

No. 308, A.]

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CHAPTER 659

AN ACT to repeal 98.08, 98.10, 98.11, 98.16 to 98.20, 98.21 (4) and 98.23, 98.24 and 98.25; to amend 20.140 (48); and to repeal and recreate 98.01 to 98.07, 98.22 and 98.26 of the statutes, relating to weights and measures, the rule-making authority of the state department of agriculture and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.140 (48) of the statutes is amended to read:

20.140 (48) As a revolving appropriation, all moneys received under s. * * * 98.04 (2) for the purpose of executing functions thereunder *and all moneys received from other state agencies for the performance of weights and measures services.*

SECTION 2. 98.01 to 98.07 of the statutes are repealed and recreated to read:

98.01 DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Weights and measures" mean weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural or manufactured) or water when the same are operated in a public utility system, and scales under the control of the grain and warehouse commission.

(2) "Municipality" means a city or village.

(3) "Sell", "sale" and "sold" include barter or exchange, and any offering or exposing for sale or possession with intent to sell.

(4) "Inspector" means a state inspector of weights and measures.

(5) "Sealer" and "deputy sealer" means a sealer of weights and measures and deputy sealer of weights and measures of a municipality, respectively.

(6) "Weight" means net weight when used in reference to a commodity.

(7) "Incorrect" as applied to weights and measures and commodities includes any failure to comply with the requirements of this chapter or rules issued thereunder.

98.02 SYSTEMS OF WEIGHTS AND MEASURES; SPECIAL UNITS. (1) The system of weights and measures in customary use in the United States or the metric system of weights and measures shall be the only systems used for commercial purposes in this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, published by the national bureau of standards, shall govern weighing and measuring equipment and transactions in this state.

(2) The term "barrel", when used in connection with fermented liquor, means a unit of 31 gallons. The term "ton" means a unit of 2,000 pounds avoirdupois weight. The term "cord", when used in connection with wood intended for fuel purposes, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

98.03 STATE STANDARDS; SPECIFICATIONS AND TOLERANCES. (1) Weights and measures obtained by the state as standards and certified for use as such by the national bureau of standards shall be the state standards of weight and measure. They shall be in the custody of the department and shall be used only for scientific purposes and for verifying municipal and other standards used in enforcement work.

(2) The department may issue rules governing the construction, installation and use of commercial weights and measures and prescribing tolerances therefor. The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the national bureau of standards shall apply in this state except as modified by such rules.

98.04 MUNICIPALITIES. (1) Each municipality having a population of more than 5,000, according to the latest federal census, shall enforce the provisions of this chapter within its jurisdiction. For this purpose it shall establish a municipal department of weights and measures. Each municipal department of weights and measures shall have such number of qualified sealers or inspectors as will insure compliance with this chapter. Municipal sealers or inspectors shall have the same authority as sealers or inspectors of the department. The selection of municipal sealers or inspectors shall be from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. Such municipality shall procure and shall keep at all times a complete set of standards of weight and measure conforming to the state standards and certified to by the department. It shall keep a complete record of its work and annually shall file a report thereof with the department. Municipalities may enact ordinances regulating weights and measures not in conflict with this chapter or the rules of the department, but no fees shall be imposed.

(2) Nothing in this section shall prevent the department, at its discretion, from entering into contracts with municipalities in which it agrees to furnish the services and perform the duties of weights and measures departments in such municipalities. The authority and duties of the department in such municipalities shall be the same as the department of weights and measures, and such municipalities shall not be required to create such weights and measures departments. Under such contracts the department shall charge municipalities fees sufficient to cover the cost of services rendered.

98.05 ENFORCEMENT AUTHORITY. (1) There is hereby conferred upon sealers and inspectors of weights and measures, police power; such sealers and inspectors shall be provided with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the same,

upon demand, to any person questioning their powers, and they are hereby empowered and authorized to make arrests, with or without formal warrant, of any persons violating any statute relating to weights and measures.

(2) Sealers or inspectors may enter and go into or upon any structure or premises, and may stop any person or vehicle for the purpose of enforcing this chapter. They shall inspect and test any weights and measures or commodities which are sold or used commercially as often as necessary to secure compliance with this chapter, and may seize as evidence, or reject and mark or tag as "rejected" those which are incorrect. A representative sample may be used as the basis to determine whether any lot is incorrect.

(3) Weights and measures and commodities that have been rejected may be confiscated and destroyed by a sealer or inspector if not corrected within 30 days or such longer period as he may authorize, or if used or disposed of without his written authorization.

(4) Sealers or inspectors may seal or mark with appropriate devices such weights and measures as are found upon inspection and test to be in conformance with this chapter.

98.06 METHOD OF SALE OF COMMODITIES. (1) Commodities in liquid form shall be sold by liquid measure and commodities not in liquid form shall be sold by weight; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure of length or area if such methods are in general use and give accurate information as to the quantity of commodity sold.

(2) Berries and small fruits may be sold by measure only if in containers having capacities of one-half dry pint, one dry pint, or one dry quart.

(3) This section shall not apply to commodities sold in compliance with a state or federal law which prescribes another method of sale, or to commodities sold for immediate consumption on the premises where sold.

98.07 DECLARATION OF QUANTITY. (1) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling price based upon a price per unit of weight or measure, shall be sold unless the weight or measure of the commodity is conspicuously declared on the commodity or its tag, label or sign.

(2) No commodity shall be wrapped or its container made, formed or billed so as to mislead the purchaser; nor shall the qualifying term "when packed", or the terms "jumbo", "giant" or "full", or words of similar import that tend to mislead the purchaser as to the amount of the commodity, be used in connection with a declaration of quantity.

(3) With respect to commodities packaged prior to sale, the department shall issue rules permitting reasonable variations from declared quantity which unavoidably occur in good packaging and distribution practices.

SECTION 3. 98.08 of the statutes is repealed.

SECTION 4. 98.10 and 98.11 of the statutes are repealed.

SECTION 5. 98.16 to 98.20 and 98.21 (4) of the statutes are repealed.

SECTION 6. 98.22 of the statutes is repealed and recreated to read:

98.22 COAL, COKE, AND CHARCOAL. All coal, coke and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there is clearly stated (1) the name and address of the vendor, (2) the name and address of the purchaser, and (3) the net weight of the delivery and the gross and tare weights from which

the net weight is computed, each expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director, or the deputy director or an inspector, or a sealer or deputy sealer, who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away his purchase, the vendor shall be required only to give to the purchaser, at the time of sale, a delivery ticket stating the number of pounds of fuel delivered to him.

SECTION 7. 98.23, 98.24 and 98.25 of the statutes are repealed.

SECTION 8. 98.26 of the statutes is repealed and recreated to read:

98.26 PROHIBITED ACTS; PENALTY; INJUNCTION. (1) Whoever does any of the following acts may be fined not more than \$200 or imprisoned not more than 6 months, or both:

- (a) Hinders, obstructs or impersonates a sealer or inspector.
- (b) Uses or has in possession for use in buying or selling any commodity or service, or sells, any incorrect weight or measure.
- (c) Represents in any manner a false quantity in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.
- (d) Uses or disposes of any rejected weight or measure, or commodity, or removes therefrom any official tag, seal, stamp or mark, without written authority from a sealer or inspector.
- (e) Violates any other provision of this chapter for which no specific penalty is prescribed.

(2) Upon application of the department or a municipality, a circuit court may grant a temporary or permanent injunction restraining any person from violating any provision of this chapter.

Approved January 31, 1962.
