

AN ACT

ENTITLED, An Act to revise certain provisions pertaining to weights and measures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-39-6 be amended to read:

34-39-6. All liquid gas meters shall be of a positive displacement type equipped with vapor separator or provided with such other equipment which will positively eliminate all air and vapor from passing through the meter with the liquid gas, and differential pressure regulator. A liquid gas meter, except a meter dispensing at a rate of twenty gallons per minute or less, shall be corrected to sixty degrees Fahrenheit liquid gas temperature and all deliveries of liquid gas through the meter shall be temperature corrected from sixty degrees Fahrenheit to the temperature of the liquid gas at the time and place of delivery and the customer billed accordingly. It is a Class 1 misdemeanor to make wholesale or retail sales to customers from any bulk delivery vehicle unless the bulk delivery vehicle is equipped with and dispenses the liquid petroleum gas through a liquid gas meter. No liquid gas meter may be equipped with a bypass around the liquid gas meter. However, the prohibition of a bypass is not intended to prohibit the use of an equalization line.

Section 2. That § 34-39-2 be amended to read:

34-39-2. It is a Class 2 misdemeanor to sell or offer for sale, either at wholesale or retail, any liquefied petroleum gas, either in liquid or vapor form, except by weights and measures that are approved by the department.

Section 3. That § 34-39-3 be amended to read:

34-39-3. The department may test all weighing and measuring devices used in the wholesale or retail sale of liquefied petroleum gas, either in liquid or vapor form, and shall condemn or reject for repair, any device which is found either to be inaccurate or does not clearly state the quantity of liquefied petroleum gas, either in liquid or vapor form, in pounds, gallons, cubic feet, or other unit

approved by the department.

The department shall charge and collect a sixty-eight dollar fee for each test.

Any inspector employed by the department may enter and examine any liquefied petroleum gas plant for safety standard purposes no more than every two years, except for any reinspection resulting from a deficiency. The department shall charge and collect a ninety-four dollar fee for each inspection.

For the purposes of this section, a liquefied petroleum gas plant is a retail distribution facility with a capacity of at least eight thousand gallons.

Revenue from the fees imposed by this section shall be deposited into the general fund. It is the intent of the Legislature that one-half of the inspection program funding may be derived from the general fund and the other half from the fees collected pursuant to this section and §§ 37-21-9.1, 37-21A-3, 37-21A-7, and 37-22-10, through the General Appropriations Act.

Section 4. That § 34-39-3.1 be amended to read:

34-39-3.1. The department shall perform the functions required by this chapter.

Section 5. That § 34-39-4 be amended to read:

34-39-4. The department shall conspicuously mark all condemned or rejected for repair devices. It is a Class 2 misdemeanor to remove or deface the mark except upon authorization of the department.

Section 6. That § 34-39-5 be amended to read:

34-39-5. It is a Class 1 misdemeanor to use a weighing or measuring device for determining quantities of liquefied petroleum gas, either in liquid or vapor form, which has been condemned by the department.

Section 7. That § 34-39-7 be amended to read:

34-39-7. The secretary may promulgate rules, pursuant to chapter 1-26, to establish tolerances

within a maximum of two percent plus or minus, which may be necessary for the enforcement of §§ 34-39-1 to 34-39-6, inclusive.

Section 8. That § 37-2-5 be amended to read:

37-2-5. Terms used in this chapter mean:

- (1) "Alcohol," a colorless volatile flammable liquid containing no more than 1.25 percent of water used for the purpose of blending or mixing with gasoline for use in motor vehicles and commonly known as alcohol, ethanol, or methanol;
- (2) "ASTM," the American Society for Testing and Materials;
- (3) "Aviation gasoline," a volatile hydrocarbon fuel free from suspended water and sediment matter and that is suitable for use as a fuel in an aviation spark ignition internal combustion engine designed for use in an aircraft;
- (3A) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of the American Society of Testing and Materials D 6751 as of January 1, 2015, and is registered with the United States Environmental Protection Agency as a fuel and fuel additive under section 211(b) of the Clean Air Act in effect on January 1, 2006;
- (3B) "Biodiesel blend," a special blended fuel comprised of at least two percent by volume of biodiesel blended with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend;
- (4) "Department," the Department of Public Safety;
- (5) "Diesel fuel," a refined middle distillate hydrocarbon fuel free from suspended water and sediment matter that is suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine;
- (5A) "Ether," methyl tertiary butyl ether;

- (6) "Flash test" and "flash point," the flash point as determined by the method of the American Society for Testing Materials, using the instrument known as the Tagliabue closed cup tester;
- (7) "Gasoline," a volatile hydrocarbon fuel free from suspended water and sediment matter that is practicable and suitable used as fuel in a spark ignition internal combustion engine;
- (8) "Inspector," the secretary or any deputy or assistant appointed by the secretary for the purpose of enforcing the provisions of this chapter;
- (9) "Kerosene," a hydrocarbon fuel intended for use in heating and illumination and having an American Petroleum Institute gravity of not less than forty degrees. Kerosene shall also include coal oil and burner oil;
- (9A) "NIST," the National Institute of Standards and Technology;
- (10) "Petroleum products," gasoline, alcohol blended fuels, kerosene, diesel fuel, aviation gasoline, burner oil, naphtha and lubricating oils;
- (11) "Secretary," the secretary of the Department of Public Safety.

Section 9. That § 37-2-6 be amended to read:

37-2-6. The secretary may, pursuant to chapter 1-26, and in general conformity with ASTM and NIST standards in effect on January 1, 2015, promulgate rules:

- (1) Establishing standards for the maximum volume percentages of ethanol, methanol, ether, and cosolvents in alcohol blended fuels;
- (2) Establishing a program for and prescribing the methods to be used for the inspection and testing of alcohol blended fuels, petroleum products, biodiesel, and biodiesel blends;
- (3) Requiring labeling of devices dispensing alcohol blended fuels, biodiesel, and biodiesel blends;
- (4) Establishing standards setting the specifications and tolerance requirements for petroleum

products, biodiesel, and biodiesel blends; and

- (5) Regulating the filtering system to be used on devices dispensing alcohol blended fuels.

Section 10. That § 37-2-7 be amended to read:

37-2-7. Specifications and methods for the examination and test of petroleum products shall be determined by the department and shall be based upon standards from ASTM and NIST as of January 1, 2015. If promulgated as rules of the department in accordance with the provisions of chapter 1-26, the specifications shall be the specifications for such petroleum products sold in this state and official tests of the petroleum products shall be based upon test specifications so determined, adopted, and promulgated.

Section 11. That § 37-2-8 be amended to read:

37-2-8. Any qualified laboratory may make an analysis as requested by the secretary. Distillation tests shall be made pursuant to the methods for the tests adopted by ASTM.

Section 12. That § 37-2-9 be amended to read:

37-2-9. The inspector is not required to make a thorough analysis of all petroleum products to ascertain each form of impurity. However, if the inspector performs an analysis that demonstrates the requirements of this chapter are not met or that there exists an impurity or imperfection not specified in this chapter which renders a petroleum product unsuitable, the inspector may reject the petroleum product.

Section 13. That § 37-2-11 be amended to read:

37-2-11. No person may display any sign, label, or other designating mark which describes any lubricating oil or gasoline for internal combustion engines not actually sold or offered for sale or delivered at the location at which the sign, label, or other designating mark is displayed. No person may display any label upon any container which label names or describes any lubricating oil or gasoline for internal combustion engines not actually contained in the container, but offered for sale

or sold as such lubricating oil or gasoline. This section does not apply to any person utilizing a sign in a decorative manner. No place of business may use a decorative sign in a manner that misleads a consumer as to the products sold at that location.

Section 14. That § 37-2-24 be amended to read:

37-2-24. The expense of all inspections, collections, and refunds in connection with the safety and taxation of all petroleum products shall be paid from the collection of taxes or licenses by the state treasurer, upon bills, vouchers, and payrolls approved by the department and the commissioner of finance and management.

The allocation of funds from the net collections of taxes and licenses on all petroleum products shall be made by the state treasurer pursuant to law.

Section 15. That § 37-2-44 be amended to read:

37-2-44. In general conformity with ASTM D4814 and the adoption of NIST Handbook 130, 2015, in rules promulgated pursuant to this chapter, the minimum $(R+M)/2$ octane rating grades of petroleum products, as defined by subdivision 37-2-5(10) in the counties of Butte, Custer, Fall River, Harding, Lawrence, Meade, Oglala Lakota, Pennington, and Perkins shall be no less than the following:

- (1) Regular, unleaded, regular unleaded 85;
- (2) Midgrade, plus, or super unleaded 87, 88, 89, or 90; and
- (3) Premium, supreme, high test unleaded 91.

Section 16. That § 37-20-2 be amended to read:

37-20-2. The secretary shall take charge of the standards adopted by this chapter as the reference standards of the state and take necessary precautions for the safekeeping of the standards. The standards shall be kept in a fireproof building controlled by the state from which the standards may not be removed except for repairs or calibrations. The secretary shall maintain the state reference

standards in good order. The secretary shall keep a complete record of the standards, balances, and other apparatus belonging to the state. The state reference standards may only be used for testing any duplicate standards that may be required in the enforcement of chapters 37-20 to 37-22, inclusive.

Section 17. That § 37-20-3 be amended to read:

37-20-3. In addition to the state reference standards of weights and measures provided for by law, the state shall supply at least one complete set of duplicate standards which shall be kept at all times in the department. The duplicate standard shall be known as the working standards. The other weights, measures, and apparatus which are necessary to carry out the provisions of chapters 37-20 to 37-22, inclusive, shall be known as field standards.

Section 18. That § 37-20-5 be amended to read:

37-20-5. The working standards shall be used in making all comparisons of weights and measures and weighing and measuring devices submitted for testing in the department.

Section 19. That § 37-20-34 be amended to read:

37-20-34. The secretary may promulgate rules, pursuant to chapter 1-26, for the enforcement of the provisions of chapter 37-20 in the following areas:

- (1) Tolerances, specifications, and requirements for testing standards to be used in South Dakota; and
- (2) Required compliance with standards issued by the National Institute of Standards and Technology in effect January 1, 2015.

Section 20. That § 37-21-1 be amended to read:

37-21-1. The department shall have and keep a general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state.

Section 21. That § 37-21-1.1 be repealed.

Section 22. That § 37-21-2 be amended to read:

37-21-2. The secretary is the ex officio inspector and sealer of weights and measures and shall enforce the provisions of chapters 37-20 and 37-21.

A deputy, assistant, or inspector appointed by the secretary has the same powers and duties provided to the secretary when acting in performance of duties assigned by the secretary under the provisions of this chapter.

Section 23. That § 37-21-6 be amended to read:

37-21-6. Regulations pursuant to § 37-21-5 may include specifications and tolerances for any weight, measure, or weighing or measuring device of the character of those specified in § 37-21-9. The rules shall prohibit the use of any weight, measure, or weighing or measuring device which is not accurate, is of construction that it is not reasonably permanent in its adjustment, will not repeat its indications correctly, or facilitates the perpetration of fraud. The specifications and tolerances shall be in conformity with the code of specifications, tolerances, and regulations for commercial weighing and measuring devices issued and recommended by the National Institute of Standards and Technology of the United States Department of Commerce and in effect on January 1, 2015.

Section 24. That § 37-21-9 be amended to read:

37-21-9. When not otherwise provided for by law, the secretary shall inspect, test, try, and ascertain that all weights, measures, and weighing and measuring devices kept, offered, or exposed for sale, sold or used or employed by any person in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of distribution or consumption purchased or offered or submitted for sale, hire, or award are correct.

Section 25. That § 37-21-9.1 be amended to read:

37-21-9.1. The department shall charge and collect a fee of twenty-eight dollars for each inspection and testing of any weight, measure, and weighing and measuring device up to one thousand pounds. The fee shall be paid upon demand of the department by the person, firm, or

corporation owning or operating the weight, measure, or weighing or measuring device inspected or tested. A fee of fourteen dollars shall be charged and collected for each inspection and testing of gasoline and diesel stationary fuel pump meters. A fee of forty-six dollars shall be charged and collected for each inspection and testing of gasoline and diesel high speed stationary fuel pump meters and for refined fuel truck meters. If a special or emergency inspection is requested, a charge, not to exceed the actual cost of the inspection, including costs for personnel, equipment, and mileage, shall be made and assessed against the requesting person or device owner.

It is the intent of the Legislature that one-half of the inspection program funding may be derived from the general fund and the other half from the fees collected pursuant to this section and §§ 34-39-3, 37-21A-3, 37-21A-7, and 37-22-10, through the General Appropriations Act.

Section 26. That § 37-21-10 be amended to read:

37-21-10. If a complaint is made to the secretary that any false or incorrect scales, weights, or measures are being made use of by any person in the purchase or sale of merchandise or other commodities or in weighing any article or commodity, the piece price for which is determined by weight or measure, the secretary shall investigate the complaint as soon as possible. The secretary shall make such other inspections of the weights and measures as in the secretary's judgment are necessary or proper to be made, except where inspection is provided for by chapter 37-22 or 37-22A.

Section 27. That § 37-21-12 be amended to read:

37-21-12. Any person who impersonates in any way the secretary or an employee of the department in the performance of the person's official duties, is guilty of a Class 1 misdemeanor.

Section 28. That § 37-21-13 be amended to read:

37-21-13. If the secretary compares weights, measures, or weighing or measuring devices and finds that they correspond with the state standards, the secretary shall seal or mark the weights, measures, or weighing or measuring devices with appropriate seals or marks.

Section 29. That § 37-21-15 be amended to read:

37-21-15. The secretary may weigh or measure and inspect packages or amounts of commodities of whatever kind kept for the purpose of sale, offered or exposed for sale, sold, or in the process of delivery, to determine whether the packages or commodities contain the amounts represented, and whether the packages or commodities are being offered for sale or sold in a manner pursuant to law.

Section 30. That § 37-21-16 be amended to read:

37-21-16. The secretary may for the purposes mentioned in § 37-21-15, and in the general performance of official duties, enter and go into or upon, without formal warrant, any stand, place, building, or premises, or stop any vendor or any dealer for the purpose of making proper tests.

Section 31. That § 37-21-18 be amended to read:

37-21-18. Any person who:

- (1) Offers or exposes for sale, sells, uses in buying or selling of any commodity or thing, or for hire or award, or retains in possession a false weight or measure or measuring or weighing device, or any weight or measure or weighing or measuring device that has not been sealed by the department within two years;
- (2) Disposes of any condemned weight, measure, or weighing or measuring device contrary to law;
- (3) Removes any tag placed by the department;
- (4) Sells, offers, or exposes for sale less than the quantity the person represents;
- (5) Takes or attempts to take more than the quantity the person represents, when as the buyer, the person furnished the weight, measure, or weighing or measuring device by means of which the amount of the commodity is determined;
- (6) Keeps for the purpose of sale, offers or exposes for sale, or sells any commodity in a manner contrary to law;

- (7) Violates any provision of chapters 37-20 to 37-22, inclusive, for which a specific penalty has not been provided; or
- (8) Sells, offers to sell, uses, or has in possession for the purpose of selling or using any device or instrument to be used, or calculated to falsify any weight or measure;

is guilty of a Class 2 misdemeanor.

Section 32. That § 37-21-21 be amended to read:

37-21-21. The secretary and any deputy, assistant, or inspector may request the assistance of local law enforcement in the arrest of any violator of law in relation to weights and measures, enter a complaint before any court of competent jurisdiction, and seize and use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodities found to be used, retained, or offered or exposed for sale or sold in violation of law.

Section 33. That § 37-21A-1 be amended to read:

37-21A-1. Terms as used in this chapter mean:

- (1) "Department," the Department of Public Safety;
- (2) "Placed in service report," a report submitted to the Office of Weights and Measures by a registered service agent or agency, certifying that the subject device meets the applicable state requirements and is legal for trade;
- (3) "Registered service agency," any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a weighing or measuring device, and which voluntarily registers itself as such with the secretary. Under agency registration, identification of individual servicemen may not be required;
- (4) "Registered service agent," any individual who for hire, award, commission, or any other

payment of any kind, installs, services, repairs, or reconditions a weighing or measuring device, and who voluntarily registers as such with the secretary;

(5) "Secretary," the secretary of the Department of Public Safety.

Section 34. That § 37-21A-2 be amended to read:

37-21A-2. Any person may apply for voluntary registration to service weighing or measuring devices on an application form supplied by the department. The applicant shall submit a form, duly signed and witnessed, certifying that the applicant is fully qualified to install, service, repair, or recondition the weighing and measuring devices. The applicant shall certify that the applicant has the necessary testing equipment and standards and knowledge of all appropriate weights and measures laws and regulations. An applicant also shall submit appropriate evidence or references demonstrating the qualifications of the applicant.

Section 35. That § 37-21A-3 be amended to read:

37-21A-3. The secretary shall charge an annual registration fee of sixty-nine dollars for each service agency and ten dollars for each registered service agent to cover administrative costs. The fee shall be paid when the registration or renewal application is made.

It is the intent of the Legislature that one-half of the inspection program funding may be derived from the general fund and the other half from the fees collected pursuant to this section and §§ 34-39-3, 37-21-9.1, 37-21A-7, and 37-22-10, through the General Appropriations Act.

Section 36. That § 37-21A-4 be amended to read:

37-21A-4. Upon receipt and acceptance of a properly executed application form, the secretary shall issue to the applicant a certificate of registration, including an assigned registration number. The certificate of registration remains effective until either returned by the applicant or withdrawn by the secretary.

Section 37. That § 37-21A-5 be amended to read:

37-21A-5. A bearer of a certificate of registration may:

- (1) Remove an official rejection or condemnation tag or mark placed on a weighing or measuring device by the authority of the department;
- (2) Place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected or condemned; and
- (3) Place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

Section 38. That § 37-21A-7 be amended to read:

37-21A-7. A registered service agent and a registered service agency shall submit, annually to the secretary, for examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. No registered service agent or agency may use in servicing any commercial weighing or measuring device any standards or testing equipment that have not been certified by the secretary. The department shall charge a ninety-six dollar per hour fee for the examination and certification.

It is the intent of the Legislature that one-half of the inspection program funding may be derived from the general fund and the other half from the fees collected pursuant to this section and §§ 34-39-3, 37-21-9.1, 37-21A-3, and 37-22-10, through the General Appropriations Act.

Section 39. That § 37-21A-8 be amended to read:

37-21A-8. The secretary may, for good cause, after careful investigation and consideration, deny, suspend, or revoke a certificate of registration. Good cause may include any violation of a weights and measures statute, failure to submit annual calibration documentation for all weighing and measuring devices used in servicing equipment, or calculated misrepresentations with regard to a service agent's competence, equipment, or reports.

Section 40. That § 37-21A-10 be amended to read:

37-21A-10. The secretary may enter into an informal reciprocal agreement with any other state that has registration policies similar to the policies of South Dakota. Under the agreement, a registered service agent or a registered service agency of a state party to the reciprocal agreement is granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, if the registered service agency voluntarily registers in South Dakota and pays the corresponding fee.

Section 41. That § 37-22-1 be amended to read:

37-22-1. All track scales and all other scales in this state used by common carriers or by shippers for the purpose of weighing cars or freight offered for shipment in car lots and all scales and weighing devices in public warehouses and grain elevators and all stock scales at stockyards and all private, farm, and municipal scales used in weighing hay, grain, wood, coal, and like subjects of commerce are under the supervision and control of the department and are subject to inspection by the department. Farm scales may only be inspected at the request of the owner.

Section 42. That § 37-22-1.1 be repealed.

Section 43. That § 37-22-3 be amended to read:

37-22-3. The secretary shall promulgate rules, pursuant to chapter 1-26, for:

- (1) The installation, testing, and maintenance of all heavy scales, including specifications in conformance with standards published by the National Institute for Standards and Technology in effect January 1, 2015;
- (2) The frequency of inspection of heavy scales; and
- (3) The schedule and procedure for the correction of any deficiencies.

Section 44. That § 37-22-4 be amended to read:

37-22-4. The department has exclusive jurisdiction over the scales designated in §§ 37-22-1 and

37-22-3. The inspection of the scales may only be made by and under the direction of the department.

Section 45. That § 37-22-5 be amended to read:

37-22-5. The department may appoint suitable and competent inspectors to aid the department in making inspections of scales under its jurisdiction.

Section 46. That § 37-22-7 be amended to read:

37-22-7. The department may acquire standard weights and measures and additional facilities and equipment including motor vehicles or other means of conveyance deemed necessary and suitable in carrying on the work of inspecting, testing, and correcting scales and performing generally the duties established by this chapter.

Section 47. That § 37-22-9 be amended to read:

37-22-9. The department or any agent, employee, or scale inspector of the department may at any time, without notice, enter any place maintaining a scale subject to the provisions of this chapter and test and seal all weighing scales and measures used in conducting the business.

Section 48. That § 37-22-10 be amended to read:

37-22-10. The department shall charge and collect a fee for each inspection or testing of scales. The fee shall be paid upon demand of the department by the person owning or operating the scale inspected or tested. The schedule of fees is as follows:

- (1) 1,001 to 2,000 pounds capacity, inclusive, twenty-nine dollars;
- (2) 2,001 to 5,000 pounds capacity, inclusive, forty-eight dollars;
- (3) 5,001 to 40,000 pounds capacity, inclusive, eighty-two dollars;
- (4) Over 40,000 pounds capacity, one hundred three dollars;
- (5) All livestock scales, one hundred seventy-three dollars.

If a special or emergency inspection is requested, a charge, not to exceed the actual cost of the

inspection, including costs for personnel, equipment, and mileage, shall be made and assessed against the requesting person or device owner.

It is the intent of the Legislature that one-half of the inspection program funding may be derived from the general fund and the other half from the fees collected pursuant to this section and 34-39-3, 37-21-9.1, 37-21A-3, and 37-21A-7, through the General Appropriations Act.

Section 49. That § 37-22-12 be amended to read:

37-22-12. If a request is made by the owner to test a scale outside of the regular route or regular tour of inspection of any scale inspector and it is found necessary by the department to send and dispatch a scale inspector with the scale inspection truck and its scale testing equipment, a charge, based upon the number of hours it takes for the travel from the point of departure to the place where the scale inspection and testing is to be made and return to the point of departure, shall be made and assessed against the owner of the scale. The fee shall be charged and collected pursuant to the provisions of § 37-22-10. The per hour charge shall be fixed and collected by the department.

Section 50. That § 37-22-13 be amended to read:

37-22-13. If the person making an inspection pursuant to § 37-22-9 finds any scale in use inaccurate, the inspector shall condemn, or reject for repair, the scale and attach to the scale a card, notice, or other device, indicating that the scale is condemned or rejected. It is a Class 2 misdemeanor for any person to remove, deface, or destroy the card, notice, or other device placed upon the condemned or rejected scale. Any scale tagged as, condemned for repairs, shall be repaired or corrected within sixty days. The scale may not be used for any purpose until the scale has been repaired, retested, found to be correct, and is placed in service by a registered service agency or agent or until the department has consented to the use of the scale. The owner or operator of any weighing device tagged or marked, rejected for repair, may continue to use the device but shall have the device repaired or corrected within thirty days by a registered service agency or agent.

Section 51. That § 37-22-16 be amended to read:

37-22-16. Any money collected under the provisions of this chapter shall be deposited in the general fund.

Section 52. That § 37-22-17 be amended to read:

37-22-17. Except as otherwise provided in this chapter, any person:

- (1) Neglecting to install a seal for the preservation of adjustment as required by this chapter, upon any scale under the jurisdiction of the department, after thirty days' notice so to do;
- (2) Removing, defacing, or destroying any seal placed upon any scale by any agent, employee, or scale inspector of the department for the purpose of fixing or preserving the adjustment of the scale in order to ensure its accuracy;
- (3) Removing, defacing, or destroying any seal, tag, card, notice, or other device placed upon any scale by any agent, employee, or scale inspector of the department for the purpose of indicating that the scale has been condemned, and may not be used;
- (4) Using or permitting the use of any scale that has been tested and found to be incorrect, before it is again tested and found to be correct and the further use of the scale is authorized or consented to by the department;
- (5) Preventing or attempting to prevent or in any way interfering with any agent, employee, or scale inspector of the department from entering the premises where a scale may be kept, or inspecting or testing a scale; or
- (6) Neglecting to observe any rule or regulation of the department relating to a scale;

is guilty of a Class 2 misdemeanor.

Section 53. That § 37-22-18 be amended to read:

37-22-18. The secretary may grant a variance, upon request from a scale owner or operator, to any rules or specifications governing the scale except those specifying a tolerance or the value of a

minimum division. The owner or operator shall demonstrate the variance is needed due to economic unfeasibility or impossibility of conformance with specifications. The variance shall be consistent with good commercial practices in South Dakota and, under normal circumstances, the weighing equipment shall remain accurate and reliable and the variance may not harm the owner, operator, or any customer. The secretary shall, pursuant to chapter 1-26, promulgate rules for the application process and criteria to be used in granting or rejecting a variance.

Section 54. That § 37-22A-3 be amended to read:

37-22A-3. Each scale ticket issued by vehicle scales used in commercial trade shall show the name of the agency performing the weighing service, the date of the weighing, the number of the scale or other information identifying the scale upon which the weighing is performed, the name of the person or firm having a vehicle weighed, and the name of the weighmaster, or understandable abbreviations of the names. Each scale ticket issued under this chapter shall be in duplicate form and serially numbered. If the ticket is used on a type-registering weighbeam, the ticket shall conform to specifications set by the department. One copy of the scale ticket shall be retained by the agency performing the weighing service, and one copy of the scale ticket shall be furnished to the person having the vehicle weighed. No change of weight may be made on any ticket.

Section 55. That § 37-22A-4 be amended to read:

37-22A-4. In case of error of the weighmaster in preparing a scale ticket, the weighmaster shall prepare a corrected ticket showing the correction made and stating on the back of the ticket the reason for the change. If an error in the preparation of the ticket, other than the weight, due to misinformation furnished to the weighmaster by the person having a vehicle weighed, the weighmaster upon request of the person shall issue another ticket bearing the appropriate correction or a correction slip which shows any change made on the back of the ticket and the reason for the change. Before the correction ticket or slip is issued the weighmaster shall require the person

requesting the change to sign the ticket or slip. The correction ticket or slip shall be attached to the original ticket, bear the same serial number, and show on its face that it is a correction ticket or slip.

Section 56. That § 37-22A-5 be amended to read:

37-22A-5. The provisions of chapter 37-22, relating to heavy scales and defining the duties and powers of the department apply to and govern the administration and enforcement of this chapter.

Section 57. That chapter 34-39 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Public Safety;
- (2) "Secretary," the secretary of the Department of Public Safety.

Section 58. That chapter 37-20 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Public Safety;
- (2) "Secretary," the secretary of the Department of Public Safety.

Section 59. That chapter 37-21 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Public Safety;
- (2) "Secretary," the secretary of the Department of Public Safety.

Section 60. That chapter 37-22 be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Public Safety;
- (2) "Secretary," the secretary of the Department of Public Safety.

Section 61. That chapter 37-22A be amended by adding a NEW SECTION to read:

Terms used in this chapter mean:

- (1) "Department," the Department of Public Safety;

(2) "Secretary," the secretary of the Department of Public Safety.

An Act to revise certain provisions pertaining to weights and measures.

=====

I certify that the attached Act
originated in the

HOUSE as Bill No. 1031

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1031

File No. _____

Chapter No. _____

=====

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State