

By: Stogner

To: Agriculture

SENATE BILL NO. 2622

1 AN ACT TO AMEND SECTION 75-27-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE DEFINITIONS UNDER THE WEIGHTS AND MEASURES LAW; TO AMEND  
3 SECTION 75-27-19, MISSISSIPPI CODE OF 1972, TO REVISE THE  
4 STANDARDS FOR COMMERCIAL WEIGHING AND MEASURING DEVICES; TO AMEND  
5 SECTION 75-27-51, MISSISSIPPI CODE OF 1972, TO PROVIDE PENALTIES  
6 FOR MISREPRESENTATION OF THE PRICE OF A COMMODITY; AND FOR RELATED  
7 PURPOSES.

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

9 SECTION 1. Section 75-27-3, Mississippi Code of 1972, is  
10 amended as follows:[HS1]

11 75-27-3. When used in this article:

12 (1) The word "person" \* \* \* means both the plural and  
13 singular, as the case demands, and \* \* \* includes individuals,  
14 partnerships, corporations, companies, societies, and  
15 associations.

16 (2) The words "weight(s) and (or) measure(s)" \* \* \*  
17 means all weights and measures of every kind, all instruments and  
18 devices and all electronic systems that employ a laser bar code  
19 reader to retrieve product identity, price and other information  
20 stored in computer memory, for weighing and measuring, or in the  
21 computing of any basic charge or payment for products bought or  
22 services rendered on the basis of weight or measure or count and  
23 any appliances and accessories associated with \* \* \* such

24 instruments and devices, except that the term does not include  
25 meters for the measurement of electricity, gas, or water when the  
26 meters are operated in a public utility system, \* \* \* or  
27 production from oil and gas wells under the supervision of the  
28 State Oil and Gas Board. Such electricity, gas, and water \* \* \*  
29 meters are hereby specifically excluded from \* \* \* this article,  
30 and none of the provisions of this article shall \* \* \* apply to  
31 such meters or to any appliances or accessories associated with  
32 them.

33 (3) The words "sell" and "sale" \* \* \* means barter and  
34 exchange.

35 (4) The term "director" and "deputy director" \* \* \*  
36 means, respectively, the State Director of Weights and Measures,  
37 who shall be the Commissioner of Agriculture and Commerce, and the  
38 Deputy State Director of Weights and Measures, who shall serve as  
39 the administrator.

40 (5) The term "inspector" \* \* \* means a state inspector  
41 of weights and measures.

42 (6) The term "intrastate commerce" \* \* \* means any and  
43 all commerce or trade that is begun, carried on, and completed  
44 wholly within the limits of the State of Mississippi, and the  
45 phrase "introduced into intrastate commerce" shall be construed to  
46 define the time and place at which the first sale and delivery of  
47 a commodity is made within the state, and delivery being made  
48 either directly to the purchaser or to a common carrier for  
49 shipment to the purchaser.

50 (7) The term "commodity in package form" \* \* \* means  
51 commodity put up or packaged in any manner in advance of sale in  
52 units suitable for either wholesale or retail sale, exclusive,  
53 however, of an auxiliary shipping container enclosing packages  
54 that individually conform to the requirements of this article. An

individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

(8) The term "Handbook 44" means the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices."

SECTION 2. Section 75-27-19, Mississippi Code of 1972, is amended as follows:[CRG2]

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

83 standards, those (1) that are not accurate, (2) that are of such  
84 construction that they are faulty-that is, that are not reasonably  
85 permanent in their adjustment or will not repeat their indications  
86 correctly, or (3) that facilitate the perpetration of fraud. The  
87 specifications, tolerances, and regulations for commercial  
88 weighing and measuring devices, together with amendments thereto,  
89 as recommended by the National Institute of Standards and  
90 Technology and published in \* \* \* Handbook 44 and supplements  
91 thereto, or in any publication revising or superseding Handbook  
92 44, shall be the specifications, tolerances, and regulations for  
93 commercial weighing and measuring devices of the State of  
94 Mississippi, except insofar as specifically modified, amended, or  
95 rejected by a regulation issued by the director. For the purposes  
96 of this article, apparatus shall be deemed to be "correct" when it  
97 conforms to all applicable requirements promulgated as specified  
98 in this section; other apparatus shall be deemed to be  
99 "incorrect." The division shall levy no charges or fees for the  
100 field tests or inspections made under this article; however, the  
101 director shall adopt a schedule of fees for calibration and  
102 testing services provided by the State Metrology Laboratory. Fees  
103 collected for such calibration and testing shall be deposited in  
104 the State Treasury in the special fund for the Department of  
105 Agriculture and Commerce. The director shall require persons  
106 installing scales with a weight capacity of ten thousand (10,000)  
107 pounds or more to secure a permit for each such scale installed,  
108 establish a fee not to exceed Fifty Dollars (\$50.00) for such  
109 permit and require such person to supply the director with scale  
110 and scale foundation blueprints and specifications for each

111 installation before installation of the scale. Applications for  
112 permit shall be made on forms prescribed and furnished by the  
113 director. The director shall establish and adopt scale pit and  
114 approach specifications for scales with a capacity of ten thousand  
115 (10,000) pounds or more. However, weighing devices with a  
116 capacity of ten thousand (10,000) pounds or more used to weigh  
117 road construction materials shall be exempt from the requirements  
118 of this article. Such weighing devices for road construction  
119 materials shall have a tolerance of one-half of one percent ( $1/2$   
120 of 1%) in lieu of the requirements of Handbook 44 and shall be  
121 regulated by the Mississippi Department of Transportation instead  
122 of the Department of Agriculture and Commerce. For purposes of  
123 this section, the term "road construction materials" shall  
124 include, but not be limited to, sand, gravel, asphalt, fill dirt,  
125 topsoil and concrete. The term "road construction materials"  
126 shall not include timber or timber products.

127 SECTION 3. Section 75-27-51, Mississippi Code of 1972, is  
128 amended as follows:[HS3]

129 75-27-51. Whenever any commodity or service is sold, or is  
130 offered, exposed, or advertised for sale, by weight, measure, or  
131 count, the price shall not be misrepresented, nor shall the price  
132 be represented in any manner calculated or tending to mislead or  
133 deceive an actual or prospective purchaser. Whenever an  
134 advertised, posted, or labeled price per unit of weight, measure,  
135 or count includes a fraction of a cent, all elements of the  
136 fraction shall be prominently displayed and the numeral or  
137 numerals expressing the fraction shall be immediately adjacent to,  
138 of the same general design and style as, and at least one-half

(1/2) the height and width of the numerals representing the whole cent; provided, however, the provisions of this section shall not apply to signs and requirements enumerated in Section 75-55-9, Mississippi Code of 1972. A person who is found guilty of the misrepresentation of the price of a commodity or the representation of a price in any manner calculated or tending to mislead or deceive an actual or prospective purchaser shall be assessed a civil penalty by the director or his designee in the amount of not less than One Hundred Dollars (\$100.00) for the first offense and not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each subsequent offense. Each violation shall constitute a separate offense. The commissioner or his designee shall afford the person an opportunity for a hearing to show cause why the penalty should not be assessed.

SECTION 4. This act shall take effect and be in force from and after July 1, 2000.