

CHAPTER 49**(HB 399)**

AN ACT relating to the Department of Agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.030 is amended to read as follows:

The department shall consist of:

- (1) The Office of the Commissioner.
- (2) The chief executive officer.
- (3) The Office for Agricultural Marketing and Product Promotion, which shall include the following:
 - (a) The Division of Market Research;
 - (b) The Division of ~~Show~~{Shows} and ~~Fair~~{Fairs} Promotion; and
 - (c) The Division of Value-Added Development.
- (4) The Office for Consumer and Public Service, which shall include the following:
 - (a) The Division of Regulation and Inspection; and
 - (b) The Division of Food Distribution.
- (5) The Office of State Veterinarian, which shall include the Division of Animal Health.
- (6) The Office for Environmental Outreach, which shall include the following:
 - (a) The Division of Pests and Weeds;
 - (b) The Division of Pesticides; and
 - (c) The Division of Agriculture and Environmental Education.
- (7) The Office for Strategic Planning and Administration, which shall include the following:
 - (a) The Division of Fiscal and Intergovernmental Management;
 - (b) The Division of Information Technology;
 - (c) The Division of Personnel and Staff Development; and
 - (d) The Division of Public Relations and Communications.
- (8) The State Board of Agriculture.

Section 2. KRS 247.220 is amended to read as follows:

- (1) The Commissioner of Agriculture shall make grants of state funds to qualified local agricultural fairs on a matching basis, to be used by them to pay premium awards for exhibits and displays of domestic livestock, poultry, harness horse racing, other horse events, and agricultural products. The premiums actually awarded shall conform to those appearing on the premium list issued by the fair.
- (2) The state may provide funds for use in the establishment of new facilities and improvement of existing facilities for use in conducting events at local agricultural fairs as provided by this section. No grant for ~~such~~ buildings shall be made until the local fair board has

complied with the local fair program and qualified for the state grant as provided in subsection (5) of this section. ~~[Such]~~ Grants for facilities shall be made under regulations promulgated by the Fair Council and the Commissioner of Agriculture. In no event shall the allocation for facilities result in a decrease in the number of approved agricultural classes or premiums.

- (3) There shall be a Fair Council in the Department of Agriculture. The council shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the department's fair program. It shall be called into session *when* ~~[at such times as]~~ there are matters for its consideration. It shall meet at least twice each calendar year at Frankfort or at *any* ~~[such]~~ other place that may be determined.
- (4) (a) *The council shall be composed of the:*
1. *Commissioner as chairman ex officio;*
 2. *Presidents or their designated representatives of the following state groups:*
 - a. *Kentucky Livestock Improvement Association;*
 - b. *Kentucky Farm Bureau Federation;*
 - c. *Kentucky Association of Fairs and Horse Shows, Inc.;*
 - d. *Kentucky Harness Horse Association;*
 - e. *American Saddlebred Horse Association; and*
 - f. *Kentucky Walking Horse Association;*
 3. *Director of Vocational Agriculture Education;*
 4. *Dean of the College of Agriculture of the University of Kentucky; and*
 5. *Chairmen of the Senate and House Interim Joint Committee on Agriculture and Natural Resources.*
- (b) ~~[The council shall be composed of the Commissioner as chairman ex officio and the presidents or their designated representatives of the following state groups: Kentucky Livestock Improvement Association, Kentucky Farm Bureau Federation, Kentucky Association of Fairs and Horse Shows, Inc., the director of Vocational Agriculture Education, the dean of the College of Agriculture of the University of Kentucky, and the Kentucky Harness Horse Association; and the chairmen of the Senate and House Agriculture and Natural Resources Committees or their designees.]~~ The Commissioner may, with the concurrence of a majority of the members of the council, appoint additional members to the council.
- (5) To qualify for a grant of state funds, a fair shall meet standards set by the Commissioner and his advisory council whose approval may be given only if the fair:
- (a) Provides in its bylaws for holding an annual fair running for at least three (3) days;
 - (b) Presents, through the medium of youth organizations such as 4-H clubs, Future Farmers of America, and other similar organizations, an educational program concerning the production and marketing of the livestock, poultry, and horse industries;
 - (c) Complies with all *administrative* ~~[other rules and]~~ regulations which the Department of Agriculture is hereby authorized to promulgate; *and*

- (d) Appoints one (*I*) or more members to its fair board from local livestock associations, horsemen's associations, and county farm bureaus, and selects one (*I*) or more county extension agents and vocational agriculture teachers for counties served by the fair as members of the board. Wherever local livestock associations, horsemen's associations, and farm bureaus are in existence, appointees are to be nominated to the fair board by these organizations. Where fairs serve an area, appointments may be made from all counties within the particular area. It shall be the responsibility of the appointees to aid in establishing premium lists and planning agricultural exhibits.
- (6) Any fair receiving a grant of state funds shall file with the director of *the Division of Show and Fair Promotion*~~[livestock shows and fairs]~~ in the Department of Agriculture, by December 1 of the year in which the grant is received, satisfactory proof that all state premium awards have been paid and a certified notarized financial report submitted by the treasurer of the local fair association.

Section 3. KRS 248.450 is amended to read as follows:

- (1) In each tobacco warehouse, redryer, prize room, or company, all pieces of each type of equipment used for transporting baskets of tobacco during a weighing operation in which the quantity value of the tobacco in the basket is determined shall be of uniform weight. In any case where the equipment being used for *that*~~[such]~~ purpose is not the property of the warehouse, redryer, prize room, or company in which the weighing operation is taking place, the weighman shall use the same tare as that set by the Division of *Regulation and Inspection*~~[Weights and Measures]~~. In every weighing operation involving the same basket, the basket tare shall be the same as that originally determined by the Division of *Regulation and Inspection*~~[Weights and Measures]~~.
- (2) Every tobacco warehouse, redryer, prize room, or company weighing tobacco for commercial purposes shall post a copy of this law in a conspicuous place in the scale office.

Section 4. KRS 249.400 is amended to read as follows:

As used in KRS 249.400 to 249.430 unless the context otherwise requires:

- (1) "Department" means the Department of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Division" means the Division of *Pests and Weeds*~~[Pest and Noxious Weed Control]~~.

Section 5. KRS 249.410 is amended to read as follows:

The Division of *Pests and Weeds*~~[Pest and Noxious Weed Control]~~ in the Department of Agriculture shall be under the supervision of the Commissioner and shall consist of personnel determined and appointed by him.

Section 6. KRS 251.015 is amended to read as follows:

The~~[Grain and Hay]~~ Division of *Regulation and Inspection* is established within the Office *for Consumer and Public Service*~~[of Agri-Business Standards]~~ of the Department of Agriculture. The division shall be headed by a director appointed by the Commissioner who shall be responsible for administering the provisions of this chapter and *any administrative*~~[the]~~ regulations *promulgated in accordance with this chapter*~~[and standards enacted pursuant thereto]~~.

Section 7. KRS 257.330 is amended to read as follows:

- (1) Before any baby chicks or baby poulters are offered for sale at any auction or auctions, sale barn, or community sale, except public sales conducted by farmers selling baby chicks or baby poulters reared on their own premises, a permit shall be secured from the ***Division of Animal Health***~~[Livestock Sanitary Division]~~ of the Department of Agriculture, or the state veterinarian.
- (2) Any person who desires to offer baby chicks or baby poulters for sale at any auction or auctions, sale barn, or community sale, shall apply to the ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~ or the state veterinarian~~[,]~~ for a permit to hold ***the***~~[such]~~ sale. A form shall be prescribed and furnished by the ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~. This application shall be submitted at least three (3) days before the sale to allow time for inspection of the chicks or poulters offered, by a representative of the ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~ or the state veterinarian~~[,]~~ before any chicks or poulters are sold. This application shall be signed by the person who proposes to conduct ***the***~~[such]~~ sale, together with the person who owns the property in or on which ***the***~~[such]~~ sale is to be conducted, if the person who proposes to conduct ***the***~~[such]~~ sale does not own ***the***~~[such]~~ property. The application shall designate the date of the proposed sale, the number and breed of the chicks or poulters to be offered for sale, and the person or firm by whom they were produced, and shall be accompanied by a fee in the sum of one dollar (\$1) per hundred (100) chicks or poulters to be offered for sale. The ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~ or the state veterinarian~~[,]~~ shall be authorized in their discretion to grant or to deny the permit requested in ***the***~~[such]~~ application, and if deemed necessary or advisable to require the applicant to submit a certificate in ***a***~~[such]~~ form as the ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~ or the state veterinarian~~[,]~~ may prescribe, certifying that the baby chicks or baby poulters which may be offered for sale are in healthy condition.
- (3) On inspection by the representative of the ***division***~~[Livestock Sanitary Division of the Department of Agriculture,]~~ or state veterinarian, if the chicks or poulters offered for sale are found to be diseased, the representative may confiscate all chicks or poulters found to be diseased and may destroy ***the***~~[said]~~ chicks and poulters.

Section 8. KRS 257.350 is amended to read as follows:

Within three (3) days after the sale~~[shall have been held]~~, the person who conducted the sale shall submit a statement to the ***Division of Animal Health***~~[Livestock Sanitary Division]~~ of the Department of Agriculture~~[,]~~ or the state veterinarian, giving a complete list of the number and kind of baby chicks or poulters sold, name and address of each purchaser, together with a copy of representation and guarantee made in relation ***to the sale***~~[thereto]~~, if any were made by the person who conducted ***the***~~[such]~~ sale, and the person conducting ***the***~~[such]~~ sale shall be held to have had full knowledge of the representations and guarantees made at the time of ***the***~~[such]~~ sale and shall be as fully responsible and liable for any~~[such]~~ representation and guarantee as is the person who set forth ***the***~~[such]~~ representation and guarantee on the containers as provided in KRS 257.340.

Section 9. KRS 257.370 is amended to read as follows:

In order to promote the poultry industry of this state, the ***Division of Animal Health***~~[Livestock Sanitary Division]~~ of the Department of Agriculture is hereby authorized to cooperate with the United States Department of Agriculture in the promulgation and enforcement of regulations for the control and eradication of pullorum disease.

Section 10. KRS 257.380 is amended to read as follows:

The ***Division of Animal Health***~~[Livestock Sanitary Division]~~ is hereby authorized to ***promulgate administrative***~~[make such]~~ regulations as may be necessary, after public hearing following due public notice, to carry out the provisions of KRS 257.370 to 257.460.

Section 11. KRS 257.390 is amended to read as follows:

Chickens, turkeys, or other poultry over five (5) months of age intended for breeding purposes shall not be imported into the state unless they have passed a negative agglutination test for pullorum disease under the supervision of a ***Division of Animal Health***~~[Livestock Sanitary]~~ authority within thirty (30) days preceding date of importation, or have originated from flocks authoritatively participating in ~~a [such]~~ pullorum control and eradication phase of the national poultry improvement plan or national turkey improvement plan as may be adopted in this state.

Section 12. KRS 257.400 is amended to read as follows:

All poultry under five (5) months of age including baby chicks, started chicks, turkey poults, and other newly hatched domestic poultry except those intended for immediate slaughter which may be admitted under permit issued by the ***Division of Animal Health***~~[Livestock Sanitary Division]~~, and hatching eggs sold or offered for sale in this state shall have originated from flocks that meet the pullorum requirements of the Kentucky Poultry Improvement Plan or the Kentucky Turkey Improvement Plan, and the regulations ***promulgated***~~[issued]~~ by authority of KRS 257.370 to 257.460 for the control and eradication of pullorum disease. Nothing in KRS 257.370 to 257.460, however, shall require any hatchery, dealer, or flock owner to participate in the National Poultry Improvement Plan.

Section 13. KRS 257.410 is amended to read as follows:

All poultry under five (5) months of age, including baby chicks, started chicks, turkey poults, other newly hatched domestic poultry, except those intended for immediate slaughter, and hatching eggs shipped or otherwise brought into this state shall have originated in flocks that meet the pullorum requirements of the national poultry improvement plan, the national turkey improvement plan, the Kentucky Poultry Improvement Association, and the ***administrative*** regulations ***promulgated***~~[issued]~~ by authority of KRS 257.370 to 257.460. Every container of poultry under five (5) months of age, including baby chicks, started chicks, turkey poults, and any other newly hatched domestic poultry, except those intended for immediate slaughter, and hatching eggs shipped or otherwise brought into this state shall bear an official label or certificate showing the name and address of the shipper, the authority under which the testing for pullorum disease was done, and the pullorum control and eradication class of the product, the use of ~~the [said]~~ certificate or label to be approved by the official state agency or the ***Division of Animal Health***~~[Livestock Sanitary]~~ official of the state of origin.

Section 14. KRS 257.420 is amended to read as follows:

No person, firm, or corporation shall operate a public hatchery, and no person, dealer, jobber, peddler, or huckster in baby chicks, started chicks, turkey poults, other newly hatched domestic poultry, and hatching eggs shall operate as ***a public hatchery***~~[such]~~ within this state without obtaining an annual permit from the ***Division of Animal Health***~~[Livestock Sanitary Division]~~ to so operate, and paying a permit fee of ten dollars (\$10) per annum. This is not intended to require a permit of hatcheries, chick dealers, chick salesmen, or corporations selling less than one thousand (1,000) chicks per year, or egg dealers selling less than thirty-five hundred (3,500) eggs per year.

Section 15. KRS 257.440 is amended to read as follows:

Any permit may be suspended or canceled by the ***Division of Animal Health***~~[Livestock Sanitary Division]~~, after opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, for any violation of KRS 257.370 to 257.460 or the regulations promulgated ***under KRS 257.370 to 257.460***~~[thereunder]~~. Any person who is refused a permit or whose permit is revoked after a hearing may appeal the final order to the Circuit Court of Franklin County in accordance with KRS Chapter 13B.

Section 16. KRS 257.450 is amended to read as follows:

All poultry of whatever age or species and all hatching eggs that are sold or offered for sale within this state or enter into this state not in compliance with the provisions of KRS 257.370 to 257.460 shall be quarantined by the ***Division of Animal Health***~~[Livestock Sanitary Division]~~. Where possible, the division shall make the tests necessary to determine whether or not pullorum disease is present in any of the quarantined poultry. With respect to all other poultry where tests are not possible, and to hatching eggs, sufficient proof must be presented that they have originated from approved flocks. The poultry or flocks found to be infected with pullorum disease, and the poultry and hatching eggs lacking the required proof of origin from approved flocks, shall be destroyed.

Section 17. KRS 257.470 is amended to read as follows:

For the purpose of enforcing the provisions of KRS 257.330 to 257.440 the inspectors of the ***Division of Animal Health***~~[Livestock Sanitary Division]~~ shall have free access to any premises or vehicles for the purpose of inspection.

Section 18. KRS 257.490 is amended to read as follows:

The state veterinarian shall have the power to designate certain employees of the Division of ***Animal Health***~~[Livestock Sanitation]~~ as peace officers for the purpose of enforcing the provisions of this chapter.

Section 19. KRS 257.510 is amended to read as follows:

As used in KRS 257.520 and 257.530, unless the context otherwise requires:

- (1) "Division" means the Division of ***Animal Health***~~[Livestock Sanitation]~~, Department of Agriculture;~~[-]~~
- (2) "Livestock" means cattle, sheep, swine, goats, horses, or any other animals of the bovine, ovine, porcine, caprine, or equine species;~~[-]~~
- (3) "Person" means any individual, firm, partnership, or corporation;~~[-]~~
- (4) "Livestock dealer" means any person who buys, sells, or offers to buy, sell, exchange, barter, or negotiate the sale of livestock in this state whether the livestock were raised in this state or imported into this state from another state; ***and***~~[-]~~
- (5) "Farmer" means a person who buys or sells livestock in connection with the operation of a business of breeding, growing, and feeding livestock as a part of an established farming enterprise and who does not follow a definite pattern in disposing of livestock.

Section 20. KRS 260.165 is amended to read as follows:

- (1) The Grape Industry Advisory Committee is hereby created within the Department of Agriculture. The purpose of the committee shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

- (2) The committee shall be composed of the Commissioner of Agriculture, or his designee, and six (6) members appointed by the Governor. Of the six (6) gubernatorial appointments, the Governor is encouraged to appoint one (1) from list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Tourism Development Cabinet, and two (2) from a list of three (3) candidates submitted by the Kentucky Vineyard Society.
- (3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The committee shall select a chairman and shall meet at the times and places that he designates. Four (4) members present at any meeting shall constitute a quorum. Upon the written request of any three (3) members, the chairman shall call a meeting of the committee at the time and place requested.
- (4) Members shall receive no compensation but shall be reimbursed, payable from the Division of **Value-Added Development**~~[Markets]~~, for any actual expense incurred in performing their duties.

Section 21. KRS 363.330 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Commercial weighing and measuring device" includes any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basis of weight, or measure, and also includes any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.
 - (b) "Registered serviceman" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and who registers with the director of **the Division of Regulation and Inspection**~~[weights and measures]~~.
 - (c) "Registered service agency" means any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which registers with the director of **the Division of Regulation and Inspection**~~[weights and measures]~~. Under agency registration, identification of individual servicemen shall be required.
- (2) It shall be the policy of the director of **the Division of Regulation and Inspection**~~[weights and measures]~~, referred to as "director" in this section, to accept registration of an individual or agency that provides acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, and administrative regulations; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. An employee of government shall not be eligible for registration. This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency registered with the director to install, service, repair, or recondition a commercial weighing or measuring device.

- (3) The director may enter into an informal reciprocal agreement with any other state that has similar registration policies. Under a reciprocal agreement, registered servicemen and registered service agencies of the states party to the reciprocal agreement shall be granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to the agreement.
- (4) There shall be charged by the director an annual fee of ten dollars (\$10) per registered serviceman and twenty-five dollars (\$25) per registered service agency to be applied toward the costs of administering the plan. The fee shall be paid to the director at the time application for registration is made, and annually, during the month of January, thereafter.
- (5) An individual or agency shall apply for registration to service weighing devices or measuring devices on an application form supplied by the director. The form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, and administrative regulations. An applicant also shall submit appropriate evidence or references as to qualifications.
- (6) Upon receipt and acceptance of a properly executed application form, the director shall issue to the applicant a "certificate of registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the director.
- (7) A bearer of a certificate of registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the director; place in service, until an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until an official examination can be made, a new or used weighing or measuring device.
- (8) The director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." This form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service, or placed in service, the original of the properly executed "Placed in Service Report," together with any official rejection tag removed from the device, shall be mailed to the director at Frankfort, Kentucky. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered ~~serviceman~~servicemen or agency.
- (9) A registered serviceman and a registered service agency shall submit, at least biennially to the director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards of testing equipment that have not been certified by the director.

- (10) The director may, for good cause, after careful investigation and consideration, and after the registrant has been afforded the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B, suspend or revoke a "certificate of registration."
- (11) The director shall publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicemen and registered service agencies.

Section 22. KRS 363.510 is amended to read as follows:

When used in KRS 363.520 to 363.850:

- (1) "Department" means the Kentucky Department of Agriculture.
- (2) "Commissioner" means the Commissioner of Agriculture.
- (3) "Division" means the Division of ***Regulation and Inspection***~~[Weights and Measures]~~.
- (4) ~~["Person" shall be construed to mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.~~
- ~~(5)~~ "Weights and measures" ***means***~~[shall be construed to mean]~~ all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any~~[or all]~~ such instruments and devices, except that the term shall not~~[be construed to]~~ include meters for the measurement of electricity, gas (natural or manufactured), or water when ***they***~~[the same]~~ are operated in a public utility system.~~[Such]~~ Electricity, gas, and water meters are~~[hereby]~~ specifically excluded from the purview of KRS 363.510 to 363.850, and none of the provisions of KRS 363.510 to 363.850 shall~~[be construed to]~~ apply to ***those***~~[such]~~ meters or to any appliances or accessories associated ***with those meters***~~[therewith]~~.
- ~~(5)~~~~(6)~~ "Sell" and "sale"~~[shall be construed to]~~ mean barter and exchange.
- ~~(6)~~~~(7)~~ "Director" ***means***~~[shall be construed to mean]~~ the state director of ***the Division of Regulation and Inspection***~~[weights and measures]~~.
- ~~(7)~~~~(8)~~ "Inspector" ***means***~~[shall be construed to mean]~~ a state inspector of weights and measures.
- ~~(8)~~~~(9)~~ "Sealer" and "deputy sealer"~~[shall be construed to]~~ mean, respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city of the first, second, or third class.
- ~~(9)~~~~(10)~~ "Intrastate commerce" ***means***~~[shall be construed to mean any and]~~ all commerce or trade that is begun, carried on, and completed wholly within the limits of the State of Kentucky, and the phrase "introduced into intrastate commerce" ***defines***~~[shall be construed to define]~~ the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.
- ~~(10)~~~~(11)~~ "Commodity in package form" ***means a***~~[shall be construed to mean]~~ commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive~~[, however,]~~ of any auxiliary shipping container enclosing packages that individually conform to the requirements of KRS 363.510 to 363.850. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be ***considered a***~~[construed to be]~~ commodity in package form.

- (11)~~(12)~~ "Consumer package" or "package of consumer commodity" *means*~~[shall be construed to mean]~~ a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.
- (12)~~(13)~~ "Nonconsumer package" or "package of nonconsumer commodity" *means*~~[shall be construed to mean]~~ any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.
- (13)~~(14)~~ (a) "Barrel," when used in connection with fermented liquor, *means*~~[shall mean]~~ a unit of thirty-one (31) gallons.
- (b) ~~[The term]~~ "Ton" *means*~~[shall mean]~~ a unit of *two thousand (2,000)*~~[2,000]~~ pounds avoirdupois weight.
- (c) ~~[The term]~~ "Cord", when used in connection with wood intended for fuel purposes, *means*~~[shall mean]~~ the amount of wood that is contained in a space of *one hundred twenty-eight (128)*~~[128]~~ cubic feet when the wood is ranked and well stowed.
- (14)~~(15)~~ ~~The word]~~ "Weight", as used in~~[KRS 363.510 to 363.850 in]~~ connection with any commodity, *means*~~[shall mean]~~ net weight. ~~If~~~~Whenever]~~ any commodity is sold on the basis of weight, the net weight of the commodity shall be *used*~~[employed]~~, and all contracts concerning commodities shall *use net weight as their basis of weight*~~[be so construed.]~~

Section 23. KRS 363.530 is amended to read as follows:

Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of ~~the~~~~[such]~~ unit as prescribed or defined in KRS 363.520 and subsection (13)~~(14)~~ of KRS 363.510, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

Section 24. KRS 363.540 is amended to read as follows:

The state shall have weights and measures that conform with the standards of the United States and that have been approved as being satisfactory for use by the National Institute of Standards and Technology. These weights and measures shall~~[Such weights and measures in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state standards shall, when the same shall have been approved as being satisfactory for use as such by the National Bureau of Standards,]~~ be the state standards of weight and measure. The state standards shall be kept in a safe and suitable place in the laboratory of the State Division of *Regulation and Inspection*~~[Weights and Measures]~~, and shall not be removed from the~~[said]~~ laboratory except for repairs or for calibration and approval.

Section 25. KRS 363.560 is amended to read as follows:

The power and duty to administer and enforce KRS 363.510 to 363.850 is vested in the Department of Agriculture, and shall be exercised under the supervision of the Office *for Consumer and Public Service*~~[of Agri Business Standards]~~ through the Division of *Regulation and Inspection*~~[Weights and Measures]~~. The division shall be headed by a director appointed by the Commissioner of Agriculture~~;~~ and shall have~~[such]~~ personnel as~~[may be]~~ determined and appointed by the Commissioner.

Section 26. KRS 363.900 is amended to read as follows:

As used in KRS 363.900 to 363.908, unless the context clearly requires otherwise:

- (1) "ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM specifications for automotive gasoline, or ASTM specifications for diesel fuel oils;
- (2) "Commissioner" means the Commissioner of Agriculture or a departmental employee designated by the Commissioner to act on his behalf for the purposes of KRS 363.900 to 363.908;
- (3) "Department" means the Kentucky Department of Agriculture;
- (4) "Diesel fuel" means refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils;
- (5) "Division" means the Division of *Regulation and Inspection* ~~{Weights and Measures}~~ in the Kentucky Department of Agriculture;
- (6) "Gasoline" means gasoline as defined in KRS 138.210;
- (7) "Motor fuel" means any product used for the generation of power in an internal combustion or turbine engine and includes, gasoline, diesel fuel, or gasoline-alcohol blend fuels; and
- (8) "Retail facility" means a facility that sells motor fuels to the general public.

Section 27. The following KRS section is repealed:

260.690 Administration of KRS 260.675 to 260.760.

Approved March 15, 2002