

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 326

By: Dahm

AS INTRODUCED

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, kerosene, naphtha, motor fuel, or petroleum products are sold, dispensed, or delivered to the public or to any person buying any such substance for any purpose other than resale.

1        3. "Person" shall mean any person, firm, partnership,  
2 association, or corporation.

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

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

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

1 ~~maintenance of the building and equipment, metal markers, seals,~~  
2 ~~washers, nuts and bolts and any other supplies necessary.~~

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

16 D. Fees collected under the provisions of ~~Sections 111 through~~  
17 ~~118 of this title~~ this act shall be deposited in the State Treasury  
18 to the credit of the Corporation Commission Revolving Fund.

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

21 Section 113. It shall be the duty of the ~~State Fuel Inspector~~  
22 ~~and his deputies, from time to time, and whenever in their opinion~~  
23 ~~it is necessary, or when directed by the Corporation Commission or~~  
24 ~~the State Fuel Inspector, diligently~~ to inspect all measuring

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

22 SECTION 4. AMENDATORY 83 O.S. 2011, Section 114, is  
23 amended to read as follows:  
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1 Section 114. Any person who owns or has custody or control of  
2 any measuring device who shall refuse to admit ~~the State Fuel~~  
3 ~~Inspector or his deputies~~ employees of the Corporation Commission  
4 upon his or her premises, so far as it may be necessary for the  
5 performance of ~~his~~ their duties, or shall obstruct ~~said Inspector or~~  
6 ~~his deputy~~ such employees in the performance of ~~his~~ their duties,  
7 shall, for each ~~refusal to admit on his premises, or obstruction~~  
8 ~~offered, be~~ separate offense be guilty of a misdemeanor and ~~be~~  
9 subject to a fine of One Hundred Dollars (\$100.00), ~~or imprisonment~~  
10 ~~for ninety (90) days, or both, for each offense.~~

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

13 Section 117. Any person who uses any measuring device which  
14 does not meet or comply with the tests, standards, specifications,  
15 and rules ~~and regulations~~ of the Corporation Commission, or any  
16 person who tampers with, alters, or molests any sign, label, seal,  
17 or lock mentioned in Section ~~3 of this act~~ 113 of this title,  
18 without having first secured an order permitting the removal of such  
19 sign, label, seal, or lock, as provided in Section ~~3~~ 113 of this  
20 title, or any person who violates any rule or ~~regulation~~ order of  
21 the Commission promulgated under authority of this act, shall be  
22 guilty of a misdemeanor and upon conviction thereof shall be  
23 punished by a fine of not more than ~~Five Hundred Dollars (\$500.00)~~  
24 ~~or imprisonment for not more than ninety (90) days, or both such~~

1 ~~fine and imprisonment; and in addition thereto, shall be guilty of~~  
2 ~~contempt of the orders, rules and regulations of the Commission, and~~  
3 ~~shall be subject to a fine by said Commission for such contempt in a~~  
4 ~~sum not exceeding Five Hundred Dollars (\$500.00) Two Hundred Fifty~~  
5 ~~Dollars (\$250.00); and each day on which any person, firm, or~~  
6 ~~corporation violates any of such orders, or rules, and regulations~~  
7 ~~shall be deemed a separate and distinct offense. The court may~~  
8 ~~order restitution for any actual damages incurred.~~

9 SECTION 6. REPEALER 83 O.S. 2011, Sections 115, 116 and  
10 118, are hereby repealed.

11 SECTION 7. RECODIFICATION 83 O.S. 2011, Sections 111,  
12 112, 113, 114, and 117, as amended by Sections 1 through 5 of this  
13 act, shall be recodified as Sections 420.1 through 420.5 of Title 17  
14 of the Oklahoma Statutes, unless there is created a duplication in  
15 numbering.

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

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