

No. 64

AN ACT

Authorizing the licensing of public weighmasters; defining their powers and duties; providing for the collection and disposition of license fees and imposing penalties for violations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: Public Weighmaster's Act.

Section 1. This act shall be known and may be cited as the "Public Weighmaster's Act." Definitions.

Section 2. When used in the act, unless the context requires otherwise:

(1) The word "vehicle" shall mean any device in, upon or by which any property, produce, commodity or article is, or may be, transported or drawn.

(2) The word "department" shall mean and refer to the Department of Internal Affairs.

(3) The word "secretary" shall mean and refer to the Secretary of Internal Affairs.

(4) The word "director" shall mean and refer to the Director of the Bureau of Standard Weights and Measures in the Department of Internal Affairs.

(5) The word "bureau" shall mean and refer to the Bureau of Standard Weights and Measures.

Section 3. The director is authorized and directed to enforce the provisions of this act and to adopt, with the approval of the secretary, in the manner provided by the act of June 4, 1945 (P. L. 1388), known as the "Administrative Agency Law," such rules and regulations as are deemed necessary to carry out the provisions of this act. Enforcement of act and adoption of rules and regulations.

Section 4. A citizen of the United States, who is a resident of the Commonwealth, not less than twenty-one years of age, of good moral character, and who has the ability to weigh accurately and to make correct weight certificates, and who has received from the director a license as a licensed public weighmaster, shall be styled and authorized to act as a licensed public weighmaster. Qualifications of licensed public weighmaster.

Section 5. Application for a license as a licensed public weighmaster shall be made upon a form provided by the bureau, and the application shall disclose the location of the scale as well as furnish evidence that the applicant has the qualifications required by section 4 of this act. Application for license.

Section 6. The director may adopt rules for determining the qualifications of the applicant for a license as a licensed public weighmaster. He may pass upon Duties of director concerning applicants.

the qualifications of the applicant upon the basis of the information supplied in the application, or he may examine such applicant orally or in writing, or both, for the purpose of determining his qualifications. He shall grant licenses as licensed public weighmasters to such applicants as may be found to possess the qualifications required by section 4 of this act. The director shall keep a record of all such applications and of all licenses issued thereon.

Procedure of applicant upon refusal to license.

Any person whose application for a public weighmaster's license is refused by the director may, within thirty days after notice thereof, file a petition in the court of common pleas wherein the applicant resides, or wherein he intends to perform duties as a licensed public weighmaster, for a hearing de novo to determine whether the action of the director is lawful and reasonable. The court shall hear the petition and may make any appropriate order or decree.

Cost of licenses and disposition of fees.

Section 7. Before the issuance of any license as a licensed public weighmaster or any renewal thereof, the applicant shall pay to the department a fee of five dollars (\$5) for remittance to the State Treasurer through the Department of Revenue, and the State Treasurer shall return annually two dollars and fifty cents (\$2.50) of each such fee to the treasurer of the city or county wherein such scale is located.

Term of license and renewals.

Section 8. Each license as licensed public weighmaster shall be issued for a term of one year to expire on the expiration of one year following the date of issuance. Renewal applications shall be in such form as the director, with the approval of the secretary, shall prescribe.

Oath and seal of licensed public weighmaster.

Section 9. Each licensed public weighmaster shall, before entering upon his duties, make oath to execute faithfully his duties. The issuance of a license as licensed public weighmaster shall not obligate the Commonwealth to pay the licensee any compensation for his services as a licensed public weighmaster. Each licensed public weighmaster shall, at his own expense, provide himself with an impression seal. His name and the words "Commonwealth of Pennsylvania" shall be inscribed around the outer margin of the seal, and the words "licensed public weighmaster," together with the permanent seal number assigned by the bureau, shall appear in the center thereof. The seal shall be impressed upon each weight certificate issued by a licensed public weighmaster at the time of issuance.

Form, contents and evidentiary of weight certificate.

Section 10. The director shall prescribe the form of weight certificate to be used by a licensed public weighmaster. The weight certificate shall state the date of issu-

ance, 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.

Section 11. 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 what 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.

Duties of
licensed public
weighmaster.

Section 12. When making a weight determination as provided for by this act, a licensed public weighmaster shall use a weighing device approved by the bureau in accordance with the act of May 5, 1921 (P. L. 389), entitled "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," as amended, which is of a type suitable for the weighing of the amount and kind of material to be weighed and which has been tested and approved for use by a weights and measures officer of this Commonwealth preceding the date of the weighing.

Requirement of
weighing device.

Section 13. A licensed public weighmaster shall not use any scale to weigh a load which exceeds the normal or rated capacity of the scale.

Limitation on
use of device to
rated capacity.

Section 14. A licensed public weighmaster shall not weigh or issue a certificate for the weight of any solid

Additional
license required
to weigh solid
fuel.

* "the" omitted in original.

fuel as defined by the act of July 19, 1935 (P. L. 1356), entitled "An act to regulate the sale and delivery of solid fuel, as herein defined; providing for appointment of licensed weighmasters; prescribing their powers and duties; authorizing substitute licensed weighmasters; imposing certain duties on the Department of Internal Affairs; and providing penalties," as amended, without first securing a license under said act in addition to the license provided by this act.

Duty of licensed public weighmaster to keep records.

Section 15. A licensed public weighmaster shall keep and preserve, in seriatim form and chronological order, at the place of issuance, for at least two years or for such longer period as may be specified in the regulations authorized to be issued for the enforcement of this act, a legible carbon copy of each weight certificate issued by him, which copies shall be open at all reasonable times for inspection by any weights and measures officer of this Commonwealth.

Determination of reciprocity for licenses issued by other states.

Section 16. 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 Commonwealth, the director is authorized to recognize and accept the weight certificates of such other state.

Persons permitted to be licensed public weighmasters.

Section 17. The following persons shall not be required but shall be permitted to obtain licenses as licensed public weighmasters:

(1) A person weighing property, produce, commodities or articles which he or his employer, if any, is either buying or selling,

(2) A person weighing property, produce, commodities or articles in conformity with the requirements of Federal statutes or the statutes of this Commonwealth relative to warehousemen or processors, and

(3) A weighmaster licensed to weigh solid fuel under the provisions of the act of July 19, 1935 (P. L. 1356), as amended.

Violations of this act.

Section 18. 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 under this act, 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: Provided, however, That weighmasters licensed under the provisions of the act of July 19, 1935 (P. L. 1356), as amended, may continue to function with the full authority therein granted.

“Public weighing,” as used in this section, shall mean the weighing for any person, upon request, of property, produce, commodities or articles.

Section 19. The director is authorized to suspend or revoke the license of any licensed public weighmaster,

Suspension or revocation of license.

(1) When he is satisfied, after a hearing, upon ten days' notice to the licensee, that the said licensee has violated any provision of this act or of any valid regulation of the director affecting licensed public weighmasters, or

(2) When a licensed public weighmaster has been convicted in any court of competent jurisdiction of violating any provision of this act or of any regulation issued under authority of this act.

Any licensee whose license is suspended or revoked by the director may, within thirty days after notice thereof, file a petition in the court of common pleas of the county wherein the licensee resides, or wherein the licensee performs his duties as a licensed public weighmaster, for a hearing de novo to determine whether the action of the director is lawful and reasonable. The court shall hear the petition and may make any appropriate order or decree.

Procedure of licensed weighmaster upon suspension or revocation of license.

Section 20. Any person who requests a licensed public weighmaster to weigh any property, produce, commodity or article, falsely or incorrectly, or who requests a false or incorrect weight certificate, or any person who issued a weight certificate simulating the weight certificate prescribed in this act and who is not a licensed public weighmaster, shall, upon conviction in a summary proceeding for the first offense, be sentenced to pay a fine of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100), and, in default of such fine and costs, to undergo imprisonment not exceeding thirty days. Upon a second or subsequent conviction, such person shall be sentenced to pay a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500), and, in default of such fine and costs, to undergo imprisonment for not less than thirty days or more than ninety days.

Additional violations of this act and penalties.

Section 21. 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 sentenced to pay a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500) or by imprisonment for not less than thirty days or more than ninety days, or * both.

Violations of this act by licensed public weighmaster and penalties.

* “by” in original.

Violation of act or rule or regulation and penalties.

Section 22. Any person who violates any provision of this act, or any rule or regulation promulgated pursuant thereto for which no specific penalty has been provided, upon conviction in a summary proceeding, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100), and, in default of such fine and costs, to undergo imprisonment of not more than thirty days.

Inconsistent acts repealed except act of July 19, 1935, P. L. 1356.

Section 23. All acts and parts of acts are repealed in so far as they are inconsistent herewith. The provisions of the act of July 19, 1935 (P. L. 1356), as amended, which has to do with solid fuel, is expressly saved from repeal by this act.

Severability.

Section 24. 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.

Disposition of fines.

Section 25. All fines collected under the provisions of this act shall be paid to treasurers of the cities and counties in which the offense was committed.

Non-applicability of act.

Section 26. No part of this act shall apply to weighing devices used by railroad carriers, common carriers by motor vehicle or contract carriers by motor vehicle, subject to Part I. of the Interstate Commerce Act or the Public Utility Law, *for weight determination of goods for or in transportation or held in accordance with their tariffs.

Effective date of act.

Section 27. This act shall take effect in ninety days.

APPROVED—The 28th day of April, A. D. 1961.

DAVID L. LAWRENCE

No. 65

AN ACT

Amending the act of May 5, 1911 (P. L. 198), entitled "An act to establish a county court for the county of Allegheny, and prescribing its powers and duties; regulating the procedure therein, and providing for the expenses thereof," increasing the jurisdiction of the County Court of Allegheny County.

Courts.

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

* "or" in original.