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FIRST REPRINT

A.B. 75

ASSEMBLY BILL NO. 75—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE STATE DEPARTMENT OF AGRICULTURE)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to weights and measures.
(BDR 51-273)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to measurement standards; establishing “field reference standards” and “transfer standards” as additional measurement standards; creating a new rebuttable presumption relating to field reference standards; requiring the State Sealer of Consumer Equitability to make available to all users of field reference standards and transfer standards certain calibration and certification capabilities; requiring the State Sealer of Consumer Equitability to adopt certain regulations for field reference standards and transfer standards; removing the requirement that the State Sealer of Consumer Equitability establish requirements for information relating to open dating of packaged food; revising certain rebuttable presumptions relating to weights, measures and weighing or measuring devices; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth provisions governing weights and measures and their
2 usage in this State. (Chapter 581 of NRS) Existing law establishes two types of
3 standards for such weights and measures: primary standards, which serve as the
4 legal reference from which all other standards are derived, and secondary standards,
5 which are traceable to primary standards through comparison or laboratory
6 procedures and used for enforcement purposes. (NRS 581.012, 581.016) **Sections 2**
7 **and 3** of this bill create two additional standards: field reference standards and
8 transfer standards. Specifically, **section 2** defines the term “field reference



standards” to mean standards which are traceable to primary standards through comparison or laboratory procedures and used for installation, adjustment, repair or calibration of certain devices, and **section 3** defines the term “transfer standards” to mean certain items used for a short period of time in certain conditions to check the accuracy of commercial weighing and measuring equipment. **Section 4** of this bill provides that: (1) transfer standards may be used as temporary measurement references to check the accuracy of commercial weighing and measuring equipment; and (2) such use does not satisfy certain standards of the National Institute of Standards and Technology.

Section 5 of this bill creates a new rebuttable presumption that the presence of a field reference standard in the possession of any person who is paid to install, make adjustments to, repair or calibrate commercial weighing and measuring equipment is regularly used by that person in the installation, adjustment, repair or calibration of commercial weighing and measuring equipment.

Existing law provides that the presence of a weight or measure, or of a weighing or measuring device in or about any place where buying or selling commonly occurs, creates a rebuttable presumption that the weight or measure, or weighing or measuring device is regularly used for the business purposes of that place. (NRS 581.395) **Section 9** of this bill provides that the rebuttable presumption created is that the weight or measure, or weighing or measuring device, is regularly used for the commercial business purposes of that place.

Existing law sets forth the duties of the State Sealer of Consumer Equitability. (NRS 581.065, 581.067) Existing law requires the State Sealer of Consumer Equitability to make available to all users of physical standards the precision calibration and related metrological certification capabilities of the facilities of the Division of Consumer Equitability of the State Department of Agriculture. (NRS 581.065) **Section 7** of this bill requires the State Sealer of Consumer Equitability to make available such calibration and certification capabilities to all users of field reference standards and transfer standards. Existing law requires the State Sealer of Consumer Equitability to adopt regulations establishing such primary standards and secondary standards for weights and measures for use in this State as the State Sealer of Consumer Equitability determines appropriate. (NRS 581.067) **Section 8** of this bill requires the State Sealer of Consumer Equitability to also adopt such regulations for field reference standards and transfer standards.

Existing law requires the State Sealer of Consumer Equitability to establish requirements for information relating to open dating of packaged food. (NRS 581.067) Existing regulations carry out this requirement by adopting by reference the Uniform Open Dating Regulation, as set forth in the *National Institute of Standards and Technology Handbook 130: Uniform Laws and Regulations*, 2003 edition. (NAC 581.030) **Section 8** removes the requirement that the State Sealer of Consumer Equitability establish such requirements.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 581 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *“Field reference standards” means the physical standards that are traceable to the primary standards through comparisons or by using acceptable laboratory procedures, and that are used in the installation, adjustment, repair or calibration*



1 *of devices for weights and measures, and weighing and measuring*
2 *devices.*

3 **Sec. 3.** *“Transfer standards” means a physical artifact, a*
4 *static or dynamic measurement device or a reference material that*
5 *is used for a short period of time in limited environmental and*
6 *operational conditions to check the accuracy of commercial*
7 *weighing and measuring equipment and that is stable during such*
8 *a period of time.*

9 **Sec. 4.** *Transfer standards may be used as temporary*
10 *measurement references to check the accuracy of commercial*
11 *weighing and measuring equipment. A transfer standard used in*
12 *such a manner does not satisfy the standards expressed in*
13 *Appendix A: Fundamental Considerations to the National*
14 *Institute of Standards and Technology Handbook 44:*
15 *Specifications, Tolerances, and Other Technical Requirements for*
16 *Weighing and Measuring Devices, as adopted by reference by*
17 *regulation of the State Sealer of Consumer Equitability.*

18 **Sec. 5.** *The presence of a field reference standard in the*
19 *possession of any person who is paid to install, make adjustments*
20 *to, repair or calibrate commercial weighing and measuring*
21 *equipment creates a rebuttable presumption that the field*
22 *reference standard is regularly used by that person in the*
23 *installation, adjustment, repair or calibration of commercial*
24 *weighing and measuring equipment.*

25 **Sec. 6.** NRS 581.001 is hereby amended to read as follows:

26 581.001 As used in this chapter, unless the context otherwise
27 requires, the words and terms defined in NRS 581.002 to 581.022,
28 inclusive, *and sections 2 and 3 of this act* have the meanings
29 ascribed to them in those sections.

30 **Sec. 7.** NRS 581.065 is hereby amended to read as follows:

31 581.065 The State Sealer of Consumer Equitability shall:

32 1. Ensure that weights and measures used in commercial
33 services within this state are suitable for their intended use, are
34 properly installed and accurate, and are so maintained by their
35 owner or user.

36 2. Prevent unfair or deceptive dealing by weight or measure in
37 any commodity or service advertised, packaged, sold or purchased
38 within this state.

39 3. Make available to all users of ~~[physical]~~ *field reference*
40 *standards and transfer* standards, or of weighing and measuring
41 equipment, the precision calibration and related metrological
42 certification capabilities of the facilities of the Division.

43 4. Promote uniformity, to the extent practicable and desirable,
44 between the requirements relating to weights and measures of this
45 state and similar requirements of other states and federal agencies.



1 5. Adopt regulations establishing such requirements relating to
2 weights and measures as are necessary to ensure equity between
3 buyers and sellers, and thereby encourage desirable economic
4 growth while protecting consumers.

5 **Sec. 8.** NRS 581.067 is hereby amended to read as follows:

6 581.067 The State Sealer of Consumer Equitability shall:

7 1. Adopt regulations establishing such primary standards ,
8 ~~and~~ secondary standards , *field reference standards and transfer*
9 *standards* for weights and measures for use in this State as the State
10 Sealer of Consumer Equitability determines appropriate.

11 2. Maintain traceability of the state standards to the national
12 standards of the National Institute of Standards and Technology.

13 3. Enforce the provisions of this chapter.

14 4. Adopt other reasonable regulations for the enforcement of
15 this chapter.

16 5. Establish requirements for:

17 (a) Labeling;

18 (b) The presentation of information relating to cost per unit; *and*

19 (c) Standards of weight, measure or count, and reasonable
20 standards of fill, for any packaged commodity . ~~and~~

21 ~~—(d) Information relating to open dating of packaged food.]~~

22 6. Grant such exemptions from the provisions of this chapter or
23 any regulations adopted pursuant thereto as the State Sealer of
24 Consumer Equitability determines appropriate to the maintenance of
25 good commercial practices within this State.

26 7. Conduct investigations to ensure compliance with this
27 chapter.

28 8. Delegate to appropriate personnel any of the responsibilities
29 of the Division as needed for the proper administration of the
30 Division.

31 9. Adopt regulations establishing a schedule of civil penalties
32 for any violation of NRS 581.415 and for any point-of-sale system
33 or cash register determined not to be in compliance with the
34 provisions of subsection 19.

35 10. Inspect and test commercial weights and measures that are
36 kept, offered or exposed for sale.

37 11. Inspect and test, to ascertain if they are correct, weights and
38 measures that are commercially used to:

39 (a) Determine the weight, measure or count of commodities or
40 things that are sold, or offered or exposed for sale, on the basis of
41 weight, measure or count; or

42 (b) Compute the basic charge or payment for services rendered
43 on the basis of weight, measure or count.



1 12. Test all weights and measures used in checking the receipt
2 or disbursement of supplies by entities funded by legislative
3 appropriations.

4 13. Approve for use such commercial weights and measures as
5 the State Sealer of Consumer Equitability determines are correct and
6 appropriate. The State Sealer of Consumer Equitability may mark
7 such commercial weights and measures. The State Sealer of
8 Consumer Equitability shall reject and order to be corrected,
9 replaced or removed any commercial weights and measures found to
10 be incorrect. Weights and measures that have been rejected may be
11 seized if they are not corrected within the time specified or if they
12 are used or disposed of in a manner not specifically authorized. The
13 State Sealer of Consumer Equitability shall remove from service and
14 may seize weights and measures found to be incorrect that are not
15 capable of being made correct.

16 14. Weigh, measure or inspect packaged commodities that are
17 kept, offered or exposed for sale, sold or in the process of delivery
18 to determine whether the packaged commodities contain the
19 amounts represented and whether they are kept, offered or exposed
20 for sale in accordance with this chapter or the regulations adopted
21 pursuant thereto. In carrying out the provisions of this subsection,
22 the State Sealer of Consumer Equitability shall employ recognized
23 sampling procedures, including, without limitation, sampling
24 procedures adopted by the National Conference on Weights and
25 Measures.

26 15. Adopt regulations prescribing the appropriate term or unit
27 of weight or measure to be used whenever the State Sealer of
28 Consumer Equitability determines that an existing practice of
29 declaring the quantity of a commodity, or of setting charges for a
30 service by weight, measure, numerical count or time, or any
31 combination thereof, does not facilitate value comparisons by
32 consumers or may confuse consumers.

33 16. Allow reasonable variations from the stated quantity of
34 contents that entered intrastate commerce, which must include those
35 variations caused by loss or gain of moisture during the course of
36 good distribution practices or by unavoidable deviations in good
37 manufacturing practices.

38 17. Provide for the training of persons employed by any
39 governmental entity within this State, including, without limitation,
40 state, county and municipal personnel, who enforce the provisions
41 of this chapter and chapter 582 of NRS, and any regulations adopted
42 pursuant thereto, relating to weights and measures. The State Sealer
43 of Consumer Equitability may establish by regulation minimum
44 training and performance requirements which must be met by all
45 such persons.



1 18. Verify advertised prices and price representations, as
2 necessary, to determine their accuracy.

3 19. Without charging and collecting a fee, conduct random
4 tests of point-of-sale systems and cash registers to determine the
5 accuracy of prices, including advertised prices and price
6 representations, and computations and the correct use of the
7 equipment, and, if such systems utilize scanning or coding means in
8 lieu of manual entry, the accuracy of prices printed or recalled from
9 a database.

10 20. Employ recognized procedures for making verifications
11 and determinations of accuracy, including, without limitation, any
12 appropriate procedures designated by the National Institute of
13 Standards and Technology.

14 21. Adopt regulations and issue orders regarding standards for
15 the accuracy of advertised prices and automated systems for retail
16 price charging, point-of-sale systems and cash registers, and for the
17 enforcement of those standards.

18 22. Conduct investigations to ensure compliance with the
19 regulations adopted pursuant to subsection 21.

20 **Sec. 9.** NRS 581.395 is hereby amended to read as follows:

21 581.395 The presence of a weight or measure, or weighing or
22 measuring device in or about any place in which or from which
23 buying or selling is commonly carried on, creates a rebuttable
24 presumption that the weight or measure, or weighing or measuring
25 device is regularly used for the *commercial* business purposes of
26 that place.

27 **Sec. 10.** NRS 561.412 is hereby amended to read as follows:

28 561.412 1. In addition to the inspection fees and other money
29 transferred pursuant to NRS 590.120, all fees and other money
30 collected pursuant to the provisions of NRS 581.001 to 581.395,
31 inclusive, *and sections 2 to 5, inclusive, of this act* and 582.001 to
32 582.210, inclusive, must be deposited in the State Treasury and
33 credited to a separate account in the State General Fund for the use
34 of the Department.

35 2. Expenditures from the account must be made only for
36 carrying out the provisions of this chapter and chapters 581 and 582
37 of NRS and NRS 590.010 to 590.330, inclusive.

38 3. Money in the account does not lapse to the State General
39 Fund at the end of a fiscal year. The interest and income earned on
40 the money in the account, after deducting any applicable charges,
41 must be credited to the account.

42 **Sec. 11.** This act becomes effective upon passage and
43 approval.



