

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 326

By: Dahm of the Senate

and

Cleveland of the House

COMMITTEE SUBSTITUTE

An Act relating to weights and measures; amending 83 O.S. 2011, Sections 111, 112, 113, 114, and 117, which relate to gasoline and petroleum products; 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:

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

1. "Commission" shall mean the ~~Oklahoma~~ Corporation Commission.

2. "Measuring device" shall mean any and all measuring devices through or by the use of which gasoline, diesel, kerosene, naphtha, motor fuel, or petroleum products are sold, dispensed, or delivered

1 to the public or to any person buying any such substance for any  
2 purpose other than resale.

3 3. "Person" shall mean any person, firm, partnership,  
4 association, ~~7~~ or corporation.

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

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

18 B. The Commission is authorized to promulgate ~~such rules,~~  
19 ~~regulations and standards~~ as are necessary to establish a voluntary  
20 calibration program for tanks and containers used in this state to  
21 transport motor fuel, diesel fuel or blending material; provided,  
22 however, this shall not include the fuel supply tanks of a motor  
23 vehicle. The Commission is further authorized to establish a fee ~~or~~  
24 ~~charge~~ not to exceed Fifty Dollars (\$50.00) for the calibration of

1 these tanks and containers. The fees are to cover the costs  
2 necessary for the enforcement of this act ~~to include repairs and~~  
3 ~~maintenance of the building and equipment, metal markers, seals,~~  
4 ~~washers, nuts and bolts and any other supplies necessary.~~

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

18 D. Fees collected under the provisions of ~~Sections 111 through~~  
19 ~~118 of this title~~ this act shall be deposited in the State Treasury  
20 to the credit of the Corporation Commission Revolving Fund.

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

23 Section 113. It shall be the duty of the ~~State Fuel Inspector~~  
24 ~~and his deputies, from time to time, and whenever in their opinion~~

1 ~~it is necessary, or when directed by the Corporation Commission or~~  
2 ~~the State Fuel Inspector, diligently to inspect all measuring~~  
3 devices in this state for the purpose of determining whether or not  
4 such measuring devices comply with the tests, standards,  
5 specifications, and rules, ~~and regulations~~ of the Commission  
6 promulgated under authority of this act; and it shall be the further  
7 duty of the ~~State Fuel Inspector and his deputies~~ Commission,  
8 whenever they find a measuring device which does not meet or comply  
9 with the ~~said~~ tests, standards, specifications, or rules ~~or~~  
10 ~~regulations, to~~ immediately ~~to~~ report ~~to the State Fuel Inspector~~  
11 the facts and circumstances ~~on which he proposes to base his right~~  
12 ~~so as to place such seal or lock and secure the State Fuel~~  
13 ~~Inspector's approval thereof and upon approval to~~ and place a seal  
14 or label on ~~said~~ the measuring device, stating that the ~~said~~  
15 measuring device does not meet or comply with ~~said~~ the required  
16 tests, standards, specifications, ~~regulations~~ or rules, and  
17 immediately to seal and lock ~~said~~ the measuring device; provided,  
18 that, the ~~proprietor operating the business~~ owner or operator  
19 thereof shall have the right to make application to the Commission  
20 for an order removing ~~said~~ the sign, label, lock or seal, which  
21 application shall be heard by the Commission without unnecessary  
22 delay, and no notice of hearing shall be required. ~~The State Fuel~~  
23 ~~Inspector and his deputies shall make reports to the Commission as~~  
24 ~~and when the Commission may require.~~

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

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

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

15 Section 117. Any person who uses any measuring device which  
16 does not meet or comply with the tests, standards, specifications,  
17 and rules ~~and regulations~~ of the Corporation Commission, or any  
18 person who tampers with, alters, or molests any sign, label, seal,  
19 or lock mentioned in Section ~~3 of this act~~ 113 of this title,  
20 without having first secured an order permitting the removal of such  
21 sign, label, seal, or lock, as provided in Section ~~3~~ 113 of this  
22 title, or any person who violates any rule or ~~regulation~~ order of  
23 the Commission promulgated under authority of this act, shall be  
24 guilty of a misdemeanor and upon conviction thereof shall be

1 punished by a fine of not more than ~~Five Hundred Dollars (\$500.00)~~  
2 ~~or imprisonment for not more than ninety (90) days, or both such~~  
3 ~~fine and imprisonment; and in addition thereto, shall be guilty of~~  
4 ~~contempt of the orders, rules and regulations of the Commission, and~~  
5 ~~shall be subject to a fine by said Commission for such contempt in a~~  
6 ~~sum not exceeding Five Hundred Dollars (\$500.00) Two Hundred Fifty~~  
7 Dollars (\$250.00), administrative penalties as set forth in Section  
8 311 of Title 17 of the Oklahoma Statutes, and/or punitive damages as  
9 set forth in Section 312 of Title 17 of the Oklahoma Statutes; and  
10 each day on which any person, firm, or corporation violates any of  
11 such orders, or rules, ~~and regulations~~ shall be deemed a separate  
12 ~~and distinct~~ offense. The court may order restitution for any  
13 actual damages incurred.

14 SECTION 6. REPEALER 83 O.S. 2011, Sections 115, 116 and  
15 118, are hereby repealed.

16 SECTION 7. RECODIFICATION 83 O.S. 2011, Sections 111,  
17 112, 113, 114, and 117, as amended by Sections 1 through 5 of this  
18 act, shall be recodified as Sections 325.1, 330.1, 332.1 and 346.1  
19 of Title 52 of the Oklahoma Statutes, unless there is created a  
20 duplication in numbering.

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

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