

be paid to the municipalities in accordance with the following formula and subject to the provisions of this act :

(1) The money hereby allocated shall be paid to the cities, boroughs, towns and townships in accordance with the following formula :

Six-tenths of this allocation divided by the total miles of public roads and streets which are maintained by municipalities.	Multiplied By	The number of miles in the particular municipality.
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Four-tenths of this allocation divided by the total official population of the municipalities as of January first of the year in which the money is to be paid to the municipalities.	Plus Multiplied By	The official population of the particular municipality as of January first of said year.
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(Amount due the particular municipality.)

To be expended by the authorities of the respective municipalities (i) for the maintenance, repair, construction or reconstruction of such public roads or streets, including bridges, culverts and drainage structures for which they are legally responsible ; and (ii) for the acquisition, maintenance, repair and operation of traffic signs and traffic signal control systems. Where road or bridge work is performed by the political subdivision the moneys herein allocated may be used only for labor, hiring of equipment, payrolls, purchase of material, including repair parts necessary for the maintenance of equipment, small tools, road drags and snow fences.

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APPROVED—The 1st day of December, A. D. 1965.

WILLIAM W. SCRANTON

No. 368

AN ACT

HB 979

Relating to weights and measures; regulating the use and sale, and providing for the inspection of weighing and measuring devices; regulating the sale and packaging of commodities; imposing duties and conferring powers upon the Secretary and Department of Internal Affairs and certain local officials; and prescribing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Weights and Measures Act of 1965.”

Section 2. Definitions.—When used in this act, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

(1) “Person.” Individual, partnership, corporation, company, society and association.

(2) “Weights” and/or “measures.” 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, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), steam, coolant or water or the counting or timing of telephone calls when the same are operated in a public utility system. Such electricity, gas, steam, coolant, water and telephone meters are hereby specifically excluded from the purview of this act and none of the provisions of this act shall be construed to apply to such meters or to any appliances or accessories associated therewith.

(3) “Sell” or “sale.” Barter and exchange.

(4) “Secretary.” The Secretary of Internal Affairs or as provided for in section 16 of this act.

(5) “Director.” The Director of the Bureau of Standard Weights and Measures of the Department of Internal Affairs.

(6) “Inspector.” A State inspector of weights and measures.

(7) “Sealer” and “deputy sealer.” Respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city, county or joint city-county jurisdiction.

(8) “Intrastate commerce.” Any and all commerce or trade that is begun, carried on and/or completed wholly within the limits of the Commonwealth of Pennsylvania, and “introduced into intrastate commerce” shall be construed to define the time and place at which the first sale and/or delivery of a commodity is made within the State, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(9) “Commodity in package form.” Commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale exclusive, however, of any auxiliary shipping container enclosing packages that individually conform to the requirements of

this act. 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 measure shall be construed to be commodity in package form.

(10) "Commodity." Anything—goods, wares, merchandise, compound mixture or preparation, products of manufacture ¹ or any tangible personal property—which may be lawfully kept, sold or offered for sale.

(11) "Cord." When used in connection with wood intended for fuel purposes, the amount of wood that is contained in a space of one hundred twenty-eight cubic feet when the wood is ²racked and well stowed.

Section 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 Commonwealth of Pennsylvania. 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.

Section 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 have been certified as being satisfactory for use 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 Bureau of Standard Weights and Measures; shall not be removed from the office or laboratory except for repairs or for certification; and shall be submitted at least once in ten 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.

Section 5. Office and Working Standards and Equipment.—In addition to the State standards provided for in section 4 of this act, 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 Bureau of Standard Weights and Measures and to be known as "office standards" and also such "field standards" and such equipment as may be found

¹"of" in original

²"ranked" in original

necessary to carry out the provisions of this act. 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.

Section 6. Director and Inspectors of Weights and Measures.—There shall be a director of weights and measures and inspectors of weights and measures and necessary technical and clerical personnel who shall be appointed by the secretary and who shall collectively comprise the State Bureau of Standard Weights and Measures, of which the director shall be the chief. The secretary shall be allowed such sums for salaries for the director, the inspectors and the necessary technical and clerical employes, for necessary equipment and supplies and for traveling and contingent expenses, as shall be appropriated by the General Assembly.

Section 7. General Powers and Duties of Secretary.—The secretary shall have the custody of the State standards of weight and measure and of the other standards and equipment provided for by this act and shall keep accurate records of the same. The secretary shall enforce the provisions of this act. He shall have and keep a general supervision over the weights and measures offered for sale, sold or in use in the State.

Section 8. Specific Powers and Duties of Secretary; Regulations.—(a) The secretary shall issue from time to time regulations for the enforcement and administration of this act, which regulations upon being filed with the Department of State under the procedures established by the Administrative Agency Law, act of June 4, 1945 (P. L. 1388), and its amendments, shall have the force and effect of law. These regulations may include:

(1) Standards of net weight, measure, count and standards of fill for any commodity in package form.

(2) 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 of weights and measures in the discharge of their official duties.

(3) Exemptions from the sealing or marking requirements of section 14 of this act 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.

(b) These regulations shall include specifications, tolerances and regulations for weights and measures of the character of those specified in section 10 of this act designed to eliminate from use without prejudice

to apparatus that conforms as closely as practicable to the official standards those (i) that are not accurate; (ii) 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 (iii) that facilitate the perpetration of fraud. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44, and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices of the Commonwealth of Pennsylvania except insofar as specifically modified, amended or rejected by a regulation issued by the secretary. For the purposes of this act, 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."

(c) Regulations promulgated hereunder shall be effective thirty days from the date of their filing with the Department of State during which period interested parties may submit to the secretary, in writing, any objections to the proposed regulations and the reasons supporting such objections. In addition, the secretary shall hold a hearing upon the written request of three or more interested parties made within said thirty day period, in which case the secretary may, at his discretion, further postpone the effective date of the regulation.

Section 9. Testing and Inspecting of Standards.—The secretary at least once every five years shall test the standards of weight and measure procured by any city or county for which a sealer of weights and measures has been appointed and shall approve the same when found to be correct; and he shall inspect such standards at least once every two years.

Section 10. General Testing and Inspecting.—When not otherwise provided by law, the secretary shall have the power to inspect and test to ascertain if they are correct all weights and measures kept, offered or exposed for sale. It shall be the duty of the secretary within a twelve-month period, or less frequently if in accordance with a schedule issued by him 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 (i) in determining the weight, measurement or count of commodities or things sold, offered or exposed for sale on the basis of weight, measure or of count; or (ii) in computing the basic charge or payment for services rendered on the basis of weight, measure or of

count. 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 ¹to individual adjustment, tests may be made on representative samples of such devices and the lots of which such samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples.

Section 11. Investigations.—The secretary shall investigate complaints made to him concerning violations of the provisions of this act 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 act, and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Section 12. Inspection of Packages.—The secretary 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 secretary may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the secretary, whenever possible, shall employ sampling procedures recommended by the National Bureau of Standards, under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (i) sell or keep, offer or expose for sale in intrastate commerce any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section, unless and until such package or amount of commodity has been brought into full compliance with all legal requirements; or (ii) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements in any manner except with the specific approval of the secretary.

Section 13. Stop-Use, Stop-Removal and Removal Orders.—(a) The secretary shall have the power to issue stop-use orders, stop-removal

¹ "of" in original

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 the process of delivery, whenever in the course of his enforcement of the provisions of this act he deems it necessary or expedient to issue such orders.

(b) 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.

(c) Whenever an aggrieved person shall appeal or seek to enjoin enforcement of any order issued by the secretary pursuant to this section, such proceeding shall be brought in the court of common pleas of the judicial district in which the weight, measure or commodity was located at the time of the issuance of the secretary's order.

Section 14. Disposition of Correct and Incorrect Apparatus.—(a) The secretary 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 defined in section 8 of this act and shall reject and mark or tag "rejected" such weights and measures as he finds upon inspection or test to be "incorrect" as defined in section 8 of this act, but which in his best judgment are susceptible ¹to 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 secretary issued under the authority of section 8 of this act.

(b) The secretary shall condemn and may seize and may destroy weights and measures found to be incorrect that in his best judgment are not susceptible ¹to satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the secretary if not corrected as required by section 20 of this act or if used or disposed of contrary to the requirements of section 20 of this act.

Section 15. Police Powers; Right of Entry and Stoppage.—(a) With respect to the enforcement of this act and any other acts dealing with weights and measures that he is or may be empowered to enforce, the secretary may seize for use as evidence without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity found, prior to seizure, to be used, retained, offered or exposed for sale or sold in violation of law.

(b) In the performance of his official duties, the secretary is authorized to enter and go into or upon, without formal warrant, any structure or

¹"of" in original

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 the nearest available testing apparatus tested and approved by the secretary, a city or a county.

Section 16. Powers and Duties of Director and Inspector.—The powers and duties given to and imposed upon the secretary by sections 9, 10, 11, 12, 13, 14, 15, 19 and 137 of this act are hereby given to and imposed upon the director and inspectors also when acting under the instructions and at the direction of the secretary.

Section 17. City and County Sealers and Deputy Sealers of Weights and Measures; Powers and Duties.—The sealer of a city or of a county and his deputy sealers, when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the city or the county for which appointed as are granted to and imposed upon the director by sections 10, 11, 12, 13, 14, 15 and 137 of this act.

Section 18. City and County Standards and Equipment.—(a) The mayor of each city and the board of county commissioners of each county for which a sealer has been appointed shall (i) procure at the expense of the city or county, as the case may be, such standards of weight and measure and such additional equipment to be used for the enforcement of the provisions of this act in such city or county as may be prescribed by the secretary; (ii) provide a suitable office for the sealer; and (iii) make provisions for the necessary clerical services, supplies and transportation and for defraying contingent expenses incidental to the official activities of the sealer in carrying out the provisions of this act.

(b) When the standards of weight and measure required by this section to be provided by a city or county shall have been examined and approved by the secretary, they shall be the official standards for such city or county.

(c) It shall be the duty of the sealer to make or to 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 city or county, as the case may be, or to the State in order to maintain such field standards in accurate condition.

Section 19. Concurrent Jurisdiction.—In cities and counties for which sealers of weights and measures have been appointed as provided for by local regulations, the secretary shall have concurrent authority to enforce the provisions of the act.

Section 20. Duty of Owners of Incorrect Apparatus.—(a) Weights and measures that have been rejected under the authority of the secretary 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.

(b) The owners of such rejected weights and measures shall cause the same to be made correct within thirty 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.

(c) Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct or until specific written permission for such use is issued by the rejecting authority.

Section 21. Method of Sale of Commodities.—(a) General commodities in liquid form shall be sold only by liquid measure or by weight and, except as otherwise provided in this act, commodities not in liquid form shall be sold only by weight, measure of length or area or by count. Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold.

(b) The provisions of this section shall not apply (i) to commodities when sold for immediate consumption on the premises where sold; (ii) to vegetables when sold by the head or bunch; (iii) to commodities in containers standardized by law of this State or by Federal law; (iv) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner; (v) 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 (vi) to unprocessed vegetable and animal fertilizer when sold by cubic measure.

(c) The secretary may issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.

Section 22. Packages; Declarations of Quantity and Origin; Variations; Exemptions.—(a) Except as otherwise provided in this act, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce kept for the purpose of sale or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain and conspicuous declaration of

(1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container; (2) the net quantity of the contents in terms of weight, measure or count; and (3) in the case of any package kept, offered or exposed for sale or sold any place other than on the premises where packed, the name and place of business address of the manufacturer, packer or distributor. In connection with the declaration required under clause (2), neither the qualifying term "when packed" or any words of similar import nor any term qualifying a unit of weight, measure or count (for example "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package shall be used.

(b) Under clause (2) of subsection (a) of this section, the secretary shall, by regulation, establish (i) reasonable variations to be allowed which may include variations below the declared weight or measure caused by ordinary and customary exposure only after the commodity is introduced into intrastate commerce to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure; (ii) exemptions as to small packages; and (iii) exemptions as to commodities put up in variable weights or sizes for sale intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

Section 23. **Declarations of Unit Price on Random Packages.**—In addition to the declarations required by section 22 of this act, 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.

Section 24. **Misleading Packages.**—(a) 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.

(b) 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 secretary.

Section 25. **Advertising Packages for Sale.**—(a) 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.

(b) In connection with the declaration required under this section, there shall be declared neither the qualifying term "when packed" nor any other words of similar import nor any term qualifying a unit of weight, measure or count (for example "jumbo," "giant," "full" and the like) that tends to exaggerate the amount of commodity in the package.

Section 26. Sale by Net Weight.—The word "weight" as used in this act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed and all contracts concerning commodities shall be so construed.

Section 27. Misrepresentation of Price.—(a) 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.

(b) 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 one-half the height and width of, the numerals representing the whole cents.

Section 28. Meat, Poultry and Seafood.—(a) Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts) and all seafood, except shellfish offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight.

(b) When meat, poultry or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or food combination, such food product or combination shall be offered or exposed for sale and sold by weight and the quantity representation may be the total weight of the product or combination and a quantity representation need not be made for each of the several elements of the product or combination.

Section 29. Butter, Oleomargarine and Margarine.—Butter, oleomargarine and margarine shall be offered and exposed for sale and sold by weight and only in units of one-quarter pound, one-half pound, one pound or multiples of one pound avoirdupois weight.

Section 30. Fluid Dairy Products.—(a) 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, one-half liquid pint, ten fluid ounces, one liquid pint, one-third liquid quart, one liquid quart, or multiples of one liquid quart, one-half gallon, one gallon or multiples of one gallon.

(b) Packages in units of less than one gill shall be permitted.

Section 31. Flour, Corn Meal and Hominy Grits.—(a) 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 three, five, ten, twenty-five, fifty, or one hundred pounds avoirdupois weight.

(b) Packages in units of less than three pounds or more than one hundred pounds shall be permitted.

Section 32. Potatoes.—(a) All potatoes packed for sale, offered or exposed for sale, in this Commonwealth, shall be packaged in containers of net avoirdupois weights of three, five, ten, fifteen, twenty, twenty-five, fifty and one hundred pounds and multiples of one hundred pounds.

(b) The provisions of this section shall not apply to (1) potatoes offered to the consumer at retail from bulk stock; (2) the sale of potatoes to processors or for export; (3) the sale of peeled, cut or sliced potatoes, or frozen or dehydrated potatoes, or precooked dehydrated or dried potatoes; (4) the sale of seed potatoes; or (5) the sale of sweet potatoes or yams.

Section 33. 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 of this act and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

Section 34. Hindering or Obstructing Officer; Penalties.—Any person who shall hinder or obstruct in any way the secretary, the director or any one of the inspectors or a sealer or deputy sealer in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty dollars (\$20) or more than two hundred dollars (\$200), or by imprisonment for not more than three months, or by both such fine and imprisonment.

Section 35. Impersonation of Officer; Penalties.—Any person who shall impersonate in any way the secretary, the director or any one of the inspectors or a sealer or deputy sealer by the use of his seal or a

counterfeit of his seal or in any other manner shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100), or more than five hundred dollars (\$500), or by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 36. Offenses 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 clauses (1) through (9) of this section, shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than twenty dollars (\$20) or more than two hundred dollars (\$200), upon a second conviction thereof, he shall be punished by a fine of not less than fifty dollars (\$50), or more than five hundred dollars (\$500); and upon a third or subsequent conviction thereof, he shall be punished by a fine of not less than one hundred dollars (\$100), or more than five hundred dollars (\$500), or by imprisonment for not more than one year, or by both such fine and imprisonment.

(1) 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.

(2) Use, or have in possession for the purpose of current use for any commercial purpose specified in section 10, a weight or measure that does not bear a seal or mark such as specified in section 14 unless such weight or measure has been exempted from testing by provisions of section 10 or by regulation of the secretary issued under the authority of section 8 of this act.

(3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(4) Remove from any weight or measure contrary to law or regulation any tag, seal or mark placed thereon by the appropriate authority.

(5) Sell, offer or expose for sale less than the quantity he represents of any commodity, thing or service: Provided, however, That if a commodity is prepackaged by someone other than the possessor, the possessor shall not be deemed to have made a representation within the purview of this subsection if the representation appears on the label of the prepackaged commodity.

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

(7) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, (except commodities prepackaged by someone other than the possessor) or service in a condition or manner contrary to law or regulation.

(8) 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 be reasonably assumed by a customer.

(9) Violate any provision of this act or of the regulations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

Section 37. Injunction.—The secretary is authorized to apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provision of this act.

Section 38. Presumptive Evidence.—For the purposes of this act, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle.

Section 39. Validity of Prosecutions.—Prosecutions for violation of any provision of this act are declared to be valid and proper notwithstanding the existence of any other valid general or specific act of this State dealing with matters that may be the same as, or similar to, those covered by this act.

Section 40. Severability Provision.—If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Section 41. Repeal of Conflicting Laws.—All laws and parts of laws contrary to or inconsistent with the provisions of this act, and specifically the following acts, are repealed insofar as they might operate in the future, but as to offenses committed, liabilities incurred and claims now existing thereunder, the existing law shall remain in full force and effect:

(1) The act of April 15, 1834 (P. L. 524), entitled "An act to fix the Standards and Denominations of Measures and Weights in the Commonwealth of Pennsylvania."

(2) The act of September 29, 1843 (P. L. 5), entitled "An act to provide for the ordinary expenses of the Government, and for other purposes."

(3) The act of April 15, 1845 (P. L. 443), entitled "An act authorizing the secretary of the commonwealth to distribute copies of the standard of weights and measures, and for the appointment of sealers."

(4) The act of July 24, 1913 (P. L. 965), entitled "An act defining commodities; regulating the sale thereof; and providing penalties for violation hereof."

(5) The act of June 23, 1941 (P. L. 151), entitled "An act requiring persons selling 'merchandise' as herein defined to place weighing and measuring devices in full view of the purchasers; imposing certain duties on the Department of Internal Affairs and the several county and city inspectors of weights and measures, and providing penalties."

(6) The act of May 18, 1945 (P. L. 802), entitled "An act to fix the standard weights of containers for wheat and corn flours, corn meals, hominy and hominy grits; and to provide penalties for the violation of this act."

Section 42. Effective Date.—This act shall take effect January 1, 1966.

APPROVED—The 1st day of December, A. D. 1965.

WILLIAM W. SCRANTON

No. 369

AN ACT

HB 1183

Amending the act of March 10, 1949 (P. L. 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," authorizing districts to appropriate funds for traffic control devices.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," is amended by adding after section 525, a new section to read:

Section 526. Funds for Traffic Control Devices.—The board of directors of any school district acting alone or with another district or districts, may contribute funds to another political subdivision for the