

CHAPTER 47B

SCALES, INSTRUMENTS AND DEVICES; WEIGHTS AND MEASURES

Authority

N.J.S.A. 51:1-61.

Source and Effective Date

R.2004 d.216, effective May 14, 2004.
See: 36 N.J.R. 914(a), 36 N.J.R. 2788(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 47B, Scales, Instruments and Devices; Weights and Measures, expires on November 10, 2009. See: 41 N.J.R. 1671(a).

Chapter Historical Note

Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was originally codified in Title 13 as Chapter 62, Scales, Instruments and Devices; Weights and Measures. Chapter 62 was filed and became effective prior to September 1, 1969.

Chapter 62, Scales, Instruments and Devices; Weights and Measures, was recodified as N.J.A.C. 13:47B, effective June 15, 1975.

Pursuant to Executive Order No. 66(1978), Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was readopted as R.1984 d.6, effective January 4, 1984. See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a). Pursuant to Executive Order No. 66(1978), Chapter 47B expired on January 4, 1989.

Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was adopted as new rules by R.1989 d.112, effective February 21, 1989. See: 20 N.J.R. 2856(a), 21 N.J.R. 446(b).

Pursuant to Executive Order No. 66(1978), Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was readopted as R.1994 d.124, effective February 10, 1994. See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).

Pursuant to Executive Order No. 66(1978), Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was readopted as R.1999 d.82, effective February 10, 1999. See: 31 N.J.R. 27(b), 31 N.J.R. 770(a).

Chapter 47B, Scales, Instruments and Devices; Weights and Measures, was readopted as R.2004 d.216, effective May 14, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL WEIGHING AND MEASURING DEVICES

13:47B-1.1 Liquid measuring devices

(a) Dealers using gasoline pumps and other automatic liquid measuring devices for the sale of gasoline and similar liquid fuels shall obtain a proper standard measure in a capacity of five gallons, for the purpose of making tests to ascertain whether the device is delivering the correct quantity.

(b) Tests must be made before the next sale of gasoline and similar liquid fuels if the liquid measuring system loses its prime or malfunctions.

Administrative Correction.

See: 14 N.J.R. 1315(b).
Amended by R.1994 d.124, effective March 7, 1994.
See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).
Public Notice: Notice of Petition to amend section.
See: 27 N.J.R. 2977(c).
Amended by R.1997 d.182, effective April 21, 1997.
See: 28 N.J.R. 5143(a), 29 N.J.R. 1512(a).

In (b), substituted "next sale of gasoline ... or malfunctions" for "first sale each day, and also prior to using a new supply of liquid".

13:47B-1.2 Length measuring devices

The use of counter tacks as linear measures is forbidden in this State and all measures of length shall be in conformance with the requirements set forth in the National Institute of Standards and Technology Handbook 44, Specifications, tolerances and other technical requirements for weighing and measuring devices.

Amended by R.1994 d.124, effective March 7, 1994.
See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).

13:47B-1.3 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.
See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

13:47B-1.4 Liquid measure containers

(a) All containers such as cartons, pails, boxes or similar containers composed of cardboard, paper or other similar

materials, of every type and description whatsoever, used in the State of New Jersey for the sale of ice cream, ices or kindred frozen products, or for liquid or semi-liquid commodities customarily sold or offered for sale by liquid measure, shall be of legal standard capacities of one gallon, a multiple of the gallon or a binary submultiple of the gallon; that is, a measure by dividing the gallon by the number two or by a power of the number two; provided, however, that nothing in the Section shall be construed to prevent the use of containers for ice cream exclusively, in five pint or three pint sizes.

(b) Containers of the following standard capacities only may, therefore, be employed: one gallon, 2½ quarts, two quarts, 1½ quarts, one quart, one pint, ½ pint and one gill. All containers shall have conspicuously stamped, printed or indelibly expressed on the outside thereof the capacity in terms of liquid measure only, together with the name and address of the manufacturer.

Amended by R.1984 d.6, effective February 6, 1984.

See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

Clarifies language and provides for metric sizes for liquid measure containers.

13:47B-1.5 Type approval

(a) All new types of weighing and measuring devices of any description whatsoever and all devices of older types to which may be added any alteration or new feature intended or designed as an improvement to such equipment shall, before distribution or installation thereof in the State of New Jersey, be submitted by the manufacturer thereof to the State Superintendent of Weights and Measures for inspection and approval of type and operation, except as provided in (a)1 below.

1. Weighing and measuring devices approved by the National Institute of Standards and Technology (NIST), National Type Evaluation Program (NTEP) need not be submitted for prior inspection and approval of type and operation; however, the Superintendent reserves the right to require the manufacturer to submit a prototype for evaluation at any time for cause.

(b) The provisions of this Section shall be construed to include and apply to all weighing and measuring equipment designed for the determination of quantities in commodities sold or offered for sale in this State, or for the determination of quantities where service is sold or offered for sale on the basis of weight or measurement.

(c) No weighing or measuring device as indicated shall be permitted to be sold or leased for use in the State of New Jersey unless submitted for inspection and approved by said State Superintendent of Weights and Measures as specified in (a) above and any equipment distributed or installed contrary to the provisions of this section shall be subject to condemnation.

Amended by R.1994 d.124, effective March 7, 1994.

See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).

Amended by R.1995 d.140, effective March 6, 1995.

See: 26 N.J.R. 4966(a), 27 N.J.R. 929(a).

Amended by R.1999 d.82, effective March 15, 1999.

See: 31 N.J.R. 27(b), 31 N.J.R. 770(a).

In (a), substituted "or" for "of" following "alteration", deleted "(Trenton) Avenel, New Jersey" following "Measures" and added "except as provided in (a)1 below" at the end of the introductory paragraph, and added 1.

Amended by R.2004 d.216, effective June 7, 2004.

See: 35 N.J.R. 914(a), 36 N.J.R. 2788(a).

In (a)1, substituted "Weighing and measuring devices" for "Scales having a maximum capacity of 100 pounds or less and".

13:47B-1.6 Location of commercial weighing equipment

(a) All weighing equipment of every kind whatever used for quantity determination in the sale of commodities to the purchasing public, in commercial establishments or in connection with any commercial enterprise in the State of New Jersey shall be so placed or located as to be in full view of the customer at all times and in such position as to facilitate the reading of charts, dials, and similar equipment with which scales may be equipped, or for observing the balance where scales are of such type in which balance is a factor or correct weighings.

(b) The purpose of this section is to eliminate the locating of scales on back counters in commercial establishments, where the results of weighings may not be easily read or determined, or in position where the movements of the person operating the scale or performing the weighing may not be readily observed.

13:47B-1.7 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.

See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

13:47B-1.8 (Reserved)

Repealed, R.1984 d.6, effective February 6, 1984.

See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

Section was "Obsolete gasoline pumps."

13:47B-1.9 Portable self-contained vehicle scales

(a) A "portable self-contained vehicle scale" is defined as a portable self-contained scale enclosed and supported by its own frame marketed as a complete weighing unit adapted to weighing highway and off-highway vehicles. The indicating element may be packaged separately which element is attached and connected at the installation site.

(b) Except as hereinafter provided the use of a portable self-contained vehicle scale is hereby prohibited for determinations of weight for all commercial purposes.

(c) The use of portable self-contained vehicle scales may be permitted on construction projects where a contract requires on-site weighings; and where the weighings are performed by a New Jersey Weighmaster appointed pursuant to N.J.S.A. 51:1-74; and subject to the following requirements:

1. No scale may be placed into operation until approved by the State Superintendent in accordance with N.J.S.A. 51:1-83; and

2. The use of the scale is limited to a maximum of six months at any one location; and

3. The scale is securely bolted to a foundation; and

4. The installation is constructed pursuant to the National Institute of Standards and Technology Handbook 44, section 2.20, Scales, paragraph UR. 2.6.1(c) incorporated by reference in N.J.A.C. 13:47B-1.20. The standard may be obtained by contacting the United States Department of Commerce, National Institute of Standards and Technology, PO Box 4025, Gaithersburg, MD 20899; and

5. The indicating element must be protected from all environmental effects; and,

6. The scale is to be checked and inspected by a mechanic licensed pursuant to N.J.S.A. 51:1-114 when installed at each site; and,

7. The scale shall be inspected at a minimum of once daily to ensure that it is operating properly.

(d) A penalty incurred in violation of this regulation may be enforced pursuant to N.J.S.A. 51:1-83, or 51:1-89, or 51:1-93, or any or all of these sections.

Amended by R.1979 d.192, effective May 14, 1979.

See: 11 N.J.R. 201(a), 11 N.J.R. 298(b).

Amended by R.1999 d.82, effective March 15, 1999.

See: 31 N.J.R. 27(b), 31 N.J.R. 770(a).

In (c), substituted a reference to requirements for a reference to limitations in the introductory paragraph, deleted "without the approval of the State Superintendent" following "location" in 2, deleted "concrete" preceding "foundation" in 3, and rewrote 4.

Amended by R.2004 d.216, effective June 7, 2004.

See: 36 N.J.R. 914(a), 36 N.J.R. 2788(a).

In (c), deleted "(1998 Edition), which is" following "paragraph UR. 2.6.1(c)", inserted the N.J.A.C. reference in 4, and substituted "at a minimum of once daily to ensure" for "on a minimum of one daily to insure" in 7.

13:47B-1.10 Household scales

(a) No "overload" type of spring scale or balance, commonly known as "household" scales, shall be used or employed in any commercial establishment in New Jersey for the weighing of any commodity sold to the purchasing public.

(b) No such "household" scale shall be sold or offered for sale by any manufacturer, vendor or vendors of such devices, for any use or service whatsoever, unless the dial or reading face is plainly and conspicuously marked with the wording: "Not Legal For Use In Trade"; it being provided that such scales may be sold or offered for sale for household use only.

(c) Any such scale found in commercial use at any store, stand, business establishment, or on any vehicle, from which

commodities are sold or offered for sale, shall be subject to immediate condemnation and confiscation.

13:47B-1.11 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.

See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

13:47B-1.12 Wagon scales

All weighings of motor vehicles, with or without load contents thereof made on wagon-type platform scales, shall not exceed 60 per cent of the represented or beam capacity of the scales.

13:47B-1.13 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.

See: 9 N.J.R. 588(a), 10 N.J.R.(c).

13:47B-1.14 Uncompensated spring scales

(a) Spring scales not equipped with a device intended to compensate for changes in the elasticity of the springs due to temperature effects or not so designed as to be substantially independent of such changes shall not be used in the retail sale of foodstuffs other than fruits and vegetables.

(b) The following legend shall be plainly, conspicuously and permanently marked on all uncompensated spring scales in commercial service:

"LEGAL FOR FRUITS AND VEGETABLES—ILLEGAL FOR OTHER FOODS."

(c) The provision of this section shall be nonretroactive.

Amended by R.1984 d.6, effective February 6, 1984.

See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

Amended to prohibit use of uncompensated spring scales to sale of fruits and vegetables and provide for use limitation marking.

13:47B-1.15 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.

See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

13:47B-1.16 Inspection certificates

(a) Certificates of inspection issued by any State, county or municipal weights and measures officer of New Jersey at the time of his inspection of any weighing or measuring devices shall be retained by the owner or user of said devices in evidence of the condition of the equipment so inspected or tested.

(b) Such certificates shall be available at the place of business of the owner or user where the weighing or measuring devices are installed or carried on the vehicle on which any weighing or measuring devices are employed in the vending of commodities.

(c) Such certificates shall be considered as the official authority for the use of such devices in conjunction with the seal applied at the time of inspection.

Amended by R.1994 d.124, effective March 7, 1994.
See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).

Case Notes

Admissibility of inspection certificate of accuracy. *State v. Kalafat*, 134 N.J.Super. 297, 340 A.2d 671 (App.Div.1975).

13:47B-1.17 Hanging scales

(a) All hanging-type spring scales used in commercial establishments for the weighing of commodities as sold to the purchasing public shall be so positioned or hung that the maximum height or distance from the floor or ground to the top of the scale pan or plate shall not exceed 48 inches.

13:47B-1.18 (Reserved)

Repealed, R.1984 d.6, effective February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

This section previously contained material entitled "scale legend."

13:47B-1.19 Alteration gasoline dispensers

(a) Upon the conversion of any gasoline dispensing device, altering or changing its basic design, the official State approval as granted to original manufacturer, pursuant to N.J.S.A. 51:1-93 will be rescinded for the device so converted, altered or changed, and the responsibility for the converted unit and multiples thereof will then repose in the converter.

(b) Notifications to weights and measures officers of the installation of altered gasoline dispensing devices pursuant to N.J.S.A. 51:1-93 shall be so worded as to clearly indicate that the device or devices have been converted.

Amended by R.1984 d.6, effective February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

Controls alteration of commercial gasoline dispensers; provides for notification of alterations.

13:47B-1.20 National Institute of Standards and Technology Handbook 44

All specifications, tolerances and other technical requirements for weighing and measuring devices contained in the National Institute of Standards and Technology Handbook 44, 2001 edition and all future editions together with all amendments and supplements thereto, adopted by the National Conference on Weights and Measures are hereby adopted and promulgated as the legal requirements for all weighing and measuring devices used for commercial purposes and law enforcement in the State of New Jersey; provided, however, that the Superintendent of the Office of Weights and Measures of the Division of Consumer Affairs, Department of Law and Public Safety may from time to time further amend or supplement said specifications, tolerances and other technical requirements for the purpose of conforming the needs of any situation affecting the interests of the State and its people.

Amended by R.1978 d.56, effective February 21, 1978.
See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

Amended by R.1979 d.11, effective January 10, 1979.
See: 10 N.J.R. 556(a), 11 N.J.R. 78(c).
Amended by R.1984 d.6, effective February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).
Amended by R.1985 d.636, effective December 16, 1985.
See: 17 N.J.R. 2233(a), 17 N.J.R. 2993(a).
Amended by R.1994 d.124, effective March 7, 1994.
See: 25 N.J.R. 5102(a), 26 N.J.R. 1235(a).
Amended by R.1999 d.82, effective March 15, 1999.
See: 31 N.J.R. 27(b), 31 N.J.R. 770(a).

Substituted "1998 edition" for "1993 edition" following "Handbook 44."

Amended by R.2004 d.216, effective June 7, 2004.

See: 36 N.J.R. 914(a), 36 N.J.R. 2788(a).

Substituted "2001 edition" for "1998 edition" following "Handbook 44."

Case Notes

National Bureau of Standards regulations prohibiting insertion of a delivery ticket into a fuel meter equipped with a ticket printer until immediately prior to delivery were adopted by State Superintendent of Weights and Measures through this rule. *State v. Boone*, 154 N.J.Super. 36, 380 A.2d 1158 (App.Div.1977), certification denied 77 N.J. 493, 391 A.2d 507 (1978).

13:47B-1.21 (Reserved)

Amended by R.1978 d.56, effective February 21, 1978.
See: 9 N.J.R. 588(a), 10 N.J.R. 121(c).

13:47B-1.22 (Reserved)

Amended by R.1984 d.6, effective February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).
Repealed by R.1987 d.173, effective April 6, 1987.
See: 18 N.J.R. 2116(a), 19 N.J.R. 552(b).

This section "Approaches to vehicle scales" has been repealed.

13:47B-1.23 (Reserved)

R.1979 d.268, effective July 10, 1979.
See: 11 N.J.R. 401(a).
Amended by R.1979 d.335, effective August 22, 1979.
See: 11 N.J.R. 522(a).
Repealed, R.1984 d.6, effective February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).

This section formerly contained material entitled "Half price sales of gasoline."

13:47B-1.24 Registry for security sealing devices

(a) "Licensed repairman" means any person engaging in the partial or complete constructing and reconstructing, repairing, altering, installing or adjusting of any weight or measure or any weighing and measuring device, used in trade or commerce, in New Jersey, as set forth in N.J.S.A. 51:1-113 et seq.

(b) "Security sealing device" means any mechanical device used to block or prevent entry to the adjustable elements of any weight or measure or any weighing and measuring device used in trade or commerce in New Jersey.

(c) "Weights and measures and weighing or measuring devices" means a "weight or measure" or "weights and measures" as set forth and defined by N.J.S.A. 51:1-2.

(d) The State Superintendent of Weights and Measures, in the Division of Consumer Affairs, Department of Law and Public Safety, State of New Jersey, shall design and adopt an official registry for security sealing devices. Said registry shall be used to issue to any and all licensed repairmen a distinct and individual combination of letters and numerals which will be that licensed repairman's registry mark.

(e) All licensed repairmen shall incorporate his or her registry mark into and upon any security sealing device affixed by that licensed repairman to any weights or measures or weighing and measuring device partially or completely constructed, repaired, altered, installed or adjusted by said licensed repairman.

(f) No weighing or measuring device shall be permitted to be used for any commercial purpose unless the device's adjustable elements are blocked and sealed by a security sealing device bearing the registry mark of a licensed repairman or that of a weights and measures officer.

(g) Any licensed repairman who shall issue a false certificate of inspection and test of a commercial weight or measure or weighing or measuring device or who shall delegate his or her authority or registry mark, to any person, shall be subject to the revocation or suspension of his or her license as provided in N.J.S.A. 51:1-122, including a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(h) Any violation of or noncompliance with the provisions of this section shall subject the violator thereof to the penalties authorized by N.J.S.A. 51:1-113, et seq.

New Rule R.1985 d.638, effective December 16, 1985.
See: 17 N.J.R. 2234(a), 17 N.J.R. 2993(b).
Amended by R.1989 d.112, effective February 21, 1989.

See: 20 N.J.R. 2856(a), 21 N.J.R. 446(b).
Added text to (g) "including a hearing . . .".

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. PENALTIES

13:47B-3.1 Penalties

Any violation of or noncompliance with any of the provisions of this chapter shall subject the violator to a penalty as prescribed by the provisions of N.J.S.A. 51:1-89.

As amended, R.1984 d.6, eff. February 6, 1984.
See: 15 N.J.R. 1925(a), 16 N.J.R. 249(a).
Provides penalties for non-compliance.

SUBCHAPTER 4. GENERAL PROVISIONS

13:47B-4.1 Minimum training requirements; weights and measures officer

No person appointed as a State, county, or municipal weights and measures officer will be provided with a badge and/or credentials pursuant to N.J.S.A. 51:1-64 until such time as the appointee has qualified through a course in "basic weights and measures" conducted under the direction of the State Superintendent.

R.1975 d.273, eff. September 17, 1975.
See: 7 N.J.R. 339(b), 7 N.J.R. 482(d).