack.

7 (d) Two-party exchange between licensed suppliers or between licensed
8 suppliers and permissive suppliers.

9 ~~(3)~~ (4) "Certificate of conformance" means a document issued by the
10 National Institute of Standards and Technology, or any successor, based on testing
11 in participating laboratories. The document constitutes evidence of conformance of
12 a type with the requirements of National Institute of Standards and Technology
13 Handbooks 44, 105-1, 105-2, or 105-3, or conformance with the requirements of any
14 handbook that may supersede the named handbooks.

15 ~~(4)~~ (5) "Commercial weighing and measuring device" means any weight,
16 measure, or weighing or measuring device commercially used or employed in
17 establishing the size, quantity, extent, area, time, distance, or measurement of
18 quantities, things, produce, or articles for distribution or consumption, purchased,
19 offered, or submitted for sale, hire, or award, or in computing any basic charge or
20 payment for services rendered on the basis of weight or measure. Except as
21 otherwise provided, the term shall include scales, weighing devices, and metering
22 and measuring devices commercially used for determining the weight or amount of
23 petroleum products, as well as electricity disbursed by electric vehicle supply
24 equipment. It shall also include any accessory attached to or used in connection with
25 a commercial weighing or measuring device when such accessory is so designed or
26 installed that its operation affects the accuracy of the device.

27 ~~(5)~~ (6) "Commission" means the Commission of Weights and Measures.

1 ~~(6)~~ (7) "Commissioner" means the commissioner of the Louisiana
2 Department of Agriculture and Forestry, or his duly authorized representatives acting
3 at his discretion.

4 ~~(7)~~ (8) "Commodity" means any service or item, or any combination of
5 items, forming a distinctive product, sold in commerce which is affected by any
6 determination of weight, measure, or count.

7 ~~(8)~~ (9) "Correct" as used in connection with weights and measures means
8 conformance to all applicable requirements of this Chapter.

9 ~~(9)~~ (10) "Department" means the Louisiana Department of Agriculture and
10 Forestry.

11 ~~(10)~~ (11) "Director" means the director of weights and measures appointed
12 by the commissioner.

13 ~~(11)~~ (12) "Net weight" means the weight of the commodity excluding any
14 materials, substances, or items not considered to be part of the commodity.
15 Materials, substances, or items not considered to be part of the commodity include
16 but are not limited to containers, conveyances, bags, wrappers, packaging materials,
17 labels, individual piece coverings, decorative accompaniments, and coupons, except
18 that, depending on the type of service rendered, packaging materials may be
19 considered to be part of the service. For example, the service of shipping includes
20 the weight of packaging materials.

21 ~~(12)~~ (13) "Package" means any commodity packed or packaged in any
22 manner in advance of sale in units suitable for either wholesale or retail sale.

23 ~~(13)~~ (14) "Person" means both plural and singular, as the case demands, and
24 includes individuals, partnerships, corporations, companies, societies, and
25 associations

26 ~~(14)~~ (15)(a) Except as provided in Subparagraph (b) of this Paragraph,
27 "petroleum product" means any refined hydrocarbon mixture including motor oil,
28 kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene, and any

1 blend of two or more refined hydrocarbon mixtures except liquefied petroleum gas
2 and natural gas.

3 (b) For purposes of enforcement of the provisions of R.S. 47:818.111 et seq.
4 regarding taxes on special fuels, "petroleum product" shall include compressed
5 natural gas, liquefied natural gas, and liquefied petroleum gas as those terms are
6 defined in R.S. 47:818.2.

7 ~~(15)~~ (16) "Position holder" means the person who holds the inventory
8 position in motor fuel in a terminal as reflected on the records of the terminal
9 operator. A person holds the inventory position in motor fuel when that person has
10 a contract with the terminal operator for the use of storage facilities and terminaling
11 services for motor fuel at the terminal. The term includes a terminal operator who
12 owns motor fuel in the terminal.

13 ~~(16)~~ (17) "Primary standards" means the physical standards of the state that
14 serve as the legal reference from which all other standards and weights and measures
15 are derived.

16 ~~(17)~~ (18) "Rack" means a mechanism for delivering motor fuel from a
17 refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank
18 car, or other means of transfer that is outside the bulk transfer/terminal system.

19 ~~(18)~~ (19) "Random weight package" means a package that is one of a lot,
20 shipment, or delivery of packages or the same commodity with no fixed pattern of
21 weights.

22 ~~(19)~~ (20) "Sale from bulk" means the sale of commodities when the quantity
23 is determined at the time of sale.

24 ~~(20)~~ (21) "Seagoing vessel" means a commercial ship, vessel, or barge of
25 greater than fifty gross tons or ships, vessels, or barges in possession of an exemption
26 certificate issued under the provisions of R.S. 47:305.1.

27 ~~(21)~~ (22) "Secondary standards" means the physical standards that are
28 traceable to the primary standards through comparisons, using acceptable laboratory

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

3 ~~(22)~~ (23) "Sell or sale" includes barter and exchange.

4 ~~(23)~~ (24) "Service person" means any individual who for hire, award,
5 commission, or any other payment of any kind, installs, services, repairs, or
6 reconditions any commercial weighing or measuring devices and is registered under
7 this Part.

8 ~~(24)~~ (25) "Service provider" means any person who, for hire, award,
9 commission, or any other payment of any kind, installs, services, repairs, or
10 reconditions any commercial weighing or measuring device and is registered under
11 this Part.

12 ~~(25)~~ (26) "Standard package" means a package that is one of a lot, shipment,
13 or delivery, or packages of the same commodity with identical net contents
14 declarations.

15 (27) "Subsequent inspection" means any additional inspection completed by
16 the department on a commercial weighing and measuring device following the
17 annual inspection within the same calendar year.

18 ~~(26)~~ (28) "Vehicle tank" means any vehicle tank, tank truck, tank wagon, or
19 any other container in which gasoline, motor fuel, or any other petroleum products
20 are transported in this state.

21 ~~(27)~~ (29) "Weighmaster" means any person who weighs, measures, or counts
22 any commodity and issues a certificate of weight, measure, or count, except retailers
23 who weigh, measure, or count commodities for sale at retail directly to consumers,
24 or a person engaged in the business of public weighing or measuring for hire.

25 ~~(28)~~ (30) "Weight" as used in connection with any commodity means net
26 weight; except where the label declares that the product is sold by drained weight,
27 the term means net drained weight.

28 ~~(29)~~ (31) "Weights, measures, and weighing and measuring devices"
29 includes all weights, scales, beams, measures of every kind, instruments and

1 mechanical devices for weighing or measuring, scanners or scanning devices that
2 determine product identity and price at the point of sale, electric vehicle supply
3 equipment, and any appliances and accessories connected with any such instruments.
4 However, it does not include or refer to devices used to meter or measure, other than
5 by weight, water, natural or manufactured gas, or electricity, except for electricity
6 used in connection with electric vehicle supply equipment.

7 * * *

8 §4622. Fees; Weights and Measures Fund

9 * * *

10 B. The registration fee for each commercial weighing and measuring device
11 shall be as follows:

- 12 (1) Category 1--zero to 1,000 pounds ~~weight~~ capacity up to \$50.00
- 13 (2) Category 2--over 1,000 to 10,000 pounds
14 ~~weight~~ capacity up to \$135.00
- 15 (3) Category 3--over 10,000 pounds ~~weight~~ capacity up to \$250.00

16 * * *

17 C. Each commercial weighing and measuring device which requires a
18 subsequent inspection may be subject to a subsequent inspection fee at the time of
19 a subsequent inspection.

20 D. The subsequent inspection fee for each commercial weighing and
21 measuring device shall be as follows:

- 22 (1) Category 1--zero to 1,000 pounds capacity \$00.00
- 23 (2) Category 2--over 1,000 to 10,000 pounds capacity \$135.00
- 24 (3) Category 3--over 10,000 pounds capacity \$250.00
- 25 (4) Mass Flow Meters \$250.00

26 ~~E.~~ E. Each weighmaster who is licensed by the commission shall pay an
27 annual license fee of one hundred dollars.

28 ~~D.~~ F. The commissioner shall adopt, by rule, the fees charged for weighing
29 and measuring services performed by the department, including those services

1 performed by the department's State Metrology Laboratory. The fee rates shall be
2 based on the cost of the work performed.

3 E. G. The registration fee for each service agency shall be one hundred
4 dollars. The registration fee for each service person shall be sixty-five dollars.

5 ~~G.~~ H.(1) There is hereby created, as a special fund in the state treasury, the
6 Weights and Measures Fund. After compliance with the requirements of Article VII,
7 Section 9(B) of the Constitution of Louisiana relative to the Bond Security and
8 Redemption Fund, and after a sufficient amount is allocated from that fund to pay
9 all of the obligations secured by the full faith and credit of the state which ~~become~~
10 becomes due and payable within any fiscal year, the treasurer shall pay an amount
11 equal to the amount received by the state treasury from all assessments, fees,
12 penalties, and other funds received under the provisions of this Chapter into the fund.
13 All unexpended and unencumbered monies in the fund at the end of the fiscal year
14 shall remain in the fund. The treasurer shall invest the monies in the fund in the
15 same manner as monies in the state general fund. All interest earned from
16 investment of monies in the fund shall be deposited in the fund.

17 (2) Subject to annual appropriation by the legislature, the monies in the fund
18 shall be used solely to provide for the expenses of the program established by this
19 Chapter and to ~~the carrying~~ carry out the powers, duties, functions, and
20 responsibilities of the commission and the commissioner under the provisions of this
21 Chapter.

22 * * *

23 §4624. Penalty

24 A. A violator of any provisions of this Chapter or of any rule or regulation
25 adopted under the provisions of this Chapter ~~shall~~ may be subject to a civil penalty
26 ~~of not more than five hundred dollars~~ for each act of violation. Each day on which
27 a violation occurs shall be a separate offense.

28 B.(1) The commissioner may assess a civil penalty of not more than five
29 hundred dollars for each violation of any provision of this Chapter or any rule or

1 regulation adopted pursuant to this Chapter if the violator subject to the civil penalty
2 has not been assessed a civil penalty under any provision of this Chapter or any rule
3 or regulation pursuant to this Chapter in the five years preceding the violation.

4 (2) The commissioner may assess a civil penalty of not more than seven
5 hundred fifty dollars for each violation of any provision of this Chapter or any rule
6 or regulation adopted pursuant to this Chapter if the violator subject to the civil
7 penalty has been assessed a civil penalty under any provision of this Chapter or any
8 rule or regulation pursuant to this Chapter in the five years preceding the violation.

9 (3) The commissioner may assess a civil penalty of not more than one
10 thousand dollars for each violation of any provision of this Chapter or any rule or
11 regulation adopted pursuant to this Chapter if the violator subject to the civil penalty
12 has been assessed two or more civil penalties under any provision of this Chapter or
13 any rule or regulation pursuant to this Chapter in the five years preceding the
14 violation.

15 ~~B. C.~~ Penalties may be assessed only by a ruling of the commissioner based
16 upon an adjudicatory hearing held in accordance with the provisions of the
17 Administrative Procedure Act.

18 ~~C. D.~~ In addition to civil penalties, the commissioner may assess the
19 proportionate costs of the adjudicatory hearing against the offender. The
20 commissioner shall determine the amount of costs to be assessed.

21 ~~D. E.~~ The commissioner may institute civil proceedings to enforce his
22 rulings in the district court for the parish in which the violation occurred.

23 ~~E. F.~~ The commissioner may institute civil proceedings seeking injunctive
24 relief to restrain and prevent the violation of the provisions of this Chapter, or of the
25 rules and regulations adopted under the provisions of this Chapter, in the district
26 court for the parish in which the violation occurred.

27 G.(1) The commissioner may require a violator to submit a corrective action
28 plan to the department. If a corrective action plan is required, the plan shall include
29 the following:

(1)	Category 1 – zero to 1,000 lbs capacity	\$0.00
(2)	Category 2 – over 1,000-10,000 lbs capacity	\$135.00
(3)	Category 3 – over 10,000 lbs capacity	\$250.00
(4)	Mass Flow Meters	\$250.00

Proposed law retains present law which requires each licensed weighmaster to pay an annual license fee of \$100.

Proposed law retains present law which requires the commissioner to adopt the fees charged for weighing and measuring devices performed by the department, including services performed by the State Metrology Lab, based on the work performed.

Proposed law retains present law which requires a registration fee of \$100 for each service agency. Further requires a registration fee of \$65 for each service person.

Proposed law retains present law which provides a special fund in the state treasury known as the Weights and Measures Fund, to be in compliance with requirements of Art. VII, Sect. 9(B) of La. Const.. Further requires that the monies in the fund be used to provide for the expenses of the program and to carry out powers, duties, functions, and responsibilities of the commission and the commissioner.

Present law requires a violator of any provision of present law to be subject to a civil penalty of not more than \$500 for each violation. Proposed law removes such requirement but otherwise retains present law. Present law provides that for each day that a violation occurs shall be a separate offense.

Proposed law authorizes the commissioner to assess a civil penalty of not more than \$500 for each violation if the violator has not been assessed a civil penalty. Further authorizes the commissioner to assess a civil penalty of not more than \$750 for each violation if the violator subject to a civil penalty has been assessed a penalty in the five years preceding the violation. Additionally, authorizes the commissioner to assess a civil penalty of not more than \$1,000 for each violation if the violator has been assessed two or more civil penalties in the five years preceding the violation.

Proposed law authorizes the commissioner to require a violator to submit a corrective action plan to the department that includes the following:

- (1) A statement acknowledging the violation.
- (2) An identification of the cause of the violation and timeline of events.
- (3) A plan outlining actions the violator will take to meet program requirements, the persons responsible for implementing the corrective action plan, and the date the plan will be implemented.

Proposed law provides that failure to submit the corrective action plan within 30 days from notice may result in additional civil penalties.

(Amends R.S. 3:4602, 4622(B)(1), (2), and (3), (C), (D), (E), (F), and (G), and 4624; Adds R.S. 3:4622 (H))