

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

state and of the potato industry by fostering and promoting better methods of production, processing, merchandising and advertising, the Maine potato commission shall have the authority to buy and sell potatoes or processed potato products. (1963, c. 253.)

Sec. 340. Rules and regulations; contract.—The Maine potato commission may prescribe rules and regulations for carrying out the purposes of sections 336 to 339, and may issue licenses to shippers or processors who shall enter into a contract with the commission and agree to abide by the rules and regulations. The commission may charge a fee on a per package or per hundred-weight basis for the use of trademarks established by the commission or of the state of Maine trademark used on potatoes, fresh or processed. The commission shall reserve the right to cancel any license for failure to abide by the rules and regulations of the commission, or for breach of the terms of any contract entered into with the commission; and the commission shall have the right to cancel all outstanding licenses at any time that the commission deems such action necessary to the best interest of the potato industry as a whole. The commission shall also have the right to grant an exclusive license for the use of such trademarks to a single co-operative which shall, by contract with the commission, be empowered to issue licenses to shippers and processors on such terms and conditions as the commission may require. (1963, c. 253.)

Sec. 341. Enforcement; jurisdiction.—The commission or a duly authorized representative may recover penalties imposed for violation of section 337 in a civil action brought in the name of the commission, and if it prevails in such action shall recover full costs; or the commission may prosecute for violations thereof by complaint or indictment. The district court and the superior court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by section 337, and of prosecutions for violations thereof. All fines received under section 337 by county treasurers shall be paid by them to the treasurer of state and the same are appropriated for carrying out sections 336 to 340. (1963, c. 253.)

Chapter 32-A.

Maine Weights and Measures Law.

Sec. 1. Short title.—This chapter shall be known and may be cited as the "Maine Weights and Measures Law." (1957, c. 260, § 1.)

Sec. 2. Definitions. — As used in this chapter, the following words and phrases shall have the following meanings:

"Cord" when used in connection with wood intended for fuel purposes shall mean the amount of wood that is contained in a space of 128 cubic feet, when the wood is ranked and well stowed and $\frac{1}{2}$ of the kerf of the wood is included.

"Dealer" shall mean any person engaged in the business of dealing in, selling, buying, exchanging or trading in weighing or measuring devices in this state.

"Inspector" shall mean a state inspector of weights and measures.

"Licensed public weighmaster" shall mean and refer to all persons who shall, for hire, weigh or measure any commodity, produce or article and issue therefor, a weight certificate, which shall be accepted as the accurate weight, upon which the purchase or sale of such commodity is based.

"Person" shall mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies and associations.

"Repairman" shall mean any person engaged in the business of adjusting or repairing weighing or measuring devices in this state or an employee thereof engaged in such business.

“Sealer” and “deputy sealer” shall mean, respectively, a sealer of weights and measures, and a deputy sealer of weights and measures, of a municipality or of several municipalities.

“Sell” and “sale” shall mean barter and exchange.

“State sealer” and “deputy state sealer” shall mean, respectively, the state sealer of weights and measures, and the deputy state sealer of weights and measures.

“Ton” shall mean a unit of 2,000 pounds avoirdupois weight.

“Vehicle” shall mean any device in, upon or by which any property, produce, commodity or article is or may be transported or drawn.

“Weights and measures,” “weight and measure,” “weights or measures,” “weight or measure” shall mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices. (1957, c. 260, § 1.)

Sec. 3. Systems of weights and measures.—The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all commercial purposes in the state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the national bureau of standards, are recognized and shall govern weighing and measuring equipment and transactions in the state. (1957, c. 260, § 1.)

Sec. 4. State standards of weight and measure.—Such weights and measures in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state standards, shall, when the same shall have been certified as such by the national bureau of standards, be the state standards of weight and measure. The state standards shall be kept in a safe and suitable place in the office or laboratory of the state sealer of weights and measures, they shall not be removed from the said office or laboratory except for repairs or for certification, and they shall be submitted at least once in 10 years to the national bureau of standards for certification. The state standards shall be used only in verifying the office standards and for scientific purposes. (1957, c. 260, § 1.)

Sec. 5. Office and working standards and equipment.—In addition to the state standards provided for in section 4, there shall be supplied by the state at least one complete set of copies of these to be kept in the office or laboratory of the state sealer of weights and measures and to be known as “office standards,” and also such “field standards” and such equipment as may be found necessary to carry out the provisions of this chapter. The office standards and field standards shall be verified upon their initial receipt and at least once each year thereafter, the office standards by direct comparison with the state standards and the field standards by comparison with the office standards. (1957, c. 260, § 1.)

Sec. 6. State sealer, deputy state sealer and inspectors of weights and measures.—There shall be a state sealer of weights and measures, referred to in this chapter as the state sealer. The chief of the division of inspection of the department of agriculture shall be, ex officio, the state sealer. There shall be a deputy state sealer of weights and measures and state inspectors of weights and measures, referred to in this chapter as the deputy state sealer and inspectors, respectively. (1957, c. 260, § 1.)

Sec. 7. General powers and duties of state sealer.—The state sealer shall have the custody of the state standards of weight and measure and of the other standards and equipment provided for by this chapter, and shall keep ac-

curate records of the same. The state sealer shall enforce the provisions of this chapter and is authorized to employ qualified persons under the provisions of the personnel law, and to incur such expenses as may be necessary to carry out the provisions of this chapter. He shall have and keep a general supervision over sealers of weights and measures and over the weights and measures offered for sale, sold or in use in the state. (1957, c. 260, § 1.)

Sec. 8. Specific powers and duties of state sealer; regulations.—The state sealer shall issue from time to time reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law. These regulations may include standards of net weight, measure or count, and reasonable standards of fill, for any commodity in package form, rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used, by inspectors and sealers of weights and measures in the discharge of their official duties, exemptions from the sealing or marking requirements of section 14 with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable or damaging to the apparatus in question, and with respect to classes of weights and measures found to be of such character that annual retesting is unnecessary to continued accuracy, exemptions from the requirements of sections 9 and 10 for annual testing, and schedules fixing the frequency of required retests for classes of devices so exempted. These regulations shall include specifications, tolerances and regulations for weights and measures of the character of those specified in section 10, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those that are not accurate, that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or that facilitate the perpetration of fraud. The specifications, tolerances and regulations for commercial weighing and measuring devices, as recommended by the national bureau of standards, and published in National Bureau of Standards Handbook 44 shall be the specifications, tolerances and regulations for commercial weighing and measuring devices of the state of Maine, except insofar as specifically modified, amended or rejected by a regulation issued by the state sealer. For the purposes of this chapter, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; other apparatus shall be deemed to be "incorrect."

The state sealer shall issue reasonable regulations and methods for checking of weights of prepackaged contents, which regulations shall have the force and effect of law. These regulations shall conform as nearly as practicable with Handbook 67 of the national bureau of standards. (1957, c. 260, § 1. 1963, c. 142, §§ 1, 2.)

Effect of amendment.—The 1963 amendment deleted reference to amendments to the specifications and to supplements and future revisions in the fourth sentence of the first paragraph and added the last paragraph.

Sec. 9. Testing of standards of municipalities. — The duly appointed sealer of each municipality as provided by this chapter shall submit at least once every 5 years to the office of the state sealer, all standards of weights and measures procured by the municipality. The state sealer shall approve the same when found to be correct. He shall inspect such standards at least once every 2 years. (1957, c. 260, § 1.)

Sec. 10. General inspection and testing of weights, measures and devices.—When not otherwise provided by law, the state sealer shall have the power to inspect and test, to ascertain if they are correct, all weights, measures and devices kept, offered or exposed for sale. It shall be the duty of the state

sealer, except in municipalities in which a duly appointed sealer has completely and properly performed the duties set forth in this section, at least annually and as much oftener as he may deem necessary, to inspect and test, to ascertain if they are correct, all weights and measures commercially used in determining the weight, measurement or count of commodities or things sold, or offered or exposed for sale, on the basis of weight or of measure, in computing the basic charge or payment for services rendered on the basis of weight or of measure, or in determining weight or measurement when a charge is made for such determination. With respect to single-service devices, that is, devices designed to be used commercially only once and to be then discarded, and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing of each individual device shall not be required and the inspecting and testing requirements of this section will be satisfied when inspections and tests are made on representative sample lots of such devices; and the larger lots of which such sample lots are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such sample lots. (1957, c. 260, § 1.)

Sec. 11. Investigations. — The state sealer shall investigate complaints made to him concerning violations of the provisions of this chapter, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions. (1957, c. 260, § 1.)

Sec. 12. Inspection of packages.—The state sealer shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered or exposed for sale, or sold, in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the state sealer may order them off sale and may mark or stamp them as “illegal.” No person shall sell, or keep, offer or expose for sale any package or amount of commodity that has been ordered off sale as provided in this section unless and until such package or amount of commodity has been brought into full compliance with legal requirements, or dispose of any package or amount of commodity that has been ordered off sale and that has not been brought into compliance with legal requirements, in any manner except with the specific approval of the state sealer. (1957, c. 260, § 1.)

Sec. 13. Stop-use, stop-removal and removal orders. — The state sealer shall have the power to issue stop-use orders, stop-removal orders and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold or in process of delivery, whenever in the course of his enforcement of the provisions of this chapter he deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified or fail to remove from the premises specified any weight, measure or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order or removal order issued under the authority of this section. (1957, c. 260, § 1.)

Sec. 14. Disposition of correct and incorrect apparatus.—The state sealer shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be “correct” as de-

fined in section 8, and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be "incorrect" as defined in section 8, but which in his best judgment are susceptible of satisfactory repair. Such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by a regulation of the state sealer issued under the authority of section 8. The state sealer shall condemn, and may seize and may destroy weights and measures found to be incorrect that, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the state sealer if not corrected as required by section 23 or if used or disposed of contrary to the requirements of section 23. (1957, c. 260, § 1.)

Sec. 15. Powers of state sealer; right of entry and stoppage.—The state sealer is empowered to enforce this chapter and any other laws dealing with weights and measures that empower him to seize weights and measures for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity, found to be used, retained, offered or exposed for sale, or sold in violation of law. In the performance of his official duties, the state sealer is authorized to enter and go into or upon, without formal warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the state sealer may specify. (1957, c. 260, § 1.)

Sec. 16. Powers and duties of deputy state sealer and inspectors.—The powers and duties given to and imposed upon the state sealer by this chapter are given to and imposed upon the deputy state sealer and inspectors. (1957, c. 260, § 1.)

Sec. 17. Local sealers of weights and measures—In general.—The municipal officers of each municipality shall elect a sealer of weights and measures, and a deputy sealer if necessary, not necessarily a resident therein, and said sealer and deputy shall hold office during their efficiency and the faithful performance of their duties. On complaint being made to said officers of the inefficiency or neglect of duty of a sealer or deputy sealer, the said officers shall set a date for and give notice of a hearing, to the complainant, sealer complained of and the state sealer. If the evidence satisfies the said officers that the said sealer or deputy sealer has been inefficient or has neglected his duty, they may remove him from office and appoint another in his stead. The state sealer of weights and measures shall have jurisdiction over said sealer or deputy sealer, and any vacancy caused by death or resignation shall be filled by election by said municipal officers within 30 days; for each month that said municipal officers neglect their duty they severally shall forfeit \$10. Within 10 days after each such election the clerk of each municipality shall communicate the name of the person so elected to the state sealer of weights and measures, and for neglect of this duty shall forfeit \$10. Such sealer of weights and measures in any municipality may be sealer for several municipalities if such is the pleasure of the municipal officers therein, provided such action received the approval of the state sealer of weights and measures. (1957, c. 260, § 1.)

Sec. 17-A. Appointment of sealers of weights and measures.—The municipal officers of any municipality may request the state sealer of weights and measures to appoint a qualified person to serve as sealer of weights and measures in lieu of local appointment or election as provided for in section 17. If a municipality fails to elect or appoint a sealer and make a return to the state sealer of weights and measures of such election or appointment within 30 days after the regular municipal election, the state sealer of weights and measures may appoint a qualified person to act as sealer of weights and measures. Any person

appointed under this section may serve in such capacity in more than one municipality. (1963, c. 150.)

Sec. 18. Same—Powers and duties.—The sealer of a municipality, and his deputy sealers shall have the same powers and shall perform the same duties within the municipality for which appointed as are granted to and imposed upon the state sealer by sections 10 to 15, inclusive. (1957, c. 260, § 1.)

Sec. 19. Penalty for failure to pay testing fees.—Any person, firm or corporation for whom scales, weights and measures or any weighing or measuring devices have been tested by a local sealer of weights and measures, who shall neglect or refuse to pay for said services rendered, shall be punished by a fine of \$3 and costs for the first offense, and by a fine of not less than \$10 and costs, nor more than \$20 and costs, for each subsequent offense. (1957, c. 260, § 1.)

Sec. 20. Municipal standards and equipment.—The municipal officers of each municipality for which a sealer has been appointed as provided for by section 17 shall procure at the expense of the municipality, such standards of weight and measure and such additional equipment, to be used in the enforcement of the provisions of this chapter in such municipality, as may be prescribed by the state sealer. When the standards of weight and measure required by this section to be provided by a municipality shall have been examined and approved by the state sealer, they shall be the official standards for such municipality. It shall be the duty of the sealer to make, or arrange to have made, at least as frequently as once a year, comparisons between his field standards and appropriate standards of a higher order belonging to his municipality or to the state, in order to maintain such field standards in accurate condition. (1957, c. 260, § 1.)

Sec. 21. Municipal sealers to keep records of weights and measures sealed; annual report.—The several municipal sealers shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection and kind of apparatus so inspected, sealed or condemned. Each sealer shall make an annual report on July 1st for the 12 preceding months on forms prescribed by the state sealer, and shall furnish such information as the state sealer shall require. (1957, c. 260, § 1.)

Sec. 22. Concurrent jurisdiction.—In municipalities for which sealers of weights and measures have been appointed as provided for in this chapter, the state sealer shall have concurrent authority to enforce the provisions of this chapter. (1957, c. 260, § 1.)

Sec. 23. Duty of owners of incorrect apparatus.—Weights and measures that have been rejected under the authority of the state sealer or of a sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within 30 days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially re-examined and found to be correct or until specific written permission for such use is issued by the rejecting authority. (1957, c. 260, § 1.)

Sec. 24. Fees.—The fees of the state sealer and sealers of weights and measures for testing weights and measures, to be paid by the person for whom the service is rendered, are as follows: For testing railroad track scales of 40,000 pounds capacity and upwards, \$4; elevator scales of 20,000 pounds capacity, \$1.50; each platform scale with a capacity of more than 10,000 pounds, \$6; plat-

form scales with a capacity of 5,000 to 10,000 pounds, \$4; platform scales with a capacity of 500 pounds to 5,000 pounds, \$2; platform scales with a capacity of 100 to 500 pounds, \$1; overhead track scales, beam scales or scales of similar construction of over 500 pounds capacity, \$2; automatic indicating scales of over 125 pounds capacity, \$2; computing scales, 50c; platform counter scales, 50c; counter balances or trip scales, 50c; spring balance scales, 50c; weights, each, 5c; measures, wet and dry, each, 10c; yardsticks, each, 5c; coal baskets, each, 10c; milk cans, each, 10c; milk bottles, each, 1c; for fabric measuring devices, 25c; taxicab meters, \$1; motor fuel retail pump meters, \$1; motor fuel and fuel oil vehicle meters, \$3; wholesale motor fuel and fuel oil meters, \$5; vehicle tanks, \$1 for the first 100 gallons and 50c for each additional 100 gallons or fractional part thereof, provided, however, that no testing of such vehicle tanks shall be made by less than a 100-gallon test measure; for adjusting fuel meters, \$2; for adjusting retail motor fuel pump meters, 50c; for adjusting large capacity scales, \$4.

No sealer shall charge a fee provided by this section unless he has adequate equipment to test accurately and which equipment has been approved to perform the service rendered by the state sealer.

The state sealer or sealers shall not charge a fee for testing or calibrating, weighing and measuring devices which have been calibrated or tested and approved within a period of 3 months from time of approval, provided the same are found to be correct.

When any person requests an inspection of any measuring device, the state sealer, deputy or inspector is authorized to charge an amount sufficient to cover the cost of actual expenses incurred in performing this special service, including mileage, lodging and meals, in addition to the inspection fees described.

All fees and expenses collected under the provisions of this chapter by the state sealer shall be credited to the department of agriculture and expended to carry out the provisions of this chapter. (1957, c. 260, § 1.)

Sec. 25. Method of sale of commodities.—Commodities in liquid form shall be sold only by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure of length or area or by count. Liquid commodities may be sold by weight and dry commodities may be sold by count only if such methods give accurate information as to the quantity of commodity sold. This section shall not apply to commodities when sold for immediate consumption on the premises where sold, to vegetables when sold by the head or bunch, to commodities in containers standardized by a law of this state or by federal law, to concrete aggregates, concrete mixtures and loose solid materials such as earth, soil, gravel, crushed stone and the like, when sold by cubic measure, or to unprocessed vegetable and animal fertilizer when sold by cubic measure. The state sealer shall issue such reasonable regulations as are necessary to assure that amounts of commodity sold as determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest. (1957, c. 260, § 1. 1963, c. 142, § 4.)

Effect of amendment.—The 1963 amendment deleted “when in package form or” following “commodities” in the third sentence. beginning of the third sentence and de-

Sec. 26. Declarations of quantity and origin on packages; tolerances; exemptions.—Except as otherwise provided in this chapter, any commodity in package form shall bear on the outside of the package a definite, plain and conspicuous declaration of:

I. Net quantity. The net quantity of the contents in terms of weight, measure or count; and

II. Name and place of business. In the case of any package not sold on

the premises where packed, the name and place of business of the manufacturer, packer or distributor.

Neither the qualifying term "when packed," or words of similar import, nor any term qualifying a unit of weight, measure or count, such as "jumbo," "giant," "full" or the like, that tends to exaggerate the amount of the commodity shall be used in connection with the declaration required by subsection I, or in the advertisement of a commodity other than when used as a part of the tradename of the commodity. The term "advertisement" means all representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of the commodity. Under subsection I, the state sealer shall, by regulation, establish reasonable variations or tolerances to be allowed, exemptions as to small packages, and exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

All information required to appear on a package shall appear on any outside container or wrapper that is used, unless such container or wrapper is transparent and the information on the package is easily legible through such outside container or wrapper. (1957, c. 260, § 1. 1963, c. 142, § 3; c. 297, §§ 1, 2.)

Effect of amendment.—P. L. 1963, c. 142, § 3, rewrote the first sentence of the first paragraph following subsection II, added the second sentence of such paragraph, added the present last paragraph and a former next to last paragraph which was repealed by the later 1963 amendment. P. L. 1963, c. 297, effective 91 days after the adjournment of the legislature, added "other than when used as a part of the tradename of the commodity" at the end of the first sentence of the first paragraph following subsection II and deleted the former next to last paragraph which had been added by the earlier 1963 amendment.

Sec. 27. Declarations of unit price on random packages.—In addition to the declarations required by section 26, any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count. (1957, c. 260, § 1.)

Sec. 28. Misleading packages.—No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the state sealer. (1957, c. 260, § 1.)

Sec. 29. Commodity in package form defined.—The term "in package form" as used in this chapter shall mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form. (1957, c. 260, § 1.)

Sec. 30. Sale by weight.—The word "weight" as used in this chapter shall mean net weight, except as otherwise provided in this section. Whenever any commodity is sold on the basis of weight, the net weight of such commodity shall be employed, and all contracts and documents concerning such commodity shall be so construed, except as otherwise provided in this section. Notwithstanding anything to the contrary contained anywhere in this chapter, rope, twine and

cordage may be marked and sold on a gross weight basis and all contracts and documents relating to the marking or sale of any of such commodities shall be construed to be upon such basis, unless a contrary intent clearly appears. Notwithstanding anything to the contrary contained anywhere in this chapter, wrapped paper rolls, paper rolls on non-returnable cores and wrapped bundles of paper may be marked and sold on a gross weight basis and sheeted paper may be marked and sold on a specified ream weight basis and all contracts and documents relating to the marking or sale of any of such commodities shall be construed accordingly unless a contrary intent clearly appears, except that none of such commodities shall be so sold at retail, or so marked for sale at retail, if such sale or marking is contrary to such reasonable regulations consistent with trade practices in the paper industry as the state sealer may from time to time issue. (1957, c. 260, § 1.)

Sec. 31. Misrepresentation of price; display of basic quantity in package and of fraction in price per unit.—Whenever any commodity or service is sold, or is offered, exposed or advertised for sale, by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser.

Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package.

Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least $\frac{1}{2}$ the height and width of the numerals representing the whole cents. (1957, c. 260, § 1. 1963, c. 142, § 5.)

Effect of amendment.—The 1963 amendment added the last two paragraphs.

Sec. 32. Meat, fish and poultry.—Except for immediate consumption on the premises where sold, or as one of several elements comprising a meal sold, as a unit, for consumption elsewhere than on the premises where sold, all meat, meat products, fish and poultry, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight.

The word “fish” for the purposes of this chapter shall not include marine mollusks or crustacea. (1957, c. 260, § 1; c. 445.)

Effect of amendment. — P. L. 1957, c. 445, amended this section by adding a new paragraph at the end thereof.

Effective date.—P. L. 1957, c. 445, became effective on its approval, May 8, 1958.

Sec. 33. Butter, oleomargarine and margarine. — Butter, oleomargarine and margarine shall be offered and exposed for sale and sold by weight, and only in units of $\frac{1}{4}$ pound, $\frac{1}{2}$ pound, one pound or multiples of one pound, avoirdupois weight. (1957, c. 260, § 1. 1959, c. 17.)

Effect of amendment.—The 1959 amendment struck out the words “when in package form these commodities shall be pack-

aged”, formerly appearing after the word “and”, and before the word “only”.

Sec. 34. Fluid dairy products.—All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream and buttermilk, shall be packaged for retail sale only in units of one gill, $\frac{1}{2}$ liquid pint, $\frac{5}{8}$ liquid pint, one liquid pint, one liquid quart, $\frac{1}{2}$ gallon, one gallon or multiples of one gallon. (1957, c. 260, § 1.)

Sec. 35. Flour, corn meal and hominy grits.—When in package form, and when packed, kept, offered or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal and hominy grits shall be packaged only in units of 3, 5, 10, 25, 50 or 100 pounds, avoirdupois weight. Packages in units of less than 3 pounds or more than 100 pounds shall be permitted. (1957, c. 260, § 1.)

Sec. 36. Coal, coke and charcoal.—All coal, coke and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there shall be clearly stated the name and address of the vendor, the name and address of the purchaser and the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the state sealer or his deputy or inspector or a sealer or deputy sealer who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him. (1957, c. 260, § 1.)

Sec. 37. Sale of wood by the load.—Fitted wood, not exceeding 16 inches in length, sold by the load in the loose shall contain; if sold as a load, not less than 144 cubic feet; if sold as a $\frac{3}{4}$ load, not less than 108 cubic feet; if sold as $\frac{1}{2}$ load, not less than 72 cubic feet; if sold as $\frac{1}{4}$ load, not less than 36 cubic feet. (1957, c. 260, § 1.)

Sec. 38. Sale of ice by weight; when requested.—A dealer in ice who on request of the purchaser of ice refuses or neglects to weigh the same when delivered or gives false weight shall for each offense be punished as provided in section 43. Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses on the request of the purchaser of ice to weigh the same when it is delivered, or gives false weight, shall be punished by a fine of not more than \$10. (1957, c. 260, § 1.)

Sec. 39. Textile products.—It shall be unlawful for any jobber, wholesaler or retailer to keep for the purpose of sale, offer or expose for sale, or sell any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject to the following limitations and requirements:

I. Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting or embroidery thread or yarn except nylon hand-knitting yarn that is not composed in whole or in part of wool, the net weight of which is less than 2 ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of a textile product, sold only for household use, consisting of a package containing 2 or more similar

individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this proviso shall not apply where the individual units are separately marked. Any unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of such yarn except that any such unit of tapestry, mending or embroidery yarn, the net measure of which does not exceed 50 yards, may be marked to show its linear measure only.

II. The marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer or distributor of the product, or a trade-mark, symbol, brand or other mark that positively identifies such manufacturer, packer or distributor.

III. Reasonable tolerances shall be permitted, and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the state sealer.

IV. The provisions of this section shall not apply to the following textile products when sold at wholesale in bulk by weight: Cordage, agricultural bag sewing threads, twines, yarns that are to be processed and yarns that are to be industrially converted into end use products. (1957, c. 260, § 1.)

Sec. 40. Berries and small fruits. — Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of $\frac{1}{2}$ dry pint, one dry pint or one dry quart. The marking provisions of section 26 shall not apply to such containers. (1957, c. 260, § 1.)

Sec. 41. Construction of contracts. — Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in sections 2 and 3, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement. (1957, c. 260, § 1.)

Sec. 42. Standard weight fixed.—The standard weight of a bushel of potatoes is 60 pounds; of apples, 44 pounds; of dried apples, 25 pounds; of wheat, 60 pounds; of corn or rye, 56 pounds; of cracked corn, feed or meal of any kind except oatmeal, 50 pounds; of barley or buckwheat, 48 pounds; of carrots or English turnips, 50 pounds; of onions, 52 pounds; of rutabaga, turnip, sugar beets, mangel-wurzel, and other beets, 60 pounds; of parsnips, 45 pounds; of beans, 60 pounds; of lima beans, 56 pounds; of shell beans, 28 pounds; of soy beans, 58 pounds; of scarlet or white runner pole beans, 50 pounds; of string beans, 24 pounds; of Windsor (broad) beans, 47 pounds; of beet greens, dandelions, kale or spinach, 12 pounds; of parsley, 8 pounds; of peas, 60 pounds; of unshelled green peas, 28 pounds; of wrinkled peas, 56 pounds; of rough rice, 44 pounds; of oats, 32 pounds; of green peanuts, 22 pounds; of roasted peanuts, 20 pounds; of Turk's Island or other coarse grades of salt, 70 pounds; of Liverpool or other fine grades of salt, 60 pounds; of lime, 70 pounds; of hair used in masonry, well dried and cleaned, 11 pounds; of strawberries, raspberries or blackberries, 40 pounds; of blueberries, 42 pounds; of currants, 40 pounds; of cranberries, 32 pounds; of peaches, 48 pounds; of pears, 58 pounds; of dried peaches, 33 pounds; of sweet potatoes, 54 pounds; of quinces, 48 pounds; of tomatoes, 56 pounds; all to be in good order and fit for shipping or for market. The measure of each of these articles shall be determined as provided at the request of the vendor or vendee. If either party refuses to do so he forfeits 20¢ for each bushel, to the person prosecuting therefor within 30 days.

The standard weight of a bushel of herd's-grass seed when well cleaned and in good condition is 45 pounds; of clover seed, 60 pounds; of alfalfa seed, 60 pounds; of flaxseed, 56 pounds; of hemp seed, 44 pounds; of Hungarian grass seed, 48 pounds; of orchard grass seed, 14 pounds; of redtop seed, 14 pounds; of sorghum

seed, 50 pounds; of timothy seed, 45 pounds; of millet seed, 50 pounds; of Japanese millet seed, 35 pounds; of bran, 20 pounds; of Sea Island cotton seed, 44 pounds; of upland cotton seed, 30 pounds.

The standard weight of a barrel of flour is 196 pounds; of a barrel of potatoes in good order and fit for shipping is 165 pounds; of a barrel of sweet potatoes in like condition, 150 pounds. (1957, c. 260, § 1.)

Sec. 43. Prohibited acts and penalties. — Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subsections I to XIII, inclusive, shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not more than \$100 and upon a second or subsequent conviction thereof, he shall be punished by a fine of not more than \$200.

I. Use or have in possession for the purpose of using for any commercial purpose specified in section 10, sell, offer or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

II. Use, or have in possession for current use, in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight or measurement, or in the determination of weight or measurement when a charge is made for such determination, any weight or measure that has not been sealed by the state sealer, his deputy, or one of his inspectors, or a sealer or deputy sealer within one year, unless written notice has been given to the state sealer or to the sealer in whose territory the weight or measure is located, to the effect that such weight or measure is available for examination, or is due for re-examination, as the case may be, or unless specific written permission to use such weight or measure has been received from the office of the state sealer or from the sealer in whose territory the weight or measure is located, except meters for measuring water, gas or electricity supplied by companies subject to regulation by the public utilities commission, until they are sealed by a public sealer of weights and measures.

III. Dispose of any rejected or condemned weight or measure in a manner, contrary to law or regulation.

IV. Remove from any weight or measure, contrary to law or regulation, any tag, seal or mark placed thereon by the state sealer, his deputy, or one of his inspectors, or a sealer or deputy sealer.

V. Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing or service.

has not been tested and does not bear the seal of approval of the state sealer service when, as a buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

VI. Take more than the quantity he represents of any commodity, thing or or a sealer placed thereon within one year.

VII. Keep for the purpose of sale, advertise or offer or expose for sale, or sell any commodity, thing or service in a condition or manner contrary to law or regulation.

VIII. Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

IX. Violate any provision of this chapter or of the regulations promulgated under the provisions of this chapter, for which a specific penalty has not been prescribed.

X. Hinder or obstruct in any way the state sealer, his deputy, or any one of his inspectors, or a sealer or deputy sealer, in the performance of his duties.

XI. Who shall impersonate in any way the state sealer, his deputy, or any one of his inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner.

XII. Use or have in his possession any weighing or measuring device which

XIII. Use any scale which requires permanent installation which has been relocated without first having the same tested and approved by the state sealer or a sealer. (1957, c. 260, § 1.)

Sec. 44. Qualifications for weighmaster.—Any person wishing to be a licensed public weighmaster shall make application to the state sealer upon forms provided by him, and each application shall be accompanied by a fee of \$2. Upon receipt of application and the state sealer satisfying himself that the applicant is of good moral character and has the ability to weigh accurately and to make correct weight certificates and passing such oral or written examination as the state sealer may determine and upon making oath to execute his duties satisfactorily shall be granted a license as a public weighmaster. Each license shall expire on December 31st of each year unless sooner revoked or suspended under the provisions of section 52. Each licensed public weighmaster shall, at his own expense, provide himself with an impression seal. His name and the word "Maine" shall be inscribed around the outer margin of the seal and the words "licensed public weighmaster" shall appear in the center thereof. The seal shall be impressed upon each weight certificate issued by a licensed public weighmaster. (1957, c. 260, § 1.)

Sec. 45. Weight certificate; required entries.—The weight certificate forms shall be approved by the state sealer and shall contain the following information: The date of issuance, the kind of property, produce, commodity or article weighed, the name of the declared owner or agent of the owner or of the consignee of the material weighed, the accurate weight of the material weighed, the means by which the material was being transported at the time it was weighed and such other available information as may be necessary to distinguish or identify the property, produce, commodity or article from others of like kind. Such weight certificate, when so made and properly signed and sealed, shall be prima facie evidence of the accuracy of the weights shown. (1957, c. 260, § 1.)

Sec. 46. Execution; requirements.—A licensed public weighmaster shall not enter on a weight certificate issued by him any weight values but such as he has personally determined, and he shall make no entries on a weight certificate issued by some other person. A weight certificate shall be so prepared as to show clearly that weight or weights were actually determined. If the certificate form provides for the entry of gross, tare and net weights, in any case in which only the gross, the tare or the net weight is determined by the weighmaster he shall strike through or otherwise cancel the printed entries for the weights not determined or computed. If gross and tare weights are shown on a weight certificate and both of these were not determined on the same scale and on the day for which the certificate is dated, the weighmaster shall identify on the certificate the scale used for determining each such weight and the date of each such determination. (1957, c. 260, § 1.)

Sec. 47. Scale used; type; test.—When making a weight determination as provided for by this chapter, a licensed public weighmaster shall use a weighing device that is of a type suitable for the weighing of the amount and kind of material to be weighed and that has been tested and approved for use by the state sealer or a sealer within a period of 12 months immediately preceding the date of weighing. (1957, c. 260, § 1.)

Sec. 48. Capacity; platform size; one-draft weighing.—A licensed public weighmaster shall not use any scale to weigh a load, the weight of which exceeds the nominal or rated capacity of the scale. When the gross or tare weight of any vehicle or combination of vehicles is to be determined, the weighing shall be performed upon a scale having a platform of sufficient size to accommodate such vehicle or combination of vehicles fully, completely and as one entire unit. If a combination of vehicles must be broken up into separate units in order to be weighed as prescribed, each such separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each such separate unit. (1957, c. 260, § 1.)

Sec. 49. Copies of weight certificates.—A licensed public weighmaster shall keep and preserve for at least one year, or for such longer period as may be specified in the regulations authorized to be issued for the enforcement of this chapter, a legible carbon copy of each weight certificate issued by him, which copies shall be open at all reasonable times for inspection by the state sealer or a sealer. (1957, c. 260, § 1.)

Sec. 50. Reciprocal acceptance of weight certificates.—Whenever in any other state which licenses public weighmasters, there is statutory authority for the recognition and acceptance of the weight certificates issued by licensed weighmasters of this state, the state sealer of this state is authorized to recognize and accept the weight certificates of such other state. (1957, c. 260, § 1.)

Sec. 51. Unlicensed person not to act as or assume title of public weighmaster.—No person shall assume the title “licensed public weighmaster,” or any title of similar import, perform the duties or acts to be performed by a licensed public weighmaster, hold himself out as a licensed public weighmaster, issue any weight certificate, ticket, memorandum or statement for which a fee is charged, or engage in the full-time or part-time business of public weighing, unless he holds a valid license as a licensed public weighmaster. “Public weighing,” as used in this section, shall mean the weighing for any person, upon request, of property, produce, commodities or articles other than those which the weigher or his employer, if any, is either buying or selling. (1957, c. 260, § 1.)

Sec. 52. Suspension or revocation of license of public weighmaster.—The state sealer is authorized to suspend or revoke the license of any licensed public weighmaster when he is satisfied, after a hearing upon 10 days’ notice to the licensee, that the said licensee has violated any provision of this chapter or of any valid regulation of the state sealer affecting licensed public weighmaster, or when a licensed public weighmaster has been convicted in any court of competent jurisdiction of violating any provision of this chapter or of any regulations issued under authority of this chapter. (1957, c. 260, § 1.)

Sec. 53. Malfeasance of public weighmasters.—Any licensed public weighmaster who falsifies a weight certificate, or who delegates his authority to any person not licensed as a licensed public weighmaster, or who preseals a weight certificate with his official seal before performing the act of weighing, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100. (1957, c. 260, § 1.)

Sec. 54. Registration of dealers and repairmen of weighing and measuring devices; issuance of certificates.—Any person wishing to be registered as a dealer or repairman shall make application to the state sealer upon forms provided by him, furnishing such pertinent information as he may require and each application shall be accompanied by a fee of \$2. Upon approval by the state sealer, he shall issue to the applicant a registration certificate which shall expire on December 31st unless sooner suspended or revoked under the provisions of section 59. (1957, c. 260, § 1.)

Sec. 55. Reports of dealers and repairmen to state sealer.—Every dealer or repairman, within 10 days after the making of a repair, adjustment or the sale and delivery of a new, repaired, rebuilt, exchanged or used weighing or measuring device, shall notify, in writing, the state sealer, giving the name and address of the person, firm, copartnership, corporation or association for whom such repair has been made, or to whom a repaired, rebuilt, adjusted, exchanged or used weighing or measuring device has been sold or delivered. The dealer or repairman shall make a written statement that the same has been so altered, rebuilt or repaired as to conform to the standard specifications and regulations of the state sealer. (1957, c. 260, § 1.)

Sec. 56. Handling of condemned devices; disposition.—A dealer or repairman who accepts weighing or measuring devices, which have been condemned by the state sealer in trade for new or used weighing or measuring devices, and which are intended to be dismantled or destroyed, upon receipt thereof, shall remove the condemned tags. Such condemned tags shall be returned to the state sealer within 10 days thereafter, with a statement describing the weighing or measuring device, giving the number of the weighing or measuring device, if obtainable, and the name and address of the former owner or user from whom it was received. There shall also be furnished a statement of what disposition has been made of the weighing or measuring device. (1957, c. 260, § 1.)

Sec. 57. Report of names and addresses of persons for whom devices are repaired, etc., or to whom sold.—Every dealer and repairman registered pursuant to the provisions of section 54, shall submit to the state sealer the name and address of every person, firm, copartnership, corporation or association for whom weighing or measuring devices are adjusted, repaired, rebuilt or to whom a new, adjusted, repaired, rebuilt, exchanged or used weighing or measuring device has been sold or delivered. (1957, c. 260, § 1.)

Sec. 58. Calibration of testing equipment of dealers and repairmen; certificate.—A dealer or repairman shall submit his testing equipment at least once a year to the office of the state sealer for comparison and calibration with the standard maintained by such state sealer. After comparison and calibration, the state sealer shall issue to such dealer or repairman a certificate of his findings. (1957, c. 260, § 1.)

Sec. 59. Suspension or revocation of registration certificates of dealers or repairmen.—The state sealer is authorized to suspend or revoke the certificate of any registered dealer or repairman:

I. When he is satisfied after a hearing, upon 10 days' notice to the registrant that the said registrant has violated any of the provisions of sections 54 to 58, inclusive;

II. As a result of a hearing and investigation, he is found to be an incompetent, inefficient, unscrupulous or unsuitable person to be engaged as a dealer or repairman. (1957, c. 260, § 1.)

Sec. 60. Jurisdiction of courts.—The district court and the superior court shall have concurrent jurisdiction of prosecutions for all offenses against the laws pertaining to weights and measures. (1957, c. 260, § 1. 1963, c. 402, § 68.)

Effect of amendment.—The 1963 amendment substituted "The district court and the superior court shall have concurrent jurisdiction" for "Trial justices within their county shall have original jurisdiction, concurrent with municipal courts." c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Application of 1963 act.—Section 280 of

Sec. 61. Penalty for violation of sections 54 to 58, or for acting as dealer or repairman without certificate. — Any person who violates any provisions of sections 54 to 58, inclusive, or conducts a business of dealer or repairman without having a certificate then in full force shall be fined not more than \$100 for the first offense, and not more than \$200 for each subsequent offense. (1957, c. 260, § 1.)

Sec. 62. Exclusion.—Sales of any commodities by the manufacturers thereof under written purchase orders or contracts which clearly stipulate the weight or unit measure or other basis upon which the selling price is based, or which fix the selling price pursuant to established trade practices or customs in the industry, may be made in accordance with the provisions of such purchase orders or contracts notwithstanding any of the provisions of sections 25 to 30, inclusive. (1957, c. 260, § 1.)

Chapter 33.

Maine Milk Commission.

Sec. 1. Definitions.—As used in this chapter, unless the context otherwise requires, the following words shall have the following meaning:

“Books and records” means books, records, accounts, memoranda or other data pertaining to the purchase and distribution of milk.

“Commission” means the Maine milk commission.

“Consumer” means any person other than a milk dealer who purchases milk for fluid consumption.

“Dealer” means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage or processing within the state and shall include a producer-dealer and a sub-dealer, but shall not include a store.

“Market” means any city, town or parts thereof, of the state, or 2 or more of the same, or parts thereof, designated by the commission as a natural marketing area.

“Milk” means whole milk and cream, fresh, sour or storage; skimmed milk and buttermilk; irrespective of whether or not any such milk is flavored.

“Person” means any individual, partnership, firm, corporation, association or other unit, and the state and all political subdivisions or agencies thereof, except state owned and operated institutions.

“Producer” means any person who produces milk and sells his said milk only to dealers as above defined.

“Producer-dealer” means a dealer who himself produces a part or all of his milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.

“Retail sale” means a doorstep delivery and over-the-counter sales by stores.

“Store” means a grocery store, dairy product store, canteen, milk vending machine operator, milk dispensing operator or any similar commercial establishment or outlet or any other sale [place] where milk is sold to consumers for consumption off the premises where sold.

“Sub-dealer” means any person who does not process milk and who purchases milk from a dealer and sells such milk in the same containers in which he purchased it, but shall not include a store.

“Wholesale sale” means sale to any other person not included in retail. (R. S. c. 28, § 1. 1949, c. 278, § 4. 1951, c. 64, § 1. 1957, c. 384, §§ 1-6. 1961, c. 410, § 1.)

Effect of amendments. — The 1957 amendments of class I and class II milk, made amendment repealed the former definitions and changes in the definitions of “dealer”,