

**B. Uniform Weighmaster Law**

**Table of Contents**

| <b>Section</b>  | <b>Page</b> |
|---|-------------|
| Section 1. Purpose .....  | 33          |
| Section 2. Scope .....  | 33          |
| Section 3. Definitions .....  | 33          |
| 3.1. Public Weighing .....  | 33          |
| 3.2. Public Weighmaster .....   | 33          |
| 3.3. Vehicle .....  | 33          |
| 3.4. Director .....   | 33          |
| Section 4. Enforcing Officer: Rules and Regulations .....                 | 33          |
| Section 5. Qualifications for Weighmaster .....                           | 34          |
| Section 6. License Application .....                                      | 34          |
| Section 7. Evaluation of Qualifications of Applicants .....               | 34          |
| Section 8. Issuance and Records of Licenses .....                         | 34          |
| Section 9. License Fees .....   | 35          |
| Section 10. Certificate: Required Entries .....                           | 35          |
| Section 11. Certificate: Execution, Requirements .....                    | 36          |
| Section 12. Measurement Practices and Equipment Used .....                | 36          |
| Section 13. Scale Used: Capacity, Platform Size, One-Draft Weighing ..... | 36          |
| Section 14. Copies of Certificates .....                                  | 36          |
| Section 15. Reciprocal Acceptance of Certificates .....                   | 36          |
| Section 16. Optional Licensing .....                                      | 37          |
| Section 17. Prohibited Acts .....   | 37          |
| Section 18. Suspension and Revocation of License .....                    | 38          |
| Section 19. Civil Penalties .....   | 38          |
| 19.1. Assessment of Penalties .....                                       | 38          |
| 19.2. Administrative Hearing .....  | 38          |
| 19.3. Collection of Penalties .....                                       | 38          |
| Section 20. Criminal Penalties .....                                      | 38          |
| 20.1. Misdemeanor .....   | 38          |
| 20.2. Felony .....  | 38          |

Section 21. Restraining Order and Injunction..... 39

Section 22. Validity of Prosecutions..... 39

Section 23. Separability Provision..... 39

Section 24. Repeal of Conflicting Laws ..... 39

Section 25. Citation ..... 39

Section 26. Effective Date ..... 39

## B. Uniform Weighmaster Law

### Section 1. Purpose

The purpose of this Act is to ensure accurate measurements by public weighmasters.

### Section 2. Scope

This Act:

- (a) establishes a registration, licensing, and enforcement program;
- (b) provides authority for license fee collection;
- (c) empowers the state to promulgate regulations as needed to carry out the provisions of the Act;
- (d) provides for optional or voluntary licensing when the employing organization or other organizations require it as part of the condition for employment; and
- (e) provides for civil and criminal penalties.

### Section 3. Definitions

As used in this Act:

**3.1. Public Weighing.** – The weighing, measuring, or counting, upon request, of vehicles, property, produce, commodities, or articles other than those that the weigher or his/her employer, if any, is either buying or selling.

**3.2. Public Weighmaster.** – Any person who performs public weighing as defined in 3.1. Public Weighing.

**3.3. Vehicle.** – Any device (except railroad freight cars) in, upon, or by which any property, produce, commodity, or article is or may be transported or drawn.

**3.4. Director.** – The \_\_\_\_\_ of the Department of \_\_\_\_\_.

### Section 4. Enforcing Officer: Rules and Regulations

The Director is authorized to:

- (a) enforce the provisions of this Act;
- (b) issue reasonable regulations for the enforcement of this Act that shall have the force and effect of law; and
- (c) adopt rules that include, but are not limited to, determining:
  - (1) the qualifications of the applicant for a license as a public weighmaster;
  - (2) renewal or refusal of a license;

- (3) the period of license validity;
- (4) measurement practices that must be followed, including the measurement or recording of tare;
- (5) the required information to be submitted with or as part of a certificate; and
- (6) the period of recordkeeping.

### **Section 5. Qualifications for Weighmaster**

To receive authorization to act as a public weighmaster, a person must receive a license from the Director. In order to qualify for a license, a person must:

- (a) be able to weigh or measure accurately;
- (b) be able to generate correct certificates; and
- (c) possess other qualifications required by regulations promulgated under the Act.

### **Section 6. License Application**

Using a form provided by the Director, the applicant for a license as a public weighmaster shall furnish evidence that he/she has the qualifications required by Section 5. Qualifications for Weighmaster of this Act and regulations promulgated under the Act.

### **Section 7. Evaluation of Qualifications of Applicants**

The Director will determine the qualifications of the applicant based on:

- (a) the information provided on the application; and
- (b) supplementary information as determined by the Director.

The Director may also determine the qualifications of the applicant based on the results of an examination of the applicant's knowledge.

### **Section 8. Issuance and Records of Licenses**

The Director will:

- (a) grant licenses as public weighmasters to qualified applicants;
- (b) keep a record of all applications submitted and of all licenses issued; and
- (c) establish the period of validity of licenses issued.

## Section 9. License Fees

The Director shall have the authority to set fees for the administration and effective enforcement of the provisions of this Act. Before the issuance of a new license or renewal of a license as a public weighmaster, the applicant must pay a fee of \$\_\_\_\_\_ to the Director.

## Section 10. Certificate: Required Entries

- (a) The certificate, when properly filled out and signed shall be prima facie evidence of the accuracy of the measurements shown.
- (b) The design of and the information to be furnished on a weight certificate shall be prescribed by the Director and will include, but not be limited to, the following:
  - (1) the name and license number of the public weighmaster;
  - (2) the kind of commodity weighed, measured, or counted;
  - (3) the name of the owner, agent, or consignee of the commodity;
  - (4) the name of the recipient of the commodity, if applicable;
  - (5) the date the certificate is issued;
  - (6) the consecutive number of the certificate;
  - (7) the identification, including the identification number, if any, of the carrier transporting the commodity and the identification number or license number of the vehicle;
  - (8) other information needed to distinguish or identify the commodity from a like kind;
  - (9) the number of units of the commodity, if applicable;
  - (10) the measure of the commodity, if applicable;
  - (11) the weight <sup>[NOTE 1, page 35]</sup> of the commodity and the vehicle or container (if applicable) broken down as follows:
    - i. the gross weight of the commodity and the associated vehicle or container;
    - ii. the tare weight of the unladen vehicle or container; or
    - iii. both the gross and tare weight and the resultant net weight of the commodity;
  - (12) signature of the public weighmaster who determined the weight, measure, or count.

**NOTE 1:** When used in this law (or regulation), the term “weight” means “mass.” (See paragraphs K. “Mass” and “Weight” and L. Use of the Terms “Mass” and “Weight” in Section I. Introduction of NIST Handbook 130 for an explanation of these terms.)

(Note added 1993)

### **Section 11. Certificate: Execution, Requirements**

- (a) When filling out a certificate, a public weighmaster shall:
  - (1) enter the measurement values to clearly show that the measurements were actually determined;
  - (2) enter only the measurement values personally determined; and
  - (3) not enter measurement values determined by other persons.
- (b) If the certificate provides for entries of gross, tare, or net, the public weighmaster shall:
  - (1) strike out or otherwise cancel the printed entries for the values not determined; or
  - (2) enter the scale and date on which the values were determined on the certificate if the values were not determined on the same scale or on the same date shown on the certificate.

### **Section 12. Measurement Practices and Equipment Used**

A public weighmaster shall use measurement practices and equipment:

- (a) in accordance with the requirements of the latest edition of NIST Handbook 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices”; and
- (b) examined, tested, and approved for use by a weights and measures officer of this state.

### **Section 13. Scale Used: Capacity, Platform Size, One-Draft Weighing**

- (a) A public weighmaster shall not weigh a vehicle, or combination of vehicles, when part of the vehicle or connected combination, is not resting fully, completely, and as one entire unit on the scale.
- (b) When weighing a combination of vehicles that will not rest fully, completely, and as one complete unit on the scale platform:
  - (1) the combination shall be disconnected and weighed in single drafts; and
  - (2) the weights of the single drafts may be combined in order to issue a single certificate for the combination, provided the certificate indicates that the total represents a combination of single draft weighings.

### **Section 14. Copies of Certificates**

A public weighmaster shall keep and preserve for the period specified in the regulations a legible copy of each certificate issued by him or her. The certificates shall be available for inspection by any weights and measures officer of this state during normal office hours.

### **Section 15. Reciprocal Acceptance of Certificates**

The Director is authorized to recognize and accept certificates issued by licensed public weighmasters of other states that recognize and accept certificates issued by licensed weighmasters of this state.

## Section 16. Optional Licensing

The following persons shall be authorized, but are not required, to obtain licenses as public weighmasters:

- (a) a law enforcement or weights and measures officer or other qualified employee of a state, city, or county agency or institution when acting within the scope of his/her official duties;
- (b) a person weighing property, produce, commodities, or articles:
  - (1) that he/she or his/her employer is either buying or selling; or
  - (2) in conformity with the requirements of federal statutes or the statutes of this state relative to warehousemen or processors.

## Section 17. Prohibited Acts

It is a prohibited act for any person

- (a) without a valid license to:
  - (1) assume the title of public weighmaster or any title of similar import;
  - (2) perform the duties or acts to be performed by a public weighmaster;
  - (3) hold himself or herself out as a public weighmaster;
  - (4) issue any certificate, ticket, memorandum, or statement for which a fee is charged; or
  - (5) engage in full-time or part-time business of measuring for hire.
- (b) to use or operate any device for certification purposes that does not meet, nor in a manner not in accordance with, the requirements of the latest edition of NIST Handbook 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices”;
- (c) to falsify a certificate or to falsely certify any gross, tare, or net weight or measure required by the Act to be on the certificate;
- (d) to refuse without cause to weigh or measure any article or thing which it is his/her duty to weigh or measure, or refuse to state in any certificate anything required to be therein;
- (e) to hinder or obstruct in any way the Director or his/her authorized agent in the performance of the Director’s official duties under this Act;
- (f) to violate any provision of this Act or any regulation promulgated under this Act;
- (g) to delegate his/her authority to any person not licensed as a public weighmaster;
- (h) to request a false certificate or to request a public weighmaster to weigh, measure, or count any vehicle, property, produce, commodity, or article falsely or incorrectly;
- (i) to issue a certificate simulating the certificate in the Act; or
- (j) to use or have in his/her possession a device which has been altered to facilitate fraud.

## Section 18. Suspension and Revocation of License

The Director is authorized to suspend or revoke the license of any public weighmaster:

- (a) when, after a hearing held following 10 days' notice to the licensee, he/she is satisfied that the licensee has violated any provision of this Act or any regulation under this Act;
- (b) when the licensee has been convicted in any court of competent jurisdiction of violating any provision of this Act or any regulation under this Act; or
- (c) when the licensee is convicted of any felony.

## Section 19. Civil Penalties

**19.1. Assessment of Penalties.** – Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person commits any of the acts enumerated in Section 22. Validity of Prosecutions may be assessed by the \_\_\_\_\_ a civil penalty of:

- (a) not less than \$ \_\_\_\_\_ nor more than \$ \_\_\_\_\_ for a first violation,
- (b) not less than \$ \_\_\_\_\_ nor more than \$ \_\_\_\_\_ for a second violation within \_\_\_\_\_ from the date of the first violation, and
- (c) not less than \$ \_\_\_\_\_ nor more than \$ \_\_\_\_\_ for a third violation within \_\_\_\_\_ from the date of the first violation.

**19.2. Administrative Hearing.** – Any person subject to a civil penalty shall have a right to request an administrative hearing within \_\_\_\_\_ days of receipt of the notice of the penalty. The Director or his/her designee shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the Director shall be subject to appropriate judicial review.

**19.3. Collection of Penalties.** – If the respondent has exhausted his or her administrative appeals and the civil penalty has been upheld, he or she shall pay the civil penalty within \_\_\_\_\_ days after the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the Director in any court of competent jurisdiction to recover the penalty. Any civil penalty collected under this Act shall be transmitted to \_\_\_\_\_.

(Added 1989) (Amended 1995)

## Section 20. Criminal Penalties

**20.1. Misdemeanor.** – Any person who by himself/herself, by his/her servant or agent, or as the servant or agent of another person commits any of the acts enumerated in Section 17. Prohibited Acts or violates any other provision of this Act shall be guilty of a Class \_\_\_\_\_ misdemeanor and upon conviction shall be punished by a fine not less than \$ \_\_\_\_\_, nor more than \$ \_\_\_\_\_, or by imprisonment for not less than \_\_\_\_\_ nor more than \_\_\_\_\_, or both fine and imprisonment.

**20.2. Felony.** – Any person who by himself/herself, by his/her servant or agent, or as the servant or agent of another person intentionally commits any of the acts enumerated in Section 17. Prohibited Acts or repeatedly violates any other provision of this Act shall be guilty of a Class \_\_\_\_\_ felony and upon conviction shall be punished by a fine not less than \$ \_\_\_\_\_ and/or by imprisonment for not less than \_\_\_\_\_, nor more than \_\_\_\_\_, or more than \_\_\_\_\_.



### **Section 21. Restraining Order and Injunction**

The Director is authorized to apply to any court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining any person from violating any provision of this Act.

### **Section 22. Validity of Prosecutions**

Prosecutions for violation of any provision of this Act are declared to be valid and proper notwithstanding the existence of any other valid general or specific Act of this state dealing with matters that may be the same as or similar to those covered by this Act.

### **Section 23. Separability Provision**

If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected.

### **Section 24. Repeal of Conflicting Laws**

All laws and parts of laws contrary to or inconsistent with the provisions of this Act, and specifically \_\_\_\_\_, are repealed insofar as they might operate in the future; but as to offenses committed, liabilities incurred, and claims now existing there under, the existing law shall remain in full force and effect.

### **Section 25. Citation**

This Act may be cited as the “Public Weighmaster Act of \_\_\_\_\_.”

### **Section 26. Effective Date**

This Act shall become effective on \_\_\_\_\_.

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