

HOUSE BILL No. 2255

By Committee on Agriculture and Natural Resources

Requested by Kelsey Olson on behalf of the Kansas Department of Agriculture

2-4

1 AN ACT concerning weights and measures; consolidating chapter 83
2 definitions into a single section; defining device for weighing,
3 measuring or both; increasing the minimum fee per invoice from \$50 to
4 \$70; authorizing licensed service companies and city or county
5 departments of weights and measures to remove rejection tags for test
6 or repair purposes; requiring any such entity to replace the rejection tag
7 with a substitute if the device or equipment cannot be repaired and
8 notify the secretary; requiring persons desiring to operate as a service
9 company to obtain a license; establishing fees and procedures for such
10 licensure; requiring nonresident service companies to designate a
11 resident agent; requiring technical representatives to be licensed, attend
12 continuing education seminars and pass an examination; authorizing
13 the secretary to charge a fee for continuing education seminars;
14 prohibiting service companies from receiving or renewing a license
15 until their weights or measures, or both, are tested and sealed;
16 authorizing the secretary to accept a calibration certificate in lieu of a
17 test; authorizing the secretary to revoke, suspend, decline to renew or
18 decline to issue a service company or technical representative license
19 after notice and hearing for certain violations; requiring weights or
20 measurers, or both used commercially to be tested and inspected
21 annually by a licensed technical representative, an authorized city or
22 county representative or the secretary; requiring test weights or
23 equipment used in grain elevators to be approved and sealed annually,
24 or every three years for those with a nominal capacity of 250 pounds or
25 greater; requiring reports of tests and inspections to be furnished to the
26 owner or operator and the secretary within 10 days; requiring electric
27 vehicle supply equipment used commercially to be tested and inspected
28 annually; requiring reports of tests and inspections of electric vehicle
29 supply equipment to be furnished to the owner or operator and the
30 secretary within 10 days; requiring electric vehicle supply equipment
31 found to be inaccurate to be withdrawn from use until repaired and
32 such equipment has met tolerances and specifications; requiring service
33 companies to keep copies of reports for electric vehicle supply
34 equipment; amending K.S.A. 83-201, 83-202, 83-207, 83-208, 83-214,
35 83-215, 83-216, 83-217, 83-218, 83-219, 83-220, 83-221, 83-222, 83-

1 224, 83-225, 83-304, 83-305, 83-404, 83-405 and 83-501 and repealing
2 the existing sections; also repealing K.S.A. 83-149, 83-154, 83-155,
3 83-301, 83-302, 83-303, 83-308, 83-311, 83-326, 83-401, 83-402, 83-
4 403, 83-407, 83-409, 83-410, 83-411 and 83-502.

5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 83-201 is hereby amended to read as follows: 83-
8 201. As used in ~~article 2 of chapter 83 of the Kansas Statutes Annotated~~
9 ~~and K.S.A. 83-502, and amendments thereto:~~

10 ~~(a) "Weights and measures" means all commercial weights or~~
11 ~~measures of every kind, instruments and devices for weighing and~~
12 ~~measuring, and any appliance and accessories associated with any or all~~
13 ~~such instruments and devices and any point-of-sale system.~~

14 ~~(b) "Weight" as used in connection with any commodity means net~~
15 ~~weight, except if the label declares that the product is sold by drained~~
16 ~~weight, the term means net drained weight.~~

17 ~~(c) "Correct" as used in connection with weights and measures means~~
18 ~~conformance to all applicable tolerances, specifications and requirements~~
19 ~~as established by the secretary and those established within article 2 of~~
20 ~~chapter 83 of Kansas Statutes Annotated, and amendments thereto or any~~
21 ~~rules and regulations adopted thereunder.~~

22 ~~(d) "Primary standards" means the physical standards of the state~~
23 ~~which serve as the legal reference from which all other standards and~~
24 ~~weights and measures are derived.~~

25 ~~(e) "Secondary standards" means the physical standards which are~~
26 ~~traceable to the primary standards through comparisons, using acceptable~~
27 ~~laboratory procedures, and used in the enforcement of weights and~~
28 ~~measures laws and rules and regulations.~~

29 ~~(f) "Person" means an individual, agent or employee of a service~~
30 ~~company, partnerships, corporations, companies, societies and~~
31 ~~associations.~~

32 ~~(g) "Sale from bulk" means the sale of commodities when the~~
33 ~~quantity is determined at the time of sale.~~

34 ~~(h) "Package" means any commodity put up or packaged in any~~
35 ~~manner in advance of sale in units suitable for either wholesale or retail~~
36 ~~sale.~~

37 ~~(i) "Drained weight" means the weight of the solid or semisolid~~
38 ~~product representing the contents of a package or container obtained after~~
39 ~~a prescribed method for excluding the liquid has been employed.~~

40 ~~(j) "Secretary" means the secretary of agriculture or the secretary's~~
41 ~~authorized representative.~~

42 ~~(k) "Measuring device" includes all weights, scales, beams, measures~~
43 ~~of every kind, instruments and mechanical devices for weighing or~~

1 ~~measuring, and any appliances and accessories connected with any or all~~
2 ~~such instruments.~~

3 ~~(l) "Point of sale system" means any combination of a cash register~~
4 ~~or other devices, or system, such as a scanner, capable of recovering stored~~
5 ~~information related to the price or computing the price of any individual~~
6 ~~item which is sold or offered for sale at retail. A point of sale system may~~
7 ~~also include or be attached or connected to a weighing or measuring~~
8 ~~device.~~

9 ~~(m) "Scanner" means any electronic system that employs a laser bar~~
10 ~~code reader to retrieve product identity, price or other information stored in~~
11 ~~a computer memory.~~

12 ~~(n) "Service company" means a company which is in the business of~~
13 ~~examining, calibrating, testing, repairing and adjusting weighing and~~
14 ~~measuring devices but such term does not include a technical~~
15 ~~representative unless the technical representative is the owner of such~~
16 ~~service company.~~

17 ~~(o) "Technical representative" means an individual who installs,~~
18 ~~repairs, adjusts or calibrates the weighing and measuring devices and~~
19 ~~certifies the accuracy of the weighing and measuring devices. this chapter:~~

20 ~~(a) "Chapter" means chapter 83 of the Kansas statutes annotated,~~
21 ~~and amendments thereto, and rules and regulations adopted thereunder.~~

22 ~~(b) "Correct," as used in connection with weights and measures,~~
23 ~~means conformance to all applicable tolerances, specifications and~~
24 ~~requirements as established by the secretary and those established within~~
25 ~~this chapter.~~

26 ~~(c) "Device used for weighing, measuring or both" means any weight,~~
27 ~~scale, beam, liquefied petroleum gas meter, vehicle tank meter, measures~~
28 ~~of every kind, instruments and mechanical or electronic devices for~~
29 ~~commercial weighing or measuring, and any appliances and accessories~~
30 ~~connected with any or all such instruments. "Device used for weighing,~~
31 ~~measuring or both" does not include dispensing devices.~~

32 ~~(d) "Dispensing device" means a motor-vehicle fuel or liquid fuel~~
33 ~~dispensing pump, meter or other similar measuring device and includes~~
34 ~~any device that dispenses refined or blended gasoline or diesel fuel~~
35 ~~product. "Dispensing device" does not include liquefied petroleum gas~~
36 ~~meters or vehicle tank meters.~~

37 ~~(e) "Drained weight" means the weight of the solid or semisolid~~
38 ~~product representing the contents of a package or container obtained after~~
39 ~~a prescribed method for excluding the liquid has been employed.~~

40 ~~(f) "Electric vehicle supply equipment" means a device with one or~~
41 ~~more charging ports and connectors for charging electric vehicles.~~
42 ~~"Electric vehicle supply equipment" includes all charging ports and~~
43 ~~supporting equipment necessary for the operation thereof and the area in~~

1 *the immediate vicinity of the same, including adjacent parking areas and*
2 *lanes for vehicle ingress and egress.*

3 (g) *"Liquefied petroleum gas" means commercial propane and such*
4 *commercial butane as is used for heating fuel.*

5 (h) *"Package" means any commodity put up or packaged in any*
6 *manner in advance of sale in units suitable for either wholesale or retail*
7 *sale.*

8 (i) *"Person" means an individual or a company, partnership,*
9 *corporation, society association or governmental agency and any*
10 *authorized agent thereof. "Person" does not include the secretary.*

11 (j) *"Place of business" means any location from which a testing*
12 *service or company, or one or more representatives or employees thereof,*
13 *sells and performs services for the purpose of testing, repairing, adjusting*
14 *or calibrating devices used for weighing, measuring or both, dispensing*
15 *devices or electric vehicle supply equipment.*

16 (k) *"Point-of-sale system" means any combination of a cash register*
17 *or other devices, or system, such as a scanner, capable of recovering*
18 *stored information related to the price or computing the price of any*
19 *individual item that is sold or offered for sale at retail. A "point-of-sale*
20 *system" may include or be attached or connected to a weighing or*
21 *measuring device.*

22 (l) *"Primary standards" means the physical standards of the state*
23 *that serve as the legal reference from which all other standards and*
24 *weights and measures are derived.*

25 (m) *"Sale from bulk" means the sale of commodities when the*
26 *quantity is determined at the time of sale.*

27 (n) *"Scanner" means any electronic system that employs a laser-bar*
28 *code reader to retrieve product identity, price or other information stored*
29 *in a computer memory.*

30 (o) *"Secondary standards" means the physical standards that are*
31 *traceable to the primary standards through comparisons, using acceptable*
32 *laboratory procedures, and used in the enforcement of weights and*
33 *measures laws and rules and regulations.*

34 (p) *"Secretary" means the secretary of the Kansas department of*
35 *agriculture or the secretary's designee.*

36 (q) *"Service company" means a company that is in the business of*
37 *examining, calibrating, testing, repairing and adjusting devices used for*
38 *weighing, measuring or both, dispensing devices or electric vehicle supply*
39 *equipment. "Service company" does not include a technical representative*
40 *unless the technical representative is the owner of such service company.*

41 (r) *"Technical representative" means an individual who performs the*
42 *proper installation, repair, adjustment or calibration and certification of*
43 *the accuracy of a device used for weighing, measuring or both, dispensing*

1 *devices or electric vehicle supply equipment.*

2 (s) *"Vehicle tank meter" means those meters mounted on vehicle*
3 *tanks used for the measurement and delivery of petroleum products.*

4 (t) *"Weight," as used in connection with any commodity means net*
5 *weight, except that if the label declares that the product is sold by drained*
6 *weight, then the term means net drained weight.*

7 (u) *"Weights and measures" means all commercial weights or*
8 *measures of every kind.*

9 Sec. 2. K.S.A. 83-202 is hereby amended to read as follows: 83-202.

10 (a) Except as provided further:

11 (1) The system of weights and measures in customary use in the
12 United States and the metric system of weights and measures are jointly
13 recognized, and either one or both of these systems shall be used for all
14 commercial purposes in the state.

15 (2) The following standards and requirements shall apply to
16 commercial *devices used for weighing* ~~and~~ *measuring devices or both:*

17 (A) "The standards of the national conference on weights and
18 measures" published in the national institute of standards and technology
19 handbook 44, entitled specifications, tolerances, and other technical
20 requirements for weighing and measuring devices, as published ~~on~~ *in*
21 *October, 1994, or later versions as established in rules and regulations*
22 *adopted by the secretary, except that a mechanical vehicle scale used*
23 *solely to sell aggregate products shall be allowed a minimum tolerance of*
24 *+/- 100 pounds. Such scale shall not be sold or moved to another location*
25 *for use in commercial applications unless it complies with all applicable*
26 *tolerances of the national institute of standards and technology handbook*
27 *44, entitled specifications, tolerances, and other technical requirements for*
28 *weighing and measuring devices, as published in October, 1994, or later*
29 *versions as established in rules and regulations adopted by the secretary;*

30 (B) "the uniform laws and regulations of the national conference on
31 weights and measures" published in the national institute of standards and
32 technology handbook 130 regarding packaging and labeling, the method of
33 sale of commodities, national type evaluation regulation, motor fuel
34 inspection and motor fuel regulation, as published ~~on~~ *in* *December, 1994,*
35 *or later versions as established in rules and regulations adopted by the*
36 *secretary;*

37 (C) "checking the net contents of packaged goods" published in the
38 national institute of standards and technology handbook 133, third edition,
39 as published ~~on~~ *in* *September, 1988, or later versions as established in*
40 *rules and regulations adopted by the secretary;*

41 (D) "checking the net contents of packaged goods" published in the
42 national institute of standards and technology handbook 133, third edition,
43 supplement 4, as published ~~on~~ *in* *October, 1994, or later versions as*

1 established in rules and regulations adopted by the secretary; and

2 (E) any other handbooks or sections thereof as adopted by the
3 secretary by rules and regulations.

4 (b) Whenever there exists an inconsistency between the provisions of
5 ~~chapter 83 of the Kansas Statutes Annotated, and amendments thereto,~~ *this*
6 *chapter* and any of the handbooks adopted by reference, the requirements
7 of ~~chapter 83 of the Kansas Statutes Annotated, and amendments thereto,~~
8 *this chapter* shall control.

9 Sec. 3. K.S.A. 83-207 is hereby amended to read as follows: 83-207.

10 (a) The secretary of agriculture may adopt rules and regulations necessary
11 for the administration and enforcement of the provisions of ~~chapter 83 of~~
12 ~~the Kansas Statutes Annotated, and amendments thereto~~ *this chapter*. As a
13 part of such rules and regulations, the secretary of agriculture shall adopt
14 standards setting forth specifications, tolerances and other technical
15 requirements for all weights, measures and weighing and measuring
16 devices, and point-of-sale systems. These specifications, tolerances and
17 other technical requirements shall conform, insofar as practicable, to the
18 specifications, tolerances and other technical requirements for weights,
19 measures and weighing and measuring devices established by the national
20 institute of standards and technology. The secretary of agriculture shall
21 prescribe by rules and regulations the appropriate term or unit of weight or
22 measure to be used whenever the secretary determines in the case of a
23 specific commodity that an existing practice of declaring the quantity by
24 weight, measure; *or* numerical count, or combination thereof, does not
25 facilitate value comparisons by consumers; ~~or that~~ such practice offers an
26 opportunity for consumer confusion.

27 (b) *The secretary may adopt rules and regulations concerning:*

28 (1) *Standards of workmanship for technical representatives and*
29 *service companies;*

30 (2) *requirements for contractual responsibilities and fulfillment of*
31 *agreements by service companies; and*

32 (3) *maintenance and furnishing of reports and information necessary*
33 *for the secretary to carry out the provisions of this act.*

34 Sec. 4. K.S.A. 83-208 is hereby amended to read as follows: 83-208.

35 The secretary, ~~or an authorized representative of the secretary,~~ may, *during*
36 *normal business hours*, enter any premises or vehicle in or on which any
37 weights, measures, balances ~~or,~~ *devices used for weighing*, measuring
38 ~~devices or both,~~ *dispensing devices or electric vehicle supply equipment,*
39 *subject to the requirements of this chapter or any related records required*
40 *pursuant thereto* may be located or used ~~for the purposes of trade,~~ for the
41 purpose of inspecting, testing and sealing or rejecting the same *or as*
42 *otherwise necessary for the administration of this chapter.* ~~Whoever~~
43 ~~hinders, obstructs, or in any way interferes with the secretary or an~~

1 ~~authorized representative of the secretary, while in the performance of the~~
2 ~~inspection, or whoever fails to produce, upon demand by such secretary or~~
3 ~~authorized representative, all weights, measures, balances or measuring~~
4 ~~devices in or upon the premises or vehicle of such person or in the~~
5 ~~possession of such person for use in manufacture or trade, shall be deemed~~
6 ~~guilty of a class A, nonperson misdemeanor.~~

7 Sec. 5. K.S.A. 83-214 is hereby amended to read as follows: 83-214.

8 (a) The secretary may try and prove weights, measures, balances and other
9 measuring devices on request for any person, corporation or institution,
10 and when the same are found or made to conform to the state standards,
11 and otherwise fulfill such reasonable requirements as the secretary may
12 make, the secretary, or an authorized representative of the secretary, may
13 seal the same with a seal ~~which~~ *that* is kept for that purpose.

14 (b) (1) Except as otherwise provided by statute, the secretary, ~~or the~~
15 ~~authorized representative of the secretary,~~ may charge for services
16 provided by the department and other necessary and incidental expenses,
17 or both, incurred in conjunction with the testing and proving of weights,
18 measures *or both* and other devices at rates prescribed pursuant to this
19 section. ~~An in-state rate shall be charged to licensed service companies that~~
20 ~~have licensed technical representatives performing service work in Kansas.~~
21 ~~An additional fee for adjustment of any weight, measure or other device~~
22 ~~may be assessed.~~ The rates charged by the secretary shall be as follows:
23

Category	In-State rate	In-State rate for quantities of 10 or more	In-State rate for quantities of 100 or more	Standard rate	Standard rate for quantities of 10 or more	Adjustment fee per piece
Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through $50 \geq$ kg)	\$16	\$8	\$6	\$20	\$10	\$5
Medium Mass (< 100 lbs through ≥ 20 lbs < 50 kg through $10 \geq$ kg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through 1 mg)	\$6	\$4	\$2	\$10	\$5	\$5
Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 20 mg)	\$35	\$35		\$45	\$45	\$5
Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg) ASTM 2, 3, 4, 5	\$20	\$20		\$30	\$30	\$40
Precision Mass Echelon I (30 kg through 1 mg) ASTM 1 or ASTM 0	\$40	\$40		\$60	\$60	\$5
Extra Large Headhouse Weights (3,000 lbs through $> 1,250$ lbs)	\$40	\$40		\$50	\$50	\$25
Weight Carts (6,000 lbs through 2,000 lbs)	\$80	\$80		\$100	\$100	\$25
Weight Carts (8,000 lbs)	\$200	\$200		\$220	\$220	\$25
Large Volume (100 gal or less)	\$85	\$85		\$100	\$100	\$25
Large Volume (greater than 100 gal and less than or equal to 200 gal)	\$185	\$185		\$200	\$200	\$25
Large Volume (greater than 200 gal and less than or equal to 500 gal)	\$380	\$385		\$300	\$300	\$25
Large Volume (greater than 500 gal)	\$485	\$485		\$500	\$500	\$25
Small Volume (5 gal)	\$50	\$50		\$70	\$70	\$10
Gravimetric Volume (5 gal)	\$180	\$180		\$200	\$200	\$10
Thermometry (-35°C through 150°C) (Based on a per point calibration)	\$90	\$75		\$110	\$90	\$40

(2) The secretary may charge the following additional fees for preparing items for shipment:

Category	Rate
Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through $50 \geq$ kg)	\$20
Medium Mass (< 100 lbs through ≥ 20 lbs < 50 kg through ≥ 10 kg)	\$30
Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through ≥ 10 mg)	\$20
Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 1 mg)	\$20
Precision Mass ($\leq 10,000$ lbs through ≥ 0.001 lbs, 30 kg through 1 mg)	\$10
Precision Mass Set (1,000 lbs through 0.001 lbs, 30 kg through 1 mg)	\$20
Extra Large Headhouse Weights (3,000 lbs through $> 1,250$ lbs)	\$40

1 (2) The secretary may charge the following additional fees for
 2 preparing items for shipment:

3 Category	4 Rate
5 Large Mass ($\leq 1,250$ lbs through ≥ 100 lbs, 500 kg through ≥ 50 kg).....	\$20
6 Medium Mass (< 100 lbs through ≥ 20 lbs, < 50 kg through ≥ 10 kg)....	\$30
7 Small Mass (< 20 lbs through ≥ 0.001 lbs, < 10 kg through 1 mg).....	\$20
8 Small Mass Set (≤ 10 lbs through ≥ 0.001 lbs, ≤ 5 kg through ≥ 1 mg).	\$20
9 Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg).....	\$10
10 Precision Mass Set (1,000 lbs through 0.001 lbs, 30 kg through 1 mg).	\$20
11 Extra Large Headhouse Weights (3,000 lbs through $> 1,250$ lbs).....	\$40
12 Weight Carts (8,000 lbs through 2,000 lbs).....	\$100
13 Large Volume (1,000 gal through 20 gal).....	\$100
14 Large Volume LPG (1,000 gal through 20 gal).....	\$100
15 Small Volume (5 gal).....	\$20
16 Gravimetric Volume (5 gal).....	\$20
17 Thermometry (-35°C through 150°C)(Based on a 2 point calibration).....	\$20

18 Calibration Types and Ranges		19 Calibration	20 Adjustment
		21 Fee	22 Fee
23 <i>Mass Echelon III</i>	24 <i>Weight Set, up to 10 lb,</i>	25 <i>\$120.00/set</i>	26 <i>\$20.00/pc</i>
27 (<i>ASTM Class: 5, 6, 7</i>)	28 <i>up to 5kg</i>		29 <i>in the set</i>
30 (<i>NIST Class: F</i>)	31 <i>up to 10 lb, up to 5 kg</i>	32 <i>\$10.00/pc</i>	33 <i>\$20.00/pc</i>
34 (<i>OIML Class: M1,</i>	35 <i>over 10 lb up to 50 lb, over</i>	36 <i>\$25.00/pc</i>	37 <i>\$50.00/pc</i>
38 <i>M1-2, M2, M2-3, M3)</i>	39 <i>5 kg up to 30 kg</i>		
	40 <i>over 50 lb up to 1250 lb, over</i>	41 <i>\$35.00/pc</i>	42 <i>\$70.00/pc</i>
	43 <i>30 kg up to 500 kg</i>		
	44 <i>over 1250 lb up to 3000 lb</i>	45 <i>\$70.00/pc</i>	46 <i>\$45.00/pc</i>
	47 <i>Weight Cart, 2500 lb</i>	48 <i>\$250.00/pc</i>	49 <i>\$170.00/pc</i>
	50 <i>up to 6000 lb</i>		
	51 <i>Weight Cart, over 6000 lb</i>	52 <i>\$350.00/pc</i>	53 <i>\$225.00/pc</i>
	54 <i>up to 8000 lb</i>		
55 <i>Mass Echelon II (ASTM</i>	56 <i>up to 1000 lb, up</i>	57 <i>\$40.00/pc</i>	58 <i>\$80.00/pc</i>
59 <i>Class: 2, 3, 4) (OIML</i>	60 <i>to 500 kg</i>		
61 <i>Class: F1, F2)</i>			
62 <i>Mass Echelon I (ASTM Class: 500 lb, up to 30 kg</i>		63 <i>\$75.00/pc</i>	64 <i>\$75.00/pc</i>
65 <i>0, 1) (OIML Class: E1, E2)</i>			
66 <i>Volume Echelon II</i>	67 <i>5 gal</i>	68 <i>\$70.00/pc</i>	69 <i>Due to the</i>
	70 <i>over 5 gal up to 100 gal</i>	71 <i>\$240.00/pc</i>	72 <i>calibration</i>
	73 <i>over 100 gal up to 200 gal</i>	74 <i>\$300.00/pc</i>	75 <i>procedure,</i>
	76 <i>over 200 gal up to 500 gal</i>	77 <i>\$500.00/pc</i>	78 <i>adjustment</i>
	79 <i>over 500 gal up to 1000 gal</i>	80 <i>\$900.00/pc</i>	81 <i>is included</i>
	82 <i>over 1000 gal up to 1500 gal</i>	83 <i>\$1200.00/pc</i>	84 <i>in the cost</i>
	85 <i>LPG, 20 gal up to 100 gal</i>	86 <i>\$460.00/pc</i>	87 <i>of calibration.</i>
88 <i>Volume Echelon I</i>	89 <i>Up to 5 gal</i>	90 <i>\$310.00/pc</i>	91 <i>\$310.00/pc</i>
92 <i>Thermometry Echelon IV</i>	93 <i>-35 °C up to 150 °C</i>	94 <i>\$90.00/point</i>	95 <i>\$90.00/point</i>

45 ~~(3)~~(2) Service that is not part of a routine calibration, including, but
 46 not limited to, cleaning or repairing a standard or performing non-routine
 47 calibration procedures, shall be charged at a rate of \$120 per hour. For
 48 any service provided pursuant to this subsection that is not listed in the fee
 49 schedules in ~~subsections~~ subsection (b)(1) and ~~(b)(2)~~, the secretary shall

1 determine ~~that~~ the fee to be charged.

2 (4)(3) For any service provided pursuant to this subsection, the
 3 secretary may charge a minimum fee of ~~\$50~~ \$70 per invoice. The secretary
 4 may charge for subsistence and transportation of personnel and equipment
 5 to such point and return. Such charges shall be set by rules and regulations
 6 adopted by the secretary of agriculture.

7 (5)(4) The secretary may fix the manner in which any charges made
 8 pursuant to this subsection are collected.

9 (c) The secretary shall remit all moneys received under subsection (b)
 10 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
 11 and amendments thereto. Upon receipt of each such remittance, the state
 12 treasurer shall deposit the entire amount in the state treasury to the credit
 13 of the weights and measures fee fund which is hereby created. All
 14 expenditures from the weights and measures fee fund shall be made in
 15 accordance with appropriation acts upon warrants of the director of
 16 accounts and reports issued pursuant to vouchers approved by the
 17 secretary or by a person designated by the secretary.

18 (d) Except as *otherwise* provided in ~~K.S.A. 83-301 through 83-311,~~
 19 ~~and amendments thereto, nothing in article 2 of chapter 83 of the Kansas~~
 20 ~~Statutes Annotated, and amendments thereto this chapter, nothing~~ shall
 21 prohibit the owner of a weighing or measuring device or the owner's
 22 employee or agent from servicing or repairing such device. ~~However,~~ If
 23 such device is found out of tolerance and is rejected by the ~~department of~~
 24 ~~agriculture~~ secretary, the owner is responsible for repairing the device
 25 within the time specified on the rejection tag and notifying the ~~department~~
 26 secretary when the device is repaired and in operation. The owner shall
 27 pay a fee commensurate with the expense incurred by the secretary in
 28 performing the follow-up inspections or tests.

29 Sec. 6. K.S.A. 83-215 is hereby amended to read as follows: 83-215.

30 (a) The secretary is hereby authorized and empowered to reject *and take*
 31 *out of service* any device used for weighing ~~or, measuring device which or~~
 32 *both that* is found not to conform to state standards ~~or which that~~ is found
 33 not to weigh or measure within authorized tolerances.

34 (b) ~~Service companies~~ *A service company and city or county*
 35 *department of weights and measures* or any agent or employee thereof,
 36 shall be prohibited from condemning *or rejecting a device used to*
 37 *weighing, measuring or both* or taking ~~a weighing or measuring~~ such
 38 device out of service.

39 (c) Any weighing or measuring device that has been rejected *and*
 40 *taken out of service* under authority of the secretary shall remain subject to
 41 the control of the secretary until such time ~~as~~ *that* suitable and acceptable
 42 repair has been made of the same; or an authorized disposition of the same
 43 has been approved. An authorized repair period of use not longer than 30

1 days for purposes of obtaining a repair of the *device used for weighing or,*
2 ~~measuring device or both~~ by the owner, or a reasonable extension of that
3 period, may be given by the secretary when it is determined that the
4 immediate cessation of use of such ~~weighing or measuring~~ device will
5 work an undue hardship on the person using such device or the patrons of
6 such person. The owner of such rejected ~~weighing or measuring~~ device
7 shall cause the same to be repaired and corrected to weigh or measure
8 within authorized tolerances within 30 days after being rejected, or within
9 such extension as may be authorized, or in lieu thereof, the owner of the
10 same may dispose of or destroy such weighing or measuring device or any
11 rejected weight or measure under specific authority from the secretary.

12 Sec. 7. K.S.A. 83-216 is hereby amended to read as follows: 83-216.

13 (a) Any weight, measure or *device used for weighing or,* ~~measuring device~~
14 ~~which or both that~~ has been rejected by the secretary and ~~which~~ has not
15 been repaired or restored to weigh or measure within approved tolerances,
16 during any authorized repair period, is hereby declared to be a common
17 nuisance and a contraband device. The secretary may seal the beam or
18 mechanism out of service on any *device used for weighing or,* ~~measuring~~
19 ~~device, or both~~ or may take possession of any contraband weight or
20 measure. The secretary shall deliver to the owner or person found in
21 possession of any contraband weight, measure or *device used for weighing*
22 ~~or, measuring device or both~~ a statement giving the location and
23 description of the weight, measure or *device used for weighing or,*
24 ~~measuring device or both~~ so sealed or taken.

25 (b) Any *device used for weighing or,* ~~measuring device which or both~~
26 ~~that~~ has been sealed out of service by the secretary and ~~which that~~ has not
27 been repaired or restored and made to weigh or measure within approved
28 tolerances within 90 days following the date of sealing, or an authorized
29 extension thereof, may be proceeded against by an action, ~~instituted in~~
30 ~~Shawnee county district court or in the county where such weighing or~~
31 ~~measuring device is located,~~ *in a district court of competent jurisdiction*
32 for an order for the disposal of such device.

33 (c) Procedure in regard to the prevention of the maintenance of a
34 common nuisance and procedure for the disposal of any *device used for*
35 ~~weighing or,~~ ~~measuring device or both~~ may be ~~had conducted~~ in
36 accordance with and in the manner provided for under K.S.A. 41-805 and
37 41-806, and amendments thereto, and as otherwise authorized by statute.

38 Sec. 8. K.S.A. 83-217 is hereby amended to read as follows: 83-217.
39 Any person who is liable to an injured person by reason of any inaccurate,
40 false or rejected *device used for weighing or,* ~~measuring device or both~~
41 shall be assessed and adjudged to pay damages in double the amount of
42 *the* property wrongfully taken or not given; and, in addition thereto, for
43 punitive damages, the additional sum of \$25, and reasonable attorney fees,

1 to be recovered in any court of competent jurisdiction. The selling and
 2 delivery of a stated quantity of any commodity shall be prima facie
 3 evidence of representations on the part of the vendor that the quantity sold
 4 and delivered was the quantity bought by the vendee. A slight variation
 5 from the stated weight, measure or quantity, within authorized tolerances,
 6 is permissible for individually packaged commodities if such variation is
 7 as often over, as it is under, the correct weight, measure or quantity stated.

8 Sec. 9. K.S.A. 83-218 is hereby amended to read as follows: 83-218.
 9 For the purposes of this act, proof of the existence of a weight, measure or
 10 a *device used for weighing* ~~or, measuring device or both~~, in or about any
 11 building, enclosure, stand or vehicle in which or from which it is shown
 12 that buying or selling is commonly carried on, in the absence of conclusive
 13 evidence to the contrary, shall be presumptive proof of the regular use of
 14 such weight, measure or *device used for weighing* ~~or, measuring device or~~
 15 *both* for commercial purposes and of such use by the person in charge of
 16 such building, enclosure, stand or vehicle.

17 Sec. 10. K.S.A. 83-219 is hereby amended to read as follows: 83-219.
 18 (a) It shall be unlawful for any person to:

19 (1) ~~To~~ Offer or expose for sale; or to sell any weight, measure or
 20 weighing or measuring device that does not meet the tolerances and
 21 specifications required by *this chapter 83 of the Kansas Statutes*
 22 ~~Annotated, and amendments thereto, or which that~~ has been rejected
 23 without first obtaining the written authorization of the secretary;

24 (2) ~~to~~ use a weight, measure or weighing or measuring device for
 25 commercial purposes ~~which that~~ does not meet the tolerance and
 26 specifications required by *this chapter 83 of the Kansas Statutes*
 27 ~~Annotated, and amendments thereto, or that~~ does not conform to the
 28 standard authorized by the secretary for determining the quantity of any
 29 commodity or article of merchandise, for the purpose of:

- 30 (A) Buying or selling any commodity or article of merchandise;
- 31 (B) computation of any charge for services rendered on the basis of
 32 weight or measure; *or*
- 33 (C) determining weight or measure, either when a charge is made for
 34 such determination or where no charge is made for use of such weight,
 35 measure, weighing or measuring device;

36 (3) except as allowed in K.S.A. 83-225, and amendments thereto, ~~to~~
 37 break or remove any tag, mark or seal placed on any weighing or
 38 measuring device by the secretary or a county or city inspector of weights
 39 and measures; without specific written authorization from the proper
 40 authority or to use a weighing or measuring device after the lapse of the
 41 authorized period following the placing of a rejection tag thereon by the
 42 secretary, unless further extension of time for any repair purposes is first
 43 obtained from the secretary to;

- 1 (4) ~~to~~ sell, offer or expose for sale; less than the represented quantity
- 2 of any commodity, thing or service;
- 3 (5) ~~to~~ take or attempt to take more of the represented quantity of any
- 4 commodity, thing or service when the buyer furnishes the weight, measure
- 5 or weighing or measuring device by which the amount of any commodity,
- 6 thing or service is determined;
- 7 (6) ~~to~~ keep for the purpose of sale, or to offer or expose for sale, or to
- 8 sell any commodity in a manner contrary to the law or contrary to any rule
- 9 and regulation;
- 10 (7) ~~to~~ use in retail trade, except in preparation of packages of
- 11 merchandise put up in advance of sale, a weighing or measuring device
- 12 that is not so positioned that its indications may be accurately read and the
- 13 weighing or measuring operation observed from a reasonable customer
- 14 position;
- 15 (8) ~~to~~ violate any of the provisions of *this* chapter ~~83 of the Kansas~~
- 16 ~~Statutes Annotated, and amendments thereto, or rules and regulations~~
- 17 ~~adopted thereunder~~, for which a specific penalty is not provided;
- 18 (9) ~~to~~ sell or offer for sale; or use or possess for the purpose of selling
- 19 or using any device or instrument to be used or calculated to falsify any
- 20 weight or measure;
- 21 (10) ~~to~~ dispose of any rejected weight or measure in a manner
- 22 contrary to law or rules and regulations;
- 23 (11) ~~to~~ expose for sale, offer for sale or sell any commodity in
- 24 package form, without ~~it~~ *such commodity* being so wrapped, or the
- 25 container so made, formed or filled, that it will not mislead the purchaser
- 26 as to the quantity of the contents of the package;
- 27 (12) ~~to~~ expose for sale, offer for sale or sell any commodity in any
- 28 container ~~where in which~~ the contents of the container fall below such
- 29 reasonable standard of fill as may have been prescribed for the commodity
- 30 in question by the secretary;
- 31 (13) ~~to~~ misrepresent the price of any commodity or service sold,
- 32 offered, exposed or advertised for sale by weight, measure or count, ~~not~~ or
- 33 represent the price in any manner calculated or tending to mislead or in
- 34 any way deceive any person;
- 35 (14) ~~to~~ misrepresent, or represent in a manner calculated or tending to
- 36 mislead or deceive an actual or prospective purchaser, the price of an item
- 37 offered, exposed or advertised for sale at retail;
- 38 (15) ~~to~~ compute or attempt to compute at the time of sale of an item, a
- 39 value ~~which that~~ is not a true extension of a price per unit ~~which that~~ is
- 40 then advertised, posted or quoted;
- 41 (16) ~~to~~ charge or attempt to charge, at the time of the sale of an item
- 42 or commodity, a value ~~which that~~ is more than the price ~~which that~~ is
- 43 advertised, posted or quoted;

1 (17) ~~to~~ alter a weight certificate, use or attempt to use any such
2 certificate for any load or part of a load or for articles or things other than
3 for which the certificate is given, or, after weighing and before the delivery
4 of any articles or things so weighted, alter or diminish the quantity thereof;

5 (18) ~~to~~ hinder or obstruct *the secretary* in any way ~~the secretary or~~
6 ~~any of the secretary's authorized agents~~ in the performance of the
7 secretary's official duties under *this* chapter ~~83 of the Kansas Statutes~~
8 ~~Annotated, and amendments thereto, or any rules and regulations adopted~~
9 ~~thereunder~~ or to fail to produce, upon demand by the secretary, all
10 weights, measures, balances, devices used for weighing, measuring or
11 both, dispensing devices or electric vehicle supply equipment that are
12 subject to the provisions of *this* chapter;

13 (19) ~~to~~ fail to follow the standards and requirements established in
14 K.S.A. 83-202, and amendments thereto, or any rules and regulations
15 adopted thereunder;

16 (20) ~~to~~ fail to pay all fees and penalties as prescribed by *this* chapter
17 ~~83 of the Kansas Statutes Annotated, and amendments thereto, and the~~
18 ~~rules and regulations adopted thereunder;~~

19 (21) ~~to~~ fail to keep or make available for examination or provide to
20 the secretary all inspection reports, test reports and any other service
21 reports or other information on any device owned or operated by the
22 owner or any agent or employee of the owner and other information
23 necessary for the enforcement of *this* chapter ~~83 of the Kansas Statutes~~
24 ~~Annotated, and amendments thereto, or any rules and regulations adopted~~
25 ~~thereunder;~~ and as required by the secretary;

26 (22) ~~to~~ fail to have any commercial weight, ~~measure~~ or device used
27 for weighing ~~and, measuring device or both~~ tested as required by *this*
28 chapter ~~83 of the Kansas Statutes Annotated, and amendments thereto, or~~
29 ~~any rules and regulations adopted thereunder;~~

30 (23) ~~to~~ sell or offer or expose for sale liquefied petroleum gas in
31 packages or containers ~~which~~ *that* do not bear a statement as to tare and
32 net weight as required by *this* chapter ~~83 of the Kansas Statutes Annotated,~~
33 ~~and amendments thereto, or any rules and regulations adopted thereunder,~~
34 or packages or containers ~~which~~ *that* bear a false statement as to weights;

35 (24) ~~to~~ sell, use, remove, or otherwise dispose of, or fail to remove
36 from the premises specified, any weighing or measuring device or package
37 or commodity contrary to the terms of any order issued by the secretary;

38 (25) ~~to~~ violate any order issued by the secretary pursuant to *this*
39 chapter ~~83 of the Kansas Statutes Annotated, and amendments thereto; and~~

40 (26) ~~to~~ prohibit a buyer or seller from observing the weighing or
41 operation of any transaction to which such buyer or seller is a party;

42 (27) *falsely make or alter or cause or procure to be falsely made or*
43 *altered with intent to defraud, any scale ticket or other written record*

1 *evidencing or relating to the weight of any personal property or any entry*
2 *or item thereon; and*

3 (28) *weigh any vehicle at an attended public scale or issue any scale*
4 *ticket or other written record evidencing or relating to the weight of such*
5 *vehicle or the load thereon, unless such scale ticket or written record*
6 *shows the date, time and place of the weighing and the signature of the*
7 *weigher.*

8 (b) It shall be unlawful for any service company or technical
9 representative to knowingly:

10 (1) Act as or represent such person's self to be a technical
11 representative without having a valid license issued by the Kansas
12 department of agriculture;

13 (2) certify a device as correct unless the device meets the tolerances
14 and specifications as required by *this* chapter ~~83 of the Kansas Statutes~~
15 ~~Annotated, and amendments thereto, or any rules and regulations adopted~~
16 ~~thereunder;~~

17 (3) hinder or obstruct in any way the secretary in the performance of
18 the secretary's official duties under *this* chapter ~~83 of the Kansas Statutes~~
19 ~~Annotated, and amendments thereto, or any rules and regulations adopted~~
20 ~~thereunder;~~

21 (4) fail to follow the standards and requirements set forth in K.S.A.
22 83-202, and amendments thereto, or any rules and regulations adopted
23 thereunder;

24 (5) fail to complete the testing or placing-in-service report in its
25 entirety and to report the accurate description of the parts replaced,
26 adjusted, reconditioned or work performed;

27 (6) file a false or fraudulent service company or technical
28 representative application or reports to the secretary;

29 (7) fail to pay all fees and penalties as prescribed by *this* chapter ~~83~~
30 ~~of the Kansas Statutes Annotated, and amendments thereto, and the rules~~
31 ~~and regulations adopted thereunder;~~

32 (8) fail to keep or make available for examination in an accessible
33 and legible manner or provide to the secretary in a legible manner all
34 inspection reports, test reports; and any other service or report work
35 information on any device ~~which~~ *that* the service company or an agent or
36 employee performed work on and other information necessary for the
37 enforcement of *this* chapter ~~83 of the Kansas Statutes Annotated, and~~
38 ~~amendments thereto, or any rules and regulations adopted thereunder;~~ or

39 (9) sell, offer or expose for sale a *device used for weighing* ~~or,~~
40 ~~measuring device~~ *or both* intended to be used commercially, ~~which~~ *that* is
41 not traceable to a national type evaluation program certificate of
42 conformance.

43 (c) For the purpose of subsection (a)(4), the selling and delivery of a

1 stated quantity of any commodity shall be prima facie evidence of
2 representations on the part of the seller that the quantity sold and delivered
3 was the quantity bought by the purchaser.

4 (d) Violation of this section shall be deemed a deceptive act and
5 practice as defined by K.S.A. 50-626, and amendments thereto. Violations
6 of the provisions of K.S.A. 83-219, and amendments thereto, may be
7 enforced by the secretary under the administrative provisions of *this*
8 ~~chapter 83 of the Kansas Statutes Annotated, and amendments thereto,~~ or
9 by the attorney general or a county or district attorney under the Kansas
10 consumer protection act.

11 Sec. 11. K.S.A. 83-220 is hereby amended to read as follows: 83-220.
12 Any person violating any of the provisions of ~~article 2 of this chapter 83 of~~
13 ~~the Kansas Statutes Annotated, and amendments thereto, or violating any~~
14 ~~rules and regulations adopted thereunder~~ shall be guilty of a class A, a
15 nonperson misdemeanor. *Each separate violation shall be a separate*
16 *misdemeanor.*

17 Sec. 12. K.S.A. 83-221 is hereby amended to read as follows: 83-221.
18 All inspections and tests to inspect, test and seal, certify or reject any
19 dispensing device, ~~as defined in K.S.A. 83-401, and amendments thereto,~~
20 or the capacity of any vehicle tank used in the transportation of liquefied
21 petroleum gas, motor-vehicle fuels or liquid fuels shall be made in
22 compliance with the provisions of *this chapter 83 of the Kansas Statutes*
23 ~~Annotated, and amendments thereto, and the rules and regulations~~
24 ~~promulgated thereunder.~~

25 Sec. 13. K.S.A. 83-222 is hereby amended to read as follows: 83-222.
26 Except as otherwise provided in ~~article 2 of this chapter 83 of the Kansas~~
27 ~~Statutes Annotated, and amendments thereto,~~ all rules and regulations
28 adopted under the provisions of ~~article 1 of this chapter 83 of the Kansas~~
29 ~~Statutes Annotated~~ in existence immediately prior to July 1, 1985, shall
30 continue to be effective and shall be deemed to be the rules and regulations
31 of the secretary of agriculture until revised, amended, repealed or nullified
32 pursuant to law.

33 Sec. 14. K.S.A. 83-224 is hereby amended to read as follows: 83-224.
34 If any part or parts of this ~~act~~ *chapter* are held to be invalid or
35 unconstitutional by any court, it shall be conclusively presumed that the
36 legislature would have enacted the remainder of this act without such
37 invalid or unconstitutional part or parts.

38 Sec. 15. K.S.A. 83-225 is hereby amended to read as follows: 83-225.
39 (a) A licensed service company *or a city or county department of weights*
40 *and measures* shall be authorized to remove an official rejection tag or
41 other mark placed on a ~~scale~~ *device used for weighing, measuring or both,*
42 *a dispensing device or electric vehicle supply equipment* by authority of
43 the secretary for the purpose of testing or repairing any ~~scale~~ *such device*

1 *or equipment.*

2 (b) After the test is conducted and necessary repairs are completed,
3 the service company *or city or county department of weights and measures*
4 shall place the ~~weighing and measuring~~ device *or equipment* in service and
5 shall notify the secretary of such within the time periods established by the
6 secretary pursuant to rules and regulations adopted hereunder.

7 (c) When a ~~scale~~ device *or equipment* cannot be repaired properly, the
8 service company *or city or county department of weights and measures*
9 shall replace the rejection tag or other mark with a substitute rejection tag
10 or other mark supplied by the ~~department~~ secretary and shall notify the
11 secretary within the time period as established by the secretary pursuant to
12 rules and regulations adopted hereunder.

13 (d) This section shall apply to new and used ~~scales~~ devices *used for*
14 *weighing, measuring or both, dispensing devices and electric vehicle*
15 *supply equipment.*

16 (e) ~~This section shall be supplemental to and part of the act appearing~~
17 ~~in article 2 of chapter 83 of Kansas Statutes Annotated.~~ Administrative or
18 civil penalties specified in K.S.A. 83-220, and amendments thereto, shall
19 apply to violations of this section.

20 New Sec. 16. (a) Each person, other than an authorized representative
21 of the secretary or an authorized representative of a city or county
22 department of public inspection of weights and measures established
23 pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate
24 and perform testing and other services as a service company in Kansas
25 shall apply to the secretary for a service company license on a form to be
26 supplied by the secretary and shall obtain such license from the secretary
27 before operating and performing testing or other services as a service
28 company.

29 (b) Each service company shall obtain a separate license for each
30 place of business maintained in Kansas by paying a license application fee
31 not to exceed \$200 for each license sought. The secretary may set the
32 application fee by order. Each service company license shall expire on
33 June 30 following issuance, shall be void unless renewed prior to the
34 expiration and shall not be transferable. The license renewal fee for each
35 place of business shall be equal to the license application fee as provided
36 in this section.

37 (c) If any service company maintains any out-of-state places of
38 business that the company operates in serving Kansas patrons, the service
39 company seeking to obtain or renew a license under this section shall list
40 in the application such places of business and the firm names under which
41 the company operates at each such place of business. If any out-of-state
42 place of business is established by a service company after being licensed
43 under this section, the licensee shall supply such information to the

1 secretary before any work is performed in Kansas from such out-of-state
2 location. Each nonresident service company shall designate a resident
3 agent upon whom service of notice or process may be made to enforce the
4 provisions of this chapter or any liabilities arising from operations
5 thereunder. Each nonresident service company that does not maintain an
6 established place of business in Kansas shall obtain a license under this
7 section for each out-of-state place of business and list on the application
8 the firm name or names for each place of business from which the service
9 company intends to operate.

10 (d) Each technical representative shall be licensed annually by the
11 secretary. Except as provided in subsection (e), each technical
12 representative shall be required to attend continuing education seminars on
13 an annual basis as required by rules and regulations adopted by the
14 secretary and pass a reasonable examination prescribed by the secretary
15 each year prior to being licensed. Each technical representative's license
16 shall expire on June 30 following the issuance of the license and shall be
17 void unless renewed prior to the expiration.

18 (e) Each technical representative who has had 10 years of continuous
19 licensure with no administrative enforcement action adjudicated against
20 such technical representative during such 10-year period shall be eligible
21 to obtain a five-year license. The secretary shall implement, by order, the
22 fee for such five-year license. Such license fee shall be an amount of not to
23 exceed \$500. Each technical representative holding a five-year license
24 shall be required to complete continuing education as described in
25 subsection (d) at a frequency of not to exceed once per five-year period.
26 The secretary may promulgate rules and regulations to require any
27 technical representative who has been adjudicated in violation of this act
28 or any rules and regulations promulgated by the secretary to seek renewal
29 of a license on an annual basis, and the secretary may establish criteria for
30 the reinstatement of eligibility for a five-year license.

31 (f) The secretary is authorized to charge a fee to the attendees of
32 continuing education seminars sponsored by the Kansas department of
33 agriculture. The amount of such fee shall be not more than is necessary to
34 cover the expenses incurred in providing the seminar.

35 (g) No service company license may be issued or renewed under this
36 section until the applicant's weights or measures, or both, have been tested
37 for accuracy and sealed by the secretary. The secretary is authorized to
38 accept a calibration certificate for the applicant's weights or measures
39 issued by the national institute of standards and technology or by a
40 metrology laboratory certified by the national institute of standards and
41 technology in lieu of a test by the secretary, if such certificate shows that
42 the weights or measures have been tested within the last 365 days
43 preceding the license application.

1 (h) The secretary shall remit all moneys received under this section to
2 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
3 and amendments thereto. Upon receipt of each such remittance, the state
4 treasurer shall deposit the entire amount in the state treasury to the credit
5 of the weights and measures fee fund.

6 New Sec. 17. (a) At any time after notice and opportunity for a
7 hearing are given accordance with the provisions of the Kansas
8 administrative procedure act, the secretary may revoke, suspend, decline to
9 renew or decline to issue a service company license or technical
10 representative's license, when the service company or technical
11 representative has:

12 (1) Refused to provide the secretary with reasonably complete and
13 accurate information regarding methods used, materials used or work
14 performed as required by the secretary;

15 (2) failed to comply with any provision or requirement of this
16 chapter;

17 (3) failed to perform work in a manner consistent with the standards
18 set forth in this chapter; or

19 (4) committed an unlawful act as established in K.S.A. 83-219, and
20 amendments thereto, or any other provision of this chapter.

21 Sec. 18. K.S.A. 83-304 is hereby amended to read as follows: 83-304.

22 (a) Except as provided by subsection (e), the owner or operator of a *device*
23 *used for weighing and measuring device which or both that* is used
24 commercially shall have such ~~weighing and measuring~~ device tested and
25 inspected at least annually for accuracy. The test *and inspection* shall be
26 conducted by either a licensed technical representative employed by a
27 licensed service company or by an authorized representative of any city or
28 county ~~which that~~ has established a department of public inspection of
29 weights and measures pursuant to K.S.A. 83-210, and amendments
30 thereto, or by the secretary, ~~which inspects such weighing and measuring~~
31 ~~device~~. *Such tests and inspections shall be conducted* in accordance with
32 *the* rules and regulations adopted by the secretary. If, upon *such testing*
33 *and inspection* ~~by the secretary or an authorized representative of the~~
34 ~~secretary~~, it is found that the ~~weighing and measuring~~ device has not been
35 tested and inspected for accuracy and approved within the preceding 365
36 days, the secretary ~~or the authorized representative of the secretary~~ shall
37 take the weighing and measuring device out of service pursuant to the
38 provisions of K.S.A. 83-215, and amendments thereto. Except as provided
39 further, the test weights or equipment used by the service company shall
40 have been approved and sealed by the secretary pursuant to K.S.A. 83-214,
41 and amendments thereto, within 365 days preceding the date of the tests.
42 Test weights or equipment ~~which has that have~~ the nominal capacity of
43 250 pounds or greater, are housed in a grain elevator or similar structure

1 and are used to test scales in grain elevators or similar facilities shall have
2 been approved and sealed by the secretary pursuant to K.S.A. 83-214, and
3 amendments thereto, within three calendar years preceding the date of the
4 test. Except at the option of ~~the~~ a city or county ~~which that~~ has an
5 established department of public inspection of weights and measures, tests
6 and inspections shall be at the expense of the owner or operator of the
7 *device used for weighing* ~~and, measuring device or both~~. In any city or
8 county ~~which that~~ has a department of public inspection ~~which that~~
9 inspects such *device used for weighing* ~~and, measuring device or both~~, the
10 test may be conducted by an authorized representative of the city or county
11 weights and measures department. Farmers or ranchers who own and
12 operate a weighing and measuring device used in private treaty
13 transactions are exempt from the annual testing requirements. Volumetric
14 provers ~~which that~~ are stationary or ~~which~~ exceed the testing capacity of
15 the state metrology ~~lab~~ laboratory due to engineering design or the capacity
16 of the prover are exempt from the annual testing requirement.

17 (b) ~~A service company or the city or county department of public~~
18 ~~inspection of weights and measures or an authorized representative of the~~
19 ~~secretary which conducts tests pursuant to this section shall, at the time of~~
20 ~~testing and inspection, promptly furnish to the owner or operator of the~~
21 ~~weighing and measuring device a report showing the results of the tests~~
22 ~~and inspection. The city or county department of public inspection of~~
23 ~~weights and measures and service company reports shall also be sent to the~~
24 ~~secretary, as required by rules and regulations adopted by the secretary. No~~
25 ~~report shall be furnished later than 10 days after the test or inspection of~~
26 ~~the device has occurred~~ *When tests or inspections are conducted pursuant*
27 *to this section, a report showing the results of the tests or inspections shall*
28 *be promptly furnished to the owner or operator. If the tests or inspections*
29 *were not performed by the secretary, such reports shall also be sent to the*
30 *secretary as required by rules and regulations adopted by the secretary*
31 *and not later than 10 days after the test or inspection of such device has*
32 *occurred.*

33 (c) Subject to the provisions of K.S.A. 83-215, and amendments
34 thereto, the owner or operator of a *device used for weighing* ~~and,~~
35 ~~measuring device which~~ *or both that* is found to be ~~out of noncompliant~~
36 *with the tolerances or specifications required by this chapter 83 of the*
37 ~~Kansas Statutes Annotated, and amendments thereto, or any rules and~~
38 ~~regulations adopted thereunder shall, immediately~~ at the time of testing
39 ~~shall, withdraw immediately the weighing and measuring device from~~
40 further use until the necessary corrections, adjustments or repairs are made
41 and the ~~weighing and measuring~~ device is determined to be accurate by a
42 service company ~~or the,~~ a city or county department of public inspection
43 of weights and measures ~~or an authorized representative of the secretary.~~

1 Weighing and measuring devices ~~which~~ *that* have been repaired or
2 serviced shall meet the tolerances and specifications established in *this*
3 chapter ~~83 of the Kansas Statutes Annotated, and amendments thereto, and~~
4 ~~those rules and regulations adopted by the secretary~~ prior to being placed
5 or returned to service. The service company or the city or county
6 department of public inspection of weights and measures shall notify the
7 secretary of any weighing and measuring devices ~~which~~ *that* are found not
8 to comply with such tolerances and specifications and are thus inaccurate
9 and cannot be adjusted, repaired or serviced so as to comply with the
10 standards and tolerances established in *this* chapter ~~83 of the Kansas~~
11 ~~Statutes Annotated, and amendments thereto.~~ Such notification shall be as
12 required by the secretary, pursuant to rules and regulations. Such
13 notification shall be furnished to the department ~~no~~ *not* later than 10 days
14 after the service company or city or county department of public
15 inspection of weights and measures has found the weighing and measuring
16 device to be in noncompliance with the tolerance and specifications
17 required for such weighing and measuring device. A copy of the report
18 prepared by the service company or city or county department of public
19 inspection of weights and measures or the secretary showing the results of
20 the weighing and measuring device test and the work done to correct any
21 deficiencies shall be filed with the secretary by the ~~service company~~ *party*
22 *who prepared the report.*

23 (d) Each service company shall be required to keep at such company's
24 corporate headquarters or at such company's resident agent's office a copy
25 of all reports regarding the installation, repair, calibration and other work
26 *that* the service company or the technical representatives employed by the
27 service company performed on ~~the~~ commercial weighing ~~and~~ *or* measuring
28 devices. Such reports shall be legible and maintained in an accessible
29 manner and for a period of time as established by the secretary pursuant to
30 rules and regulations. The owner or operator of a *device used for weighing*
31 ~~and, measuring device or both~~ shall also be required to retain copies of all
32 reports regarding the installation, repair or adjustment or any of the
33 aforementioned done to the ~~weighing and measuring~~ device at the site
34 where the measuring and weighing device is used. Such reports shall be
35 legible and maintained in an accessible manner and for a period of time as
36 established by the secretary pursuant to rules and regulations.

37 (e) The secretary may adopt rules and regulations providing for
38 inspection of vapor meters at intervals less frequently than annually if the
39 secretary determines that annual inspections are not necessary to protect
40 the public interest. In adopting any such rules and regulations, the
41 secretary shall take into consideration the standard for inspections of vapor
42 meters adopted by the national institute of standards and technology of the
43 United States department of commerce.

1 Sec. 19. K.S.A. 83-305 is hereby amended to read as follows: 83-305.
2 When the secretary ~~has been~~ *finds or is* notified by a licensed service
3 company, ~~by an authorized representative of the secretary or by a city or~~
4 county department of public inspection of weights and measures
5 established pursuant to K.S.A. 83-210, and amendments thereto, that a
6 *device used for weighing and measuring device or both* does not comply
7 with tolerances and specifications adopted by the secretary, by rule and
8 regulation, then the secretary may test the ~~weighing and measuring~~ device
9 for accuracy after repairs have been made.

10 Sec. 20. K.S.A. 83-404 is hereby amended to read as follows: 83-404.
11 (a) The owner or operator of a dispensing device ~~which that~~ is used for
12 commercial purposes shall have such device tested and inspected at least
13 once within every 18-month period. The test shall be conducted by ~~either~~
14 an authorized representative of any city or county ~~which that~~ has
15 established a department of public inspection of weights and measures
16 pursuant to K.S.A. 83-210, and amendments thereto, or by the secretary;
17 ~~which inspects such dispensing devices. Such inspections shall be~~
18 *conducted* in accordance with rules and regulations adopted by the
19 secretary. If, upon inspection ~~by the secretary~~, it is found that the
20 dispensing device has not been tested and inspected for accuracy and
21 approved within the preceding 18 months, the secretary shall take the
22 dispensing device out of service pursuant to the provisions of K.S.A. 83-
23 215, and amendments thereto. The test weights and measures used by the
24 service company shall have been approved and sealed by the secretary
25 pursuant to K.S.A. 83-214, and amendments thereto, every 365 days.
26 Except at the option of the city or county ~~which that~~ has an established
27 department of public inspection of weights and measures, annual tests and
28 inspections shall be at the expense of the owner or operator. In any city or
29 county ~~which that~~ has a department of public inspection of weights and
30 measures ~~which that~~ annually inspects such dispensing devices, the tests
31 may be conducted by an authorized representative of such city or county
32 weights and measures department. Farmers or ranchers who own and
33 operate a dispensing device used in private treaty transactions are exempt
34 from the annual testing requirements.

35 (b) ~~The city or county department of public inspection of weights and~~
36 ~~measures or the secretary which conducts tests pursuant to this section, at~~
37 ~~the time of testing and inspection, shall promptly furnish to the owner or~~
38 ~~operator a report showing the results of the tests and inspection. Such~~
39 ~~reports shall also be sent to the secretary, as required by rules and~~
40 ~~regulations adopted by the secretary, however, no report shall be furnished~~
41 ~~later than 10 days after the test or inspection of such device has~~
42 ~~occurred. When tests or inspections are conducted pursuant to this section,~~
43 *a report showing the results of the tests or inspections shall be promptly*

1 *furnished to the owner or operator. If the tests or inspections were not*
 2 *performed by the secretary, such reports shall also be sent to the secretary*
 3 *as required by rules and regulations adopted by the secretary and not later*
 4 *than 10 days after the test or inspection of such device has occurred.*

5 (c) Subject to the provisions of K.S.A. 83-215, and amendments
 6 thereto, the owner ~~and~~ or operator of a dispensing device ~~which that~~ is
 7 found to be inaccurate at the time of testing shall *immediately* withdraw
 8 ~~immediately~~ the device from further use until the necessary corrections,
 9 adjustments or repairs are made and the device is determined to be
 10 accurate by a service company ~~or the~~, a city or county weights and
 11 measures department ~~or an authorized representative of the secretary.~~ ~~The~~
 12 ~~devices which~~ *Dispensing devices that* have been repaired or serviced shall
 13 meet the tolerances and specifications adopted by the secretary by rules
 14 and regulations. ~~The~~ A service company ~~or the~~ city or county shall notify
 15 the secretary of any devices ~~which that~~ are found not to comply with such
 16 tolerances and specifications and those ~~which that~~ are not able to be
 17 serviced or repaired so as to comply with such tolerances and
 18 specifications. ~~The service company shall~~ and report to the secretary
 19 within the time frames and in a manner established in rules and regulations
 20 adopted by the secretary of any dispensing device ~~which that~~ has been
 21 installed, repaired, calibrated or fails to comply with the required
 22 tolerances and specifications.

23 (d) Each service company shall be required to keep at such company's
 24 corporate headquarters or at such company's resident agent's office a copy
 25 of all reports regarding the installation, repair, calibration and other work
 26 *that* the service company or the technical representatives employed by the
 27 service company performed on the commercial dispensing devices. Such
 28 reports shall be legible and maintained in an accessible manner and for a
 29 period of time as established by the secretary pursuant to rules and
 30 regulations. The owner or operator of a dispensing device shall also be
 31 required to retain copies of all reports regarding installation, repair or
 32 adjustment or any of the aforementioned done to the dispensing device at
 33 the site where the dispensing device is used. Such reports shall be legible
 34 and maintained in an accessible manner and for a period of time as
 35 established by the secretary pursuant to rules and regulations.

36 Sec. 21. K.S.A. 83-405 is hereby amended to read as follows: 83-405.
 37 When the secretary *finds or* is notified by a licensed service company, ~~an~~
 38 ~~authorized representative of the secretary or by~~ a city or county department
 39 of public inspection of weights and measures established pursuant to
 40 K.S.A. 83-210, and amendments thereto, that a dispensing device does not
 41 comply with tolerances and specifications adopted by the secretary, by
 42 rules and regulations, the secretary may test *the dispensing device* for
 43 accuracy after repairs have been made.

1 Sec. 22. K.S.A. 83-501 is hereby amended to read as follows: 83-501.

2 (a) In addition to any other penalty provided by law, any person who
3 violates any provision of ~~chapter 83 of the Kansas Statutes Annotated, and~~
4 ~~amendments thereto, or any rules and regulations adopted thereunder, this~~
5 *chapter* may incur a civil penalty imposed under subsection (b) in the
6 amount, fixed by rules and regulations of the secretary of agriculture, of
7 not less than \$100 nor more than \$5,000 for each such violation, and, in
8 the case of a continuing violation, every day *that* such violation continues
9 shall be deemed a separate violation.

10 (b) In determining the amount of the civil penalty, the following shall
11 be taken into consideration: (1) The extent of harm caused by the
12 violation; (2) the nature and persistence of the violation; (3) the length of
13 time over which the violation occurs; (4) any corrective actions taken; and
14 (5) any and all relevant circumstances.

15 (c) All civil penalties assessed shall be due and payable within 10
16 days after written notice of assessment is served on the person, unless a
17 longer period of time is granted by the secretary. If a civil penalty is not
18 paid within the applicable time period, the secretary may file a certified
19 copy of the notice of assessment with the clerk of the district court in the
20 county where the weighing and measuring device or dispensing device is
21 located. The notice of assessment shall be enforced in the same manner as
22 a judgment of the district court.

23 (d) No civil penalty shall be imposed pursuant to this section except
24 upon the written order of the ~~duly authorized agent of the~~ secretary to the
25 person who committed the violation or to the person whose agent or
26 employee committed the violation. Such order shall ~~state the violation, the~~
27 ~~penalty to be imposed and the right of the person to appeal to the secretary.~~
28 ~~Any such person, within 20 days after notification, may make written~~
29 ~~request to the secretary for a~~ *be subject to notice and a hearing*
30 in accordance with the provisions of the Kansas administrative procedure act.
31 ~~The secretary shall affirm, reverse or modify the order and shall specify~~
32 ~~the reasons therefor.~~

33 (e) ~~Any person aggrieved by an order of the secretary made under this~~
34 ~~section may appeal such order to the district court in the manner provided~~
35 ~~by the Kansas judicial review act.~~

36 (f) ~~An appeal to the district court or to an appellate court shall not~~
37 ~~stay the payment of the civil penalty.~~

38 (g) Any civil penalty recovered pursuant to the provisions of this
39 section or recovered under the consumer protection act for violations of
40 any provision of K.S.A. 83-219, and amendments thereto, shall be remitted
41 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
42 and amendments thereto. Upon receipt of each such remittance, the state
43 treasurer shall deposit the entire amount in the state treasury to the credit

1 of the weights and measures fee fund.

2 New Sec. 23. (a) The owner or operator of electric vehicle supply
3 equipment that is used for commercial purposes shall have such device
4 tested and inspected at least once annually. The testing and inspection shall
5 be conducted by either a licensed technical representative employed by a
6 licensed service company, by an authorized representative of any city or
7 county that has established a department of public inspection of weights
8 and measures pursuant to K.S.A. 83-210, and amendments thereto, or by
9 the secretary. Such testing and inspection shall be conducted in accordance
10 with the rules and regulations adopted by the secretary. If, upon such
11 testing and inspection, it is found that the electric vehicle supply
12 equipment has not been tested and inspected for accuracy and approved
13 within the preceding 365 days, the secretary shall take the electric vehicle
14 supply equipment out of service pursuant to the provisions of K.S.A. 83-
15 215, and amendments thereto. Test weights and measures used by a
16 technical representative employed by a licensed service company pursuant
17 to this subsection shall have been approved and sealed by the secretary
18 pursuant to K.S.A. 83-214, and amendments thereto, within the preceding
19 365 days. Except at the option of a city or county that has an established
20 department of public inspection of weights and measures, annual tests and
21 inspections shall be at the expense of the owner or operator.

22 (b) When tests or inspections are conducted pursuant to this section, a
23 report showing the results of the tests or inspections shall be promptly
24 furnished to the owner or operator. If the tests or inspections were not
25 performed by the secretary, such reports shall also be sent to the secretary
26 as required by rules and regulations adopted by the secretary and not later
27 than 10 days after the test or inspection of such device has occurred.

28 (c) The owner or operator of electric vehicle supply equipment that is
29 found to be inaccurate at the time of testing required by this subsection
30 shall immediately withdraw the electric vehicle supply equipment from
31 further use until the necessary corrections, adjustments or repairs are made
32 and the secretary, a technical representative employed by a licensed
33 service company, or a representative of a city or county weights and
34 measures department determines that the electric vehicle supply equipment
35 is accurate. All electric vehicle supply equipment that has been repaired or
36 serviced shall meet the tolerances and specifications adopted by the
37 secretary by rules and regulations. Each service company and each city or
38 county that performs tests and inspections pursuant to this subsection shall,
39 within the timeframe and in the manner established in rules and
40 regulations adopted by the secretary, notify the secretary of all electric
41 vehicle supply equipment that has been installed, repaired, calibrated or
42 found not to comply with such tolerances and specifications and of all
43 electric vehicle supply equipment that is not able to be serviced or repaired

1 so as to comply with such tolerances and specifications.

2 (d) Each service company shall be required to maintain at such
3 service company's corporate headquarters or resident agent's office a copy
4 of all reports regarding all installation, repair, calibration, adjustment or
5 other work that the service company or any technical representative
6 employed by the service company has performed on electric vehicle
7 supply equipment, including installation, repair, calibration, adjustment or
8 other work performed at the site where the electric vehicle supply
9 equipment is used. Such reports shall be legible and maintained in an
10 accessible manner and for a period of time as established by the secretary
11 pursuant to rules and regulations.

12 New Sec. 24. When the secretary finds or is notified by a licensed
13 service company, an authorized representative of the secretary or by or a
14 city or county department of public inspection of weights and measures
15 established pursuant to K.S.A. 83-210, and amendments thereto, that an
16 electric vehicle supply equipment does not comply with tolerances and
17 specifications adopted by the secretary, by rules and regulations, the
18 secretary may test the electric vehicle supply equipment for accuracy after
19 repairs have been made.

20 Sec. 25. K.S.A. 83-149, 83-154, 83-155, 83-201, 83-202, 83-207, 83-
21 208, 83-214, 83-215, 83-216, 83-217, 83-218, 83-219, 83-220, 83-221, 83-
22 222, 83-224, 83-225, 83-301, 83-302, 83-303, 83-304, 83-305, 83-308, 83-
23 311, 83-326, 83-401, 83-402, 83-403, 83-404, 83-405, 83-407, 83-409, 83-
24 410, 83-411, 83-501 and 83-502 are hereby repealed.

25 Sec. 26. This act shall take effect and be in force from and after its
26 publication in the statute book.