

CHAPTER.....

AN ACT relating to measurement standards; making various changes to provisions governing weights and measures; authorizing the State Sealer of Weights and Measures to adopt measurement standards by regulation; creating a Division of Measurement Standards within the State Department of Agriculture and prescribing its duties; providing for the licensure of public weighmasters; providing for the establishment of certain fees; authorizing the State Sealer of Weights and Measures to establish civil penalties for certain violations; prohibiting certain acts; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 581 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 27, inclusive, of this act.

**Sec. 2.** *“Bulk sale” means the sale of commodities when the quantity is determined at the time of sale.*

**Sec. 3.** *“Commercial weighing and measuring equipment” means weights and measures, and weighing and measuring devices, used commercially in:*

*1. Establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, purchase, offer or submission for sale, hire or award; or*

*2. Computing any basic charge or payment for services rendered on the basis of weight or measure.*

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** *“Division” means the Division of Measurement Standards of the State Department of Agriculture.*

**Sec. 6.** *“Net mass” or “net weight” means the mass or weight of a commodity, excluding any materials, substances or items not considered to be part of the commodity. The terms do not include materials, substances or any other items not considered to be a part of the commodity, including, without limitation, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments and coupons, except that, depending on the service to be rendered, shipping and packaging material may be included in the weight of the package.*

**Sec. 7.** *“Primary standards” means the physical standards of the State of Nevada that serve as the legal reference from which all other standards for weights and measures are derived.*

**Sec. 8.** *“Random weight package” means a package that is one package of a lot, shipment or delivery of packages of the same commodity with no fixed pattern of weights.*

**Sec. 9.** *“Secondary standards” means the physical standards that are traceable to the primary standards through comparisons or by using acceptable laboratory procedures, and that are used in the enforcement of statutes and regulations relating to weights and measures.*

**Sec. 10.** *“Standard package” means a package that is one of a lot, shipment or delivery of packages of the same commodity with declarations of identical net contents, including, without limitation, 1-liter bottles or 12-fluid-ounce cans of carbonated soda, 500-gram or 5-pound bags of sugar, or 100-meter or 300-foot packages of rope.*

**Sec. 11.** *“Weight” means:*

- 1. Net weight; or*
- 2. If the commodity is sold by drained weight, net drained wet.*

**Sec. 12.** *“Weights and measures” means all weights and measures of every kind, and includes, without limitation, instruments and devices for weighing and measuring, and appliances and accessories associated with such instruments and devices.*

**Sec. 13.** *The State Sealer of Weights and Measures shall:*

- 1. Ensure that weights and measures used in commercial services within this state are suitable for their intended use, are properly installed and accurate, and are so maintained by their owner or user.*

- 2. Prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this state.*

- 3. Make available to all users of physical standards, or of weighing and measuring equipment, the precision calibration and related metrological certification capabilities of the facilities of the Division.*

- 4. Promote uniformity, to the extent practicable and desirable, between the requirements relating to weights and measures of this state and similar requirements of other states and federal agencies.*

- 5. Adopt regulations establishing such requirements relating to weights and measures as are necessary to ensure equity between buyers and sellers, and thereby encourage desirable economic growth while protecting consumers.*

**Sec. 14. *The State Sealer of Weights and Measures shall:***

1. *Adopt regulations establishing such primary standards and secondary standards for weights and measures for use in this state as he determines appropriate.*
2. *Maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology.*
3. *Enforce the provisions of this chapter.*
4. *Adopt other reasonable regulations for the enforcement of this chapter.*
5. *Establish requirements for:*
  - (a) *Labeling;*
  - (b) *The presentation of information relating to cost per unit;*
  - (c) *Standards of weight, measure or count, and reasonable standards of fill, for any packaged commodity; and*
  - (d) *Information relating to open dating of packaged food.*
6. *Grant such exemptions from the provisions of this chapter or any regulations adopted pursuant thereto as he determines appropriate to the maintenance of good commercial practices within this state.*
7. *Conduct investigations to ensure compliance with this chapter.*
8. *Delegate to appropriate personnel any of the responsibilities of the Division as needed for the proper administration of the Division.*
9. *Adopt regulations establishing a schedule of civil penalties for any violation of section 23 of this act.*
10. *Inspect and test commercial weights and measures that are kept, offered or exposed for sale.*
11. *Inspect and test, to ascertain if they are correct, weights and measures that are commercially used to:*
  - (a) *Determine the weight, measure or count of commodities or things that are sold, or offered or exposed for sale, on the basis of weight, measure or count; or*
  - (b) *Compute the basic charge or payment for services rendered on the basis of weight, measure or count.*
12. *Test all weights and measures used in checking the receipt or disbursement of supplies by entities funded by legislative appropriations.*
13. *Approve for use such commercial weights and measures as he determines are correct and appropriate. The State Sealer of Weights and Measures may mark such commercial weights and measures. The State Sealer of Weights and Measures shall reject and order to be corrected, replaced or removed any commercial weights and measures found to be incorrect. Weights and measures that have been rejected may be seized if they are not corrected within the time specified or if they are used or disposed*

*of in a manner not specifically authorized. The State Sealer of Weights and Measures shall remove from service and may seize weights and measures found to be incorrect that are not capable of being made correct.*

*14. Weigh, measure or inspect packaged commodities that are kept, offered or exposed for sale, sold or in the process of delivery to determine whether the packaged commodities contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or the regulations adopted pursuant thereto. In carrying out the provisions of this subsection, the State Sealer of Weights and Measures shall employ recognized sampling procedures, including, without limitation, sampling procedures adopted by the National Conference on Weights and Measures.*

*15. Adopt regulations prescribing the appropriate term or unit of weight or measure to be used whenever the State Sealer of Weights and Measures determines that an existing practice of declaring the quantity of a commodity, or of setting charges for a service by weight, measure, numerical count or time, or any combination thereof, does not facilitate value comparisons by consumers or may confuse consumers.*

*16. Allow reasonable variations from the stated quantity of contents that entered intrastate commerce, which must include those variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practices.*

*17. Provide for the training of persons employed by any governmental entity within this state, including, without limitation, state, county and municipal personnel, who enforce the provisions of this chapter and chapter 582 of NRS, and any regulations adopted pursuant thereto, relating to weights and measures. The State Sealer of Weights and Measures may establish by regulation minimum training and performance requirements which must be met by all such persons.*

*18. Verify advertised prices, price representations and point-of-sale systems, as necessary, to determine the accuracy of prices and computations and the correct use of the equipment, and, if such systems utilize scanning or coding means in lieu of manual entry, the accuracy of prices printed or recalled from a database. In carrying out the provisions of this subsection, the State Sealer of Weights and Measures shall:*

*(a) Employ recognized procedures for making such verifications and determinations of accuracy, including, without limitation, any appropriate procedures designated by the National Institute of Standards and Technology;*

*(b) Adopt regulations and issue orders regarding standards for the accuracy of advertised prices and automated systems for retail price charging, or point-of-sale systems, and for the enforcement of those standards; and*

*(c) Conduct investigations to ensure compliance with those standards.*

**Sec. 15.** *The State Sealer of Weights and Measures may, if necessary for the enforcement of this chapter and any regulations adopted pursuant thereto:*

*1. Enter any commercial premises during normal business hours upon presenting his credentials.*

*2. Issue stop-use, hold and removal orders for any weights and measures commercially used, and issue stop-sale, hold and removal orders for any packaged commodities or bulk sale commodities that are kept, offered or exposed for sale.*

*3. Seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale, or sold in violation of any provision of this chapter or any regulation adopted pursuant thereto.*

*4. Stop any commercial vehicle and, after presentation of his credentials, inspect the contents of the vehicle, require the person in charge of the vehicle to produce any documents in his possession concerning the contents of the vehicle, and require that person to proceed with the vehicle to some specified place for inspection.*

**Sec. 16.** *A person shall not:*

*1. Sell or offer or expose for sale a quantity less than the quantity represented;*

*2. Take more than the quantity represented when, as a buyer, he furnishes the weight or measure by which the quantity is determined; or*

*3. Represent the quantity in any manner calculated or tending to mislead, or in any way to deceive, another person.*

**Sec. 17.** *A person shall not:*

*1. Misrepresent the price of any commodity or service sold, or offered, exposed or advertised for sale, by weight, measure or count; or*

*2. Misrepresent the price of such a commodity for service in any manner calculated or tending to mislead or in any way to deceive a person.*

**Sec. 18.** *1. Except as otherwise provided by regulation or order of the State Sealer of Weights and Measures or by established trade custom and practice recognized by regulation or order of the State Sealer of Weights and Measures:*

*(a) Commodities in liquid form must be sold by liquid measure or by weight; and*

*(b) Commodities not in liquid form must be sold by weight, by measure or by count.*

*2. The method of sale of a commodity must provide such accurate and adequate information concerning quantity as will enable the buyer to make price and quantity comparisons.*

**Sec. 19.** *All bulk sales in which the buyer and seller are not both present to witness the measurement, all bulk deliveries of heating fuel and all other bulk sales specified by regulation of the State Sealer of Weights and Measures must be accompanied by a delivery ticket containing:*

*1. The name and address of the buyer and seller;*

*2. The date delivered;*

*3. The quantity delivered and the quantity upon which the price is based, if the quantity upon which the price is based differs from the quantity delivered;*

*4. The unit price, unless otherwise agreed upon by both the buyer and seller;*

*5. The identity of the commodity, in the most descriptive terms commercially practicable, including any representation about the quality of the commodity made in connection with the sale; and*

*6. Where commodities are bought from bulk but delivered in packages, the count of individually wrapped packages if more than one individually wrapped package is being sold.*

**Sec. 20.** *1. Except as otherwise provided in this chapter, any random weight package or standard package kept, offered or exposed for sale, must bear on the outside of the package a definite, plain and conspicuous declaration of:*

*(a) The identity of the commodity in the package, unless the commodity is a food, other than meat or poultry, that was repackaged in a retail establishment and displayed to the purchaser where:*

*(1) The interstate labeling for the repackaged food is clearly in view or the food has a counter card, sign or other appropriate device bearing prominently and conspicuously the common or usual name of the food; or*

*(2) The common or usual name of the food is clearly revealed by its appearance;*

*(b) The quantity of contents of the package, in terms of weight, measure or count; and*

*(c) If the package is kept, offered or exposed for sale, or sold, in any place other than on the premises where packed, the name and place of business of the manufacturer, packer or distributor.*

2. *The State Sealer of Weights and Measures may exempt any type of random weight package or standard package, or commodity from the provisions of this section by regulation.*

**Sec. 21.** *In addition to the declarations required by section 20 of this act, each random weight package of the same commodity must, at the time such packages are offered or exposed for sale at retail, bear on the outside of the package a plain and conspicuous declaration of the price per kilogram or pound and the total selling price of the package.*

**Sec. 22.** *If a packaged commodity is advertised in any manner with the retail price stated, a declaration of quantity as required by this chapter or any regulation adopted pursuant thereto must appear on the package in such a manner as to be closely and conspicuously associated with the retail price of the packaged commodity.*

**Sec. 23.** *1. A person shall not:*

*(a) Use in commerce, or have in his possession for use in commerce, any incorrect weight or measure;*

*(b) Sell or offer for sale for use in commerce any incorrect weight or measure;*

*(c) Remove any tag, seal or mark from any weight or measure without specific written authorization from the proper authority;*

*(d) Hinder or obstruct any inspector of the Division in the performance of his duties; or*

*(e) Violate any provisions of this chapter or any regulation adopted pursuant thereto.*

2. *A person who violates any provision of this section is, in addition to any criminal penalty that may be imposed, subject to a civil penalty in accordance with the schedule of civil penalties established by the State Sealer of Weights and Measures pursuant to subsection 9 of section 14 of this act.*

**Sec. 24.** *1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Weights and Measures or his designee shall conduct the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Weights and Measures or his designee is subject to appropriate judicial review.*

2. *If the respondent has exhausted his administrative appeals and the civil penalty has been upheld, he shall pay the civil penalty:*

*(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Weights and Measures; or*

*(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld, within 10 days after the effective date of the final decision of the court.*

*3. If the respondent fails to pay the penalty, a civil action may be brought by the State Sealer of Weights and Measures in any court of competent jurisdiction to recover the civil penalty. All civil penalties collected pursuant to this chapter must be deposited with the State Treasurer for credit to the State General Fund.*

**Sec. 25.** *1. Except as otherwise provided in subsection 2, a person who violates any provision of section 23 of this act is guilty of a gross misdemeanor and shall be punished:*

*(a) For the first offense, by imprisonment in the county jail for not more than 6 months, or by a fine of not less than \$500 or more than \$2,000, or by both fine and imprisonment.*

*(b) For a second or subsequent offense, by imprisonment in the county jail for not more than 1 year, or by a fine of not less than \$2,000 or more than \$5,000, or by both fine and imprisonment.*

*2. A person who:*

*(a) Intentionally violates any provision of this chapter or any regulation adopted pursuant thereto;*

*(b) Is convicted pursuant to subsection 1 more than three times in a 2-year period; or*

*(c) Uses or has in his possession any device which has been altered to facilitate fraud, is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

**Sec. 26.** *The State Sealer of Weights and Measures may apply to any court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining a person from violating any provision of this chapter or any regulation adopted pursuant thereto.*

**Sec. 27.** *The presence of a weight or measure, or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, creates a rebuttable presumption that the weight or measure, or weighing or measuring device is regularly used for the business purposes of that place.*

**Sec. 28.** NRS 581.001 is hereby amended to read as follows:

581.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 581.003 ~~to~~ and 581.010, *and sections 2 to 12*, inclusive, *of this act* have the meanings ascribed to them in those sections.

**Sec. 29.** NRS 581.003 is hereby amended to read as follows:

581.003 "Correct" means ~~any weight, measure, or weighing or measuring device that is accurate within applicable tolerances as~~

~~determined by tests made with suitable standards and meets all applicable specifications and regulations adopted by the State Sealer of Weights and Measures.]~~ *in conformance with all applicable requirements of this chapter and the regulations adopted pursuant thereto.*

**Sec. 30.** NRS 581.010 is hereby amended to read as follows:

581.010 **1.** "Package" ~~[and "container" include any closed carton, box, barrel, bag, keg, drum, bundle, jar, crock, demijohn, bottle, crate, basket, hamper, pail, can, parcel, package or paper wrapper.]~~ *means any commodity, whether in a standard package or random weight package:*

*(a) Enclosed in a container or wrapped in any manner in advance of wholesale or retail sale; or*

*(b) Whose weight or measure has been determined in advance of wholesale or retail sale.*

**2.** *The term includes an individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or measure.*

**Sec. 31.** NRS 581.030 is hereby amended to read as follows:

581.030 The Director of the State Department of Agriculture ~~[is hereby designated and constituted]~~, *as* ex officio State Sealer of Weights and Measures, ~~[and is charged with the proper enforcement of]~~ *shall enforce* the provisions of this chapter.

**Sec. 32.** NRS 581.050 is hereby amended to read as follows:

581.050 **1.** The State Sealer of Weights and Measures may:

*(a) Adopt regulations* ~~[for the efficient enforcement of]~~ *necessary to carry out the provisions of* this chapter.

*(b) Ensure that those regulations comply, insofar as practicable, with the specifications, tolerances and regulations recommended by the National* ~~[Bureau of Standards.]~~ *Institute of Standards and Technologies.*

*(c) Adopt regulations for the submission for approval of types and designs of weights and measures and* ~~[weighing, measuring and counting devices intended for commercial use.]~~ *commercial weighing and measuring equipment.*

**2.** The State Sealer of Weights and Measures shall adopt regulations which prescribe the:

*(a) Standards for weighing and measuring devices;*

*(b) Requirements for the issuance of a certificate of registration pursuant to NRS 581.103; and*

*(c) Standards for the equipment used to repair or adjust weighing or measuring devices.*

**Sec. 33.** NRS 581.075 is hereby amended to read as follows:

581.075 The State Sealer of Weights and Measures may establish:

1. A schedule of fees for any tests of weighing and measuring devices determined by him to be necessary.

2. An annual fee for the issuance of a certificate of registration pursuant to NRS 581.103.

***3. An annual license fee for all commercial weighing and measuring equipment.***

**Sec. 34.** NRS 581.103 is hereby amended to read as follows:

581.103 1. Any person who wishes to make any repair or adjustment, for hire, to a weighing or measuring device must submit to the State Sealer of Weights and Measures:

(a) An application for a certificate of registration on a form provided by the State Sealer of Weights and Measures;

(b) The statement required pursuant to NRS 581.1032;

(c) The annual fee prescribed by regulation pursuant to ***subsection 2 of*** NRS 581.075; and

(d) ~~[The equipment the person will use to repair or adjust weighing or measuring devices. The State Sealer of Weights and Measures shall inspect the equipment to ensure that the equipment complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.]~~ ***Such other information required by the State Sealer of Weights and Measures.***

2. An application for a certificate of registration must include the social security number of the applicant.

~~[3.—The State Sealer of Weights and Measures shall issue to any person who complies with the requirements of subsection 1 a certificate of registration. The certificate must include a unique registration number.~~

~~—4.—A certificate of registration is effective for the calendar year in which it is issued, and may be renewed upon application on or before January 15 of the succeeding year. Any person who, for hire, makes a repair or adjustment to a weighing or measuring device without being registered pursuant to this section shall be punished as provided in NRS 581.450.~~

~~—5.—Except as otherwise provided in NRS 581.104, any person who sells or installs or makes any repair or adjustment to a commercially used weighing or measuring device shall within 24 hours notify the State Sealer of Weights and Measures, on a form provided by the State Sealer of Weights and Measures, of that repair, adjustment, sale or installation. If a person who has been issued a certificate of registration pursuant to subsection 3 fails to notify the State Sealer of Weights and Measures as required by this subsection, the State Sealer of Weights and Measures may suspend the certificate of registration of that person for not more than 10 days and may, after a hearing, revoke his certificate of registration.~~

~~—6.—The form required pursuant to subsection 5 must include:~~

~~—(a) The registration number and signature of the person who sold, installed, repaired or adjusted the device; and~~

~~—(b) A statement requesting that the State Sealer of Weights and Measures inspect the weighing or measuring device and seal or mark it if it complies with the standards set forth in the regulations adopted pursuant to NRS 581.050.~~

~~—7. Any person required to register pursuant to subsection 1 who employs any other person to make any repair or adjustment to a weighing or measuring device is responsible for the registration of that employee in the manner required by subsection 1.~~

~~—8. The provisions of this section do not apply to a public utility subject to the jurisdiction of the Public Utilities Commission of Nevada.]~~

**Sec. 35.** Chapter 582 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 57, inclusive, of this act.

**Sec. 36.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 37 to 40, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 37.** *“Division” means the Division of Measurement Standards of the State Department of Agriculture.*

**Sec. 38.** *“Public weighing” means the weighing, measuring or counting, upon request, of vehicles, property, produce, commodities or articles other than those that the weigher or his employer, if any, is either buying or selling.*

**Sec. 39.** *“Public weighmaster” means any person who performs public weighing.*

**Sec. 40.** *“Vehicle” means any device other than a railroad freight car in, upon or by which any property, produce, commodity or article is or may be transported or drawn.*

**Sec. 41.** *The State Sealer of Weights and Measures shall:*

- 1. Enforce the provisions of this chapter;*
- 2. Adopt regulations establishing a schedule of civil penalties for any violation of this chapter;*
- 3. Adopt reasonable regulations for the enforcement of this chapter; and*
- 4. Adopt regulations relating to public weighing that include, without limitation:*
  - (a) The qualifications of an applicant for a license as a public weighmaster;*
  - (b) Requirements for the renewal of a license as a public weighmaster;*
  - (c) The period of validity of a license as a public weighmaster;*
  - (d) Measurement practices that must be followed, including the measurement or recording of tare weight;*

*(e) The required information to be submitted with or as part of a certificate of weights and measures; and*

*(f) The period for which records must be kept.*

**Sec. 42.** *Except as otherwise provided in section 52 of this act, to act as a public weighmaster, a person must receive a license from the State Sealer of Weights and Measures. To qualify for a license, a person must:*

*1. Be able to weigh and measure accurately;*

*2. Be able to generate correct certificates of weights and measures; and*

*3. Possess such other qualifications as required by the regulations adopted pursuant to this chapter.*

**Sec. 43.** *An applicant for a license as a public weighmaster must furnish evidence on a form provided by the State Sealer of Weights and Measures that he has the qualifications required by section 42 of this act.*

**Sec. 44.** *The State Sealer of Weights and Measures shall determine the qualifications of an applicant for a license as a public weighmaster based on:*

*1. The information provided on the application and any supplementary information determined appropriate by the State Sealer of Weights and Measures; and*

*2. The results of an examination of the knowledge of the applicant.*

**Sec. 45.** *The State Sealer of Weights and Measures shall:*

*1. Grant licenses as public weighmasters to qualified applicants; and*

*2. Keep a record of all applications submitted and all licenses issued.*

**Sec. 46.** *1. A certificate of weights and measures, when properly filled out and signed, is prima facie evidence of the accuracy of the measurements shown.*

*2. The design of and the information to be furnished on a certificate of weights and measures must be prescribed by the State Sealer of Weights and Measures by regulation, and include, without limitation:*

*(a) The name and license number of the public weighmaster;*

*(b) The kind of commodity weighed, measured or counted;*

*(c) The name of the owner, agent or consignee of the commodity;*

*(d) The name of the recipient of the commodity, if applicable;*

*(e) The date on which the certificate is issued;*

*(f) The consecutive number of the certificate;*

*(g) The identification, including any identification number, of the carrier transporting the commodity, and the identification number or license number of the vehicle;*

*(h) Any relevant information needed to distinguish or identify the commodity from a like kind;*

*(i) The number of units of the commodity, if applicable;*

*(j) The measure of the commodity, if applicable;*

*(k) The weight or mass of the commodity and the vehicle or container, if applicable, as follows:*

*(1) The gross weight of the commodity and the associated vehicle or container;*

*(2) The tare weight of the unladen vehicle or container;*

*or*

*(3) Both the gross and tare weight and the resultant net weight of the commodity; and*

*(l) The signature of the public weighmaster who determined the weight, measure or count.*

**Sec. 47.** *1. When filling out a certificate of weights and measures, a public weighmaster:*

*(a) Shall enter the measurement values so that the certificate clearly shows that the measurements were actually determined;*

*(b) Shall enter only the measurement values personally determined; and*

*(c) Shall not enter any measurement values determined by other persons.*

*2. If the certificate of weights and measures provides for entries of gross, tare or net weight or measure, the public weighmaster shall:*

*(a) Strike out or otherwise cancel the printed entries for the values not determined; or*

*(b) If the values were not determined on the same scale or on the same date shown on the certificate, enter on the certificate the scale and date on which the values were determined.*

**Sec. 48.** *A public weighmaster shall only use measurement practices and equipment:*

*1. In accordance with the provisions of this chapter and any regulations adopted pursuant thereto; and*

*2. That have been examined, tested and approved for use by an authorized employee of the Division.*

**Sec. 49.** *1. Except as otherwise provided in subsection 2:*

*(a) A public weighmaster shall not weigh a vehicle or combination of vehicles when part of the vehicle or connected combination is not resting fully, completely and as one entire unit on the scale.*

*(b) When weighing a combination of vehicles that will not rest fully, completely and as one complete unit on the scale platform:*

*(1) The combination of vehicles must be disconnected and weighed in single drafts; and*

*(2) The weights of the single drafts may be combined in order to issue a single certificate of weights and measures for the combination, provided that the certificate indicates that the total represents a combination of single draft weighings.*

*2. A public weighmaster who operates a vehicle scale that was installed before January 1, 2004, may apply to the State Sealer of Weights and Measures for a permanent variance from the requirements of subsection 1 that would allow the split weighing of certain vehicles or combinations of vehicles. The request must contain:*

*(a) The name, address and telephone number of the public weighmaster and the reason for the request.*

*(b) The name of the manufacturer, and the type, location, deck length, serial number and capacity, of the vehicle scale.*

*(c) The maximum distance between the front and rear outer axles of a vehicle or combination of vehicles to which the variance would apply.*

*(d) A statement certifying that, during the split weighing of any vehicle or combination of vehicles, the public weighmaster will verify that:*

*(1) Each axle of the vehicle or combination of vehicles rests on a straight surface which is level with the deck of the vehicle scale or which, if not level, the amount by which it is out of level does not exceed 1/3 inch per foot of distance between the deck of the vehicle scale and the axle;*

*(2) The brakes of the vehicle or combination of vehicles are not used; and*

*(3) The transmission of the vehicle or combination of vehicles is in neutral.*

**Sec. 50.** *A public weighmaster shall keep and preserve a legible copy of each certificate of weights and measures which he issues for the period specified by the State Sealer of Weights and Measures by regulation. The certificates must be available for inspection by an authorized employee of the Division during normal office hours.*

**Sec. 51.** *The State Sealer of Weights and Measures may recognize and accept certificates of weights and measures issued by licensed public weighmasters of any other state if that other state recognizes and accepts certificates of weights and measures issued by licensed public weighmasters of this state.*

**Sec. 52. 1.** *Except as otherwise provided in this section, the following persons may, but are not required to, obtain licenses as public weighmasters to engage in public weighing:*

*(a) A law enforcement or weights and measures officer or other qualified employee of the State, a city or a county agency or institution when acting within the scope of his official duties.*

*(b) A person weighing property, produce, commodities or articles:*

*(1) That he or his employer is buying or selling; or*

*(2) In conformity with the requirements of federal statutes or the statutes of this state relating to warehousemen or processors.*

*2. A person described in subsection 1 shall not issue a certificate of weights and measures unless he holds a license as a public weighmaster.*

**Sec. 53. 1. A person shall not:**

*(a) Except as otherwise provided in section 52 of this act, act as a public weighmaster without a valid license, including, without limitation:*

*(1) Assuming the title of public weighmaster or any similar title;*

*(2) Performing the duties or acts to be performed by a public weighmaster;*

*(3) Holding himself out as a public weighmaster;*

*(4) Issuing any certificate of weights and measures, ticket, memorandum or statement for which a fee is charged; or*

*(5) Engaging in a full-time or part-time business of measuring for hire;*

*(b) Use or operate any device for purposes of certification that does not meet, or is not operated in accordance with, the provisions of chapter 581 of NRS and any regulations adopted pursuant thereto relating to the specifications, tolerances and other technical requirements for weighing and measuring devices;*

*(c) Falsify a certificate of weights and measures or falsely certify any gross, tare or net weight or measure required by this chapter to be on the certificate;*

*(d) Refuse without cause to weigh or measure any article or thing which is his duty to weigh or measure, or refuse to state in any certificate anything required to be therein;*

*(e) Hinder or obstruct in any way the State Sealer of Weights and Measures or his authorized agent in the performance of the official duties of the State Sealer of Weights and Measures under this chapter;*

*(f) Violate any provision of this chapter or any regulation adopted pursuant thereto;*

*(g) Delegate his authority to a person not licensed as a public weighmaster;*

*(h) Request a false certificate of weights and measures, or request a public weighmaster to weigh, measure or count property or produce, or a vehicle, commodity or any other article falsely or incorrectly;*

*(i) Issue a certificate simulating the certificate of weights of measures issued pursuant to this chapter; or*

*(j) Use or have in his possession a device for weighing and measuring which has been altered to facilitate fraud.*

*2. A person who violates any provision of this section is, in addition to any criminal penalty that may be imposed, subject to a civil penalty in accordance with the schedule of civil penalties established by the State Sealer of Weights and Measures pursuant to section 41 of this act.*

**Sec. 54.** *The State Sealer of Weights and Measures may suspend or revoke the license of a public weighmaster:*

*1. When, following a hearing held after 10 days' notice to the licensee, the State Sealer of Weights and Measures is satisfied that the licensee has violated a provision of this chapter or any regulation adopted pursuant thereto;*

*2. When the licensee has been convicted in a court of competent jurisdiction of violating a provision of this chapter or any regulation adopted pursuant thereto; or*

*3. When the licensee is convicted of a felony.*

**Sec. 55.** *1. A person subject to a civil penalty may request an administrative hearing within 10 days after receipt of the notice of the civil penalty. The State Sealer of Weights and Measures or his designee shall conduct the hearing after giving appropriate notice to the respondent. The decision of the State Sealer of Weights and Measures or his designee is subject to appropriate judicial review.*

*2. If the respondent has exhausted his administrative appeals and the civil penalty has been upheld, he shall pay the civil penalty:*

*(a) If no petition for judicial review is filed pursuant to NRS 233B.130, within 40 days after the final decision of the State Sealer of Weights and Measures; or*

*(b) If a petition for judicial review is filed pursuant to NRS 233B.130 and the civil penalty is upheld within 10 days after the effective date of the final decision of the court.*

*3. If the respondent fails to pay the civil penalty, a civil action may be brought by the State Sealer of Weights and Measures in any court of competent jurisdiction to recover the civil penalty. All civil penalties collected pursuant to this chapter must be remitted to the county treasurer of the county in which the violation occurred for credit to the county school district fund.*

**Sec. 56.** *1. Except as otherwise provided in subsection 2, a person who by himself, by his servant or agent, or as the servant or agent of another person violates any provision of this chapter is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not less than 6 months or more*

*than 1 year, or by a fine of not less than \$1,000 or more than \$5,000, or by both fine and imprisonment.*

*2. A person who by himself, by his servant or agent, or as the servant or agent of another person:*

*(a) Intentionally violates any provision of this chapter or any regulation adopted pursuant thereto; or*

*(b) Is convicted pursuant to subsection 1 more than three times in a 2-year period, is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

**Sec. 57.** *The State Sealer of Weights and Measures may apply to a court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining a person from violating any provision of this chapter or any regulation adopted pursuant thereto.*

**Sec. 58.** NRS 582.025 is hereby amended to read as follows:

582.025 The State Sealer of Weights and Measures may adopt such regulations as are reasonably necessary to carry out the provisions of this chapter. Any such regulations shall comply, insofar as practicable, with specifications, tolerances and regulations recommended by the National ~~{Bureau of Standards.}~~ *Institute of Standards and Technologies.*

**Sec. 59.** NRS 582.030 is hereby amended to read as follows:

582.030 1. Any person may apply to the State Sealer of Weights and Measures for ~~{appointment}~~ *license* as a public weighmaster with authority to issue state certificates of weights and measures upon which the purchase or sale of commodities or charge for services or equipment will be based.

2. Before issuing a ~~{certificate of appointment}~~ *license* as a public weighmaster, the State Sealer of Weights and Measures or his deputy ~~{shall:}~~ *must:*

(a) Test all weighing apparatus to be used.

(b) Inspect the premises intended for such use.

(c) Satisfy himself that the applicant is in every way equipped, qualified, competent and of such character that he should be ~~{appointed}~~ *issued a license as* a public weighmaster.

**Sec. 60.** NRS 582.032 is hereby amended to read as follows:

582.032 1. An applicant for the issuance or renewal of a ~~{certificate of appointment}~~ *license* as a public weighmaster shall submit to the State Sealer of Weights and Measures the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The State Sealer of Weights and Measures shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of ~~{the certificate of appointment;}~~ *a license as a public weighmaster;* or

(b) A separate form prescribed by the State Sealer of Weights and Measures.

3. A ~~{certificate of appointment}~~ *license as a public weighmaster* may not be issued or renewed by the State Sealer of Weights and Measures pursuant to NRS 581.103 if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the State Sealer of Weights and Measures shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 61.** NRS 582.034 is hereby amended to read as follows:

582.034 An application for a ~~{certificate of appointment}~~ *license* as a public weighmaster must include the social security number of the applicant.

**Sec. 62.** NRS 582.040 is hereby amended to read as follows:

582.040 If satisfied with the qualifications of the applicant, the State Sealer of Weights and Measures shall issue a ~~{certificate of appointment}~~ *license* as a public weighmaster, for which ~~{certificate}~~ *license* he shall charge a fee established by regulation of the State Board of Agriculture. ~~{The certificate of appointment:~~

~~— 1. Is valid for the calendar year in which it is issued.  
— 2. May be renewed each year upon application to the State Sealer of Weights and Measures on or before the last day of January. The application must be accompanied by a fee established by regulation of the State Board of Agriculture.}~~

**Sec. 63.** NRS 582.045 is hereby amended to read as follows:

582.045 1. If the State Sealer of Weights and Measures receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is ~~{the holder of a certificate of appointment}~~ *licensed* as a public weighmaster, the State Sealer of Weights and Measures shall deem

the ~~[certificate]~~ *license* to be suspended at the end of the 30th day after the date on which the court order was issued unless he receives a letter issued to the ~~[holder of the certificate]~~ *licensee* by the district attorney or other public agency pursuant to NRS 425.550 stating that the ~~[holder of the certificate]~~ *licensee* has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The State Sealer of Weights and Measures shall reinstate a ~~[certificate of appointment]~~ *license* as a public weighmaster suspended by a district court pursuant to NRS 425.540 if the State Sealer of Weights and Measures receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose ~~[certificate]~~ *license* was suspended stating that the person whose ~~[certificate]~~ *license* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 64.** NRS 590.063 is hereby amended to read as follows:

590.063 1. The use of pumps or other devices which are capable of withdrawing gasoline from each of two tanks containing different qualities of the same petroleum product and dispensing them as a single combined product must be authorized if the *Division of Measurement Standards of the* State Department of Agriculture determines that all of the following conditions exist:

(a) The device mechanism accurately measures the quantities of the gasoline being simultaneously withdrawn from each of the two tanks and the quantity dispensed.

(b) The device mechanism accurately and visibly records and displays the resulting combined quality, the total quantity, the price per gallon for the particular quality combination being dispensed, and the total price of the quantity of gasoline dispensed at the particular sale.

(c) The device has a locking selector mechanism which prevents the changing of the proportion of the two qualities being combined during the dispensing of the desired quantity.

2. The provisions of this section authorize the operation of a blending type of pump connected to two tanks containing two different grades of the same product, which, if blended together in different proportions, will produce gasoline of different octane rating, each blend of which meets the specifications for gasoline as required by this chapter.

**Sec. 65.** NRS 590.065 is hereby amended to read as follows:

590.065 1. The use of pumps or other devices which are capable of withdrawing gasoline from one tank containing gasoline and another tank containing motor oil and dispensing them as a single combined product and of withdrawing gasoline alone from the tank containing gasoline must be authorized if the *Division of*

*Measurement Standards of the* State Department of Agriculture determines that all of the following conditions exist:

(a) The device mechanism accurately measures the quantities being simultaneously withdrawn for dispensing as a combined product from each of the two tanks when the combined product is dispensed, and the quantity being dispensed from the gasoline tank alone when gasoline alone is dispensed.

(b) The device mechanism accurately and visibly records and displays the ratio of gasoline to motor oil, the quantity of each ingredient being dispensed, the price per gallon for gasoline being dispensed and the price per quart for motor oil being dispensed, or a device the mechanism of which accurately and visibly records and displays the ratio of gasoline to motor oil, the total volume of the oil and gasoline mixture delivered, and computes the total cost based upon the price set for the finished blend.

(c) The device mechanism prevents the changing of the ratio of gasoline to motor oil during dispensing.

(d) There is firmly attached to or painted upon the device mechanism panel a sign or label plainly visible consisting of the words "outboard motor fuel" in letters not less than one-half inch in height, together with the brand, trademark or trade name of the product, which must be in letters of not less than one-half inch in height.

2. The provisions of this section authorize the operation of a blending type of pump connected to two tanks, one containing motor oil and the other gasoline, but only if the motor oil in its separate state meets the specifications for lubricating oil as required by NRS 590.080, and the gasoline in its separate state meets the specifications for gasoline as required by NRS 590.070.

**Sec. 66.** NRS 590.090 is hereby amended to read as follows:

590.090 1. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, or assist in the sale of or permit to be sold or offered for sale any petroleum or petroleum product to be used for heating purposes, unless the petroleum or petroleum product conforms to the most recent standards adopted by ~~{the American Society for Testing and Materials.}~~ *ASTM International*.

2. All bulk storage tanks, dispensers and petroleum tank truck compartment outlets containing or dispensing heating fuel must be labeled with the brand name and the grade designation of the heating fuel.

3. A person shall not use the numerical grade designation for heating fuels adopted by ~~{the American Society for Testing and Materials.}~~ *ASTM International* unless the designation conforms to that designation. Persons using a designation other than the numerical grade designation adopted by ~~{the American Society for~~

~~Testing and Materials]~~ *ASTM International* must file with the *Division of Measurement Standards of the* State Department of Agriculture the designation to be used together with its corresponding grade designation of ~~[the American Society for Testing and Materials.]~~ *ASTM International*.

**Sec. 67.** Chapter 561 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Division of Measurement Standards is hereby created within the Department. The Director shall appoint an Administrator of the Division who shall administer all activities and services of the Division.*

*2. The Division of Measurement Standards shall administer and enforce the provisions of chapters 581 and 582 of NRS and NRS 590.010 to 590.450, inclusive.*

**Sec. 68.** NRS 581.004, 581.005, 581.055, 581.060, 581.070, 581.080, 581.090, 581.104, 581.105, 581.110, 581.120, 581.140, 581.150, 581.160, 581.170, 581.180, 581.190, 581.200, 581.210, 581.220, 581.230, 581.240, 581.250, 581.260, 581.270, 581.280, 581.290, 581.300, 581.303, 581.307, 581.310, 581.330, 581.340, 581.350, 581.360, 581.370, 581.380, 581.390, 581.400, 581.405, 581.410, 581.420, 581.430, 581.440, 581.450, 581.460, 582.010, 582.050, 582.060, 582.080, 582.090, 582.100, 582.105, 582.110, 582.120, 582.130, 582.140, 582.150, 582.160, 582.170 and 582.180 are hereby repealed.

**Sec. 69.** Any regulations adopted by an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations is transferred.

**Sec. 70.** 1. This act becomes effective upon passage and approval for the purpose of adopting regulations necessary to carry out the provisions of this act and on January 1, 2004, for all other purposes.

2. Sections 34, 60, 61 and 63 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of, professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.