

1 AN ACT concerning the regulation of professions.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Weights and Measures Act is amended by  
5 changing Sections 2, 24, 30, 32, and 40 as follows:

6 (225 ILCS 470/2) (from Ch. 147, par. 102)

7 Sec. 2. Definitions. As used in this Act:

8 "Person" means both singular and plural as the case  
9 demands, and includes individuals, partnerships,  
10 corporations, companies, societies and associations.

11 "Weights and measures" means all weights and measures of  
12 every kind, instruments and devices for weighing and  
13 measuring, and any appliances and accessories associated with  
14 any or all such instruments and devices, including all grain  
15 moisture measuring devices, but does not include meters for  
16 the measurement of electricity, gas (natural or manufactured)  
17 or water operated in a public utility system. These  
18 electricity meters, gas meters, and water meters, and their  
19 appliances or accessories, and slo flo meters, are  
20 specifically excluded from the scope and applicability of  
21 this Act.

22 "Sell" and "sale" includes barter and exchange.

23 "Director" means the Director of Agriculture.

24 "Department" means the Department of Agriculture.

25 "Inspector" means an inspector of weights and measures of  
26 this State.

27 "Sealer" and "deputy sealer" mean, respectively, a sealer  
28 of weights and measures and a deputy sealer of weights and  
29 measures of a city.

30 "Intrastate commerce" means any and all commerce or trade  
31 that is commenced, conducted and completed wholly within the

1 limits of this State, and the phrase "introduced into  
2 intrastate commerce" means the time and place at which the  
3 first sale and delivery being made either directly to the  
4 purchaser or to a carrier for shipment to the purchaser.

5 "Commodity in package form" means a commodity put up or  
6 packaged in any manner in advance of sale in units suitable  
7 for either wholesale or retail sale, excluding any auxiliary  
8 shipping container enclosing packages which individually  
9 conform to the requirements of this Act. An individual item  
10 or lot of any commodity not in package form as defined in  
11 this Section but on which there is marked a selling price  
12 based on an established price per unit of weight or of  
13 measure shall be deemed a commodity in package form.

14 "Consumer package" and "package of consumer commodity"  
15 mean any commodity in package form that is customarily  
16 produced or distributed for sale through retail sales  
17 agencies or instrumentalities for consumption by individuals  
18 or use by individuals for the purposes of personal care or in  
19 the performance of services ordinarily rendered in or about  
20 the household or in connection with personal possessions, and  
21 which usually is consumed or expended in the course of such  
22 consumption or use.

23 "Nonconsumer package" and "package of nonconsumer  
24 commodity" mean any commodity in package form other than a  
25 consumer package, and particularly a package designed solely  
26 for industrial or institutional use or for wholesale  
27 distribution only.

28 "Certificate of Conformance" means a document issued by  
29 the National Conference on Weights and Measures Institute-of  
30 Standards-and-Technology based on testing in participating  
31 laboratories that indicates that the weights and measures or  
32 weighing and measuring device conform with the requirements  
33 of National Institute of Standards and Technology's Handbooks  
34 44, 105-1, 105-2, 105-3, or 105-4 and any subsequent

1 revisions or supplements thereto.

2 "Prepackage inspection violation" means that the majority  
 3 of the lots of prepackaged commodities inspected at a single  
 4 location are found to have one or more packages below the  
 5 maximum allowable variation as published in the National  
 6 Institute of Standards and Technology Handbook 133 or the  
 7 majority of the lots inspected at a single location are found  
 8 to be below the stated net weight declaration on an average.  
 9 (Source: P.A. 88-600, eff. 9-1-94.)

10 (225 ILCS 470/24) (from Ch. 147, par. 124)

11 Sec. 24. Except as otherwise provided in this Act, any  
 12 commodity in package form introduced or delivered for  
 13 introduction into or received in intrastate commerce or kept,  
 14 offered or exposed for sale in intrastate commerce shall bear  
 15 on the outside of the package a definite, plain and  
 16 conspicuous declaration of (1) the identity of the commodity  
 17 in the package, (2) the net quantity of the contents in terms  
 18 of weight, measure or count, and (3) in the case of any  
 19 package kept, offered or exposed for sale, or sold elsewhere  
 20 than on the premises where packed, the name and place of  
 21 business of the manufacturer, the packer, or the distributor  
 22 as may be prescribed by regulation issued by the Director. In  
 23 relation to such declaration of net quantity, neither the  
 24 qualifying term "when packed" or any words of similar import,  
 25 nor any term qualifying a unit of weight, measure or count  
 26 which exaggerates the amount of commodity in a package, shall  
 27 be used. Any package that is introduced or delivered for  
 28 introduction into or received in intrastate commerce or kept,  
 29 offered, or exposed for sale in intrastate commerce may be  
 30 opened for inspection without cost to the Department for the  
 31 purpose of determining the net contents. All opened products  
 32 shall remain at the point of inspection. Also in relation to  
 33 such declaration of net quantity, the Director shall by

1 regulation establish (a) reasonable variations to be allowed,  
2 which may include variations below the declared weight or  
3 measure caused by ordinary and customary exposure, only after  
4 the commodity is introduced into intrastate commerce, to  
5 conditions that normally occur in good distribution practice  
6 and that unavoidably result in decreased weight or measure,  
7 (b) exemptions as to small packages, and (c) exemptions as to  
8 commodities put up in variable weights or sizes for sale  
9 intact and either customarily not sold as individual units or  
10 customarily weighed or measured at time of sale to the  
11 consumer.

12 (Source: P.A. 84-1308.)

13 (225 ILCS 470/30) (from Ch. 147, par. 130)

14 Sec. 30. National Institute of Standards and Technology  
15 requirements and specifications. Each type of new weight and  
16 measure or weighing and measuring device manufactured,  
17 offered, or exposed for sale or sold or given away for the  
18 use in trade or commerce, or used in trade and commerce in  
19 this State, shall conform with the requirements and  
20 specifications in the National Institute of Standards and  
21 Technology Handbook 44, 105-1, 105-2, 105-3, or 105-4 and any  
22 of their revisions or supplements. A Certificate of  
23 Conformance must be issued prior to the use of such new  
24 weight and measure or weighing ~~weighting~~ and measuring device  
25 for commercial or law enforcement purposes. Pending the  
26 issuance of a Certificate of Conformance, the Department may  
27 permit such new weight and measure or weighing and measuring  
28 device to be used, provided it meets the specifications and  
29 tolerances for that particular weight and measure or weighing  
30 and measuring device as set forth in the National Institute  
31 of Standards and Technology Handbook 44, 105-1, 105-2, 105-3,  
32 or 105-4.

33 (Source: P.A. 88-600, eff. 9-1-94.)

1 (225 ILCS 470/32) (from Ch. 147, par. 132)

2 Sec. 32. Certificate of Conformance; appeal. For a weight  
 3 or measure or weighing or measuring device to be certified  
 4 for use in the State of Illinois, it must have a Certificate  
 5 of Conformance issued by the National Conference on Weights  
 6 and Measures Institute--of--Standards-and-Teehnoology as set  
 7 forth in Section 30 of this Act. The Department may approve  
 8 or disapprove the use of a weight or measure or weighing or  
 9 measuring device where a Certificate of Conformance is  
 10 pending in accordance with the provisions of Section 30 of  
 11 this Act. Decisions rendered by the Department are subject  
 12 to the Illinois Administrative Procedure Act.

13 If a person is dissatisfied with a decision issued by the  
 14 National Conference on Weights and Measures Institute--of  
 15 Standards---and---Teehnoology regarding the issuance of a  
 16 Certificate of Conformance, the person may appeal according  
 17 to the appropriate administrative procedures of the National  
 18 Conference on Weights and Measures Institute-of-Standards-and  
 19 Teehnoology-and-the-U.-S.-Department-of-Commeree.

20 (Source: P.A. 88-600, eff. 9-1-94.)

21 (225 ILCS 470/40) (from Ch. 147, par. 140)

22 Sec. 40. Inspection fee; Weights and Measures Fund.  
 23 Except as otherwise provided in Section 43, the Director and  
 24 each sealer shall collect and receive from the user of  
 25 weights and measures a commercial weighing or measuring  
 26 device inspection fee. For the use of its Metrology  
 27 Laboratory, the testings of weights and measures and such  
 28 other inspection and services performed, the Department shall  
 29 set a fee, the amount of which shall be according to a  
 30 Schedule of Weights and Measures Inspection Fees established  
 31 and published by the Director. The fees so collected and  
 32 received by the State shall be deposited into a special fund  
 33 to be known as the Weights and Measures Fund. All weights

1 and measures inspection fees, metrology fees, weights and  
2 measures registrations, and weights and measures penalties  
3 collected by the Department under this Act shall be deposited  
4 into the Weights and Measures Fund. The amount annually  
5 collected shall be used by the Department for activities  
6 related to the enforcement of this Act and the Motor Fuel and  
7 Petroleum Standards Act, and for the State's share of the  
8 costs of the Field Automation Information Management project.  
9 No person shall be required to pay more than 2 inspection  
10 fees for any one weighing or measuring device in any one year  
11 when found to be accurate. When an inspection is made upon a  
12 weighing or measuring device because of a complaint by a  
13 person other than the owner of such weighing or measuring  
14 device, and the device is found accurate as set forth in  
15 Section 8 of this Act, no then-the inspection fee shall be  
16 paid by the complainant. Any time a weighing or measuring  
17 device is found to be inaccurate, the user shall pay the  
18 inspection fee.

19 (Source: P.A. 91-704, eff. 7-1-00.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.