

By: Representative Weathersby

To: Agriculture

HOUSE BILL NO. 342

1 AN ACT TO AMEND SECTION 75-27-19, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE WEIGHTS AND MEASURES LAW TO ELIMINATE FEES FOR
3 CALIBRATION AND TESTING SERVICES AND TO ELIMINATE THE REQUIREMENT
4 OF PERMITS AND FEES FOR PERSONS INSTALLING CERTAIN SCALES; TO
5 AMEND SECTION 75-27-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
6 NO EMPLOYEE OF THE DEPARTMENT OF AGRICULTURE AND COMMERCE SHALL
7 RECOMMEND A PARTICULAR SCALE COMPANY, SCALE MANUFACTURER OR BRAND
8 OF SCALES; TO PROVIDE A PENALTY FOR VIOLATIONS; TO AMEND SECTION
9 75-27-67, MISSISSIPPI CODE OF 1972, TO REDUCE THE ANNUAL COST OF
10 THE LICENSE FOR SCALE SERVICE REPAIRMEN; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. Section 75-27-19, Mississippi Code of 1972, is
13 amended as follows:

14 75-27-19. The director shall have power to prescribe, after
15 public hearing following due public notice, and issue reasonable
16 regulations for the enforcement of this article, which regulations
17 shall have the force and effect of law. These regulations may
18 include (1) standards of net weight, measure, or count, and
19 reasonable standards of fill, for any commodity in package form,
20 (2) rules governing the technical and reporting procedures to be
21 followed and the report and record forms and marks of approval and
22 rejection to be used by inspectors of weights and measures in the
23 discharge of their official duties, and (3) exemptions from the
24 sealing or marking requirements of Section 75-27-31 with respect
25 to weights and measures of such character or size that such
26 sealing or marking would be inappropriate, impracticable, or
27 damaging to the apparatus in question. These regulations shall
28 include specifications, tolerances, and regulations for weights
29 and measures of the character of those specified in Section
30 75-27-23, designed to eliminate from use, without prejudice to

31 apparatus that conforms as closely as practicable to the official
32 standards, those (1) that are not accurate, (2) that are of such
33 construction that they are faulty--that is, that are not
34 reasonably permanent in their adjustment or will not repeat their
35 indications correctly, or (3) that facilitate the perpetration of
36 fraud. The specifications, tolerances, and regulations for
37 commercial weighing and measuring devices, together with
38 amendments thereto, as recommended by the National Bureau of
39 Standards and published in National Bureau of Standards Handbook
40 44 and supplements thereto, or in any publication revising or
41 superseding Handbook 44, shall be the specifications, tolerances,
42 and regulations for commercial weighing and measuring devices of
43 the State of Mississippi, except insofar as specifically modified,
44 amended, or rejected by a regulation issued by the director. For
45 the purposes of this article, apparatus shall be deemed to be
46 "correct" when it conforms to all applicable requirements
47 promulgated as specified in this section; other apparatus shall be
48 deemed to be "incorrect." The division shall levy no charges or
49 fees for the * * * tests or inspections made under this
50 article * * *. The director shall establish and adopt scale pit
51 and approach specifications for scales with a capacity of ten
52 thousand (10,000) pounds or more. However, weighing devices with
53 a capacity of ten thousand (10,000) pounds or more used to weigh
54 road construction materials shall be exempt from the requirements
55 of this article. Such weighing devices for road construction
56 materials shall have a tolerance of one-half of one percent (1/2
57 of 1%) in lieu of the requirements of Handbook 44 and shall be
58 regulated by the Mississippi Department of Transportation instead
59 of the Department of Agriculture and Commerce. For purposes of
60 this section, the term "road construction materials" shall
61 include, but not be limited to, sand, gravel, asphalt, fill dirt,
62 topsoil and concrete. The term "road construction materials"
63 shall not include timber or timber products.

64 SECTION 2. Section 75-27-23, Mississippi Code of 1972, is
65 amended as follows:

66 75-27-23. When not otherwise provided by law, the director
67 shall have the power to inspect and test, to ascertain if they are

68 correct, all weights and measures kept, offered, or exposed for
69 sale or purchase. It shall be the duty of the director within a
70 twelve-month period, or less frequently if in accordance with a
71 schedule issued by him, and as much oftener as he may deem
72 necessary to inspect and test, to ascertain if they are correct,
73 all weights and measures commercially used (1) in determining the
74 weight, measurement or count of commodities or things sold or
75 purchased, or offered or exposed for sale or purchase, on the
76 basis of weight, measure, or of count, or (2) in computing the
77 basic charge or payment for services rendered on the basis of
78 weight, measure, or of count. Provided, that with respect to
79 single-service devices--that is, devices designed to be used
80 commercially only once and to be then discarded--and with respect
81 to devices uniformly mass-produced, as by means of a mold or die,
82 and not susceptible of individual adjustment, tests may be made on
83 representative samples of such devices; and the lots of which such
84 samples are representative shall be held to be correct or
85 incorrect upon the basis of the results of the inspections and
86 tests on such samples.

87 The manufacturer or distributor of any weighing device(s)
88 offered for sale, sold, installed for commercial use or used
89 commercially in this state shall subject such device to type
90 evaluation testing by the National Type Evaluation Program (NTEP),
91 National Institute of Standards and Technology (NIST). Any
92 weighing device not covered by a certificate of conformance from
93 such agency shall not be used commercially in this state.

94 No employee of the Department of Agriculture and Commerce
95 shall recommend to any person a particular scale company, scale
96 manufacturer or brand of scales for purchase. Any person who
97 knowingly and willfully violates the provisions of this paragraph
98 shall be liable to the State of Mississippi for a civil penalty of
99 not more than One Thousand Dollars (\$1,000.00) nor less than Two
100 Hundred Dollars (\$200.00) for each such violation.

101 SECTION 3. Section 75-27-67, Mississippi Code of 1972, is
102 amended as follows:

103 75-27-67. Any person engaging in the business of scale
104 repairing or testing shall obtain a license annually from the
105 State Director of Weights and Measures upon showing that he is
106 qualified to repair or test scales and that he meets all
107 requirements of the National Institute of Standards and Technology
108 Handbook 44 and supplements thereto or in any publication revising
109 or superseding Handbook 44. The annual cost of such license shall
110 be One Hundred Dollars (\$100.00) for scale service-repair
111 companies and Twenty-five Dollars (\$25.00) for scale service
112 repairmen, which shall be collected by the director and paid into
113 the State Treasury, and shall expire on the thirtieth day of June
114 next after its issuance. The director is hereby authorized to
115 revoke any such license for a violation of any of the provisions
116 of this article or any rule or regulation promulgated thereunder.

117 Any person so licensed shall, within three (3) days after he
118 adjusts, repairs, services, restores to service or places in
119 service any scale, make a report thereof to the Director of
120 Weights and Measures on a form provided by the Department of
121 Agriculture and Commerce.

122 All such fees collected shall be paid into the General Fund
123 in the State Treasury.

124 It shall be unlawful and a misdemeanor: (1) for any person
125 other than the owner, or his regular employees, to repair any
126 weighing or measuring device unless he holds the above-prescribed
127 license; or (2) for any person to retain any remuneration for
128 repairing any weighing or measuring device unless the repairing
129 involved causes such device to meet the requirements of the
130 article for at least ninety (90) days after such repairing; or (3)
131 for any person to violate any of the provisions of this section.

132 SECTION 4. This act shall take effect and be in force from
133 and after July 1, 1999.