

FIRST REGULAR SESSION

HOUSE BILL NO. 467

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

0936H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 196.311, 196.316, 323.100, and 413.225, RSMo, and to enact in lieu thereof four new sections relating to duties of the division of weights, measures and consumer protection.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 196.311, 196.316, 323.100, and 413.225, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 196.311, 196.316, 323.100,
3 and 413.225, to read as follows:

196.311. Unless otherwise indicated by the context, when used in sections 196.311 to
2 196.361:

3 (1) "Consumer" means any person who purchases eggs for ~~[his or her]~~ **such person's**
4 own family use or consumption; or any restaurant, hotel, boardinghouse, bakery, or other
5 institution or concern which purchases eggs for serving to guests or patrons thereof, or for its
6 own use in cooking, baking, or manufacturing their products;

7 (2) "Container" means any box, case, basket, carton, sack, bag, or other receptacle.
8 "Subcontainer" means any container when being used within another container;

9 (3) "Dealer" means any person who purchases eggs from the producers thereof, or
10 another dealer, for the purpose of selling such eggs to another dealer, a processor, or retailer;

11 (4) "Denatured" means eggs (a) made unfit for human food by treatment or the
12 addition of a foreign substance, or (b) with one-half or more of the shell's surface covered by
13 a permanent black, dark purple or dark blue dye;

14 (5) "Director" means the director of the department of agriculture;

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (6) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, **quail**,
16 goose, or guinea that are intended for human consumption;

17 (7) "Inedible eggs" means eggs which are defined as such in the rules and regulations
18 of the director adopted under sections 196.311 to 196.361, which definition shall conform to
19 the specifications adopted therefor by the United States Department of Agriculture;

20 (8) "Person" means and includes any individual, firm, partnership, exchange,
21 association, trustee, receiver, corporation or any other business organization, and any
22 member, officer or employee thereof;

23 (9) "Processor" means any person engaged in breaking eggs or manufacturing or
24 processing egg liquids, whole egg meats, yolks, whites, or any mixture of yolks and whites,
25 with or without the addition of other ingredients, whether chilled, frozen, condensed,
26 concentrated, dried, powdered or desiccated;

27 (10) "Retailer" means any person who sells eggs to a consumer;

28 (11) "Sell" means offer for sale, expose for sale, have in possession for sale,
29 exchange, barter, or trade.

196.316. 1. All persons engaged in buying, selling, trading or trafficking in, or
2 processing eggs, except those listed in section 196.313, shall be required to be licensed under
3 sections 196.311 to 196.361. Such persons shall file an annual application for such license on
4 forms to be prescribed by the director, and shall obtain an annual license for each separate
5 place of business from the director. The following types of licenses shall be issued:

6 (1) A "retailer's license" shall be required of any person defined as a retailer in section
7 196.311. A holder of a retailer's license shall not, by virtue of such license, be permitted or
8 authorized to buy eggs from any person other than a licensed dealer, and any retailer desiring
9 to buy eggs from persons other than licensed dealers shall obtain a dealer's license in addition
10 to a retailer's license.

11 (2) A "dealer's license" shall be required of any person defined as a dealer in section
12 196.311. A holder of a dealer's license shall not, by virtue of such license, be authorized or
13 permitted to sell eggs to consumers, and any dealer desiring to sell eggs to consumers shall
14 obtain a retailer's license in addition to a dealer's license.

15 (3) A "processor's license" shall be required of any person defined as a processor in
16 section 196.311. A holder of a processor's license shall not, by virtue of such license, be
17 authorized or permitted to sell eggs in the shell to other persons, and any person desiring to
18 sell eggs in the shell to other persons shall obtain a dealer's license in addition to a processor's
19 license.

20 [~~2. The annual license fee shall be:~~]

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| [(1)] | [Retailers] | [\$ 5.00] |
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| [(2)] | [Dealers— License fees for dealers shall be determined on the basis of cases (30 dozen per case) of eggs sold in the shell in any one week, as follows:] | |
| [(a)] | [1 to 25 cases] | [\$ 5.00] |
| [(b)] | [26 to 50 cases] | [12.50] |
| [(c)] | [51 to 100 cases] | [25.00] |
| [(d)] | [more than 100 cases] | [50.00] |
| [(3)] | [Processors— License fees for processors shall be determined on the basis of cases (30 dozen per case) of eggs, or the equivalent in liquid or frozen eggs, processed in any one day, as follows:] | |
| [(a)] | [Less than 50 cases] | [\$ 25.00] |
| [(b)] | [More than 50 and less than 250 cases] | [50.00-] |
| [(c)] | [More than 250 and less than 1000 cases] | [75.00-] |
| [(d)] | [More than 1000 cases] | [100.00] |

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2. The director of agriculture shall have the authority to assess egg licensing fees to assist in defraying operating expenses. A schedule of licensing fees shall be fixed by rule or regulation promulgated under chapter 536 by the director of the department of agriculture.

3. All licenses shall be conspicuously posted in the place of business to which it applies. The license year shall be twelve months, or any fraction thereof, beginning July first and ending June thirtieth.

4. No license shall be transferable, but it may be moved from one place to another by the consent of the director.

5. All moneys received from license fees collected hereunder shall be deposited in the state treasury to the credit of the agriculture protection fund created in section 261.200.

323.100. 1. The director of the department of agriculture shall annually inspect and test all liquid meters used for the measurement and retail sale of liquefied petroleum gas and shall condemn all meters which are found to be inaccurate. All meters shall meet the tolerances and specifications of the National Institute of Standards and Technology Handbook 44, 1994 edition and supplements thereto. It is unlawful to use a meter for retail measurement and sale which has been condemned. All condemned meters shall be conspicuously marked "inaccurate", and the mark shall not be removed or defaced except upon authorization of the director of the department of agriculture or ~~his~~ **the director's** authorized representative. It is the duty of each person owning or in possession of a meter to pay to the director of the department of agriculture at the time of each test a testing fee ~~[of ten dollars. On January 1,~~

11 ~~2014, the testing fee shall be twenty five dollars. On January 1, 2015, the testing fee shall be~~
12 ~~set at fifty dollars. On January 1, 2016, and annually thereafter,].~~ The director shall ascertain
13 the total expenses for administering this section and shall set the testing fee at a rate to cover
14 the expenses for the ensuing year [~~but not to exceed seventy five dollars~~].

15 2. On the first day of October, 2014, and each year thereafter, the director of the
16 department of agriculture shall submit a report to the general assembly that states the current
17 testing fee, the expenses for administering this section for the previous calendar year, any
18 proposed change to the testing fee, and estimated expenses for administering this section
19 during the ensuing year. The proposed change to the testing fee shall not yield revenue
20 greater than the total cost of administering this section during the ensuing year.

21 3. Beginning August 28, 2013, and each year thereafter, the director of the
22 department of agriculture shall publish the testing fee schedule on the departmental website.
23 The website shall be updated within thirty days of a change in the testing fee schedule set
24 forth in this section.

413.225. 1. There is established a fee for registration, inspection and calibration
2 services performed by the division of weights and measures. The fees are due at the time the
3 service is rendered and shall be paid to the director by the person receiving the service. The
4 director shall collect fees according to the following schedule and shall deposit them with the
5 state treasurer into the agriculture protection fund as set forth in section 261.200:

6 (1) [~~From August 28, 2013, until the next January first, laboratory fees for metrology~~
7 ~~calibrations shall be at the rate of sixty dollars per hour for tolerance testing or precision~~
8 ~~calibration. Time periods over one hour shall be computed to the nearest one quarter hour.~~
9 ~~On the first day of January, 2014, and each year thereafter,]~~ The director of agriculture shall
10 ascertain the total receipts and expenses for the metrology calibrations during the preceding
11 year and shall fix a fee schedule for the ensuing year [~~at a rate per hour~~] as will yield revenue
12 not more than the total cost of operating the metrology laboratory during the ensuing year[;
13 ~~but not to exceed one hundred twenty five dollars~~];

14 (2) All device test fees charged shall include, but not be limited to, the following
15 devices:

16 (a) Small scales;

17 (b) Vehicle scales;

18 (c) Livestock scales;

19 (d) Hopper scales;

20 (e) Railroad scales;

21 (f) Monorail scales;

22 (g) In-motion scales including but not limited to vehicle, railroad and belt conveyor
23 scales;

- 24 (h) Taximeters;
25 (i) ~~[Timing devices;~~
26 ~~(j) Fabric measuring devices;~~
27 ~~(k) Wire and cordage measuring devices;~~
28 ~~(l) Milk for quantity determination;~~
29 ~~(m)~~ (j) Vehicle tank meters;
30 ~~(n)~~ (k) Compressed natural gas meters;
31 ~~(o)~~ (l) Liquefied natural gas meters;
32 ~~(p)~~ (m) Electrical charging stations; and
33 ~~(q)~~ (n) Hydrogen fuel meters;

34 (3) Devices that require participation in on-site field evaluations for National Type
35 Evaluation Program Certification and all tests of in-motion scales shall be charged a fee, plus
36 mileage from the inspector's official domicile to and from the inspection site. The time shall
37 begin when the state inspector performing the inspection arrives at the site to be inspected and
38 shall end when the final report is signed by the owner/operator and the inspector departs;

39 (4) Every person shall register each location of such person's place of business where
40 devices or instruments are used to ascertain the moisture content of grains and seeds offered
41 for sale, processing or storage in this state with the director and shall pay a registration fee for
42 each location so registered and a fee for each additional device or instrument at such location.
43 Thereafter, by January thirty-first of each year, each person who is required to register
44 pursuant to this subdivision shall pay an annual fee for each location so registered and an
45 additional fee for each additional machine at each location. The fee on newly purchased
46 devices shall be paid within thirty days after the date of purchase. Application for registration
47 of a place of business shall be made on forms provided by the director and shall require
48 information concerning the make, model and serial number of the device and such other
49 information as the director shall deem necessary. Provided, however, this subsection shall not
50 apply to moisture-measuring devices used exclusively for the purpose of obtaining
51 information necessary to manufacturing processes involving plant products. In addition to
52 fees required by this subdivision, a fee shall be charged for each device subject to retest.

53 2. On the first day of January, 1995, and each year thereafter, the director of
54 agriculture shall ascertain the total receipts and expenses for the testing of weighing and
55 measuring devices referred to in subdivisions (2), (3), and (4) of subsection 1 of this section
56 and shall fix the fees ~~[or rate per hour]~~ for such weighing and measuring devices to derive
57 revenue not more than the total cost of the operation.

58 3. On the first day of October, 2014, and each year thereafter, the director of the
59 department of agriculture shall submit a report to the general assembly that states the current
60 laboratory fees for metrology calibration, the expenses for administering this section for the

61 previous calendar year, any proposed change to the laboratory fee structure, and estimated
62 expenses for administering this section during the ensuing year. The proposed change to the
63 laboratory fee structure shall not yield revenue greater than the total cost of administering this
64 section during the ensuing year.

65 4. Beginning August 28, 2013, and each year thereafter, the director of the
66 department of agriculture shall publish the laboratory fee schedule on the departmental
67 website. The website shall be updated within thirty days of a change in the laboratory fee
68 schedule set forth in this section.

69 5. Retests for any device within the same calendar year will be charged at the same
70 rate as the initial test. Devices being retested in the same calendar year as a result of rejection
71 and repair are exempt from the requirements of this subsection.

72 6. All device inspection fees shall be paid **at the time of service or** within thirty days
73 of the issuance of the original invoice. Any fee not paid within ~~ninety~~ **thirty** days after the
74 date of the original invoice will be cause for the director to deem the device as incorrect and it
75 may be condemned and taken out of service, and may be seized by the director until all fees
76 are paid.

77 7. No fee provided for by this section shall be required of any person owning or
78 operating a moisture-measuring device or instrument who uses such device or instrument
79 solely in agricultural or horticultural operations on such person's own land, and not in
80 performing services, whether with or without compensation, for another person.

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