

1 SB261
2 148967-2
3 By Senator Beasley
4 RFD: Agriculture, Conservation, and Forestry
5 First Read: 26-FEB-13

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8 SYNOPSIS: The Commissioner of Agriculture and
9 Industries is charged with annual testing of all
10 scales, weights, and measures used in making the
11 receipts and disbursements of supplies in every
12 institution for the maintenance of which monies are
13 appropriated by the Legislature.

14 This bill would require owners of weighing
15 and measuring devices to use a registered service
16 agent to perform such testing and inspections.

17 This bill would require a registered service
18 agent to register with the Department of
19 Agriculture and Industries.

20 This bill would authorize the department to
21 provide for the inspection of weighing and
22 measuring devices by registered service agent.

23 This bill would also authorize the Board of
24 Agriculture and Industries to adopt a schedule of
25 civil fines for violations related to weights and
26 measures.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Sections 8-16-1, 8-16-6, 8-16-7, and
6 8-16-18, Code of Alabama 1975, to define registered service
7 agent and to provide further for the duties of the
8 Commissioner of Agriculture and Industries with respect to a
9 registered service agent; to require the annual testing and
10 inspection of all weighing or measuring devices to be
11 performed by a registered service agent; and to authorize the
12 Board of Agriculture and Industries to adopt a schedule of
13 civil fines for violations related to weights and measures.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 8-16-1, 8-16-6, 8-16-7, and
16 8-16-18, Code of Alabama 1975, are amended to read as follows:

17 "§8-16-1.

18 "For the purposes of this chapter, the following
19 terms shall have the meanings respectively ascribed to them by
20 this section:

21 "(1) REGISTERED SERVICE AGENT. Any individual,
22 agency, firm, company, or corporation that for hire,
23 commission, or other payment of any kind, services, repairs,
24 or reconditions any weighing or measuring devices, and that
25 registers with the Commissioner of Agriculture and Industries.

26 "(2) SELL or SALE. Such terms shall include barter
27 and exchange.

1 "~~(1)~~(3) WEIGHTS, MEASURES or WEIGHING OR MEASURING
2 DEVICES. Such terms include all weights, scales, beams,
3 measures of every kind, instruments and mechanical devices for
4 weighing, or measuring, and any appliances and accessories
5 connected with any or all such instruments.

6 "§8-16-6.

7 "(a) With respect to weights and measures, the
8 Commissioner of Agriculture and Industries shall have the
9 following duties:

10 "(1) ~~He shall~~ To try and prove by the state
11 standards, at least once in five years, all weights, measures,
12 and other apparatus which may belong to any county or city and
13 shall seal such when found to be accurate, stamping on them
14 the letter "A" and the last two figures of the year with seals
15 which he or she shall have and keep for that purpose.

16 "(2) ~~He shall~~ To have and keep a general supervision
17 of the weights, measures, and weighing and measuring devices
18 offered for sale, sold, or in use in the state.

19 "(3) Upon the written request of any citizen, firm,
20 corporation, or educational institution in the state, ~~he shall~~
21 to test or calibrate weights, measures, weighing, or measuring
22 devices, and instruments or apparatus used as standards in
23 this state.

24 "(4) ~~He shall~~ To assure that at least once annually
25 ~~test~~ all scales, weights, and measures used in checking the
26 receipts and disbursements of supplies in every institution
27 for the maintenance of which moneys are appropriated by the

1 Legislature are inspected, and ~~he shall~~ report in writing his
2 or her findings through the supervisory board and to the
3 executive officer of the institution concerned. At the request
4 of such board or executive officer, the Commissioner of
5 Agriculture and Industries shall appoint in writing one or
6 more employees then in the actual service of each institution
7 who shall act as special deputy or deputies, without extra
8 compensation, for the purpose of checking the receipts and
9 disbursements of supplies.

10 "(5) ~~He shall include~~ To include a report of the
11 work done by his or her office in his general report to the
12 State Board of Agriculture and Industries.

13 "(6) ~~He shall inspect~~ To inspect all standards and
14 apparatus used by the counties and cities at least once in
15 five years and shall keep a record of the same.

16 "(7) ~~He shall, at~~ At least once in five years, to
17 visit the various cities and counties of the state in order to
18 inspect the work of the local sealers of weights and measures,
19 and.

20 "(8) ~~He shall issue~~ To issue from time to time
21 regulations for guidance for city and county sealers, and the
22 ~~said~~ regulations shall govern the procedure to be followed by
23 ~~the aforesaid~~ these officers in the discharge of their duties.

24 "§8-16-7.

25 "(a) When not otherwise provided by law, the
26 Commissioner of Agriculture and Industries within the state,
27 the county sealer within the county and the city sealer within

1 the city shall have the power and it shall be their duty to
2 inspect, test, try, and ascertain if they are correct all
3 weights, measures, and weighing or measuring devices kept,
4 offered, or exposed for sale, sold, used, or employed in
5 proving the size, quantity, extent, area, or measurement of
6 quantities, things, produce, or articles for distribution or
7 consumption purchased or offered or submitted for sale, hire,
8 or reward, in computing any charge for services rendered on
9 the basis of weight or measure or in determining weight or
10 measure when a charge is made for such determination.

11 "(b) They shall have the power to, and shall from
12 time to time, weigh or measure and inspect packages or amounts
13 of commodities of whatsoever kind kept for the purpose of
14 sale, offered, or exposed for sale, sold, or in the process of
15 delivery in order to determine whether the same contain the
16 amount represented and whether they are offered for sale or
17 sold in a manner in accordance with the law.

18 "(c) They shall, at least once each year and as much
19 oftener as they may deem necessary, see that all weights,
20 measures, and weighing or measuring devices used are correct.

21 "(d) They ~~may~~, for the purpose above mentioned and
22 in the general performance of their official duties, at any
23 reasonable time, may enter and go into or upon, without formal
24 warrant, any stand, place, building, or premises or stop any
25 vendor, peddler, junk dealer, coal wagon, ice wagon, delivery
26 wagon, or any person whatsoever and require him or her, if

1 necessary, to proceed to some place which the local sealer may
2 specify for the purpose of making the proper test.

3 "(e) The commissioner may perform such testing of
4 weighing or measuring devices through a registered service
5 agent. The commissioner's duty to inspect and test weighing or
6 measuring devices used for commercial transaction is fulfilled
7 by the registered service agent's inspection and test for
8 accuracy.

9 "(f) A registered service agent shall perform the
10 inspection and test of weighing and measuring devices in
11 accordance with the rules promulgated by the Board of
12 Agriculture and Industries. The registered service agent who
13 performs the recalibration or repair may be, but is not
14 required to be, the same registered service agent who
15 performed the inspection. The registered service agent who
16 performs the inspection and test of weighing and measuring
17 devices may be an agent or employee of the owner or an
18 affiliate of the owner of the weighing and measuring devices.

19 "(g) The Department of Agriculture and Industries
20 shall approve a decal and upon approval, the department shall
21 provide a decal to registered service agents. After the device
22 meets all requirements as promulgated by the Board of
23 Agriculture and Industries the registered service agent shall
24 place an approved decal conspicuously on the weighing or
25 measuring device.

26 "(h) The registered service agent shall provide all
27 inspection and test reports of the weighing or measuring

1 devices to the commissioner. The commissioner may adopt a
2 uniform reporting system to be utilized by all registered
3 services.

4 "(i) The commissioner may adopt a system to
5 periodically monitor, inspect, or test such weighing or
6 measuring devices to check the accuracy of the work of the
7 registered service agent.

8 "(j) The power conferred on the commissioner in
9 subsection (d) above shall not apply to a registered service
10 agent.

11 "(k) Beginning October 1, 2013, the commissioner may
12 suspend or revoke the certificate of registration of a
13 registered service agent for violating any provisions of this
14 article.

15 "(l) If the certificate of registration of a
16 registered service agent has been suspended or revoked, then
17 the service agent may not register with the department as a
18 service agent for at least one year.

19 ~~(e)~~ (m) Whenever the Commissioner of Agriculture or
20 Industries or a local sealer of weights and measures finds a
21 violation of the statutes relating to weights and measures, he
22 or she shall cause the violator to be prosecuted.

23 "(n) Notwithstanding the provisions of this section,
24 the testing, inspection, and examination of all weights,
25 measures, and weighing or measuring devices is subject to the
26 oversight authority of the commissioner as set forth
27 hereinabove.

1 "§8-16-18.

2 "(a) Any person violating any provision of this
3 chapter or the rules and regulations issued hereunder shall be
4 guilty of a misdemeanor and, upon conviction, unless otherwise
5 provided in this chapter, shall be fined not more than \$500
6 and may also be sentenced to hard labor for not more than six
7 months.

8 "(b) In addition to the criminal penalty provided
9 for in subsection (a), the Board of Agriculture and Industries
10 may adopt a schedule of civil fines for violations of this
11 chapter. All fines collected under this chapter shall be
12 deposited into the Agricultural Fund in the State Treasury."

13 Section 2. This act shall become effective following
14 its passage and approval by the Governor, or its otherwise
15 becoming law.