

HOUSE BILL No. 2255

AN ACT concerning the Kansas department of agriculture; relating to weights and measures; consolidating chapter 83 definitions into a single section; defining device for weighing, measuring or both; increasing the minimum fee per invoice from \$50 to \$70; authorizing licensed service companies and city or county departments of weights and measures to remove rejection tags for test or repair purposes; requiring any such entity to replace the rejection tag with a substitute if the device or equipment cannot be repaired and notify the secretary; requiring persons desiring to operate as a service company to obtain a license; establishing fees and procedures for such licensure; requiring nonresident service companies to designate a resident agent; requiring technical representatives to be licensed, attend continuing education seminars and pass an examination; authorizing the secretary to charge a fee for continuing education seminars; prohibiting service companies from receiving or renewing a license until their weights or measures, or both, are tested and sealed; authorizing the secretary to accept a calibration certificate in lieu of a test; authorizing the secretary to revoke, suspend, decline to renew or decline to issue a service company or technical representative license after notice and hearing for certain violations; requiring weights or measurers, or both used commercially to be tested and inspected annually by a licensed technical representative, an authorized city or county representative or the secretary; requiring test weights or equipment used in grain elevators to be approved and sealed annually, or every three years for those with a nominal capacity of 250 pounds or greater; requiring reports of tests and inspections to be furnished to the owner or operator and the secretary within 10 days; relating to the Kansas conservation reserve enhancement program; increasing the acreage cap for CREPs from 40,000 to 60,000 acres; clarifying the county acreage cap for CREPs and that the last eligible offer for enrollment exceeding applicable acreage caps may be approved; removing the limitation on acres eligible for CREP enrollment based on expired federal contracts; adding a general ineligibility criterion based on federal ineligibility; allowing CREP contracts for dryland farming or limited irrigation for water quantity goals; removing the prohibition on participation in CREP for government-owned water rights; clarifying current CREP criteria related to water right usage, sanctions and reporting; allowing exceptions to eligibility criteria based on factors such as location in high-priority water conservation areas, high-flow capacity wells, circumstances like bankruptcy or probate and enrollment in other water conservation programs; modifying the reporting requirements to cover the preceding five years; amending K.S.A. 2-1933, 83-201, 83-202, 83-207, 83-208, 83-214, 83-215, 83-216, 83-217, 83-218, 83-219, 83-220, 83-221, 83-222, 83-224, 83-225, 83-304, 83-305, 83-404, 83-405 and 83-501 and repealing the existing sections; also repealing K.S.A. 83-149, 83-154, 83-155, 83-301, 83-302, 83-303, 83-308, 83-311, 83-326, 83-401, 83-402, 83-403, 83-407, 83-409, 83-410, 83-411 and 83-502.

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

Section 1. K.S.A. 2-1933 is hereby amended to read as follows: 2-1933. (a) As used in this section, "division" means the division of conservation established within the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto.

(b) The division shall administer the conservation reserve enhancement program (CREP) on behalf of the state of Kansas pursuant to agreements with the United States department of agriculture for the purpose of implementing beneficial water quality and water quantity projects concerning *agricultural lands within* targeted watersheds to be enrolled in CREP.

(c) There is hereby established in the state treasury the Kansas conservation reserve enhancement program fund, which shall be administered by the division. All expenditures from the Kansas conservation reserve enhancement program fund shall be for the implementation of CREP pursuant to agreements between the state of Kansas and the United States department of agriculture. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by the secretary's designee.

(d) The division may request the assistance of other state agencies, Kansas state university, local governments and private entities in the implementation of CREP.

(e) The division may receive and expend moneys from the federal or state government or private sources for the purpose of carrying out the provisions of this section. All moneys received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas conservation reserve enhancement program fund. The division shall carry over unexpended moneys in the Kansas

conservation reserve enhancement program fund from one fiscal year to the next.

(f) The division may enter into cost-share contracts with landowners that will result in fulfilling specific objectives of projects approved in agreements between the United States department of agriculture and the state of Kansas.

(g) The division shall administer all CREPs in Kansas subject to the following criteria:

(1) The aggregate total number of acres enrolled in Kansas in all CREPs shall not exceed ~~40,000~~ 60,000 acres, *except that the last eligible offer for enrollment that will exceed the 60,000-acre cap may be approved;*

(2) ~~the number of acres eligible for enrollment in CREP in Kansas shall be limited to  $\frac{1}{2}$  of the number of acres represented by federal contracts in the federal conservation reserve program that have expired in the prior year in counties within the particular CREP area, except that if federal law permits the lands enrolled in the CREP program to be used for agricultural purposes, such as planting agricultural commodities, including, but not limited to, grains, cellulose or biomass materials, alfalfa, grasses or legumes, but not including cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the specific CREP area;~~

(3) ~~no more than 25% of the acreage in CREP may be in any one county, except that the last eligible offer to exceed the number of acres constituting a 25% acreage cap in any one county shall be approved~~*the aggregate total number of acres enrolled in all CREPs in any one Kansas county shall not exceed 20% of the statewide acreage cap set forth in paragraph (1), except that the last eligible offer to exceed such cap in any one county may be approved;*

(4)~~(3)~~ no whole-field enrollments shall be accepted into a CREP established for water quality purposes; ~~and~~

(5) ~~lands enrolled in the federal conservation reserve program as of January 1, 2008,~~

(4) ~~an acreage shall not be eligible for enrollment in CREP if it is otherwise ineligible for enrollment under federal law; and~~

(5) ~~not more than 1,600 acres may be enrolled in CREP in one county in the same calendar year unless the secretary of agriculture, in consultation with the chief engineer of the division of water resources, certifies that the chief engineer has determined:~~

(A) ~~That the acreage is in an area where an impairment is occurring and enrolling the acreage in the conservation reserve enhancement program will be responsive to the impairment; or~~

(B) ~~that the acreage is less than five miles from a portion of the aquifer with less than 10 years of usable life.~~

(h)~~(1)~~ ~~For a CREP established with the purpose of meeting water quantity goals, If approved by the United States department of agriculture, the division may, in accordance with subsection (i), approve a CREP contract that allows for the establishment of native grasses, routine grazing, dryland farming or limited irrigation practices for the purpose of meeting water quantity goals.~~

(i) The division shall administer ~~such~~ each CREP established for the purpose of meeting water quantity goals in accordance with the following additional criteria:~~(A) No water right that is owned by a governmental entity shall be purchased or retired by the state or federal government pursuant to CREP; and~~

(B) ~~only water rights in good standing are eligible for inclusion under CREP.~~

(2) ~~To be a water right in good standing:~~

(A) ~~At least 50% of the maximum annual quantity authorized to be diverted under the water right that has been used in any three years within the most recent five-year period preceding the submission for which irrigation water use reports are approved and made available by~~

the division of water resources of the Kansas department of agriculture;

~~(B) the water rights used for the acreage in CREP during the most recent five-year period preceding the submission for which irrigation water use reports are approved and made available by the division of water resources shall not have: (i) Exceeded the maximum annual quantity authorized to be diverted; and (ii) been the subject of enforcement sanctions by the division of water resources; and~~

~~(C) the water right holder has submitted the required annual water use report required under K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years~~

*(1) All acreage that is an authorized place of use of an irrigation water right and is proposed to be enrolled in CREP shall have been irrigated at a rate of not less than 1/2 acre-foot per acre per year for three out of the five years immediately preceding the year that the acreage is offered for enrollment, as determined by the division;*

*(2) the water right or water rights used for the acreage proposed to be enrolled in CREP shall not have been the subject of any sanctions or penalties by the division of water resources that are in effect or pending determination at the time that the acreage is offered for enrollment; and*

*(3) the owner of the water right or water rights for which the acreage that is proposed to be enrolled in CREP is an authorized place of use or the water use correspondent for such water right shall have submitted the annual water use report required pursuant to K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years.*

~~(i)-(j)~~ *(j) The secretary, in consultation with the commission and the Kansas farm service agency office, may grant exceptions to the eligibility criteria outlined in subsections (g)(1) and (g)(2) if the acreage proposed to be enrolled in CREP satisfies one or more of the following conditions:*

*(1) Is located in an area designated as a high-priority area for water conservation pursuant to K.S.A. 2024 Supp. 82a-1044, and amendments thereto;*

*(2) is an authorized place of use of a high flow capacity water well;*

*(3) is an authorized place of use of a water right that was not utilized in accordance with subsection (i)(1) within the timeframe referenced in subsection (i)(1) due to circumstances involving bankruptcy, probate or other legal matters, excluding those related to any enforcement sanctions or penalties by the division of water resources that are in effect or pending determination at the time that the acreage is offered for enrollment in CREP; or*

*(4) is an authorized place of use of a water right that is or has been enrolled in a water conservation program, including, but not limited to, the United States department of agriculture environmental quality incentives program or a water conservation area pursuant to K.S.A. 82a-745, and amendments thereto, or has been assigned a water quantity allocation pursuant to an intensive groundwater use control area designated in accordance with K.S.A. 82a-1036, and amendments thereto, or a local enhanced management area designated in accordance with K.S.A. 82a-1041, and amendments thereto.*

*(k) (1) The Kansas department of agriculture shall, at the beginning of each annual regular session of the legislature, submit a CREP report to the senate committee on agriculture and natural resources and the house committee on agriculture at the beginning of each annual regular session of the legislature and natural resources, and any successor committees, containing a description of program activities for each CREP administered in the state and including. Such report shall include:*

~~(A) The acreage enrolled in CREP during fiscal year 2008 through the most current fiscal year to date the preceding five years;~~

~~(B) the dollar amounts received and expended for CREP during fiscal year 2008 through the most current fiscal year to date the preceding five years; and~~

(C) an assessment of ~~meeting whether~~ each of the program objectives identified in the agreement with the farm services agency; and

~~(D) such other information specified by the Kansas department of agriculture has been met.~~

(2) For ~~a~~ each CREP established with the purpose of meeting water quantity goals, the following *additional* information shall be included in such annual report:

(A) The total *amount of water rights*, measured in acre-feet, ~~retired in CREP from fiscal year 2008 through the current fiscal year to date that was permanently retired in CREP during the preceding five years;~~

(B) the change in groundwater water levels in the CREP area during ~~fiscal year 2008 through the most current fiscal year to date the preceding five years;~~

(C) the *total annual amount of water usage* in the CREP area from ~~fiscal year 2008 through the most current fiscal year to date during the preceding five years;~~ and

(D) the average *annual water use*, measured in acre-feet, ~~for each of the five years preceding enrollment for each water right enrolled under each water right for which an authorized place of use is enrolled in CREP during the preceding five years.~~

~~(j)(l)~~ The Kansas department of agriculture shall submit a report on the economic impact of each specific CREP to the senate committee on agriculture and natural resources and the house of ~~representatives~~ committee on agriculture *and natural resources, and any successor committees*, every five years, ~~beginning in 2017~~. The report shall include economic impacts to businesses located within each specific CREP region.

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

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

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

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

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

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

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

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

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

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

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

~~(k) "Measuring device" includes all weights, scales, beams,~~

~~measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.~~

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

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

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

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

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

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

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

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

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

~~(f) "Electric vehicle supply equipment" means a device with one or more charging ports and connectors for charging electric vehicles. "Electric vehicle supply equipment" includes all charging ports and supporting equipment necessary for the operation thereof and the area in the immediate vicinity of the same, including adjacent parking areas and lanes for vehicle ingress and egress.~~

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

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

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

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

~~(k) "Point-of-sale system" means any combination of a cash~~

*register or other devices, electronic applications, software, online purchasing systems or other systems, such as a scanner, capable of recovering stored information related to the price or computing the price of any individual item that is sold or offered for sale at retail. A "point-of-sale system" may include or be attached or connected to a weighing or measuring device.*

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

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

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

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

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

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

*(r) "Technical representative" means an individual who performs the proper installation, repair, adjustment or calibration and certification of the accuracy of a device used for weighing, measuring or both, dispensing devices or electric vehicle supply equipment.*

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

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

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

Sec. 3. K.S.A. 83-202 is hereby amended to read as follows: 83-202. (a) Except as provided further:

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

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

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

(B) "the uniform laws and regulations of the national conference on weights and measures" published in the national institute of standards and technology handbook 130 regarding packaging and labeling, the method of sale of commodities, national type evaluation regulation, motor fuel inspection and motor fuel regulation, as

published ~~on~~ in December, 1994, or later versions as established in rules and regulations adopted by the secretary;

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

(D) "checking the net contents of packaged goods" published in the national institute of standards and technology handbook 133, third edition, supplement 4, as published ~~on~~ in October, 1994, or later versions as established in rules and regulations adopted by the secretary; and

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

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

Sec. 4. K.S.A. 83-207 is hereby amended to read as follows: 83-207. (a) The secretary of agriculture may adopt rules and regulations necessary for the administration and enforcement of the provisions of ~~chapter 83 of the Kansas Statutes Annotated, and amendments thereto, this chapter~~. As a part of such rules and regulations, the secretary of agriculture shall adopt standards setting forth specifications, tolerances and other technical requirements for all weights, measures and weighing and measuring devices, and point-of-sale systems. These specifications, tolerances and other technical requirements shall conform, insofar as practicable, to the specifications, tolerances and other technical requirements for weights, measures and weighing and measuring devices established by the national institute of standards and technology. The secretary of agriculture shall prescribe by rules and regulations the appropriate term or unit of weight or measure to be used whenever the secretary determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, or numerical count, or combination thereof, does not facilitate value comparisons by consumers; or ~~that~~ such practice offers an opportunity for consumer confusion.

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

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

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

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

Sec. 5. K.S.A. 83-208 is hereby amended to read as follows: 83-208. The secretary, ~~or an authorized representative of the secretary,~~ may, *during normal business hours*, enter any premises or vehicle in or on which any weights, measures, balances ~~or, devices used for weighing, measuring devices or both, dispensing devices or electric vehicle supply equipment,~~ subject to the requirements of this chapter or any related records required pursuant thereto may be located or used ~~for the purposes of trade,~~ for the purpose of inspecting, testing and sealing or rejecting the same *or as otherwise necessary for the administration of this chapter.* ~~Whoever hinders, obstructs, or in any way interferes with the secretary or an authorized representative of the secretary, while in the performance of the inspection, or whoever fails to produce, upon demand by such secretary or authorized representative, all weights, measures, balances or measuring devices in or upon the premises or vehicle of such person or in the possession of such person for use in manufacture or trade, shall be deemed guilty of a class A, nonperson misdemeanor.~~

Sec. 6. K.S.A. 83-214 is hereby amended to read as follows: 83-214. (a) The secretary may try and prove weights, measures, balances and other measuring devices on request for any person, corporation or

institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as the secretary may make, the secretary, or an authorized representative of the secretary, may seal the same with a seal ~~which~~ *that* is kept for that purpose.

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



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	Rate
<del>Large Mass (<math>\geq 1,250</math> lbs through <math>\geq 100</math> lbs, 500 kg through <math>50 \geq</math> kg)</del>	<del>\$16</del>	<del>\$8</del>	<del>\$6</del>	<del>\$20</del>	<del>\$10</del>	<del>\$5</del>	<del>\$20</del>
<del>Medium Mass (<math>&lt; 100</math> lbs through <math>\geq 20</math> lbs, <math>&lt; 50</math> kg through <math>10 \geq</math> kg)</del>	<del>\$6</del>	<del>\$4</del>	<del>\$2</del>	<del>\$10</del>	<del>\$5</del>	<del>\$5</del>	<del>\$30</del>
<del>Small Mass (<math>&lt; 20</math> lbs through <math>\geq 0.001</math> lbs, <math>&lt; 10</math> kg through 1 mg)</del>	<del>\$6</del>	<del>\$4</del>	<del>\$2</del>	<del>\$10</del>	<del>\$5</del>	<del>\$5</del>	<del>\$20</del>
<del>Small Mass Set (<math>\leq 10</math> lbs through <math>\geq 0.001</math> lbs, <math>\leq 5</math> kg through <math>\geq 20</math> mg)</del>	<del>\$35</del>	<del>\$35</del>		<del>\$45</del>	<del>\$45</del>	<del>\$5</del>	<del>\$20</del>
<del>Precision Mass (1,000 lbs through 0.001 lbs, 30 kg through 1 mg) ASTM 2, 3, 4, 5</del>	<del>\$20</del>	<del>\$20</del>		<del>\$30</del>	<del>\$30</del>		<del>\$10</del>
<del>Precision Mass Echelon I (30 kg through 1 mg) ASTM 1 or ASTM 0</del>	<del>\$40</del>	<del>\$40</del>		<del>\$60</del>	<del>\$60</del>		<del>\$25</del>
<del>Extra Large Headhouse Weights (3,000 lbs through <math>&gt; 1,250</math> lbs)</del>	<del>\$40</del>	<del>\$40</del>		<del>\$50</del>	<del>\$50</del>		<del>\$25</del>
<del>Weight Carts (6,000 lbs through 2,000 lbs)</del>	<del>\$80</del>	<del>\$80</del>		<del>\$100</del>	<del>\$100</del>		<del>\$25</del>
<del>Weight Carts (8,000 lbs)</del>	<del>\$200</del>	<del>\$200</del>		<del>\$220</del>	<del>\$220</del>		<del>\$25</del>
<del>Large Volume (100 gal or less)</del>	<del>\$85</del>	<del>\$85</del>		<del>\$100</del>	<del>\$100</del>		<del>\$25</del>
<del>Large Volume (greater than 100 gal and less than or equal to 200 gal)</del>	<del>\$185</del>	<del>\$185</del>		<del>\$200</del>	<del>\$200</del>		<del>\$25</del>
<del>Large Volume (greater than 200 gal and less than or equal to 500 gal)</del>	<del>\$285</del>	<del>\$285</del>		<del>\$300</del>	<del>\$300</del>		<del>\$25</del>
<del>Large Volume (greater than 500 gal)</del>	<del>\$485</del>	<del>\$485</del>		<del>\$500</del>	<del>\$500</del>		<del>\$25</del>
<del>Small Volume (5 gal)</del>	<del>\$50</del>	<del>\$50</del>		<del>\$70</del>	<del>\$70</del>		<del>\$10</del>
<del>Gravimetric Volume (5 gal)</del>	<del>\$180</del>	<del>\$180</del>		<del>\$200</del>	<del>\$200</del>		<del>\$10</del>
<del>Thermometry (<math>-35^{\circ}\text{C}</math> through <math>150^{\circ}\text{C}</math>) (Based on a per point calibration)</del>	<del>\$90</del>	<del>\$75</del>		<del>\$110</del>	<del>\$90</del>		<del>\$40</del>

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

Category	Rate
Large Mass ( $\leq 1,250$ lbs through $\geq 100$ lbs, 500 kg through $50 \geq$ kg)	\$20
Medium Mass ( $< 100$ lbs through $\geq 20$ lbs, $< 50$ kg through $\geq 10$ kg)	\$30
Small Mass ( $< 20$ lbs through $\geq 0.001$ lbs, $< 10$ kg through 1 mg)	\$20
Small Mass Set ( $\leq 10$ lbs through $\geq 0.001$ lbs, $\leq 5$ kg through $\geq 1$ mg)	\$20
Precision Mass (1,000 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

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

Category	Rate
Large Mass ( $\leq 1,250$ lbs through $\geq 100$ lbs, 500 kg through $50 \geq$ kg)	\$20
Medium Mass ( $< 100$ lbs through $\geq 20$ lbs, $< 50$ kg through $\geq 10$ kg)	\$30
Small Mass ( $< 20$ lbs through $\geq 0.001$ lbs, $< 10$ kg through 1 mg)	\$20
Small Mass Set ( $\leq 10$ lbs through $\geq 0.001$ lbs, $\leq 5$ kg through $\geq 1$ mg)	\$20
Precision Mass (1,000 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
Weight Carts (8,000 lbs through 2,000 lbs)	\$100
Large Volume (1,000 gal through 20 gal)	\$100
Large Volume LPG (1,000 gal through 20 gal)	\$100
Small Volume (5 gal)	\$20
Gravimetric Volume (5 gal)	\$20
Thermometry ( $-35^{\circ}\text{C}$ through $150^{\circ}\text{C}$ )(Based on a 2 point calibration)	\$20

Calibration Types and Ranges		Calibration Adjustment	
		Fee	Fee
Mass Echelon III (ASTM Class: 5, 6, 7) (NIST Class: F)	Weight Set, up to 10 lb, up to 5kg up to 10 lb, up to 5 kg	\$120.00/set	\$20.00/pc in the set
(OIML Class: M1, M1-2, M2, M2-3, M3)	over 10 lb up to 50 lb, over 5 kg up to 30 kg over 50 lb up to 1250 lb, over 30 kg up to 500 kg over 1250 lb up to 3000 lb	\$10.00/pc \$25.00/pc \$35.00/pc \$70.00/pc	\$20.00/pc \$50.00/pc \$70.00/pc \$45.00/pc
	Weight Cart, 2500 lb up to 6000 lb Weight Cart, over 6000 lb up to 8000 lb	\$250.00/pc \$350.00/pc	\$170.00/pc \$225.00/pc
Mass Echelon II (ASTM Class: 2, 3, 4) (OIML Class: F1, F2)	up to 1000 lb, up to 500 kg	\$40.00/pc	\$80.00/pc
Mass Echelon I (ASTM Class: 500 lb, up to 30 kg 0, 1) (OIML Class: E1, E2)		\$75.00/pc	\$75.00/pc
Volume Echelon II	5 gal over 5 gal up to 100 gal over 100 gal up to 200 gal over 200 gal up to 500 gal over 500 gal up to 1000 gal over 1000 gal up to 1500 gal LPG, 20 gal up to 100 gal	\$70.00/pc \$240.00/pc \$300.00/pc \$500.00/pc \$900.00/pc \$1200.00/pc \$460.00/pc	Due to the calibration procedure, adjustment is included in the cost of calibration.
Volume Echelon I	Up to 5 gal	\$310.00/pc	\$310.00/pc
Thermometry Echelon IV	$-35^{\circ}\text{C}$ up to $150^{\circ}\text{C}$	\$90.00/point	\$90.00/point

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

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

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

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

approved by the secretary or by a person designated by the secretary.

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

Sec. 7. K.S.A. 83-215 is hereby amended to read as follows: 83-215. (a) The secretary is hereby authorized and empowered to reject *and take out of service* any *device used for weighing or, measuring device which or both that* is found not to conform to state standards or ~~which that~~ is found not to weigh or measure within authorized tolerances.

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

(c) Any weighing or measuring device that has been rejected *and taken out of service* under authority of the secretary shall remain subject to the control of the secretary until such time ~~as that~~ suitable and acceptable repair has been made of the same; or an authorized disposition of the same has been approved. An authorized repair period of use not longer than 30 days for purposes of obtaining a repair of the *device used for weighing or, measuring device or both* by the owner, or a reasonable extension of that period, may be given by the secretary when it is determined that the immediate cessation of use of such ~~weighing or measuring~~ device will work an undue hardship on the person using such device or the patrons of such person. The owner of such rejected ~~weighing or measuring~~ device shall cause the same to be repaired and corrected to weigh or measure within authorized tolerances within 30 days after being rejected, or within such extension as may be authorized, or in lieu thereof, the owner of the same may dispose of or destroy such weighing or measuring device or any rejected weight or measure under specific authority from the secretary.

Sec. 8. K.S.A. 83-216 is hereby amended to read as follows: 83-216. (a) Any weight, measure or *device used for weighing or, measuring device which or both that* has been rejected by the secretary and ~~which~~ has not been repaired or restored to weigh or measure within approved tolerances, during any authorized repair period, is hereby declared to be a common nuisance and a contraband device. The secretary may seal the beam or mechanism out of service on any *device used for weighing or, measuring device, or both* or may take possession of any contraband weight or measure. The secretary shall deliver to the owner or person found in possession of any contraband weight, measure or *device used for weighing or, measuring device or both* a statement giving the location and description of the weight, measure or *device used for weighing or, measuring device or both* so sealed or taken.

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

(c) Procedure in regard to the prevention of the maintenance of a

common nuisance and procedure for the disposal of any *device used for weighing* ~~or, measuring device or both~~ may be ~~had~~ *conducted* in accordance with and in the manner provided for under K.S.A. 41-805 and 41-806, and amendments thereto, and as otherwise authorized by statute.

Sec. 9. K.S.A. 83-217 is hereby amended to read as follows: 83-217. Any person who is liable to an injured person by reason of any inaccurate, false or rejected *device used for weighing* ~~or, measuring device or both~~ shall be assessed and adjudged to pay damages in double the amount of *the* property wrongfully taken or not given; and, in addition thereto, for punitive damages, the additional sum of \$25, and reasonable attorney fees, to be recovered in any court of competent jurisdiction. The selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. A slight variation from the stated weight, measure or quantity, within authorized tolerances, is permissible for individually packaged commodities if such variation is as often over, as it is under, the correct weight, measure or quantity stated.

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

Sec. 11. K.S.A. 83-219 is hereby amended to read as follows: 83-219. (a) It shall be unlawful for any person *to*:

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

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

(A) Buying or selling any commodity or article of merchandise;

(B) computation of any charge for services rendered on the basis of weight or measure; *or*

(C) determining weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

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

(4) ~~to~~ sell, offer or expose for sale; less than the represented quantity of any commodity, thing or service;

(5) ~~to~~ take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) ~~to~~ keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to

any rule and regulation;

(7) ~~to~~ use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from a reasonable customer position;

(8) ~~to~~ violate any of the provisions of *this* chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;

(9) ~~to~~ sell or offer for sale; or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) ~~to~~ dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) ~~to~~ expose for sale, offer for sale or sell any commodity in package form, without ~~it~~ *such commodity* being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;

(12) ~~to~~ expose for sale, offer for sale or sell any commodity in any container ~~where in which~~ the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;

(13) ~~to~~ misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, ~~nor~~ or represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(14) ~~to~~ misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;

(15) ~~to~~ *limit, exclude or otherwise fail to provide access to generic, store brand or less costly versions of products on electronic and online ordering applications or similar systems unless such items are out of stock or unavailable for in-store purchase;*

(16) compute or attempt to compute at the time of sale of an item, a value ~~which that~~ is not a true extension of a price per unit ~~which that~~ is then advertised, posted or quoted;

~~(16)~~(17) ~~to~~ charge or attempt to charge, at the time of the sale of an item or commodity, a value ~~which that~~ is more than the price ~~which that~~ is advertised, posted or quoted;

~~(17)~~(18) ~~to~~ alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;

~~(18)~~(19) ~~to~~ hinder or obstruct *the secretary* in any way ~~the secretary or any of the secretary's authorized agents~~ in the performance of the secretary's official duties under *this* chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder or to fail to produce, upon demand by *the secretary*, all weights, measures, balances, devices used for weighing, measuring or both, dispensing devices or electric vehicle supply equipment that are subject to the provisions of *this* chapter;

~~(19)~~(20) ~~to~~ fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

~~(20)~~(21) ~~to~~ fail to pay all fees and penalties as prescribed by *this* chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

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

~~regulations adopted thereunder~~, and as required by the secretary;

~~(22)(23) to fail to have any commercial weight, measure or device used for weighing and, measuring device or both tested as required by this chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;~~

~~(23)(24) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which that do not bear a statement as to tare and net weight as required by this chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder, or packages or containers which that bear a false statement as to weights;~~

~~(24)(25) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary;~~

~~(25)(26) to violate any order issued by the secretary pursuant to this chapter 83 of the Kansas Statutes Annotated, and amendments thereto; and~~

~~(26)(27) to prohibit a buyer or seller from observing the weighing or operation of any transaction to which such buyer or seller is a party;~~

~~(28) falsely make or alter or cause or procure to be falsely made or altered with intent to defraud, any scale ticket or other written record evidencing or relating to the weight of any personal property or any entry or item thereon; and~~

~~(29) for hire, weigh any vehicle at an attended public scale or issue any scale ticket or other written record evidencing or relating to the weight of such vehicle or the load thereon, unless such scale ticket or written record shows the date, time and place of the weighing and the signature of the weigher.~~

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

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

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

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

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

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

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

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

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

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

conformance.

(c) For the purpose of subsection (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser.

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

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

Sec. 13. K.S.A. 83-221 is hereby amended to read as follows: 83-221. All inspections and tests to inspect, test and seal, certify or reject any dispensing device, ~~as defined in K.S.A. 83-401, and amendments thereto,~~ or the capacity of any vehicle tank used in the transportation of liquefied petroleum gas, motor-vehicle fuels or liquid fuels shall be made in compliance with the provisions of ~~this chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations promulgated thereunder.~~

Sec. 14. K.S.A. 83-222 is hereby amended to read as follows: 83-222. Except as otherwise provided in ~~article 2 of this chapter 83 of the Kansas Statutes Annotated, and amendments thereto,~~ all rules and regulations adopted under the provisions of ~~article 1 of this chapter 83 of the Kansas Statutes Annotated~~ in existence immediately prior to July 1, 1985, shall continue to be effective and shall be deemed to be the rules and regulations of the secretary of agriculture until revised, amended, repealed or nullified pursuant to law.

Sec. 15. K.S.A. 83-224 is hereby amended to read as follows: 83-224. If any part or parts of this ~~act chapter~~ are held to be invalid or unconstitutional by any court, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional part or parts.

Sec. 16. K.S.A. 83-225 is hereby amended to read as follows: 83-225. (a) A licensed service company *or a city or county department of weights and measures* shall be authorized to remove an official rejection tag or other mark placed on a ~~scale device used for weighing, measuring or both, a dispensing device or electric vehicle supply equipment~~ by authority of the secretary for the purpose of testing or repairing any ~~scale such device or equipment.~~

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

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

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

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

amendments thereto, shall apply to violations of this section.

New Sec. 17. (a) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a service company in Kansas shall apply to the secretary for a service company license on a form to be supplied by the secretary and shall obtain such license from the secretary before operating and performing testing or other services as a service company.

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

(c) If any service company maintains any out-of-state places of business that the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of this chapter or any liabilities arising from operations thereunder. Each nonresident service company that does not maintain an established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and list on the application the firm name or names for each place of business from which the service company intends to operate.

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

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

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

(g) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both, have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a calibration certificate for the applicant's weights



or measures issued by the national institute of standards and technology or by a metrology laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

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

New Sec. 18. (a) At any time after notice and opportunity for a hearing are given accordance with the provisions of the Kansas administrative procedure act, the secretary may revoke, suspend, decline to renew or decline to issue a service company license or technical representative's license, when the service company or technical representative has:

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

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

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

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

Sec. 19. K.S.A. 83-304 is hereby amended to read as follows: 83-

304. (a) Except as provided by subsection (e), the owner or operator of a *device used for weighing and measuring device which or both that* is used commercially shall have such ~~weighing and measuring~~ device tested and inspected at least annually for accuracy. The test *and inspection* shall be conducted by either a licensed technical representative employed by a licensed service company or by an authorized representative of any city or county ~~which that~~ has established a department of public inspection of weights and measures pursuant to K.S.A. 83-210, and amendments thereto, or by the secretary, ~~which inspects such weighing and measuring device.~~ *Such tests and inspections shall be conducted* in accordance with the rules and regulations adopted by the secretary. If, upon *such testing and inspection* ~~by the secretary or an authorized representative of the secretary~~, it is found that the ~~weighing and measuring~~ device has not been tested and inspected for accuracy and approved within the preceding 365 days, the secretary ~~or the authorized representative of the secretary~~ shall take the weighing and measuring device out of service pursuant to the provisions of K.S.A. 83-215, and amendments thereto. Except as provided further, the test weights or equipment used by the service company shall have been approved and sealed by the secretary pursuant to K.S.A. 83-214, and amendments thereto, within 365 days preceding the date of the tests. Test weights or equipment ~~which has that~~ have the nominal capacity of 250 pounds or greater, are housed in a grain elevator or similar structure and are used to test scales in grain elevators or similar facilities shall have been approved and sealed by the secretary pursuant to K.S.A. 83-214, and amendments thereto, within three calendar years preceding the date of the test. Except at the option of ~~the~~ a city or county ~~which that~~ has an established department of public inspection of weights and measures, tests and inspections shall be at the expense of the owner or operator of the *device used for weighing and measuring device or both*. In any city or county ~~which that~~ has a department of public inspection ~~which that~~ inspects such *device used for weighing and measuring device or both*, the test may be conducted by an authorized representative of the city or county weights and measures department. Farmers or ranchers who own and operate a weighing and measuring device used in private treaty transactions are exempt from the annual testing requirements. Volumetric provers ~~which that~~ are stationary or ~~which~~ exceed the

testing capacity of the state metrology ~~lab~~ *laboratory* due to engineering design or the capacity of the prover are exempt from the annual testing requirement.

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

~~(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner or operator of a device used for weighing and measuring device which or both that is found to be out of noncompliant with the tolerances or specifications required by this chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder shall, immediately at the time of testing shall, withdraw immediately the weighing and measuring device from further use until the necessary corrections, adjustments or repairs are made and the weighing and measuring device is determined to be accurate by a service company or the, a city or county department of public inspection of weights and measures or an authorized representative of the secretary. Weighing and measuring devices which that have been repaired or serviced shall meet the tolerances and specifications established in this chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and those rules and regulations adopted by the secretary prior to being placed or returned to service. The service company or the city or county department of public inspection of weights and measures shall notify the secretary of any weighing and measuring devices which that are found not to comply with such tolerances and specifications and are thus inaccurate and cannot be adjusted, repaired or serviced so as to comply with the standards and tolerances established in this chapter 83 of the Kansas Statutes Annotated, and amendments thereto. Such notification shall be as required by the secretary, pursuant to rules and regulations. Such notification shall be furnished to the department not later than 10 days after the service company or city or county department of public inspection of weights and measures has found the weighing and measuring device to be in noncompliance with the tolerance and specifications required for such weighing and measuring device. A copy of the report prepared by the service company or city or county department of public inspection of weights and measures or the secretary showing the results of the weighing and measuring device test and the work done to correct any deficiencies shall be filed with the secretary by the service company party who prepared the report.~~

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

to the ~~weighing and measuring~~ device at the site where the measuring and weighing device is used. Such reports shall be legible and maintained in an accessible manner and for a period of time as established by the secretary pursuant to rules and regulations.

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

Sec. 20. K.S.A. 83-305 is hereby amended to read as follows: 83-305. When the secretary ~~has been~~ *finds or is* notified by a licensed service company, ~~by an authorized representative of the secretary or by a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, that a device used for weighing and, measuring device or both~~ does not comply with tolerances and specifications adopted by the secretary, by rule and regulation, then the secretary may test the ~~weighing and measuring~~ device for accuracy after repairs have been made.

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

(b) ~~The city or county department of public inspection of weights and measures or the secretary which conducts tests pursuant to this section, at the time of testing and inspection, shall promptly furnish to the owner or operator a report showing the results of the tests and inspection. Such reports shall also be sent to the secretary, as required by rules and regulations adopted by the secretary, however, no report shall be furnished later than 10 days after the test or inspection of such device has occurred. When tests or inspections are conducted pursuant to this section, a report showing the results of the tests or inspections shall be promptly furnished to the owner or operator. If the tests or inspections were not performed by the secretary, such reports shall also be sent to the secretary as required by rules and regulations adopted by the secretary and not later than 10 days after the test or inspection of such device has occurred.~~

(c) Subject to the provisions of K.S.A. 83-215, and amendments thereto, the owner ~~and~~ or operator of a dispensing device ~~which that~~ is found to be inaccurate at the time of testing shall *immediately* withdraw

~~immediately~~ the device from further use until the necessary corrections, adjustments or repairs are made and the device is determined to be accurate by a service company ~~or the~~, a city or county weights and measures department ~~or an authorized representative~~ of the secretary. ~~The devices which~~ *Dispensing devices that* have been repaired or serviced shall meet the tolerances and specifications adopted by the secretary by rules and regulations. ~~The~~ A service company ~~or the~~ city or county shall notify the secretary of any devices ~~which that~~ are found not to comply with such tolerances and specifications and those ~~which that~~ are not able to be serviced or repaired so as to comply with such tolerances and specifications. ~~The service company shall~~ and report to the secretary within the time frames and in a manner established in rules and regulations adopted by the secretary of any dispensing device ~~which that~~ has been installed, repaired, calibrated or fails to comply with the required tolerances and specifications.

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

Sec. 22. K.S.A. 83-405 is hereby amended to read as follows: 83-405. When the secretary *finds or* is notified by a licensed service company, ~~an authorized representative of the secretary or by~~ a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, that a dispensing device does not comply with tolerances and specifications adopted by the secretary, by rules and regulations, the secretary may test *the dispensing device* for accuracy after repairs have been made.

Sec. 23. K.S.A. 83-501 is hereby amended to read as follows: 83-501. (a) In addition to any other penalty provided by law, any person who violates any provision of ~~chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder~~, *this chapter* may incur a civil penalty imposed under subsection (b) in the amount, fixed by rules and regulations of the secretary of agriculture, of not less than \$100 nor more than \$5,000 for each such violation, and; in the case of a continuing violation, every day *that* such violation continues shall be deemed a separate violation.

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

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

(d) No civil penalty shall be imposed pursuant to this section except upon the written order of the ~~duly authorized agent of the~~ secretary to the person who committed the violation or to the person whose agent or employee committed the violation. Such order shall ~~state the violation, the penalty to be imposed and the right of the person~~

~~to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a *be subject to notice and a* hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.~~

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

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

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

Sec. 24. K.S.A. 2-1933, 83-149, 83-154, 83-155, 83-201, 83-202, 83-207, 83-208, 83-214, 83-215, 83-216, 83-217, 83-218, 83-219, 83-220, 83-221, 83-222, 83-224, 83-225, 83-301, 83-302, 83-303, 83-304, 83-305, 83-308, 83-311, 83-326, 83-401, 83-402, 83-403, 83-404, 83-405, 83-407, 83-409, 83-410, 83-411, 83-501 and 83-502 are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report\_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report\_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*