

CHAPTER 25

(HB 241)

AN ACT relating to weights and measures.

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

➔Section 1. KRS 363.590 is amended to read as follows:

- (1) The director shall issue from time to time reasonable regulations for the enforcement of KRS 363.510 to 363.850, which regulations shall have the force and effect of law. These regulations may include:
 - (a) Standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form;
 - (b) Rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;
 - (c) Exemptions from the sealing or marking requirements of KRS 363.650 with respect to weights and measures of the character or size that the sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; ~~and~~
 - (d) Rules governing the registration of servicemen and service agencies; *and*
 - (e) ***Rules governing the examination procedure for price verification.***
- (2) These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in KRS 363.610, designed to eliminate from use without prejudice to apparatus that conforms as closely as practicable to the official standards, those:
 - (a) That are not accurate;
 - (b) That are of such construction that they are faulty (that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly); or
 - (c) That facilitate the perpetration of fraud.
- (3) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments to those requirements, as recommended by the National Institute of Standards and Technology and published in the most recent editions of the National Institute of Standards and Technology handbooks and supplements to the handbooks, or in any publication revising or superseding the handbooks or supplements to the handbooks, shall be the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of the State of Kentucky, unless modified, amended, or rejected by a regulation issued by the director. For the purposes of KRS 363.510 to 363.850, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section. Other apparatus shall be deemed to be "incorrect."

➔Section 2. KRS 363.904 is amended to read as follows:

- (1) No article or commodity shall be sold or offered for sale and use in Kentucky as motor fuel unless it conforms to the following:
 - (a) The motor fuel shall be labeled and posted in accordance with applicable federal and state laws; and
 - (b) The motor fuel shall conform to the latest ASTM specifications for that particular type, class, and grade of motor fuel, except ***when one (1) or more of the following circumstances exists:***
 1. ***When a federal law or a federal administrative regulation imposes requirements in conflict with the ASTM standard, as provided by KRS 363.902(3); or*** ~~and~~
 2. ***When the Governor determines that circumstances present, or are likely to present, a disruption in motor fuel supply, the Governor or the Commissioner or the secretary of the Energy and Environment Cabinet, as designated by the Governor, may issue a temporary waiver of ASTM specifications for motor fuel. The temporary waiver shall be effective for a***

defined period of time and shall be the shortest practicable time period necessary to permit the correction of the disruption in motor fuel supplies.

- (2) For gasoline containing up to ten percent (10%) ethanol, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, and *the* ASTM V/L (vapor to liquid ratio) specification *shall be*~~is~~ waived. Additionally, the department shall adopt a minimum temperature for fifty percent (50%) distillation of gasoline containing up to ten percent (10%) ethanol through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.
- ~~(3)~~~~(2)~~ The motor fuel compliance with ASTM shall be determined in accordance with the test methods prescribed in the latest ASTM publications.
- ~~(4)~~~~(3)~~ All shipments of motor fuel shall state on either the bill of lading or invoice the destination of the shipment and that the shipment meets the standards and specifications required in this section. The division may obtain a sample of any shipment of motor fuel for testing. Motor fuel blending components shall be exempt from this section until they are offered for sale as motor fuel by the refiner or manufacturer.

➔Section 3. KRS 363.906 is amended to read as follows:

The department shall levy and collect annual fees in the amount of fifty dollars (\$50) per facility from the owner or operator of a retail facility for the purpose of funding the administration of the motor fuels quality program. The fees shall be deposited into an interest-bearing account in the State Treasury. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year for future use. *The annual fees shall be paid to the department by January 31*~~shall collect a fee for calendar year 1994 to start the administration of KRS 363.906 to 363.908~~.

➔Section 4. KRS 363.991 is amended to read as follows:

- (1) Any person who violates the provisions of KRS 363.420, 363.430 and 363.440 shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for the first offense; he *or she* shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred twenty (120) days, for each subsequent offense.
- (2) Any person who shall hinder or obstruct in any way the director, the deputy director, or any one (1) of the inspectors, or a sealer or deputy sealer, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.
- (3) Any person who shall impersonate in any way the director, the deputy director, or any one (1) of the inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.
- (4) Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one (1) of the acts enumerated in paragraphs (a) through (i) of this subsection shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not less than three (3) months nor more than twelve (12) months, or both.
- (a) Use or have in possession for the purpose of using for any commercial purpose specified in KRS 363.610, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.
- (b) Use, or have in possession for the purpose of current use for any commercial purpose specified in KRS 363.610, a weight or measure that does not bear a seal or mark such as is specified in KRS 363.650, unless such weight or measure has been exempted from testing by the provisions of KRS 363.610 or by a regulation of the director issued under the authority of KRS 363.590, or unless the device has been placed in service as provided by a regulation of the director issued under the authority of KRS 363.590.
- (c) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.
- (d) Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.

- (e) Sell, or offer or expose for sale, less than the quantity he *or she* represents of any commodity, thing, or service.
 - (f) Take more than the quantity he *or she* represents of any commodity, thing, or service, when, as buyer, agent, or receiver, he *or she* furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.
 - (g) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.
 - (h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.
 - (i) Violate any provision of KRS 363.510 to 363.850 or of the regulations promulgated under the provisions of KRS 363.510 to 363.850 for which a specific penalty has not been prescribed
- (5) *Any person who fails to pay a fine or penalty assessed by the department, or fails to remediate a violation identified by the department, in compliance with a deadline for payment or remediation set forth by the department, shall be subject to a stop operation order or a stop sale order from the department with respect to the equipment, device, or motor fuel grade that is the subject of the fine, penalty, or remediation.*

Signed by Governor March 23, 2018.