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Office of Weights and Measures Law
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TITLE 52 STATE GOVERNMENT, DEPARTMENTS AND OFFICERS 80

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TITLE 51. STANDARDS, WEIGHTS, MEASURES AND CONTAINERS**51:1-1. Municipal power not impaired**

Nothing in this title shall be construed to abrogate or impair the power of the governing body of any municipality or of the courts to enforce any provision now existing or hereafter adopted in any municipal charter, ordinance or regulation, not inconsistent with this chapter, or to prevent or punish violations thereof.

51:1-2. Definitions

As used in this chapter:

- a. "Commodity" means any article of food, drink, trade or commerce, or any service or amusement, goods, wares, merchandise, or fuel measured by any weighing and measuring or counting system, but shall not include any article of food, drink, trade, commerce, goods, wares, merchandise, or fuel which is not sold or intended for sale to an entity distinct from the seller;
- b. "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale. 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 a commodity in package form. Where the term "package" is used in chapter 1 of Title 51 of the Revised Statutes, it shall be construed to mean "commodity in package form" as herein defined. For the purpose of this definition, single unit produce items wrapped in clear film shall not be construed as commodities in package form;
- c. "Food" or "foods" means articles used for food or drink for man or animals, chewing gum and articles used as ingredients of the foregoing;
- d. "Physical property" means mass, weight, length, volume, pressure, electricity, electromagnetic forces, radiation, thermodynamics, coefficients of expansion, gravitational forces or any other measurable attribute or quantity, including count;
- e. "Weight and measure" or "weights and measures" means a device, apparatus, or instrument designed or used to weigh, measure, count or time any physical property or determine value, and any auxiliary apparatus and accessories that indicate quantity or value, or records representative thereof;
- f. "Weights and measures official" or "weights and measures officer" means, at the State level, the State superintendent, deputy State superintendent, assistant State superintendent, State supervisor, State metrologist, and State weights and measures officers of all grades; and at the county and municipal levels, means the superintendent, deputy superintendent, assistant superintendents of all grades, and weights and measures officers of all grades;
- g. "Gross weight" means the weight of a vehicle in a loaded state;
- h. "Net weight" means the gross weight of a vehicle minus the tare weight of the vehicle; and
- i. "Tare weight" means the weight of a vehicle in an unloaded state.

Amended 1986, c.167, s.1; 2001, c.95, s.1.

51:1-3. Use of both systems

The inch-pound system of weights and measures in customary use in the United States and the metric system or System International (SI) of weights and measures are jointly recognized, and one or the other, or both, of these systems shall be used for all purposes in this State. The definitions of basic units of weight and measure, the tables of weights and measures, and the weights and measures equivalents, as published by the National Bureau of Standards, are recognized and shall govern weighing and measuring equipment and transactions in this State. It is the intent of the Legislature that nothing in this section shall mandate the exclusive use of SI; however, its use within this State is encouraged.

Amended by L. 1986, c. 167, s. 2, eff. Dec. 3, 1986.

51:1-4. Yard

The standard yard shall contain three feet of thirty-six inches.

51:1-5. Chain for measurement of land

The standard chain for the measurement of land shall consist of four rods of sixty-six feet.

51:1-6. Test of measuring devices

Steel measuring tapes used by professional land surveyors and professional engineers shall be compared by the State superintendent at least once in five years with standards traceable to the National Bureau of Standards. Every professional land surveyor and professional engineer engaged in surveying and engineering within this State shall test and note the actual variation of his electronic distance measuring device from the "Calibration Base Lines" established by the National Geodetic Survey, at least once each year. He shall submit to the State superintendent, over the appropriate professional seal, a copy of his notes, including the date and time of the test, on forms acceptable to the National Geodetic Survey.

Amended by L. 1986, c. 167, | 3, eff. Dec. 3, 1986.

51:1-7. Standard ton

The standard gross ton shall consist of two thousand, two hundred and forty pounds. The standard net ton shall consist of two thousand pounds.

51:1-8. Pound; avoirdupois; troy

The standard avoirdupois pound, which shall be the standard for all commodities usually sold by weight, except gold, silver, jewels and drugs, shall contain seven thousand grains troy. The standard pound used in the sale of gold, silver, jewels and drugs, shall contain five thousand seven hundred and sixty grains troy.

51:1-9. Gallon; quart

The standard gallon shall contain two hundred and thirty-one cubic inches. The standard liquid quart shall contain fifty-seven and seventy-five one-hundredths cubic inches.

51:1-10. Sale of milk or cream

All milk, skimmed milk or cream, except such as may be bought or sold either by weight or on the butter fat basis, shall be sold, offered for sale or received for the purpose of sale by the liquid gallon, or the liquid quart or the proper and complete liquid subdivisions thereof.

51:1-11. Labeling or tagging milk cans

Each can originally containing more or less than forty quarts of milk or cream shall bear a label or tag naming in quarts its original capacity of liquid measure but no can originally containing forty quarts, liquid measure, shall be labeled or tagged.

51:1-12. Penalties; disposition

A person violating any provision of sections 51:1-10 or 51:1-11 of this Title shall be liable to a penalty of \$100.00 to be recovered in the municipal court or Superior Court by any person who may sue therefor. Such penalty when recovered shall be paid to the county treasurer of the county in which the violation occurred.

Amended 1953,c.48,s.1; 1969,c.251,s.1; 1991,c.91,s.476.

51:1-13. Branding butter and cheese packages; penalty

Every firkin, tub or other vessel for the package of butter or cheese shall be branded in legible letters and characters by the cooper or manufacturer with his name and the actual and true weight of the firkin, tub or vessel.

A cooper or manufacturer who shall dispose of any such firkin, tub or vessel without such brand or who shall falsely brand the same shall forfeit and pay to such person as shall prosecute for the same the sum of twenty-five dollars to be recovered by action at law in any court of competent jurisdiction.

51:1-14. Use of unbranded package; defacing or altering brand; penalty

Any person who shall sell or dispose of butter or cheese in a firkin, tub or vessel manufactured for such purpose in this State which is not branded as required by section 51:1-13 of this Title and any person who shall alter or purposely deface such brand shall forfeit and pay the sum of \$100.00 to such person as shall sue for the same in an action at law in any court of competent jurisdiction.

Amended by L.1969, c. 251, s. 2, eff. Jan. 7, 1970.

51:1-15. Liquids only to be sold by liquid measure

No person shall use a liquid measure in the purchase or sale of other than liquid commodities.

51:1-16. Bushel

The standard bushel shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches which capacity shall apply to all articles usually sold by the bushel and not weighed.

51:1-17. Foods sold only by weight or numerical count; exceptions

All articles of food, other than liquids, which are capable of being measured by dry capacity measure and which heretofore have been sold by dry capacity measure in this State shall, except as hereinafter

provided, be offered for sale or sold upon the basis of avoirdupois net weight or by numerical count only, and it shall be unlawful for anyone to use or employ any dry capacity measure, basket, barrel or container of any kind as a means of determining the amounts or quantities of any such articles of food offered for sale or sold. The provisions of this section shall not be construed to apply to:

- a. Fruits and vegetables offered for sale or sold in closed or covered standard containers; or
- b. Articles of food offered for sale by bona fide farmers in any farmers' public market, in open or uncovered standard containers, which articles may be transferred to a bag or other suitable receptacle when such transfer is agreeable to, and made in the presence of, the buyer; or
- c. Vegetables which by common custom are offered for sale or sold by the bunch; or
- d. Fresh berries and other small fruits, which are customarily offered for sale and sold by the box, basket or other receptacle, except, however, when such fresh berries and other small fruits are offered for sale or sold in bulk, in which case the provisions of this section shall apply to the extent that such fresh berries and other small fruits shall be offered for sale and sold by avoirdupois net weight only, but all fresh berries and such other small fruits, when offered for sale or sold shall be so offered for sale or sold in boxes, baskets or receptacles of uniform size to hold one quart or one pint dry measure only, uniformly and evenly filled throughout.

As used in this section:

"Dry capacity measure" means only bushel, half-bushel, peck, half-peck, quarter-peck, quart, pint, half-pint, and similar measures.

"Standard container" means only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is established by law of this State or by Act of Congress, and upon which is plainly and conspicuously marked the net quantity of contents thereof in terms of weight, measure or numerical count.

"Bona fide farmers" means agriculturists or growers of fruits and vegetables who actually produce the commodities they sell and who are registered as such either with the State Department of Agriculture or with any county agent or board of agriculture.

Any person violating any of the provisions of this section shall, for the first offense, be liable to a penalty of not less than \$50.00 nor more than \$100.00, for a second offense to a penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a penalty of not less than \$250.00 nor more than \$500.00.

Amended by L.1969, c. 251, s. 3, eff. Jan. 7, 1970; L.1977, c. 201, s. 1, eff. Aug. 30, 1977.

51:1-18. Bread to be sold by weight; specification of weight to purchaser

All bread shall be sold by weight. The weight of all loaves of bread offered for sale shall be specified by the baker or dealer to the consumer, if the consumer require it.

51:1-25. Peach basket; marking, etc.; penalty

The standard peach basket shall be 16 quarts Winchester half-bushel measure. It shall be of the following dimensions: Height, 12 ¼ inches; width across the top, 13 ½ inches; inside measurement, 1,075.10 cubic inches. Each basket shall be marked "Standard N.J." upon the staves just below the rim in Roman letters, not less than one inch in length and not less than 1/2 inch in width. Such letters shall be burned on or printed with permanent red paint in a straight line.

All persons who shall manufacture for sale or who shall offer or expose for sale any nonstandard basket to be used for selling or shipping peaches shall distinctly and durably stamp, brand or mark upon such basket upon the stave just below the rim, the number of quarts such basket contains.

Any person who shall manufacture, sell or offer or expose for sale, or have in his possession with intent to sell or use any peach basket not stamped, branded or marked as by this section required shall for each offense forfeit and pay a fine of not less than \$50.00 nor more than \$100.00 to be recovered with costs in any court of competent jurisdiction in an action to be prosecuted by the prosecutor of the pleas in the name of the State.

Amended by L.1969, c. 251, s. 5, eff. Jan. 7, 1970.

51:1-26. Sale of fruits or vegetables in nonstandard containers forbidden

Except as standards are otherwise provided by law, no person shall sell or deliver, or have in possession with intent to sell or deliver any fruits, berries or vegetables contained in any box, basket or other container, unless such box, basket or other container shall be of the capacity, in standard dry measure, of thirty-two, twenty, sixteen, eight, four, or two quarts, or one quart or one pint.

This section shall not be construed to apply to the sale or delivery, or the possession with intent to sell or deliver, of any fruits, berries or vegetables contained in any sealed can, jar or bottle, or which are sold by the barrel, except cranberries, which may be sold in standard crates or barrels of the standard measure prescribed by sections 51:1-20 and 51:1-21 of this title.

51:1-27. Marking of containers

No person shall sell or deliver, or have in possession with intent to sell or deliver, any fruit, berries or vegetables contained in any basket, box or other container, unless such basket, box or other container shall have legibly marked on the outside thereof, by the manufacturer thereof, in English letters or Arabic numerals, the exact capacity of such basket, box or other container, and the name and address of the manufacturer thereof, legibly printed or written thereon in the English language, or in lieu of such name and address, a sign or symbol furnished him by the state superintendent.

51:1-27.1. Penalty for violations of section 51:1-26 or section 51:1-27

Any person violating any of the provisions of either section 51:1-26 or section 51:1-27 of this Title shall be liable to a penalty of not less than \$25.00 nor more than \$250.00 for each offense. Such penalty may be sued for and recovered by the State superintendent or by the county or municipal superintendent of weights and measures of the county or municipality in which such violation occurred. The proceedings for the collection of such penalty shall be in all respects the same as the proceedings for the collection of penalties under and by virtue of article 4 of this chapter (s. 51:1-89 et seq.).

Amended by L.1969, c. 251, s. 6, eff. Jan. 7, 1970.

51:1-28. Marking of containers; packer's name; penalty

Any person who shall pack, or cause to be packed for the purpose of selling, offering or exposing for sale any fruits or vegetables, in crates, covered baskets, carriers, sacks or other containers shall plainly and conspicuously mark in lettering not less than $\frac{3}{8}$ of an inch in size, on the outside or top of such container, or on a tag firmly affixed thereto, his name and address. Before so doing he shall remove from the container all names and addresses, excepting the name and address of the manufacturer of the container.

Any person violating any of the provisions of this section shall for the first offense be liable to a penalty of not less than \$50.00 nor more than \$100.00, for a second offense to a penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a penalty of not less than \$250.00, nor more than \$500.00.

Amended by L.1969, c. 251, s. 7, eff. Jan. 7, 1970.

51:1-29. Commodity package labeling; slack filling

a. No person shall distribute, expose for sale, sell, or have in his possession with intent to distribute, expose for sale or sell any article or commodity in package form, unless the label bears statements:

(1) Specifying the identity of the commodity in common terms;

(2) Identifying the legal name and principal place of business of the manufacturer, packer or distributor. The statement shall include the street address, city, state and zip code, except that the street address may be omitted if it is shown in a current city directory or telephone directory. If a person manufactures, packs or distributes a commodity in package form at a place other than his principal place of business, the statement may contain the principal place of business address in lieu of the actual place where the commodity was manufactured, packed or is to be distributed, unless that statement would be misleading. Packages packed on the premises where sold shall not be required to comply with this paragraph; and

(3) Specifying the net quantity of the contents by weight, measure, count or volume, as prescribed by the State superintendent.

b. Reasonable variations, tolerances and exemptions from the requirements of subsection a. shall be permitted. The State superintendent shall by regulation fix the permitted variations, tolerances and exemptions.

c. (1) No container or package in which commodities are packaged shall have a false bottom, false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to constitute deception. (2) No container shall be so nonfunctionally slack filled as to constitute deception. The State superintendent shall promulgate rules and regulations concerning nonfunctionally slack-filled containers. As used in paragraph (2) of this subsection, "nonfunctionally slack filled" means a container which is filled to substantially less than its capacity for reasons other than (a) protection of the contents of the container or (b) the requirements of machines used for enclosing the contents in the container. As used in paragraph (2) of this subsection, "container" means the immediate receptacle in which the commodity is enclosed.

d. Any person who manufactures, packs, distributes, exposes for sale or sells any commodity in package form in violation of this section shall for the first offense be liable to a civil penalty of not less than \$50.00 nor more than \$100.00, and for a second offense to a civil penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a civil penalty of not less than \$250.00 nor more than \$500.00.

(1) No person shall be convicted of or assessed a civil penalty for a second or subsequent offense pursuant to this subsection unless the previous conviction:

(a) Occurred no earlier than one year prior to the occurrence of the second or subsequent offense; and

(b) Occurred at the same place of business as the second or subsequent offense. For the purposes of this paragraph, "same place of business" means identical store or outlet.

(2) Nothing in this subsection shall be deemed (a) to authorize or permit the imposition of penalties for second or subsequent offenses in conjunction with an adjudication of guilt based upon multiple counts or complaints arising from the same inspection, or (b) to mandate the imposition of penalties for a second or subsequent offense, if, in the discretion of the court, the imposition of a penalty for a first offense would be just and proper.

e. A shipment, delivery, aggregation or lot of a commodity in package form may be examined for compliance with the required net quantity statement for determining the acceptance or rejection (off-sale action) by means of recognized sampling, statistical principles and methods published by the National Bureau of Standards. Packages having a minus error exceeding the Maximum Allowable Variation (MAV) shall be held in violation and appropriate legal action may be taken with respect to these individual packages according to the provisions of this section.

f. Notwithstanding any provision in Title 51 of the Revised Statutes, when a prosecution has been initiated against a retailer alleging a violation regarding any commodity in package form, the manufacturer or supplier of that package shall be substituted as the party-defendant upon motion, with the consent of all parties and the consent of that manufacturer or supplier, who shall agree to submit to the jurisdiction of the court. If a judgment imposed against a manufacturer or supplier remains unsatisfied, the State superintendent may docket that judgment in the Superior Court, and may enforce that judgment in the same manner as a judgment originating from the Superior Court.

Amended by L. 1969, c. 251, s. 8; 1986, c. 167, s. 4; 1987, c. 207, s. 1.

51:1-29.1. Hydrate of sodium tetraborate

Notwithstanding any other provision of law to the contrary, a person may manufacture, pack, distribute, deliver, cause to be delivered, sell, expose for sale, or have in his possession with intent to do any of the foregoing, a commodity in package form consisting predominantly (more than 50%) of a hydrate of sodium tetraborate when the net weight of the contents of the package is less than that specified on its label, provided that (1) the package otherwise complies with current law, (2) the package bears a statement specifying the net quantity of its contents by volume, and (3) the volume of the contents of the package, measured by a reproducible free-fall method, equals or exceeds the volume so specified. If the National Bureau of Standards has published a reproducible free-fall method for measuring the volume of such a commodity, that method shall be used for this section. A person may represent the price of such a commodity based upon the weight specified on its label.

L. 1987, c. 207, s. 2.

51:1-29.2. Net weight standards pertaining to flour; adopted

Notwithstanding any other provision of law to the contrary, the State Superintendent shall adopt the net weight standards pertaining to flour as set forth in section 3.17 of Chapter 3 of the National Bureau of Standards Handbook 133, Third Edition.

L.1989, c.256, s.1.

51:1-31.1. Terms defined

As used herein, the term "frozen desserts" shall be deemed to mean and include "ice cream," "custard ice cream," "French ice cream," "French custard," "frozen custard," "sherbet," "ice," and "fruit ice."

L.1941,c.278,s.1; amended 1991,c.59,s.1.

51:1-31.4. Weight

Frozen desserts shall weigh not less than four and five-tenths pounds per gallon.
L.1941, c. 278, p. 749, s. 4.

51:1-31.10. Tolerances or variations as to quantity

Reasonable tolerances or variations as to quantity shall be permitted. There is no tolerance permitted with reference to the minimum weight per gallon requirement for frozen desserts.

L.1941, c. 278, p. 750, s. 10.

51:1-33. Definitions

As used in sections 51:1-34 and 51:1-35 of this title:

"Laundries" and "laundry establishment" means and includes all persons, conducting or operating power laundry plants, hand laundries and agencies thereof;

"Laundry" means and includes all articles of clothing or wearing apparel, bed and table linen, rugs, draperies and any and all materials capable of being washed or cleaned by laundering process.

51:1-34. Tested scales

All commercial laundries, performing, selling, or offering for sale, laundry service on the basis of weight, shall have legal scales of approved type and design, properly tested and sealed.

51:1-35. Delivery tickets; marking; alteration prohibited

Each delivery of laundry, which is charged for on the basis of weight, shall be accompanied by a delivery ticket, which shall have indelibly marked, perforated, stamped or impressed thereon, the name and address of the laundry establishment, the net avoirdupois weight of the laundry, determined prior to washing, the price per pound, the amount of the total charge, and in clear, concise language the method by which said charge is computed. Reasonable tolerances and variations in weight, determined by the state superintendent, shall be permitted. Such ticket shall also bear the true name and address of the customer, except if the customer be a transient.

Such delivery tickets shall in all cases be made out in duplicate, or a record thereof kept as part of the office records of said laundry establishment.

No person shall alter or deface any such delivery tickets or in any manner misrepresent the weight of the laundry so delivered.

The net weight determined prior to washing shall be marked on the ticket in all cases whether in excess or in deficiency of a minimum weight contract or agreement as may be fixed by the laundry establishment.

51:1-35.1. Penalties for violations of section 51:1-34 or section 51:1-35

Any person violating any of the provisions of either section 51:1-34 or section 51:1-35 of this Title, or who alters or defaces delivery tickets as specified in said section 51:1-35, or who in any manner misrepresents the weight of the laundry so delivered, shall for the first offense be liable to a penalty of not less than \$50.00 nor more than \$100.00, for a second offense to a penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a penalty of not less than \$250.00 nor more than \$500.00.

Amended by L.1969, c. 251, s. 11, eff. Jan. 17, 1970.

51:1-42. Department; composition

The department of weights and measures, created and established by an act entitled "An act to establish a uniform standard of weights and measures in this state, to establish a department of weights and measures, and to provide penalties for the use of other than standard or legal weights and measures," approved April twenty-fourth, one thousand nine hundred and eleven (L.1911, c. 201, p. 414), is continued. It shall consist of a state superintendent, and assistant state superintendents, county superintendents, municipal superintendents and their respective assistant superintendents, each of whom shall, before entering upon his duties, take an oath of office as provided by law.

51:1-43. Appointment of superintendents; record of appointment of municipal superintendents

The governor, by and with the advice and consent of the senate, shall appoint a state superintendent for a term of five years. The governing bodies of the respective counties shall appoint a county superintendent. The governing body of any municipality having a population of sixty thousand or over shall, and the governing body of any other municipality may, by ordinance, provide for the office of, and appoint, a municipal superintendent. A certified copy of the ordinance and appointment shall be filed forthwith by the clerk of the municipality with the state superintendent. The person so appointed shall be entered upon the records of the state superintendent as the municipal superintendent.

51:1-44. Assistant state superintendents; clerical assistants

The state superintendent may appoint three assistant state superintendents. He may temporarily appoint honorary or special assistant superintendents who shall have all the powers of county or municipal superintendents, and who shall serve without compensation. He may also appoint not more than two clerical assistants.

51:1-45. Assistant county and municipal superintendents; number; deputy superintendents; powers

The governing body of each county and municipality shall fix the numbers of assistant superintendents therein, and by resolution may authorize the superintendent to appoint them. The governing body of each county and municipality may provide for the position of a deputy superintendent and by resolution may authorize the superintendent to appoint one of his assistants as deputy superintendent. The deputy superintendent shall act and have all the powers and duties of a superintendent when: (a) so directed by the superintendent, and a directive to that effect is filed with the State superintendent; or (b) a vacancy occurs in the office of a county or municipal superintendent, in which event he shall serve in that capacity until such superintendent returns to duty or his successor is duly appointed and qualified. Such deputy superintendent and assistants shall be under the direct control of their respective superintendents. They shall have all the powers and duties of a superintendent in making inspections, tests and measurements.

Amended by L.1969, c. 285, s. 1, eff. Jan. 15, 1970.

51:1-46. Persons employed to give full time

The officers and employees designated to enforce this chapter shall devote all their time to such duties.

51:1-47. No other person to engage as superintendent, etc.

No person, other than a superintendent, assistant superintendent or honorary or special assistant superintendent appointed in accordance with the provisions of this article, shall be engaged, or act, in any capacity as superintendent or assistant superintendent, sealer or inspector of weights and measures.

51:1-48. Superintendents and assistants; qualifications

The state superintendent shall possess scientific and technical knowledge of the construction and use of standards of weights and measures. All county and municipal superintendents and all assistant superintendents shall be persons of sufficient scientific knowledge to properly inspect, examine and report on the technical conditions of said standards.

51:1-49. State superintendent and assistants; salaries

The salary of the state superintendent shall be forty-five hundred dollars per annum. The state superintendent shall fix the salaries of his assistant superintendents and of his clerical assistants, in accordance with the schedules provided by the state civil service commission.

51:1-50. County and municipal superintendents and assistants; salaries

The salaries of county and municipal superintendents and their assistant superintendents shall be fixed by the governing body of such county or municipality.

51:1-51. County superintendents; expenses

Each county superintendent shall receive the actual necessary expenses incurred by him personally in performing the duties of his office, such as transportation, livery, telephone, telegraph and postal charges to be paid by the board of chosen freeholders of his respective county on bills itemized and properly sworn to.

51:1-52. County and municipal superintendents; under civil service

All county and municipal superintendents in counties and municipalities operating under the provisions of subtitle 3 of the title Civil Service (s. 11:19-1 et seq.), shall be placed in the classified service and shall continue in such positions subject to the provisions of said subtitle 3.

51:1-53. County and municipal superintendents; assistants and secretaries; tenure of office; hearing prior to discharge, etc.

The county superintendents and municipal superintendents and the secretaries and assistant superintendents appointed by the respective county, municipal or other governing bodies or by the respective county or municipal superintendents upon resolution of said governing bodies, shall hold office during good behavior. In counties not operating under subtitle 3 of the title Civil Service (s. 11:19-1 et seq.), they shall not be removed, discharged or reduced in pay or position, except after due hearing by the governing body of the respective county or municipality, and for just cause. Said officials shall be furnished with written statements of the reasons for such proposed action and shall be given a reasonable time to make written answer thereto. Reasonable notice of the hearing shall be given to the person charged. He may be represented at the hearing by counsel and offer testimony of witnesses or any other evidence in his own behalf.

51:1-54. State superintendent as administrator

The State superintendent shall have general supervision of the administration of the provisions of Title 51 of the Revised Statutes. He shall have general supervision over the work of county and municipal superintendents. He shall make such rules for the administration of the affairs of his office and of the offices of the county and municipal superintendents as may be necessary for the proper enforcement of Title 51 of the Revised Statutes. State weights and measures officials shall be under his direct control.

Amended by L. 1986, c. 167, s. 5, eff. Dec. 3, 1986.

51:1-54.1. Issuance of subpoenas

The State superintendent shall have the power to issue subpoenas to compel the production of any pertinent records, books, or documents or the attendance of witnesses in any matter pertaining to his duties under Title 51 of the Revised Statutes and other statutes relating to weights and measures and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the State superintendent and shall be served in the same manner as subpoenas issued from any court in this State. The failure of any person to obey a subpoena may result in the State superintendent's applying to the Superior Court for appropriate relief.

L. 1986, c. 167, s. 21, eff. Dec. 3, 1986.

51:1-54.2. Weighing and measuring devices; registration; fees

a. All weighing and measuring devices located within the State and operated or used for commercial purposes shall be registered with the State superintendent, except for timing devices used in clothes dryers by the residents of a building in which the clothes dryers are located.

b. An applicant for registration shall submit an application on a form provided by the State superintendent and pay the appropriate registration and inspection fee established pursuant to section 7 of P.L.1994, c.60 (C.51:1-54.3) to the State superintendent.

c. A weighing and measuring device registration shall expire one year from the effective date of the registration.

d. A registration may be renewed annually for an additional one-year term upon submission of a properly completed renewal application on a form provided by the State superintendent and payment of the registration fee established pursuant to section 7 of P.L.1994, c.60 (C.51:1-54.3).

e. A registration seal shall be issued by the State superintendent for each weighing and measuring device registered in the State and shall be affixed to the instrument or device.

f. Notification shall be provided to the State superintendent if a weighing and measuring device, located within this State, is sold, transferred or moved to a new location.

L.1994,c.60,s.6; amended 1997, c.329.

51:1-54.3. Fees; amounts, schedule; use

a. The State superintendent shall establish a fee schedule, including the imposition of late charges when appropriate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), for the regulation of weighing and measuring devices under Title 51 of the Revised Statutes for which fees are not otherwise established by law.

b. The fees established under subsection a. of this section shall be sufficient to fully defray the cost of regulating weighing and measuring devices pursuant to Title 51 of the Revised Statutes provided however, the fee charged for scales which measure weights of less than 1,000 pounds shall not exceed \$25 per scale and the fee charged for fuel pump dispensers shall not exceed \$25 per hose, or \$200 per commercial location using the scale or dispenser, whichever is less, and provided further, the fee charged for retail vehicle tank meters shall not exceed \$50 per meter.

c. The fees established under subsection a. of this section shall be deposited into the "Weights and Measures Fund" created pursuant to section 8 of P.L.1994, c.60 (C.51:1-54.4) for the purpose of fully defraying the cost of regulating weighing and measuring devices pursuant to Title 51 of the Revised Statutes.

L.1994,c.60,s.7.

51:1-54.4. Weights and Measures Fund

a. There is established the "Weights and Measures Fund" as a non-lapsing revolving fund in the Department of Law and Public Safety into which shall be deposited all fees and penalties collected by the State superintendent under Title 51 of the Revised Statutes.

b. The fund shall be administered by the State superintendent and shall be used to pay all expenses incurred by the State superintendent in connection with the regulation of weighing and measuring devices pursuant to Title 51 of the Revised Statutes.

c. All counties and municipalities which have established departments of weights and measures pursuant to R.S.51:1-42 et seq. shall be eligible to receive reimbursement from the fund established under this section for an amount certified by the State superintendent to be sufficient to defray all or part of the costs incurred in connection with the regulation of weighing and measuring devices pursuant to Title 51 of the Revised Statutes. Reimbursement shall be for an amount of up to the full cost incurred by the county or municipal department.

L.1994,c.60,s.8.

51:1-55. Standards

The State superintendent shall be the custodian of all standards of weight and measure. He shall procure, at the expense of the State, a set of standards properly certified by the National Bureau of Standards. He shall maintain traceability of the State standards to the national standards in the possession of the National Bureau of Standards. He shall correct the standards of the several counties and municipalities, and other government agencies and shall at least once in five years compare them with the standards in his possession. In addition, he shall at least once in every five years calibrate or verify standards used by professional land surveyors and professional engineers in the performance of their duties, with the expense to be borne by the owners of the devices. The State superintendent, upon request, shall compare and verify any electronic distance measuring device, with the expense to be borne by the owner of the device.

Amended by L. 1986, c. 167, s. 6, eff. Dec. 3, 1986.

51:1-56. Establish containers for farm products

The state superintendent may in cooperation with the state department of agriculture from time to time establish and promulgate standards for containers for agricultural or horticultural products, fresh or salt water food products and products designed for food purposes, manufactured or prepared principally from any agricultural or horticultural products.

51:1-58. Seals and certificates

The state superintendent shall provide a suitable official seal to be used by him during his term of office and to be surrendered by him to his successor. He shall provide for himself and for the use of the county and municipal superintendents, seals or certificates of proper form and wording to be attached to duly approved standards of weights and measures.

51:1-59. Annual tests in state departments

The state superintendent or one of his assistants shall, at least once annually, test all weights and measures used in checking the receipt or disbursement of supplies in all departments or institutions maintained wholly or in part by the state.

51:1-60. Records

The state superintendent shall keep a complete record of all the orders and rules of his department, of all the standards, balances and other apparatus in his custody belonging to the state and shall take an itemized receipt from his successor in office for all such standards, balances and other apparatus.

51:1-61. Regulations

The State superintendent may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary for the implementation of the provisions of Title 51 of the Revised Statutes. Statutes, rules and regulations published by the United States Government and standardizing groups listed in the National Bureau of Standards Publication 417, "Directory of United States Standardization Activities," or any subsequent publication may be adopted by title or reference only. Regulations may include, but are not limited to:

- a. Provisions for the administration and enforcement of Title 51 of the Revised Statutes, and the supervision and training of personnel;
- b. Testing, inspecting and reporting procedures and exemptions from the sealing or marking requirements of Title 51 of the Revised Statutes with respect to weights and measures of a character or size for which the sealing or marking thereof would not be appropriate;
- c. Definitions;
- d. Specifications, tolerances and technical requirements for weights and measures;
- e. Methods of sale for commodities and services;
- f. Standards of net contents, net weight, measure, volume, length, area, time, or count and reasonable standards of fill for any commodity in package form, including exemptions, variations and tolerances with regard to those standards;
- g. Exemptions from disclosure pursuant to the public records law, P.L. 1963, c. 73 (C. 47:1A-1 et seq.), of reports or records in the custody of any weights and measures officer involving trade secrets or computer programs, if the owner of the secret or program so requests the exemption. Nothing in this subsection shall prevent a weights and measures officer from introducing that information in a proceeding necessary for the enforcement of Title 51 of the Revised Statutes, but, upon application by the owner, the court may seal the record with regard to that information;
- h. Any other matter which the State superintendent deems necessary for the effective enforcement of laws relating to standards, weights and measures, consistent with the provisions of Title 51 of the Revised Statutes.

Amended by L. 1986, c. 167, s. 7, eff. Dec. 3, 1986.

51:1-62. Disseminate information

The state superintendent shall disseminate such information to the citizens of this state as will tend to protect them from the use of false weights and measures.

51:1-63. Superintendents and assistants; enforcement of laws; power to weigh commodities

All superintendents and all assistant superintendents are hereby charged with the enforcement of the provisions of this chapter. They shall have full power to weigh or have weighed any grain, coal or other commodities while in transit from dealer to purchaser. They shall have authority to bring actions or proceedings in their official capacities within their respective jurisdictions to enforce penalties.

51:1-64. Identification device

Each weights and measures officer shall be issued a badge or a similar identification device displaying his official number when he has satisfactorily completed a course of instruction in weights and measures conducted under the direction of the State superintendent. He shall exhibit that badge or identification upon demand during the performance of his official duties. The State superintendent shall design, number, register and issue such badges or identification devices.

Amended by L. 1986, c. 167, s. 8, eff. Dec. 3, 1986.

51:1-65. County and municipal superintendents; custodians of standards; annual inspections of weights and measures

Each county or municipal superintendent shall procure, at the expense of said county or municipality, a set of legal standards, properly certified by the state superintendent, and the necessary testing and sealing apparatus. He shall take charge of said standards and of all copies thereof and of all testing and sealing apparatus and shall take all precautions necessary for their safe-keeping and for their maintenance in good order. He shall cause an inspection of the weights and measures used in trade within his jurisdiction to be made at least once in each year. The state superintendent and his assistant superintendents shall direct and assist the county and municipal superintendents in making inspections.

51:1-66. Exclusive use of standards

No standards, whether furnished by the United States or duly certified by it, or by the state superintendent shall be used by any superintendent for any other purpose than proving or adjusting standards of weights and measures as provided for in this chapter.

51:1-67. Standards or copies to be furnished to assistants

All assistant superintendents shall be provided with suitable standards, or copies thereof for use in the performance of their duties.

51:1-68. County and municipal superintendents; jurisdiction; special designations by state superintendent

The jurisdiction of county superintendents and their assistant superintendents shall extend throughout the county for which they were appointed except that it shall not extend to municipalities where a municipal superintendent has been appointed. The state superintendent may, however,

designate any county or municipal superintendent or assistant superintendent to make official inspections in any municipality.

51:1-69. State superintendent may send assistants into any county

The state superintendent shall send an assistant state superintendent into any county where a county superintendent has not been appointed. He may, however, send such assistant into any county. The expenses of such assistant superintendent while making said tour of inspection shall be paid out of the fund provided by law for the department of weights and measures.

51:1-70. Superintendents to keep records; monthly reports

Every superintendent shall keep a complete record of all standards examined by him. Every municipal and county superintendent shall, not later than the fifth day of each month, send to the state superintendent, upon blanks furnished by him, a report. Such report shall contain:

- a. The number of tests made since the preceding report;
- b. The number of weights, measures and balances found to be correct;
- c. The number of weights, measures and balances found to be false;
- d. The number of prosecutions instituted by him since the preceding report, together with the name and address of the accused, the name of the court where proceedings were instituted, and the result thereof; and
- e. Such other matters as the state superintendent may from time to time prescribe.

51:1-71. Superintendents; annual reports

Every municipal and county superintendent shall also make an annual report in writing, duly subscribed and sworn to by him of his work to the state superintendent. Said report shall be forwarded to the state superintendent within ten days after the last day of the state fiscal year. It shall contain a transcript of the reports of all inspections.

51:1-72. Annual report

The State superintendent shall within 30 days after the last day of the State fiscal year make a report to the Legislature which shall contain any recommendations or suggestions deemed necessary or desirable and a digest of the reports of the municipal and county superintendents.

Amended 1971,c.341,s.3; 1994,c.60,s.9.

51:1-73. Definitions; public weighmaster; private weighmaster

The words "public weighmaster" as used in this title, shall be deemed to mean and include all firms, corporations, copartners or individuals 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.

Any firm, corporation or individual not engaged in the business of weighing for hire, who requires the services of a certified weigher in his business may on application to the state superintendent have one or more of his employees or other suitable persons designated by the state superintendent to act as such weighmaster.

51:1-74. Term; certificate of appointment; fee; use

All public weighmasters and certified weighers shall be appointed by the State Superintendent of Weights and Measures for the term of three years. The State superintendent shall issue a certificate of such appointment and shall keep a record thereof. Upon appointment or any renewal thereof a fee of \$150 shall be paid to the State superintendent and by him paid to the State Treasurer for deposit into the "Weights and Measures Fund" created pursuant to section 8 of P.L.1994, c.60 (C.51:1-54.4).

The State superintendent may on request of a State officer, commission, board, institution or agency of the State Government and without payment of any fee designate and appoint an officer or employee of any such officer, commission, board, institution or agency as weighmaster and issue to him a weighmaster's certificate.

Amended 1971,c.341,s.4; 1994,c.60,s.10.

51:1-75. Oath of office; no compensation from state; duties

Each public weighmaster and certified weigher shall, before entering upon his duties, make oath to execute faithfully his duties. He shall not receive compensation from the state for the duties performed. The state superintendent of weights and measures shall prescribe the rights and duties of all weighmasters and certified weighers.

51:1-76. Seal

Every weighmaster and certified weigher shall, at his own expense, provide himself with a seal. His name and the words "New Jersey", shall be inscribed on the outer margin and the words "public weigher", in the center thereof. The seal shall be impressed upon each weight certificate issued by him.

51:1-77. Certificate of weight and measure; contents; prima facie evidence

The state superintendent of weights and measures shall prescribe the sole form of certificate of weight and measure to be used by public weighmasters. It shall state the kind of commodity, produce or article, the number of units thereof, the date of receipt, the name of the owner, agent or consignee, the accurate weight of the commodity, produce or article, the vessel, railroad, team, truck or other means by which it was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the commodity, produce or article from others of like kind. Such certificate, when so made and properly signed and sealed, shall be prima facie evidence of such weights.

51:1-77.1. Certification of tare weight by weighmaster

2. Notwithstanding any other provision of law to the contrary, a public weighmaster appointed pursuant to R.S.51:1-74 shall certify the tare weight of a vehicle used for the transportation of construction materials when requested to do so by the operator of that vehicle. The weight of a commodity transported by such a vehicle shall be determined by subtracting the certified tare weight of the vehicle from the gross weight of the vehicle. It shall be sufficient and not a violation of this Title for the tare weight of the vehicle to be certified no more than seven days immediately prior to the date the gross weight of the vehicle is determined. In the event that the tare weight of the vehicle has not been certified during the seven-day period provided for in this section, it shall be sufficient and not a violation of this Title for the tare weight to be certified by a public weighmaster other than during the immediately preceding seven-day period, provided that the certification shall occur not more than one year prior to the date the gross weight is determined and further provided that, if there should be a subsequent examination and weighing, the subsequent tare weight of the vehicle is no greater than 105

per cent or less than 95 per cent of the tare weight certified during the one year period. A certificate issued by a public weighmaster pursuant to this section certifying the tare weight of a vehicle shall contain the wording "stored tare." Such a "stored tare" certificate shall not supersede a certificate setting forth the weight of a vehicle which results from a weighing on certified scales that produces a weight of record. Construction materials not sold or intended for sale to an entity distinct from the seller shall not be considered a commodity for purposes of this Title. It shall be sufficient and not a violation of this Title for vehicles carrying such construction materials to have only the gross weight of the vehicles certified. As used in this section, "construction materials" means naturally occurring aggregates, including but not limited to top soil, crushed stone, gravel, sand, clay and clean fill.

L.2001,c.95,s.2.

51:1-78. Reweighing on complaint

When the correctness of the net or gross weight of any commodity, for which a certificate of weight or measure has been issued by a public weighmaster, is questioned, the owner, agent, or consignee may, upon complaint to the state superintendent of weights and measures, or to one of his assistant superintendents, have said commodity reweighed by them gratis. A public weighmaster designated by the state superintendent may reweigh said commodity.

51:1-79. Records of public weighings

All public weighmasters shall keep and preserve accurate records for a period of six years of all public weighings, which records shall be available at all times for inspection by the State superintendent or any weights and measures officer.

Amended by L. 1986, c. 167, s. 9, eff. Dec. 3, 1986.

51:1-80. Penalties; requesting false weighing; false certificate or other violation by weighmaster

Any person, who shall request a weighmaster to weigh any product, commodity, or article falsely or incorrectly, or who shall request a false or incorrect certificate of weight and measure, or any person who shall issue a certificate of weight and measure who is not a weighmaster as defined in section 51:1-73 of this Title shall, upon conviction thereof, pay a fine of not less than \$500.00 nor more than \$1,000.00.

Any weighmaster who shall issue a false certificate of weight or measurement, or who shall delegate his authority to any person not certified as a weighmaster, or who shall pre seal a certificate of weight or measure with his official seal before performing the work of weighing or measuring or who shall conduct his office as weighmaster in any manner at variance with this chapter shall, upon conviction thereof, pay a fine of not less than \$500.00 nor more than \$1,000.00 and, in addition, shall forfeit his weighmaster's certificate. The certificate shall then be turned over to the State superintendent.

Amended by L.1969, c. 251, s. 15, eff. Jan. 7, 1970.

51:1-80.1. Weighing on scales outside state authorized

The state superintendent of weights and measures may designate any weighmaster duly appointed under the provisions of sections 51:1-73 to 51:1-80 of this title, to weigh commodities on approved scales at points located not more than one mile outside of the state, and certificates of weight issued by such weighmasters shall have the same force and effect as certificates issued under the provisions of said sections 51:1-73 to 51:1-80; provided, that any weighmaster designated under this section shall at all times continue to be a resident of the state of New Jersey.

51:1-81. Weighing of live stock, hay and grain; report to owner; record

Any weighmaster who shall for hire or reward weigh any live stock, hay or grain, shall on demand of the party interested, report the weight of such article in writing to the owner thereof and shall keep a record thereof in a suitable book to be kept for that purpose.

51:1-82. Fraudulent report of weight; penalties; imprisonment; double damages; interstate carriers, inapplicable to

Any person who owns, operates, keeps, or has in his possession, control or charge any scales, steelyards or weights who shall certify, declare, represent, render or report any false weight whereby any other person may be defrauded, deceived or injured, shall, upon conviction thereof, be subject to a penalty in a sum not less than \$50.00 nor more than \$100.00 for a first offense, and not less than \$100.00 nor more than \$250.00 for a second offense and not less than \$250.00 nor more than \$500.00 for each subsequent offense. The court shall cause any defendant, who refuses or neglects to forthwith pay the amount of the judgment rendered against him and all the costs and charges incident thereto, to be committed to the county jail for a period of not less than 10 days and not exceeding 30 days for a first offense and not less than 30 days nor more than 90 days for any subsequent offense. Such person shall also be answerable to the party defrauded in double damages, to be collected in an action at law in any court of competent jurisdiction. The provisions of this section shall not apply to interstate common carriers by railroad subject to the rules and regulations from time to time issued by the Interstate Commerce Commission.

Amended by L.1943, c. 135, p. 385, s. 1; L.1969, c. 251, s. 16, eff. Jan. 7, 1970.

51:1-82.1. State-owned scales; weighmasters

The superintendent of the division of weights and measures in the Department of Law and Public Safety may, subject to the approval of the Attorney-General, appoint weighmasters within the division of weights and measures of the Department of Law and Public Safety, as may be required, for official weighings and certifications thereof in connection with the operation of State-owned scales.

L.1952, c. 112, p. 451, s. 1.

51:1-83. Only sealed weights and measures to be used; violations resulting in injury voids contract

No person shall buy or sell goods or service based on weight or measurement by the use of any weight or measure which has not been tested and sealed according to the provisions of this chapter under penalty of not less than \$50.00 nor more than \$200.00 for each separate offense. No contract shall, however, be declared void unless one of the contracting parties has been injured by the use of such weight or measure.

Amended by L.1969, c. 251, s. 17, eff. Jan. 7, 1970.

51:1-84. Testing and sealing of all weights and measures; fee collection

a. All weights and measures used in trade shall be tested and sealed at least once in each year. Any superintendent shall also upon the request of any citizen, corporation, firm or other interested party cause a test to be made of any weight or measure. If it be found correct or be made correct the superintendent or assistant superintendent shall properly seal it. He shall cause it to conform as nearly as possible to the standard before sealing. If it shall not be found correct, or it shall not be possible to make it correct, it shall not be used, but shall be disposed of as hereinafter provided in this article.

b. The State superintendent shall charge and collect a fee for the testing of a weight or measure. Such fee shall be established pursuant to section 7 of P.L.1994, c.60 (C.51:1-54.3).

Amended 1994,c.60,s.11.

51:1-85. Tests made at request of owner; defective weights or measures; penalty

Whenever any inspection of weights and measures has been made upon the request of the owner thereof, if they shall be found not to conform to the legal standard, the superintendent, or assistant superintendent shall serve such owner with a notice in writing that the use thereof is illegal. Within 15 days thereafter, the owner shall either have such weight or measure corrected or another substituted therefor, and notify the said superintendent in writing to that effect, or deliver the defective weight or measure to such superintendent for confiscation; and for his failure so to do, he shall be liable to a fine of \$100.00.

Amended by L.1969, c. 251, s. 18, eff. Jan. 7, 1970.

51:1-86 Tests; defective weights, etc.; additional penalty.

Upon the first official inspection of any weight or measure, except where the inspection is made upon the request of the owner thereof, if the deviation from the legal standard shall be of such nature as not to be easily ascertained by the owner thereof, the owner may correct it. Upon his failure to do so within 2 days after such inspection, the superintendent shall take possession of and destroy such weight or measure, unless, in the sole discretion of the superintendent, good cause exists to allow additional time to correct the deviation or take possession of and destroy the weight or measure. If the said deviation, or the causes thereof, shall be patent or easily ascertainable by the owner thereof, the superintendent or assistant superintendent shall immediately take possession of and destroy such weight or measure, and the owner thereof shall be liable to a penalty of not less than \$500 nor more than \$1,000 in addition to any other penalties and punishments herein provided.

amended 1969, c.251, s.19; 2013, c.126, s.2.

51:1-87. Refusal to seal weight, etc., easily arranged to defraud; review

Any superintendent or assistant superintendent may decline to seal any weight or measure which is so constructed as to facilitate the perpetration of fraud. He shall report such act to the State superintendent who, if satisfied upon investigation that its use is prejudicial to the best interests of the public, shall order that such weight or measure shall be treated as an unlawful one. Such order may be reviewable by the Superior Court in a proceeding in lieu of prerogative writ.

Amended by L.1953, c. 48, p. 838, s. 2.

51:1-88. Examination mandated

No person shall refuse to exhibit any weights, measures, packages, containers, weight certificates, delivery tickets, invoices or any other documents setting forth the quantity or value of any commodity or service to any weights and measures officer for the purpose of being inspected and examined, nor shall any person refuse to admit such officer to his place of business, during his usual hours of business, nor shall any person who may be buying, selling or delivering goods, liquids, commodities, or services from any vehicle in transit refuse to permit such officer to examine any weights, measures, packages, containers, weight certificates, delivery tickets, invoices or any other documents setting forth quantity or value of any commodity or service which may be in or about the vehicle, under a civil penalty of not less than \$100.00 for every such offense.

Amended by L. 1969, c. 251, s. 20, eff. Jan. 7, 1970; L. 1986, c. 167, s. 10, eff. Dec. 3, 1986.

51:1-89. General penalty

Any person violating any of the provisions of this chapter for which a specific penalty has not been provided shall be liable to a penalty of not less than \$100.00.

Amended by L.1969, c. 251, s. 21, eff. Jan. 7, 1970.

51:1-90. Hindering official; penalty

No person shall in any way or manner hinder or molest any superintendent, deputy superintendent, assistant superintendent, inspector, or other weights and measures officer in the performance of the duties imposed upon him by any of the provisions of this Title under penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense.

Amended by L.1952, c. 44, p. 362, s. 1.

51:1-91. Changing weight or measure prohibited

No person shall alter or change in any manner any weight or measure, or allow the same to be done, after the same has been tested and sealed or tested and condemned by any weights and measures officer under authority of law, so that the same shall weigh or measure incorrectly, under a civil penalty of not less than \$100.00 nor more than \$500.00 for each offense, unless the person has been duly licensed and registered pursuant to the provisions of P.L. 1938, c. 182 (C. 51:1-113 et seq.). This section shall not prohibit any authorized person from making adjustments necessary to achieve zero balance on any weighing or measuring device.

Amended by L. 1969, c. 251, s. 22, eff. Jan. 7, 1970; L. 1986, c. 167, s. 11, eff. Dec. 3, 1986.

51:1-93. Legal standard

Every weight or measure sold, leased or delivered after sale to any person within the State for use in the purchase or sale of commodities or services, shall be of the legal standard as provided in this Title.

Every person selling, leasing or delivering, or buying, renting or receiving any such weight or measure shall furnish to the local superintendent of the county or municipality in which such weights or measures are installed, a statement in writing, showing the sale or lease and location of such weights and measures, within 10 days.

Any person who shall sell or lease a false weight or measure or a weight or measure that has not been approved as to type, construction and operation by the State superintendent, or who otherwise violates this section, shall be liable to a civil penalty of not less than \$100.00 nor more than \$500.00 for each offense.

Amended by L. 1969, c. 251, s. 24, eff. Jan. 7, 1970; L. 1986, c. 167, s. 12, eff. Dec. 3, 1986.

51:1-94. Retention of false weights, etc.; misdemeanor

Any person who shall retain in his possession any weight, measure or container, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it to defraud or permit it to be so used, shall be guilty of a misdemeanor.

51:1-95. Marking of short weights and tares; misdemeanor

Any person who shall knowingly mark false or short weights or false tare on any container, or who shall knowingly sell or offer for sale any container so marked shall be guilty of a misdemeanor.

51:1-96. Penalties for using false weights

a. No person shall use, or cause to be used, or have in his possession: (1) a weight or measure found to be incorrect after having been theretofore duly tested and sealed; or (2) a false weight, measure or other apparatus for the measurement of a physical property, or for determining the quantity or value of any commodity or article of merchandise, or service, or both. Any person who violates this subsection shall for the first offense be liable to a civil penalty of not less than \$50.00 nor more than \$100.00, and for a second offense to a civil penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a civil penalty of not less than \$250.00 nor more than \$500.00.

b. No person shall be convicted of or assessed a civil penalty for a second or subsequent offense pursuant to this section unless the previous conviction:

(1) Occurred no earlier than one year prior to the occurrence of the second or subsequent offense; and

(2) Occurred at the same place of business as the second or subsequent offense. For the purposes of this subsection, "same place of business" means identical store or outlet.

c. Nothing in this section shall be deemed: (1) to authorize or permit the imposition of penalties for a second or subsequent offense in conjunction with an adjudication of guilt based upon multiple counts or complaints arising from the same inspection, or (2) to mandate the imposition of penalties for a second or subsequent offense, if, in the discretion of the court, the imposition of a penalty for a first offense would be just and proper.

Amended by L. 1953, c. 48, p. 839, s. 3; L. 1969, c. 251, s. 25, eff. Jan. 7, 1970; L. 1986, c. 167, s. 13, eff. Dec. 3, 1986.

51:1-97. Illegal weighing activities; penalties

a. No person shall:

(1) Sell or expose for sale less than the quantity represented of a commodity or service;

(2) Take any more of the quantity represented of any commodity or service, when, as a buyer, he furnishes the weight or measure by which the commodity or service is determined;

(3) Deliver or cause to be delivered less than the quantity or service represented of any commodity or service commonly sold by weight, measure, count or time;

(4) Misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, count, or time, or represent the price in any manner calculated or tending to mislead or in any way deceive a person;

(5) Falsify, prerecord, issue or have in his possession a meter register, delivery ticket, invoice, bill or any document which contains a quantity representation recorded prior to the actual measurement at the time of delivery of the commodity; or

(6) Preprint, postprint, alter, or have in his possession a credit card, receipt or original containing a false representation of the quantity or value of petroleum products delivered.

Any person who violates the provisions of this subsection shall be liable for the first offense to a civil penalty of not less than \$50.00 nor more than \$100.00, and for a second offense to a civil penalty of not less than \$100.00 nor more than \$250.00, and for each subsequent offense to a civil penalty of not less than \$250.00 nor more than \$500.00.

b. No person shall be convicted of or assessed a civil penalty for a second or subsequent offense pursuant to this section unless the previous conviction:

(1) Occurred no earlier than one year prior to the occurrence of the second or subsequent offense; and

(2) Occurred at the same place of business as the second or subsequent offense. For the purposes of this subsection, "same place of business" means identical store or outlet.

c. Nothing in this section shall be deemed: (1) to authorize or permit the imposition of penalties for a second or subsequent offense in conjunction with an adjudication of guilt based upon multiple counts or complaints arising from the same inspection, or (2) to mandate the imposition of penalties for a second or subsequent offense, if, in the discretion of the court, the imposition of a penalty for a first offense would be just and proper.

Amended by L. 1986, c. 167, s. 14, eff. Dec. 3, 1986.

51:1-98. Deviations; scale of penalties

Any deviation from the standards prescribed in this chapter, either in weights or measures or in containers in which any commodity is sold or offered for sale, which shall exceed by more than three times the allowable error determined by the state superintendent in accordance with the provisions of sections 51:1-29 and 51:1-57 of this title, shall be subject to a penalty double that otherwise provided. Should such deviation exceed by more than five times such allowable error, the penalty shall be three times that otherwise provided. No penalty shall be imposed for allowable deviations, nor for any deviation which shall be to the disadvantage of the owner of said weight, measure or container.

51:1-99.1. Prior violations not included

No conviction of a violation of Title 51 of the Revised Statutes prior to the effective date of this 1986 amendatory and supplementary act shall be considered for the purpose of assessing a penalty for a second or subsequent offense pursuant to R.S. 51:1-29, R.S. 51:1-91, R.S. 51:1-96, or R.S. 51:1-97.

L. 1986, c. 167, s. 22, eff. Dec. 3, 1986.

51:1-100. Separate violations

The use, ownership or possession of each separate weight, measure, container or commodity in package form in violation of any of the provisions of this chapter shall be deemed as separate violations thereof.

Amended by L. 1986, c. 167, s. 15, eff. Dec. 3, 1986.

51:1-101. Presence of weights, etc., presumptive evidence of use

Proof of the existence of weights or measures in or about any place or vehicle, in or from which it is shown trade is commonly carried on shall be presumptive evidence of their regular use for such purpose and of their ownership by the person so using or possessing them and such facts shall be deemed to remain established until disproved beyond reasonable doubt.

51:1-102. Certificate

Each weight or measure used by any weights and measures officer as a standard for testing the weights and measures used in trade, commerce or in:

- a. Any weights and measures office;
- b. The enforcement of law; or

c. Any engineering or surveying shall be marked by the State superintendent in such manner as he may determine. A certificate of the correctness thereof, designating it by number and giving the date of its comparison with any of the standard weights and measures shall be presumptive evidence that such weight or measure has continuously since the date of such comparison conformed with the said standards and the national and State standards. Such certificate shall be signed and sealed by the State superintendent in a manner determined by him.

Any certificate substantially setting forth the above facts and purporting to be signed and sealed by the State superintendent shall, upon its production, be admitted as such presumptive evidence without further proof of its authenticity.

Amended by L. 1986, c. 167, s. 16, eff. Dec. 3, 1986.

51:1-103. Jurisdiction for action

An action for the recovery of a penalty for violation of Title 51 of the Revised Statutes shall be within the jurisdiction of and may be brought before the Superior Court or municipal court in the county or municipality where the offense was committed or where the defendant may reside, or where the defendant may be found, or where the measurement of quantity determination was physically made, which court is hereinafter referred to in Title 51 of the Revised Statutes as the "court."

Amended by L. 1939, c. 390, p. 931, s. 1; L. 1953, c. 48, p. 839, s. 4; L. 1986, c. 167, s. 17, eff. Dec. 3, 1986.

51:1-103.1. Injunctions

Whenever it appears that a person engages in practices in violation of Title 51 of the Revised Statutes or regulations adopted pursuant thereto and other statutes relating to weights and measures, the State superintendent may seek to obtain in an action in the Superior Court an injunction prohibiting that person from continuing those practices.

The court may make orders or judgments to prevent that person from engaging in any prohibited practices.

L. 1986, c. 167, s. 20, eff. Dec. 3, 1986.

51:1-105. Penalty enforcement

A penalty incurred for the violation of any of the provisions of this Title may be enforced pursuant to "the penalty enforcement law," (N.J.S. 2A:58-1 et seq.), in a summary proceeding brought in the name of the State by any weights and measures officer.

All proceedings and all judgments arising therefrom shall be pursued and entered in accordance with "the penalty enforcement law," N.J.S. 2A:58-1 et seq., and the Rules Governing the Courts of the State of New Jersey. Judgments recovered in favor of the State in any court may be docketed in the Superior Court and, thereafter, shall operate as a judgment obtained in that court.

Amended by L. 1939, c. 390, p. 931, s. 3; L. 1953, c. 48, p. 839, s. 6; L. 1986, c. 167, s. 18, eff. Dec. 3, 1986.

51:1-106. Arrest; confiscation

A weights and measures officer, on the violation of any of the provisions of this Title within his view or presence, may without warrant arrest the offender and conduct him before the court having jurisdiction.

A weights and measures officer may order off-sale, issue stop-use or removal orders, or may seize and take possession of any commodity in package form, weight or measure, document or other item, when he has reason to believe that any provision of Title 51 of the Revised Statutes or any regulation adopted thereunder has been violated.

Any weights and measures officer, his employer, or the State shall not be liable for damages by reason of that seizure.

Amended by L. 1939, c. 390, p. 934, s. 4; L. 1953, c. 48, p. 840, s. 7; L. 1986, c. 167, s. 19, eff. Dec. 3, 1986.

51:1-107. Appeal; no bond or deposit required when State appeals

Any party may appeal from a judgment rendered or sentence imposed pursuant to section 51:1-105 of this Title. Where the State is the appellant neither an appeal bond, nor a deposit of cash in lieu thereof, shall be required.

Amended by L.1939, c. 390, p. 934, s. 5; L.1953, c. 48, p. 840, s. 8.

51:1-109. Disposition of penalties

Penalties, when imposed or recovered in any action brought by the state superintendent or his assistant superintendents shall be payable to the state treasurer. When such action is brought by the county superintendent or an assistant county superintendent they shall be payable to the treasurer of such county. When such action is brought by a municipal superintendent or an assistant municipal superintendent they shall be paid into the treasury of such municipality.

51:1-110. Costs to prevailing party in Superior or municipal court; provision in budgets

In all actions brought under the provisions of this chapter in the Superior Court or municipal court, the prevailing party therein shall be entitled to recover his taxed costs which costs shall be taxed as in other actions in the court in which the action is instituted. The governing bodies of the several counties and of the several municipalities shall provide in their budgets or from other sources a sum sufficient for such costs.

Amended 1953,c.48,s.10; 1991,c.91,s.477.

51:1-111. City attorney or county prosecutor to aid in prosecution

The city attorney of any municipality wherein a violation of any provision of this chapter shall take place shall assist in the prosecution of any of the aforesaid proceedings, unless such municipality has no municipal superintendent, in which case the public prosecutor of the county wherein such violation shall take place shall assist in such prosecution.

51:1-113. Definitions

Definitions: For the purpose of this act, the following words shall be deemed to have the meaning herein given them:

- (a) "Department" shall mean the Division of Weights and Measures in the Department of Law and Public Safety.
- (b) "Person" or "persons" shall be construed to include any individual, partnership, association, corporation or other form of business enterprise.
- (c) "Weights and measures officer" shall be construed to mean and include the Superintendent of the Division of Weights and Measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.
- (d) "Weighing or measuring devices" as used in this act shall be deemed to mean and to include any scale, weight, scale beam, patent balance, computing scale, spring scale, person weighing scale operated for profit, steelyard, liquid measure, gasoline dispensing device, grease dispensing device, counter measure, or any other instrument or apparatus, and accessories connected therewith used in trade and commerce in the State of New Jersey in weighing or measuring any commodity, fluid, or article of merchandise, or person; provided, the term shall not include any meter, measure or scale used by a public utility subject to the jurisdiction of the Board of Public Utility Commissioners of this State for measuring any commodity or service furnished or sold by such public utility.
- (e) "Repair," "repairing," and "repaired," shall be construed to mean any partial or complete construction or reconstruction, repair, alteration, installation or adjustment of any weighing or measuring devices used in trade and commerce in the State of New Jersey.
- (f) "Repairman" shall mean any person engaging in the partial or complete constructing or reconstructing, repairing, altering, installing or adjusting of any weighing or measuring devices used in trade and commerce in the State of New Jersey.
- (g) "Adjustment" and "adjusting." The moving of any part of a weighing or measuring device to obtain a correct zero indication only shall not be construed to come within the meaning of these terms.
- (h) "Engaging in business" or "engaged in business" shall be deemed and understood to mean and include any single transaction, act, or sale.

L.1938, c. 182, p. 392, s. 1. Amended by L.1953, c. 48, p. 841, s. 12.

51:1-114. License and registration to engage in business

It shall be unlawful for any person to engage in the business of selling, trading-in, receiving, installing or repairing condemned, rebuilt or used weighing or measuring devices in this State without first obtaining from the State Superintendent of Weights and Measures a license and registration to so engage in any said business.

L.1938, c. 182, p. 393, s. 2.

51:1-115. Application for license and registration; verification under oath

Application for the said license and registration shall be made to the department upon the form prescribed and furnished by the State Superintendent of Weights and Measures, and shall be verified by the applicant under oath, or if the applicant shall be a partnership, association, or corporation, under the verification and oath of a duly elected officer or official representative thereof.

L.1938, c. 182, p. 394, s. 3.

51:1-116. Examination and inquiry; issuance of license and registration

Upon the application being filed, the State Superintendent of Weights and Measures shall examine into the same and cause an inquiry to be made concerning the person making such application, and if it should appear satisfactory to him therefrom, he shall issue to the applicant a license and registration; it being provided, however, that any person engaging in the practical operations of repairing any device subject to the provisions of this act, shall, upon the approval of his application by the State Superintendent of Weights and Measures, be notified to report at a place and time to be designated by the said State Superintendent of Weights and Measures, and to there undergo an examination into his technical qualifications to engage in such business.

L.1938, c. 182, p. 394, s. 4.

51:1-117. Conduct of examinations

Examinations shall be conducted by the State Superintendent of Weights and Measures, his duly authorized assistants, or by any competent weights and measures officer or officers of this State, whom the said State Superintendent of Weights and Measures may designate or assign to conduct such examinations.

L.1938, c. 182, p. 394, s. 5.

51:1-118. Rules and regulations

The State Superintendent of Weights and Measures shall issue rules and regulations governing the examination of applicants for licenses to repair weighing and measuring devices. The regulations shall specify the qualifications for limited and unlimited licenses, and shall declare the conditions under which licenses will be revoked.

L.1938, c. 182, p. 394, s. 6.

51:1-119. License to repair limited classes or kinds of devices

The State Superintendent of Weights and Measures may, at his discretion, issue to any applicant, under the terms of the regulations authorized by this act, a license to repair limited classes or kinds of weighing and measuring devices.

L.1938, c. 182, p. 395, s. 7.

51:1-120. Issuance of licenses to repair devices

Any person who qualifies in the form and manner prescribed by the regulations authorized under the terms of this act to repair weighing or measuring devices shall receive a license to repair the classes or kinds of weighing devices for which he qualifies. Applicants who do not qualify shall not receive a license, it being provided, however, that the denial of a license at any time shall not prejudice the issue of a license at any later examination.

L.1938, c. 182, p. 395, s. 8.

51:1-121. Licenses and registrations; term; renewal; contents

Licenses and registrations shall be issued for a term of one year from the date of issue and shall be renewable at the expiration thereof. Each license issued shall state the name, business address of the person to whom it is issued, whether it is a limited or unlimited license, and if limited, the classes or

kinds of weighing or measuring devices the licensee is authorized to repair, and shall continue in effect for the prescribed period unless revoked or suspended for reasons hereinafter specified in this act.

L.1938, c. 182, p. 395, s. 9.

51:1-122. Revocation or suspension of license; grounds; hearing; notice

The State Superintendent of Weights and Measures may revoke or suspend the license of any person convicted of any violation of this act or for any of the following reasons: willful fraud or misrepresentation practiced in procuring any such license or renewal of the same; dishonesty; gross incompetency; and conduct of a character likely to deceive or defraud the public; the loaning of his license or registration by the licensee to any person; the obtaining of a fee or compensation by fraud or misrepresentation; the willful advertising or publishing by the licensee of grossly false, fraudulent or misleading statements of his business, skill, knowledge or methods of operation; and for any conduct or practice at variance with the purpose of this act. No certificate of license shall be revoked or suspended until after a hearing before the State Superintendent of Weights and Measures of which hearing the holder of said certificate of license shall have at least ten days' notice, either personally or by registered mail, sent to the holder at his or her address as contained in the records of the department.

L.1938, c. 182, p. 395, s. 10.

51:1-123. Report of repair work done by licensee

Any person licensed to repair weighing or measuring devices shall report to the department or to the weights and measures officer of his county or municipality, work for which compensation was received or is receivable. The report shall contain the name and address of the person for whom the work was done, identification of the weighing or measuring device, nature of the work performed and the date the work was completed.

L.1938, c. 182, p. 396, s. 11.

51:1-124. Notice and statement to state department or county or municipal superintendent of weights and measures

Every person engaged as in this act provided shall within ten (10) days, after the making of a repair, or the sale and delivery of a repaired, rebuilt, exchanged, or used weighing or measuring device, in writing, notify the department or the county or municipal superintendent of weights and measures in whose jurisdiction the said device is located, giving the name and address of the person for whom such repair has been made or to whom a repaired, rebuilt, exchanged, or used weighing or measuring device has been sold or delivered, and a statement shall be made by the licensee that the same has been so altered, rebuilt, or repaired as to conform to the standard specifications and regulations of the department.

L.1938, c. 182, p. 396, s. 12.

51:1-125. Condemned weighing or measuring devices

Any person who accepts any weighing or measuring device which has been condemned by any weights and measures officer, in trade for a new or used weighing or measuring device, and which is intended to be repaired, rebuilt, dismantled or destroyed, shall upon receipt thereof remove the condemned tags and such condemned tags shall be returned to the department or to a weights and measures officer within ten (10) days thereafter, with a statement describing the weighing or

measuring device, giving the number of the device if obtainable, and the name and address of the person from whom it was received together with a statement of what disposition has been made of the weighing or measuring device.

L.1938, c. 182, p. 396, s. 13.

51:1-126. Comparison and calibration of testing equipment

Every person engaged in any business covered by the provisions of this act shall submit their testing equipment at least once a year to a weights and measures officer for comparison and calibration with the standards maintained by such officer. After comparison and calibration with such standards, the weights and measures officer shall issue to such person a statement or a certificate of his findings.

L.1938, c. 182, p. 397, s. 14.

51:1-127. Record or register

Every person licensed and registered pursuant to the provisions of this act shall maintain a record or register in which the following information shall be kept:

- (a) The name and address of every person for whom weighing or measuring devices are repaired.
- (b) The name and address of every person to whom a repaired, rebuilt, exchanged, or used weighing or measuring apparatus or device has been sold or delivered.
- (c) Such records shall at all times be open for inspection by any weights and measures officer.

L.1938, c. 182, p. 397, s. 15.

51:1-128. Fees; use

Every person who maintains or carries on the business of selling, trading in, receiving, or engaging in the repairing of condemned, rebuilt, or used weighing and measuring devices shall pay a license fee of \$150 per annum. Every person engaging only in the repairing of weighing and measuring devices shall pay a fee of \$20 per annum. These fees shall be paid to the State Superintendent of Weights and Measures, and by this officer shall be turned over to the State Treasurer for deposit into the "Weights and Measures Fund" created pursuant to section 8 of P.L.1994, c.60 (C.51:1-54.4).

L.1938,c.182,s.16; amended 1971,c.341,s.5; 1994,c.60,s.12.

51:1-129. Administration of Act; rules and regulations

The State Superintendent of Weights and Measures shall have general supervision of the administration of this act and shall make such rules and regulations as he may deem necessary for its enforcement.

L.1938, c. 182, p. 398, s. 17.

51:1-130. Enforcement of Act

The State Superintendent of Weights and Measures, his duly authorized assistants and inspectors, county and assistant county superintendents of weights and measures and inspectors, and municipal and assistant municipal superintendents of weights and measures and inspectors, are hereby charged with the enforcement of this act.

L.1938, c. 182, p. 398, s. 18.

51:1-131. Penalties for violations of Act

Any person violating any of the provisions of this act, shall, upon being found guilty of a first offense, pay a fine of not less than \$50.00, nor more than \$100.00, and shall, upon being found guilty of a second offense pay a fine of not less than \$100.00 nor more than \$250.00, and shall, upon being found guilty of any subsequent offense pay a fine of not less than \$250.00 nor more than \$500.00; provided, however, that any person unable to pay a fine imposed under the provisions of this act shall be committed to jail for a period of not less than 10 days nor more than 90 days.

Amended by L.1938, c. 182, p. 398, s. 19; L.1969, c. 251, s. 26, eff. Jan. 7, 1970.

51:1-132. Recovery of penalties, procedure

A proceeding to recover any penalty incurred under the provisions of this act, or acts supplementary or amendatory thereof, may be brought in the name of the State of New Jersey by any duly appointed weights and measures officers in the Superior Court or municipal court of any municipality of this State, wherein the violation occurs, which courts shall have jurisdiction over the proceeding. The proceeding shall be summary and in accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and it may be directed to any weights and measures officer, or to any constable or police officer, commanding him to cause the person or persons so complained of to be summoned or arrested and brought before the court.

No defendant under any body execution shall be detained for a period exceeding ten days, except as may be otherwise provided by this act.

It shall be the duty of the city attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section 51:1-43 of the Revised Statutes, in which case the county prosecutor of the county wherein such violation shall take place shall assist in such prosecution. All fines and penalties collected from persons offending against the provisions of this act shall be paid by the court clerk receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents. For violation of any of the provisions of this act, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before the Superior Court or a municipal court in the county wherein such offense is committed.

L.1938,c.182,s.20; amended 1953,c.48,s.13; 1991,c.91,s.478.

51:1-133. Exceptions to application of Act

The provisions of this act shall not be applicable to any person or to a bona fide employee solely and exclusively employed by such person, who repairs or installs any weighing or measuring device owned, operated or used by the said person in connection with his business in the sale of commodities in trade and commerce in the State of New Jersey.

L.1938, c. 182, p. 401, s. 21.

51:3-1. Pillars showing true meridian; verification of meridian line

The board of chosen freeholders of each county shall erect, and properly inclose and protect at public spots, adjacent to the courthouse of the county, two substantial pillars on the same meridian line and not less than one hundred feet apart. The board shall cause to be determined the accurate latitude and longitude of the first of said pillars, reckoning the longitude from the meridian at Washington, and shall have said latitude and longitude distinctly and legibly marked on said pillar in degrees, minutes, seconds and parts of a second. Upon the summit of the first pillar there shall be immovably placed a brass plate, indented with a line indicating the true meridian. There shall also be placed on said first pillar a hair sight, in such a manner that a straight line passing through the center thereof, extended to a distinctly visible needle point, which shall be maintained on the summit of the second pillar, will be in the line of the true meridian running north and south. The board shall cause the said meridian line to be verified at any time, when required by order of any judge of the Superior Court.

Amended 1953,c.48,s.14; 1991,c.91,s.479.

51:3-2. Custody of pillars and inclosure; free access thereto

The said pillars and inclosure shall be subject to the custody of the county clerk. Any surveyor of lands, or civil engineer, residing in said county, or engaged in surveying therein, shall have free access thereto for the purpose of testing the variation of the compass.

51:3-3. Injuring pillars; misdemeanor

Any person who shall willfully erase, alter, deface, displace, destroy, carry away or otherwise injure any such pillar or inclosure, or any part thereof, shall be guilty of a misdemeanor. Upon conviction thereof, he shall for each offense be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the state prison for not less than one nor more than three years, or both, at the discretion of the court.

51:3-4. Variation of compass; testing; certificate; filing; fees

Every surveyor engaged in surveying land within this state, shall test and note the actual variation of his compass from the true meridian line at least once in each year. He shall deposit a copy of his notes with the date and time of such test and a certificate embodying the variation with an affidavit verifying its correctness with the clerk of the county, in which he resides or has his office, to be recorded in a book provided for that purpose.

For recording each certificate and affidavit, for copies or abstracts thereof, and for drawing the certificate and seal therefor, said clerk shall be allowed the legal fees allowed for similar services. The said fees shall be paid by the person who desires the service performed.

51:3-5. Penalty for violation; recovery

Every surveyor, who shall neglect or refuse to comply with the provisions of section 51:3-4 of this title, shall for each offense, be liable to a penalty of fifty dollars to be recovered with costs, by the board of chosen freeholders or by any person for its use and benefit in an action at law.

51:3-6. Salem and Cumberland counties

L.1869, c. 228, p. 566, entitled "Supplement to the act to establish a meridian line standard in the several counties of this state," approved March twenty-fourth, one thousand eight hundred and sixty-nine, saved from repeal. [This act requires surveyors in Salem and Cumberland counties twice each year

to test compasses and note variations and to file verified certificates in a prescribed form, and thereafter to make and return surveys according to the true bearings instead of the magnetic bearings, and fixes the fees of the county clerk as follows: 25 cents for recording each certificate and affidavit appended, and 15 cents for taking the affidavit.]

51:3-7. Official survey base established; plane co-ordinates

The official survey base for New Jersey shall be a system of plane co-ordinates to be known as the New Jersey system of plane co-ordinates, said system being defined as a transverse Mercator projection of the Geodetic Reference System of 1980, having a central meridian 74` 30' west from Greenwich on which meridian the scale is set at one part in 10,000 too small. All co-ordinates of the system are expressed in meters, the x co-ordinate being measured easterly along the grid and the y co-ordinate being measured northerly along the grid, the origin of the co-ordinates being on the meridian 74` 30' west from Greenwich at the intersection of the parallel 38` 50' north latitude, such origin being given the co-ordinates x=150,000 meters; y=0 meters. The precise position of said system shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the National Geodetic Survey, formerly the United States Coast and Geodetic Survey for first and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983 or the most recently published adjustment by the National Geodetic Survey, and whose plane co-ordinates have been computed on the system defined. The New Jersey co-ordinate system defined by the North American Datum of 1927 may be used concurrently with or in lieu of the system defined by the North American Datum of 1983 for a period of 36 months after the effective date of this amendatory act, P.L.1989, c.218.

Standard conversions from meters to feet shall be the adopted standards of the National Oceanic and Atmospheric Administration.

Amended 1989,c.218,s.1.

51:3-8. Connecting property surveys with system of co-ordinates

Any triangulation or traverse station established as described in section 51:3-7 of this title shall be used in establishing a connection between a property survey and the above-mentioned system of rectangular co-ordinates.

Amended 1989, c.218, s.2.

51:3-9. Indorsement of surveys

No survey of lands hereinafter made shall have indorsed thereon any legend or other statement indicating that it is based upon the New Jersey system of plane co-ordinates unless the co-ordinates have been established on that system as herein defined.

51:3-10. Reliance wholly on system not required

Nothing in this article contained shall be interpreted as requiring any purchaser or mortgagee to rely on a description based wholly upon the aforesaid system.

51:4-1. Deception in sale of liquid fuels and oils prohibited; certain marks allowed

No person, firm, partnership, association or corporation, their agents and servants, shall store, expose or offer for sale, or sell, or aid or assist in the sale of, any liquid fuel, lubricating oil, or other similar products, so as to deceive, or tend to deceive any purchaser as to the nature, quality or identity

thereof by false representation, or by substitution, mixing or adulteration, or by the use of false or fictitious names, or by the use of disguised, camouflaged or falsely labeled containers, tanks, pumps or other distributing equipment, or by imitating the design, symbol or trade name under which recognized brands of such products are generally marketed.

Any person may, however, in good faith adopt and use a trade name, or distinguishing mark, not deceitfully similar to one already in general use by any manufacturer of such products.

51:4-2. Violations; punishment

Any person, firm, partnership, association or corporation, or any servant, agent or employee thereof, who shall violate section 51:4-1 of this Title shall be guilty of a misdemeanor and for a first offense shall be punishable by a fine of not less than \$250.00 nor more than \$1,000.00 and for each subsequent offense shall be punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00, or imprisonment of not less than 60 days nor more than 1 year or both, or either, at the discretion of the court.

Amended by L.1969, c. 251, s. 27, eff. Jan. 7, 1970.

51:4-3. Inflammable fluids to be sold by true names; marking of containers

Benzole, gasoline, naphtha and benzine shall be sold, or offered or exposed for sale, under their true names respectively, plainly shown upon the container thereof, or upon a label securely fastened thereto.

51:4-4. Flash or fire test for certain fluids; misdemeanor

It shall not be lawful for any person to keep or offer for sale or use in any place or building within this state, petroleum oil, or any product thereof, or to knowingly keep or offer for sale any mixture of naphtha or inflammable fluids for illuminating purposes, for use in lamps or other portable receptacles, that will flash at a less temperature or fire test than one hundred, or inflame at less temperature or fire test than one hundred and ten degrees Fahrenheit. Any person offending against this section shall be guilty of a misdemeanor.

51:4-5. Sale of kerosene, etc., for illumination; marking containers

Petroleum or kerosene, which will flash at a temperature less than one hundred degrees Fahrenheit, flash test, shall have plainly marked upon the container, in which it is sold or offered or exposed for sale, or on a label securely fastened thereto, the number of degrees Fahrenheit, flash test, below which it will not flash, and the words "not for inside light". Only such product of petroleum, as will not flash at a less temperature or flash test than one hundred degrees Fahrenheit, may be sold for illuminating purposes, except for use in street lamps or open-air receptacles or in gas machines.

51:4-6. State department of health to determine character of illuminating oils

The state department of health shall determine and declare the means of ascertaining whether petroleum or kerosene to be sold for illuminating purposes is of the character required by this article. It shall notify each local board of health of its determination, publish notices thereof in at least one leading newspaper in each county, and distribute circulars relating thereto for common information.

51:4-7. Test of illuminating oils; notice prohibiting sale

The state department of health, or any analyst or inspector authorized by such department, or any member of a county or municipal board of health may, at any time during business hours, visit any place, where any product of petroleum is on sale, and secure such quantity thereof, as shall be sufficient for testing, at the rate of the usual retail price of said product. If it is found to be of such a character as is by section 51:4-5 of this title prohibited from sale for illuminating purposes generally, the person having it for sale may be prohibited by written notice, signed by such member of a board of health, analyst or inspector, and served upon any person in charge of said product, from the sale of the same for use for such purposes. If, thereafter, any of such product shall be so sold or offered or exposed for sale for illumination, except as permitted by said section 51:4-5, the person thus selling, offering, or exposing it for sale, shall be liable to the penalties hereinafter provided.

51:4-8. Sales within state; presumption

The provisions of sections 51:4-3 to 51:4-7 of this title shall apply only to petroleum or its products sold for use within this state. They shall not apply to petroleum or its products sold in tanks used for transportation. Any sale in a quantity less than one barrel shall be presumed to be for use within this state.

51:4-9. Violations; punishment

Any person who shall violate any provision of sections 51:4-3 to 51:4-8 of this Title shall be guilty of a misdemeanor and except as otherwise provided shall be punishable by a fine of not less than \$250.00 nor more than \$1,000.00 or imprisonment at hard labor or otherwise for a term not exceeding 1 year, or both.

Amended by L.1969, c. 251, s. 28, eff. Jan. 7, 1970.

51:4-9.1. Sale or offer to sell of kerosene of grade 2K or with 0.04% or greater sulfur content; warning; posting; violations; penalties; inspections

a. Every pump used or connected with the sale or offer for sale at retail of the grade of kerosene commonly known as 2-K, or any other grade having greater than 0.04% sulfur content by weight, and every place where such kerosene is paid for, shall be posted or imprinted with a warning, in a conspicuous place, as follows: "THIS KEROSENE IS DESIGNATED ASTM GRADE 2-K BY THE MANUFACTURER AND MAY NOT BE SUITABLE FOR USE IN ALL UNVENTED PORTABLE KEROSENE SPACE HEATERS. CONSULT THE HEATER MANUFACTURER'S RECOMMENDATIONS FOR PROPER FUEL."

b. Any person who violates the provisions of this section shall be liable to the penalties prescribed in R.S. 51:1-89.

c. The State Superintendent of Weights and Measures in the Division of Consumer Affairs, Department of Law and Public Safety, shall establish a program of inspection of retail dealers of kerosene in the State to determine compliance with the provisions of this section.

L.1983, c. 289, s. 1, eff. Aug. 4, 1983.

51:4-9.2. Rules and regulations

The State Superintendent of Weights and Measures in the Division of Consumer Affairs, Department of Law and Public Safety, shall adopt, pursuant to the provisions of the "Administrative Procedure Act,"

P.L.1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act.

L.1983, c. 289, s. 2, eff. Aug. 4, 1983.

51:4-10. Adulterated turpentine or spirits of turpentine to be so labeled

No person shall manufacture, mix for sale, offer or expose for sale, have in possession with intent to sell, or sell under the name of turpentine or spirits of turpentine any article not wholly distilled from turpentine gum or the scrape of pine trees, unmixed and unadulterated with any oil, benzine or other substance, unless the package containing the same is plainly marked, in solid letters not less than two inches high "adulterated spirits of turpentine" together with the true names and amounts of adulterants therein contained.

51:4-11. Linseed oil must be commercially pure linseed or flaxseed products

No person shall sell under the name of raw linseed oil any article which is not wholly the product of commercially pure linseed or flaxseed.

51:4-12. Boiled linseed oil

No person shall sell under the name of boiled linseed oil or boiled oil, any article unless the oil from which said article was made be wholly the product of commercially pure linseed or flaxseed, and unless the same has been heated to at least two hundred and twenty-five degrees Fahrenheit.

51:4-13. Adulterated linseed oil to be labeled

Compounds, mixtures and preparations of raw or boiled linseed oil to which some other substance has been added may be manufactured, mixed and sold only in packages or containers plainly marked in solid letters not less than two inches high "adulterated linseed oil", or "adulterated boiled oil" as the case may be, together with the true name and amount of adulterants contained in the mixture.

51:4-14. Purchaser of adulterated turpentine or linseed oil to be informed

No person shall sell or deliver adulterated spirits of turpentine, adulterated raw linseed oil or adulterated boiled linseed oil without informing the purchaser at the time of sale that the article is not pure but is adulterated.

51:4-15. Penalties

Any person who shall violate any provision of this article shall be liable to a penalty of \$100.00 for the first offense, to a penalty of \$200.00 for the second offense, and to a penalty of \$500.00 for each subsequent offense.

Amended by L.1969, c. 251, s. 29, eff. Jan. 7, 1970.

51:4-16. Enforcement; inspection; recovery of penalties

The state department of health shall enforce the provisions of this article. All its inspectors shall have free access to all places, where spirits of turpentine or raw or boiled linseed oil are manufactured, mixed, stored, exposed for sale or sold. They shall have power to open any container, suspected to contain any such products, and take samples therefrom for analysis. The penalties prescribed by section

51:4-15 of this title shall be recovered in actions at law brought by the department in the name of the state.

51:4-23. Definitions.

As used in this act:

"Building materials" means lumber, wood and wood product materials regulated by the Superintendent of the Office of Weights and Measures pursuant to section 5 of P.L.1968, c.222 (C.51:4-27) and used in connection with the construction, fabrication and erection of residential, utility or business premises.

"Consumer" means any person who purchases building materials for incorporation into any type of structure.

"Dealer" means "equipped dealer" or "unequipped dealer."

"Deputy superintendent" means the deputy superintendent of the Office of Weights and Measures in the Division of Consumer Affairs in the Department of Law and Public Safety.

"Delivery," "deliver" or "delivered," except as otherwise in this act specifically provided, means transportation of building materials for sale or use in this State to a consumer by a dealer in vehicles owned, leased or rented by him.

"Delivery ticket" means any printed or electronic system that provides for: (1) (a) tickets serially numbered and used only in consecutive order; or (b) tickets with a unique identification of each transaction associated with that ticket only if the system of unique identification is established in such a manner that the Office of Weights and Measures may readily determine compliance with section 6 of P.L.1968, c.222 (C.51:4-28); (2) a means of providing the consumer with a copy of the delivery ticket; (3) a means by which the delivery ticket shall be readily available for inspection while materials are in transit and after delivery; and (4) a means of maintaining a copy of the ticket for a period of two years from the date of issuance of the ticket. A record of delivery tickets shall be available for inspection and audit by the Office of Weights and Measures.

"Engaging in business," "engage in business" or "engaged in business" shall include any single transaction, act or sale.

"Equipped dealer" means any person who is regularly engaged in the business of selling or selling and delivering building materials to consumers in this State and who maintains unloading or loading, storage, transportation, communication, sales, services or other facilities therefor, with an office accessible to the public with a competent person on duty, commensurate with the nature and other requirements of the business and an "unequipped dealer" means any person who is regularly engaged in the business of selling building materials at retail in this State to consumers in this State who does not maintain loading, unloading or storage facilities.

"Labeling" means all labels and other written, printed, branded, or graphic matter upon any building materials or accompanying such building materials.

"Lumber" means the wood obtained from the felling, trimming and working up of all kinds and types of trees for use as a structural material.

"Office" means the Office of Weights and Measures in the Division of Consumer Affairs in the Department of Law and Public Safety.

"Wood products" mean any product derived from trees as a result of any work or manufacturing process upon the same primarily intended for use as a building material.

"Mislabeled" or "misbranded" shall be deemed to mean the labeling is misleading, deceiving, or tends to be misleading or deceiving in any particular, and there shall also be taken into account, among other things, not only the representations made or suggested by any statement, word, design, or any combination thereof, but also the extent to which such labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of such building materials, to which such labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

"Misrepresentation" means any manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts.

"Offered for sale" or "exposed for sale" shall be construed to include the use of any advertising media or means.

"Person" includes corporation, companies, association, societies, firms, partnerships and joint stock companies as well as individuals.

"Superintendent" means the Superintendent of the Office of Weights and Measures.

"Vehicle" means any motor vehicle or motor-drawn vehicle under the control of a dealer in or upon which the products involved are loaded.

"Weights and measures officials" means a State or local weights and measures official.

L.1968, c.222, s.1; amended 2013, c.234, s.1.

51:4-24. Compliance with act required for lawful sale

It shall be unlawful for any dealer to sell, sell and deliver, offer or advertise for sale to consumers by the use of any media, building materials, in this State except in accordance with the provisions of this act.

L.1968, c. 222, s. 2, approved July 30, 1968.

51:4-25. License.

It shall be unlawful for any dealer to engage in the business of selling or selling and delivering building materials, to a consumer for use in this State unless he shall have obtained from the Office of Weights and Measures a license to engage in said business.

L.1968, c.222, s.3; amended 2013, c.234, s.2.

51:4-26. License; application, fee, expiration.

Applications for a license shall be made upon forms prescribed and furnished by the superintendent and shall list the places of business of the dealer. The fee for a dealer's license shall be \$100. Such license shall expire one year after date of issuance. Renewal notices shall be issued to licensees at least 30 days prior to the expiration of the license.

L.1968, c.222, s.4; amended 1994, c.60, s.13; 2013, c.234, s.3.

51:4-27. Grading, measuring and labeling

All lumber, wood products and building materials shall be graded, measured and labeled in accordance with the applicable commercial standards of the United States Department of Commerce, the grading rules of approved grade rules writing agencies, or other industry standards as are accepted

by the superintendent. The superintendent may not change, amend, modify or refuse to accept such standards without justifiable reason and where such standards or rules do not exist and where necessary to implement the provisions of this act, the superintendent shall establish the grade, measure and trade name only after consultation with the manufacturers and dealers involved.

L.1968, c. 222, s. 5, approved July 30, 1968.

51:4-28. Delivery ticket, form and content; filing of voided tickets.

No dealer shall deliver or cause to be delivered by vehicles under his own control or the control of any contractor or other carrier any building materials without each delivery being accompanied by a delivery ticket. Each delivery ticket shall be serially numbered and used only in consecutive order or uniquely identified. On such tickets there shall be distinctly and indelibly expressed in ink or otherwise, the quantity, species, quality, or grade, name and type of each such building materials, trademark, name and address of the seller, the name and address of the purchaser and the date of delivery. One ticket shall be retained at the point of sale or place from which delivery commences; and the duplicate shall be delivered to the person receiving such building materials or his representative.

All voided delivery tickets, issued under the provisions of this act shall be kept on file at the place of business of the seller where the sale originated for a period of 2 years from date of issuance and shall be subject to inspection by any weights and measures official.

Any person issuing or directing the issuance of, or possessing a delivery ticket showing a different species, quantity, quality, or grade, name or type other than the species, quantity, quality or grade, name or type of building material being delivered or persons appearing at the place of delivery each with a delivery ticket for the same delivery, which tickets have different species, quantity, quality or grade, name or type appearing thereon, shall be deemed guilty of a violation of this act.

L.1968, c.222, s.6; amended 2013, c.234, s.4.

51:4-29. Misrepresentation, mislabeling or misbranding; misdemeanor

Any person who misrepresents, mislabels or misbrands any lumber, wood product or building material or who causes a deviation from the applicable standards, rules or regulations, where such deviation misrepresents any lumber, wood product or building material so as to mislead or deceive a purchaser of the same shall be guilty of a misdemeanor.

L.1968, c. 222, s. 7, approved July 30, 1968.

51:4-30. Sale or purchase in compliance with superintendent's standards, rules or regulations

No person shall sell, expose for sale, offer for sale in this State, buy for the purpose of resale or manufacture for the purpose of resale in this State any lumber, wood product or building materials which deviate from the applicable standards, rules or regulations promulgated by the superintendent.

L.1968, c. 222, s. 8, approved July 30, 1968.

51:4-31. Rules, regulations or orders

The superintendent is authorized to establish and promulgate such rules, regulations or orders as he may deem necessary to implement the enforcement or administration of this act.

L.1968, c. 222, s. 9, approved July 30, 1968.

51:4-32. Administration and enforcement by superintendent; power and authority of weights and measures officials.

The superintendent shall have general supervision of the administration and enforcement of this act. All weights and measures officials shall have full power and authority to:

(a) Inspect and measure any building materials while in transit from the dealer to the consumer in vehicles owned, leased or rented by the dealer, after the same have been delivered to the consumer or after they have been incorporated in the building or structure in which they have become a part. They shall also have full power and authority to inspect the delivery tickets issued with any shipment and all records of the person, firm or corporation selling or selling and delivering such building materials in connection with the building materials so delivered.

(b) Issue stop-use, stop-removal, removal, condemnation, confiscation orders with reference to building materials, which he finds being used, sold, offered, exposed for sale, kept or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent. Any such order shall be supported by legal processes, as provided in section 15 of P.L.1968, c.222 (C.51:4-37), by the superintendent within 30 days.

(c) Seize for use as evidence, any building materials, which he finds used, kept, sold, offered for sale or exposed for sale or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent. No person shall use, remove from the premises specified, or fail to remove from the premises specified any building materials contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

L.1968, c.222, s.10; amended 2013, c.234, s.5.

51:4-33. Stop-use, stop-removal, removal, condemnation, or confiscating orders; liability of consumers.

In the event that the superintendent or any of his agents or employees or any weights and measures officials issue any stop-use, stop-removal, removal, condemnation, or confiscating orders with reference to building materials found being used, sold, offered, exposed for sale, kept or in the process of delivery by a dealer in vehicles owned or leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent then in that event the dealer shall be responsible as provided for in section 15 of P.L.1968, c.222 (C.51:4-37). The consumer shall not be primarily liable for any violation of any of the provisions of this act committed by the dealer nor shall the consumer be liable as a guarantor or surety for any violation of any provisions committed by the dealer nor shall the consumer be deemed to warrant any action or actions exercised by the dealer which actions are in violation of any of the provisions of this act.

L.1968, c.222, s.11; amended 2013, c.234, s.6.

51:4-34. Revocation, suspension, restriction or refusal to issue or renew license; hearing

The superintendent may, after proper notice and hearing, revoke, suspend, restrict or otherwise limit, or refuse to issue or renew any license issued or granted pursuant to the provisions of this act for any of the following reasons:

- (a) fraud or misrepresentation in the application for or in the procuring of a license;
- (b) the violation of any rule, regulation or order promulgated by the superintendent;

(c) any dishonest, deceptive, or any fraudulent practice, conduct or transaction; and

(d) the loaning or the giving of any license.

Any licensee or applicant for license, may request, and shall be granted a hearing before the Attorney General or his designee upon any order, revocation or allegation of any weights and measures official.

L.1968, c. 222, s. 12, approved July 30, 1968.

51:4-35. Employment of specialists and experts

The superintendent may from time to time employ on a temporary basis such specialists and experts as he may deem necessary in carrying out the purposes of this act. Such employment shall not be subject to the provisions of Title 11 of the Revised Statutes.

L.1968, c. 222, s. 13, approved July 30, 1968.

51:4-36. Legal proceedings or processes

The superintendent is empowered to institute, or cause to be instituted such legal proceedings or processes as may be necessary to enforce and give effect to any of his powers and duties as prescribed in this act.

L.1968, c. 222, s. 14, approved July 30, 1968.

51:4-37. Authority to issue subpoenas; court action

The superintendent shall have the power to issue subpoenas to compel production of any pertinent records, books or documents or the attendance of witnesses in any matter pertaining to his duties and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpoenas issued out of the Superior Court of this State.

Upon the failure of any person to obey a subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

L.1968,c.222,s.15; amended 1991,c.91,s.480.

51:4-38. Violations; penalties; collection and enforcement; process.

Any person who knowingly violates any of the provisions of this act for which specific penalty or punishment is not otherwise provided, shall pay a penalty of not less than \$50.00 nor more than \$100.00 for the first offense, not less than \$100.00 nor more than \$250.00 for the second offense, and not less than \$250.00 nor more than \$500.00 for each subsequent offense.

The Superior Court and municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the superintendent or any other weights and measures official.

L.1968, c.222, s.16; amended 1991, c.91, s.481; 2013, c.234, s.7.

51:5-1. Manufacture or sale of gold articles with false quality marks

No person shall make for sale or sell, or offer to sell or dispose of, or have in his possession with intent to sell or dispose of, any article of merchandise made in whole or in part of gold or any alloy of gold, upon which article, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed, shall be stamped, branded, engraved or imprinted any mark indicating, or designed or intended to indicate that the gold or alloy of gold in such article is of a greater degree of fineness than the actual fineness or quality of such gold or alloy, unless the actual fineness of such gold or alloy in the case of flat ware and watch cases be not less by more than three one-thousandths parts, and in the case of all other articles be not less by more than one-half karat than the fineness indicated by any such mark, according to the standards and subject to the qualifications set forth in section 51:5-2 of this title.

51:5-2. Tests and standards for determining fineness of gold

In any test for the ascertainment of the fineness of the gold or its alloy in any article mentioned in section 51:5-1 of this title according to the standards prescribed therein, the part of the gold or its alloy taken for the test, analysis or assay shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior fineness used for brazing or uniting the parts of such article, and in addition to the aforesaid tests and standards, the actual fineness of the entire quantity of gold and of its alloys contained in any article mentioned in said section 51:5-1 of this title, except watch cases and flat ware, including all solder, or alloy of inferior metal used for brazing or uniting the parts of the article (all such gold, alloys or solder being assayed as one piece), shall not be less by more than one karat than the fineness indicated by the mark stamped, branded, engraved or imprinted upon such article or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed.

51:5-3. Manufacture or sale of articles made of silver, with marks of "sterling", "coin", etc., where articles less than certain fineness

No person shall make for sale, sell or offer to sell or dispose of, or have in his possession with intent to sell or dispose of, any article of merchandise made in whole or in part of silver or of any alloy of silver, upon which article, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed, shall be marked, stamped, branded or engraved:

- a. The words "sterling silver" or "sterling" or any colorable imitation thereof, unless nine hundred and twenty-five one-thousandths of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured, are pure silver, subject to the qualifications set forth in section 51:5-4 of this title, provided that in case of all such articles, there shall be allowed a divergence in fineness of four one-thousandths parts from the foregoing standard; or
- b. The words "coin" or "coin silver" or any colorable imitation thereof, unless nine hundred one-thousandths of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured, are pure silver, subject to the qualifications set forth in said section 51:5-4; provided that in case of all such articles, there shall be allowed a divergence in fineness of four one-thousandths parts from the standard mentioned in this paragraph; or
- c. Any mark or word, other than the word "sterling" or the word "coin", indicating, or designed or intended to indicate, that the silver or alloy of silver in such article is of a greater degree of fineness than the actual fineness or quality of such silver or alloy, unless the actual fineness of the silver or alloy of silver of which such article is composed be not less by more than four one-thousandths parts than the actual fineness indicated by said mark or word, subject to the qualifications set forth in said section 51:5-4.

51:5-4. Tests for determining fineness of silver; additional standards

In any test for the ascertainment of the fineness of any article mentioned in section 51:5-3 of this title, according to the standards therein prescribed, the part of the article taken for the test, analysis or assay shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior metal used for brazing or uniting the parts of such article, and, in addition to the aforesaid tests and standards, the actual fineness of the entire quantity of metal purporting to be silver contained in any article mentioned in said section 51:5-3 of this title, including all solder or alloy of inferior fineness used for brazing or uniting the parts of any such article (all silver, alloy or solder being assayed as one piece), shall not be less by more than ten one-thousandths parts than the fineness indicated, according to the aforesaid standards, by the mark stamped, branded, engraved or imprinted upon such article, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed.

51:5-5. Manufacture or sale of gold plated articles without indicating they are plated

No person shall make for sale, sell, or offer to sell or dispose of or have in his possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal, having deposited or plated thereon or brazed or otherwise affixed thereto a plate, plating, covering or sheet of gold, or of any alloy of gold, which article is known in the market as "rolled gold plate", "gold plate", "gold filled", "gold electroplate", or by any similar designation, and upon which article or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed, shall be stamped, printed, branded or engraved any word or mark usually employed to indicate the fineness of gold, unless such word be accompanied by other words plainly indicating that such article, or some part thereof, is made of rolled gold plate, or gold plate, or gold electroplate, or is gold filled, as the case may be.

51:5-6. Manufacture or sale of silver plated articles with false marks of "sterling" or "coin" thereon

No person shall make for sale, sell or offer to sell or dispose of, or have in his possession with intent to sell or dispose of, any article of merchandise made in whole or in part of inferior metal, having deposited or plated thereon, or brazed or otherwise affixed thereto, a plate, plating, covering or sheet of silver, or of any alloy of silver, which article is known to the market as "silver plate" or "silver electroplate", or by any similar designation, and upon which article, or upon any tag, card or label attached thereto, or upon any box, package, cover or wrapper in which such article is incased or inclosed, shall be stamped, branded, engraved or imprinted the word "sterling", or the word "coin", either alone or in conjunction with any other words or marks.

51:5-7. Penalty for violations

Every person, firm, corporation or association guilty of a violation of any provision of this chapter, and every officer, manager, director or managing agent of any such person, firm, corporation or association directly participating in such violation, or consenting thereto, shall be liable to a mandatory penalty of not less than \$100.00 nor more than \$500.00 recoverable by the Superintendent of Weights and Measures in a court of competent jurisdiction in a civil penalty action pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

Amended by L.1969, c. 251, s. 30, eff. Jan. 7, 1970; L.1980, c. 53, s. 3, eff. June 27, 1980.

51:6-1. Definitions

As used in this chapter:

- a. The term "article" means any article of merchandise and includes any portion of such article, whether a distinct part thereof or not, including every part thereof whether separable or not, and also including material for manufacture.
- b. The terms "platinum" , "iridium" , "palladium" , "ruthenium" , "rhodium" , or "osmium" , or any or all of them, include any alloy or alloys of any one or more of said metals.
- c. The term "mark" means any mark, sign, device, imprint, stamp or brand applied to any article, or to any tag, card, paper, label, box, carton, container, holder, package, cover, or wrapping attached to, used in conjunction with, or inclosing such article, or any bill, bill of sale, invoice, statement, letter, circular, advertisement, notice, memorandum, or other writing or printing.
- d. The terms "apply" and "applied" include any method or means of application or attachment to, or of use on, or in connection with, or in relation to, an article, whether such application, attachment, or use is to, on, by, in or with:
1. The article itself; or
 2. Anything attached to the article; or
 3. Anything to which the article is attached; or
 4. Anything in or on which the article is; or
 5. Anything so used or placed as to lead to a reasonable belief that the mark on that thing is meant to be taken as a mark on the article itself.
- e. The term "quality mark" means any mark as herein defined indicating, describing, identifying or referring to or appearing or seeming or purporting to indicate, describe, identify or refer to the partial or total presence or existence of, or the quality of, or the percentage of, or the purity of the number of parts of platinum, iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, in any article.

51:6-2. Quality mark not to apply to mechanism and other enumerated things

When an article is composed of mechanism, works or movements and of a case or cover containing the mechanism, works or movements, a quality mark applied to the article shall be deemed not to be, nor to be intended to be, applied to the mechanism, works or movements.

The quality mark applied to the article shall be deemed not to apply to springs, winding bars, sleeves, crown cores, mechanical joints, pins, screws, rivets, dust bands, detachable movement rims, hatpin stems, bracelet and necklace snap tongues. In addition, in the event that an article is marked under paragraph "e" of section 51:6-5 of this title, the quality mark applied to the article shall be deemed not to apply to pin tongues, joints, catches, lapel button backs and the posts to which they are attached, scarfpin stems, hatpin sockets, shirt stud backs, vest button backs and ear screw backs; provided, that such parts are made of the same quality of gold as is used in the balance of the article.

51:6-3. Trade-marks on articles

If there is any quality mark printed, stamped or branded on the article itself, there must also be printed, stamped or branded on the article itself the following mark, to wit: A trade-mark duly applied for or registered under the laws of the United States of the manufacturer of such article; except that if the manufacturer has sold or contracted to sell such article to a jobber, wholesaler or retail dealer regularly engaged in the business of buying and selling similar articles, this provision shall be deemed to be complied with if there is so marked on the article the trade-mark duly registered under the laws of

the United States of such jobber, wholesaler or retail dealer respectively; and in such event there may also be marked on such article itself, numerals intended to identify the article, design or pattern; provided, that such numerals do not appear or purport to be a part of the quality mark, and are not calculated to mislead or deceive anyone in believing that they are part of the quality mark.

51:6-4. Quality marks described; marks refer to weight

All quality marks applied to any article shall be equal in size and equally visible, legible, clear and distinct, and no quality mark which is false, deceptive or misleading shall be applied to any article or to any descriptive device therefor. No more than one quality mark shall be applied to any article and such quality mark shall be applied to such article in only one place thereon except as elsewhere specifically permitted in this chapter.

Wherever in this chapter provision is made for marking the number of parts or percentage of metals, such number or percentage shall refer to weight and not to volume, thickness or any other basis.

51:6-5. Marking contents and quality of pure platinum and platinum combined with other metals

There shall not be applied to any article any quality mark or any colorable imitation thereof, nor any contraction thereof, nor any addition thereto, nor any words or letters, nor any mark purporting to be or resembling a quality mark, except as follows:

- a. An article consisting of at least nine hundred and eighty-five one-thousandths parts of platinum, iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, where solder is not used, and at least nine hundred and fifty one-thousandths parts of said same metal or metals where solder is used, may be marked "platinum" ; provided, that the total of the aforementioned metals other than pure platinum shall amount to no more than fifty one-thousandths parts of the contents of the entire article;
- b. An article consisting of at least nine hundred and eighty-five one-thousandths parts platinum, iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, where solder is not used, and at least nine hundred and fifty one-thousandths parts of the said same metal or metals where solder is used, provided at least seven hundred and fifty one-thousandths parts of such article are pure platinum, may be marked "platinum" ; provided, that immediately preceding the mark "platinum" there is marked the name or abbreviation as hereinafter provided, of either iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, whichever of said metals predominates; but such predominating other metal must be more than fifty one-thousandths parts of the entire article;
- c. An article consisting of at least nine hundred and eighty-five one-thousandths parts of platinum, iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, where solder is not used and at least nine hundred and fifty one-thousandths parts of said same metals where solder is used, provided more than five hundred one-thousandths parts of said article consist of pure platinum, may be marked with the word "platinum" ; provided, that said word is immediately preceded by a decimal fraction in one-thousandths showing the platinum content in proportion to the content of the entire article; and provided, further, that the mark "platinum" be followed by the name or abbreviation as herein allowed, of such one or more of the following metals, to wit: iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, that may be present in the article in quantity of more than fifty one-thousandths parts of the entire article. The name of such other metal or metals other than platinum, however, shall each be immediately preceded by a decimal fraction in one-thousandths showing the content of such other metal or metals in proportion to the entire article, as, for example, 600 Plat., 350 Pall., or 500 Plat., 200 Pall., 150 Ruth., 100 Rhod.;

d. An article consisting of nine hundred and fifty one-thousandths parts of the following metals: platinum, iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, with less than five hundred one-thousandths parts of the entire article consisting of pure platinum, may be marked with the name iridium, palladium, ruthenium, rhodium, or osmium, or any or all of them, whichever predominates in the said article, but in no event with the mark "platinum"; provided, however, that the quantity of such metal other than platinum so marked must be marked in decimal thousandths, and that the name of such metal other than platinum so used must be spelled out in full, irrespective of any other provision of this chapter to the contrary;

e. An article composed of platinum and gold which resembles, appears, or purports to be platinum may be marked with a karat mark and the platinum mark; provided,

1. The platinum in such article shall be at least nine hundred and eighty-five one-thousandths parts pure platinum; and
2. The fineness of the gold in such article shall be correctly described by the karat mark of such gold; and
3. The percentage of platinum in such article shall be no less than five per cent in weight of the total weight of the article; and
4. The mark shall be so applied that the karat mark shall immediately precede the platinum mark, as for example, "14 K & Plat." , "18 K & Plat." , as the case may be, it being expressly provided that in case the percentage of platinum exceeds the five per cent provided herein the quality mark may also include a declaration of the percentage of platinum, as for example, "18 K & 1/10 th Plat." , or "14 K & 1/8 th Plat." , or as the case may be;

f. An article composed of platinum and any other material or metal not resembling, appearing or purporting to be platinum, may be marked with the quality mark platinum; provided, that all parts or portions of such article resembling, or appearing, or purporting to be platinum, or reasonably purporting to be described as platinum by said quality mark, shall be at least nine hundred and eighty-five one-thousandths parts pure platinum.

51:6-6. Abbreviations permissible

Whenever provided for in this chapter except as specifically excepted in paragraph "d" of section 51:6-5 of this title, the word "platinum" may be applied by spelling it out in full or by abbreviation "Plat."; the word "iridium" may be applied by spelling it out in full or by abbreviation "Irid."; the word "palladium" may be applied by spelling it out in full or by the abbreviation "Pall."; the word "ruthenium" may be applied by spelling it out in full or by the abbreviation "Ruth."; the word "rhodium" may be applied by spelling it out in full or by the abbreviation "Rhod."; and the word "osmium" may be applied by spelling it out in full or by the abbreviation "Osmi."

51:6-7. Penalty

Any person, firm, partnership, corporation or association, or any officer, manager, director, employee or agent thereof, who shall sell or offer or expose for sale in this State, any article to which is applied any quality mark which does not conform to all the provisions of this chapter, or from which is omitted any mark required by the provisions of this chapter, shall be liable to a mandatory penalty of not less than \$100.00 nor more than \$500.00 recoverable by the Superintendent of Weights and Measures in a court of competent jurisdiction in a civil penalty action pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

Amended by L.1980, c. 53, s. 4, eff. June 27, 1980.

51:6-8. Articles manufactured prior to July 4, 1929, not affected

The provisions of this chapter shall not apply to any article manufactured prior to July fourth, nineteen hundred and twenty-nine.

51:6-9. Presumption as to when article was manufactured

In any action relating to the enforcement of this chapter, proof that an article has been marked in violation of the provisions of this chapter shall be deemed to be prima facie proof that it was manufactured after July fourth, nineteen hundred and twenty-nine.

51:6-10. Certificate of federal assay office as prima facie proof of weight or fineness

In any action relating to the enforcement of the provisions of this chapter, a certificate duly issued by an assay office of the treasury department of the United States, certifying the weight of any article, or any part thereof, or of the kind, weight, quality, fineness or quantity of any ingredient thereof, shall be receivable in evidence as constituting prima facie proof of the matter or matters so certified.

51:6A-1. Buyer on basis of bulk value; duties; serialized receipts; digital photographs.

Any person in the business of buying precious metals who buys, attempts to buy or offers to buy precious metals on the basis of bulk value from any person who is not in the business of selling precious metals shall:

- a. Clearly and prominently display at the point of purchase:
 - (1) His name and address;
 - (2) The price being offered or paid by the buyer for precious metals expressed as price per standard measure of weight and fineness as prescribed by the Superintendent of Weights and Measures.
- b. Include his name and address in all advertisements concerning such precious metals.
- c. Weigh the precious metals in plain view of the seller on State certified scales with the certificate of inspection clearly and prominently displayed.
- d. Test the fineness of precious metals, if any test is so performed, in plain view of the seller.
- e. Issue to the seller and keep for his own records, for not less than one year, a serialized receipt for each purchase of precious metals containing the following:
 - (1) The name and address of the buyer;
 - (2) Date of the transaction;
 - (3) The names of the precious metals purchased;
 - (4) The finenesses of the precious metals purchased;
 - (5) The weights of the precious metals purchased;
 - (6) The prices paid for the precious metals at the standard measures of weight and fineness prescribed by the superintendent;
 - (7) The name, address and signature of the seller of the precious metals.
- f. Obtain proof of identity from each person who sells precious metals to him.

- g. Retain any precious metals in the form in which they were purchased for a period of not less than two business days, minimum 48 hours.
- h. Upon reasonable request, allow the inspection of the serialized receipts or precious metals provided for in subsections e. and g. respectively of this section by any law enforcement officer or weights and measures official.
- i. Obtain a bond in an amount and form prescribed by regulations of the Office of Weights and Measures. The bond shall be obtained from a surety company authorized by law to do business in this State. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the buyer of precious metals. No bond shall comply with the requirements of this subsection unless the bond contains a provision that it shall not be cancelled for any cause unless notice of intention to cancel is filed in the Office of Weights and Measures at least 30 days before the day upon which cancellation shall take effect. This subsection shall only apply to transient buyers.
- j. Maintain, for not less than one year, digital photographs of the precious metals purchased.

L.1981, c.96, s.1; amended 2013, c.247, s.1.

51:6A-2. Registration of buyer; transient buyer; additional requirements; violation; penalty

A buyer of precious metals as provided for in this act shall, before buying, attempting to buy or offering to buy any precious metals, register with the police of the municipality in which he intends to conduct his business and give his name and address. A transient buyer of precious metals shall, in addition to the information required of a buyer of precious metals, provide the address at which he intends to do business in the municipality and shall reregister if he changes his location of doing business in the municipality or if he discontinues doing business for more than 20 days in the municipality and subsequently wants to resume doing business therein. Any person who violates any provision of this section is a disorderly person.

L.1981, c. 96, s. 2.

51:6A-3. Penalties.

Any person who violates any provision of this act shall be liable to a mandatory penalty of not less than \$500 nor more than \$1,000 recoverable by the Superintendent of Weights and Measures pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). An action for the recovery of a civil penalty for violation of this act shall be within the jurisdiction of and may be brought before the Superior Court or municipal court in the municipality where the offense is committed or where the defendant resides or where the defendant may be apprehended.

A summons or warrant against any foreign business entity doing business in this State shall be processed as provided by law.

L.1981, c.96, s.3; amended 1991, c.91, s.482; 2013, c.126, s.1.

51:6A-4. Arrest without warrant

On the violation of any of the provisions of this act within his view, a weights and measures officer may without warrant arrest the offender and conduct him before a court having jurisdiction.

L.1981, c. 96, s. 4.

51:6A-5. Definitions

For purposes of this act:

- a. "Precious metals" means gold, silver, platinum, palladium and alloys thereof.
- b. "His name and address" means the name of the buyer and the legal name of the business under which the buyer is doing business, together with the permanent business address.
- c. "Transient buyer" means a buyer of precious metals as provided for in this act who has not been in any retail business continuously for at least 6 months at the address in the municipality where he is required to register or who intends to close out or discontinue all retail business in the municipality within 6 months.

L.1981, c. 96, s. 5.

51:6A-6. Inapplicability of act to government agencies, banks, or commodity markets

This act is not applicable to government agencies, State or Federally chartered banks or Federally regulated commodity markets.

L.1981, c. 96, s. 6.

51:6A-7. Right of municipalities to enact more restrictive ordinances or resolutions

This act is not intended, and nothing in this act shall be construed to preclude the right of any municipality to adopt and enforce ordinances or regulations more restrictive than this act or any rules or regulations promulgated thereunder.

L.1981, c. 96, s. 7.

51:6A-8. Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this act shall be adjudged invalid by a court of competent jurisdiction, the order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this act and, to this end, the provisions of each section, subsection, paragraph, subdivision or clause of this act are declared to be severable.

L.1981, c. 96, s. 8.

51:6A-9. Certification of weight or measure used by precious metals buyer.

3. a. Upon the first official inspection of any weight or measure used by a precious metals buyer not subject to the provisions of section 2 of P.L.1981, c.96 (C.51:6A-2) that has not been certified as required pursuant to subsection c. of section 1 of P.L.1981, c.96 (C.51:6A-1), the owner of the weight or measure may be afforded two days to have the weight or measure certified. If an owner fails to have the weight or measure certified within two days after the inspection, the weights and measures officer shall immediately take possession of and destroy the weight or measure, unless, in the sole discretion of the superintendent, good cause exists to allow additional time to obtain the certification or take possession of and destroy the weight or measure.

b. A weights and measures officer shall immediately take possession of and destroy any weight or measure used by a transient buyer of precious metals as defined by section 5 of P.L.1981, c.96 (C.51:6A-5) that has not been certified as required pursuant to subsection c. of section 1 of P.L.1981, c.96 (C.51:6A-1).

No action for damages shall lie or be maintained against a weights and measures officer for the seizure.

L.2013, c.126, s.3.

51:7-1. Definitions

For the purpose of this chapter the following words shall be deemed to have the meaning herein given:

- a. "Department" shall mean state department of weights and measures.
- b. "Person" shall be construed to include any individual, partnership, unincorporated association, corporation or other form of business enterprise.
- c. "Weights and measures officers" shall be construed to include the state superintendent of weights and measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.

51:7-2. Transporting anthracite into state over highways by motor vehicle; certificate of origin required; signatures

It shall be unlawful for any person to transport over the highways of this State any anthracite brought into this State by motor vehicle from outside of this State unless such anthracite when it crosses any boundary line of this State and at all times thereafter during the transportation thereof over the highways of this State is accompanied by an original certificate of origin signed by the person who is the owner or operator of the breaker, colliery, yard or other place of production or storage, or his duly authorized agent, where the anthracite to which the certificate of origin refers was produced or stored and also signed by the person driving or operating the motor vehicle on which said anthracite is transported into this State.

Amended by L.1938, c. 242, p. 547, s. 1.

51:7-3. Contents of certificate of origin

The certificate of origin shall contain the following:

- a. The name or names and location of, and the name or names of the owners or operators of, the breaker, colliery, yard or other place of production or storage where the anthracite to which the certificate refers has been produced or stored.
- b. The kind, size and weight of the anthracite.
- c. The name and address of person claiming ownership of said anthracite.
- d. The name and address of the driver of the motor vehicle transporting said anthracite and the State motor vehicle registration number of said vehicle.
- e. The name and address of the person or persons to whom said anthracite is to be delivered.
- f. The date said certificate is issued.

Amended by L.1952, c. 146, p. 503, s. 1.

51:7-4. Issuance of certificates; nontransferable; false certificate

The certificates of origin as herein provided shall be issued only on forms to be supplied, on application therefor, by the superintendent of the department, shall be serially numbered and issued consecutively. A nominal charge to cover the cost of supplying such forms may be made by the superintendent. Said certificates of origin shall be nontransferable and any person who has in his possession or who files with a weighmaster or forwards to the superintendent a false certificate of origin shall be deemed guilty of a violation of this chapter.

The superintendent of the department shall issue such blank certificates of origin to any person who is the owner or operator of a colliery, breaker or other place of production or who is the owner or operator of a yard, pocket or other place of storage, outside the State of New Jersey, upon application therefor by such person showing the necessity for the issuance of said certificates and upon proof satisfactory to the superintendent that all anthracite produced or stored is not stolen and is legally acquired at its source. Notification shall promptly be given to the superintendent in case of change of source or the obtaining of anthracite from new sources since the time said application is made, and satisfactory proof shall be furnished that the anthracite is legally acquired at the new sources.

Whenever any person who transports or intends to transport anthracite into this State furnishes proof satisfactory to the superintendent that all anthracite so transported or to be transported is legally acquired at its source and is not stolen, and further, that such person is unable to obtain certificates of origin at the breaker, colliery or other place of production or at the yard, pocket or other place of storage, blank certificates shall be issued to such person in such number as the business of such person requires.

Amended by L.1938, c. 242, p. 547, s. 2.

51:7-5. Duplicate certificate filed with weighmaster

Any person bringing anthracite into this State from outside of this State and said anthracite is to be sold or delivered within the boundaries of this State shall file a duplicate of the required certificate of origin with the weighmaster in charge of the scales where said person has said anthracite weighed in accordance with the requirements of the laws of this State, and such duplicates of said certificates of origin shall be retained at such scales for a period of one year, unless the superintendent directs the forwarding of the same to his office, and shall be subject and open to inspection by any weights and measures officer; after storage or sale of said anthracite in this State the original certificates of origin shall be forwarded to the superintendent at his office within ten days from the date of such sale or storage and the triplicate copy shall be kept by the person who sells or stores said anthracite.

Amended by L.1938, c. 242, p. 548, s. 3.

51:7-6. Revoking license to sell solid fuel; voiding certificate of origin

The superintendent of the department shall revoke the license of any person licensed to sell solid fuel in this State who buys, sells or transports stolen anthracite within this State or who buys, sells or transports anthracite which has been acquired at a place of production, storage or source where stolen anthracite is handled or distributed, and shall issue to such person no further license to sell solid fuel in this State for a period of at least one year from the date of revocation. The superintendent shall give at least five days' notice of the proposed revocation proceedings, which notice shall contain the charges made against the licensee and the time and place of the hearing of said revocation proceedings; said notice shall be sent by registered mail to the address given by the licensee in his application for license to sell solid fuel; said licensee shall have the opportunity to appear and enter a defense at the hearing to be held at the office of the superintendent.

The superintendent shall void all certificates of origin where the person who obtains the same buys, sells or transports stolen anthracite or deals in or handles stolen anthracite. The superintendent may refuse to grant and may void certificates of origin where the person who applies for or obtains the same violates any of the provisions of this chapter or for any of the following reasons: Fraud or misrepresentation practices in procuring any such certificates; dishonesty in conducting his business; conduct of a character likely to defraud or deceive the public; transferring said certificates to a person other than the person to whom they were issued or for any conduct or practice at variance with the purpose of this chapter. Any person using voided certificates knowingly shall be deemed guilty of a violation of this chapter. Five days' notice by registered mail of the proposed refusal to grant or voiding of said certificates shall be given to the person who applied for or obtained the same and upon request of said person he shall be given an opportunity to show cause why the granting of said certificates should not be refused or said certificates voided.

Amended by L.1938, c. 242, p. 549, s. 4; L.1952, c. 146, p. 504, s. 2.

51:7-7. Enforcement of chapter

All weights and measures officers in this State, in addition to their various duties now provided for by law, are hereby charged with the duty of enforcing and executing the provisions of this chapter, and the superintendent of the department shall make such rules and regulations as he may deem necessary for its enforcement.

Amended by L.1938, c. 242, p. 550, s. 5.

51:7-8. Penalty for violations

Any person who violates any of the provisions of this chapter shall upon being found guilty of such offense pay a fine of not less than \$250.00 nor more than \$1,000.00 or if unable to pay such fine shall be committed to a county jail for a period not to exceed 90 days.

Amended by L.1969, c. 251, s. 31, eff. Jan. 1, 1970.

51:7-9. Procedure for recovery of penalties; jurisdiction

51:7-9. Any penalty incurred under the provisions of this chapter shall be sued for in the name of the State of New Jersey by any weights and measures officer. Jurisdiction of all cases arising out of violations of the provisions of this chapter is hereby conferred upon the Superior Court and the municipal courts in the county in which such violations are committed.

Amended 1938,c.242,s.6; 1953,c.48,s.16; 1991,c.91,s.483.

51:8-1. Definitions

For the purpose of this chapter the following words shall be deemed to have the meaning herein given them:

- a. "Department" shall mean the Division of Weights and Measures in the Department of Law and Public Safety.
- b. "Solid fuel" shall mean any anthracite, semianthracite, bituminous, semibituminous, or lignite coal, briquettes, boulettes, coke, gas house coke, petroleum coke, petroleum carbon or any other manufactured or patented fuel not sold by liquid or metered measure.
- c. "Ton" shall mean the net ton of two thousand pounds avoirdupois.

d. "Vehicle" shall mean any truck, wagon, cart or other conveying device using the streets, alleys or other thoroughfares in this State, but not including railroad cars.

e. "Equipped dealer" shall mean any person who is regularly engaged in the sale, or sale and delivery of solid fuel; maintains unloading, storage and service facilities commensurate with the nature of the business; is equipped with and using wagon or truck scales, or other approved weighing or measuring devices, of sufficient size and capacity and maintained in condition accurately to weigh the maximum load for which they are utilized; maintains an office accessible to the public with a competent person on duty, and regularly carries a stock of solid fuel.

f. "Unequipped dealer" shall mean all other persons engaged in the sale, delivery, or sale and delivery of solid fuel.

g. "Person" shall be construed to include any individual, partnership, unincorporated association, corporation or other form of business enterprise.

h. "Weights and measures officers" shall be construed to include the Superintendent of the Division of Weights and Measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.

Amended by L.1953, c. 48, p. 845, s. 17.

51:8-2. Sale, etc., not in accordance with chapter unlawful

It shall be unlawful for any person to sell, deliver, or sell and deliver, or weigh or issue weight certificates for, solid fuel in this state except in accordance with the provisions of this chapter.

51:8-3. Enforcement; jurisdiction over inspectors

All weights and measures officers in this state, in addition to their various duties now provided for by law, are hereby charged with the duty of enforcing and executing the provisions of this chapter. Inspectors shall report to and work under the jurisdiction of the county or municipal superintendents; but if any county or municipal superintendent is not available or deems it inadvisable to sign a complaint, inspectors shall have the power to sign such complaints.

51:8-4. General supervision by superintendent; rules and regulations

The superintendent of the department shall have general supervision of the administration of this chapter and shall make such rules and regulations as he may deem necessary for its enforcement.

51:8-5. License to sell or deliver solid fuel; certificates of license; license plates; issuance; terms; fees; display; emergency plates; expiration; revocation or refusal to issue; names on vehicles

It shall be unlawful for any person to engage in the business of selling, delivering or selling and delivering solid fuel in this State unless he shall have obtained from the Division of Weights and Measures a license to engage in said business and a license plate for each vehicle owned, rented, leased or hired in any manner and used by him for the delivery of solid fuel; provided, however, where any person engages in the business of selling, delivering, or selling and delivering solid fuel in this State at more than one place of business or establishment, it shall be necessary for said person to obtain a separate license for each such place of business or establishment where said solid fuel is so sold, delivered, or sold and delivered; provided, further, that it shall not be necessary for any person who sells or delivers solid fuel at retail in quantities of not more than 100 pounds, and does not sell or deliver

more than 100 pounds to the same person on the same day, to obtain such license. Application for said license and license plate or plates shall be made upon a form to be supplied by the superintendent and it shall be the duty of said superintendent to issue such license to such applicant for each calendar year or fraction thereof in which said business is conducted, upon the payment of a fee of \$25.00 for any 1 year or fraction thereof, and to issue, for such calendar year or fraction thereof, a license plate for each vehicle so owned and used by the applicant, together with a certificate of the issuance of such license plate, upon the payment of \$5.00 for each vehicle so owned, rented, leased or hired in any manner and used, and said certificate shall contain the name and address of the owner of the vehicle and of any person renting, leasing or hiring the vehicle in any manner, together with a description of the character of the vehicle and the motor number. The holder of such certificate or the operator of such vehicle, when requested to do so by any weights and measures officer, shall exhibit such certificate, in order that such weights and measures officer may determine the correctness of said certificate.

It shall be unlawful for any person to engage in the business aforesaid without having on display in his place of business a certificate of such license, which shall be issued by said superintendent, and no person shall use any vehicle to deliver solid fuel without such license plate being securely and conspicuously attached to said vehicle and such license plate shall be transferable or interchangeable.

Liens or encumbrances on any vehicle shall not be deemed to deprive the owner or a legally authorized user of such vehicle of a right to a license plate for such vehicle; provided, however, that in emergencies growing out of extreme weather conditions, upon application to the division by any person regularly licensed under the provisions of this section, additional vehicle plates shall be issued forthwith upon the payment of \$5.00 for each plate, and any such plate may be attached to any vehicle leased or otherwise employed by any licensee. Such emergency plates must be removed and returned to the division when the emergency has passed.

Every license and license plate issued under the provisions of this section shall expire, and the certificates thereof become void on December 31 of each year, and the superintendent shall issue licenses, license plates and certificates for the following year on and after November 1 of each year, such licenses, license plates and certificates so issued not to be used until December 15 of the year preceding the year for which they are issued.

The superintendent may revoke the license of or refuse to issue a license to any person, after a hearing, upon due notice, which may be served personally upon or sent by registered mail to such person, for any dishonest, deceptive or fraudulent practice.

No motor vehicle shall be used for transportation of solid fuel in this State unless the name of the licensee and the municipality in which his place of business is located is conspicuously displayed on the vehicle in letters at least 6 inches high. Any person violating this provision shall be liable to a penalty of not less than \$50.00 nor more than \$100.00.

Amended by L.1938, c. 44, p. 119, s. 1; L.1939, c. 41, p. 58, s. 1; L.1971, c. 341, s. 6, eff. Dec. 13, 1971; L.1979, c. 421, s. 1, eff. Feb. 8, 1980.

51:8-6. Sale by weight only; pounds to the ton; weighmaster to weigh

All solid fuel shall be sold by weight. It shall be unlawful for any person to sell or deliver or start out for delivery less than two thousand pounds by weight to the ton of solid fuel or a proper proportion thereof when the quantity to be delivered is less than a ton, and such solid fuel shall, except as otherwise herein provided, be duly weighed by a weighmaster designated to weigh solid fuel, on stationary scales suitable for weighing solid fuel, which have been tested and sealed by any authorized weights and measures officer.

51:8-7. Weighing fuel of unequipped dealer on scales of equipped dealer

Unequipped dealers engaged in the sale, or sale and delivery of solid fuel in this state purchased from and weighed over the scales of an equipped dealer or wholesale pocket dealer in this state shall be furnished with weight certificates signed by the weighmaster of such equipped dealer or wholesale pocket dealer as provided in section 51:8-9 of this title, on forms of such unequipped dealers.

51:8-8. Weighing fuel of unequipped dealer on approved scales; procedure

Unequipped dealers engaged in the sale and delivery of solid fuel in this state, except as provided in section 51:8-7 of this title, shall have such solid fuel weighed on scales tested and approved by the proper weights and measures officers. The owner of the scales on which such weighing is made shall furnish each unequipped dealer with a weight certificate, as provided in section 51:8-9 of this title, for each load or for each separate part of a load, on forms of such unequipped dealers, signed by the weighmaster of such owner, and a copy of each such weight certificate shall be retained at the scales where such weighing is done for a period of one year and shall be subject to inspection by any weights and measures officer. The owner of the scales shall keep, on forms approved by the superintendent of the department, an accurate record of all weighings made and such record shall be open to inspection by any weights and measures officer, for a period of one year.

51:8-9. Weight certificates; necessity of; contents; delivery tickets; exceptions

It shall be unlawful for any person to deliver or cause to be delivered or to be started out for delivery any solid fuel without each lot in each separate compartment of any vehicle being accompanied by a weight certificate issued by a certified weighmaster duly designated to weigh solid fuel under the provisions of this chapter on which shall be distinctly expressed:

- a. In pounds the gross weight of the solid fuel and the vehicle in which it is contained.
- b. In pounds the tare weight or the weight of the vehicle without load.
- c. In pounds the net weight of the solid fuel.
- d. The kind and size of the solid fuel.
- e. The name and address of the purchaser.
- f. The name and address of the seller.
- g. The plate number of the vehicle as provided in section 51:8-5 of this title.
- h. The signature and seal of the weighmaster designated to weigh solid fuel, by whom weighed and the date weighed.
- i. The number of bags or sacks, when bags or sacks are representative of the quantity contained in the vehicle.

The tare and gross weights as certified on the weight certificate shall be taken on the same scales.

The weight certificate as herein defined may be issued on the sellers' forms, which shall be known as "delivery tickets". Each such delivery ticket shall be issued in triplicate, shall be serially numbered and shall be used only in consecutive order. One copy of said delivery ticket shall be left with the purchaser of the solid fuel or his agent, and the third copy shall be retained at the scales during the time when the solid fuel represented by such ticket is in course of actual delivery, and all voided delivery tickets in triplicate and one copy of each delivery ticket issued under the provisions of this chapter shall be kept on file at the place of business of the seller for a period of one year from date of issuance and shall be

subject to inspection by any weights and measures officer. When the impression of the official seal of any weighmaster appears on a delivery ticket or weight certificate it shall be prima facie evidence that such impression was made by said weighmaster.

Any person issuing or directing the issuance of, or possessing delivery tickets showing different weights or sizes for the same delivery, or persons appearing at the place of delivery, each with a delivery ticket for the same delivery, which tickets have different weights or sizes appearing thereon, shall be deemed guilty of a violation of the provisions of this chapter.

When solid fuel is sold in packages of one hundred pounds or less the provisions of this section shall not apply if the solid fuel is delivered in closed containers or closed bags and the net contents of such bag or container expressed in pounds is plainly and conspicuously stamped or printed thereon, together with the name and address of the person packaging said solid fuel.

When solid fuel is sold in bulk in lots of one hundred pounds or less, the provisions of this section shall not apply when such solid fuel is weighed upon scales which have been tested and sealed by any weights and measures officer and a delivery ticket is left with the purchaser showing the date of sale, name and address of the seller and the weight of the solid fuel expressed in pounds.

This section shall not apply to the sale of a boatload or railroad carload of solid fuel delivered direct from the boat or car to one purchaser and accepted as to weight by the purchaser on the bill of lading or other voucher issued by the carrier.

51:8-10. Substituting name of another person in weight certificate

Where any person shall be unable to deliver solid fuel to the purchaser originally designated in the weight certificate, he may, by direction of any weighmaster, designated to weigh solid fuel, substitute the name and address of another purchaser; provided, that report of such substitution is made within twenty-four hours to the weighmaster who issued the original weight certificate.

51:8-11. Weighing fuel in process of delivery

Any weights and measures officer who finds any quantity of solid fuel ready for or in process of delivery may direct the person in charge of the solid fuel to convey the same to the nearest available accurate scales designated by said officer. Such officer shall thereupon determine the weight of the solid fuel and the vehicle on which it is carried and shall direct such person in charge to return to such scales forthwith upon unloading the solid fuel and upon such return the officer shall determine the weight of the vehicle without load. It shall be unlawful for any person in charge of a vehicle containing such solid fuel or from which such solid fuel has been unloaded to fail to take the vehicle upon the direction of said officer to the scales as aforesaid or refuse to permit the solid fuel or vehicle to be weighed by such officer.

51:8-12. Who may issue weight certificates; certificate of designation as weighmaster; application; period; revocation; substitution of weighmaster

It shall be unlawful for any person to make or issue a weight certificate for solid fuel unless certified as a weighmaster by the superintendent of the department under the provisions of sections 51:1-73 to 51:1-80 of this title, and duly designated by said superintendent to weigh solid fuel in accordance with the provisions of this chapter, and a public weigher shall not be permitted to weigh solid fuel unless designated to do so under the provisions of this chapter.

Application for a certificate of designation shall be made upon a form prescribed by the superintendent; the applicant shall furnish satisfactory evidence of good moral character and of ability

to weigh accurately, and to make correct weight certificates, and shall indicate the place where the applicant shall perform his function as a weighmaster designated to weigh solid fuel and the type and capacity of the scale or scales to be used by the applicant.

When the applicant is an equipped dealer or an employee of an equipped dealer having two or more yards, he may be designated to weigh upon any or all of the scales in the said yard or yards. No certificate of designation shall be issued to any applicant unless he is the owner or lessee of the scales at the place designated in his application, or a bona fide employee of the owner or lessee of such scales; provided, however, that not more than three certificates of designation shall be issued for the same scale, unless the superintendent in his discretion deems it advisable that more than three persons shall be designated to weigh solid fuel on said scale.

The period of the certificate of designation to weigh solid fuel shall run concurrently with the term of the applicant as weighmaster and shall expire on the date of the expiration of said term. Each certificate of designation shall be kept at the place where the weighmaster is engaged in weighing solid fuel and shall be open to inspection, and shall state the type, capacity and location of the scale or scales upon which he is designated to weigh solid fuel.

Upon notice to a weighmaster, his certificate of designation may be revoked by the superintendent of the department, after hearing, for dishonesty, incompetency, inaccuracy or for any violation of the provisions of this chapter, or for any misrepresentation in his application for the said certificate; and the said certificate shall become invalid when for any reason he is no longer employed at the place of weighing for which the certificate was issued.

In any case where a certificate of designation has been revoked any person shall be authorized to substitute, at the place for which said revocation was made, another weighmaster in his employ and duly designated as such under the provisions of this chapter, pending disposition by the superintendent of the department of a new application for designation of a new applicant as weighmaster to weigh solid fuel at the place for which the certificate of designation has been revoked; provided, that the said new application must be forwarded to the superintendent of the department within five days of the substitution of another weighmaster designated to weigh solid fuel.

In case of the death, absence or inability to act of a weighmaster designated to weigh solid fuel, any person may substitute for such deceased or absent weighmaster another weighmaster in his employ and duly designated as such under the provisions of this chapter; provided, that immediate notice of such substitution be reported by said person to the superintendent of the department and that any such substitution shall not be authorized to continue as weighmaster at the place of substitution for a period in excess of thirty days unless with the written consent of the superintendent of the department.

Amended by L.1938, c. 44, p. 121, s. 2.

51:8-13. Disposition of license fees; payments to counties and municipalities of moneys collected

All license fees required to be collected by the superintendent of the division under the provisions of this chapter shall be turned over to the treasurer of the State of New Jersey who shall itemize and report separately in his annual report all income so received.

Amended by L.1971, c. 341, s. 7, eff. Dec. 13, 1971; L.1979, c. 421, s. 2, eff. Feb. 8, 1980.

51:8-14. Violations; penalties

It shall be unlawful:

- a. For any weighmaster to issue a false or incorrect weight certificate or for any person to solicit him so to do.
- b. For any weighmaster to permit any weight certificate to be issued or used which purports to bear his signature or seal but which was not in fact signed or sealed by him or which expresses a weight not ascertained by him.
- c. For any person to use a false or incorrect weight certificate or to use a certificate not bearing the signature and seal of a weighmaster designated to weigh solid fuel.
- d. For any person to deliver solid fuel in any vehicle not having securely and conspicuously attached thereto a license plate as provided in this act.
- e. For any person to deliver solid fuel without a weight certificate.
- f. For any person to fail, neglect, or refuse to deliver a correct and lawful weight certificate to the purchaser of solid fuel.
- g. For any person to permit any diminution of the load of solid fuel after the weight thereof has been certified by a weighmaster designated to weigh solid fuel and before its delivery to the purchaser or purchasers thereof.
- h. For any person to deliver or cause to be delivered less than the quantity of solid fuel represented in the weight certificate accompanying such solid fuel as provided in this chapter.

Any person violating any of the provisions of paragraphs "a," "b," "c" of this section shall, upon being found guilty of such offense, pay a fine of not less than \$250.00, nor more than \$1,000.00.

Any person violating any of the provisions of paragraphs "d," "e," or "f" of this section shall, upon being found guilty of such offense, pay a fine of not less than \$50.00, nor more than \$100.00.

Any person violating any of the provisions of paragraphs "g" or "h" of this section shall, upon being found guilty of such offense, pay a fine of not less than \$50.00, nor more than \$100.00, and shall, upon being found guilty of a second similar offense, pay a fine of not less than \$100.00, nor more than \$250.00, and shall, upon being found guilty of any subsequent similar offense, pay a fine of not less than \$250.00, nor more than \$500.00.

Any person who violates any provision of this chapter not specified in this section shall, upon being found guilty of such offense, pay a fine of not less than \$50.00, nor more than \$100.00. Any person unable to pay a fine imposed under the provisions of this chapter shall be committed to jail for a period of not to exceed 6 months.

Amended by L.1969, c. 251, s. 32, eff. Jan. 7, 1970.

51:8-15. Procedure for recovery of penalties

An action to recover any penalty incurred under the provisions of this chapter may be brought in the name of the State of New Jersey by any duly appointed weights and measures officer. The summons or warrant issued may be directed to a person named in section 51:1-105 of this Title or to any weights and measures officer.

It shall be the duty of the municipal attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section 51:1-43 of this Title, in which case the county prosecutor of the county wherein such violation shall take place shall assist in such prosecution.

Amended by L.1953, c. 48, p. 846, s. 18.

51:8-16. Arrest without warrant

For violation of any of the provisions of this chapter, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before the Superior Court or any municipal court having jurisdiction in the county wherein such arrest is made or the offense is committed. Amended 1953,c.48,s.19; 1991,c.91,s.484.

51:8-19. Disposition of penalties

All fines and penalties collected from persons offending against the provisions of this chapter shall be paid by the magistrate or court clerk receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents.

Amended by L.1953, c. 48, p. 847, s. 22.

51:9-1. Definitions

As used in this chapter:

- a. The words "liquid fuels" shall be deemed to mean and to include fuel in liquid form, which can or may be used for heating purposes; Provided, however, that oils shall not be included if they possess a flash point of one hundred five degrees Fahrenheit or lower, as determined by the Tagliabue closed cup tester or a Saybolt Universal Viscosity at one hundred degrees Fahrenheit higher than fifty-five seconds.
- b. The words "weights and measures official" shall be deemed to mean and to include any State, county or municipal superintendent, or assistant superintendent of weights and measures.

Amended by L.1938, c. 323, p. 834, s. 1; L.1953, c. 48, p. 847, s. 23.

51:9-2. Only approved measuring devices to be used; certificate of approval

It shall be illegal to use or to employ any measuring device for use in the purchase or sale of any liquid fuel without the same first being approved as to type and construction by the state superintendent of weights and measures and calibrated, tested and sealed by any weights and measures official. The state superintendent of weights and measures shall provide a form of certificate to be issued by a weights and measures official after the approval, testing, calibration and sealing of any measuring device, which certificate shall expire one year from the date thereof following issuance thereof and shall be renewed annually. It shall be unlawful to sell or deliver or have in possession with intent to deliver any liquid fuel unless such certificate shall be in possession at all times or carried on the vehicle to which it applies.

51:9-3. Sale by volume; unit of volume

All liquid fuel shall be sold by volume. The unit of volume shall be the standard United States gallon.

51:9-4. Calculating volume by weight; tables for conversion of weight to volume and temperature corrections

If the volume be calculated by weight, the net weight shall be determined by means of a scale of approved type and capacity, tested and sealed by any weights and measures official. For the conversion of weight to volume and for temperature corrections, the National Standard Petroleum Oil Tables as approved by the United States Bureau of Standards shall be used.

51:9-5. Measuring quantities between 50 and 10,000 gallons; exceptions

Each sale or delivery of liquid fuel exceeding 50 gallons but not exceeding 10,000 gallons shall be measured by means of a positive displacement liquid flow meter which has been tested and sealed as to its adjusting and recording elements by any weights and measures official; but this section shall not apply to liquid fuel sold in barrels or other containers upon which the quantity in terms of liquid measure is plainly and conspicuously marked, to liquid fuel sold to be delivered by the entire railroad tank car or cargo direct from the vessels, boats, or railroad tank cars or bulk tank trucks or compartments thereof containing the same to 1 destination and consigned to 1 person and accepted by the purchaser on the original bill of lading or invoice as proof of measurement or weight, or to the sale or delivery of liquid fuel which the State Superintendent of Weights and Measures determines does not by reason of its viscosity or other condition lend itself to metered measurement.

Amended by L.1956, c. 109, p. 493, s. 1.

51:9-6. Measuring quantities over 10,000 gallons

Deliveries of quantities in excess of 10,000 gallons may be measured through a meter or from compartments which have been calibrated and whose indicators have been sealed by any weights and measures official.

L.1937, c. 183, s. 6, p. 625. Amended by L.1956, c. 109, p. 494, s. 2.

51:9-7. Delivery tickets; duplicates; contents

A delivery ticket and duplicate thereof shall be issued upon the completion of delivery of each sale or delivery of liquid fuel exceeding 10 gallons. If the sale or delivery exceeds 50 gallons and is of a type of liquid fuel which is required to be measured by meter, the ticket shall be printed by means of an automatic printing device attached to and co-ordinated with the operating mechanism of a meter approved for the measurement of liquid fuels pursuant to the provisions of this chapter. On each ticket there shall be distinctly and legibly expressed the date, the name and address of the seller, the name and address of the purchaser, the number of gallons sold or delivered, the grade of liquid fuel, and the signature of the person making such sale or delivery or his agent. One of such tickets shall be given to the purchaser and the other shall be retained by the seller for a period of 1 year, such retained tickets being subject to inspection by any weights and measures official. Delivery tickets shall be serially numbered. No duplicate or retained ticket shall be destroyed but may be voided and kept on file.

The provisions of this section shall not apply where there is a meter permanently attached and properly security sealed in the consuming apparatus of the consumer with the recording elements always available to him. In this situation, in lieu of a delivery ticket, there shall be rendered to the consumer by the seller a periodical statement of the amount of fuel delivered to him as indicated on the meter attached to his consuming apparatus. On notice to the seller a consumer may at any time elect to discontinue use of a meter attached to his consuming apparatus and to receive delivery tickets as in this section provided.

Amended by L.1956, c. 109, p. 494, s. 3; L.1964, c. 21, s. 1.

51:9-8. Adjustment, repair or alteration of measuring device; removing meter from tank

It shall be unlawful after the approval, testing and sealing of any measuring device and equipment used in delivering liquid fuel, to adjust, repair or alter the same or to cause said measuring device and equipment to be adjusted, repaired or altered, unless approval of a weights and measures official is first obtained; and it shall be unlawful to remove any meter from the tank to which it is affixed at the time of testing and sealing to any other tank, unless immediate written notification is given to a weights and measures official advising of necessity of alterations or change.

51:9-9. Delivery measured by approved device; misrepresenting quantity

No person shall deliver any liquid fuel without the same having been measured by a measuring device approved, tested and sealed in accordance with the provisions of this chapter, nor shall any person sell or deliver less than the quantity represented to be sold and delivered.

51:9-9.1. Residential oil fill pipe, regulations, violations, fees

- a. The owner of any residential dwelling served by a home heating oil tank shall provide that the cap of any exterior heating oil fill pipe be colored green or that the tank fill pipe be equipped with a fill tightness system with a fill cap stamped or engraved in clear letters with the words "Fuel Oil."
- b. No person may pump, pour, or otherwise place home heating oil into any exterior heating oil tank fill pipe of a residential dwelling unit unless that pipe is capped with a tank fill pipe cap that is colored green, or unless the tank fill pipe is equipped with a fill tightness system with a fill cap stamped or engraved in clear letters with the words "Fuel Oil."
- c. A person who violates the provisions of this section is subject to a civil penalty not to exceed \$500. The penalty may be collected in a summary proceeding brought pursuant to "the penalty enforcement law," (N.J.S.2A:58-1 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

L.1991,c.163,s.1.

51:9-10. Rules and regulations

The State Superintendent of Weights and Measures shall make such rules and regulations governing the type of all measuring devices and equipment used in the delivery of liquid fuel, and the manner of approval, testing, or calibrating of the same and the mailing and preserving of the periodical statements of meter readings sent to purchasers having meters on their consuming apparatus, as he may deem necessary, in order to prevent the perpetration of fraud in the sale of liquid fuel.

Amended by L.1964, c. 21, s. 2.

51:9-11. Penalties; amount; disposition; municipal attorney to assist in prosecution

Any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a penalty of not less than \$50.00 nor more than \$100.00, for the first offense, or for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 20 days; and for a second offense, shall, after conviction, pay a penalty of not less than \$100.00 nor more than \$250.00 and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 40 days; and for a third or each subsequent offense, shall, after conviction, pay a penalty of

not less than \$250.00 nor more than \$500.00, and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 60 days.

All penalties collected from persons violating the provisions of this chapter shall be paid by the magistrate or court clerk receiving the same, when recovered by the State Superintendent of Weights and Measures, or his assistants, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, into the treasury of the municipality which such officer represents.

It shall be the duty of the municipal attorney of any municipality wherein any violation takes place to assist in the prosecution of the same and to assist in the trial of any appeal, where a complaint is made by a municipal weights and measures official and if such municipality has no municipal weights and measures official, the county prosecutor wherein such violation takes place shall assist in such prosecution.

Amended by L.1953, c. 48, p. 847, s. 24; 1969, c. 251, s. 33, eff. Jan. 7, 1970.

51:9-12. Summons or warrant to issue

A complaint having been made to the Superior Court or a municipal court by any weights and measures official, that any person has violated any of the provisions of this chapter, a summons or a warrant may issue directed to any weights and measures official or to any constable or police officer for the appearance or arrest of the person so charged.

Amended 1953,c.48,s.25; 1991,c.91,s.485.

51:9-16. Request to Attorney-General to attend

The county prosecutor of any county, charged with the enforcement of the provisions of this chapter, may request the Attorney-General to attend personally, or by such assistant or assistants, as he shall designate to aid in any appeal which may be taken in any proceeding under this chapter.

Amended by L.1953, c. 48, p. 849, s. 29.

51:9-17. Entitling proceedings

All proceedings for the violation of the provisions of this chapter shall run in the name of the State of New Jersey with the weights and measures official who institutes the proceeding as prosecutor.

Amended by L.1953, c. 48, p. 849, s. 30.

51:9-18. Arrest without warrant

Any police officer, or weights and measures official is hereby authorized to arrest, without warrant, any person violating, in the presence of such police officer, or weights and measures official any of the provisions of this chapter, and to bring the defendant before the Superior Court or a municipal court in the county where such offense is committed.

Amended 1953,c.48,s.31; 1991,c.91,s.486.

51:9-20. Summons or warrant valid throughout State; arrest in county other than where violation occurred; procedure

A summons or warrant issued by any court having jurisdiction in accordance with the provisions of this chapter shall be valid throughout the State, and any officer who has power to serve the said summons, or to serve said warrant and make arrest thereon, in the county where the same shall have been issued, shall have like power to serve said summons and to serve said warrant and make arrest thereon in any of the several counties of the State. If any person shall be arrested for a violation committed in the county other than that in which the arrest shall take place, the person so arrested may demand to be taken before the Superior Court or a municipal court in the county in which the arrest may have been made for the purpose of making a cash deposit or of entering into a recognizance with sufficient surety; whereupon the officer serving the said warrant shall take the person so apprehended before such a court in the county in which the arrest shall have been made, which shall thereupon fix a day for the matter to be heard before the court issuing the said warrant, and shall take from the person apprehended a cash deposit or recognizance to the State of New Jersey with sufficient surety or sureties for the appearance of the said person at the time and place designated. The cash deposit or recognizance so taken shall be returned to the court issuing the warrant, to be retained and disposed of by it as by this chapter provided.

Amended 1953,c.48,s.33; 1991.c.91,s.487.

51:10-1. Terms defined

For the purpose of this act the following words shall be deemed to have the meaning herein given them:

(a) "Liquefied petroleum gas" shall mean and include any material or substance which is composed predominantly of any of the following hydrocarbons or mixtures of the same:

Propane, propylene, butane, normal or iso-, and butylene.

(b) "Superintendent" shall mean the Superintendent of the Division of Weights and Measures of the Department of Law and Public Safety.

(c) "Weights and measures officer" shall mean and include the superintendent of weights and measures or his deputy or assistant superintendents, county superintendents of weights and measures or their assistants, and municipal superintendents of weights and measures or their assistants.

(d) "Court" shall be construed to mean and to include the Superior Court or municipal court.

L.1952,c.143,s.1; amended 1953,c.48,s.35; 1991,c.91,s.488.

51:10-2. Liquefied petroleum gas; units of measurement

Liquefied petroleum gas shall be sold or offered for sale by avoirdupois net weight, by liquid measure based on the standard United States gallon of two hundred and thirty-one cubic inches, or by cubic feet based on the standard cubic foot of one thousand seven hundred and twenty-eight cubic inches; provided, however, that nothing herein shall be interpreted so as to prohibit the sale of such product by other units heretofore employed by industry and accepted by the trade and approved by the superintendent of the division of weights and measures of the Department of Law and Public Safety, if the scale or meter used to determine weight or measurement and the invoice rendered clearly indicate to the consumer the equivalent of such unit in avoirdupois pounds, United States standard gallons or cubic feet and fractions thereof.

L.1952, c. 143, p. 495, s. 2.

51:10-3. Package weight; liquefied petroleum gas; variations

When liquefied petroleum gas is sold or offered for sale by package weight, variations at the rate of one pound per one hundred pounds under the specified net weight of the container are permitted in individual containers, but the average weight of not less than twelve containers shall not be less than the marked net weight of the container.

L.1952, c. 143, p. 496, s. 3.

51:10-4. Markings on containers or labels; tare weight

Containers used where the gas content is sold by package weight must have the tare weight plainly and conspicuously marked on the container or on permanently attached appurtenances, and the net contents plainly and conspicuously marked on the container or on a tag or other type of label firmly attached thereto. Tare weight shall be construed to be the weight of the container, valve and other permanent attachments but does not include the valve-protecting cap.

L.1952, c. 143, p. 496, s. 4.

51:10-5. Removal of container from premises; weighing liquefied petroleum gas remaining

When liquefied petroleum gas is sold or delivered in package form and the cylinder or container is connected to the consumer's apparatus, the said cylinder or container shall neither be disconnected nor removed from the premises before it becomes empty, except as may be provided hereafter or by contract with the purchaser or consumer. When removed before becoming empty said cylinder or container shall be weighed by the seller to determine the quantity of liquefied petroleum gas remaining in such cylinder or container and a written receipt issued to the purchaser or consumer stating such quantity. When weighed on the customer's premises, weight shall be subject to verification by the seller at the dealer distribution point or the filling plant to determine whether credit is due the customer; provided, however, that the provisions of this paragraph shall not apply where they are inconsistent with the terms of a written contract of sale. A cylinder or container shall be considered empty when the gross weight of the cylinder or container does not exceed the tare weight as marked within the tolerance allowed.

L.1952, c. 143, p. 496, s. 5.

51:10-6. Delivery tickets and duplicates

Each delivery of liquefied petroleum gas sold on a package basis in cylinders or containers to consumers and each delivery of such gas from a vehicle tank or other vessel into tanks, cylinders or containers connected to consumer apparatus when sale is based on a quantity so delivered, shall be accompanied by a delivery ticket and duplicate thereof. On such ticket and duplicate thereof shall be distinctly expressed in ink or other indelible substance the date of delivery, the net weight or volume of such liquefied petroleum gas delivered together with the name and address of the seller and the name and address of the purchaser of such liquefied petroleum gas. Delivery tickets shall be serially numbered or the serial number of the cylinder or container shall be legibly marked on such delivery ticket. One of such tickets shall be delivered to the person receiving the liquefied petroleum gas, and the other ticket shall be retained by the seller of the liquefied petroleum gas for a period of one year and shall be subject to inspection by any weights and measures officer, within this time.

L.1952, c. 143, p. 497, s. 6.

51:10-7. Meter and pertinent equipment

When liquefied petroleum gas is sold by liquid measure and measured by meter, the meter and pertinent equipment must be such as to assure accurate liquid measurement within plus or minus one per centum (1%).

L.1952, c. 143, p. 497, s. 7.

51:10-8. Artificial heat to expand liquefied petroleum gas being delivered prohibited

The use of artificial heat for the purpose of expanding liquefied petroleum gas before or during the process of delivery, when the basis of settlement for such sale or delivery is liquid volume, is prohibited.

L.1952, c. 143, p. 497, s. 8.

51:10-9. Sealing of new meters; regulations

New meters for measuring liquefied petroleum gas sold in the vapor state shall be sealed by the manufacturer thereof as hereinafter provided or by a weights and measures officer. The superintendent of the division of weights and measures of the Department of Law and Public Safety shall prescribe regulations including specifications and tolerances governing the testing and sealing of such meters and method of determining the quantity of liquefied petroleum gas, and may authorize any manufacturer or distributor of liquefied petroleum gas to seal used meters upon written agreement to conform to said regulations. The superintendent of the division of weights and measures of the Department of Law and Public Safety may at any time for cause revoke the authority so given by him to any manufacturer or distributor of liquefied petroleum gas.

L.1952, c. 143, p. 498, s. 9.

51:10-10. Types and designs of scales and meters

All scales and meters used for the weighing or measuring of liquefied petroleum gas shall be of types and designs approved by the superintendent of the division of weights and measures of the Department of Law and Public Safety.

L.1952, c. 143, p. 498, s. 10.

51:10-11. Rules, regulations, specifications and tolerances

The superintendent of the division of weights and measures of the Department of Law and Public Safety is authorized after a public hearing duly called and held to establish and promulgate such rules, regulations, specifications and tolerances to supplement and give full effect to the provisions of this act as he may deem necessary. Such rules, regulations, specifications and tolerances promulgated shall have the force and effect of the law.

L.1952, c. 143, p. 498, s. 11.

51:10-12. Exemptions from provisions of act

The provisions of this act shall not apply to interstate tank car and transport truck deliveries to bulk storage, nor to public utility systems using pipes or other fixtures in the public highways or streets for the transmission of liquefied petroleum gas and operating under the jurisdiction of the board of public utilities commissioners of this State, nor to any public service company whose operations are subject to the jurisdiction of the said board.

L.1952, c. 143, p. 498, s. 12.

51:10-13. Violations; penalties

Any person who shall, by himself or by his agent, or as the agent of another, violate any of the provisions of this act, shall upon conviction pay a penalty of not less than twenty-five (\$25.00) nor more than fifty dollars (\$50.00) for the first offense, not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the second offense, and not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for the third or subsequent offense.

L.1952, c. 143, p. 499, s. 13.

51:10-14. Recovery of penalty, jurisdiction

Any penalty shall be recovered as specified in sections 51:1-103 and 51:1-105 to 51:1-107 of the Revised Statutes. An action for the recovery of a penalty for violation of any of the provisions of this act shall be within the jurisdiction of and may be brought before the Superior Court or a municipal court in the county in which the offense is committed or where the defendant may reside. In any proceeding process shall be the same as that provided for in said sections of the Revised Statutes, and any weights and measures officer shall have power to arrest any offender without warrant where there is a violation of this act within his view, and conduct him before any court having jurisdiction in the county where the arrest is made or the offense committed.

L.1952,c.143,s.14; amended 1953,c.48,s.36; 1991,c.91,s.489.

51:10-15. Supervision of administration and enforcement of act

The superintendent of the division of weights and measures of the Department of Law and Public Safety shall have general supervision of the administration and enforcement of this act. The superintendent, deputy superintendent and assistant superintendents of the said division and the superintendents and assistant superintendents of the county and municipal departments of weights and measures are hereby charged with the duty of enforcing and executing its provisions.

L.1952, c. 143, p. 499, s. 15.

51:10-16. Disposition of penalties

Penalties, when imposed or recovered in any action brought by the superintendent, deputy superintendent or assistant superintendents of the division of weights and measures of the Department of Law and Public Safety shall be payable to the State Treasurer. When such action is brought by a county superintendent or assistant county superintendent, they shall be payable to the treasurer of such county. When such action is brought by a municipal superintendent or assistant municipal superintendent, they shall be paid into the treasury of such municipality.

L.1952, c. 143, p. 499, s. 16.

51:10-17. Effective date

This act shall take effect July first, one thousand nine hundred and fifty-two.

L.1952, c. 143, p. 500, s. 17.

51:10-18. Discontinuance or curtailment of supply to residential dwellings; advance notice

No supplier of liquefied petroleum gas to residential dwellings shall discontinue or curtail its service for nonpayment of a bill by any customer who uses the gas as a main source of space heating without giving a prior seven day, excluding Saturdays, Sundays and holidays, written notification in six-point type or larger on the front of the invoice or in a separate notice, to the customer of the intent to discontinue or curtail service; provided, however, that any notification after January 1, 1984, shall be in 10-point bold type or larger.

L.1983, c. 465, s. 1, eff. Jan. 12, 1984.

51:10-19. Violations; penalties; enforcement; disposition; discontinuance not violation; conditions

Any person violating this act shall be subject to a penalty of \$1,000.00 for each violation. The penalty shall be enforced pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) in a summary proceeding brought in the name of the State by the health officer of the municipality in which the violation occurred or by a weights and measures officer. Whenever the health officer of a municipality brings the summary proceeding, half of the penalty shall be remitted to the State and the other half shall be remitted to the municipality in which the violation occurred. Whenever a weights and measures officer brings the summary proceeding, the penalty shall be disposed of in accordance with section 16 of P.L.1952, c. 143 (C. 51:10-16).

It shall not be a violation of this act to discontinue service to a residential dwelling or property which has unsafe equipment or when other conditions prevail as specified by regulations promulgated by the Office of Weights and Measures which prevent delivery of a notice or liquefied petroleum gas to the customer.

L.1983, c. 465, s. 2, eff. Jan. 12, 1984.

51:11-1. Definitions

As used in this act:

"Consumer" means any person who purchases soil amendments for home use, for resale, for manufacturing or for landscaping purposes.

"Dealer" means "equipped dealer" or "unequipped dealer."

"Deputy superintendent" means the deputy superintendent of the Division of Weights and Measures.

"Delivery" except as otherwise in this act specifically provided, means transportation of soil amendments for sale or use in this State by a person in vehicles owned, leased or rented by him.

"Division" means the State Division of Weights and Measures.

"Engaging in business" or "engaged in business" shall include any single transaction, act or sale.

"Equipped dealer" means any person who is regularly engaged in the business of producing, selling and delivering soil amendments in this State and who maintains loading or unloading, storage, transportation, communication, sales, services or other facilities therefor, with an office accessible to the public with a competent person on duty, commensurate with the nature and other requirements of the business and an "unequipped dealer" means any person engaged in the business of selling, offering or exposing for sale or the canvassing or soliciting in any manner directly from a vehicle of any kind soil amendments and who does not maintain or operate the facilities used by an "equipped dealer."

"In package form" means any soil amendment put up or packaged in any manner in advance of sale so as to constitute a unit quantity of a commodity for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing the packages which individually conform to the requirements of this act.

"Labeling" means all labels and other written, printed, branded, or other graphic matter placed upon any soil amendments or accompanying such commodity.

"Mislabeled" or "misbranded" shall be deemed to mean the labeling is misleading, deceiving, or tends to be misleading or deceiving in any particular, and there shall also be taken into account, among other things, not only the representations made or suggested by any statement, word, design, or any combination thereof, but also the extent to which such labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity, to which such labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

"Misrepresentation" means any manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts.

"Net" means free of anything extraneous or deduction and without the inclusion of any tare or tret.

"Offered for sale" or "exposed for sale" shall be construed to include the use of any advertising media or means.

"Person" includes corporation, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals.

The words "sell" and "sale" shall be construed to include barter and exchange.

"Sell" in any of its variant forms, includes barter, exchange, trade, keep for sale, offer for sale, attempt to sell, expose for sale, assist in the sale of, permit to be sold or offered for sale or delivery, or offer for delivery, trade, barter, in any of their variant forms.

"Soil amendment" means any substance or mixture of substances imported, manufactured, prepared or sold for manurial, soil enriching or soil corrective purposes or intended to be used for promoting or stimulating the growth of plants, increasing the productivity of plants, improving the quality of crops or producing any chemical or physical change in the soil, except commercial fertilizers, agricultural lime, animal manures or economic poisons as defined in the New Jersey Statutes.

"Superintendent" means the State Superintendent of the Division of Weights and Measures.

"Vehicle" means any truck, wagon, cart, rig or other conveying device.

"Weights and measures officials" mean any State or local weights and measures official.

L.1968, c. 450, s. 1.

51:11-2. Sale by standard dry measure or avoirdupois net weight; exception

All soil amendments shall be sold, offered or exposed for sale by standard dry measure or by avoirdupois net weight except in cases of liquid, gaseous or solid, soil amendments which may be sold or offered for sale by avoirdupois net weight or by liquid measure based upon the standard United States gallon of 231 cubic inches in cases of liquid soil amendments, or by cubic feet based upon the standard cubic foot of 1,728 cubic inches in case of gaseous or solid soil amendments.

L.1968, c. 450, s. 2.

51:11-3. Sale in package form; marking

No person shall distribute, sell, offer or expose for sale or have in his possession with intent to distribute or sell any soil amendment in package form unless he complies with the provisions of this act and the regulations and rules promulgated thereunder, and, in addition, the package or tag firmly affixed shall be plainly and conspicuously marked as to the net contents in the package form and the identity of the soil amendment and the name and address of the packer.

L.1968, c. 450, s. 3.

51:11-4. Delivery in bulk lots exceeding 100 pounds; sale in liquid or gaseous form; delivery ticket

No person shall deliver, start out for delivery or cause to be delivered soil amendments in bulk lots exceeding 100 pounds and not in package form unless he complies with the provisions of sections 51:1-82 and 51:1-83 of the Revised Statutes.

Where soil amendments are sold in either liquid or gaseous form, the delivery ticket shall contain the number of gallons or cubic feet as the case may be, and the unit avoirdupois weight of the gallon or cubic foot measurement.

L.1968, c. 450, s. 4.

51:11-5. Sale in bulk amounts of 100 pounds or less; receipt; contents; exception

No person shall sell soil amendments in bulk in amounts of 100 pounds or less unless such sale is accompanied by a receipt containing the net weight of the soil amendment, the type or kind of soil amendment, the name and address of the dealer, the unit price of the soil amendment and the total amount of the sale. This section shall not apply to soil amendments when sold at the seller's retail establishment and weighed or measured in the consumer's presence.

L.1968, c. 450, s. 5.

51:11-6. Sale or delivery of less than quantity represented

Any person who sells, exposes or offers for sale, or delivers, either in bulk or package form, less than the quantity he represents of any soil amendment subject to the provisions of this act shall be liable to the penalty provisions of this act; provided, however, that the superintendent shall establish and promulgate by rule, regulation, or order permissible deviations and tolerances to be used by weights and measures officials in reweighing or remeasuring such commodity.

L.1968, c. 450, s. 6.

51:11-7. License to sell from vehicle

No person shall canvass or solicit for the sale of, or sell, offer or expose for sale, directly from a vehicle of any kind, soil amendments for use on lawns, gardens or landscaping of any kind, unless he is licensed to do so by the superintendent who shall require a separate license for each vehicle so used.

L.1968, c. 450, s. 7.

51:11-8. Applications; renewals; forms

Applications for a license or for renewal of a license shall be in writing, under oath, on forms prescribed and furnished by the superintendent and shall be accompanied by the prescribed fee.

L.1968, c. 450, s. 8.

51:11-9. Fee

Every person required to be licensed according to the provisions of this act shall for such license pay a fee of \$50.00 per annum which fee shall be paid to the superintendent and by him turned over to the State Treasurer. The said fee shall entitle the licensee to one vehicle certificate and a license plate to be placed on the left side of the vehicle from which the business is conducted together with an identification card to be carried by the licensee.

L.1968, c. 450, s. 9.

51:11-10. Term of license; contents

Licenses shall be issued for a term of 1 year from the date of issue and shall be renewable at the expiration thereof. Each license issued shall state the name and business address of the person to whom it is issued and whatever other information as required by the superintendent.

L.1968, c. 450, s. 10.

51:11-11. License tags and identification cards

The superintendent shall issue license tags and identification cards to every licensee. The license tags shall be plainly and conspicuously exhibited on and shall be firmly attached to the left side of any vehicle used by the licensee to transport soil amendments. The identification cards shall be carried on the person of the licensee at all times and shall be exhibited upon request to any weights and measures official. The superintendent may, in addition, require any other identification or credentials he deems necessary.

L.1968, c. 450, s. 11.

51:11-12. Estimates of amount required by consumer; regulation by superintendent

The licensee shall, before every sale and delivery of soil amendment, execute in duplicate a written estimate of the total amount of soil amendment required by the consumer, the estimated total price of the sale and the type and kind of the soil amendment. One copy shall be given to the consumer and the other copy shall be retained by the licensee for a period of 1 year from the date of execution.

The superintendent shall, by regulation or rule, prescribe the form, contents and manner of execution and retention of said estimates, and he may, by regulation or rule, prescribe allowable ranges, variations or exemptions concerning said estimates.

L.1968, c. 450, s. 12.

51:11-13. Receipt showing amount delivered; retention by licensee for three years

After every sale each licensee shall execute in duplicate a serially numbered receipt showing the quantity of soil amendment delivered, the type delivered, the date of the sale and delivery, the name and address of the seller, the name and address of the buyer and the total amount of the sale. Receipts shall be kept by the licensee, void copies included, in a manner acceptable to the superintendent, for a period of 3 years and shall be subject to inspection by any weights and measures official within that time.

L.1968, c. 450, s. 13.

51:11-14. Display of signs on vehicles

No licensee shall use any vehicle for transporting any soil amendments unless the vehicle displays a sign stating the type or kind of soil amendment in such manner as the superintendent shall by regulation or rule prescribe.

L.1968, c. 450, s. 14.

51:11-15. Portion of licensing fee returned to county or municipality

30% of each vendor and canvasser licensee fee shall be returned to the county or municipality from which said licensing fee originated. The counties and municipalities shall appropriate the moneys so received to the sole and exclusive use of their respective departments of weights and measures. The place of business of the licensee shall determine the origin of the license fee.

L.1968, c. 450, s. 15.

51:11-16. Enforcement of act

In addition to their powers and duties as prescribed by Title 51 of the Revised Statutes, all weights and measures officials in this State shall have the duty of enforcing the provisions of this act.

L.1968, c. 450, s. 16.

51:11-17. Rules and regulations

The superintendent is authorized to establish and promulgate such rules, regulations or orders as he may deem necessary to implement the administration or the enforcement of this act.

L.1968, c. 450, s. 17.

51:11-18. Administration and enforcement of act; powers of weights and measures officials

The superintendent shall have general supervision of the administration and enforcement of this act. All weights and measures officials shall have full power and authority to:

(a) Inspect and reweigh or remeasure any soil amendment while in transit from the dealer to the consumer in vehicles owned, leased or rented by the dealer, or after the soil amendment has been delivered to the consumer. They shall also have full power and authority to inspect the delivery slips issued and the estimates furnished to the consumer in connection with any sale, delivery or attempted sale or delivery and all the pertinent records of the person selling, delivering, or offering or exposing for sale soil amendments in connection with any such sale, delivery or attempted sale or delivery.

(b) Issue stop-use, stop-removal, removal, condemnation, confiscation orders with reference to soil amendments, which he finds being sold, offered, exposed for sale, kept or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act, or any rule, regulation, or order promulgated by the superintendent.

(c) Seize for use as evidence, any soil amendments, which he finds used, kept, offered or exposed for sale or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent. No person shall use, remove from the premises specified, or fail to remove from the premises specified any soil amendments contrary to the terms of a stop-use order, stop-removal order, or a removal order issued under the authority of this section.

L.1968, c. 450, s. 18.

51:11-19. Revocation, suspension, restriction or refusal to issue or renew license

The superintendent may, after proper notice and hearing revoke, suspend, restrict, or otherwise limit, or refuse to issue or renew any license issued or granted pursuant to the provisions of this act for any of the following reasons:

- (a) Fraud or misrepresentation in the application for or in the procuring of a license;
- (b) The violation of any rule, regulation, or order promulgated by the superintendent;
- (c) Any dishonest, deceptive, or any fraudulent practice, conduct or transaction; and
- (d) The loaning or the giving of any license.

L.1968, c. 450, s. 19.

51:11-20. Legal proceedings or processes

The superintendent is empowered to institute, or cause to be instituted such legal proceedings or processes as may be necessary to enforce and give effect to any of his powers and duties as prescribed by this act.

L.1968, c. 450, s. 20.

51:11-21. Subpoenas; oaths

The superintendent shall have the power to issue subpoenas to compel production of any pertinent records, books, or documents or the attendance of witnesses in any matter pertaining to his duties and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpoenas issued out of the Superior Court of the State.

Upon the failure of any person to obey a subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

L.1968,c.450,s.21; amended 1991,c.91,s.490.

51:11-22. Violations; penalties

Any person who violates any of the provisions of this act for which a specific penalty is not otherwise provided, shall be liable to a penalty of \$25.00 to \$50.00 for the first offense; not less than \$50.00 nor more than \$100.00 for the second offense, and not less than \$100.00 nor more than \$200.00 for each subsequent offense.

L.1968, c. 450, s. 22.

51:11-23. Double penalties for certain violations

Any person who knowingly violates sections 2, 3, 4, 5, 7, 8, 11, 13, 14 shall be liable to twice the penalties as stated in section 22 of this act and any person who knowingly violates the requirements of sections 6, 12 and 18 of this act shall be guilty of a misdemeanor.

L.1968, c. 450, s. 23.

51:11-24. Separate violations for different days and places

Violations of any of the provisions of this act or rules or regulations promulgated thereunder shall be deemed a separate violation for each different day on which they have occurred and a separate violation for each different place at which they occurred on the same day and each illegal selling, offering or exposing for sale, or the delivery of each separate unit or package form shall be deemed a separate violation.

L.1968, c. 450, s. 24.

51:11-25. Jurisdiction; enforcement of penalties; arrest without warrant

The Superior Court and municipal court shall have jurisdiction of proceedings for the enforcement and collection of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to the penalty enforcement law (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the superintendent or any other weights and measures official; provided, however, that any weights and measures official on the violation of any of the provisions of this act within his view may without warrant arrest the offender and conduct him before the court having jurisdiction in the municipality where the arrest is made or the offense committed. Such court on the filing of written verified complaint setting forth the nature of the offense shall hear and determine in a summary manner, the guilt or innocence of the defendant and inflict the penalties provided by law.

L.1968,c.450,s.25; amended 1991,c.91,s.491.

51:11-26. Application of chapter

Nothing in this chapter shall be construed to repeal, amend, or alter in any way the provisions concerning horse manure contained in chapter 43 of the laws of 1944.

L.1968, c. 450, s. 26.

51:11-27. Prosecutions

Prosecutions for any violations 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.

L.1968, c. 450, s. 27.

51:11-28. Partial invalidity

If any section of this act or any provision thereof, shall be declared to be unconstitutional, invalid or inoperative such section or provision shall to the extent it is not unconstitutional, invalid or inoperative, be enforced and effectuated, and no such determination shall be deemed to invalidate or make ineffectual the remaining provisions or sections of this act.

L.1968, c. 450, s. 28.

TITLE 52 STATE GOVERNMENT, DEPARTMENTS AND OFFICERS**52:17B-23. Department of weights and measures constituted Division of Weights and Measures**

The department of weights and measures, together with all of its functions, powers and duties, is continued, but such department is hereby transferred to and constituted the Division of Weights and Measures in the Department of Law and Public Safety established hereunder.

L.1948, c. 439, p. 1714, s. 23.

52:17B-24. Superintendent of Division of Weights and Measures

The Division of Weights and Measures shall be headed by a superintendent, who shall be a person qualified by training and experience to direct the work of such division. The superintendent of such division shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor appointing him and until the superintendent's successor is appointed and has qualified; provided, however, that the person in office as State Superintendent of Weights and Measures on the thirty-first day of December, one thousand nine hundred and forty-eight, shall hold the office of Superintendent of the Division of Weights and Measures established hereunder for the unexpired period of the term for which he was appointed as State Superintendent of Weights and Measures, and until his successor is appointed and qualifies. The Superintendent of the Division of Weights and Measures shall receive such salary as shall be provided by law and shall devote his entire time and attention to the duties of his office. He may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

L.1948, c. 439, p. 1714, s. 24.

52:17B-25. Powers and duties of State Superintendent of Weights and Measures transferred to Superintendent of Division of Weights and Measures

The functions, powers and duties of the State Superintendent of Weights and Measures are continued, but such functions, powers and duties are hereby transferred to and vested in the Superintendent of the Division of Weights and Measures established hereunder and shall be exercised and performed by him through such division.

L.1948, c. 439, p. 1715, s. 25.

52:17B-26. Organization of existing department of weights and measures continued

Except as otherwise provided herein, or as may be changed pursuant to authorization contained herein or in any other law, the organization of the existing department of weights and measures is continued as the organization of the Division of Weights and Measures established hereunder.

L.1948, c. 439, p. 1715, s. 26.

2C:21-36. Sale of secondhand jewelry.

1. Any person engaged in the business of retailing, wholesaling, or smelting jewelry who purchases any article of used or secondhand jewelry shall:
 - a. Maintain, for five years:
 - (1) a record of the name, address and telephone number of the person from whom it was purchased;

(2) a descriptive list of any used jewelry purchased from that seller, including any identifying characteristics of that jewelry;

(3) digital photographs of any used jewelry purchased from that seller; and

(4) a photocopy of the identification of the seller provided pursuant to subsection b. of this section;

b. Verify the identity of the person selling the jewelry by requesting and examining a photograph-bearing, valid State or federal issued driver's license or other government issued form of identification bearing a photograph;

c. Deliver, on a weekly basis, to the police department having jurisdiction in the location of that person's place of business a copy of the record of all used jewelry purchased by that person during the preceding week;

d. Maintain in his possession any used jewelry purchased for not less than 10 business days following the delivery of the record of the purchase of that jewelry to the police department, as required by subsection c. of this section; provided, however, that a municipal ordinance adopted prior to the effective date of P.L.2009, c.214 (January 16, 2010) may provide a longer minimum length of time to maintain possession of used or secondhand jewelry; and

e. Maintain, for five years, a copy of any list provided by an individual pursuant to section 2 of P.L.2009, c.214 (C.2C:21-37).

Nothing in this section shall be construed to apply to pawnbrokers licensed and regulated pursuant to the pawnbroking law, R.S.45:22-1 et seq., or sales made through an Internet website. Nothing in this section shall be construed to apply to a person engaged in retail, provided the sale of jewelry is not his primary business and further provided the person does not engage in the purchase of used or secondhand jewelry on more than three days in a calendar year.

L.2009, c.214, s.1; amended 2013, c.247, s.2.