

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 628

1 AN ACT TO AMEND SECTION 75-27-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CERTAIN WEIGHING DEVICES FOR ROAD CONSTRUCTION
3 MATERIALS SHALL BE REGULATED BY THE DEPARTMENT OF AGRICULTURE
4 INSTEAD OF THE DEPARTMENT OF TRANSPORTATION; TO AMEND SECTION
5 75-27-23, MISSISSIPPI CODE OF 1972, TO CLARIFY A GRAMMATICAL
6 ERROR; AND FOR RELATED PURPOSES.

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

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

10 75-27-19. The director shall have power to prescribe, after
11 public hearing following due public notice, and issue reasonable
12 regulations for the enforcement of this article, which regulations
13 shall have the force and effect of law. These regulations may
14 include (1) standards of net weight, measure, or count, and
15 reasonable standards of fill, for any commodity in package form,
16 (2) rules governing the technical and reporting procedures to be
17 followed and the report and record forms and marks of approval and
18 rejection to be used by inspectors of weights and measures in the
19 discharge of their official duties, and (3) exemptions from the
20 sealing or marking requirements of Section 75-27-31 with respect
21 to weights and measures of such character or size that such
22 sealing or marking would be inappropriate, impracticable, or
23 damaging to the apparatus in question. These regulations shall
24 include specifications, tolerances, and regulations for weights
25 and measures of the character of those specified in Section
26 75-27-23, designed to eliminate from use, without prejudice to
27 apparatus that conforms as closely as practicable to the official
28 standards, those (1) that are not accurate, (2) that are of such

29 construction that they are faulty--that is, that are not
30 reasonably permanent in their adjustment or will not repeat their
31 indications correctly, or (3) that facilitate the perpetration of
32 fraud. The specifications, tolerances, and regulations for
33 commercial weighing and measuring devices, together with
34 amendments thereto, as recommended by the National Bureau of
35 Standards and published in National Bureau of Standards Handbook
36 44 and supplements thereto, or in any publication revising or
37 superseding Handbook 44, shall be the specifications, tolerances,
38 and regulations for commercial weighing and measuring devices of
39 the State of Mississippi, except insofar as specifically modified,
40 amended, or rejected by a regulation issued by the director. For
41 the purposes of this article, apparatus shall be deemed to be
42 "correct" when it conforms to all applicable requirements
43 promulgated as specified in this section; other apparatus shall be
44 deemed to be "incorrect." The division shall levy no charges or
45 fees for the field tests or inspections made under this article;
46 however, the director shall adopt a schedule of fees for
47 calibration and testing services provided by the State Metrology
48 Laboratory. Fees collected for such calibration and testing shall
49 be deposited in the State Treasury in the special fund for the
50 Department of Agriculture and Commerce. The director shall
51 require persons installing scales with a weight capacity of ten
52 thousand (10,000) pounds or more to secure a permit for each such
53 scale installed, establish a fee not to exceed Fifty Dollars
54 (\$50.00) for such permit and require such person to supply the
55 director with scale and scale foundation blueprints and
56 specifications for each installation before installation of the
57 scale. Applications for permit shall be made on forms prescribed
58 and furnished by the director. The director shall establish and
59 adopt scale pit and approach specifications for scales with a
60 capacity of ten thousand (10,000) pounds or more. However,
61 weighing devices with a capacity of ten thousand (10,000) pounds
62 or more used to weigh road construction materials only shall have
63 a tolerance of one-half of one percent (1/2 of 1%) in lieu of the
64 requirements of Handbook 44 * * * . For purposes of this section,
65 the term "road construction materials" shall include, but not be

66 limited to, sand, gravel, asphalt, fill dirt, topsoil and
67 concrete. The term "road construction materials" shall not
68 include timber or timber products.

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

71 75-27-23. When not otherwise provided by law, the director
72 shall have the power to inspect and test, to ascertain if they are
73 correct, all weights and measures kept, offered, or exposed for
74 sale or purchase. It shall be the duty of the director within a
75 twelve-month period, or less frequently if in accordance with a
76 schedule issued by him, and as much oftener as he may deem
77 necessary to inspect and test, to ascertain if they are correct,
78 all weights and measures commercially used (1) in determining the
79 weight, measurement or count of commodities or things sold or
80 purchased, or offered or exposed for sale or purchase, on the
81 basis of weight, measure, or of count, or (2) in computing the
82 basic charge or payment for services rendered on the basis of
83 weight, measure, or of count. Provided, that with respect to
84 single-service devices--that is, devices designed to be used
85 commercially only once and to be then discarded--and with respect
86 to devices uniformly mass-produced, as by means of a mold or die,
87 and not susceptible of individual adjustment, tests may be made on
88 representative samples of such devices; and the lots of which such
89 samples are representative shall be held to be correct or
90 incorrect upon the basis of the results of the inspections and
91 tests on such samples.

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

99 SECTION 3. This act shall take effect and be in force from
100 and after July 1, 1999.