

ACT No. 210

2024 Regular Session

HOUSE BILL NO. 240

BY REPRESENTATIVE ROMERO

1 AN ACT

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.

1 (d) Two-party exchange between licensed suppliers or between licensed
2 suppliers and permissive suppliers.

3 ~~(3)~~ (4) "Certificate of conformance" means a document issued by the
4 National Institute of Standards and Technology, or any successor, based on testing
5 in participating laboratories. The document constitutes evidence of conformance of
6 a type with the requirements of National Institute of Standards and Technology
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.

22 ~~(6)~~ (7) "Commissioner" means the commissioner of the Louisiana
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
33 by the commissioner.

1 ~~(11)~~ (12) "Net weight" means the weight of the commodity excluding any
2 materials, substances, or items not considered to be part of the commodity.
3 Materials, substances, or items not considered to be part of the commodity include
4 but are not limited to containers, conveyances, bags, wrappers, packaging materials,
5 labels, individual piece coverings, decorative accompaniments, and coupons, except
6 that, depending on the type of service rendered, packaging materials may be
7 considered to be part of the service. For example, the service of shipping includes
8 the weight of packaging materials.

9 ~~(12)~~ (13) "Package" means any commodity packed or packaged in any
10 manner in advance of sale in units suitable for either wholesale or retail sale.

11 ~~(13)~~ (14) "Person" means both plural and singular, as the case demands, and
12 includes individuals, partnerships, corporations, companies, societies, and
13 associations

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

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

23 ~~(15)~~ (16) "Position holder" means the person who holds the inventory
24 position in motor fuel in a terminal as reflected on the records of the terminal
25 operator. A person holds the inventory position in motor fuel when that person has
26 a contract with the terminal operator for the use of storage facilities and terminaling
27 services for motor fuel at the terminal. The term includes a terminal operator who
28 owns motor fuel in the terminal.

29 ~~(16)~~ (17) "Primary standards" means the physical standards of the state that
30 serve as the legal reference from which all other standards and weights and measures
31 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 count, except retailers
3 who weigh, measure, or count commodities for sale at retail directly to consumers,
4 or a person engaged in the business of public weighing or measuring for hire.

5 ~~(28)~~(30) "Weight" as used in connection with any commodity means net
6 weight; except where the label declares that the product is sold by drained weight,
7 the term means net drained weight.

8 ~~(29)~~(31) "Weights, measures, and weighing and measuring devices"
9 includes all weights, scales, beams, measures of every kind, instruments and
10 mechanical devices for weighing or measuring, scanners or scanning devices that
11 determine product identity and price at the point of sale, electric 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 measure, other than
14 by weight, water, natural or manufactured gas, or electricity, except 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 1--zero to 1,000 pounds ~~weight~~ capacity up to \$50.00
- 22 (2) Category 2--over 1,000 to 10,000 pounds
23 weight capacity up to \$135.00
- 24 (3) Category 3--over 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 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 \$135.00
- 33 (3) Category 3--over 10,000 pounds capacity \$250.00

1 (4) Mass Flow Meters \$250.00

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

4 ~~D.~~ F. The commissioner shall adopt, by rule, the fees charged for weighing
5 and measuring services performed by the department, including those services
6 performed by the department's State Metrology Laboratory. The fee rates shall be
7 based on the cost of the work performed.

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

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

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

27 * * *

28 §4624. Penalty

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

1 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. E.~~ 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.

5 (d) A statement acknowledging that failure to effectively improve
6 performance may result in further enforcement actions.

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

APPROVED: _____