

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 326

By: Dahm of the Senate

3 and

4 Cleveland of the House

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6
7 An Act relating to weights and measures; amending 83
8 O.S. 2011, Sections 111, 112, 113, 114, and 117,
9 which relate to gasoline and petroleum products;
10 updating statutory language; repealing 83 O.S. 2011,
11 Sections 115, 116 and 118, which relate to violations
12 and penalties and severability; providing for
13 recodification; and providing an effective date.

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17 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
18 and insert

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21 "An Act relating to weights and measures; amending 83
22 O.S. 2011, Sections 111, 112, 113, 114 and 117,
23 which relate to gasoline and petroleum products;
24 updating statutory language; repealing 83 O.S. 2011,
Sections 115, 116 and 118, which relate to
violations and penalties and severability; providing
for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 83 O.S. 2011, Section 111, is
amended to read as follows:

1 Section 111. As used in this act, ~~the following words shall~~
2 ~~have the meanings indicated:~~

3 1. "Commission" shall mean the ~~Oklahoma~~ Corporation
4 Commission~~;~~;

5 2. "Measuring device" shall mean any and all measuring devices
6 through or by the use of which gasoline, diesel, kerosene, ~~naphtha~~
7 naphtha, motor fuel~~,~~ or petroleum products are sold, dispensed~~,~~ or
8 delivered to the public or to any person buying any such substance
9 for any purpose other than resale~~;~~ and

10 3. "Person" shall mean any person, firm, partnership,
11 association~~,~~ or corporation.

12 SECTION 2. AMENDATORY 83 O.S. 2011, Section 112, is
13 amended to read as follows:

14 Section 112. A. The Corporation Commission is hereby
15 authorized and directed to promulgate such tests, standards,
16 specifications~~,~~ and rules ~~and regulations as may be necessary to~~
17 carry out the provisions of ~~Section 111 et seq. of this title act~~
18 and to ensure that all measuring devices shall be of the highest
19 degree of accuracy reasonably consistent with the nature of the
20 substance measured, and for such purpose the Commission shall have
21 authority to prescribe such maximum limits of allowable error for
22 such measuring devices as ~~in the judgment of the Commission are~~
23 deems necessary to prevent fraud resulting from inaccurate
24 measurement.

1 B. The Commission is authorized to promulgate ~~such~~ rules,
2 ~~regulations and standards~~ as are necessary to establish a voluntary
3 calibration program for tanks and containers used in this state to
4 transport motor fuel, diesel fuel or blending material; provided,
5 however, this shall not include the fuel supply tanks of a motor
6 vehicle. The Commission is further authorized to establish a fee ~~or~~
7 ~~charge~~ not to exceed Fifty Dollars (\$50.00) for the calibration of
8 these tanks and containers. The fees are to cover the costs
9 necessary for the enforcement of this act ~~to include repairs and~~
10 ~~maintenance of the building and equipment, metal markers, seals,~~
11 ~~washers, nuts and bolts and any other supplies necessary.~~

12 C. Any tank or container calibrated ~~before or after the~~
13 ~~effective date of this act~~ by the manufacturer, officials of another
14 state, the ~~Oklahoma~~ Tax Commission or the ~~Oklahoma~~ Corporation
15 Commission shall not be subject to further calibration testing by
16 the Commission unless the physical shape or size of the tank or
17 container has been altered by accident or design. A Certificate of
18 Measurement shall be issued by the Commission for tanks and
19 containers which are calibrated by the manufacturer, another state
20 or the Commission. Nothing herein shall prohibit the Commission
21 from ordering the mandatory calibration testing of any tank,
22 container or metering device which the Commission has good reason to
23 believe is inaccurate and is being utilized to defraud any person,
24 firm or corporation.

1 D. Fees collected under the provisions of ~~Sections 111 through~~
2 ~~118 of this title~~ this act shall be deposited in the State Treasury
3 to the credit of the Corporation Commission Revolving Fund.

4 SECTION 3. AMENDATORY 83 O.S. 2011, Section 113, is
5 amended to read as follows:

6 Section 113. It shall be the duty of the ~~State Fuel Inspector~~
7 ~~and his deputies, from time to time, and whenever in their opinion~~
8 ~~it is necessary, or when directed by the Corporation Commission or~~
9 ~~the State Fuel Inspector, diligently~~ to inspect all measuring
10 devices in this state for the purpose of determining whether or not
11 such measuring devices comply with the tests, standards,
12 specifications, and rules, ~~and regulations~~ of the Commission
13 promulgated under authority of this act; and it shall be the further
14 duty of the ~~State Fuel Inspector and his deputies~~ Commission,
15 whenever ~~they find~~ it finds a measuring device which does not meet
16 or comply with the ~~said~~ tests, standards, specifications, or rules
17 ~~or regulations, to~~ immediately ~~to~~ report ~~to the State Fuel Inspector~~
18 the facts and circumstances ~~on which he proposes to base his right~~
19 ~~so as to place such seal or lock and secure the State Fuel~~
20 ~~Inspector's approval thereof and upon approval to~~ and place a seal
21 or label on ~~said~~ the measuring device, stating that the ~~said~~
22 measuring device does not meet or comply with ~~said~~ the required
23 tests, standards, specifications, ~~regulations~~ or rules, and
24 immediately to seal and lock ~~said~~ the measuring device; provided,

1 that the ~~proprietor operating the business~~ owner or operator thereof
2 shall have the right to make application to the Commission for an
3 order removing ~~said~~ the sign, label, lock or seal, which application
4 shall be heard by the Commission without unnecessary delay, and no
5 notice of hearing shall be required. ~~The State Fuel Inspector and~~
6 ~~his deputies shall make reports to the Commission as and when the~~
7 ~~Commission may require.~~

8 SECTION 4. AMENDATORY 83 O.S. 2011, Section 114, is
9 amended to read as follows:

10 Section 114. Any person who owns or has custody or control of
11 any measuring device who shall refuse to admit ~~the State Fuel~~
12 ~~Inspector or his deputies~~ employees of the Corporation Commission
13 upon his or her premises, so far as it may be necessary for the
14 performance of ~~his~~ their duties, or shall obstruct ~~said Inspector or~~
15 ~~his deputy~~ such employees in the performance of ~~his~~ their duties,
16 shall, for each ~~refusal to admit on his premises, or obstruction~~
17 ~~offered~~ separate offense, be guilty of a misdemeanor and ~~be~~ subject
18 to a fine of One Hundred Dollars (\$100.00), ~~or imprisonment for~~
19 ~~ninety (90) days, or both, for each offense.~~

20 SECTION 5. AMENDATORY 83 O.S. 2011, Section 117, is
21 amended to read as follows:

22 Section 117. Any person who uses any measuring device which
23 does not meet or comply with the tests, standards, specifications,
24 and rules and regulations of the Corporation Commission, or any

1 person who tampers with, alters, or molests any sign, label, seal,
2 or lock mentioned in Section 3 of this act, without having first
3 secured an order permitting the removal of such sign, label, seal,
4 or lock, as provided in Section 3 of this act, or any person who
5 violates any rule or ~~regulation~~ order of the Commission promulgated
6 under authority of this act, shall be guilty of a misdemeanor and
7 upon conviction thereof shall be punished by a fine of not more than
8 ~~Five Hundred Dollars (\$500.00) or imprisonment for not more than~~
9 ~~ninety (90) days, or both such fine and imprisonment; and in~~
10 ~~addition thereto, shall be guilty of contempt of the orders, rules~~
11 ~~and regulations of the Commission, and shall be subject to a fine by~~
12 ~~said Commission for such contempt in a sum not exceeding Five~~
13 ~~Hundred Dollars (\$500.00) Two Hundred Fifty Dollars (\$250.00),~~
14 administrative penalties as set forth in Section 311 of Title 17 of
15 the Oklahoma Statutes, and/or punitive damages as set forth in
16 Section 312 of Title 17 of the Oklahoma Statutes; and each day on
17 which any person, firm, or corporation violates any of such orders,
18 or rules, ~~and regulations~~ shall be deemed a separate ~~and distinct~~
19 offense. The court may order restitution for any actual damages
20 incurred.

21 SECTION 6. REPEALER 83 O.S. 2011, Sections 115, 116 and
22 118, are hereby repealed.

23 SECTION 7. RECODIFICATION 83 O.S. 2011, Sections 111,
24 112, 113, 114 and 117, as amended by Sections 1 through 5 of this

1 act, shall be recodified as Sections 325.1, 330.1, 332.1, 346.1 and
2 346.2 of Title 52 of the Oklahoma Statutes, unless there is created
3 a duplication in numbering.

4 SECTION 8. This act shall become effective November 1, 2015."

5 Passed the House of Representatives the 23rd day of April, 2015.

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Presiding Officer of the House of
Representatives

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10 Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate

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