

## CHAPTER 531

## WEIGHTS, MEASURES, AND STANDARDS

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**531.36 Title.**—This act may be cited as the “Weights and Measures Act of 1971.”

**History.**—s. 1, ch. 72-101.

**531.37 Definitions.**—As used in this chapter:

(1) “Weights and measures” means all weights and 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.

(2) “Weight” in connection with any commodity means net weight.

(3) “Correct” in connection with weights and measures means conformance to all applicable requirements of this chapter.

(4) “Primary standards” means the physical standards of the state which serve as the legal reference from which all other standards, weights, and measures are derived.

(5) “Secondary standards” means the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures.

(6) “Department” means the Department of Agriculture and Consumer Services.

(7) “Person” includes both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.

(8) “Sale from bulk” means the sale of commodities when the quantity is determined at the time of sale.

(9) “Package” means any container or wrapping in which any commodity is enclosed for use in the delivery or display of that commodity to purchasers.

**History.**—s. 1, ch. 72-101.

**531.38 Systems of weights and measures.**—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 this state. The definitions of basic units of weight and measure, the tables of weight and measure, and weight and measure equivalents as published by the National Institute of Standards and Technology are recognized and shall govern weighing and measuring equipment and transactions in the state.

**History.**—s. 1, ch. 72-101; s. 6, ch. 90-320.

**531.39 State standards.**—Weights and measures that are traceable to the United States prototype standards supplied by the Federal Government (Pub. L. No. 89-164, 1965), or approved as being satisfactory by the National Institute of Standards and Technology, shall be the state primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology. In addition, there shall be provided by the state such secondary standards as may be necessary to carry out the provisions of this chapter. The secondary standards shall be verified upon their initial receipt and as often thereafter as deemed necessary by the department.

**History.**—s. 1, ch. 72-101; s. 7, ch. 90-320.

**531.40 Technical requirements for commercial devices.**—The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, as determined by regulations adopted by the department, which regulations shall afford the greatest degree of protection to the public, shall conform to those adopted by the National Institute of Standards and Technology to the extent possible. The department, notwithstanding the provisions of chapter 120, shall have the power to adopt by reference in a regulation or regulations adopted by it the specifications, tolerances, and technical requirements approved by the National Conference on Weights and Measures and published in Handbook 44 of the National Institute of Standards and Technology. The department may, from time to time, adopt such regulations as may be necessary to conform the state standards to those of the National Institute of Standards and Technology, which may be adopted by reference to supplements to, or revisions of, the National Institute of Standards and Technology, Handbook 44.

**History.**—s. 1, ch. 72-101; s. 8, ch. 90-320.

**531.41 Powers and duties of the department.**—The department shall:

(1) Maintain traceability of the state standards to the National Institute of Standards and Technology.

(2) Enforce the provisions of this chapter.

(3) Adopt reasonable rules to implement, interpret, or make specific the provisions of this chapter, which rules shall have the force and effect of law.

(4) Establish, by rule, standards of weight, measure, or count and reasonable standards of fill for any commodity in package form, as necessary.

(5) Make, by rule, any exemptions from the provisions of this chapter when appropriate to the maintenance of good commercial practices within this state.

(6) Conduct investigations necessary to ensure compliance with this chapter.

(7) Delegate to appropriate personnel all duties and responsibilities necessary for the proper administration of this chapter.

(8) Test annually the standards of weight and measure used by any city or county and approve the same when found to be correct and reject same when found to be incorrect.

(9) Have the authority to inspect and test all weights and measures kept or offered or exposed for sale.

(10) Inspect and test, to ascertain if they are correct, all weights and measures commercially used:

(a) In determining the weight, measure, or count of commodities or things sold or offered or exposed for sale, on the basis of weight, measure, or count; or

(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

In compliance with rules of the department, tests may be made on representative samples of such devices, and the lots of which samples are representative shall be held to be correct or incorrect on the basis of the results of the inspection and tests of such samples.

(11) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which funds are appropriated by the Legislature of this state.

(12) Approve for use, and mark, the weights and measures it finds to be correct, and reject and order to be corrected the weights and measures it finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the timeframe as determined by departmental rule, or if used or disposed of in a manner not specifically authorized by the department. The department shall condemn, and may seize, weights and measures found to be incorrect that are not capable of being made correct.

(13) Weigh, measure, or inspect packaged commodities kept or offered or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept or offered or exposed for sale in accordance with this chapter or the rules adopted pursuant thereto. In carrying out the provisions of this subsection, the department may employ recognized sampling procedures that are designated in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods."

(14) Prescribe, by rule, the appropriate term or unit of weight or measure to be used, whenever it determines in the case of a specific commodity that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion.

(15) Inspect and test every grain moisture measuring device used to determine the moisture of corn, soybeans, and grains offered for sale, sold, purchased, or in the process of being purchased. The department shall also have authority to establish tolerances and specifications for the accuracy and condition of these devices.

The provisions of this chapter and rules adopted thereunder notwithstanding, scales routinely used by providers of weight control services shall not be considered commercial weights and measures when used to determine human weight or to compute charges or payments for services rendered by such providers on the basis of said weight, measure, or count.

**History.**—s. 1, ch. 72-101; s. 1, ch. 77-217; s. 9, ch. 90-320; s. 3, ch. 91-275; s. 10, ch. 91-294; s. 81, ch. 92-291.

**531.415 Fees.—**

(1) The department shall charge and collect the following fees for actual metrology laboratory calibration and testing services rendered:

(a) For each mass standard that is tested or certified to meet tolerances less stringent than American National Standards Institute/American Society for Testing and Materials (ANSI/ASTM) Standard E617 Class 4, the department shall charge a fee of not more than:

Weight	Fee/Unit
0 - 2 lb.	\$6
3 - 10 lb.	\$8
11 - 50 lb.	\$12
51 - 500 lb.	\$20
501 - 1000 lb.	\$30
1001 - 2500 lb.	\$40
2501 - 5000 lb.	\$50

(b) For each mass standard that is tested or certified to meet ANSI/ASTM Standard Class 4 or National Institute of Standards and Technology Class P tolerances, the department shall charge a fee of not more than:

Weight	Fee/Unit
0 - 10 lb.	\$20
11 - 50 lb.	\$30
51 - 500 lb.	\$40
501 - 1000 lb.	\$50
1001 - 2500 lb.	\$60
2501 - 5000 lb.	\$75

(c) For each mass standard that is calibrated to determine actual mass or apparent mass values, the department shall charge a fee of not more than:

Weight	Fee/Unit
0 - 20 lb.	\$40
21 - 50 lb.	\$50
51 - 1000 lb.	\$70
1001 - 2500 lb.	\$150
2501 - 5000 lb.	\$250

(d) For each volumetric flask, graduate, or test measure, the department shall charge a fee of not more than:

Vessel	Fee/Test Point
0 - 5 gal.	\$35
Over 5 gal.	Plus \$0.75 for each additional gallon

(e) For each linear measure that is tested or certified, the department shall charge a fee of not more than \$75.

(f) For each linear measure that is calibrated to determine actual values, the department shall charge a fee of not more than \$100.

(g) For each liquid-in-glass or electronic thermometer that is tested or certified, the department shall charge a fee of not more than \$50.

(h) For each liquid-in-glass or electronic thermometer that is calibrated to determine actual values, the department shall charge a fee of not more than \$100.

(i) For each special test or special preparation, the department shall charge a fee of not more than \$50 per hour.

(2) Each fee is payable to the department at the time the testing is done, regardless of whether the item tested is certified. The department may refuse to accept for testing any item deemed by the department to be unsuitable for its intended use. The department shall deposit all fees collected under this section into the General Inspection Trust Fund.

(3) The department shall notify the Legislature when the fees provided in this section are no longer sufficient to cover the direct and indirect costs of tests and calibrations described in this section.

(4) Any petroleum product taxed under s. 525.09 and any petroleum equipment owned by a person licensed pursuant to chapter 206 is exempt from the fees established in this section.

**History.**—s. 5, ch. 93-142.

**531.42 Special police powers.**—With respect to the enforcement of this chapter and rules pursuant thereto, the department is:

(1) Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale, or sold in violation of the provisions of this chapter or rules adopted pursuant thereto.

(2) Authorized to enter any commercial premises during normal business hours for the purpose of performing its duties.

(a) In the event that such premises, or part thereof, are not open to the public, the representative of the department shall first present his credentials before seeking entry thereto.

(b) Any person refusing authorized entry is in violation of this chapter and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Such fine shall not be construed to be an elected alternative negating the authority to enter the establishment.

(c) In the event that such entry is denied, the representative of the department may apply for a search warrant from any person authorized to issue the same.

(3) On probable cause of violation of this chapter, empowered to stop any commercial vehicle, and the representative of the department may, after presentation of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents, and require him to proceed with the vehicle to some specified place for inspection. Any person refusing such inspection or failing to comply with any proper instruc-

tions is in violation of this chapter and shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Such fine shall not be construed to be an elected alternative negating the authority to stop the vehicle, inspect the contents, or order that it be taken to a specified place.

(4) Empowered to issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept or offered or exposed for sale.

**History.**—ss. 1, 1A, ch. 72-101.

**531.421 Powers and duties of local officials.**—Any weights and measures official appointed for a county or city may exercise, in cooperation with the state, the duties enumerated in s. 531.41(9)-(13) and the powers enumerated in s. 531.42. These powers and duties shall extend to their respective jurisdictions, except that the jurisdiction of a county official shall not extend to any city for which a weights and measures official has been appointed.

**History.**—s. 1, ch. 72-101.

**531.43 Misrepresentation of quantity.**—No person shall sell or offer or expose for sale less than the quantity he represents, nor take any more than the quantity he represents, when, as buyer, he furnishes the weight or measure by means of which the quantity is determined.

**History.**—s. 1, ch. 72-101.

**531.44 Misrepresentation of pricing.**—No person shall misrepresent the price of any commodity or service sold or offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of a fraction shall be prominently displayed, and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of, the numerals representing the whole cent.

**History.**—s. 1, ch. 72-101.

**531.45 Method of sale.**—Except as otherwise provided by rule of the department, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by area or volume measure, or by count, so long as the method of sale provides accurate quantity information.

**History.**—s. 1, ch. 72-101.

**531.46 Bulk sale.**—Bulk sales in excess of \$20 shall be accompanied by a delivery ticket containing the following information:

(1) The name and address of the vendor and purchaser;

(2) The date delivered;

(3) The net quantity delivered and the net quantity upon which the price is based, if this differs from the delivered quantity;

(4) The identity of commodity in the most descriptive terms commercially practicable including any quality representation made in connection with the sale; and

(5) The count of individually wrapped packages, if there are more than one of such packages.

**History.**—s. 1, ch. 72-101.

**531.47 Information required on packages.**—

Except as otherwise provided in this chapter or by rules adopted pursuant thereto, any package introduced in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

(1) The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container.

(2) The net quantity of contents in terms of weight, measure, or count.

(3) The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept or offered or exposed for sale or sold in any place other than on the premises where packed.

**History.**—s. 1, ch. 72-101.

**531.48 Declarations of unit price on random packages.**—

In addition to the declarations required by s. 531.47, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

**History.**—s. 1, ch. 72-101.

**531.49 Advertising packages for sale.**—Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. When a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

**History.**—s. 1, ch. 72-101.

**531.50 Offenses and penalties.**—

(1) Any person who willfully and knowingly violates the provisions enumerated in subsection (2) or any provision of this chapter or rules adopted pursuant thereto for which a specific penalty has not been prescribed

shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Upon a subsequent conviction, he shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) No person shall:

(a) Use, or have in possession for use, in commerce any weight or measure not approved or corrected as provided in s. 531.41(12).

(b) Use or dispose of any rejected or condemned weight or measure without specific authorization from the rejecting authority.

(c) Remove any mark of rejection from a rejected weight or measure without specific authorization from the rejecting authority.

**History.**—ss. 1, 1A, ch. 72-101.

**531.51 Injunction.**—The department is authorized, without bond, to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter.

**History.**—s. 1, ch. 72-101.

**531.52 Presumptive evidence.**—Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place.

**History.**—s. 1, ch. 72-101.

**531.53 Regulations to be unaffected by repeal of prior enabling statute.**—The enactment of this chapter or any of its provisions shall not affect any rule adopted pursuant to the authority of any earlier enabling statute unless inconsistent with this chapter or modified or revoked by rule of the department.

**History.**—s. 1, ch. 72-101.

**531.54 Salaries and expenses of enforcement.**—All expenses incident to, and incurred in, the administration and enforcement of this chapter, including the salaries and expenses of such persons as the department shall designate or employ as inspectors for that purpose, shall be paid from the General Inspection Trust Fund of the state in the same manner as other state salaries and expenses are paid.

**History.**—s. 1, ch. 72-101.