

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2095

H.P. 1483

House of Representatives, January 7, 1992

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

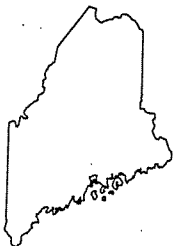
Presented by Representative PINES of Limestone.

Cosponsored by Representative SPEAR of Nobleboro, Representative TARDY of Palmyra and Senator TWITCHELL of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Replace Criminal Penalties with Civil Penalties for Violations
of Weights and Measures Laws.**



Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 10 MRSA §2751, as amended by PL 1973, c. 654, §2, is further amended to read:

6 **§2751. Offenses and penalties**

8 Any A person who violates the following enumerated
10 provisions or any provision of this chapter or regulations
12 promulgated rules adopted pursuant thereto, for which a specific
14 penalty has not been prescribed, ~~shall be guilty of a misdemeanor~~
16 ~~and upon a first conviction thereof shall be punished by a fine~~
18 ~~of not less than \$50 or more than \$500, or by imprisonment for~~
~~not more than 3 months, or by both~~ commits a civil violation for
which a forfeiture must be adjudged in an amount not less than
\$50 nor more than \$2,000. ~~Upon a subsequent conviction thereof,~~
~~he shall be punished by a fine of not less than \$100 or more than~~
~~\$1,000, or by imprisonment for up to one year, or by both.~~

20 No A person shall may not:

22 1. **Use or have in possession.** Use or have in possession for
24 use in commerce any incorrect weight or measure;

26 2. **Remove tag, seal or mark.** Remove any tag, seal or mark
28 from any weight or measure without specific written authorization
30 from the proper authority;

32 3. **Hinder or obstruct.** Hinder or obstruct any weights and
34 measures official in the performance of his that official's
36 duties;

38 4. **Use of scale.** Use any scale which that requires
40 permanent installation which that has been relocated without
42 first having the same tested and approved by the state sealer or
44 a sealer.;

46 5. **Sale of less quantity represented.** Sell, or offer or
48 expose for sale, less than the quantity he the person represents
of any commodity, thing or service;

 6. **Take more quantity as buyer.** Take more than the quantity
he the person represents of any commodity, thing or service when,
as a buyer, he the person furnishes the weight or measure by
means of which the amount of the commodity, thing or service is
determined; or

 7. **Commodity in unlawful condition.** 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 rule.

Sec. 2. 10 MRSA §3004 is amended to read:

§3004. Penalties

Any A person, firm or corporation who ~~shall--fail~~ fails,
~~neglect~~ neglects or ~~refuse~~ refuses to comply with any of the
provisions of this chapter, or the rules and ~~regulations--issued~~
~~thereunder~~ adopted under this chapter, ~~shall-be-punished-by-a~~
~~fine-of-not-more-than-\$100-for-the-first-offense,-nor-more-than~~
~~\$200-for-each-subsequent-offense~~ commits a civil violation for
which a forfeiture not to exceed \$1,500 may be adjudged.

STATEMENT OF FACT

This bill establishes that a violation of weights and
measures laws generally constitutes a civil violation requiring a
forfeiture of \$50 to \$2,000, except where another statute
specifically prescribes another penalty. This eliminates the
criminal sanction that has existed for many years and also does
away with the higher standard of proof required to prove the
commission of a crime.

The bill also clarifies that a violation of the laws
regulating the standards by which milk is bought and sold
constitutes a civil violation and not a crime. Potential fines
have been increased to create a significant deterrent.

This bill also makes several technical corrections.