

CHAPTER.....

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:

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

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

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

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

Sec. 4. *Transfer standards may be used as temporary measurement references to check the accuracy of commercial weighing and measuring equipment. A transfer standard used in such a manner does not satisfy the standards expressed in Appendix A: Fundamental Considerations to the *National Institute of Standards and Technology Handbook 44:**



Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, as adopted by reference by regulation of the State Sealer of Consumer Equitability.

Sec. 5. *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 creates a rebuttable presumption that the field reference standard is regularly used by that person in the installation, adjustment, repair or calibration of commercial weighing and measuring equipment.*

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

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

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

581.065 The State Sealer of Consumer Equitability shall:

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

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

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

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

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

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

581.067 The State Sealer of Consumer Equitability shall:

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

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



3. Enforce the provisions of this chapter.
4. Adopt other reasonable regulations for the enforcement of this chapter.
5. Establish requirements for:
 - (a) Labeling;
 - (b) The presentation of information relating to cost per unit; *and*
 - (c) Standards of weight, measure or count, and reasonable standards of fill, for any packaged commodity . [~~;- and~~
 - ~~—(d) Information relating to open dating of packaged food.]~~
6. Grant such exemptions from the provisions of this chapter or any regulations adopted pursuant thereto as the State Sealer of Consumer Equitability determines appropriate to the maintenance of good commercial practices within this State.
7. Conduct investigations to ensure compliance with this chapter.
8. Delegate to appropriate personnel any of the responsibilities of the Division as needed for the proper administration of the Division.
9. Adopt regulations establishing a schedule of civil penalties for any violation of NRS 581.415 and for any point-of-sale system or cash register determined not to be in compliance with the provisions of subsection 19.
10. Inspect and test commercial weights and measures that are kept, offered or exposed for sale.
11. Inspect and test, to ascertain if they are correct, weights and measures that are commercially used to:
 - (a) Determine the weight, measure or count of commodities or things that are sold, or offered or exposed for sale, on the basis of weight, measure or count; or
 - (b) Compute the basic charge or payment for services rendered on the basis of weight, measure or count.
12. Test all weights and measures used in checking the receipt or disbursement of supplies by entities funded by legislative appropriations.
13. Approve for use such commercial weights and measures as the State Sealer of Consumer Equitability determines are correct and appropriate. The State Sealer of Consumer Equitability may mark such commercial weights and measures. The State Sealer of Consumer Equitability shall reject and order to be corrected, replaced or removed any commercial weights and measures found to be incorrect. Weights and measures that have been rejected may be seized if they are not corrected within the time specified or if they are used or disposed of in a manner not specifically authorized. The



State Sealer of Consumer Equitability shall remove from service and may seize weights and measures found to be incorrect that are not capable of being made correct.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

Sec. 11. This act becomes effective upon passage and approval.



