

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SUBCOMMITTEE RECOMMENDATION

FOR ENGROSSED

SENATE BILL NO. 326

By: Dahm of the Senate

and

Cleveland of the House

SUBCOMMITTEE RECOMMENDATION

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.;

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

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

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

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

21 B. The Commission is authorized to promulgate ~~such~~ rules,
22 ~~regulations and standards~~ as are necessary to establish a voluntary
23 calibration program for tanks and containers used in this state to
24 transport motor fuel, diesel fuel or blending material; provided,

1 however, this shall not include the fuel supply tanks of a motor
2 vehicle. The Commission is further authorized to establish a fee ~~or~~
3 ~~charge~~ not to exceed Fifty Dollars (\$50.00) for the calibration of
4 these tanks and containers. The fees are to cover the costs
5 necessary for the enforcement of this act ~~to include repairs and~~
6 ~~maintenance of the building and equipment, metal markers, seals,~~
7 ~~washers, nuts and bolts and any other supplies necessary.~~

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

21 D. Fees collected under the provisions of ~~Sections 111 through~~
22 ~~118 of this title~~ this act shall be deposited in the State Treasury
23 to the credit of the Corporation Commission Revolving Fund.
24

1 SECTION 3. AMENDATORY 83 O.S. 2011, Section 113, is

2 amended to read as follows:

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

1 shall be heard by the Commission without unnecessary delay, and no
2 notice of hearing shall be required. ~~The State Fuel Inspector and~~
3 ~~his deputies shall make reports to the Commission as and when the~~
4 ~~Commission may require.~~

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

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

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

19 Section 117. Any person who uses any measuring device which
20 does not meet or comply with the tests, standards, specifications,
21 and rules and regulations of the Corporation Commission, or any
22 person who tampers with, alters, or molests any sign, label, seal,
23 or lock mentioned in Section 3 of this act, without having first
24 secured an order permitting the removal of such sign, label, seal,

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

18 SECTION 6. REPEALER 83 O.S. 2011, Sections 115, 116 and
19 118, are hereby repealed.

20 SECTION 7. RECODIFICATION 83 O.S. 2011, Sections 111,
21 112, 113, 114 and 117, as amended by Sections 1 through 5 of this
22 act, shall be recodified as Sections 325.1, 330.1, 332.1, 346.1 and
23 346.2 of Title 52 of the Oklahoma Statutes, unless there is created
24 a duplication in numbering.

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

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