

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 544
SENATE BILL 423

AN ACT REPEALING CHAPTER 81 OF THE GENERAL STATUTES, WEIGHTS AND MEASURES, AND SUBSTITUTING IN LIEU THEREOF CHAPTER 81A, THE WEIGHTS AND MEASURES ACT OF 1975.

The General Assembly of North Carolina enacts:

Section 1. Chapter 81 of the General Statutes is hereby repealed and in lieu thereof there is hereby enacted Chapter 81 A, which may be cited as the Weights and Measures Act of 1975, as follows:

"ARTICLE 1.

"Administration of Act.

"§ 81A-1. **Weights and measures program provided for.** — In order to protect the purchasers or sellers of any commodity, and to provide uniform standards of weight, and uniform standards of measure throughout the State, which must be in conformity with the standards of weight and the standards of measure established by Congress, the commissioner is hereby authorized to establish and maintain a weights and measures program as is hereinafter provided.

"§ 81A-2. **Administration of these Articles.** — The provisions of this act shall be administered by the commissioner or his authorized agent. For the purpose of administering and giving effect to the provisions of this act, the provisions of Handbook 44 as adopted by the National Conference on Weights and Measures, are hereby adopted except insofar as modified or rejected by the North Carolina Board of Agriculture. The North Carolina Board of Agriculture is empowered to make such further rules and regulations as may be necessary to make effective the purposes and provisions of this act. All fees or monies received by the commissioner pursuant to this act shall be placed in the Department of Agriculture fund for the purpose of enforcing this act.

"§ 81A-3. **Systems of weights and measures.** — The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the State. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National Bureau of Standards are recognized and shall govern weighing and measuring equipment and transactions in the State.

"§ 81A-4. **Board of Agriculture authorized to establish standards of weights and measures for commodities having none.** — The Board of Agriculture is authorized, and directed and empowered to establish standards of weights and measures for any commodity if no standard has been established by Congress or by the laws of the State of North Carolina; provided, however, that when a standard is established by Congress, or by the laws of the State of North Carolina, such standard shall supersede the standard or standards established by the Board of Agriculture.

"§ 81A-5. **Employment of Director of Weights and Measures and authorized agents.** — The commissioner may employ a Director of Weights and Measures and such other employees as may be necessary in carrying out the provisions of this act and he may fix and regulate their

duties. All authority vested in the commissioner by virtue of the provisions of this act may with like force and effect, be executed by such authorized agents of the commissioner as defined in this act.

"§ 81A-6. **Salaries and expenses.** — The commissioner shall request sufficient funds for the proper administration of the duties prescribed in this act.

"§ 81A-7. **Local inspection of weights and measures.** — When any city or county appoints a local inspector of weights and measures, the appointment and regulation of his work must be pursuant to the rules and regulations of the Department of Agriculture and his work shall be subject to the supervision of the commissioner or his authorized agent.

"§ 81A-8. **Standards of weights and measures.** — Weights and measures that are traceable to the U. S. Prototype Standards supplied by the United States, or approved as being satisfactory by the National Bureau of Standards, shall be the State primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Bureau of Standards. All secondary standards may be prescribed by the commissioner and shall be verified upon their initial receipt, and as often thereafter as deemed necessary by the commissioner or his authorized agent. Complete record of the standards belonging to the State shall be maintained by the commissioner.

"§ 81A-9. **Definitions.** — The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) Adjustment. 'Adjustment' is an act involving the tightening or loosening, or lengthening or shortening, or movement, of any part of a scale or weighing device, or the coordination of mechanical action of parts or electronic components with or upon each other, so as to make the scale or weighing device give correct indications of applied weight values within legal tolerance, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this act.
- (2) Authorized Agent. An 'authorized agent' is any employee of the North Carolina Department of Agriculture designated by the commissioner to enforce any provisions of this act and who is designated by an official identification card issued by the commissioner.
- (3) Barrel. The term 'barrel' when used in connection with beer, ale, porter, and other similar fermented liquor, is a unit of 31 liquid gallons, fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons.
- (4) Bulk sale. The term 'bulk sale' is the sale of commodities when the quantity is determined at the time of sale.
- (5) Bushel. The term 'bushel' when used in connection with dry measure and standard containers is a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and one-sixty-fourth parts.
- (6) Commissioner of Agriculture. 'Commissioner' is the Commissioner of Agriculture of the State of North Carolina.
- (7) Condemned Equipment. 'Condemned equipment' is equipment that is permanently out of service.
- (8) Cord. 'Cord' when used in connection with purchases of wood is a quantity of wood consisting of any number of sticks, bolts or pieces laid parallel and together so as to form a rick or stack occupying a space four feet wide, four feet high and eight feet long, or such other dimensions that will, when multiplied together equal 128 cubic feet by volume, construed as being seventy percent (70%) solid and thirty percent (30%) air space or 90 solid cubic feet.
- (9) Correct. 'Correct' is conformance to all applicable requirements of this act.

- (10) Flour. 'Flour' is any finely ground product of wheat, or other grain, corn, peas, beans, seed or other substance, with or without added ingredients, intended for use as food for man.
- (11) Gallon. 'Gallon' when used in connection with liquid measure is a unit of 231 cubic inches of which the liquid quart, liquid pint, and gill are respectively, the quarter, the one-eighth and the one-thirty-second parts.
- (12) Installation. 'Installation' is an act involving the erection, or building, or assembling of parts, or the placing or setting up of a scale or weighing device so as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under definition of the term 'service' as defined in this act.
- (13) Maintenance. 'Maintenance' is an act pursuant to the retention of a scale or weighing device in such working condition as to give correct applied weight value indications within legal tolerance when used as intended, which may involve either or both adjustment or repair before or after inaccuracy develops in fact, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this act.
- (14) Meal. 'Meal' is any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted, or unbolted, including grits and hominy, intended for use as food for man.
- (15) Package. 'Package' is any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.
- (16) Person. 'Person' is both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, firms, societies, and associations.
- (17) Pound. 'Pound' used in connection with weight, is the avoirdupois pound as declared by act of the United States Congress, except in those cases where it is common practice to use the 'troy' pound or 'apothecaries' pound, and the 'ounce' is one-sixteenth part of an avoirdupois pound.
- (18) Primary Standards. 'Primary standards' are the physical standards of the State which serve as the legal reference from which all other standards, weights and measures are derived.
- (19) Rejected Equipment. 'Rejected equipment' is equipment that is incorrect, which is considered susceptible of proper repair.
- (20) Repair. 'Repair' is an act involving the replacement or mending of a broken or nonadjustable part or parts and the restoration of a scale or weighing device to such working condition as to give correct indications of applied weight values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under the term 'service' as defined in this act.
- (21) Sale or Sell. 'Sale or sell' is the ordinary meaning of said words and includes barter and exchange.
- (22) Scale Technician. A 'scale technician' is any person who, for hire or award, renders service involving adjustment, installation, repair, or maintenance of a scale or weighing device, either used or intended to be used in determining weight value, or values, by either physical act, instruction, or supervision.
- (23) Secondary Standards. 'Secondary standards' are the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.

- (24) Service. 'Service' is activity involving adjustment, installation, repair, or maintenance or a combination of two or more of these activities with respect to a scale or weighing device, and, in addition thereto, a test for determination of the accuracy of weight value indication in the following manner: applying a series of loads of standard weight on a platter or platform up to capacity on a scale of 30 pounds capacity, and on all other scales except vehicle scales, standard weight loads equal to the first dial and/or unit weight on dial scales, and on beam scales and digital instruments a standard weight load equal to three-fourths scale capacity shall be applied. On vehicle scales up to and including 10 tons a minimum of 5,000 pounds of standard weight load and 5,000 pounds of build up load equally distributed. On vehicle scales with a rated capacity in excess of 10 tons a standard weight load (build up load if standard weights are not available) of not less than 20,000 pounds. If scale is so equipped all tare mechanisms shall be included in test.
- (25) Ton. 'Ton' is a unit of 2,000 pounds, avoirdupois weight.
- (26) Weight. 'Weight' when used in connection with any commodity is net weight; provided, however, where the label declares that the product is sold by drained weight, weight means net drained weight.
- (27) Weight(s) and (or) Measure(s). 'Weight(s) and (or) measure(s)' are all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

"ARTICLE 2.

"Responsibilities.

"§ 81A-10. The commissioner shall: — (a) Have and keep general supervision of commercial weighing and measuring devices offered for sale, sold or used in the State.

- (2) Upon written request from any person or educational institution in the State test or cause to be tested, or calibrate weights, measures and weighing and measuring devices used as standards in the State.
- (3) Enforce all the provisions of this act.
- (4) Conduct investigations to insure compliance with this act.
- (5) Inspect and test weights and measures kept, offered, or exposed for sale.
- (6) Inspect and test to ascertain if they are correct, weights and measures commercially used (a) in determining the weight, measure, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count or (b) in computing the basic charge or payment for services rendered on the basis of weight, measure or count.
- (7) Approve for use, and may mark, such weights and measures and weighing and measuring devices as he finds to be correct, and shall reject and mark as rejected such weights and measures as he finds incorrect. Weights and measures and weighing and measuring devices that have been rejected may be seized if not corrected within 10 days, or if used or disposed of in a manner not specifically authorized. Weights and measures found to be incorrect that are not capable of being made correct shall be condemned and may be seized by the commissioner without any court order or other legal process.
- (8) Weight, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered, or exposed for sale in accordance with this Act or regulations promulgated pursuant thereto.

In carrying out the provisions of this section, recognized sampling procedures, such as are designated in National Bureau of Standards Handbook 67, 'Checking Prepackaged Commodities' shall be used.

- (9) Allow reasonable variations from the stated quantity of contents, which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce.
- (10) Delegate to authorized agents any of these responsibilities for the proper administration of this act.

"§ 81A-11. Police powers. — When necessary for the enforcement of this act or regulations promulgated pursuant thereto the commissioner or his authorized agent is:

- (1) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained.
- (2) Empowered to issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.
- (3) Empowered to seize, for use as evidence, without warrant or other legal writ, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of this act or regulations promulgated pursuant thereto.
- (4) Empowered to stop any commercial vehicle wherever found in the State and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents, and require him to proceed with the vehicle to some specified place for inspection.
- (5) Authorized to arrest, without warrant, any violator of this act. Such authorized agent shall proceed forthwith with such person before a magistrate or other person authorized to issue arrest warrants.

"ARTICLE 3.

"Violations.

"§ 81A-12. Misrepresentation of quantity. — No person shall sell, offer or expose for sale less than the quantity he represents. No buyer shall take more than the quantity he represents when he furnishes the weight or measure by means of which the quantity of any commodity, thing or service is determined.

"§ 81A-13. Misrepresentation of pricing. — No person shall misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

"§ 81A-14. Commodities to be sold by weight, measure or numerical count. — It shall be unlawful to sell, except for immediate consumption by the purchaser, on the premises of the seller, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of time, by length, by volume, by weight or by numerical count. When a commodity is sold by numerical count in excess of one unit, the units which constitute said numerical count shall be uniform in size and/or weight, and be so exposed as to be readily observed by the purchaser.

"§ 81A-15. Unlawful for package to mislead purchaser. — It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form when said

package is so made, or formed, or filled, or wrapped, or exposed, or marked, or labeled as to mislead or deceive the purchaser as to the quantity of its contents.

"§ 81A-16. **Sale from bulk.** — Whenever the quantity is determined by the seller, bulk sales in excess of twenty dollars (\$20.00) and all bulk deliveries of heating fuel shall be accompanied by a delivery ticket containing the following information:

- (1) The name and address of the vendor and purchaser,
- (2) The date delivered,
- (3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity,
- (4) The identity of the most descriptive terms commercially practicable, including any quality representation made in connection with the sale, and
- (5) The count of individually wrapped packages, if more than one.

"§ 81A-17. **Information required on packages.** — Except as otherwise provided in this act or by regulations promulgated pursuant thereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

- (1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container,
- (2) The quantity of contents in terms of weight, measure, or count, and
- (3) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed.

"§ 81A-18. **Declarations of unit price on random packages.** — In addition to the declarations required by G.S. 81A-17, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight at the time it is offered for retail sale.

"§ 81A-19. **Offenses and penalties.** — Any person who violates any provision of this section or any provision of this act or regulations promulgated pursuant thereto, for which a specific penalty has not been prescribed, shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00), or by imprisonment for not more than three months, or both. Upon a subsequent conviction thereof, said person shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000) or by imprisonment for up to one year, or both. No person shall:

- (1) Use or have in possession for use in commerce any incorrect weight or measure.
- (2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the commissioner or his authorized agent.
- (3) Hinder or obstruct any weights and measures official in the performance of his duties.
- (4) Impersonate in any way any employee of the North Carolina Department of Agriculture designated by the commissioner to enforce any part of this act.
- (5) Use in retail trade, except in the preparation of packages put up in advance of sale, a weighing or measuring device which is not so positioned so that its indications may be accurately read and the weighing or measuring operation observed from some position which may be reasonably assumed by a customer.

"§ 81A-20. **Injunction.** — The commissioner or his authorized agent is authorized to apply to any court of competent jurisdiction for a temporary restraining order or a preliminary or permanent injunction restraining any person from violating any provision of this act.

"§ 81A-21. **Presumptive evidence.** — Whenever there shall exist 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, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.

"ARTICLE 4.

"Uniform Weights and Measures.

"§ 81A-22. **Standard weight packages of flour, meal, grits and hominy.** — All flour and meal packed for sale, offered or exposed for sale, or sold in this State shall be one of the following standard weight packages and no other, namely; five pounds, ten pounds, twenty-five pounds, fifty pounds, one hundred pounds, and multiples of one hundred pounds; provided, however, nonstandard weight packages may be packed for sale, offered or exposed for sale, or sold in this State, weighing three pounds or less, if said nonstandard weight packages shall be plainly and conspicuously marked showing net contents in avoirdupois weight; provided further that nothing in this section shall be construed to prevent the retail sale of any amount of flour or meal direct to the consumer from bulk, upon order and weight at time of delivery to the consumer.

"§ 81A-23. **Sale of cement blocks, cinder blocks and other concrete masonry units.** — In order to protect the purchasers of concrete block, cinder block, and other concrete masonry units and to provide for a minimum load bearing strength, all concrete block, cinder block, and other concrete masonry units offered for sale or sold in this State shall have a load bearing strength of not less than 700 pounds per square inch of gross bearing area, or the minimum load bearing strength approved by the National Underwriters Laboratory or by the American Society of Testing Materials, whichever is less. The manufacturer shall furnish proof, acceptable to the Board of Agriculture, that the concrete block, cinder block, or other concrete masonry units being offered for sale or sold complies with the minimum load bearing strength required by this section. Each sale shall be accompanied with a bill of sale or invoice on which shall be printed or stamped in ink or other indelible substance a statement guaranteeing that the products covered by said bill of sale or invoice meet the minimum load bearing strength as required by this section signed by a duly authorized official or agent of the manufacturer; provided, however, that the provisions of this section shall not prohibit the sale or offer for sale of cement block, cinder block, or other concrete masonry units, known as 'seconds' or 'rejects', due to size, shape or less than minimum load bearing requirement, if and when said sale is accompanied with a bill of sale or invoice on which is printed or stamped in ink or other indelible substance in bold letters a statement that the cement block, cinder block, or other concrete masonry units so billed or invoiced are inferior in quality and do not comply with minimum load bearing requirement signed by a duly authorized official or agent of the manufacturer.

"§ 81A-24. **Approval of heating units, etc., for curing tobacco.** — All heating units and/or curing assemblies offered for sale or sold in this State, intended for use in curing the so-called flue cured tobacco, shall bear a label or seal of approval, authorized by the Board of Agriculture, and be accompanied with a statement, including drawings and instructions, signed by the manufacturer thereof, specifying how said heating unit shall be installed, operated, and/or used, so as to reduce to a minimum the fire hazard involved.

In order to obtain from the Board of Agriculture a label or seal of approval herein referred to, the manufacturer of the heating unit and/or curing assembly hereinafter referred to as a 'curer', shall first, and at his own expense, submit, set up and demonstrate a representative curer, so as to prove to the commissioner or his authorized agent that said curer will, when installed and operated in accordance with drawings and instructions furnished by said manufacturer, in accordance with the rules and regulations adopted by the Board of Agriculture, reduce to a minimum the fire hazard involved; and second, shall obtain from the Department of Agriculture the label or seal of approval to be known as the 'approval tag' and

attach same to each curer which he (the manufacturer) offers for sale, sells, or installs either by himself or through his agent.

The Board of Agriculture is hereby authorized and empowered to make such rules and regulations as may be necessary to make effective the provisions of this section, and to make a charge for the approval tag not in excess of fifty cents (50¢) per curer. The said charge shall include the cost of issuing the tag of approval, and the cost of ascertaining by on-the-farm inspection whether or not the curers are being installed in accordance with the manufacturer's drawings and instructions, and/or the rules and regulations as adopted by the Board of Agriculture. In making and formulating its rules and regulations, the Board of Agriculture will observe certain standards, such as the nature, type and technical construction of a tobacco curer referred to in this section, the type of fuel to be used, distance of flame from combustible materials, safety cut-off valves, method of installation, thermal or heating problems, inspection of curers, both before and after use, and any and all changes and standards that should be promulgated and made to reduce fire hazards and lower insurance costs and to protect the tobacco crops of farmers. The enumeration of certain standards as herein given shall not limit the authority of the Board of Agriculture to make rules and regulations involving other standards suggested by scientific information as the same relates to curers and related problems.

"§ 81A-25. Sale of coal, coke and charcoal by weight. — (a) All coal, coke, or charcoal sold in this State shall be sold by weight only. The standard unit of weight shall be the avoirdupois pound, and a ton shall be 2,000 pounds.

(b) All coal, coke, or charcoal sold or offered for sale in this State, or which is being transported on any public street or highway in North Carolina, shall be weighed on scales suitable for such weighing, which have been tested and sealed by the commissioner or his authorized agent. It shall not be unlawful to transport such coal, coke, or charcoal to the nearest such scale for the purpose of having same weighed, but no sale or delivery of same shall take place until the load shall have been weighed.

(c) Each sale or delivery of coal, coke, or charcoal to the consumer shall be accompanied by a weight certificate on which shall be expressed in ink or other indelible substance the name and address of the seller or dealer, name and address of the purchaser or receiver, the kind and size of coal being delivered and the gross tare and net weights, the date of weighing, the signature of the weighmaster, a place for signature of receiver, the name of deliveryman, and the license number of delivery vehicle. The weight certificate shall be made with an original and two carbon copies, with one copy going to the purchaser or receiver, one copy to be held by the deliveryman, and the third copy to be held by the weighmaster; provided, however, that when coal, coke or charcoal is delivered in this State in railway carload lots, the railway bill of lading may be used in lieu of the weight certificate required by this section.

"§ 81A-26. Establishment of standard loaves of bread; 'loaf' defined. — When loaves of bread are offered for sale or sold in this State, each loaf shall be one of the following weights and lengths and no other, to wit: one pound, 11-1/2 inches maximum length, five inches maximum width at bottom; one and one-half pounds, 13-1/2 inches maximum length, five inches maximum width at bottom; two pounds, 15 inches maximum length, five inches maximum width at bottom; two and one-half pounds, 16-1/2 inches maximum length, five inches maximum width at bottom. The term 'loaf' as used in this section shall be construed to mean a loaf which is baked in a pan of rectangular shape, either with straight up or flared side, either with or without cover, and shall be known hereafter as the standard loaf.

"§ 81A-27. Standard weights and measures. — Whenever any commodity named in this section shall be quoted or sold by the bushel, the bushel shall be the number of pounds stated in this section and whenever quoted or sold in subdivisions of the bushel, the number of pounds

shall be the fractional part of the number of pounds as set forth herein for the bushel, and when sold by the barrel shall consist of the number of pounds constituting 3.281 bushels.

<u>Commodity</u>	<u>Lbs. per bu.</u>	<u>Commodity</u>	<u>Lbs. per bu.</u>
Alfalfa	60	Grass seed, tall meadow & Fescue	24
Apples, dried	24	Grass seed, all meadow & Fescue except tall	14
Apple seed	40	Grass seed, perennial rye	14
Barley	48	Grass seed, Timothy	45
Beans, Castor	46	Grass, redtop	14
Beans, dry lima	60	Grass seed, Velvet	7
Beans, green in pod			
Lima	30	Hemp seed	44
Beans, soy	60	Hominy	62
Beef, net (per bbl)	200	Horseradish	50
Beets	50	Parsnips	50
Blackberries	48	Meal, corn, whether bolted or unbolted	48
Blackberries, dried	28	Melon, cantaloupe	50
Bran	20	Millet	50
Broom-corn	44	Mustard	58
Buckwheat	50	Nuts, chestnuts	5
Cabbage	50	Nuts, hickory, without hulls	50
Canary seed	60	Nuts, walnut, without hulls	50
Carrots	50	Oats, seed	32
Cherries, with stems	56	Onions, button sets	32
Cherries, without stems	64	Onions, top buttons	28
Clover seed, red & white	60	Onions, matured	57
Clover, Burr	8	Osage orange seed	33
Clover, German	60	Peaches, matured	50
Clover, Japan, Lespedeza	25	Peaches, dried	25
Corn, shelled	56	Peach seed	50
Corn, Kaffir	50	Peanuts, Spanish	30
Corn, pop	70	Peanuts	22
Cotton seed	30	Pears, matured	56
Cotton seed, Sea Island	44	Pears, dried	26
Cucumbers	48	Peas, dry field	60
Fish	100	Peas, green in hull field	30
Flax seed	56	Pieplant	50
Grapes, with stems	48	Plums	64
Grapes, without stems	60	Pork net (per bbl)	200
Gooseberries	48	Potatoes, Irish	56

Grass seed, Bermuda	14	Potatoes, sweet green	56
Grass seed, Blue	14	Potatoes, sweet, dry weight	47
Grass seed, Hungarian	48	Quinces, matured	48
Grass seed, Johnson	25	Tomatoes	56
Grass seed, Italian Rye	20	Turnips	50
Grass seed, orchard	14	Wheat	60
Raspberries	48	Cement	80
Rice, rough	44	Charcoal	22
Rye seed	56	Coke	40
Sage	4	Coal, stone	80
Salads, mustard, spinach, turnips, & kale	10	Hair, plaster	8
Salt	50	Land, plaster	100
Sorghum Molasses (per gal)	12	Lime, unslaked	80
Sorghum seed	50	Lime, slaked	40
Strawberries	48		
Sunflower seed	24		
Teosinte	59		

It shall be unlawful to purchase or sell, or barter or exchange, any article named in this section on any other basis than as stated herein; provided, however, that any such articles may be sold by weight.

"§ 81A-28. Standard rule for measurement of logs. — The standard rule for determining the number of board feet in a tree or log shall be the so-called 'International 1/4 inch Log Rule'. None of the provisions of this section shall apply to contracts entered into prior to the ratification of this act, nor to the measure of damages in any action in tort. This section shall not prevent the buyer and the seller from agreeing that some other log rule shall be used to determine the number of board feet in trees or logs covered by the contract between them.

"§ 81A-29. Authority to prescribe standards of weight or measurement for sale of milk or milk products. — The Board of Agriculture is hereby authorized and empowered to adopt and promulgate, after notice and hearing, rules and regulations prescribing standards or units of weight or measure by which milk, cream or other fluids containing milk or milk products may be sold at retail in bottles or other capped or sealed containers, and the sale thereof by any other standards or units of weight or measure shall be unlawful.

"ARTICLE 5.

"Public Weighmasters.

"§ 81A-30. Weighing livestock sold at public livestock market; weight certificates. — Whenever livestock is offered or exposed for sale, or sold by weight at a public livestock market, the livestock shall be weighed by a public weighmaster and each individual sale shall be accompanied with a weight certificate in duplicate on which shall be expressed in ink or other indelible substance, the name and address of seller, the kind, number and weight of livestock being offered for sale, or sold, the time of day and date of weighing and the name of the weighmaster. The information expressed on said certificate shall be announced or otherwise made known immediately preceding the sale, if said sale be by auction.

"§ 81A-31. Public weighmaster defined: to be licensed. — Any person, either for himself or as a servant or agent of any other person, firm, or corporation, or who is elected by popular vote, who shall weigh, or measure, or count, or who shall ascertain from, or record, the indications or readings of, a weighing, or measuring, or recording, device or apparatus for any other person, firm, or corporation, and declare the weight, or measure or count, or reading, or recording to be the true weight, or measure, or count, or reading, or recording of any commodity, thing, article, or product upon which the purchase, or sale, or exchange, is based, and make a charge for, or collect pay, a fee, or any other compensation for such act, shall issue a certificate of weight, or measure, or count, in accordance with the provisions of this act, shall be licensed and shall be known as a public weighmaster in the State of North Carolina.

"§ 81A-32. Application for license permit. — Any person not less than 18 years of age desiring to be a public weighmaster in this State shall apply for and obtain a license from the North Carolina Department of Agriculture by filing formal application under oath as follows: 'I, _____, a citizen of the United States, residing at _____, county of _____ have familiarized myself with the law and with full knowledge of the provisions contained therein relative to licensing of public weighmaster, do hereby file application for license to be issued accordingly. I certify that I am of sound mind and am physically fit to perform the duties imposed upon a public weighmaster and that I will, if licensed, abide by and enforce all laws, rules and regulations relating to a public weighmaster to the best of my knowledge and ability.'

"§ 81A-33. Forms of certificates of weight, etc., to be approved by commissioner or authorized agent. — It shall be the duty of every public weighmaster licensed under this act to issue a certificate of weight, measure, count, reading, or recording on forms approved by the commissioner or his authorized agent, and to enforce the provisions of this act, together with rules and regulations relating thereto. Said public weighmasters shall not receive compensation from the State for the duties performed.

"§ 81A-34. Official seal of public weighmaster. — It shall be the duty of every public weighmaster so licensed under this Article to obtain from the North Carolina Department of Agriculture an official seal for the sum of five dollars (\$5.00), which seal shall have inscribed thereon the following words: 'North Carolina Public Weighmaster' and such other design and/or legend as the commissioner or his authorized agent may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, count, reading or recording certificate issued by such public weighmaster, and when so applied the certificate shall be recognized and accepted as a declaration of the official, true, and accurate and undisputed weight, measure, count, reading or recording of the commodity, product, or article weighed, or measured, or counted within the tolerance allowed by this act; provided, however, that the weighers of tobacco in leaf tobacco warehouses may use, in lieu of said seal, a signature, which signature shall also appear, in ink or other indelible substance on the weighmaster's formal application, and again, posted in a conspicuous and accessible place in the tobacco warehouse where he is acting as a weighmaster. All public weighmasters' seals shall remain the property of the State of North Carolina.

"§ 81A-35. Violations of provisions by weighmasters made misdemeanor. — Any public weighmaster who shall refuse to issue a certificate as prescribed by this Article, or who shall issue a certificate giving a false weight, or measure, or count, or reading, or recording, or who shall misrepresent the weight, or measure, or count, or reading, or recording of the quantity of any commodity, product or article to any person, firm or corporation, or who shall otherwise violate any of the provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court, and, in addition thereto, his

license shall be revoked and he shall forfeit his seal which, when so forfeited, shall be turned over to the commissioner or his authorized agent.

"§ 81A-36. Requesting weighmaster to falsify weights; impersonation of weighmaster, alteration of certificate, etc. — Any person, firm, or corporation who shall request a public weighmaster to weigh, measure, count, read, or record any commodity, product or article falsely or incorrectly, or who shall request a false or inaccurate certificate of weight, measure, count, reading, or recording, or any person issuing a certificate of weight, or measure, or count, or reading, or recording within the meaning of this Article, who is not a public weighmaster as provided for by this Article, or who shall act as, or for, or in any way impersonate, a public weighmaster, or who shall erase, change, or alter any certificate issued by a public weighmaster, or who shall make incorrect the certificate by increasing or decreasing the weight or measure or count of the commodity, product or article certified to for the purpose of deception, or who shall violate any provision of this Article for which a special penalty has not been provided, shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court.

"§ 81A-37. Certificate of weighmasters presumed accurate and correct. — When a public weighmaster certificate is used in the sale, or purchase, or barter, or exchange of any commodity, product, or article, the certified weight, or measure, or count or reading or recording shall be deemed to be the true, accurate and undisputed weight, or measure or count, or reading or recording at time said commodity, product, or article is put into the natural channels of trade, which is, at the time of sale or purchase or barter or exchange; provided, however, that reasonable variations, or tolerances shall be permitted as established by rules and regulations as provided for by this act.

"§ 81A-38. Duty of custodian of product during time intervening between weighing and issuance of certificate. — If any commodity, product or article is to be offered for sale, or sold and is weighed or measured or counted by any public weighmaster and a certificate issued prior to sale, or acceptance of such commodity, product or article by the purchaser, his agent, or consignee, or if any commodity, product or article is offered for sale, sold, and/or delivered pending the weighing or measuring or counting of such commodity, product, or article by a public weighmaster and the issuance of a certificate, the person, firm, or corporation in whose custody said commodity, product or article is, shall keep, protect and prevent any increase or decrease in weight, measure or count, in the interim so that the declaration of weight, or measure, or count shall be true in accordance with Section 81A-37. The term 'interim' as used in this section shall be construed to mean the time intervening between the weighing and issuance of certificate and the sale or purchase and the time intervening between the sale or purchase and the presentation of such commodity, product, or article to the public weighmaster for weighing or measuring or counting, and the issuance of certificate. Any loss sustained in the weight or measure or count of any commodity, product, or article while in custody shall be borne by the person, firm or corporation in whose custody said commodity, product, or article is.

"§ 81A-39. Weighing tobacco in sales warehouses. — All leaf tobacco offered for sale in a leaf tobacco warehouse in this State shall be weighed by a public weighmaster, shall be accompanied by a public weighmaster certificate, and shall be and remain in custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bid is rejected by the owner thereof.

"§ 81A-40. Complaints to weighmaster or Commissioner of Agriculture. — When doubt or difference arises as to the correctness of the weight, or measure, or count, or reading, or recording of any amount or part of any commodity, product, or article for which a certificate of weight, measure, count, reading or recording, has been issued by a public weighmaster, the

owner, agent or consignee shall make complaint before moving said commodity, product, or article from city, town or community where weight certificate was issued, to the public weighmaster issuing said certificate or to the commissioner or his authorized agent setting forth the cause or causes for such doubt and/or difference, and have said amount, or part of the amount, or any commodity, product, or article reweighed, or remeasured, or recounted by the weighmaster issuing the certificate or by an authorized agent of the commissioner; provided, the commodity, product or article is kept and protected as is required during the interim period provided for in Section 81A-38. If, on reweighing, remeasuring, or recounting, a difference in original weight, or measure or count, is sustained the difference thus sustained shall be that, and that only, which is in excess of tolerance allowed by this act, and any desired adjustment as a result of such difference shall be made accordingly, and the cost of reweighing or remeasuring or recounting shall be borne by the public weighmaster responsible for the issuance of such faulty certificate; otherwise, the cost shall be borne by the complainant.

"§ 81A-41. Approval of devices used. — It shall be unlawful for any public weighmaster to use any weights or measures, or weighing or measuring or reading or recording device, which has not been tested and approved by the commissioner or his authorized agent in accordance with the provisions of this act and the rules and regulations governing same.

"§ 81A-42. Annual license for public weighmaster. — Public weighmasters shall be licensed for a period of one year beginning on the first day of July and ending on the thirtieth day of June, next, and a fee of ten dollars (\$10.00) shall be paid for each person so licensed to the Department of Agriculture at time of filing application, as set forth in Section 81 A-32.

"§ 81A-43. Seal declared property of State. — The seal herein provided for shall be the property of the State of North Carolina and shall be forfeited and returned to the commissioner or his authorized agent upon termination of the performance of duties herein described as being the duties of a public weighmaster. Failure or refusal of a person licensed as a public weighmaster under this Article to return, turn over, or surrender the official seal furnished by the Department of Agriculture upon expiration of term of license or for malfeasance in office, shall be a misdemeanor and any person convicted thereof shall forfeit the amount paid for use of such seal and shall be punished by a fine of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00), or by imprisonment for not more than three months, or both such fine and imprisonment, in the discretion of the court.

"§ 81A-44. Cotton weighing. — If any weigher or purchaser of cotton shall make any deduction from the weight of any bag, bale, or package of lint cotton, for or on account of the draft, turn, or break of the scales, steelyards, or other implement used in weighing the same, or for any other cause except as herein allowed, the person so offending shall be guilty of a misdemeanor, and fined not more than three hundred dollars (\$300.00) or imprisoned, in the discretion of the court; provided, however, that deductions may be made by the weigher for water, dirt, or other foreign substances on such bag, bale, or package of cotton, or for other just cause, but if such deductions are made, the nature of such deductions shall be indicated upon the principal weight ticket which shall also show the gross weight of the cotton, the amount deducted as tare, and the net weight of said cotton.

"ARTICLE 6.

"Scale Technician.

"§ 81A-45. Purpose of Article. — The purpose of this Article shall be to protect the owners and users of scales and weighing devices in their needs for scale repair and service, to provide for scale technician registration, and to provide for financial underwriting of services rendered.

"§ 81A-46. Prerequisites for scale technician. — It shall be unlawful for any scale technician to render service as a scale technician until after he or she has complied with the following requirements:

- (1) Obtained from the Department of Agriculture a copy of this Article, a copy of regulations pertinent to said Article, and an application form for registration.
- (2) Obtained bond in the sum of one thousand dollars (\$1,000) issued by a surety company licensed to do business in North Carolina.
- (3) Filed bond with the clerk of superior court of the county in which such applicant resides, unless he or she be a resident of some other state, in which event such bond shall be filed with the Clerk of Superior Court in Wake County, North Carolina.
- (4) Obtained a receipt in duplicate for such bond and filed the receipt with the clerk of superior court and mailed or delivered one copy of such receipt together with the application form for registration, completely filled out, to the Department of Agriculture, Raleigh, North Carolina.
- (5) Obtained a registration card or certificate from the commissioner or his authorized agent and a model form of service certificate.

The provisions of this Article shall not apply to a full-time employee who renders service only on a scale or weighing device, or on scales or weighing devices, owned solely by his or her employer unless additional pay or compensation is received for such service.

"§ 81A-47. Registration; certificate of registration; annual renewal. — The commissioner or his authorized agent shall register any person who has complied with the requirements of this Article by making a record of receipt of application and of bond, and the issuing of a certificate or card of registration to applicant, whereupon the applicant becomes a registered scale technician and shall be known thereafter as such. Such registration shall be in effect from date of registration until July 1st next and shall be renewed on the 1st day of July of each year thereafter.

"§ 81A-48. Service certificate. — Whenever any service is rendered on any scale or weighing device used or intended to be used in this State by a scale technician, a certificate shall be issued by such scale technician who rendered said service, which shall be known as a 'service certificate'. The size and form of said service certificate shall be determined by the commissioner or his authorized agent. Inclusive of other pertinent information or statements, the said certificate shall bear a statement expressed in ink or other indelible substance naming the kind of service rendered, whether adjustment, installation, repair, or maintenance, and stating that a service test as defined under the term 'service' has been made, and that the service rendered is guaranteed to be as represented. The service certificate shall be made out in triplicate, with original going to the owner of such scale or weighing device or his agent, and a duplicate shall be sent to the commissioner or his authorized agent if service is upon a scale or weighing device which has been rejected or condemned by an authorized agent, and the triplicate copy shall be retained by the scale technician issuing such certificate.

"§ 81A-49. Bond. — The bond required by this Article shall underwrite the guarantee of a refund or compensation, covering any claim by owner of scale or weighing device for damage or injury, which claim is sustained by the court, resulting in misrepresentation of service rendered, or failure to comply with all the provisions of this Article, by the scale technician, regardless of his or her intent; provided, however, that the aggregate liability of the surety to all claimants sustained by the court shall in no event exceed the amount of said bond.

"§ 81A-50. Scale removal. — When a scale or weighing device is removed from the premises where located by a scale technician, the scale technician or his servant or agent shall issue a receipt for said scale or weighing device, on which shall be written in ink or other indelible substance the name and address of the owner, the name and address of receiving agent, date of receipt, anticipated date of return, name or make of scale, and such other information pertinent to its identification. The form of receipt shall be approved by the commissioner or his authorized agent.

"§ 81A-51. **Control of condemned or rejected scale.** — It shall be unlawful for any owner of a scale or weighing device which has been condemned or rejected by the commissioner or his authorized agent to either use or dispose of same in any manner other than at the direction of the commissioner or his authorized agent; provided, however, said rejected scale or weighing device may be removed from the premises temporarily for repairs or service only.

"§ 81A-52. **Secondhand scale.** — It shall be unlawful for any person to sell, or offer for sale, or put into use, a secondhand or rebuilt or reconditioned scale or weighing device unless said scale shall have been tested and approved by the commissioner or his authorized agent, or shall be accompanied by a service certificate as provided for in this Article. Said service certificate shall be retained by the purchaser or user of said scale until an inspector of weights and measures has tested and approved such secondhand scale. The said certificate shall serve as proof of the accuracy of scale at the time scale was purchased or put into service. A secondhand or rebuilt or reconditioned scale or weighing device as referred to in this section shall be considered as being a scale or weighing device in the channels of trade which does not belong to the previous user.

"§ 81A-53. **Scale location.** — It shall be unlawful for any scale or weighing device to be installed, set up, put into service, or used on a foundation or support that aids in giving false indication of weight values applied to platter, platform, or other load receiving element.

"§ 81A-54. **Exemption.** — The provisions of this Article shall not prohibit the user of a scale or weighing device from employing some person other than a scale technician to render service as defined by this Article upon his or her scale or weighing device, nor apply to the person so employed, who does not solicit such employment, provided that said user shall not be relieved of his or her responsibility or liability concerning the accuracy of the scale or weighing device after service has been rendered.

"§ 81A-55. **Penalty.** — Any person who violates any of the provisions of this Article, or who for hire or award renders service as a scale technician on a scale or weighing device without registering as a scale technician or who shall fail to issue a service certificate or who shall issue a service certificate bearing false statements regarding service rendered, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than three months, or both fined and imprisoned. Upon conviction of violating this Article, a scale technician, shall forfeit any charges or remuneration for service rendered, if service be involved. The scale technician and his bonding company shall, at the discretion of the court, reimburse or compensate the owner of the scale or weighing device in question for such damage, or injury, sustained. Upon a subsequent conviction of violation of this Article, the court in its discretion, may deny a scale technician the privilege to act as or in the capacity of a scale technician for a specified length of time. His registration card or certificate may be seized by the court and turned over to the commissioner or his authorized agent with instruction concerning reinstatement or renewal.

"ARTICLE 7.

"General Provisions.

"§ 81A-56. **Regulations to be unaffected by repeal of prior enabling statute.** — The adoption of this Chapter or any of its provisions shall not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with this act or modified or revoked.

"§ 81A-57. **Severability provision.** — If any provision of this Chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.

"§ 81A-58. **Repeal of conflicting laws.** — All laws and parts of laws contrary to or inconsistent with the provisions of this Chapter are repealed except as to offenses committed, liabilities incurred, and claims made thereunder prior to the effective date of this Chapter."

Sec. 2. This act shall become effective on July 1, 1976.

In the General Assembly read three times and ratified, this the 11th day of June, 1975.