

ENROLLED SENATE
BILL NO. 636

By: Justice of the Senate

and

Armes of the House

An Act relating to agriculture; amending 2 O.S. 2001, Sections 14-35 and 14-38, as amended by Section 5, Chapter 200, O.S.L. 2007 (2 O.S. Supp. 2008, Section 14-38), which relates to powers and duties of the Board and unlawful misrepresentations; expanding authority of State Board of Agriculture; making it unlawful for certain persons to misrepresent the quantity determined by weights and measures; requiring certain persons to comply with the provisions of certain handbooks; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2001, Section 14-35, is amended to read as follows:

Section 14-35. The State Board of Agriculture shall have the following powers and duties:

1. Maintain traceability of the state standards to the National Institute of Standards and Technology and adopt standard weights and measures for products in conformity with federal standards for use as the standard for weighing and measuring products in Oklahoma;

2. Ensure that all rules conform as nearly as practicable to the uniform regulations adopted by the National Conference on Weights and Measures and published in the National Institute of

Standards and Technology Handbook 130, "Uniform Laws and Regulations", including all supplements and revisions thereof;

3. Establish requirements for labeling, for the presentation of cost-per-unit information, for standards of weight, measure, or count, and for standards of fill for any packaged commodity. The Board may establish requirements for open dating information;

4. Conduct investigations to ensure compliance with this article;

5. Inspect and test weights and measures kept, offered, or exposed for sale;

6. Inspect and test to ascertain if the weights and measures commercially used are correct by:

a. determining the weight, measure, or count of commodities or things sold, offered, or exposed for sale on the basis of weight, measure, or count, or

b. by computing the basic charge or payment for services rendered on the basis of weight, measure, or count;

7. Approve for use weights and measures found to be correct and reject and mark as rejected weights and measures found to be incorrect. Approved weights and measures may be marked as approved. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The Board shall condemn and may seize weights and measures found to be incorrect that are not capable of being made correct;

8. Weigh, measure, or inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and are in accordance with this article and rules of the Board. The Board shall use recognized sampling procedures adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods" and supplements and revisions;

9. If a method of declaring the quantity of a specific commodity by weight, measure, numerical count, or combination does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion, an appropriate term or unit of weight or measure may be prescribed; ~~and~~

10. Allow reasonable variations from the stated quantity of contents, including but not limited to those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;

11. Set standards for inspection by rule for circumstances not addressed by the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations" and the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

12. Promulgate rules for the enforcement of the National Institute of Standards and Technology Handbook Number 130, "Uniform Laws and Regulations," the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods, and the act; and

13. Enforce the provisions of Sections 14-31 through 14-43 of this title and rules promulgated thereto.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 14-38, as amended by Section 5, Chapter 200, O.S.L. 2007 (2 O.S. Supp. 2008, Section 14-38), is amended to read as follows:

Section 14-38. It shall be unlawful for any person to:

1. ~~Sell, offer, or expose for sale any item for a quantity less than the quantity represented or take more than the represented quantity when the buyer furnishes the weight or measure which determines the quantity; or~~

2. Take more than the represented quantity when, as a buyer, the person furnishes the weight or measure by means of which the quantity is determined; or

3. Represent the quantity in any manner calculated or tending to mislead or in any way deceive another person; or

4. Misrepresent the price ~~or quantity~~ of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count or represent the price in any manner calculated or tending to mislead or in any manner way deceive a person.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-38a of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person subject to the provisions of Sections 14-31 through 14-43 of Title 2 of the Oklahoma Statutes shall comply with the provisions of the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," and supplements or revisions and the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and supplements or revisions.

SECTION 4. This act shall become effective July 1, 2009.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of February, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of March, 2009.

Presiding Officer of the House
of Representatives