2024 Regular Session

HOUSE BILL NO. 240

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BY REPRESENTATIVE ROMERO

2	To amend and reenact R.S. 3:4602, 4622(B)(1), (2), and (3), (C), (D), (E), and (G), and 4624
3	and to enact R.S. 3:4622(F) and (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), and (G), and 4624 are
9	hereby amended and reenacted and R.S. 3:4622(F) and (H) are hereby enacted to read as
10	follows:
11	§4602. Definitions
12	As used in this Chapter, the following terms shall have the following
13	meanings:
14	(1) "Annual inspection" means the first inspection completed by the
15	department on a commercial weighing and measuring device in a calendar year.
16	(1) (2) "Basket" means a one and one-half bushel circular container that may
17	be used for the measurement of oysters to be sold or purchased.
18	(2) (3) "Bulk transfer" means any transfer of motor fuel from one location
19	to another by pipeline tender or marine delivery within a bulk transfer/terminal
20	system, including but not limited to the following:
21	(a) A marine vessel movement of motor fuel from a refinery or terminal to
22	a terminal.
23	(b) Pipeline movements of motor fuel from a refinery or terminal to a
24	terminal.
25	(c) Book transfer of motor fuel within a terminal between licensed suppliers
26	prior to completion of removal across the rack.

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1 (d) Two-party exchange between licensed suppliers or between licensed 2 suppliers and permissive suppliers. (3) (4) "Certificate of conformance" means a document issued by the 3 4 National Institute of Standards and Technology, or any successor, based on testing 5 in participating laboratories. The document constitutes evidence of conformance of a type with the requirements of National Institute of Standards and Technology 6 7 Handbooks 44, 105-1, 105-2, or 105-3, or conformance with the requirements of any 8 handbook that may supersede the named handbooks. 9 (4) (5) "Commercial weighing and measuring device" means any weight, 10 measure, or weighing or measuring device commercially used or employed in 11 establishing the size, quantity, extent, area, time, distance, or measurement of 12 quantities, things, produce, or articles for distribution or consumption, purchased, 13 offered, or submitted for sale, hire, or award, or in computing any basic charge or 14 payment for services rendered on the basis of weight or measure. Except as 15 otherwise provided, the term shall include scales, weighing devices, and metering 16 and measuring devices commercially used for determining the weight or amount of 17 petroleum products, as well as electricity disbursed by electric vehicle supply 18 equipment. It shall also include any accessory attached to or used in connection with 19 a commercial weighing or measuring device when such accessory is so designed or 20 installed that its operation affects the accuracy of the device. 21 (5) (6) "Commission" means the Commission of Weights and Measures. "Commissioner" means the commissioner of the Louisiana 22 23 Department of Agriculture and Forestry, or his duly authorized representatives acting 24 at his discretion. 25 (7) (8) "Commodity" means any service or item, or any combination of 26 items, forming a distinctive product, sold in commerce which is affected by any 27 determination of weight, measure, or count. 28 (8) (9) "Correct" as used in connection with weights and measures means 29 conformance to all applicable requirements of this Chapter. 30 (9) (10) "Department" means the Louisiana Department of Agriculture and 31 Forestry. 32 (10) (11) "Director" means the director of weights and measures appointed

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by the commissioner.

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(11) (12) "Net weight" means the weight of the commodity excluding any materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include but are not limited to containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons, except that, depending on the type of service rendered, packaging materials may be considered to be part of the service. For example, the service of shipping includes the weight of packaging materials. (12) (13) "Package" means any commodity packed or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. (13) (14) "Person" means both plural and singular, as the case demands, and

includes individuals, partnerships, corporations, companies, societies, and associations

(14) (15)(a) Except as provided in Subparagraph (b) of this Paragraph, "petroleum product" means any refined hydrocarbon mixture including motor oil, kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene, and any blend of two or more refined hydrocarbon mixtures except liquefied petroleum gas and natural gas.

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

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

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

1	(17) (18) "Rack" means a mechanism for delivering motor fuel from a
2	refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank
3	car, or other means of transfer that is outside the bulk transfer/terminal system.
4	(18) (19) "Random weight package" means a package that is one of a lot,
5	shipment, or delivery of packages or the same commodity with no fixed pattern of
6	weights.
7	(19) (20) "Sale from bulk" means the sale of commodities when the quantity
8	is determined at the time of sale.
9	(20) (21) "Seagoing vessel" means a commercial ship, vessel, or barge of
10	greater than fifty gross tons or ships, vessels, or barges in possession of an exemption
11	certificate issued under the provisions of R.S. 47:305.1.
12	(21) (22) "Secondary standards" means the physical standards that are
13	traceable to the primary standards through comparisons, using acceptable laboratory
14	procedures, and used in the enforcement of weights and measures laws and
15	regulations.
16	(22) (23) "Sell or sale" includes barter and exchange.
17	(23) (24) "Service person" means any individual who for hire, award,
18	commission, or any other payment of any kind, installs, services, repairs, or
19	reconditions any commercial weighing or measuring devices and is registered under
20	this Part.
21	(24) (25) "Service provider" means any person who, for hire, award,
22	commission, or any other payment of any kind, installs, services, repairs, or
23	reconditions any commercial weighing or measuring device and is registered under
24	this Part.
25	(25) (26) "Standard package" means a package that is one of a lot, shipment,
26	or delivery, or packages of the same commodity with identical net contents
27	declarations.
28	(27) "Subsequent inspection" means any additional inspection completed by
29	the department on a commercial weighing and measuring device following the
30	annual inspection within the same calendar year.
31	(26) (28) "Vehicle tank" means any vehicle tank, tank truck, tank wagon, or
32	any other container in which gasoline, motor fuel, or any other petroleum products
33	are transported in this state.

1	(27) (29) "Weighmaster" means any person who weighs, measures, or counts	
2	any commodity and issues a certificate of weight, measure, or cour	it, except retailers
3	who weigh, measure, or count commodities for sale at retail direct	tly to consumers,
4	or a person engaged in the business of public weighing or measur	ing for hire.
5	(28) (30) "Weight" as used in connection with any comm	nodity means net
6	weight; except where the label declares that the product is sold b	y drained weight,
7	the term means net drained weight.	
8	(29) (31) "Weights, measures, and weighing and me	asuring devices"
9	includes all weights, scales, beams, measures of every kind,	instruments and
10	mechanical devices for weighing or measuring, scanners or scan	ning devices that
1	determine product identity and price at the point of sale, electr	ic vehicle supply
12	equipment, and any appliances and accessories connected with any	such instruments.
13	However, it does not include or refer to devices used to meter or m	easure, other than
14	by weight, water, natural or manufactured gas, or electricity, exc	ept for electricity
15	used in connection with electric vehicle supply equipment.	
16	* * *	
17	§4622. Fees; Weights and Measures Fund	
18	* * *	
19	B. The registration fee for each commercial weighing and	measuring device
20	shall be as follows:	
21	(1) Category 1zero to 1,000 pounds weight capacity	up to \$50.00
22	(2) Category 2over 1,000 to 10,000 pounds	
23	weight capacity	up to \$135.00
24	(3) Category 3over 10,000 pounds weight capacity	up to \$250.00
25	* * *	
26	C. Each commercial weighing and measuring device	which requires a
27	subsequent inspection may be subject to a subsequent inspection	fee at the time of
28	a subsequent inspection.	
29	D. The subsequent inspection fee for each commercial	al weighing and
30	measuring device shall be as follows:	
31	(1) Category 1-zero to 1,000 pounds capacity	\$00.00
32	(2) Category 2-over 1,000 to 10,000 pounds capacity	<u>\$135.00</u>
33	(3) Category 3–over 10,000 pounds capacity	\$250.00

\$250.00

 $C. \ \underline{E.}$ Each weighmaster who is licensed by the commission shall pay an annual license fee of one hundred dollars.

D. <u>F.</u> The commissioner shall adopt, by rule, the fees charged for weighing and measuring services performed by the department, including those services performed by the department's State Metrology Laboratory. The fee rates shall be based on the cost of the work performed.

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

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

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

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§4624. Penalty

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

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B.(1) The commissioner may assess a civil penalty of not more than five

2	hundred dollars for each violation of any provision of this Chapter or any rule or
3	regulation adopted pursuant to this Chapter if the violator subject to the civil penalty
4	has not been assessed a civil penalty under any provision of this Chapter or any rule
5	or regulation pursuant to this Chapter in the five years preceding the violation.
6	(2) The commissioner may assess a civil penalty of not more than seven
7	hundred fifty dollars for each violation of any provision of this Chapter or any rule
8	or regulation adopted pursuant to this Chapter if the violator subject to the civil
9	penalty has been assessed a civil penalty under any provision of this Chapter or any
10	rule or regulation pursuant to this Chapter in the five years preceding the violation.
11	(3) The commissioner may assess a civil penalty of not more than one
12	thousand dollars for each violation of any provision of this Chapter or any rule or
13	regulation adopted pursuant to this Chapter if the violator subject to the civil penalty
14	has been assessed two or more civil penalties under any provision of this Chapter or
15	any rule or regulation pursuant to this Chapter in the five years preceding the
16	violation.
17	B. C. Penalties may be assessed only by a ruling of the commissioner based
18	upon an adjudicatory hearing held in accordance with the provisions of the
19	Administrative Procedure Act.
20	C. D. In addition to civil penalties, the commissioner may assess the
21	proportionate costs of the adjudicatory hearing against the offender. The
22	commissioner shall determine the amount of costs to be assessed.
23	D. <u>E.</u> The commissioner may institute civil proceedings to enforce his
24	rulings in the district court for the parish in which the violation occurred.
25	E. F. The commissioner may institute civil proceedings seeking injunctive
26	relief to restrain and prevent the violation of the provisions of this Chapter, or of the
27	rules and regulations adopted under the provisions of this Chapter, in the district
28	court for the parish in which the violation occurred.
29	G.(1) The commissioner may require a violator to submit a corrective action
30	plan to the department. If a corrective action plan is required, the plan shall include
31	the following:
32	(a) A statement acknowledging the violation as determined by the
33	department.

1 (b) An identification of the cause of the violation and timeline of events. 2 (c) A plan outlining actions the violator will take to improve performance 3 to meet program requirements, the persons (or position titles) responsible for 4 implementing the corrective action plan, and the date the plan will be implemented. (d) A statement acknowledging that failure to effectively improve 5 performance may result in further enforcement actions. 6 7 (2) Failure to submit a corrective action plan within thirty days of notice may 8 result in additional civil penalties. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA

ENROLLED

HB NO. 240

APPROVED: _____