

ries, and at the rate of three per centum per annum by all nonactive depositaries.

The Revenue Commissioners and the Banking Commissioner, or a majority of them, shall designate two banks or trust companies in Dauphin County, two banks or trust companies in Philadelphia County, and two banks or trust companies in Allegheny County, to be known as active depositaries, in which shall be deposited a sufficient amount of the daily receipts of the State Treasury to transact the current business of the Commonwealth; and said Revenue Commissioners and the Banking Commissioner, or a majority of them, shall have power, if to them it seem necessary, to designate two other banks or trust companies, located in any of the counties above mentioned or in any other county of the Commonwealth, to be known as active depositaries, and to be used for the purposes above mentioned.

Active depositaries.

APPROVED—The 5th day of May, A. D. 1921.

WM. C. SPROUL.

No. 187.

AN ACT

To regulate and control the manufacture, sale, offering for sale, giving away, and use of weights and measures and of weighing and measuring devices in the Commonwealth of Pennsylvania; providing for the approval and disapproval of such weights, measures, and devices by the Bureau of Standards; and prescribing penalties.

Section 1. Be it enacted, &c., That the word "type," as used in this act, is defined as a class the individual objects of which are similar one to another in design, construction, size, and material.

Weights and measures. Definitions. "Type."

The term "standard weights and measures," as used in this act, is to be construed to include the standards of weights and measures adopted by the United States and the State of Pennsylvania, in accordance with those furnished by the Federal Government under joint resolutions of Congress, approved June fourteenth, eighteen hundred and thirty-six, and July twenty-seventh, eighteen hundred and sixty-six, and now recognized and in use throughout the United States.

"Standard weights and measures."

The term "use in trade or commerce," as used in this act, shall be construed to include use in buying or selling goods, wares, or merchandise.

"Use in trade or commerce."

The word "person," as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, copartnerships, companies, societies, and associations.

"Person."

"Bureau of Standards."

Liability for acts or omission of agents.

Approval by Bureau of Standards.

Submission for approval.

Certificate of approval.

Notification of disapproval.

Hearing.

Appeal to Secretary of Internal Affairs.

The term "Bureau of Standards" shall be held to mean under or by authority of the chief of the Pennsylvania Bureau of Standards of the Department of Internal Affairs. When construing or enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person, acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be deemed to be the act, omission, or failure of such corporation, partnership, company, society, or association, as well as that of the person.

Section 2. The Bureau of Standards of the Department of Internal Affairs is authorized to pass upon each type of weight and measure and weighing and measuring device manufactured, offered or exposed for sale or sold or given away, for the use in trade or commerce, or used in trade or commerce, in the Commonwealth of Pennsylvania, and to approve or disapprove of said type. The said bureau shall approve each type of weight and measure and weighing and measuring device, submitted to it for approval by any person, if such type is so designed and constructed that it conforms to, or gives correct results in terms of, standard weights or measures or in terms of values derived therefrom, and is reasonably permanent in its indication and adjustment, and does not facilitate the perpetration of fraud, otherwise the bureau shall disapprove the same.

Section 3. The submission of a type may be by sample or by specifications if, in the best judgment of the bureau, such specifications are adequate, or in such other manner as may be prescribed by the rules and regulations promulgated under the authority of this act.

Section 4. When a type of weight or measure or weighing or measuring device is approved, the said bureau shall issue a certificate to this effect to the person submitting such type. When a type is disapproved, the said bureau shall notify the person submitting the same of its decision, setting out the reasons therefor, together with such information and references as may be useful in judging of the propriety of the disapproval, and shall give such person an opportunity to be heard in support of his application for approval. The bureau shall then reconsider its decision. If the new decision is adverse to such person, and he is dissatisfied with the same, he may take an appeal from this decision to the Secretary of Internal Affairs, who shall examine the matter, and decide whether the type should be approved or disapproved. If the person is dissatisfied with the decision of the Secretary of Internal Affairs, he may

appeal to the court of common pleas of the county of which he is a resident, whose decision shall be final.

Appeal to common pleas.

Section 5. From and after one year after this act takes effect, it shall be unlawful for any person to manufacture, offer or expose for sale, or sell or give away, for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device of a type not approved in accordance with the provisions of this act: Provided, however, That in the case of weights and measures and weighing and measuring devices manufactured and ready for sale or in use in the Commonwealth of Pennsylvania at the time this section takes effect, no approval of type shall be necessary, and it shall be lawful for any person to offer or expose for sale or sell, for use in trade or commerce, or to use in trade or commerce, such weights and measures and weighing and measuring devices, unless they do not conform to or give correct results in terms of standard weights or measures or in terms of values derived therefrom: And provided further, That the type of a weight or measure or weighing or measuring device need not be approved if said weight or measure or weighing or measuring device is intended for shipment outside the State of Pennsylvania, but if said weight or measure or weighing or measuring device shall in fact be sold or offered for sale, for use in trade or commerce, or used in trade or commerce, in the Commonwealth of Pennsylvania, then this proviso shall not exempt such weight or measure or weighing or measuring device from the operation of any of the provisions of this act.

Sale, etc., of unapproved weights and measures.

Existing weights and measures.

Weights and measures intended for use outside of State.

Section 6. No person shall be prosecuted under the provisions of this act if he can establish a guaranty, signed by the person from whom the weight or measure or weighing or measuring device was purchased, or otherwise obtained, or from the manufacturer thereof, to the effect that the type of the same has been approved, if such approval is required by the provisions of this act, and, if such approval is not required, setting out this fact, or if he can establish that the weight or measure or weighing or measuring device has been sealed by the local sealer of weights and measures. The said guaranty, to afford protection, shall contain the name and address of the guarantor, and, in such case, said guarantor shall be amenable to the prosecutions, fines, or other penalties which would attach in due course to such person under the provisions of this act. But in any case where any such person has actual notice that the type of such weight or measure or weighing or measuring device has not in fact been approved, when such approval is required by the provisions of this act, it shall be unlawful,

Manufacturer's or vendor's guaranty.

and a violation of the provisions of this act, for such person thereafter to offer or expose such weight or measure or weighing or measuring device for sale, or to sell it, for use in trade or commerce, or to use it in trade or commerce.

Registration,
serial numbers,
and descriptions.

Section 7. The Bureau of Standards shall register and give a serial number to each type of weight or measure or weighing or measuring device submitted and approved as provided in this act, and shall issue, from time to time, descriptions of such approved types, giving serial number of each type, copies of which shall be furnished to all weights and measures officials.

Marking of
weights and
measures.

Section 8. From and after one year after this act takes effect, it shall be unlawful to manufacture, offer or expose for sale or sell or give away, for use in trade or commerce, or to use in trade or commerce, any weight or measure or weighing or measuring device which does not have cast, stamped, etched, or otherwise marked thereon, in such manner as may be prescribed by the rules and regulations authorized by this act, the name of the manufacturer and the serial number of the approved type to which it belongs: Provided, however, That, whenever it shall appear to the satisfaction of the Bureau of Standards that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, the said bureau shall furnish a certificate to that effect to any manufacturer applying for the same, and such weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section.

Marking impracticable.

Marking of unapproved weights and measures.

Section 9. It shall be unlawful to cast, stamp, etch, or otherwise mark, upon any weight or measure or weighing or measuring device, the type of which has not been approved as required by the provisions of this act, any design or device simulating a serial number required by the provisions of section seven of this act.

Misdemeanor.

Penalty.

Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment, in the discretion of the court.

Parts of weights or measures.

Section 10. In case any person may desire to have the type of a part of a weight or measure or weighing or measuring device separately approved and serialized, and shall apply therefor, and the Bureau of Standards decides that the part is such that this may properly be done, then such part may be approved and serialized or disapproved as to type, under the same

provisions and restrictions as are applied to the approval and serialization or the disapproval of a type of weight or measure or weighing or measuring device by the provisions of this act.

Section 11. It shall be conclusively presumed that a weight or measure or weighing or measuring device is intended for use in trade or commerce if it is manufactured, offered or exposed for sale, or sold, for use in the Commonwealth of Pennsylvania, or is used therein, unless it shall bear a plain, legible, conspicuous, and permanent statement to this effect "Not legal for trade." It shall be unlawful to use in trade or commerce any weight or measure or weighing or measuring device which is marked as described above: Provided, however, That whenever it shall appear to the satisfaction of the Bureau of Standards that any type of weight or measure or weighing or measuring device is such as to render it impracticable to mark it as required by this section, or is of such design and construction that it is obviously not intended for use in trade or commerce, the said bureau shall furnish a certificate to that effect to any manufacturer applying for the same, and such types of weights and measures and weighing and measuring devices need not be marked as required by the provisions of this section.

Marking of weights and measures not intended for use in trade.

Marking impracticable.

Section 12. Rules and regulations for the carrying out and enforcement of the provisions of this act, not inconsistent with the provisions thereof, shall be adopted by the Bureau of Standards, with the approval of the Secretary of Internal Affairs, which rules and regulations shall include reasonable variations or tolerances which may be allowed on weights and measures and weighing and measuring devices included within the provisions of this act, and also specifications for such weights and measures and weighing and measuring devices for the guidance of manufacturers in the design and construction of such weights and measures and weighing and measuring devices.

Rules and regulations.

Section 13. Inspectors of weights and measures of the Commonwealth of Pennsylvania and of the several counties and cities of the Commonwealth of Pennsylvania may seal, for use in trade or commerce, all weights and measures and weighing and measuring devices, the type of which has been approved as required by the provisions of this act or specifically exempted from the necessity of approval by the provisions of this act, when they find that the same are within the tolerances prescribed under the rules and regulations: Provided, however, That this shall not be construed as meaning that the approval of a type shall be taken as evidence of the correctness of any individual weight or measure or weighing or measuring device of that type, or prevent any such inspector

Sealing of weights and measures.

Effect of approval of type.

of weights and measures from prohibiting the use of or confiscating any individual weight or measure or weighing or measuring device which is found to be inaccurate or otherwise defective or unlawfully used.

Violations.

Section 14. Any person, copartnership, association, or corporation who or which shall violate any provision of this act shall, upon conviction thereof in a summary proceeding before any alderman, magistrate, or justice of the peace of the proper county or city, be punished for the first offense by a fine of not more than twenty-five dollars; and, upon conviction of the second offense, by a fine of not less than twenty-five dollars nor more than one hundred dollars; and, upon conviction for the third and each subsequent offense, by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars. In default of the payment of any fine as aforesaid, any person convicted shall be sentenced to serve one day in jail of the proper county for each dollar of the fine or costs.

Jurisdiction.

Penalty.

Enforcement.

Section 15. It shall be the duty of the chief of the Bureau of Standards and his deputies and the inspectors of weights and measures of the several counties and cities who shall find satisfactory evidence of any violation of the provisions of this act to cause appropriate proceedings to be commenced and prosecuted, without delay, for the enforcement of the penalties as in such case herein provided: Provided, however, That no action or prosecution shall be brought against any person for any violation of this act unless the same is commenced within one year after the offense is committed.

Repeal.

Section 16. All acts and parts of acts, general, local, or special, inconsistent with any of the provisions of this act, are hereby repealed.

APPROVED—The 5th day of May, A. D. 1921.

WM. C. SPROUL.