

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           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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_