

**THE HOUSE OF REPRESENTATIVES**  
**Thursday, March 26, 2009**

**ENGROSSED**

**Senate Bill No. 636**

ENGROSSED 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 an effective date; and declaring an emergency.

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

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

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

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

1           2. Ensure that all rules conform as nearly as practicable to the uniform regulations  
2 adopted by the National Conference on Weights and Measures and published in the  
3 National Institute of Standards and Technology Handbook 130, “Uniform Laws and  
4 Regulations”, including all supplements and revisions thereof;

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

9           4. Conduct investigations to ensure compliance with this article;

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

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

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

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

18          7. Approve for use weights and measures found to be correct and reject and mark  
19 as rejected weights and measures found to be incorrect. Approved weights and measures  
20 may be marked as approved. Weights and measures that have been rejected may be  
21 seized if not corrected within the time specified or if used or disposed of in a manner not

1 specifically authorized. The Board shall condemn and may seize weights and measures  
2 found to be incorrect that are not capable of being made correct;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL  
15 DEVELOPMENT, dated 03-25-09 - DO PASS.