

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), 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.

1 (b) Pipeline movements of motor fuel from a refinery or terminal to a  
2 terminal.

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

5 (d) Two-party exchange between licensed suppliers or between licensed  
6 suppliers and permissive suppliers.

7 ~~(3)~~ (4) "Certificate of conformance" means a document issued by the  
8 National Institute of Standards and Technology, or any successor, based on testing  
9 in participating laboratories. The document constitutes evidence of conformance of  
10 a type with the requirements of National Institute of Standards and Technology  
11 Handbooks 44, 105-1, 105-2, or 105-3, or conformance with the requirements of any  
12 handbook that may supersede the named handbooks.

13 ~~(4)~~ (5) "Commercial weighing and measuring device" means any weight,  
14 measure, or weighing or measuring device commercially used or employed in  
15 establishing the size, quantity, extent, area, time, distance, or measurement of  
16 quantities, things, produce, or articles for distribution or consumption, purchased,  
17 offered, or submitted for sale, hire, or award, or in computing any basic charge or  
18 payment for services rendered on the basis of weight or measure. Except as  
19 otherwise provided, the term shall include scales, weighing devices, and metering  
20 and measuring devices commercially used for determining the weight or amount of  
21 petroleum products, as well as electricity disbursed by electric vehicle supply  
22 equipment. It shall also include any accessory attached to or used in connection with  
23 a commercial weighing or measuring device when such accessory is so designed or  
24 installed that its operation affects the accuracy of the device.

25 ~~(5)~~ (6) "Commission" means the Commission of Weights and Measures.

26 ~~(6)~~ (7) "Commissioner" means the commissioner of the Louisiana  
27 Department of Agriculture and Forestry, or his duly authorized representatives acting  
28 at his discretion.

1           ~~(7)~~ (8) "Commodity" means any service or item, or any combination of  
2 items, forming a distinctive product, sold in commerce which is affected by any  
3 determination of weight, measure, or count.

4           ~~(8)~~ (9) "Correct" as used in connection with weights and measures means  
5 conformance to all applicable requirements of this Chapter.

6           ~~(9)~~ (10) "Department" means the Louisiana Department of Agriculture and  
7 Forestry.

8           ~~(10)~~ (11) "Director" means the director of weights and measures appointed  
9 by the commissioner.

10           ~~(11)~~ (12) "Net weight" means the weight of the commodity excluding any  
11 materials, substances, or items not considered to be part of the commodity.  
12 Materials, substances, or items not considered to be part of the commodity include  
13 but are not limited to containers, conveyances, bags, wrappers, packaging materials,  
14 labels, individual piece coverings, decorative accompaniments, and coupons, except  
15 that, depending on the type of service rendered, packaging materials may be  
16 considered to be part of the service. For example, the service of shipping includes  
17 the weight of packaging materials.

18           ~~(12)~~ (13) "Package" means any commodity packed or packaged in any  
19 manner in advance of sale in units suitable for either wholesale or retail sale.

20           ~~(13)~~ (14) "Person" means both plural and singular, as the case demands, and  
21 includes individuals, partnerships, corporations, companies, societies, and  
22 associations

23           ~~(14)~~ (15)(a) Except as provided in Subparagraph (b) of this Paragraph,  
24 "petroleum product" means any refined hydrocarbon mixture including motor oil,  
25 kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene, and any  
26 blend of two or more refined hydrocarbon mixtures except liquefied petroleum gas  
27 and natural gas.

28           (b) For purposes of enforcement of the provisions of R.S. 47:818.111 et seq.  
29 regarding taxes on special fuels, "petroleum product" shall include compressed

1 natural gas, liquefied natural gas, and liquefied petroleum gas as those terms are  
2 defined in R.S. 47:818.2.

3 ~~(15)~~ (16) "Position holder" means the person who holds the inventory  
4 position in motor fuel in a terminal as reflected on the records of the terminal  
5 operator. A person holds the inventory position in motor fuel when that person has  
6 a contract with the terminal operator for the use of storage facilities and terminaling  
7 services for motor fuel at the terminal. The term includes a terminal operator who  
8 owns motor fuel in the terminal.

9 ~~(16)~~ (17) "Primary standards" means the physical standards of the state that  
10 serve as the legal reference from which all other standards and weights and measures  
11 are derived.

12 ~~(17)~~ (18) "Rack" means a mechanism for delivering motor fuel from a  
13 refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank  
14 car, or other means of transfer that is outside the bulk transfer/terminal system.

15 ~~(18)~~ (19) "Random weight package" means a package that is one of a lot,  
16 shipment, or delivery of packages or the same commodity with no fixed pattern of  
17 weights.

18 ~~(19)~~ (20) "Sale from bulk" means the sale of commodities when the quantity  
19 is determined at the time of sale.

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

23 ~~(21)~~ (22) "Secondary standards" means the physical standards that are  
24 traceable to the primary standards through comparisons, using acceptable laboratory  
25 procedures, and used in the enforcement of weights and measures laws and  
26 regulations.

27 ~~(22)~~ (23) "Sell or sale" includes barter and exchange.

28 ~~(23)~~ (24) "Service person" means any individual who for hire, award,  
29 commission, or any other payment of any kind, installs, services, repairs, or

1 reconditions any commercial weighing or measuring devices and is registered under  
2 this Part.

3 ~~(24)~~ (25) "Service provider" means any person who, for hire, award,  
4 commission, or any other payment of any kind, installs, services, repairs, or  
5 reconditions any commercial weighing or measuring device and is registered under  
6 this Part.

7 ~~(25)~~ (26) "Standard package" means a package that is one of a lot, shipment,  
8 or delivery, or packages of the same commodity with identical net contents  
9 declarations.

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

13 ~~(26)~~ (28) "Vehicle tank" means any vehicle tank, tank truck, tank wagon, or  
14 any other container in which gasoline, motor fuel, or any other petroleum products  
15 are transported in this state.

16 ~~(27)~~ (29) "Weighmaster" means any person who weighs, measures, or counts  
17 any commodity and issues a certificate of weight, measure, or count, except retailers  
18 who weigh, measure, or count commodities for sale at retail directly to consumers,  
19 or a person engaged in the business of public weighing or measuring for hire.

20 ~~(28)~~ (30) "Weight" as used in connection with any commodity means net  
21 weight; except where the label declares that the product is sold by drained weight,  
22 the term means net drained weight.

23 ~~(29)~~ (31) "Weights, measures, and weighing and measuring devices"  
24 includes all weights, scales, beams, measures of every kind, instruments and  
25 mechanical devices for weighing or measuring, scanners or scanning devices that  
26 determine product identity and price at the point of sale, electric vehicle supply  
27 equipment, and any appliances and accessories connected with any such instruments.  
28 However, it does not include or refer to devices used to meter or measure, other than

1 by weight, water, natural or manufactured gas, or electricity, except for electricity  
2 used in connection with electric vehicle supply equipment.

3 \* \* \*

4 §4622. Fees; Weights and Measures Fund

5 \* \* \*

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

8 (1) Category 1--zero to 1,000 pounds ~~weight capacity~~ up to \$50.00

9 (2) Category 2--over 1,000 to 10,000 pounds  
10 ~~weight capacity~~ up to \$135.00

11 (3) Category 3--over 10,000 pounds ~~weight capacity~~ up to \$250.00

12 \* \* \*

13 C. Each commercial weighing and measuring device which requires a  
14 subsequent inspection may be subject to a subsequent inspection fee at the time of  
15 a subsequent inspection.

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

18 (1) Category 1--zero to 1,000 pounds capacity \$00.00

19 (2) Category 2--over 1,000 to 10,000 pounds capacity \$135.00

20 (3) Category 3--over 10,000 pounds capacity \$250.00

21 (4) Mass Flow Meters \$250.00

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

24 ~~F.~~ F. The commissioner shall adopt, by rule, the fees charged for weighing  
25 and measuring services performed by the department, including those services  
26 performed by the department's State Metrology Laboratory. The fee rates shall be  
27 based on the cost of the work performed.

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



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

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

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

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

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

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

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

27           (a) A statement acknowledging the violation as determined by the  
28           department.

29           (b) An identification of the cause of the violation and timeline of events.



(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), and (G), and 4624; Adds R.S. 3:4622(F) and (H))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical changes.