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PUBLIC HEARING

on

SENATE BILLS NOS. 274, 327 and 328
[Weights and Measures]

before

SENATE BUSINESS AFFAIRS COMMITTEE

Held:

Assembly Chamber
State House
Trenton, New Jersey
June 3, 1966

MEMBERS OF COMMITTEE PRESENT:

Senator A. Donald Bigley [Chairman]

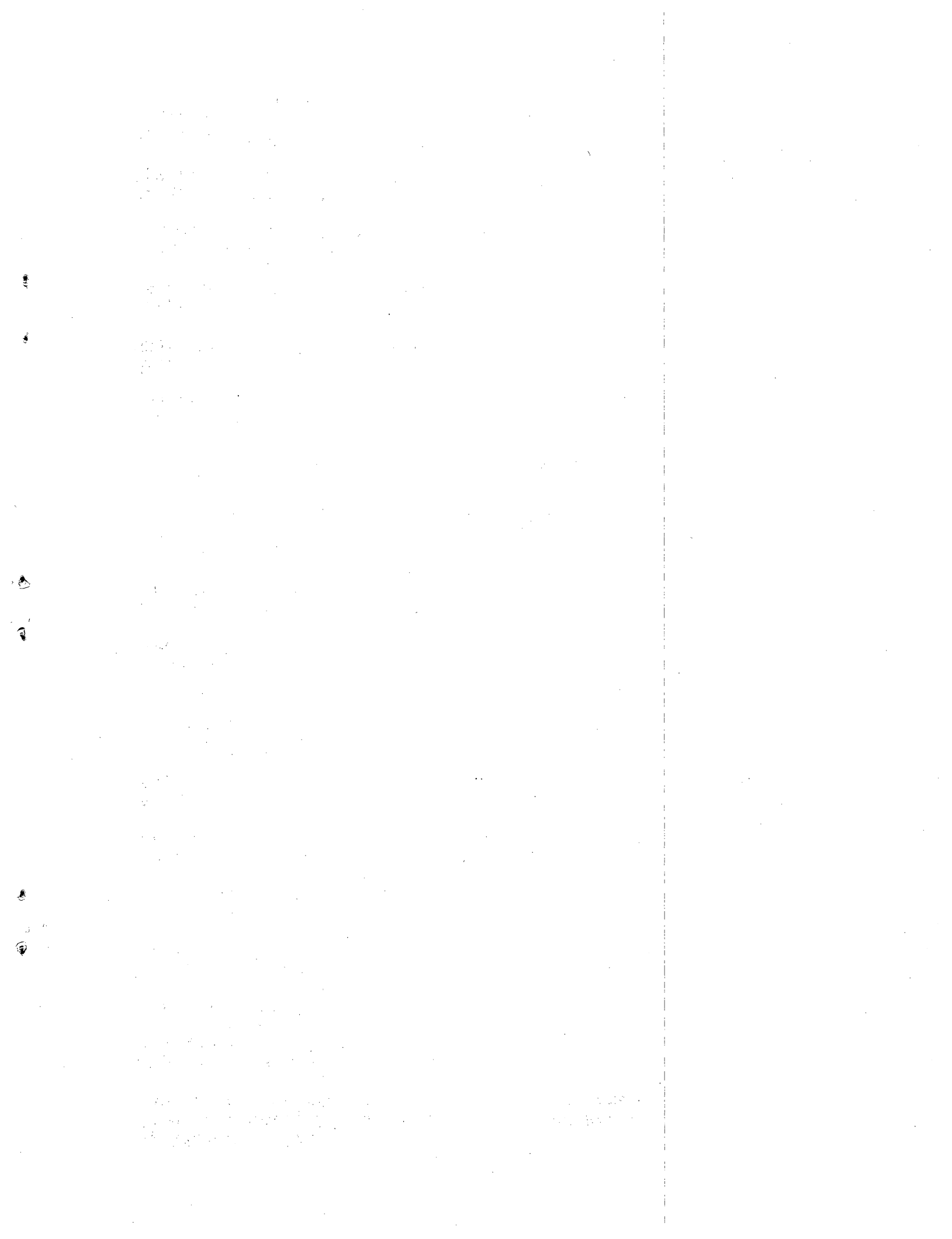
Senator Joseph M. Keegan

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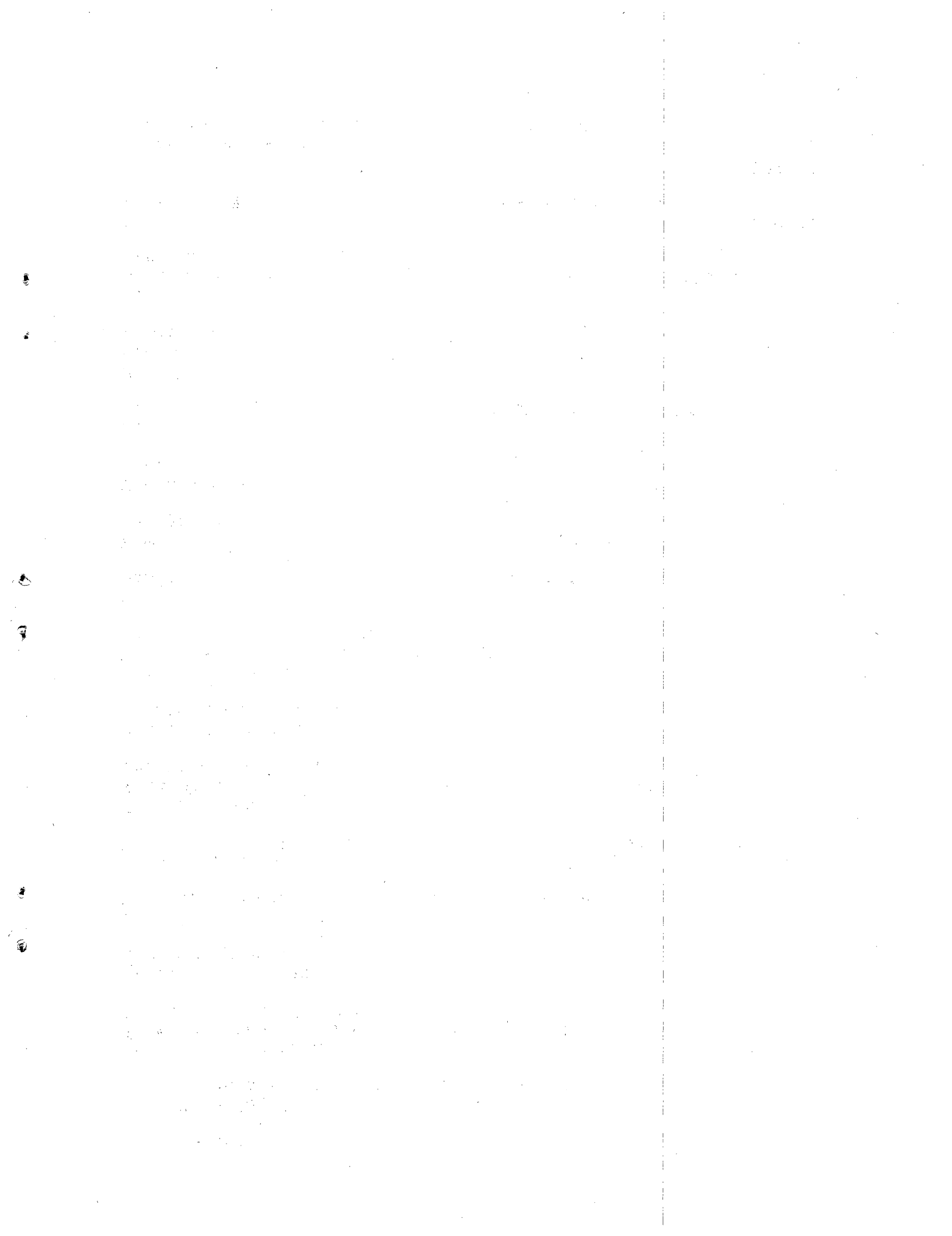
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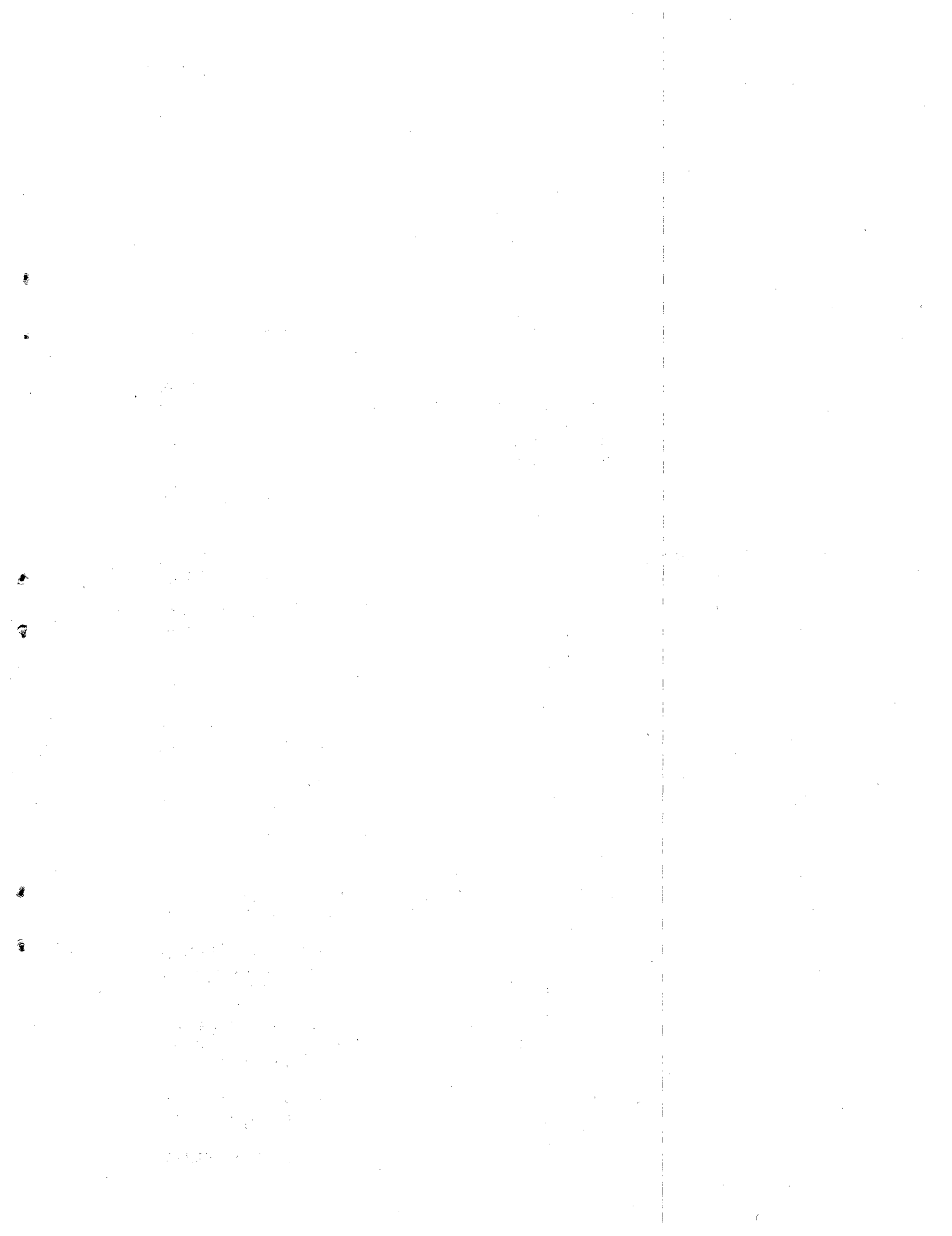
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SENATOR A. DONALD BIGLEY (Chairman): Gentlemen, we are about to commence. Senator Keegan and I, and I am Senator Bigley, will be hearing this. We will be alternating inasmuch as I am still hearing some claims downstairs. Senator Keegan will stay as long as he can and when his time is up I will come up and continue the hearing.

It has been suggested, and I think it is a good suggestion, that those of you who are going to testify and are going to read from prepared statements submit the prepared statements to us and then it will not be necessary, unless you so desire, to read the entire statement.

I think that you see in the room there is a great interest from various aspects of the pros and cons in this bill and the related other two bills.

We will handle all of the bills at the same time. I would think that most of you would be interested in S-274. So to start off, those of you who do have prepared statements, if you would hand them in at this time for the record, we certainly would appreciate that. They will be placed in the record and given consideration by the full committee when the transcripts are available.

(Statements filed with Committee)

Of course, we are not precluding anyone who wishes to make a statement.

We are going to start off with, as the lead off hitter, Mr. Wolfe who is the State Association man.

SENATOR KEEGAN: Will you please identify yourself for the record?

W I L L I A M J. W O L F E: I am William J. Wolfe, Sr., State Superintendent, Division of Weights and Measures, Department of Law and Public Safety, State of New Jersey.

Senator Bigley and Senator Keegan, I have submitted my remarks and I feel that you can use the time for any remarks here that anyone would want to make on Senate Bills 274, 327 or 328.

That's all, Senator.

SENATOR BIGLEY: Thank you, Mr. Wolfe.

SENATOR KEEGAN: If I may, and if you would note, Mr. Wolfe, of course, as the State Superintendent and myself as sponsor of the bill have conferred and you can go along with the supposition, gentlemen and ladies, that the sponsor and the Superintendent are familiar with the contents of the three measures.

If you would, in making presentations, I think everyone understands that the purpose here at the public hearing is to give everyone an opportunity to present their views on these measures. Neither Mr. Wolfe nor myself, as sponsor, intend to engage in any colloquy with anyone making a presentation. And I am informed that Mr. Wolfe has other appointments and certainly I, as the sponsor, excuse him, but if you will note and keep in mind that the presentation you make is part of the record of the Committee and those of you who are filing with us written statements,

these written statements as well as the oral presentations will be made available to each member of the Committee.

As sponsor and a member of this Committee, I think perhaps you should know that it is certainly my intention to have this entire record, with the exhibits, available to all members of the Committee, and under the direction of our Chairman, Senator Bigley from Camden County, we will go over the record carefully and discuss the three measures at the time that we go over the record and carefully consider everything that is in it.

With those observations, and with Mr. Wolfe having been formally excused, if he has other appointments, to keep them, we will ask those who wish to testify to please take the first seat and it is essential that you use the microphone because we are on sound as well as stenographically.

SENATOR BIGLEY: Mr. Nasmith.

AUGUSTUS NASMITH: Thank you, Mr. Chairman. On behalf of Millers' National Federation, I have a written statement which, if I may, I will file with the Committee.

SENATOR KEEGAN: The record will indicate that Mr. Nasmith has filed with the Committee the written statement to which he just referred.

Is there anything in the statement that you wish to emphasize, Mr. Nasmith?

MR. NASMITH: No, sir.

SENATOR KEEGAN: If you want, we will just put the statement in the record.

MR. NASMITH: I would like to have the statement filed in the record, if I may, and I would like to add one comment with respect to the Millers' National Federation and our industry because I anticipate that some of the following speakers may recommend adoption of the Model State Code.

We have no quarrel with the policy of adopting the Model State Code but would like to point out that a section of that Code is in conflict with federal regulations governing the flour milling industry, and we would like to reserve the right to suggest amendments to the Model State Code if your Committee should consider its adoption in lieu of Senate 274.

SENATOR KEEGAN: Such reservation will be made and the record will indicate it, and not only yourself but the public generally will be notified as the Committee progresses in its deliberations.

SENATOR BIGLEY: I might suggest, Mr. Nasmith, and of course this applies equally to everyone here, if there are amendments specifically to either the Model Code of Senate 274, I would suggest that you have those prepared as quickly as possible so that when we do consider the entire package we will have those available rather than at a later date. I think it would aid us in our deliberations.

MR. NASMITH: Fine. Thank you very much, sir.

If I may, I have another hat representing the railroads and in that respect I would like to file a

statement with the Committee and then withdraw from the mike, in the interest of speeding up time.

SENATOR KEEGAN: For the record would you say who you represent?

MR. NASMITH: This is for the Associated Railroads of New Jersey.

Thank you.

SENATOR BIGLEY: Thank you, Mr. Nasmith.

SENATOR KEEGAN: Mr. William Joseph. Will you please identify yourself for the record?

W I L L I A M . E . J O S E P H : My name is William E. Joseph, Vice President - Properties and Public Relations, for the Houdaille Construction Materials, Inc., of Morristown, New Jersey.

I also am authorized to speak for the New Jersey Crushed Stone Association. And I have attached a list of members to our statement. I won't bother to read them.

I am also Chairman of the Minerals and Allied Industries of New Jersey, and I have, likewise, attached a list of members to my statement which I have submitted to you.

Our company operates in 13 counties and 33 municipalities in New Jersey and Eastern Pennsylvania. It is one of the largest producers of crushed stone, sand, gravel, ready-mix concrete and bituminous concrete in those areas. This statement deals with the general subject of weights and measures regulations, and more specifically with Senate Bill 274.

First, we recognize that good weights and measures controls are extremely important. They generally are enacted to protect the general public, to help the customer to get what he pays for.

Business also benefits from sound laws and enforcement. The testing of equipment often reveals errors which could be costly to a business if not corrected. Also, a company that is conscientious about its policies, receives the protection inherent in seeing that unscrupulous firms are required to give full measure. In addition, we realize that weights and measures administration, through continuing scrutiny of weighing devices, and through close association with business firms, has often developed improvements that have benefited business firms and customers alike.

Second, we are very pleased that S-274 does not include the special regulations of the cement and concrete industry which appeared in an earlier version of this legislation. We were, and are, strongly opposed to such regulation, believe it is wholly unnecessary to our business, and doubt that it would produce any benefits to the consuming public that would be commensurate with the burdens placed upon our industry, particularly in view of the fact that only a small fraction of our products are sold to the general public.

Even so, we are keenly interested in this bill. As it is presently written the bill appears to encompass virtually all types of business. Definitions are broad and obviously intended to be all-inclusive. It would

greatly increase the authority of the head of the State weights and measures agency, giving him extensive rule-making powers having the effect of law. Besides, the regulation of "standards" is added to the existing regulations of weights and measures. Penalty provisions are tightened up in many ways.

Consider, for example, the broad definition of such terms as "Article," "Commodity," "person," and "sell," in Section 51A:1-2. Consider, also, the commercial standards provided in Section 51A:7-1, Chapter 7.

The most serious problem posed by the bill is the power given to the director of the division to establish rules and regulations having the effect of law. As the bill is written the director is apparently answerable to no other authority in making such rules except, inferentially, the governor, and the legislature. However, appealing to the governor for redress is a cumbersome way to deal with an administrative procedure. And the only way the legislature could help is through amendment of the law. The powers are set forth at a number of points in the bill. For example, in Chapter 2, Article IIB, Section 51A:2-16, p. 17, lines 2 to 11, is the following:

"The director shall have general supervision over the administration of and shall enforce the provisions of this Title. State weights and measures officials shall be under his direct control. He shall have general supervision over all local weights and measures

officials. He shall have and keep a general supervision over the weights, measures, devices and commodities offered for sale, sold, or in use in this State. He shall have the power to examine and test commodities to determine that they comply with the standards. He shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness and suitability of commodities regulated by this act."

SENATOR BIGLEY: Mr. Joseph, I wonder if I might interrupt?

MR. JOSEPH: Yes.

SENATOR BIGLEY: I note that you are pretty much following your submitted text. As you can well realize, we are, of course, faced with a great number of witnesses. I would suggest, and this is only a suggestion, that if you could either paraphrase, or if there is anything you want to emphasize in the submitted text, it might be more advantageous for the Committee and, of course, for everyone here concerned because we are going to have this full text which will be part of the record and we will be able to read it in detail and, of course, in leisure when we are not pressed with a great number of people who have other things to say to us.

SENATOR KEEGAN: I point out, Mr. Joseph, just for the purposes of emphasis and so that everyone will know that these presentations which are submitted to the Committee are not only part of the record but they will be exhibits for each member of the Committee. It's not

a question, sir, of in any way foreclosing you but it would be repetitious at this point. In the event that you have anything to add to the statement or, as Mr. Bigley pointed out, if there is something in it that you wish to emphasize -- but each member of the Committee will have the full record so that to read it today doesn't serve any purpose of emphasis and in fact doesn't emphasize it so far as the record is concerned. And I point that out respectfully, sir.

MR. JOSEPH: I'm sorry that I misunderstood. I thought I was to read the statement. I will be happy to make just one or two points in addition to the statement as I have it here.

SENATOR KEEGAN: Fine.

So we understand, Mr. Joseph, though we have directed our remarks to you, Mr. Bigley and myself, certainly this applies to any other presentations which will be made, but you were the lead-off man and we do appreciate your cooperation in that respect, as we will of everyone who will testify.

MR. JOSEPH: I'm not taking it as any criticism and I will try to cooperate.

SENATOR KEEGAN: Thank you.

MR. JOSEPH: I just did want to make the point which is made in our presentation, that S-274 gives almost despotic powers to the Superintendent of Weights and Measures of the State and we think this is contrary to

fair American sound play, and under the rules and regulations which he is empowered to introduce and have the full force of law under the new S-274 require no approval by a commission, require no public hearing, require no presentation of facts prior to their enactment. There is almost no regulation of his power. And this is the chief point that I wanted to make.

I do want to add, however, in addition to my public statement, which is being submitted to the group here, the fact that in the light of recent meetings we have had with our industry and officials in other areas, we want to give you our company's and our industry's position - we are unalterably opposed now to the passage of S-274 and recommend the adoption of the Model Law as recommended by the Chamber of Commerce. We think this is a sound and effective procedure to adopt and one which will redound to the benefit of the industry, the public and to the State.

And we are also unalterably opposed to the enactment of S-328. And as far as S-327 is concerned, we are taking a neutral position and are neither opposed nor in favor of it. We do think, however, that the Chamber of Commerce, the State Chamber, is making some significant recommendations for amendment to this law and we concur with those.

So with that statement I will conclude my presentation, gentlemen, and thank you.

SENATOR BIGLEY: Thank you.

SENATOR KEEGAN: Thank you.

SENATOR BIGLEY: Mr. Dorn are you going to testify on behalf of the State Chamber.

MR. DORN: We have two witnesses, Senator, who will speak - Mr. Fred Schmelz, on S-274, and Mr. Griswold Holman, on S-327.

SENATOR BIGLEY: May I suggest that we hear them now because perhaps their presentations would cover some of the points that are going to be raised by some of the particular industries present here.

SENATOR KEEGAN: I made that suggestion, noting that Mr. Joseph referred to the fact that he anticipated something being said which might be a duplication.

MR. SCHMELZ: Mr. Chairman, I have four documents that I would like to enter into the record, if I may, but prior to doing so I would like to brief what is contained in them, in a prepared statement that I have which is quite short.

SENATOR BIGLEY: You better identify yourself.

F R E D E R I C K C. S C H M E L Z: Mr. Chairman, my name is Frederick C. Schmelz and I am associated with the American Cyanamid Company, Bound Brook, New Jersey. I appear before you today in my capacity as Chairman of the Subcommittees on Powers and Duties and Regulation of Sales of Commodities of the New Jersey State Chamber of Commerce Conference Committee on Weights and Measures Revision. On behalf of the State Chamber and its many members, I appreciate this opportunity to appear before

you today to present the State Chamber's views on Senate Bill No. 274.

As Chairman Bigley and Senator Keegan may recall from a communication dated April 13, 1966, from the State Chamber's Secretary, Mr. Peter Dorn, the Chamber, since 1962, has had a Conference Committee from various industries and businesses which has reviewed appropriate sections of each year's weights and measures legislation. Assembly No. 597 of 1961, S-252 of 1964, A-631 of 1965 and now S-274 of 1966. In certain instances, the Committee has ascertained improvements which should be made within individual industry sections of these bills. Witnesses who follow me and who are members of the Conference Committee, will comment upon various sections of the bill. However, our Conference Committee has invariably run into difficulty in its deliberations because this type of approach left no avenue for satisfying the Committee members' almost universal objection to one basic aspect of all these bills - the very broad powers they would confer upon the director of the Division of Weights and Measures and upon weights and measures officials generally.

Because this over-riding issue has beclouded all of our deliberations on technical details, it has been recommended that the issue be resolved satisfactorily prior to attempting resolution of the remaining issues which involve specific industry sections of the proposal.

This recommendation was made partially in the light of analysis by counsel of the power proposed for the director. We request that a copy of this analysis be made a part of the record of this hearing. Also considered was the Model State Law on Weights and Measures which has been adopted and recommended by the National Conference on Weights and Measures. We are in favor of the Model State Law and we would strongly support its adoption in New Jersey as a substitute for Senate Bill No. 274. We therefore request that a copy of this Model Law be made a part of the record of this hearing.

The Model State Law has been developed over the years by the cooperative efforts of weights and measures officials from all the states and has already been enacted in twenty-two states. The model law is certain to be considered in many of the other states in the future. Thus the law has received intensive study and consideration not only by weights and measures officials of various states, but by the legislatures in many of the states and has been adopted by them as the best approach to weights and measures regulation. Having been administered and enforced in a number of states for some years, and adopted by all our neighboring states, the Model State Law by now is well understood by those who are in any way affected by its provisions. Many states have also adopted the model regulations and interpretations recommended by the National Conference to supplement and carry out the enforcement of the law. These

regulations, interpretations and enforcement policies tend to reduce or eliminate uncertainty. Enforcement officials, consequently, know what to look for and what to require, and industry knows what is expected of it.

While our support for the Model State Law is now a matter of record, I would like to comment on particular provisions of Senate No. 274 as they relate to the powers of the director of weights and measures and weights and measures officials.

Under Section 51A:7-2, the director is authorized to exercise control over many commercial transactions which he does not control under present law. Stipulations are made as to requirements on commercial sales exceeding 100 pounds and the director is also authorized to impose the requirements of the weighmaster's section in commercial transactions which have nothing to do with the protection of an ultimate consumer.

The present weighmaster act makes a clear distinction between the functions of a public weighmaster who weighs for a fee, and a certified weigher whose duties as an employee may include weighing. If, in the latter case, an employer requires a certified weight for a transaction, he is permitted to apply to the director to have the employee certified. Under S-274 the entire present day situation would be changed and many industries which do not require certified weights, would be required to have all their employees who weigh any commodity to be licensed as weighmasters. Further

comments in this regard will be made in testimony on Senate No. 327.

Section 51A:7-2 (c) applies, again, in commercial transactions. If Senate No. 274 were enacted, despite our advocacy of the Model Law, we believe that section should be amended to read as follows: "Any commodity sold or delivered using only legal units of United States standards of weights and measures provided, however, there is written evidence thereof." This would reduce the requirements for delivery tickets and other onerous procedures set forth in this particular section.

One final point on the powers of the director. We are firmly convinced that Chapter 39 of the Laws of 1960 (R.S. 56:8-1), the Fraudulent Advertising Act, provides adequate enforcement power to the Attorney General to prevent any deception, fraud, false pretense, false promise, misrepresentation or the knowing, concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. Therefore, we are convinced that any references to advertising is inappropriate in a bill such as Senate 274.

Before closing I wish to reiterate that the State Chamber's active interest in weights and measures modernization has been a long standing one, dating back to 1962 when we submitted to the Deputy Director of the Division of Weights and Measures a

29-page record of our proceedings on the then pending weights and measures bill. This was a document which included a number of recommended amendments. Many of the questions we raised at that time remain unresolved in Senate No. 274. We think this document would be helpful to the Committee. We have only one copy with us. However, it is still apropos, therefore we would like to suggest it be made a part of the record.

In closing, I want to emphasize that the New Jersey State Chamber of Commerce favors a modern, workable weights and measures law. We therefore respectfully urge that the Model State Law be substituted for Senate Bill No. 274.

SENATOR BIGLEY: Thank you, Mr. Schmelz.

SENATOR KEEGAN: Would you identify yourself, Mr. Holman, for the record.

G R I S W O L D B. H O L M A N: My name is Griswold B. Holman and I am an officer of George B. Holman & Co., Inc., Rutherford, New Jersey.

My company operates several motor truck scales at our several locations in New Jersey. My company does weighing for hire, that is, weighing vehicles, loaded, light, partially loaded, etc., for others, for a fee. On the other hand, as a Certificated ICC Motor Carrier and also franchised by the Public Utility Commissions of several states, we are required, in the handling of the several commodities which we are privileged to haul, to ascertain the weight of shipments transported by our fleet of vehicles.

I am here before you today in my capacity as Chairman of the Weighmaster Committee of the New Jersey State Chamber of Commerce.

On behalf of that organization, I appreciate this opportunity to appear.

We would support Senate Bill No. 327 if this bill is amended in accordance with the recommendations I am about to describe and which were adopted by our Committee at a meeting on April 28th.

The main purpose of these amendments is to preserve the distinction in the present law between the public weighmaster, that is one who weighs another's goods for hire, for a fee, and on the other hand a certified weigher, that is an employee who weighs goods for his employer who may require certified weights in the course of his business. This distinction is important in that it would continue to require all public weighmasters to be licensed but provides, as the present law does, also for the licensing of certified weighers only at the request of the employer.

We also seek amendments that would prevent substantial disruption in employment in New Jersey.

Senate Bill No. 327 requires both public weighmasters and certified weighers to be residents of the State of New Jersey. In a letter to Senator Joseph M. Keegan on May 5, 1966, Mr. Peter Dorn, Secretary of the New Jersey State Chamber of Commerce, stated that "if certified weighers were to be classified, as public weighmasters, as S-327 provides, a disruption in employment would result. Those

companies employing certified weighers who are not New Jersey residents would be required to discharge them and hire New Jersey residents."

Subsequent to Mr. Dorn's letter, it has been discovered that the requirement of New Jersey residency of public weighmasters for New Jersey would result in one company having to discharge seventeen of its present employees. We have every reason to believe that there are many other companies in this same situation. We also have been told that New Jersey residency requirements for certified weighers could force one company to discharge eighty New York residents employed if these employees did not wish to move to New Jersey.

We would therefore strongly urge that this committee remove the residency requirements as respect to both public weighmasters and certified weighers.

Our Committee also sees no reason why an individual, who does not renew his license within fifteen days after it expires, should be required to pay a fee in an amount twice that required by the regular fee. Furthermore, if this requirement were enacted into law, it is obvious that such renewals would be for a period of one year and that the State Superintendent of Weights and Measures would be required to issue yearly certificates.

Under Section 51:1-77, the completion of the certificate of weight of a vehicle would be simplified and equally effective if the law required an identifying number of the vehicle in lieu of a license plate number

of the vehicle, since a single vehicle may have many license plate numbers. Some states issue "floater plates" which are changed from truck to truck as such vehicles may cross state lines. The recording of such license plate numbers might be of little avail in later identification of the particular vehicle weighed at a specified time.

We believe that Section 51:1-80 should be clarified so that this section applies only to persons who issue sealed certificates of weight in order that the burden of penalty not be placed upon individuals who may weigh but are not acting as a public weighmaster nor a certified weigher.

We have not suggested any amendments to the increased license fees included in Senate No. 327. As you know, the present law calls for a fee of \$10.00 for 3 years, and S-327 increases it to \$10.00 per year - a 200 per cent increase. While there may be justification for some increase in fees, there is a question in our minds as to whether such a sizable increase can be justified.

We would like to submit for the record amendments which will effectuate the recommendations we have made. We strongly urge that these amendments be adopted and we assure this Committee that the bill will then have the wholehearted support of the State Chamber of Commerce.

Without these amendments we would be constrained to oppose the bill because of unnecessary interference with business practices and the disruption of employment that would result.

I might say that I have sort of lived with this question since 1939 as representing a few thousand carriers who have to weigh their loads, back to the days of Commissioner Reed in this Department, and I might say that we have ironed out the differences from time to time of the requirements of the federal government through ICC and the state requirements.

It has been a very satisfactory situation, as it now exists, but we don't want to disrupt this by the proposed 327 which does change it to some extent.

Thank you very much.

SENATOR KEEGAN: Thank you, Mr. Holman.

May we note, sir, that we have a copy of your statement and also a copy of the suggested amendments. (See p.195)

MR. HOLMAN: Yes, sir.

SENATOR KEEGAN: Thank you.

Ladies and gentlemen, we have a visitor from out of State, Mr. Arthur Sanders. Will Mr. Sanders come forward and make his presentation?

A R T H U R S A N D E R S: Thank you, Mr. Chairman.
I am Arthur Sanders, Executive Secretary of the Scale Manufacturers Association, which represents some 85% of the scale volume in the United States including quite a few who are located physically in the State of New Jersey - Fairbanks Morse & Co., Fairlawn; Howe Richardson Scale Co. of Clifton; Mettler Instrument Corporation of Hightstown; Ohio Scale Corporation of Union; and Torsion Balance Company of Clifton. These companies,

plus our other members, probably have as many as 1500 scale men in the State of New Jersey, actually located here.

I will endorse what the previous gentleman has said about the Model State Law recommended by the National Conference on Weights and Measures, and also recommended by the National Bureau of Standards.

I have worked with these people over the years and I know that this represents some 60 years of work by those bodies in undertaking to develop a uniform system of weights and measures in the United States under a model law. This represents the best thinking of the weights and measures people in the United States.

We have an awkward system of weights and measures in the United States. Most of the countries of the world have one central system. We have 50 systems. Our standards are prepared and developed in Washington but actually the states enforce weights and measures and we think it's to the credit of the states of the United States that they undertake to develop a model law through the National Conference so that we can have some semblance of uniformity which means a very great deal to trade and commerce in this country.

I could say in just a few words our general observation about this law. And incidentally we've been working with this for some seven or eight years now, maybe longer. And we appreciate the opportunity of having the privilege of working with the Legislature and with

the Weights and Measures Division here in New Jersey.

We think the law does need updating. Most of the weights and measures law here is pretty antiquated and I believe most of the people think so too.

In our considered opinion S-274 is far too extensive in detail; would delegate excessive authority to the State Division of Weights and Measures; is unclear as to which of the wide variety of weights and measures devices may be regulated; authorizes the exercise of possible unreasonable restraints over the right to work and the right to do business; and empowers the Director of the State Division to regulate buying and selling in the State far beyond the needed accuracy controls for quantity deliveries, which is the essence of weights and measures laws and work.

Now I can get down to some of the details of what we don't like about it, although in the over-all picture it is going in the right direction.

It would greatly expand jurisdiction over weights and measures devices, such as scales, by covering non-commercial or non-trade scales as well as trade types.

In Section 1-2 on pages 10 and 11 the definition of weight, measure and device is broad enough to cover any weighing and measuring device whether designed and used for buying and selling or not.

The matter of confining jurisdiction to trade and commerce devices becomes particularly important with respect to scales since there are hundreds of models

and many thousands of strictly non-commercial scales sold each year. Now this goes to such matters as type approval. Actually the law as it is now written would require type approval of non-trade scales. I don't think they intend to do that but that's what the law allows. I don't think that was intended.

It also could require the reporting of sales or repair of every non-trade scale in New Jersey, and each year there are hundreds of thousands of them. These could be required to be reported, that they were sold or serviced, to the local weights and measures officials with a copy kept by the seller and then a copy, of course, kept by the local weights and measures office.

Well, that's just a burden of excessive paper work that we think is totally unnecessary.

In Section 7-2 on pages 38, 39 and 40 - this covers the sale and delivery of commodities over 100 pounds. It would require that a certificate, a weight certificate, accompany such sale except where there are packages and then the packages would have to be marked with the weight and a certificate would have to be carried showing the count of the packages.

We think that this section is not sound weights and measures law. We think it's an interference with trade and commerce, with the right to contract and to buy and sell. And so far as I know, no state has any such requirement even approaching that.

For the most part where delivery certificates

are required, they stem from the old English Law, the weights and measures law, which required that solid fuel deliveries be accompanied by a weight certificate. And the purpose there, of course, was the householder buying coal didn't have a scale and just received a pile of coal dumped in his yard or in his basement. So the purpose of that was to protect him. It wasn't necessary to protect the large purchaser like a power plant because they had their own receiving scale on which they could check them.

But we think that this would impose a sweeping state control over all commodities and actual regulation of trade and commerce which is totally unnecessary and I think it's foreign to the simple weights and measures function which is the purpose of the weights and measures law.

This section would also discriminate against sales of commodities of over 100 pounds by weight in that it requires them to be weighed and a certificate issued but does not require such for sales of less than 100 pounds, railroad car and cargo vessel deliveries, deliveries to receiving points in processing plants - these are exceptions that are spelled out in the bill - loose solid material sold by cubic measure, commodities sold by liquid measure, drums, etc., commodities that are bagged or packaged in that such only need to be counted by the weighmaster; and unless it is fully applied to interstate commerce, it is a discrimination

against intrastate commerce - and how can New Jersey apply this requirement to interstate commerce? So you are discriminating against your own state.

Now in former bills which preceded this, it was required that a weighmaster's certificate be furnished, be carried by the truck or the delivery. This does not do that in the outset but it does give the director the power to require that by an authorization in this section itself if he deems it essential for various reasons. And we think that this could well go to the weighmaster requirement and could require that almost every business that has any sales or deliveries of over 100 pounds of commodities have weighmasters certified, their employees certified as weighmasters, and we don't think that's essential to this.

The type approval devices - Section 8-7 on pages 75 and 76. The second paragraph requires that the sample of a new or altered weights and measures device be submitted for inspection and type approval by the director for conformance with the applicable standards and requirements.

Since the first paragraph of this same section requires that all devices conform to the standards, we think the type approval requirement is an unnecessary burden on the device manufacturers and actually accomplished very little.

The Division and officials in New Jersey have the power to condemn any device which does

not conform to the applicable requirements or fails to perform correctly. That power should be sufficient to enforce the specifications and tolerances. Any manufacturer who tries to market a device not in conformance would be very seriously risking his valued good will and in fact his entire business. You just can't get by with it so what's the point in trying to market it?

Only a very few other states require type approval of devices and most of those readily admit they are not sufficiently well qualified, from a technical and engineering standpoint, to do an effective examination of the more sophisticated devices. In fact, we all have hopes that some of these days there will be a centralized examination for the nation as a whole so that it doesn't have to be a burden on the states to try to do these. It's very difficult to get qualified people to try to examine these more sophisticated devices.

In Section 8-2 on page 73, the testing of scales. If the testing of scales is needed at all, they should be tested at least once a year. In fact, we think most scales should be tested at least twice a year. This requirement should be mandatory.

The first sentence of Section 8-2 requires testing at least once a year but "less frequently in accordance with the schedule issued by the director."

This is a loophole in the weights and measures law through which a great portion of the scale testing could escape, regardless of the good intentions of the

present State Director and his staff. It provides for rule by men and not by law. Who can say what political and other pressures may be brought to bear to exclude the testing of certain categories of scales and measures.

We think also that it is a tactical mistake for weights and measures to have such a provision, as it allows for pressures from budgetmakers and legislators to eliminate certain testing to avoid the expense of the work and reduce the budget. Weights and measures should be strengthened in its work and not curtailed in it because as commerce expands we need more testing of scales to be sure they are accurate.

This brings up the question - what areas are being considered for testing less than once a year? It would certainly seem that if this escape provision is to be considered, there should be some rather positive statements of what will be expected.

In Section 8-7 also, on pages 75 and 76, paragraph 3 of this section requires notice to local official within 72 hours of sales and installation by any person who is responsible for the final stages of introducing a device into the channels of trade and service.

We are not sure who is the person responsible for giving a notice as the person responsible for the final stages of introducing a device. It could be several different people. Multiple notices should not be required. One notice should be sufficient. It will avoid

the waste of clerical time to the sellers and installers and unnecessary paper work at the W & M office.

Why not stipulate that the seller or his agent making the sale or installation shall be responsible for making the notice to the local W & M office?

Also in Section 8-7, pages 75 and 76, the 5th paragraph of this section requires that devices not approved after submission for type approval for commercial use must be conspicuously marked - "This device must be approved for commercial use."

We object to this requirement as being unnecessary. The State already has stringent requirements of type approval submission and requires once a year testing of devices used commercially. Why not enforce the powers already granted and condemn any devices in commercial use which have not been type approved and field approved?

It is obvious from the law itself that the device must be approved for commercial use. The law specifically requires that.

In Section 9-47 on page 96, it is not clear in this section but we think it should be clearly stated that one dealer license is all that is required of one person or company for the entire State, regardless of the number of agencies or local places of business which he may have.

Regardless of the number of agencies, the licensed person or concern is solely responsible under the law. Nothing is gained by requiring several licenses and it is a costly burden. Any one of these companies that has a

half dozen branches should be allowed one license to operate within the State because he is responsible all the way through for all the work his men do.

The second paragraph of Section 9-47 requires a dealer license of any person who employs a repairman to service scales.

Now that's whether he is an actual dealer, a buyer or seller of devices, or not. If he employs a repairman, he's required to have a dealer's license. In that case we think the employer is not a dealer but a service agency only, and should not be required to have a dealer's license.

In Section 9-50 on page 76, we recommend that instead of a system of licensing servicemen by examination there should be established a system of registration of servicemen based on stated qualifications and competent references, as has been used successfully by many states. Experience elsewhere has shown that stated qualifications and references can establish competence equally as well as examinations and at much less expense to the state.

We recommend also that registrations be approved for repair agencies operating several establishments in the State, with the agency responsible for the work of all employees servicing devices.

We recommend also that no fees be charged to registrants, either agencies or servicemen or for a dealer's license.

We would also like to point out that Section 9-49

on page 96 is ambiguous in that it could be interpreted to require salesmen of portable scales to be licensed as they do locate, physically locate, set down the scale, and make minor adjustments which is interpreted by the definition of installed to be installed. And we don't think that it was intended that salesmen, who do those minor little adjustments, just deliver a scale, be required to be licensed.

We hope you success with the bill and we very sincerely hope that you will find it clear to follow our recommendations.

Thank you very much.

SENATOR KEEGAN: Thank you, Mr. Sanders.

Did you have any exhibits that you wanted to leave with us, Mr. Sanders?

MR. SANDERS: No, I didn't but if you want this written up I will be glad to prepare it. I just had notes.

SENATOR KEEGAN: Fine, sir. It's in the record.

Thank you very much.

Mr. W. L. Lohrfinck of the New Jersey Bottlers Association.

I am calling out names here as they are written down. If I mispronounce them, please excuse me.

W. L. L O H R F I N C K: My name is W. L. Lohrfinck, Secretary of the New Jersey Bottlers of Carbonated Beverages. My address is 2 Holland Road, Middletown, New Jersey, and our Association represents approximately 80 to 90 percent of the production in the State.

We have submitted a statement of our views relative to Senate Bill No. 274. However, I would be remiss in my duties as a representative of the soft drink industry in this State if I did not comment briefly on the unique situation facing the bottlers of New Jersey which render them especially vulnerable to the potential lack of uniformity in labeling regulations posed by this legislative proposal.

As pointed out in our prepared statement, soft drink bottlers do have large inventories of returnable bottles in stock with approximately \$1.9 million invested. These bottlers are in compliance with the Model State Weights and Measures Law and Regulation and present New Jersey State Laws and could be rendered worthless if New Jersey should depart substantially from the requirements.

Many of our bottlers could not stand the economic loss which would follow the loss of these bottles.

For that reason, I would repeat our request that the Committee consider the adoption of the Model State Weights and Measures Law. If our request should be denied we would respectfully reserve the right to propose appropriate amendments.

Thank you.

SENATOR KEEGAN: Thank you, Mr. Lohrfinck.

The record will indicate that as sponsor I have received communications from several members of your Association - one in particular comes to mind, Bookdale Beverages - and these communications have been turned over

to the Committee so that all of the members of the Committee will have the benefit of them.

Thank you, sir.

MR. LOHRFINCK: Thank you very much.

SENATOR KEEGAN: The next gentleman on our list here is Mr. R. Callahan.

MR. CALLAHAN: I am with Mr. Lohrfinck, Senator, and I didn't intend to testify.

SENATOR KEEGAN: Fine. I don't know if there is a central association that will have to record your presence here this afternoon, but if you need any kind of an affidavit for Mrs. Callahan that you were here, I would be happy to supply it. (Laughter)

Mr. James A. Ferrante - is that correct, sir, - President of the Concrete Association.

J A M E S A. F E R R A N T E: Mr. Chairman, my name is James Ferrante. I am President of the New Jersey Concrete Association and am so authorized to speak on their behalf.

The Ready-Mix Industry of New Jersey represents approximately an annual salary paid to its employees of \$12 million. Our Industry also represents an annual gross product of \$73 million distributed by 81 companies which own and operate 130 plants throughout the State of New Jersey.

We commend the efforts of this Committee in attempting to establish standards for the protection of the consumer but would like to point out certain deficiencies

in the proposed legislation.

At the present time our industry is governed by standards set up by the American Concrete Institute, The American Society of Testing Material, and the National Ready-Mix Concrete Association.

Each of these organizations has established standard specifications and codes adopted by many states and agencies for the production of our product. We would like to point out, however, that Bill S-274 and amendments to S-327 and 328, are in serious conflict with recognized standards of our industry.

Our Association has held symposiums and courses of instruction to upgrade the industry. We are also working with the State to establish legislation to license testing laboratories.

We would appreciate a clarification of the term "related building materials." If related building materials is to include concrete additives, concrete mix, loose solid materials such as earth, soil, gravel, crushed stone and sand, when sold by the cubic measure, we would respectfully suggest, as provided for in the Model State Law on Weights and Measures, Form 2, as adopted by the National Conference on Weights and Measures, as set forth in Article 25 of the Model State Law, that special exclusion be made of such material.

With particular reference to page 111 of S-274, lines 20 to 29, we respectfully point out that the contents of the referred to lines would cause undue hardship to

our industry and increase the cost of our product to our consumer for under the provisions as outlined, if a ready-mix concrete truck is seized for use as evidence the following conditions would prevail:

1. The contents of this truck would solidify within one to two hours causing serious damage to heavy construction equipment valued at approximately \$30,000, and the use of said truck for a long period of time thereafter.

2. The proper testing of concrete cannot be determined until the truck has mixed, unloaded and samples tested 28 days later.

3. The proposed legislation does not clearly state the period of time that a truck can be held as evidence. We can envision the possibility of an entire fleet of trucks being held in evidence.

I refer you to S-328, page 3, line 1-3 to lines 1-4 and respectfully point out that the contents of the lines referred to are calling for fees on a per plant and per truck basis. Our members are now paying in excess of \$2800 per year per truck.

Our product is being designed and inspected by qualified licensed professional engineers, architects, and established testing laboratories. In fact, many of our members will certify to the quality and to the proportion of their product to meet specifications heretofore mentioned.

We respectfully call your attention to the fact

that the passage of the proposed legislation would bring about a duplication of effort inasmuch as we are already regulated by and conform to specifications of existing federal, state and public agencies.

We respectfully call your attention to the fact, gentlemen, that there are conditions in our industry which would not properly fall into the categories of this proposed legislation.

We respectfully suggest that you amend the proposed legislation and its amendments thereto to exclude our industry as set forth in Section 25 of the Model State Law, as adopted by 32 other states and the National Conference on Weights and Measures. Based on the model law, we feel that these standards established in this act permit good competitive conditions which help reduce the cost to the consumer.

Thank you very much.

SENATOR KEEGAN: Thank you, Mr. Ferrante.

I have next on my list here Mrs. Delia Martin.

D E L I A H. M A R T I N: Mr. Chairman, my name is Mrs. Delia H. Martin. I am a member of the Executive Committee of the Consumers League, the Legislative Chairman of the New Jersey State Federation of Colored Women's Clubs, Inc., and I am speaking on behalf of the Federation.

At this hearing on weights and measures, we the women of our group are very concerned about what we are receiving for the amount of money that is being spent for

consumer goods, especially as pertaining to the purchase of food and drugs.

Last night in East Orange at the Acme Market on Lincoln Street I purchased a bottle of Woodbury's Shampoo. It was marked on top 79 cents, and a band around the bottle said "less 21 cents off," but when I went to pay for the purchase what a donnybrook broke out. The cashier stated immediately, "The sale is off and you will have to pay 79¢." I protested, "I will only pay the price as marked, less the 21¢." Someone called the manager and he told me that I read wrong. In fine print on the bottle it was marked a dollar so therefore \$1.00 was the regular price. Another assistant manager informed me that he was studying marketing at Rutgers University and that the trouble with most women was that they do not know what they are reading. So, therefore, I say that packages must be marked plain enough for us, at least older women, to understand and all others.

At this time I wish to say that there is one industry where you will find the weights, measurements, ounces, etc., perfect. I am calling your attention to the liquor industry. They are letter perfect at all times and readable by all.

Let all packages of food and drugs be conspicuously marked as to price and weight.

Just a few words about the supermarkets in the non-white areas. They are really the most inferior stores in the chains and the goods are so inferior that

it is really disgusting to shop in these fringe neighborhoods.

I am calling on the State officials to support S-274 and the other packaging bills.

One day in East Orange on Central Avenue I bought a package of crackers in the supermarket. They were so stale that they were only fit for garbage. This was in one of the fringe or non-white areas. Yes, we hear this story in Essex and in Atlantic City, how pathetic the markets are in the negro neighborhoods. The first class negro with a car does not shop in his neighborhood, the goods are so inferior.

In the soap department the women want to know, does the towel in the package represent the total weight of the package? Is a glass weighed as part of a package? These are important questions to the low-income groups.

Too often the worst type of goods with all sorts of markings as to weight go to the low-income neighborhoods where a great many of the customers cannot read or write. Who will see that the people's value per dollar is protected?

In closing let me say, so often we the purchasers bring home products in packages, like the oil tanks in Bayonne that were supposed to be full of soybean oil, only to find water. So in shopping with the weights and measures not plainly stated and the markings very confusing, it is very frustrating to shop today.

We wish for all persons to get a fair value for

the dollar spent.

I cannot stress the importance of seeing that packages are so marked that even the older person, and the unlearned, can judge whether or not he is really getting his money's worth. There is one thing the low-income person knows, he can trust the liquor industry for true value, but not the food store. Therefore, please consider the modernization of the law.

Thank you.

SENATOR KEEGAN: Thank you, Mrs. Martin.

We have on our list Mrs. Morris J. Cohen. Mrs. Cohen?

M R S. M O R R I S J. C O H E N: Senator Keegan, I am Legislative Chairman for the National Council of Jewish Women and I represent 8,000 women in the State of New Jersey in 24 districts.

I am here to tell you that we want to go on record as being wholeheartedly in favor of Senate Bill 274.

Thank you.

SENATOR KEEGAN: Thank you, Mrs. Cohen.

As sponsor, I am grateful for your statement.

Mrs. Richard A. Zwemer of the Consumers League.

M R S. R I C H A R D A. Z W E M E R: Senator Keegan, I arrived here to do a little talking and I would like to bring out certain points.

SENATOR KEEGAN: The microphone is yours.

You have left with me, if I may, for the record a copy of your statement which will be made part of the record.

MRS. ZWEMER: Thank you very much.

The main point I wish to make, and I will just summarize in the beginning - I am Mrs. Richard A. Zwemer, of course, President of the Consumers League of New Jersey, and we have gone on record in favor of S-274.

We are interested primarily from the point of view of the consumer and our comments on this bill is from that standpoint, how it affects the consumer. And to understand our position, I think I would like to go back and do a little history.

The first law in 1911 was the result of a survey made by a group of women under the Stevens Survey in which many members of the Consumers League participated. And since that time we have been particularly interested in the weights and measures law. We have tried to follow it, and when we prepared the New Jersey Consumers Protection Laws in 1964, we read it very carefully, in this little booklet, and discovered there were certain gaps in the protection which we feel, Senator Keegan, are very well covered now in S-274.

S-274, the comprehensive revision of our weights and measures law, needs to be enacted at this time. The revision of our laws is long overdue. We've done some patchwork changes but a comprehensive revision based on our experience under our present law and the changes made,

with the compilation of all of our weights and measures laws, is the most valuable thing that the citizens of New Jersey can have.

It would be a mistake, we feel, to take a model law, which is not adapted to the situation here in New Jersey and to replace it by our own law. For example, there has been a discussion of repairmen's licenses. Actually, we have that under our present law. And I think, if one goes through all the changes that are made there actually are some - I should say it would be rather foolish to throw those out and take an untried model law.

I was also of the opinion, in the beginning when we began to study this, - let's study the model state law. So I went down to Washington to speak to the Bureau of Weights and Measures of the National Department under the Bureau of Standards and I discovered that many of the things that we have already done under our law, such as standards for gold and silverplated articles or alloys, such as standards for lumber, and so forth, would not be possible under the model law.

There are some very good things in the model law and S-274 does incorporate them and I would like to bring that up as I go along.

The first point - S-274 is necessary to meet modern conditions. I think everyone is aware of that. The abundance of packaging has developed for all sorts of merchandise, the modern reliance on advertisements and displays to sell the product and give assurance of

quality which the old time grocer formerly supplied by word of mouth.

I wish to specifically point out the advantages of S-274 in protecting the public in certain needed areas.

Short Weight. Although our present law provides penalties for short weight in the contents of containers, the only specific requirement of a label to show the net contents, thereby ensuring protection from short weight, is in the section on food packages. This is understandable considering the method of sale in the grocery stores back in 1911. Today, all commodities in packages, whether food or nonfood, such as soap, waxes, detergents or scouring powers, should be required to bear a weight label. This is done in Section 51A:7-3 for nonfood packages and in Section 51A:7-4 for food in package form.

I have here a chart showing the label requirements for food packages in New Jersey. This is under Regulation 50 which was put into effect in 1955.

It provides that the manufacturer's name should go on the label, the packer or distributor, and the name and place of business; the net or minimum quantity, the weight, measure or numerical count in terms generally used by consumers and in the largest unit of measurement used; fractions of quantity as generally used, common fractions and not more than two decimal points; and the label must be prominent and conspicuous; sufficient label space; sufficient size and style type, sufficient

background context.

This, of course, only applies under our present law to food. S-274 would extend it to all commodities and we hope that these regulations follow.

Some manufacturers do label their products but others, especially in soap and toilet articles, do not do so. I have a soap wrapper - it's the soap for beautiful women but it doesn't tell whether it's large or whether it's small or what it weighs.

Other cleansing or scouring powder cans do give weight labels but uncommon fractions are used - Bab-O - 16.8 ounces; Dash - 3 lbs. 2 oz.; Salvo - 2 lb. 14 oz.; All - 9 lb. 13 oz.

I have here two sizes of Comet - here is a large and here's a small - the large can is 1 lb. 5 1/2 ozs. and the small one is 14 ozs. The shopper wishes to know what can is the best buy but she is immediately stumped by the necessity of converting pounds into ounces and especially adding on the one-half ounce. This calculation needs a slide rule - even more accurate than the commercial gadgets to carry with you when you shop. In this case the shopper would get a better buy if she bought two 14 oz. cans for 31¢ instead of the giant size of 21 1/2 oz. for 25¢. Pennies count. The price of Comet for two 14 oz. cans was 29¢ last January and the large size was 21¢. The shopper in a market of rising prices must be more aware than ever of the unit cost of items she needs for her household. This makes the enactment of S-274 even more urgent at this time.

Regulations are also needed regarding misleading descriptive labels aimed to catch the eye of the busy housewife with only a limited time to shop in the store or who relies on ads for bargains. I refer especially to the use of jumbo, giant, family size, which sound like bargains but mean nothing when ounces are compared. I have here a 3.25 oz. tube of toothpaste and it is labeled giant. The next size of 5 oz. is labeled King. Under S-274 (51A:7-6), these terms would be outlawed or regulated.

Another eye-catcher in advertisements is to list the bargain price of an item without giving the grade or weight. Under S-274 this practice would not be permitted in ads where the price is given because in these cases the quantity or grade must also be shown. Misrepresentation as to price is in Section 51A:7-8 and in Section 31 of the Model Law, and taken exactly from that law.

Another eye-catching practice to lure the housewife into thinking she is getting a bargain is the "cents off" caper. This gives the impression that great savings can be made. Actually it is just an advertising gadget. These tubes of toothpaste when the 5¢ off label is used is no guarantee that it is cheaper than the same tube of the same manufacturer in another store. For example, here are two identical sizes - 5 oz. net weight - one is 5¢ off the regular price of the package and it cost 70¢ in one store. The other with no "cents off" cost 49¢

Slack fill is another bane of the housewife who finds a package of cereal or flour holding far less than

the weight label indicates. The present law prohibits the sale of "less than quantity" represented of any commodity commonly sold by weight or measure. However, tolerances for dehydration and other natural phenomena are permitted. Under S-274 there is a statement on slack fill which protects the manufacturer as well as the buyer, namely that "reasonable standards of fill for food and other commodities in package form" are to be set by the Director. This is 51A:2-21 and is also taken from the Model State Law, Section 9.

Another protection vitally needed in this age of carpeting, linoleum, new textiles, and foam rubber, is the provision in S-274 that these products when already done up in rolls and bolts must be labeled with the net content of the material in terms of linear measurement. That was something you didn't do back in 1911 - you cut a piece off the bolt and measured it with tacks on the counter. But they outlawed the tacks on the counter and there hasn't been much help since.

Many of the complaints which come to the Consumers League Office have to do with the length or measurement of carpeting, and carpeting that comes done up in rolls.

The basic pattern for the enforcement of the law and regulations was worked out in 1911; it has served us well. The State Superintendent appointed by the Governor with the consent of the Senate must have scientific knowledge of the construction and use of standards of weights and measures. And under S-274 his title is changed

to Director.

Each county must have a superintendent of weights and measures and each municipality over 60,000 population. All are under civil service and in counties not having civil service they have the rights and salary corresponding to civil service status. These requirements are retained in S-274.

If any county or municipality should refuse to appoint these officials, the State Superintendent is authorized to send in an assistant superintendent, and charge the county or municipality for the expense. This safeguard guarantees that there be no interruption in protective services to the consumer, and this safeguard is maintained under S-274.

I might interpolate here that I firmly believe, in talking to the women that I knew who helped put this law into force in 1911, that these unfortunate procedures were carefully worked out at that time, basically, and that they have served us well ever since. So I am going into a little detail of exactly what they were because I think very few people realize that they do have this staff who protects them in weights and measures and they are a dedicated group.

In addition, to go on, under S-274 the Director may enforce this provision that every county must have a superintendent of weights and measures by instituting an action in Superior Court to compel the appointment of one. Monthly reports are sent in by the municipal and county superintendents giving the number of tests, number of

weights found correct and the number false. The county and municipal superintendents must be qualified to do their jobs. And this general statement in the present law is repeated in S-274. And, in addition, S-274 provides for certification and requires attendance at a training program as a prerequisite.

Powers of officials. Through a qualified staff, as outlined above, there should be no hesitation in entrusting them with adequate enforcement tools. We are fortunate in New Jersey in having officials trained and dedicated to their work.

The powers exercised by these officials in our present law include inspection annually of all weights and measures used in trade within his jurisdiction, weighing grain, coal or other commodities while in transit and the enforcement of the provisions of the law - quite a general enforcement power. Food in package form as we have indicated above must bear the net quantity of the contents "plainly and conspicuously marked."

Under S-274 weights and measures officials have general enforcement powers. All commodities in package form must bear the true net quantity of the contents; textiles in rolls must show the linear measure. Articles in violation may be removed from the shelves, or in process of delivery through a stop-use order.

Furthermore, as is recommended in the Model State Law, the Director may through recognized sampling procedures,

have packages weighed from time to time and when found not to contain the amounts represented may order them off-sale. It does this to recognize sampling procedures.

Another enforcement method to protect the public and also to protect the reliable merchant from being undercut by an unscrupulous competitor, is the system of licenses. Under the present law, licenses are required for those who sell and repair weighing and measuring devices - dealers in live poultry, dealers in solid fuel. S-274 adds to this number, probably some of it at the request of the business people themselves, - licenses for weighmasters, for dealers in both solid and liquid fuels, dealers of lumber, lumber products and related products, and sellers of soil amendments from vehicles. That was a racket and I've talked to a number of people who have had experience with it, where somebody drives up in a vehicle with some material that will make your grass grow or help your soil and then nothing happens and the householder is swindled.

The reason for the addition of these groups to those already licensed is quite apparent to readers of newspaper accounts.

In conclusion we urge that S-274 be reported out favorably by your Committee as is, without amendments, and that the public be given the protection which they need and which this bill so adequately performs.

Thank you very much for allowing me to speak.

SENATOR KEEGAN: Thank you very much.

Mrs. Pearl Richardson, please.

M R S. P E A R L R I C H A R D S O N: My name is Mrs. Pearl Richardson. I represent the National Council of Negro Women, particularly the Montclair Council, an organization of over 200 women. I am also a housewife, a retired teacher and you know what that means, living on a budget and social security; and, as such, I am also a consumer.

I am particularly interested in this bill and, as a consumer and as a member of the Council, I have been authorized to ask that this bill be reported favorably out of Committee without any amendments.

Thank you.

SENATOR KEEGAN: Thank you, Mrs. Richardson, and thank you for coming down.

My list shows that there are at least two representatives of the New Jersey Cannery Association. I do not know who will take the microphone for that organization so will you please identify yourself?

E D W A R D D U N K E L B E R G E R: My name is Edward Dunkelberger. I am an Attorney with Covington & Burling which is General Counsel to the National Cannery Association, and I have been asked by the New Jersey Cannery Association to testify in their behalf.

MR. KEEGAN: Before you continue, sir, would you just indicate to me if you will make the presentation for your Association?

MR. DUNKELBERGER: Yes.

SENATOR KEEGAN: Are there any other members of your Association here whose presence you would like to indicate for the record?

MR. DUNKELBERGER: Yes - James Sclafani and Mrs. Ethel Zimmer of the New Jersey Cannery Association are here with me.

I have copies of my prepared statement which I will summarize very briefly if I might.

SENATOR KEEGAN: Thank you very much.

MR. DUNKELBERGER: Rather than to repeat our written statement, which emphasizes some of the points that other witnesses have made here today, I would like, if I might, just to read the conclusion to add our emphasis to the feeling that S-274 should not be adopted and that the Model Weights and Measures Law should be enacted in its place.

Senate Bill No. 274 has been described as an attempt to modernize New Jersey weights and measures law. The claim has been made that the bill largely incorporates the Model State Law on Weights and Measures, but that it necessarily includes many more provisions because of its broader coverage.

The New Jersey Cannery Association respectfully submits that the Senate bill does not incorporate those provisions of the Model Law applicable to the regulation of packaged commodities, except in a few isolated instances.

The bill is nothing less than a request for an unprecedented grant of power to regulatory officials to impose their whims and fancies on the producers and distributors of consumer goods. The basis for our unalterable opposition to Senate No. 274 can be summarized as follows:

1. In every important respect, at least with regard to packaged goods, the bill departs from the provisions of the Model Law. The vital purpose of the National Conference on Weights and Measures - to promote uniformity in weights and measures regulation - would thus be frustrated by one of the leading consuming and producing states in the nation.

2. The bill speaks in broad, ambiguous, and undefined terms. The certainty that is provided by the Model Law and supplementary regulations is necessary if manufacturers and distributors from all parts of the country are to package and label their products with the confidence that they will comply with the laws of the states in which they are sold.

3. The sweeping authority that would be granted to the director would enable him to control every aspect of marketing and distribution. There would be no recourse against his arbitrary exercise of this authority, for the bill by its terms sets forth no realistic guidelines or safeguards or, indeed, any reasonable administrative procedures.

4. Although described as a weights and measures

law, this bill is in fact a regimentation of marketing law. Most of the power granted to the director and most of the prohibitions have no relation whatever to weights and measures regulation.

I might add that we point out in our statement that in fact we feel so strongly about this broad grant of rule making authority to the officials of the state that we are at a loss to understand why it would take 130 pages to do it when really one statement that the director can adopt whatever rules and regulations he wishes would seem to have the same effect as these 130 pages have.

5. The bill would subject New Jersey producers and others who would sell in this state to the constant threat that their packages and labels - lawful in every other state - would be in violation of New Jersey law. The ultimate effect would be to discriminate seriously against New Jersey producers who must sell in this State if they are to operate profitably, and to close the New Jersey markets to producers who are unwilling to conform their practices to the unreasonable requirements of this State.

For these reasons, we respectfully urge that Senate No. 274 not be enacted and that this State join the increasing number of states that have enacted the Model State Law on Weights and Measures.

Thank you.

SENATOR KEEGAN: We might say, sir, that your statement is forcefully given.

MR. DUNKELBERGER: Thank you.

SENATOR KEEGAN: Thank you for coming.

Mr. Roger H. Higgons of the New York Paint,
Varnish & Lacquer Association.

R O G E R H. H I G G O N S: Senator Keegan, I am
Rober H. Higgons and I am here on behalf of the New York
Paint, Varnish and Lacquer Association which represents
over 200 companies engaged in the manufacture and sale
of paints and related products in New York and New Jersey.
Nearly half of these companies have plants or offices
in this State.

I am also speaking on behalf of the National
Paint, Varnish and Lacquer Association which has submitted
a separate report to you but, to save the time of this
hearing, I will speak for both.

We wish to register our opposition to Senate Bill
No. 274. However, since I have already submitted copies
of our comment to this Committee, I will not take the time
of this hearing to go into a detailed discussion of our
objections to the bill. I simple wish to say that we
oppose S-274 principally because it does not conform to
the Model Law and Regulations and also because of the
excessive power it would grant the State Director of
Weights and Measures.

I should add that we agree heartily and support
the comments made by the representative of the State
Chamber of Commerce.

Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Higgons.

Mr. Joseph P. Leonard from Paterson.

J O S E P H P. L E O N A R D: Senator Keegan, I am Superintendent of Weights and Measures for the City of Paterson and on the Legislative Committee of the New Jersey Weights and Measures Association.

SENATOR KEEGAN: As one Passaic County man to another, welcome aboard.

MR. LEONARD: Thank you.

My purpose here this afternoon is to explain that the starting of this bill - the recodification of this law started in 1955. We have during the course of the last ten years had several public hearings, invited industry to come and talk with us, help us to formulate this bill, and we have worked out with them - and many of the speakers here, prior to my talking, worked with us. They had all agreed that the bill was a good bill and the bill was satisfactory to them.

Then when the bill was first put in three years ago they were all opposed to the bill. The New Jersey Chamber of Commerce had a man sitting in with us for three years helping us to work this bill out. Then when the bill came up they were against the bill again.

And the only thing that I am here for is to ask the Committee, in deliberating on the merits of this bill, to give the weights and measures man the tools to go out and do an honest job. And I think if we can get those tools it will help the consumer to a great extent.

Thank you.

SENATOR KEEGAN: Thank you very much, Joe.

My list indicates a James H. Bunting of the Campbell Soup Company. Mr. Bunting?

J A M E S H. B U N T I N G: Senator Keegan, I would like to submit a written statement for the record.

My name is James H. Bunting and I am speaking on behalf of the Campbell Soup Company, Camden, New Jersey.

I am authorized to state that we are opposed to the adoption of S-274. On the other hand, we favor the consideration and would support the adoption of the Model Law.

The points we have made in our statement I believe would be repetitive but one point I might make is that we feel in the food industry we are highly regulated and we do not need this S-274.

For example, there is a possibility that if the regulations were written to control quality of foods which we produce down in Camden, that we might be compelled to have separate inventories for New Jersey and for the many products that we sell in other states. In this case, this would be a disadvantage to the industry in New Jersey and also to the consumers, for economic reasons.

The rest of the points I think you will find in our statement.

Thank you.

SENATOR KEEGAN: We appreciate your bringing the statement of Campbell Soup. Thank you.

Mr. James R. Bird.

J A M E S R. B I R D: Senator Keegan, I am James R. Bird, Supervisor of Technical Services in the State Division of Weights and Measures, and I too shall be brief. I shall be speaking specifically on something that I am very familiar with, scales, the testing of scales, etc. A previous witness has said that some of the equipment would be required to be tested more often than necessary and that he objected to the requirements in our S-274.

Generally those same requirements have been lifted from the Model Law, Section 11, on the form 2 type of the Model Law.

Now he also states that it will be a burden for the scale manufacturers and sellers of scales and equipment in New Jersey to notify the Division of Weights and Measures when scales are installed and repaired. This is a present requirement. This is something that is required at the present time and we feel it is necessary because we need to know where a piece of equipment has been installed or where it has been repaired.

He also objected to type approval. This is something that we have currently and we feel is a very necessary thing. In fact many of the manufacturers, not only of scales and meters and other types of devices - we have worked cooperatively with them, and in our type approval processes we have been able to assist them in making modifications to their equipment that would be a better

commodity to put on the market. And he said that this is not necessary because we have the tools of condemning it when it's in use and if it's not correct it could be condemned. However, it would be a burden to the New Jersey taxpayers or to any operator in New Jersey to have such a device offered to him that maybe would be in for a year and be condemned and recondemned. One of the things that we look for when we test these things for type approval is repeatability. And we are not asking them for something more than they have to do in other states because one of the things that the New Jersey State Superintendent has done with his present rule-making powers is to have adopted the National Bureau of Standards Handbook 44, Third Edition. This is a code and handbook that is in force in practically all of the states in the United States, and we are not asking any equipment manufacturer to do something here that he is not required to do anywhere else. And, in fact, many times we have bent over backward on so-called "guinea pig" installations to accept some of the things that didn't quite come up to this, to see if they could make it better. We feel that we would rather work with them and help them with these things so that they can make a better product not only for New Jersey but for other citizens of the country.

At the present time one of the large equipment manufacturers has a piece of equipment in New Jersey, and if this were so that we could condemn it and recondemn it they would be in a position of not having a device. But with the law that we have now the company will be required to make

modifications to this equipment so that it will conform to the specifications and regulations, that they will not be stuck with a piece of expensive equipment.

And one other thing that I would like to speak to is that he said that any salesman that would install a computer scale or such as that in a supermarket and make adjustments to it would be required to have a license. This is not so providing that he only installs the scale in a particular position, levels it and adjusts the balance of the scale. He would not be required to have a license. But if he has to take the scale apart and make repairs to it, etc., then this would be under another competency and he would be so required.

And at the present time it is known that any man that works on weighing and measuring devices in this State, on used equipment, must be licensed. Many times in the past these scale men, meter men, etc., have come to me and others under my supervision and asked "Why aren't all these other people required to be licensed?" because they have run into many instances where they would go into a factory or on a construction job and the unions would not let them do the work on this. And we have had experience where other people have installed equipment and because of this they welded parts together that shouldn't have been. They have taken electrical equipment apart that had been fabricated in a factory somewhere. And so many times these men would have to go in at night time or week-ends and correct work that somebody

else had done.

Now, back when this law was enacted originally this was eliminated, that section that all people working on scales and meters would have to be licensed. They just wanted to have it for the secondhand repairmen, and so forth. Now these same people - maybe their higher authorities don't want it but these people that actually work on the equipment want it because they've told me this, many, many times.

Now I think that's about all I have to say, that there is a very large segment of people that work on the equipment that want these other people to be licensed.

SENATOR KEEGAN: Thank you very much, Mr. Bird.

I note on the list of people who have signed that the New Jersey Fuel Merchants Association has a Mr. John B. Wade and a Mr. Nelson W. Thompson and a David T. Brewster - do I read that correctly, gentlemen?

J O H N B. W A D E, JR.: I am John B. Wade, Jr. I am the immediate Past President of the Fuel Merchants Association of New Jersey. We've been in existence for over 34 years and we represent over 900 dealers, both solid and liquid fuel, in this State.

We feel that the discretionary powers and authority given to the Director in this Bill are good. In the past they have come to the fore and aided our industry, mainly in the competition we suffered with the bootleg coal industry prior to the last war.

I am also in the fuel business. I am Vice President

of a corporation which has its main office in Essex, also one in Union and also in Monmouth County. Our problems are the same, I feel, throughout the State.

This bill is due. We ask that it be reported favorably out of Committee. The revision is long overdue. 1911 is a long time ago. We feel that the protection of the consumer will be served. We feel that none of the directives, the restrictions on our industry are unfavorable. We think it will aid our industry.

We, therefore, support this bill and we hope that you will report it favorably from your Committee and that the Legislature will pass it.

Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Wade.

Mr. Thompson, did you also wish to address the Committee?

MR. THOMPSON: If I may.

SENATOR KEEGAN: Certainly, Mr. Thompson.

N E L S O N W . T H O M P S O N : Senator Keegan, my name is Nelson W. Thompson. I am a member of the Fuel Merchants Association but I am here as Vice President and Manager of the Nassau Oil Company in Princeton.

First of all, I would like to compliment the Superintendent of Weights and Measures and the Department, in general, for the administration of the law which has long needed revision. We've been able to live with these gentlemen and work all of our problems out over the past

several years, and there have been many because during the past 29 years there have been many improvements and a great deal of sophistication in the delivery of liquid fuel, and I am primarily concerned with the delivery of liquid fuels.

We have examined this proposed law and find it to be acceptable. We can live with it. I believe that it will protect the consumer. We recommend it and hope that it will come out of Committee and have favorable action.

Thank you.

SENATOR KEEGAN: Thank you, Mr. Thompson.

Mr. David T. Brewster from that same Association.

D A V I D T. B R E W S T E R: The two previous speakers from our Association have adequately covered our feeling about supporting this bill.

SENATOR KEEGAN: For the record, Mr. David T. Brewster has indicated that he will not testify but that he endorses the position taken by the other representatives of the New Jersey Fuel Merchants Association.

Is that a correct statement, sir?

MR. BREWSTER: Yes, sir.

SENATOR KEEGAN: Mr. Fred Taylor, Chemical Specialties Manufacturers Association.

F R E D T A Y L O R: Mr. Chairman, I have submitted a prepared statement which was prepared by Sellers, Conner & Cuneo, Counsels for the Chemical Specialties Manufacturers Association.

For the record, my name is Fred Taylor. I am associated with Lehn & Fink Products Corporation in Bloomfield and Montclair - we are in the process of moving - and I am Chairman of the Net Weights Committee of the Hemphill Specialities Manufacturers Association of New York. They represent about 500 companies, most of whom do business within this State.

There are just a few comments on this thing itself.

We are in favor of adoption of the Model State Law in place of Senate Bill 274. The Hart Bill, S-985, as reported to the United States Senate contains provisions for labeling of net contents which in all respects are similar to the pertinent provisions of the Model State Law. In addition, there is a very strong pre-emption section in this bill which would override state laws and regulations in this field.

And we have never been persuaded that the consumer in New Jersey differs from the consumers in the adjoining states of New York and Pennsylvania where weight and measure laws and regulations and enforcement have followed the pattern recommended by the National Conference.

SENATOR KEEGAN: Thank you very much, Mr. Taylor. Your full statement is on record and will be perused by the Committee, sir.

MR. TAYLOR: Thank you.

SENATOR KEEGAN: Mr. Donald P. Lynott of the National Paint, Varnish and Lacquer Association.

D O N A L D P. L Y N O T T: Mr. Chairman, I have submitted a statement. I have nothing further to add at this time except to support Mr. Higgons and the New York - New Jersey Paint, Varnish & Lacquer Association in strongly urging the adoption of the Model Law as a substitute for S-274.

We represent over 1200 members, and, as Mr. Higgons pointed out, he represents over 200 members in the New York-New Jersey area. And you can well realize what effect this would have on our industry and what a value uniformity will also have.

Mr. Chairman, I respectfully request that our statement be entered into the record.

SENATOR KEEGAN: It will be part of the record and will be perused by the Committee.

Thank you for coming.

Mr. John M. Chohamin.

J O H N M. C H O H A M I N: My name is John M. Chohamin and I am Vice-Chairman of the Legislative Committee for the Weights and Measures Association. I am here to try to convince the Senate Committee to adopt S-274. It has been long overdue and I have heard testimony here that it would be generally a hardship on almost every industry that has come up to testify.

However, I would like to point out that in the past, from past experience, my 16 years of experience with industry - and I am not talking about Consumer - in this case we will have to consider an industry as a consumer. This is something that hasn't been said - an industry is a consumer, and I think this point must be taken into consideration when considering this bill.

Attacks have been made upon the powers that the State Director would have. Similar powers are already in effect and they were used in very discretionary ways. These are not dictatorial powers. They have never been intended to be anything but discretionary type powers, so far as the legislative committee of our Association is concerned, and in every instance where negotiations have been able to be made we have listened.

I think one thing that we must make clear here is that every Weights and Measures official in this State must have as one of his qualifications a big set of ears and can listen to a problem. When you can't listen any longer, then you must act in a different manner. I think this has been exhibited throughout

the record of the department. There isn't one instance where pressure has been put of any kind on any particular consumer of any nature. It has been more for the protection of the consumer. And I am going to use this word "consumer" consistently with the fact in mind that industry is a consumer.

Regulations, as pointed out in previous testimony, must in most instances or in any instance that we know of in our particular department, must be attached to a statute. They cannot be adopted without a statute. Regulations, according to the concepts set down in the Constitution, must be attached to a statute, which in S-274 would be there.

The other point that I would like to make is that the Model Law has been endorsed here continuously this afternoon. This is only and has never been anything else, in my experience and my interpretation of it, than a guideline for adoption of particular rules so that they will be uniform with other states. I think this must be very carefully considered. In our small but industrial state we cannot adopt it in its entirety and make it work according to the type of things that we have in this State.

Another thing I would like to say is that under a weighmaster's certification it must be put into the record that in many instances we are not able to enforce short - for instance, where truckers have been shorted on freight. The trucking industry can be benefited not only because of the insistence of certifications but because many, many times a shipper will ship a commodity and state a certain amount on it and they never really check. I have had the experience where a certain trucker was bilked out of freight in the amount

of 14,000 pounds because we found it, not they, and they appreciated it. And if this certification would go into effect, it would help them.

The other point that hasn't been brought out in testimony here is the soil amendment section. I have had a very, very sad experience of picking up, as this young lady over here testified to, - of these people coming around, and I have a personal experience in my department. I am from Middlesex County; I am Assistant Superintendent there. In one day, in one single day, \$1200 was bilked out of three customers and we couldn't do anything about it because we tried. We tried with the old law, under the old law that we have, under manure, but it doesn't work. You can't stretch the law that far. It's just impossible. Now here were three people who couldn't do anything except accept the consequences. Our job is to inform these people if we can, and we usually do, but in certain instances we don't have the tools to be able to enforce it. In investigating this particular case which I lost - I lost this case because I didn't have the proper tools. In fact, it's on record that I was sued for defamation of character, which shook me pretty well. But, anyway, getting back to this, these people couldn't do anything about it. They were sued. Now what kind of protection are we going to give them?

Although it has been pointed out continuously that the Model Law is the one, the Model Law has very little that we can adopt that hasn't already been adopted or considered. We have worked continuously with industry and we have had big ears, like I said, and listened. If, in the legislative committee, we

have been remiss, it wasn't because of the intent to be overbearing but rather to cooperate.

One more point and then I'll quit. In the packaging law section of this law, there are so many things that have to be covered. I'll give you one instance. These are all personal experiences. During the Christmas season, wrapping paper is sold by inches. Now these inches were used as a common trade practice - 20 by 30, 20 by 40. These were always used as a way of ordering. It was not a statement or measure, it was a method to order. It's a 28 ounce can, it's a 48 ounce can. These were used in the canning industry as an order method rather than saying one four two ounces or one five ounces or whatever it was. This is stretched to a point now where wrapping paper is 1200 inches. This is ridiculous.

This packaging law like we have here would take care of things like this. I went up to a lady who was buying 24,000 square inches of wrapping paper and I asked her, "Do you know how much paper you have?" I don't think there's a man here in this room that can mathematically figure it out in a few minutes.

These are the protections that we are trying to give. Again I would like to emphasize that we are trying to give it to the consumer because industry is a consumer. And I think if the Senate would seriously consider my testimony, they would favorably move this out of committee.

SENATOR KEEGAN: Thank you very much, John.

Mr. Robert C. Goodman, American Plywood Association.

R O B E R T C. G O D M A N: Senator Keegan, unfortunately, through an oversight, our formal statement did not arrive. It's in the mail and a telegram to this effect was mailed or was sent this morning to Senator Bigley informing him that this statement was on the way.

SENATOR KEEGAN: The Committee anticipates receiving your formal statement and when it's received you have my assurance, as a member of the Committee and as sponsor of the bill, that it will be made available to all the members of the Committee and will be used in the deliberations of the Committee. However, if there are any points in the formal Statement, Mr. Godman, with which you are familiar and which for a point of emphasis you would like to make, we will be happy to hear you.

MR. GODMAN: Yes, there are some, Senator. Thank you very much. And I'll be brief.

As it is written at the present time - or as they are written at the present time, the American Plywood Association, of which I am a senior representative, is opposed to bills S-274, S-327 and S-328. We are not opposed to their intent, but we find, through study, that the wording of the bills in the portions that refer to lumber, lumber products and related building material is uncertain, ambiguous and questionable in intent, and until such time as these portions can be cleared up, we feel that we cannot support the bills as they are written now.

We have suggested some corrections to officials in the Division of Weights and Measures, and I'm sure they will be given consideration by those members of the state organization

If these ambiguities and these uncertainties can be removed from the wording of the bills, then the American Plywood Association would support their passage.

Thank you.

SENATOR KEEGAN: Thank you, Mr. Godman.

I would like the record to indicate that Senator Bigley has rejoined us, and pride of authorship will give way to position on the Committee to the Chairman.

SENATOR BIGELY: I'm sure you have done a good job, Senator, while were settling some other things.

SENATOR KEEGAN: I sat quietly while some rather strong things were said about my bill.

SENATOR BIGELY: Mr. Jones. Robert Jones.

R O B E R T A. J O N E S: Shall I read this?

SENATOR BIGELY: Mr. Jones, I don't know how Senator Keegan has been handling it but I think in light of the number of witnesses still to be heard, it might be better if you could paraphrase or emphasize those points which you wish to bring out in your presentation.

MR. JONES: Thank you, sir. My name is Robert Jones. I am the Executive Vice President of the Middle Atlantic Lumbermens Association. We represent seven lower counties in the State of New Jersey for our lumbermen there, and we are opposed not only in principle but to the way the bill is written - S-274, S-327 and S-328. We feel that the bill itself does not answer the problem of industry. We feel it is written in such an ambiguous way that it would be very difficult to interpret, understand or enforce. We also feel

as to S-328, which pertains to the lumber section of S-274, that it gives the administrator or the director of the Department of Weights and Measures far too much power - police powers and other powers - especially insofar as the development and inauguration or even the promulgation of lumber standards, which have been developed over a period of many years by the various specie groups within our industry. And unless all those years of work which have been developed by the various groups within the industry were to be followed - and as has been testified earlier at this hearing, we have made rapid and many strides forward toward a national uniform set of standards as far as lumber and lumber products are concerned, and this goes to plywood also, and we feel that the answer to our problem isn't in giving an individual state the position of being an island unto itself, but we feel rather that if we can work together we can achieve the very things that the State of New Jersey is striving for.

Our Association and our lumber dealers in South Jersey do not oppose the intent of these bills. I feel that in some instances the very wording of them indicates that perhaps the dealers, themselves, are at fault, that they have been guilty of selling inferior products or cheating the public. We do not believe that. The vast majority of our dealers are honorable, reputable men. These things are spelled out in our testimony, and they have done a great job in helping build New Jersey as well as America.

We believe that the intent of these Weights and Measures

laws is excellent, but we do believe that the phraseology as to the wide powers, the discretionary powers, in almost every paragraph, especially in S-328, would be most damaging and harmful to our industry, and we do not believe that it would achieve the intent of the men who have written these bills. We are entirely in accord with protecting the industry and the public; we are entirely in accord with doing everything humanly possible to make it easier, better and safer for people to build with lumber and lumber products. But in this instance, we do not feel that giving such a broad power to the Department of Weights and Measures would do the job. So we would like to recommend that the Senate consider the passage of a model law, as has been recommended by many others here today, and from that model law, also as has been mentioned, adapt it to the needs of the State of New Jersey.

Thank you.

SENATOR BIGLEY: Thank you very much. Have you presented your statement, sir?

MR. JONES: Yes, sir. You may have more copies.

SENATOR BIGLEY: Mr. Bouthot is next.

E. B O U T H O T: Thank you, Mr. Chairman. I am Mannie Bouthot, Senior Supervisor of the Pacific Lumber Inspection Bureau, residing at 51 Clifton Avenue, Newark.

I have been employed in the lumber industry for over 32 years, a certified lumber grader and a teacher of lumber grading and tallying. A P.L.I.B., with headquarters in Washington, has been plagued by fraudulent stamping in the East. Fraudulent stamping and other discrepancies were responsible for

my appointment in this area. It has been my good fortune to travel extensively through New Jersey with Mr. Edward Lubowicki, Lumber Inspector, and I have been impressed with Mr. Lubowicki's knowledge of species and lumber grading which, in my opinion, makes him a good candidate for his position.

From what I have seen in my travels, I am of the opinion that the implementation of the lumber section of S-274 would be in line with some of the American Lumber Standards Committee's recommendations. Thank you.

SENATOR BIGLEY: Thank you very much.

Mr. Lubowicki, please.

E D W A R D L U B O W I C K I: Senator Bigley, I, unfortunately, will not be as short or as brief. I know that we have touched on lumber grading, but little does the Committee know what lumber grading is. Lumber grading is a grade stamp affixed to lumber at the place of manufacture. These are copies of facsimiles. [Hands papers to Chairman]

In most cases these grade stamps are affixed anywhere from 3,000 to 3,500 miles from New Jersey. At the present time I am on a leave of absence as a Building Inspector. One of the main reasons for the leave of absence is because, as I was performing the duties of a building inspector, the constant use of fraudulent grade marked lumber was a common practice, and the poor little building inspector had no-one to go to. And when I say no-one, I mean no-one. I do not want to mention names, but this is prior to ten months ago when I started employment with the Division of Weights and Measures.

On December 13, 1961, two dwellings while we were in place consisted 100 per cent of #3 grade lumber. The following morning, my immediate superior asked if I was drunk the night before because he found now it all contained #1 grade stamp. This was done during the course of the evening.

On April 28, 1962, again #3 lumber was fraudulently stamped as #1.

May 2, 1962 - this is a very good one. As I said, April 28 was the following case. The morning of May 2nd, a lumber dealer walked into our office and he had heard that we had discovered the use of fraudulent grade-stamps, and his comment was: "This is the best thing that has happened since Coca-Cola." Well, that particular afternoon, Senator, I went out to a job that he delivered lumber to and it contained nothing but fraudulent grade-stamped lumber. So it all depends on how you drink Coca-Cola.

On April 26, 1964, there was another little gimmick thought of, not a fraudulent stamp but a stamp that consisted of the initials of the lumber dealer and beneath it the grade of lumber that he thought it was - not someone who was authorized, but what he thought it was.

On September 22, 1964, lumber was supplied to an office building and again this lumber was of a #3 grade where #1 lumber should have been used in accordance with the standards. The following morning without any consideration for the length of each individual piece, each one was stamped. (That was the night shift.)

The use of fraudulent grade stamps was a common practice 10 months ago, selling #3 lumber for #1 and getting

the price for #1 was a lucrative racket, or should I say "profit"? - being that #1 produced around \$300 more per house. Ten months ago there were no regulations whatsoever and nowhere for the building inspector to turn to for advice. But the State has reactivated an old 1935 lumber law which the officials of the department thought was a great necessity, and I do agree.

To give you a recent case, fraudulent grade-stamps were placed on lumber after legitimate grade-stamps were painted out. The legitimate grade-stamps showed that the lumber was a #3 grade, but an unauthorized person just took it on his own and marked it #1. How much lumber was involved? Only about 150,000 or 200,000 feet, which represented a three to four thousand dollar profit for the one who put the stamp on.

To top it all off, an independent grading agency was called in by the interested parties and paid by them in this development and a certificate was issued stating that the majority of the lumber was of a #2 grade or better. Gentlemen, I challenged this report and called it to the attention of the American Lumber Standards Committee in Washington and asked for a representative to come out and conduct this investigation. In his report, which is public record, it was found that the independent grading agency was 40 to 60 per cent off.

I could go on and on in detail, but let me point out some of the cases in the past 10 months to show the need for S-328, the lumber portion of S-274.

Ocean County, July 29th, on an FHA job. No. 3 grade lumber was used in place of #2 and better. It was bad enough that it was #3, but the wood was not even the species called for in the specifications. Was this called to the attention of anyone? Yes, it was. Here is a complete file. It has been called to the attention of your U. S. Senators, Representatives, the Governor, the Attorney General, and the Federal Housing Administrative Authorities.

I would just like to read excerpts of two of these letters, if I may. In the third paragraph here, it says, "We would like to advise you that on Friday, September 11, 1964, a West Coast lumber inspector did check the project with our local building inspector and we have been advised that lumber used met and conformed to the specifications of the Housing Authority."

Here is a letter of September 8, directed to the Department of Weights and Measures and the statement says here from the Chairman of this particular Housing Authority: "It also seems to be a fair conclusion that, although bootleg stamps were used, the quality of lumber otherwise meets the specifications inasfar as fibre stress, elasticity and grade." Before it didn't meet, but all of a sudden it meets.

Now we have a letter here from the architect, Mr. Cleveland, who says that the lumber did not contain a modulus of elasticity of 1,760,000 pounds as per specifications, but it did contain 1,540,000 pounds per square inch modulus of elasticity, but now this was O.K. I don't why it was O.K., but the original specifications said it wasn't, and it's only a matter of \$10 per thousand board feet difference in the price.

Somerset County, July 27, 1965. At the request of the Building Inspector, an inspection was made and it was found that the supporting members of the roof of a garden apartment could not possibly support the first snowfall. As a result, the Building Inspector made them take it down.

Middlesex County, August 9. Lumber supplied to garden apartment site again contained #3 lumber with a fraudulent grade-stamp and it was sold for #1.

Ocean County - August 16. Lumber sold to a builder of houses in which they had ordered a 60-20-20 grade, which is 60% #1, 20% #2, and 20% #3. Upon request of the builder, it was found that he was not getting a 60-20-20 mix but he was getting a straight #3.

Mercer County, Trenton State Teachers College. Purchase order showed that the contract was with the lumber yard for a graded specie of #1 fir. Upon inspection it was found the shipment contained 76% #1 and the remaining 24% contained primary #3, but it so happened this was a hemlock grade and not a fir - again \$10 cheaper per thousand.

Mercer County, September 16. Mr. Consumer was building his own little house, ordering lumber of an 80% #1 and 20% grade #2. At the request for an inspection because the building inspector wouldn't approve this house, it was found that the lumber contained #3, but the delivery ticket didn't say this. I wonder why.

Again Mercer County, September 13. A Ewing Township builder in good faith ordered #1 lumber. Because it did not meet up with the building inspector's requirements, I was again

asked for an inspection. House No. 1 - the dwelling was ready for occupancy. An inspection of the first floor beams showed that a majority of the lumber was of a #3 grade with a fraudulent grade-stamp showing #1 affixed to it. House No. 2 - no fraudulent grade-stamps appeared, but the lumber of a #3 grade appeared when the builder ordered 80% #1 and 20% #2.

Monmouth County, October 1. John Doe saw an advertisement in a local newspaper - sheet of closet lining 40 square feet, \$8.05. Mr. John Doe went out and purchased this because he had a closet that was just under 40 square feet that he wanted covered. Little did he realize that he was only buying 32 square feet.

Middlesex County, October 5. Sir, I have my daily reports and public documents here to substantiate all this. Middlesex County, October 5. Truckloads of lumber bearing fraudulent grade-stamps placed on #3 lumber and again calling it #1. The same day a lumber dealer comes down with a truck, loads it up, and leaves the job site. We checked the invoices for the day trying to find out what he did with it. We were unable to. This is where the new law, the seizure act, comes in. Fortunately, I had a camera and I do have a picture of the truck as the lumber was applied, as put on the truck and taken away.

Ocean County, October 26. At the request of the builder an inspection was made in two houses. The reason for this inspection was that the builder's personal friend was in the lumber business and he was trying to sell him lumber. But unfortunately he was unable to sell him lumber

because his 60-20-20 grade was a lot higher than a competitor's 80-20 grade, in fact \$2.00 higher. So he asked for an inspection. The inspection revealed that he was not getting the 80-20 grade as he ordered, but he was getting a 50-50 grade - 50% construction standard and 50% #3 which was your utility.

Middlesex County. Again, at the request of the Building Inspector, it was found that a building which was to contain #1 floor beams in accordance with the building plan contained #3, which in no way whatsoever would meet the maximum allowable span prescribed by the National Lumber Manufacturers Association.

January 7, 1965. John Doe purchased oak flooring to cover a given area, and much to his surprise he had not ordered enough flooring. Even after being told that he had to allow 38-1/3 per cent extra, he still thought that he wasn't receiving what he had ordered. An investigation was made and a complete survey was conducted. From the same manufacturer the flooring had come, 64 bundles of flooring had been checked and it was found that a shortage did exist in the amount 2 square feet.

Passaic County, November 10. An investigation was made on an apartment building where the contractor had ordered a grade containing 80% construction and 20% standard. When I say "construction," that is #1 and standard is #2, and utility is #3. I have tried to bring it out in numbers so you can easily understand it. And again the lumber was shipped one grade lower.

Essex County. January 12. From a test by the Building Inspector, it was found that the normal 2 x 4 was only an inch

and five-eighths in thickness and was now being shipped an inch and seven-sixteenths. This, Senator, is a board size and is not the National Lumber - and the building inspector would not let him use it.

Camden County, January 28. Inspected an occupied building at the request of Assistant Building Inspector and found that four floor beams adjacent to one another ruptured right in half. This occurred in the kitchen section of the dwelling and the center floor of the kitchen bulged 1-1/2" to 2". Senator, if the lady of the house ever had to pull that refrigerator out from the back of the wall to clean it, she and the refrigerator would have been down the cellar.

Camden County, January 28. Inspected an office building where the Building Inspector wanted an official opinion of his findings. Roof trusses that were to span an area of 40 feet were coming apart where they were fastened. The reason for this was an inferior grade of lumber.

Camden County, the Country Club. And again roof trusses were involved. The roof, after a snowfall, was found on the ground. Luckily the job was not finished and the building was unoccupied. The reason for the failure - the architect specified #2 or better for the lower portion of trusses and it contained a #3 grade.

Essex County, February 3. Here we find a new twist - just paint out the authentic grade-stamp which shows that it's #3 and replace it with a stamp that shows it to be #1. Why was this done? Because the local officials did not permit #3 grade. This only occurred in three houses.

Middlesex County, February 5. Large apartment site. This is not three houses but many, many apartments. How does the lumber yard meet its competition? Easy. Just paint out the #3 grade stamp and replace it with a #1 grade stamp.

Morris County, February 7. Inspected a lumber yard and found that the fraudulent grade-stamp was still in the yard. This, Senator, we have picture of but the irony of it all is that it happened just after a snowfall and we have pictures of them trying to cover it up with a bulldozer - trying to cover up these stamps of fraudulent lumber with snow so that it wouldn't be discovered.

This is a combination of Middlesex and Essex and was discovered after three dwellings and the apartments were inspected by an independent grading agency who even supplied the ink to the employees of the lumber yard to block out the fraudulent grade-stamps after it was discovered. This report was challenged and an inspection was requested by the grader which was employed by the American Lumber Standards Committee. A careful inspection was made and it was found that the independent inspection agency was off 40 to 50 per cent.

Bergen County, May 16. A builder ordered 75-25 grade of lumber and, after using a portion of it, discovered that this wasn't the grade he was accustomed to building with. He asked for an inspection and it was found that the top half of the load consisted of the #1 and #2 and the lower portions consisted of the straight #3.

Bergen County, March 31. A local policeman interested in earning a few dollars contracted to have a dwelling built for himself. Upon examination, at the request of the building inspector, it was found that the lumber not only contained #3 grade but a #4 grade also. There was much publicity about this, Senator. I have copies from the newspapers if you care to have them.

Monmouth County, March 14. On a routine inspection it was found that a grade-mark of the authentic stamp was painted out. Upon investigating it was found that the builder was purchasing #1 fir and was receiving #3 fir with the grade stamp painted out so the builder wouldn't recognize it. Nice going! Nice profit!

Somerset County, April 6. Again a routine inspection. It was found that no grading agency had placed a grade stamp upon lumber, just someone decided to call a piece of lumber #1 or #2- just that, and he placed an appropriate stamp on it, just trying to fool somebody.

Mercer County, June 13. John Doe, a builder of two or three houses a year, ordered good lumber. He didn't order lumber of any specific grade; he wasn't aware of it; just good lumber. The delivery tickets didn't show what the good lumber was. I wonder why.

Middlesex County, May 12. Apartment site, 300 apartments. The building code calls for a 75-25 grade. Six parcels of 240 pieces in each parcel were found to be #3 grade with five layers strapped on top consisting of #1 and #2. I guess they thought nobody would look five layers down.

Cumberland County, May 12. An FHA job. Specifications called for American made lumber. This is as all FHA jobs do to protect the American workingman, and I'm sure you know that. The lumber used for the floor joists and such was manufactured in Canada. I wonder why we passed this legislation. The lumber called for a specific species but this was replaced with a specie that costs less per foot. The lumber in the specifications called for a specific grade. Why was a lesser grade supplied? This has been called to the attention of the builder and the inspectors on the job but they are still working.

Monmouth County, May 13. At the request of the building inspector, an inspection was made and another new twist was instituted. They chipped away the grade mark on #3 lumber and were selling it for #1. It's the same story; just trying to make a quick buck.

Morris County, May 17. On routine inspection at housing development, it was discovered that the grade stamp had been painted out on #3 grade lumber. In order to insure safety, it was called to the attention of the building inspector that this lumber was of a #3 grade. After the lumber dealer found this out, he was furious because I uncovered his little racket.

Yes, Senator, there is need of control, as you can see by my findings in the past 10 months. In the last 10 months I have pushed some of the unscrupulous dealers who were using fraudulent stamps underground. They are waiting to see your action before they come up. Indictments - yes, there have been some - two that I know of in New York and

one right across the river here in Delaware, where a lumber dealer was fined \$10,000.

Senator, we need this law. Let's keep the unscrupulous dealers underground forever and let the legitimate dealer earn a part of the business that he rightfully deserves. Let's put teeth in the New Jersey law and not just a slap on the wrist telling them that they were bad boys. The licensing of lumber dealers is a must, the same as is the case with the coal dealers. How will this help the consumer? No. 1, it will bring about the possible elimination of the substitution of grades, because someone is going to be watching. No. 2, the elimination of fraudulent grade stamping. No. 3, making sure that the consumer receives what he has ordered. And I think this is what we are all interested in.

How do we assist the legitimate lumber dealer? No. 1, by putting business back on a competitive scale. No. 2, by calling to the attention of the authorized grading agency where a manufacturer is placing his grade stamps with grades higher than the piece calls for. This will assist in their quality control project.

How will it help the manufacturer? With the proper identification of lumber, the now so-called utility market, No. 3 lumber, will again find its proper use in house and apartment construction. No. 2, by showing industry that someone is aware of what they are doing and putting business at the manufacturer's end in a competitive market. Yes, the consumer, the legitimate lumber dealer, and some of the manufacturers welcome a revised lumber law. Let's show them

that someone cares, that the State of New Jersey cares.

While we are speaking of fraudulent grade-stamps, Senator, here are stamps that I have brought in from a rubber stamp manufacturer, so anyone could put them on. So it is very easy, as you can see, to place a #1 stamp on a #2 or #3 grade.

Thank you.

SENATOR BIGLEY: Mr. DeLar.

C H R I S T O P H E R D e L A R: Mr. Chairman, I represent nobody but myself and I am speaking here as a consumer, one who knows a lot about what Mr. Lubowski was talking about - one of those John Does he mentioned. I was in it. And what happened? Sometimes when you buy material, when you build a house for a person, you try to give him the best you can for a price, but to your surprise you find out at the end that you are out a little bit, because the material you are supposed to give him is not there. You pay for good material but you don't receive it.

Last year I was putting a house up and I tried to use exterior plywood. They delivered the plywood and, unfortunately, that night we had rain - that day and the following day. The third day that exterior plywood was falling all apart. Some of it was nailed on the floor. The manufacturer came over and looked it over and said, "We'll give you a few pieces of plywood and you can cover it with a few pieces." Now, what do I do in a case like that? Either I have to lose money or the customer, one or the other? No choice. If I tear the plywood down, I will

lose money. If I leave it there, it will be covered with a hardwood floor on top of it and the filling underneath it and nobody will know the difference, but you will know in a few years. So I was forced to replace it - at my expense, of course.

Now, talking about lumber, I was putting a house up where it required 2 x 10 floor beams, floor joists, but I'm using 2 x 12. Why? It's not necessary. Our building code says that even 2 x 8 will carry the load, the span that I'm using, because I'm using 10, 12 and 14. I don't even have to use 2 x 10, but from fear I'm using 2 x 12, because I don't care what lumber you buy, what price you pay, you're not getting the right quality. There is no protection.

I called Weights and Measures; I called the Building Inspector. The Building Inspector said, "You cannot use that lumber there. Take it down." "Well, I paid for good lumber." So I called Mr. Lubowicki to come over and check it. What can we do? Who decides on the quality and the grade of lumber? Every lumber yard - well, I won't say every lumber yard. - there are a lot of lumber yards where I bought the best, but some of them were forced to go out of business. As a matter of fact, two in my neighborhood were forced to go out of business. Why? They couldn't compete. They were too honest to stay in business. So the only way out was to go out of business.

Some people complain that it will be a hardship to manufacturers. We don't mind paying a few pennies more on the item, provided we get the item that we order. I have poured concrete over there, knowing my foundation takes

so many cubic feet, and I order the amount. To my surprise, I have to order some more. It's not there. Why? There's something wrong some place. If I order stone, it's the same thing. They weigh the stone the right weight after they fill up the trough with water, but when this happens in the summertime it sometimes dries up the water and by the time it reaches my destination the weight is not there, not even the cubic yards. Of course, you know if you have a driveway 100 x 10, you need so many square feet. If you put it six inches and get half the amount, then what happens? You put the driveway down and it's not the six inches that you promised; you find only four inches there. What happens in this case? Some people will order another load of stone and fill up the driveway at their expense, of course. Others will cover it up and no one will know the difference. But in a year or two the homeowner will know the difference.

They talk about the consumer. Who is the consumer? Every one of us. The only difference between consumers is that a person making fifty or a hundred thousand dollars a year doesn't mind paying any price for any item - but what happens to the people who have a fixed income who go in and buy an item and it's not there, especially when it comes to food. They mentioned a lot of things here before, but there is something else. I talked to the lady over here; the husbands, of course, they don't know, but how many of you know about that fraudulent meat that's filled up with water before it's frozen? You try it some time - buy a

piece of meat and cook it, and you'll find out the amount of water that is in there. Buy any kind of meat and you'll find there's water in it. There may not be too much, a few drops here and a few drops there, but a woman who will buy two pounds of meat to feed her family, knowing that will give two or three ounces to each child, to her surprise that will only give them half the amount of meat or half the amount of food. The children may eat a little bread or something else to fill up their stomach but not the proper diet. What will happen? Gradually that child won't grow up right. But who cares? The meatpackers make money. They label it. Sometimes you buy ten ounces net weight. Ten ounces? In the canning industry, they make money. In a can of peaches, you get ten ounces, sure - syrup. There might be some peaches in there, but mostly the can is filled up with syrup. They sell you two ounces of peaches and six ounces of syrup. Sugar, of course, is a lot cheaper than peaches so they choose to fill up the can with syrup.

So, gentlemen, in this case, let's protect the consumer, which we all are. As I said, the only difference between one consumer and the other is that some of us make more money than the others, so we don't mind paying. If we need one pound of meat, we buy two pounds, and we have enough.

In this lumber, -when you go in and buy an item from a store. let's assume you buy two pounds of apples. Will they tell you that you're buying 8 ounces of good apples, 8 ounces half rotten, the other 8 ounces almost rotten, and the other 8 ounces rotten altogether. They don't tell you

that. They sell you two pounds of apples. Sometimes it's possible there might be one apple that's bad in there. But why should lumber companies sell you 60-20-20, 80-20, or less? Why? I want #1 lumber. I'm willing to pay for #1 but give me #1 lumber. If I want #3, I buy #3. There are cases where #3 could be used. But I happen to be also a farmer and you can build a chicken house, an outbuilding, or a dog house, and I know you don't have to have the best lumber. You can use anything. You can use #3 in the right places. But when you build a house that a family - a young couple - we all start young - and we deprive ourselves and work very hard to some day own our own home, so we go and build a house, thinking that that house should last a lifetime, because we are not going to live forever - 25, 50, 60 or 100 years. That house should last longer than that. But these people are surprised. Their houses are falling apart a couple of months later. What happened? The builder sometimes is at fault and sometimes they can't help it. It's the lumber. And sometimes you cannot compete with the big developer. The big developer comes along overnight and builds a hundred, two hundred or a thousand homes. They sell them and off they go; they disappear. But a local man who builds one or two houses and maybe he will live next to that house or a mile or two away from that house, in most cases knows the buyer who is either a friend or something, and he has to face those people every day for the rest of his life. And unless he gives him something good, he will lose friends and they will go out of business. And they must stay in business

because that is their livelihood. So it is not the measurement of the lumber or the quality of the lumber, but why don't they give you what you pay for?

Some people think it would give the Weights and Measures Director too much power. Power? How many of you are afraid of a policeman who carries a gun? I'm not. I feel secure when he carries a gun. If I see a policeman, strong and big, I feel secure because I have better protection. So, therefore, we shouldn't be afraid of the Weights and Measures man, that he will kill us or hang us because he has the power. He is there to protect us and we all need that protection. Unless this bill goes through, I don't know what will happen to the people in the future, especially the people who make a very limited income, as I said, and I happen to know some of those people because I have some apartments and I have retired ladies living in there and their income is only a hundred or two hundred and fifty a month. How will they live? They try to stretch that money all they can.

In some cases, if I told you what the rent was that they pay, you'd think I was crazy. What are they going to do? They live there and they try to make the best of it. How about those people? There's a person, ladies and gentlemen, who eats bread and apple sauce and tea every single day for lunch because they can't afford to buy meat. We manage somehow to rob those people, because we don't care as long as we make money. We don't see how much you have to eat or if you have to go to bed hungry.

Now one very important thing . That is the penalty.

Everyone can afford to pay the penalties. Any lumber yard or any manufacturer who deals with thousands or millions of dollars, you can fine him fifty or a hundred dollars every single day. As a matter of fact, some of them are willing to give you fifty thousand dollars a year so they can operate without being bothered. They don't mind. They make enough money to pay the penalties. The penalties should be large enough to put them out of business altogether - use a whip and make sure that it is quickly. That's the only way we can get results and we can protect the consumer. We are all consumers. Even the manufacturer who buys items, he might not get the right amount. So what occurs? He has to short-change other people. So right down the line, we all, direct or indirect, become criminals. Sometimes I wonder how fortunate were the people who had to live only with Ali Baba and 40 of his companions. It seems that now sometimes we have ten times or a hundred times the number of Ali Babas in our State.

Sometime we ask the people to decide themselves, the industry, what to sell you and what to stamp on it. Well, ladies and gentlemen, it's like you asking to buy lambchops from a wolf. You wouldn't even get the bones, let alone the lambchops.

So let's pass this bill with lots more teeth and the whip. I'm surprised at some of these people in industry who came over here to object. Why do they have to be afraid of it? If they are honest and if they are doing right, why should they be afraid of it? I would like to ask those people why they're afraid of this bill. I'm not afraid; I'm not afraid

of the law. I'm not afraid of God. Why? Because I live under God's laws and my country's laws, I'm not afraid of anybody. So if those people have nothing to be afraid of, why do they object to this bill?

Thank you, gentlemen. I would like to apologize for the time I have taken, and for my poor English, but I try my best to put it across.

SENATOR BIGLEY: Thank you.

Mr. Hanson.

A. S. HANSON: Senator, I came down here today, or up here I should say, - I'm from your home county of Camden County - I accompanied Mr. Bouthot and Mr. Lubowicki on the inspections in Camden County. I would like to read into the record a very short paragraph from a letter or a memorandum which I wrote to the Zoning Inspector of Cherry Hill Township at the time I was Assistant Building Inspector. This involves lumber. And then I'm going to make some off-the-cuff remarks and I'll try to keep them as brief as I can:

"Sometime ago I informed you that there were serious structural violations in Windsor Park development. Briefly outlining my findings, the principal problem is the lumber supplied to this job up until a little over a year ago."

The date on this letter is March 21, 1956, incidentally.

"A large part of this lumber came from Delaware River Lumber, which was indicted last year and fined some \$18,000 for false grading of lumber. There are between 75 and 100 houses that were constructed with this lumber. Most of the

lumber was graded with various stamps of the PLIB construction west coast hemlock mark. The actual grade of lumber that I have seen varies between #3, common utility grade, and as low as #5, box wood and dunnage. This is strictly junk. Many floor joists are split clear through in these houses and the designed load is far below the minimum in these cases.

I have repeatedly requested that these homes be re-inspected and that the developer be ordered to bring the floor joists up to code.

In two cases, the Bradburn and McDonald properties, some repairs were finally done at my insistence."

This goes on to outline situations in a particular development. Suffice to say that this dealt basically with the lumber, which is what we are here today for. At the present time in this particular development, there are 75 to 100 houses. One house that we were in had some 18 floor joists that had to be replaced on the first floor. They were cracked clear through. The lumber was #3, #4, #5; it was just no good whatsoever. We still have a situation in this particular development of 75 to 100 houses where there are anywhere from 6 to 8 in a house to perhaps 18 or 20 floor joists cracked clear through. This lumber was about the worst lumber that I have ever seen. I think Mr. Bouthot said he hadn't seen much worse when he looked at it.

The dealer who dealt in the lumber was from out-of-state. Part of this whole situation is that the dealers in the State are forced to stay in business to cheat. There is

no question about it. It's an open secret. They must cheat in order to stay in business, in order to compete with the dealers from out-of-state. This is at least part of the problem. We must have these bills. We have to have these bills if we are going to stop situations of this nature. We have situations where somebody moves a refrigerator. Perhaps a child is sitting there and if a couple of these joists go and the thing tips over, the child can be crushed - just like that.

We have situations where with these roof trusses we have commercial buildings with 40 or 50-foot spans where the design calls for #2 and better grade of lumber to be used, and they are using #3 and #4 and worse, just crate wood in some cases. There are manufacturers who are manufacturing these trusses and sending them in on tractor-trailers, trucking them into the State from Virginia and Maryland. Some of these dealers have been outlawed in some of the areas where their plants are and the surrounding areas, and they are extending their operations up into this area. We have very serious problems here because sooner or later - well, Wedgewood Country Club is a good example - down in Camden County and Gloucester County. Wedgewood Country Club, there is a situation existing right now where some 40 to 60 per cent of the truckers in that particular building are bad; the lumber is bad; it's far below minimum. It's very possible, with a heavy snow load that there could be a collapse. There was one structural collapse already on that particular building.

Trusses are being used more and more, especially in

these large numbers of 2, 3 and 4-story frame apartment houses that are being constructed in the State today. These trusses are being brought in from outside. Many of these small lumberyards are tooling up to manufacture trusses. The manufacture of a truss is a very specialized thing. You have to have dies, you have to have the thing set up with these boards so that everyone of these sections, as it comes together, has a perfect fit, and then the plates which fasten these things together have to be applied with a certain amount of hydraulic pressure, and the pressure put on them to stamp them together has to be applied in a certain manner. If you have lumber a few inches up on different pieces, you'll have a spike not going through and the thing is actually physically cracked and you have no strength at all. A truss is a wonderful thing providing you have a high grade of lumber being used in it that will come up to specs.

The building officials in the various municipalities and counties throughout the State are practically powerless to do anything about it. Many of them have building codes that were adopted in 1923 and 1925 that have no concept of modern methods of construction. It's a bad situation. We need this law very, very badly. Our own county needs it. There is scarcely a development in the State where bad lumber hasn't in the past year been brought in. Mr. Lubowicki, I think, has done a tremendous job, almost single-handed, to put the fear of God in some of these people.

That's about all I have to say.

SENATOR BIGLEY: Thank you.

Mr. Moylan Brown.

UNIDENTIFIED VOICE: Mr. Brown has left.

SENATOR BIGLEY: Mr. Mulrooney. Is he here?

J O H N M U L R O O N E Y: Senator Bigley, my name is John Mulrooney; I reside at Livingston, New Jersey. I appear as Executive Vice President of the National American Wholesale Lumber Association. This is a direct membership trade association at the wholesale level organized in 1892.

To begin with, I would like to thank you for the opportunity to submit a few brief comments with respect to the bills your committee is considering.

First of all, I'm a little bit disturbed by the preceding comments. After 35 years in the business, it appears I have been spending my career getting mixed up with a bunch of crooks. In reality, we are very cognizant of the problems which these bills are designed to correct, but I am thoroughly convinced and I believe in a position to have some knowledge of it, but it still represents a very small segment of the industry. The major part of our industry is comprised of honest, responsible people.

Our belief in the value of grade-marking lumber for the protection of the buyer and consumer has been a matter of record since 1956, and in the situation which developed in recent years we have provided leadership to bring about voluntary action in the industry and by the American Standards Committee, which resulted in marked improvement. I am willing to wager that the long list of Mr. Lubowicki's examples only applies to a small number of dealers.

Therefore, we are in full accord with the principles of the lumber grade-marking provision as applied to construction lumber. This is the area where the abuse of practices have been found and all of the illustrations you have heard apply to that area. We are unable to subscribe to the all-inclusive grade-marking requirements for the many items which are for appearance or decorative purposes where the stamp would mar the product. We would hope, however, that your Committee would give careful consideration to the language of those sections of the bill dealing with the license, enforcement, and penalty provisions.

In the normal course of trade, the retail lumber dealer in New Jersey obtains his lumber requirements from wholesalers located in numerous States from here to California, Washington, Oregon, and even the provinces of Canada. As we understand these bills, each of these suppliers, no matter where they are domiciled, must have a license. We are concerned about the possibility of such a requirement constituting an interference with inter-state commerce.

Adoption of these bills in their present form raises another question as to how the Superintendent of Weights and Measures could bring out-of-state offenders to justice. We suggest that such questions can be removed without diluting the effect of the proposal or the intent of its supporters by insertion of such a phrase as "except for re-sale" in that paragraph of the license section which stipulates who must have a license.

The lumber industry is operated with standards

developed by the American Lumber Standards Committee since 1923. The American Lumber Standards Committee is composed of representatives and manufacturers, wholesalers, retailers, builders, general contractors, architects, engineers, and several other user groups. These standards have been workable for all parties concerned and used throughout the United States. The existence of these standards prompts our suggestion that the bills' provision empowering the Superintendent of Weights and Measures to establish standards should be amended to provide for the application of the American Lumber standards and granting such power to the Superintendent only in the event that the American lumber standards are abolished. We are concerned that individual action by the several states when the need is not evident would result in complete chaos in the lumber industry.

The fact that these bills constitute criminal statutes suggests the need to examine these provisions to make sure that the process of law is not lightly assigned to a single individual.

And, finally, among the drastic powers granted to the Superintendent in these bills is that a license may be suspended or revoked for incompetency. Perhaps that reason has application to some other products or people such as weighmasters, but standing by itself, without clarification or limitation, raises interesting questions such as competent to do what? Or competent to do anything in whose judgment? The beauty of the free enterprise system is that it protects the right to go broke for the benefit of the incompetents. Statutory provisions will not protect people

against themselves. If it is intended to protect others, clarification is needed.

Thank you very much.

SENATOR BIGLEY: Thank you.

Mr. Mees.

C U R T I S H. M E E S: Mr. Chairman, my name is Curtis H. Mees and I reside at Emerson, New Jersey. I am the Executive Director of the New York and Suburban Lumbermen's Association. And in deference to the good ladies who are here representing the consumer group and others who represented the consumer groups, I would like to state that we take a back seat to no one in looking after the interests of the consumer.

Within our own lumber industry at the present moment, there are discussions going on which include questions very pertinent to the consumer on which our Association has taken very strong positions in favor of what we believe to be the best interests of the consumer. Therefore, what I have to say with respect to this bill, I trust will be accepted in that light that we are discussing this and we are not opposed to the intent of the law. Our questions revolve more around certain elemental facts that seem to be written in here.

Now, prior to this we were supposed to have had a meeting with those who had been the primary proponents of this bill so that our Association could meet with them and discuss it but, through a series of misunderstandings, we did not have that opportunity to discuss and suggest the

changes that we would like to suggest to them in advance of the promulgation of the bill. Therefore, I am coming before you today to present certain factors and, with your permission, since we did not have this opportunity and we are going to meet with them later, I would appreciate the opportunity of being allowed to forward subsequently a written statement which will deal in more detail with specifics that might be involved in here and which might involve other areas than I might cover here today.

Now, having said that, the evening is growing long and I am going to be as brief as possible, and I am going to skip over a great deal of what I have had prepared to say to you today here, and I will include that in the written statement with your permission, and will therefore go to certain specifics which we have in mind and which are in answer to the gentlemen's question as to why there might be any fear by anyone who is a legal and legitimate dealer. There has to always be a fear, I think, on everyone's part that no one be given too much unlimited power without some safeguards. Our system is built upon this series of checks and balances and we have to have it and we have to maintain it. And it is for that reason that we suggest certain wording of these provisions might be questioned as the Committee goes further into it. For example, on line 10, of page 7, in Senate 328, it is proposed that the Superintendent may revoke or suspend a license for violation "on any order promulgated by the Superintendent." Now those are pretty broad powers. He could promulgate almost anything, and anything he said would

automatically become law.

On line 12, page 7, of the same measure, the question I raise is one which Mr. Mulrooney also raised, that of incompetency. And in Senate 274, it is gross incompetency. Personally, I see very little difference. If you are grossly incompetent, you are incompetent. The question is, whose incompetency is being questioned. Who is to determine the competency and what relevancy does this have to the measure. There are just the two words, competency or gross incompetency, which leaves a lot to be desired in the way of clarification, I would think.

Now, on line 21, of page 7, it would have the effect of making the State of New Jersey a collection agency, because it states that if anyone doesn't pay their bill promptly, the Superintendent has the right to revoke or hold their license up or refuse to renew it. Now this raises several interesting questions. Does the State of New Jersey want to become a collection agency, for one thing? And, for another, what is the meaning of promptness? For some people, it's 10 days, for some it's 50, and for some it's 90. This again leaves a wide field that is not clarified.

On line 23, of page 7, of the same measure, the final statement says that he may revoke them for "any other just causes" The question arises in my mind as to who is to determine just what are these just causes.

And then there are further clarifications in here that I think might be made as to matter of recourse, because it states that there shall be a hearing, but it doesn't say

before whom it shall be held. I presume it would be before the Superintendent himself, which in effect, unless there is some clarification with which I am not familiar - and I'm not a lawyer and it's quite possible it is in there - but I would certainly want to be sure that there was some measure of recourse without having to sue the State of New Jersey to correct any arguments that might arise between the Superintendent and any dealer or anyone who entered into an argument with him, because otherwise he is judge, jury, and executioner of this particular measure. I don't think you want that; I don't think we want that. And these are just a few of the safeguards that I would like to bring to mind and, as I said, with your permission I would like to submit a written statement at a subsequent date.

Thank you very much.

SENATOR BIGLEY: Thank you.

Mr. Pattison.

E. S C O T T P A T T I S O N: Mr. Chairman, my name is Scott Pattison, representing the Soap and Detergent Association, and I filed a statement with the Committee, so I will just highlight one or two very brief points, in view of the fact that our products are the only ones that got a display today.

We have gone on record several times opposing S-274 and favoring the model bill. Now, I would like to point out that this is not entirely a matter of benefiting industry versus the consumer, because if we have a non-standardized

item in New Jersey as against New York, Pennsylvania, Delaware, Maryland, where the model bill is in effect, then our packaged commodities don't move from a district warehouse along state lines. They move along sales district lines and this means that if the commodities coming into the State of New Jersey are non-standard as to their labeling requirements, somebody has to pay the bill. And who will pay the bill for a non-standardized commodity? Obviously the consumer who buys our products in the State of New Jersey.

Now, there's one other point. The bill as it stands, the model bill, covers the field of weights and measures very successfully in these other states. On the other hand, if you will read S-247, you will see references not only to quantity but to quality, serviceability, fitness and suitability of commodities. These are allowed to be regulated under the Act.

Now, it is difficult for us to imagine how one is going to arrive at special New Jersey state standards of quality and suitability for the thousands of grocery products and others coming under this Act. It seems to us that the office of the Director would require specialists in everything from tea-tasting to floor waxing on his staff before he could determine the quality and suitability of products and I seriously doubt that this is what really comes in under the hearing of a Weights and Measures bill. So I believe that once the customer is protected from fraud and deception, as the model law would do, the customer herself is well equipped to decide on her own standards of serviceability

and suitability and that the cost of trial and error, when she goes into a grocery store and buys a product that isn't quite right, would be far less than the tax cost she would bear if you are going to police the grocery store shelves on these points by specialists on floor waxing and tea-tasting and all the rest under the powers of S-247.

Thank you.

SENATOR BIGLEY: Thank you very much.

Mr. Wagner, please.

C. EARL WAGNER: Senator Bigley, my name is C. E. Wagner and I am Director of Technical Services of The Glass Container Manufacturers Institute, whose principal office is in New York City. I have already submitted a prepared statement setting forth comments with respect to Senate Bill 274, and I can give you additional copies, which I respectfully request be incorporated in the record. Therefore, in the interest of saving time, I consider it not necessary to reiterate the details of these comments.

I would like to call attention to one comment set forth in detail which concerns an obvious error in the language of the bill.

I want to thank you very much for this opportunity to set forth our views.

SENATOR BIGLEY: Thank you.

Mr. Fields, please.

C. H. F I E L D S:

Mr. Chairman, Members of the Committee:

My name is C. H. Fields, Trenton, New Jersey. I am executive secretary of the New Jersey Farm Bureau, and I appear here today to present a statement on Senate Bill 274 on behalf of that organization, and also the New Jersey State Grange.

Farm Bureau and the Grange are private farm organizations of rural and farm families in twenty New Jersey counties. Since our membership represents a majority of the producers of agricultural crops and livestock in the Garden State, we have a vital concern and interest in the operation of the Division of Weights and Measures and the changes in the law that would be brought about by the passage of S. 274.

We are opposed to the passage of S. 274 in its present form, and would like to state briefly the general and specific reasons for our opposition.

To us, the proposed change in the name of the Division is indicative of the overall intent of this bill. The addition of the word "Standards" indicates to us that those who drafted the bill had in mind the extension and expansion of the scope of authority and responsibility of this state agency. Section 51A:2-16 clearly indicates this intention in the use of the following language in describing the powers and duties of the Division: "He shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness and suitability of commodities regulated by this act."

We look upon the Division of Weights and Measures as a vital and necessary agency of the State Government. It provides a mechanism through use of the police powers of the state to make sure that the buyers of goods receive fair treatment at the hands of sellers. Its overall purpose should be to assist and encourage legitimate business to operate in a climate of fair play; and to protect the interest of those who buy and consume goods offered for sale. When

this agency attempts to enter the area of "serviceability, fitness and suitability" of commodities, it is going far beyond necessary or desirable functions.

This bill is the third or fourth version of an attempt to write an overall revision of Title 51 of the Revised Statutes. Each version appears to be longer, more tedious and full of obsolete and unnecessary detail. Over the years this legislation has been before the Legislature, many groups and individuals have conferred with officials of the Division in an attempt to suggest changes and improvements in line with the modern-day practices and needs of the various industries in the state. In too many instances, these suggestions have fallen on barren ground, and the next version of the bill has shown up with the same flaws.

Let me be specific with regard to some of the sections of the bill directly affecting agriculture:

On page 9, line 186, we find the definition of "small fruits or vegetables" to be misleading and unacceptable. The word "All" should be deleted in line 190, and the word "including" in line 191. The sentence should read: "Fruits and vegetables other than those specifically named in this paragraph will be considered 'small fruits and vegetables' only when the physical dimension of not more than 10 per cent, by count, of the units in any individual container exceeds one and one-half inches in diameter." Even with this change we find the wording objectionable because it contains arbitrary size limitations; but the change we have just presented is necessary for the definition to be workable at all. This definition is significant to us because small fruits and vegetables are exempted from the provisions of 51A:7-17, which requires sale by weight.

On page 38, in Section 51A:7-2, line 4, it is not clear whether the law would require loads in excess of 100 pounds to be weighed by a licensed weighmaster and the issuance of a delivery ticket; or whether it means that any individual package weighing more than 100 pounds must be so weighed and delivered with the required ticket. If it refers to the weight of the load, it would definitely interfere with the normal deliveries of farm products to market by farmers. We would suggest the word "packaged" be inserted in line 4, between the words "commodity" and "in."

On page 45, Section 51A:7-18, we want to point out that barrels have not been used by the cranberry industry for many years, no bushel baskets are used to ship cranberries, and the 1/3-barrel box referred to on page 46 has not been in use for several years. The standard container now in use by the cranberry industry is a 25-pound carton or box, which is not even mentioned in this section. This section is entirely obsolete and has no relationship to the conditions now prevailing throughout the cranberry industry.

On page 47, section 51A:7-21, we continue to have our nerves shattered by the term "Roman letters;" and by the requirement that peach baskets must be marked "Standard N. J." We suspect there are relatively few officials, employees or any other persons in the Division of Weights and Measures who would know a "Roman" letter from any other type of letter, such as the Gothic type of printing. This requirement is completely meaningless and ridiculous.

The peach basket referred to in this section is a standard container recognized by the U. S. Department of Agriculture. The term "Standard N. J." is not required on any other container mentioned in this bill. There is absolutely no reason for the requirement in this instance. In addition, the peach industry now widely uses a 3/4-bushel basket that is accepted by the U. S. Department of Agriculture and by the Government of Canada. It is not even mentioned in this section of the bill.

On page 48, Section 51A:7-25, we find a serious objection. This section requires the manufacturer, distributor or dealer of new or used agricultural dry measure containers to notify in writing, in advance of delivery, the superintendent of the county or municipality in which the containers are to be delivered, all kinds of completely useless and meaningless information. Dealers in used containers may not sell, expose for sale or distribute used containers, unless they have been re-examined by them and brought up to the required specifications, and all markings thereon obliterated or otherwise destroyed, except the name of the manufacturer of the container and the name and address of the person dealing in and processing such containers, or in lieu thereof a symbol registered by him with the director.

In view of the millions of new and used agricultural dry measure containers used annually by New Jersey farmers and packers, this section is not feasible of enforcement, particularly with respect to the method of handling used containers. Truck loads and trailer loads of these used containers are picked up in nearby markets by dealers and delivered directly to New Jersey farmers, or are picked up by the farmers themselves from used container dealers in the markets.

We submit that it is the responsibility of the packer or user of the container to remove such markings as do not apply in the reuse of the container, as clearly provided in 51A:7-24. Duplication of effort here is not only confusing and unnecessary, but this whole section has the flavor of Alice in Wonderland.

We are also not satisfied with the definition of "In package form" on page 5 of the bill, line 71. We have experienced considerable difficulty in the past year on this definition in proposed regulation 58 and 58A of the Division, and now proposed as Administrative Ruling No. 66001. A clarification of this definition is definitely needed, and we would suggest the exact language contained in the model law recommended by the National Conference on Weights and Measures.

We would like to refer you to the statement on the bill, page 125. It states that one of the purposes of the proposed revision is an effort to "keep pace with the demands of modern merchandizing methods, commodities, technological advances in weighing, measuring and counting devices...." We submit that Senate Bill 274 considerably misses this mark. If the non-agricultural sections of the bill are as far out of line as the agricultural sections, then we would suggest that a lot of work remains to be done.

Fortunately, however, this work is not necessary. The work has been done for us by the National Conference on Weights and Measures, held under the auspices of the United States Department of Commerce. This conference has published a model state law on weights and measures, and a suggested set of regulations to accompany it. We strongly recommend this committee substitute the model law for Senate Bill 274. We have reviewed the model law and find it far superior to S. 274. It would have the great advantage of a high degree of nationwide uniformity, since some twenty-two states have now adopted it.

We appreciate the opportunity to present our views.

SENATOR BIGLEY: Thank you.

Mr. Geis, New Jersey Fuel Merchants. Has Mr. Geis left? How about Mr. Cramer, New Jersey Tank Truck Carriers? [Not present]. Mr. Derow.

R O B E R T W. D E R O W: Mr. Chairman, my name is Robert W. Derow and I am Managing Director of the New Jersey Lumber & Building Material Dealers Association, with offices in Newark, New Jersey. In my capacity here, I represent 407 lumber and building materials firms, both retail and wholesale entities, who employ approximately 3,026 people.

By the action of my Board of Directors and the aforementioned membership, I am directed to indicate to this Commission that we are in favor of both S-274, the omnibus bill of the Division of Weights and Measures, which includes a section on lumber, lumber products, and building materials - and S-328, a separate bill covering lumber, lumber products, and building materials dealers.

Our reasons for the support of these pieces of legislation are threefold: Initially, the protection of the people of the State of New Jersey by having an efficient Division of Weights and Measures.

Secondly, with specific reference to the lumber segment of S-274 and S-328, again the protection of the people plus the protection of the legitimate lumber and building materials dealer, who is in competition with the less honest segment of the industry who have fraudently grade stamped lumber and, in so doing, have, by the miracle of a rubber stamp, made No. 3 lumber appear to be No. 1 lumber, and so on and so forth with regard to specie. I wish to make it clear at this moment that

my Association has no argument with any specie or grade of lumber as long as it is used properly in the construction of housing for the people of this State, but we do argue fraudulent grade stamping.

Finally, to re-establish the reputation of lumber for construction that it so richly deserves. As a result of the tremendous fraud and this is where I question those who say it is only a small segment - that was perpetrated in some Long Island communities and with the fraudulent practices which have prevailed in New Jersey, to which Mr. Lubowicki has already attested, the reputation of lumber has suffered badly. An instance of this is that in New York State a building inspector in one of the communities made a statement to the effect that, if he could find a substitute for lumber in construction, he would never permit another piece of lumber to be used in his community. This, of course, was as the result of the Long Island mess.

The reasons above are why both of these pieces of legislation have the full support of the Association which I represent. Of the 407 firms in my Association, only two have voiced opposition to either S-274 or S-328. Another important factor in your consideration of these legislative proposals is that these are bills of the administration which reflect the thinking of the constituents of the legislators.

We seriously question the opposition which has been loudly proclaimed by the New Jersey State Chamber of Commerce and the Middle Atlantic Lumbermen's Association who requested this open hearing. In regard to the Chamber of Commerce, both

the Fuel Merchants Association of New Jersey, who are represented here, and my Association, neither one of us has received any communication from the Chamber of Commerce as to our feelings and the feelings of our membership with regard to S-274 and S-328.....

The members of New Jersey Lumber & Building Material Dealers Association firmly believe in the protection of the public. As honest evidence of this, we were responsible for revitalizing the old 1935 Lumber Law and, through contributions of the members of this State Association, have paid for the services of Mr. Lubowicki over the past eleven months. Since this time, the public has been protected, the legitimate lumber dealer has been able to compete, and the image of our product has improved. We, of course, urge passage of S-274.

Thank you, sir.

SENATOR BIGLEY: Thank you very much.

Mr. Jaeger.

A D O L P H W. J A E G E R: Mr. Chairman, I am Adolph Jaeger, President of Jaeger Lumber and Supply Company of Union, New Jersey, and Stirling, New Jersey, a former President of the New Jersey Lumbermen's Association, a former Director of the National Retail Lumber Dealers Association. Yes, I am also a member of the local Chamber of Commerce in Union and the local Chamber of Commerce in eastern Union County.

Of all the testimony heard here, the cold facts as presented by Ed Lubowicki stand out indelibly. He has done much at little cost in eleven months. I have worked with him. We need him. I have heard the representatives of New York

City and of the Middle Atlantic group. There is much merit to what they say. They know this business, the same as I do. But it is my problem; I live here; I have a lumber business. It is my existence that is at stake. Lubowicki has done something about it, not merely talked about it.

The department of Weights and Measures, as a branch of the State Government, has brought dignity to the coal and fuel industry. They have had drastic problems in this industry. They have had drastic powers to cope with that. They needed them to protect the public. But no fuel dealer could ever accuse them of costly, unconscionable enforcement procedures as the opposition seems to infer will be their costs in the future with respect to the lumber industry.

I, therefore, support particularly your Senate Bill No. 328.

The Department of Weights and Measures is an arm of our State Government that not only the consuming public can depend on but an efficient inspector can be called upon by every building inspector in the State of New Jersey for guidance when violations of building codes are apparent. Violations of building codes are not in the province of the Department of Weights and Measures. Neither is it necessarily the responsibility of the lumber or material dealer. The lumber dealer may sell inferior lumber if it so marked and it will then be very simple to see that the violator is not the recipient of this material, the contractor, or the builder. You certainly don't need No. 1 lumber to build an outhouse.

The responsibility of the Department of Weights and Measures is not to perform the function of a building inspector

but merely to make sure that the purchaser secures the material that he asks for, and it is so indicated on the delivery ticket. However, as I see it, this bill only compels us to do what we should normally do. I can still sell No. 1 and No. 2 and No. 3 lumber, but I must so designate it. I can still sell hemlock or spruce or any other specie but I must so designate it. I do not now, nor can I if this bill is passed, use a grade stamp to fraudulently stamp my material. Conservatively, over 100 fraudulent stamps have been used in our State in the past ten years. You talk about 14 or 15; I think you'll agree with me that during that period of time there were over 100.

Another thing that has not been mentioned. I do not sell 3600 feet of lumber, and sell it for 4,000 feet. Isn't this just as bad as selling 1900 pounds of coal for a ton? Should it be stopped? It stopped in the fuel industry.

I do not want to disagree with Mr. Ferranti of the Concrete Association. I've sold his material. Forty per cent of my sales are known as hard material. They have evidently gone a long way in the right direction. If their products are up to standard, I am happy, because I, as a building material dealer, will rely upon their integrity. Their products must conform to standard. The Weights and Measures Department should have the right to check on their standards without the necessity of ruining a \$30,000 truck, as they claim. I don't think they do it. All the Department of Weights and Measures should verify is that you are selling what you have on the ticket. If it calls for 8 tons of stone, it can't be 7 tons. If it is 3,000 pounds of concrete, it can't be 2500.

To sum it all up, I really believe that this bill would compel all to do what the vast majority of us feel morally obligated to do right now.

Edward Knight, one of the most outstanding secretary-managers of our New Jersey Lumber Association, felt that way about it in 1935, when the forerunner of this bill for the lumber industry was placed on our statute books. So did I then. I felt that way about it in 1951 when I was President of the New Jersey Lumbermen's Association. I feel still more strongly about it today when I see the mortality rate of so many old-time outstanding lumber dealers trying to compete with something they cannot compete with - lumber marked No. 1 but in reality No. 3. Those of reputation that are left ask for your protection. The public is entitled to this protection. We are in a wonderful industry. Homeownership is our American heritage. Help us to adhere to some of the principles of that member of our industry, the humble carpenter of Nazareth. I think you.

SENATOR BIGLEY: Thank you very much.

Mr. Christie.

SAMUEL H. CHRISTIE: Senator, I'm on the other end of this wall, so I'm a little at a loss as to exactly where to start. However, I think I should take the opportunity to ask one thing: Would it be possible to add additional material and forward it to you over the weekend, because of the ramifications we have gotten into today.

SENATOR BIGLEY: You certainly may. If you will forward it to me, I will see that it is incorporated into the transcript.

MR. CHRISTIE: Thank you. Before I go any further, I would like to read a telegram which was received at this office, because I don't know whether or not you received a duplicate of it. It is from the Petroleum Equipment Contractors Association, through their secretary, August Mylo. It says: "The licensed tank and pump contractors directly affected, we support Senate Bill No. 274. The bill would place weights and measures dispensing equipment in the hands of properly-trained, experienced personnel. This will protect the public and assure the proper weights and measures. It also protects the safety as well as the weights of the public in such matters as fires and explosions connected with hazardous liquids."

I think I should bring to your attention, Senator, that the matter of revision of the entire Title 51 started approximately 10 years ago with orders not to do piecemeal revision work on it but a complete job. When you take a look at the Annotated Statutes, it takes only a matter of several pages, and the job, I suppose, looked relatively simple. But Weights and Measures cuts across every line of endeavor, every phase of life, and in this State, with the exception of public utilities and items delegated directly to them, although we do have in that field some work entailed, everything in Weights and Measures is in Title 51 under our supervision and direction.

In addition, even though the Association of Weights and Measures officials in this State had a great hand in doing the spade work, they permitted their meetings to be open to the public or any representative of any

organization who desires to be present. There was nothing secretive. As a matter of fact, their presence was enjoined because it was felt that it would lend something to the work. Different opinions were desired. These meetings took place over the span of a year, but many of the individuals involved were spending their own time and their own funds to attend. In addition, because of our knowledge of the model law and our direct contact in its formulation at the National Conference of Weights and Measures meetings which were sponsored by the National Bureau of Standards in Washington, through our own men either giving information required or sponsoring material which we could not seem to get enacted into law in our own State and being there for the purpose of voting on a model law,--

In addition, in several discussions, and I have a number of years of conference attendance under my belt, these discussions pointed out that the model law as such was a model law and a guideline. We had many states in the United States that had very antiquated laws upon their books and very little enforcement. Many of these divisions or bureaus at that time were and still are under the auspices of Departments of Agriculture and for some reason or other it was felt that the best place for them was to be swept under the rug. As a result, in the United States we had many states where weights and measures enforcement was very poor, if there was any at all. We have a neighboring State, the State of Delaware, which until recently was considered a dumping ground for all the surrounding states because of its antiquated law and no enforcement. Today, of course, this

is different. Under these conditions, model laws are ideal for a state to pick upon, introduce it into an active living thing. Having this in mind, and knowing what we were heading for, we investigated the model law situation, trying to do it in an unbiased manner by having legal talent assigned to our office with us in trips to Washington so that they could discuss the matter openly and fully of their own accord with the legal talent available there also. The final result was that we were advised under these conditions, with the full activity which took place in the State of New Jersey since the signing of the law by Woodrow Wilson in 1911, and activation of the law in 1912, to that date, legislative notice had been taken of it, as well as judicial notice, that under these circumstances we should figure on and so work on correction or revision of our present title. This, we did. We spent many hours listening to our friends in industry who offered very valuable assistance, criticism, suggestions, and worked with us.

When I hear the comments today, it seems as if I'm in a new world. Their comments in many instances which have come to my attention are only a matter of an item or two which, of course, can be open to question. But to hear the terminology, you would think that every word in the proposed revision is desired of change.

I am not exactly saying that individuals are talking out of two sides of their mouth, but I think personally that, under the circumstances which exist in the United States today, and with this revision at hand, it is incumbent upon

them to act on behalf and behest of the industries that they represent. We have had individuals attend our conferences and make suggestions and recommendations on an official basis. Before they left our premises, they made it a point - and I am trying to get this point across - they made it a point to come to me and say, "Don't change this."

For instance, when it comes to licensing of mechanics and dealers, we have individuals who do business in surrounding states or cities where registration methods are in use, and they don't have too much business in the State of New Jersey, but they come here for the express purpose of being examined to hold a license to show in the states in which they do work, because of the value attached to it and the recognition given to it by the citizens of the other states. This, I think, is one of the leading steps and part of the leading system that the State of New Jersey used to hold in the scheme of things in the weights and measures law.

During the past few years we are going downhill in weights and measures activities or laws compared to other states. The other states I have mentioned have awakened. They recognize their responsibilities to the citizens of their state. They are now highly concerned, particularly in the pre-packaging field and particularly with agricultural products, because of the transmission of these prepackaged items from one state to another and to the State of New Jersey which has now just about seven million citizens who consume and utilize many of these products, because she cannot raise them or prepackage them all herself. They are

making a bid for these markets. They know that in order to be successful, Weights and Measures has to play a prime part. Therefore, they had thrown out these laws that they did not enforce. They are now putting on men to enforce Weights and Measures laws and they have in due course, and with pressure from surrounding states, adopted the model law which in such case serves the purpose very well and is extremely desirable because now they have gotten rid of a law which did not mean anything and are starting out in new fashion with a law based on other operations which have been proved.

Since I just made some notes as we went along, I hope you will forgive me for not following it page by page or item by item, and I'll try to make it brief, Senator.

Insofar as the power of the State Superintendent is concerned, it would please me very well if I could have you understand that in drawing up this bill and the proposal, our men actually went out of the way to set up a set of standards to guide the Superintendent in this respect, because in today's law there is actually more power than exhibited in Proposed Title 51A. And with the definition given to the word "may," by the Superior Court of the State of Texas, that when two or more persons of the public are affected in law, the word now becomes "shall." Section 51:1-61 of our present title has more power than anything that is written in Title 51A.

I heard concrete mentioned in several instances and, in order to prevent what we thought would be a concrete wall in our way, during the last couple of years we put aside for the time being our efforts relating to concrete. Further in regard to concrete, industry approached our office and wanted

us to get into the business of overseeing the deliveries of concrete and establish standards in order to protect our citizens from what was happening. We did not seek this out. The individuals came right into our office and, because of the activity and the delay at the particular time, returned and was highly incensed because we had not gone out, written up regulations, and stopping trucks and making tests upon concrete.

Also, even with what we did have in the bills before, it seemed to go across all right until the effect was felt of the failure of concrete in a city underground garage of Newark. From then on, the whole thing seemed to fall apart.

In regard to the expense involved, a member of the industry figured that \$500 license fee per plant would just be about the minimum for us to oversee the operation. We figured a little bit differently and thought by judicious use of manpower and operation we could do it for \$100, and we did have that fee in, - which leads me to the question of license fees for weighmasters.

Ten years ago we were proposing an increase but it was delayed in order to be incorporated in this bill and go along with it. The last change in the weighmaster fee was approximately 1930 when we were paying \$55 a month - a month, not a week - for a clerk typist, we could mail items out for two cents, telephone by today's prices was inconsequential, as well as printing costs. The \$10 fee reflects pretty much just the bare administrative costs for this operation.

Operations relating to the Weighmaster Act have to be quite severe. A Weighmaster is an arm of the sovereign and, as such, has to be in a position for the sovereign to exercise his control. Under today's conditions, this means inspection 24 hours a day for 7 days a week and holidays because of the truck operations and it's not just a nine to four deal. Also, records have to be scanned, trucks followed - time lost in that type of inspection work.

Many of the parts of Title 51A are exactly or almost exactly as presently contained in Title 51. I would like to call specific attention to one which one of our own great industries in the State of New Jersey apparently has taken exception to, Section 51:158 which gives power to the State Superintendent.

In connection with the Department of Agriculture which sets standards for food commodities, or horticultural commodities or agricultural commodities in general, this has been on the books for half a century. A change of format meant a shift in position of this particular section in the proposed revision. Suddenly, after a background of 50 years experience, this has become an issue to becloud the whole revision. If a State Superintendent of Weights and Measures on his own initiative would dare to act in a manner in which it has been expressed on the part of industry, there is a check and balance because the Agricultural Department is right there, the Secretary of the Agriculture Department would have to be consulted, his men consulted, and I doubt very much if anything could be put over on them because they

protect their constituents pretty well.

A great deal of what has happened today in regard to the attempt to revise Title 51 is due primarily to the action, at least in my personal and humble opinion, to what has taken place at the federal level. Senator Hart, realizing what has taken place, developed and sponsored the very now famous Hart bill. At first the reaction was not too great. We did not feel the effects of it. But as this bill became more controversial at the federal level, this seeped down to the lower level of government - and I say "lower level" which means the state and local in the state, as well as others - and we found that instead of communications relating to our simple problems of package markings and such that used to be given to a supervisor or a clerk for correction, they now found themselves right in the very laps of House Counsel; in many instances, the General Counsel, the most important man himself is handling it today.

Perhaps we should take this as a point of pride. Prior to this, we were relegated as a side issue. Today they are recognizing what this means.

The question of condemnation has been brought to your attention and I would like to speak a moment on that. Our present Title 51 says in effect you are either right or wrong and, if you are wrong, you should be brought in. This, I appeal to your good judgment, is rather a wrong attitude for the State to take when things are rather borderline and corrective measures can always be beneficial to the individual or the firm being affected immediately and for the future, and this is the action and the attitude we have utilized and

expressed over the years.

Actually, in Title 51A an additional tool was given to the Weights and Measures man in order to allow him legally to recognize these borderline occasions, to let him recognize the hardships that may actually take place if each and every violation was taken into court. This is through the stop-use, stop-removal, condemnation and confiscation orders. This actually is not power as such. This is a beneficial move on behalf of the sovereign to guard the interests of its businessmen, and I think we should view it in that light.

There has been criticism of the requirement that a vehicle, when stopped, should be taken to a place to complete the inspection. This also was done by the Weights and Measures officers themselves for the express purpose of protecting loads, and today trailer loads are tremendous in size and weight and quantity of perishable items that could not stand in the broiling sun - meats, animal life, poultry. It would take a matter of an hour or a half hour in the broiling sun, without a cloud in the sky, to wreck a load of broilers going enroute to market. Weights and Measures men recognize this fact and try to make an effort to legally allow them to have this load moved to a safe place to finish the inspection. Instead of being recognized in this manner, it has become onerous and I think this should be taken into consideration in your deliberations of this bill.

We also recognize the fact that most of our businessmen are honest. We will approximate that 5 per cent of the men are so honest that they would let their business and

themselves go down the drain rather than hurt any of their customers. Approximately 90 per cent of men in business or firms in business will be that same way with the exception of the final drain when they know they are being watched, and the other fellow has to meet the same requirements as they do.

Then, on the other hand, there is approximately 5 per cent in our estimation who are all out in an attempt to make a fast buck. Get it the easy way. These unscrupulous men, these unethical men, are mainly the reason why we are in existence and, by being in existence to control these few, our activities and actions permit the ethical and legitimate businessman to stay in existence and operate, and we hope at a profit.

A quick reference to the paint industry. In this State, we recognize quantitative statements which are on hand. There are other States which have specific can sizes and this goes back primarily to the days when the old hayseed in the deep countryside used to be taken for all he was worth on his trips to the market place.

We have had a problem with the paint industry when it came to the new package of Aerosol. I think industry - this industry in particular - will concede the fact that they were not hurt. There was cooperation at this level in the State of New Jersey, as well as at the National Conference level, in determining the proper methods of sale, and New Jersey did take a very decided attitude in it, however, and that was that the consumer should get what he was paying for on the basis of the directions given by the manufacturer on his can.

We are quite concerned with certain facets of the bill as far as law enforcement is concerned, because in Title 51 we have run afoul of the fact that because of this laxity in demand insofar as commodities in general are concerned we have had as high as a 10 per cent shortage of a commodity - be dismissed from court - not two-tenths or half of one per cent discrimination but 10 per cent, and 10 per cent in any man's world is a pretty good sum of money. We have come to the point where we have reviewed everything that has come to our attention. I'll admit that we were not in a position, because of circumstances, to answer the writer in every instance, but I will say that everything that was brought to our attention was reviewed, not only at our own level but with the attention given to it by legal talent assigned to our office.

This is not a product of one man's imagination. It is done with the minds of many at work and in connection with many deputies of the Attorney General's Office and their legal assistants in reviewing the bill and its sections for constitutionality and phraseology and questions many of which have been raised today.

We have reached the point, Senator, where we feel that we have well compromised the situation. We are still working in regard to some amendments; they are under consideration; they appear to have good merit and we expect to get these into your Committee right away. However, we feel that we cannot go much further. I do feel, however, that this bill could go through very easily. Insofar as opposition is concerned, it was completely emasculated. And, if that took

place, we would be back again in the State of New Jersey with the same sort of condition that existed around 1904 to 1908 when the ladies of the Stevens Estate in Hoboken spent fifty thousand dollars of their own money in investigating the situation and made recommendations to the Secretary of State, the legislative body, and the Governor, which resulted in the law under which we are now operating. We don't want to see that happen again. Times today are too expensive; commodities too precious; life is too precious, and we feel that this can be avoided with proper consideration and possible amendments for your consideration to this bill.

Thank you.

SENATOR BIGLEY: Thank you very much.

The hearing will stand adjourned inasmuch as there are no more witnesses who desire to be heard that I have on my list.

[H E A R I N G C O N C L U D E D]



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF WEIGHTS AND MEASURES

187 WEST HANOVER STREET

TRENTON, N. J. 08625

June 3, 1966

We are here today to request consideration of Senate Bill No. S-274 which is a revision of laws relating to Weights and Measures. The last time these laws were generally revised was prior to World War I back in 1911. You can readily see that we are working in the space age with horse and buggy tools. This, of course, is not compatible with the modern age of communication, packaging, refrigeration and transportation facilities. Commodities are being sold today which were neither thought of nor available in that day and age. In today's modern supermarket alone, we have been informed there is apt to be over 8,000 items of prepackaged commodities.

Today the consumer most often deals with salaried personnel and not directly with the owner of the business, who was apt to have long experience in his trade, and who could be relied upon to realize that honesty in his daily dealings was the best guarantee of continued patronage.

This Bill is a Weights and Measures Bill! It is a CONSUMER PROTECTION BILL! It is a BUSINESS PROTECTION BILL!

The Weights and Measures aspects of this Bill will be discussed at length by subsequent speakers. The consumers' protection aspects of this Bill are obvious. We need only to turn to our daily newspapers to learn of the abuses of consumers' confidence which are being uncovered by Congressional investigations. Sadly, I must report, that such abuses have been uncovered in this State by Weights and Measures officials, but unless favorable consideration is given this Bill, many of these abuses will escape prosecution or correction. This is so, even if Federal action is taken, because of the intrastate nature of the offenses, or the lack of effective remedies at this level.

I have called this Bill a "Business Protection Bill".

I do this because it is our intent to protect the honest businessman from his unscrupulous and unethical competitors.

Every industry, trade or business which will be affected in any manner by this Act has been contacted and consulted, with consideration being given to their thoughts, before the Bill was put into final form. Some of these groups will be represented here today and will more specifically give their reasons for

supporting this proposed legislation. Unfortunately, today as in the past, members of some groups who are in favor of the Bill are not present, either because they cannot imagine why anyone would oppose the Bill or they cannot afford the loss of time required to appear at this hearing. I respectfully suggest that this Committee question the authority of anyone proposing to speak for a trade, profession or industry group which opposes this legislation. In spite of every possible attempt to learn the views of all interested groups, we are not aware of any survey, vote or poll which has been taken by any group which rejects or opposes this Bill.

Many of the proposals in this Bill are obvious to anyone who must daily enforce the Weights and Measures laws. Furthermore, industry, or individuals in industry, have been extremely cooperative in suggesting needed changes beneficial to industry and consumer alike. In some cases while industry and trade groups have taken no position on this Bill, leaders of these groups have rendered valuable assistance in its formulation and strongly support it.

Undoubtedly a question will be raised as to the authority given to the Superintendent in the Bill. May I point out that the

Superintendent's power is NOT increased but that the RANGE of his supervision is EXPANDED. May I humbly suggest that this Committee consult with industry to learn its experience, covering over half a century, under the present authority of the Superintendent. I know that subsequent witnesses will relate that an alarm about excessive authority was raised in the past and the danger found to be only imaginary.

We know this Committee will give careful consideration to the reasons for the enactment of this Bill. We trust consideration will be given to the real motives of those who oppose the Bill.

In closing, I wish to thank the Committee for its kind attention and the careful consideration it is giving to this Bill. If the Committee requires additional information, you are assured of our cooperation.

WILLIAM J. WOLFE
State Superintendent
Division of Weights and Measures
Department of Law and Public Safety

I represent the Millers' National Federation, whose membership includes millers producing 85 - 90% of all flour milled in this country. We have reviewed ~~proposed~~ Senate Bill No. 274 and find no provision in that proposed statute which takes into account the fact that the weight of hygroscopic commodities may vary from stated net weight depending upon the atmospheric and climatic conditions to which such commodities have been exposed.

Flour is a hygroscopic commodity having a moisture content at the time of packing of approximately 13.5%. In view of its moisture content, the weight of flour will fluctuate depending upon the atmospheric and climatic conditions to which it is subjected between the time of packing and the time it is purchased by a consumer; but no food or nutritive gain or loss occurs as a result of such weight fluctuation. In the event moisture is lost as a result of evaporation, this moisture loss is restored by the consumer in the cooking or baking process. The foregoing properties of flour, in common with other hygroscopic foods, are legislative facts which should be taken into account in any comprehensive legislative scheme for regulation of weight labeling of packaged food products. Failure to consider and provide for the unique characteristics of hygroscopic foods in any such comprehensive legislative scheme might establish a basis for judicial revision or modification of the

proposed statute on the grounds that the statute fails to take into account the unique properties of hygroscopic foods and to this extent at least is unreasonable and unconstitutional.

I call to your attention Regulation 21 C.F.R., Section 1.8 subparagraphs (k) and (l) adopted by the Federal Government pursuant to the terms of the Federal Food, Drug and Cosmetic Act, 21 U.S.C.A. Section 343 (e), which the millers recognize is fair and equitable and which permits the weight of a package of flour to vary from stated net weight as a result of the atmospheric and climatic conditions to which it is subjected after introduction into interstate commerce. The Federal Regulation states that:

"(k) Where the statement does not express the minimum quantity:

"(1) Variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

"(2) Variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice.

"But under subparagraph (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the food is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

"(1) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this section in the case of each shipment or other delivery shall be determined by the facts in such case."

In view of the fact that the flour industry tends to be interstate in nature and in view of New Jersey's past recognition of the advantages of uniformity in food and drug regulation as evidenced by R.S. 24:1-5, the millers suggest that the proposed statute be modified to include a provision whereby New Jersey adopts the federal regulation for weight labeling of hygroscopic foods. The foregoing suggestion is made on the assumption that the state and federal governments have identical interests in protecting the consumer but that comprehensive consumer protection can be better and more fairly accomplished if the states follow the federal government's lead in the interest of promoting uniformity of regulation.

AUGUSTUS NASMITH
VICE CHAIRMAN AND GENERAL COUNSEL
ASSOCIATED RAILROADS OF NEW JERSEY
WITH RESPECT TO SENATE NO. 274

June 3, 1966

As common carriers we are concerned that certain sections of this bill which apply to the delivery of certain products could be held to require us to be licensed thereunder. We feel there is no need for any licensing of true common carriers such as railroads, which are regulated by the I.C.C. and by the Board of Public Utility Commissioners with respect to the tariffs under which we transport the products which are covered under this legislation.

May we demonstrate specifically two examples of our concern. Proposed 51A:9-13 provides that it "shall be unlawful for any person to engage in the business of ... delivering, or selling and delivering fuel, solid fuel or liquid fuel ... unless he shall have obtained a license ... and a license plate for each vehicle...". We have the same problem with respect to the delivering of lumber products and building materials under 51A:9-84.

There are several other specific sections where we might suggest amendatory language, but we believe it would be most advisable to express the inapplicability of this Act to common carriers by incorporating a general exemption as a new section, reading as follows: "Exemptions from this act. The provisions of this act shall not apply to cars and vehicles of railroad carriers and common or contract motor carriers subject to the Interstate Commerce Act or the public utility laws of this State, weighing, measuring and counting devices and procedures used by said carriers in weight determination and transportation or holding of goods in accordance with their tariffs, nor shall the licensing provisions of this Act be applicable thereto". Such exemption could be inserted at Page 112, Section 51A:10-4, line 5, with the renumbering of subsequent sections.

The proposed exemption is essentially the same as a 1961 amendment to the Pennsylvania Weight Law.

Statement by William E. Joseph, Vice President-Properties and Public Relations
Houdaille Construction Materials, Inc., 10 Park Place, Morristown, N. J. 07960

Authorized to speak for the New Jersey Crushed Stone Association, Inc.

(List of members attached)

Chairman of the Minerals and Allied Industries of New Jersey

(List of members attached)

Public Hearing on S-274, S-327 and S-328

Assembly Chambers, State House, Trenton - Friday, June 3, 1966

My name is William E. Joseph, Vice President-Properties and Public Relations, Houdaille Construction Materials, Inc., of Morristown, New Jersey. Our company operates in 13 counties and 33 municipalities in New Jersey and Eastern Pennsylvania. It is one of the largest producers of crushed stone, sand, gravel, ready-mix concrete and bituminous concrete in those areas. This statement deals with the general subject of weights and measures regulations, and more specifically with Senate Bill 274.

First, we recognize that good weights and measures controls are extremely important—that generally they are enacted to protect the general public — to help the consumer to get what he pays for. Business, also, benefits from sound laws and enforcement: The testing of equipment often reveals errors which could be costly to a business if not corrected. Also, a company that is conscientious about its policies, receives the protection inherent in seeing that unscrupulous firms are required to give full measure. In addition, we realize that weights and measures administration, through continuing scrutiny of weighing devices, and through close association with business firms, has often developed improvements that have benefited business firms and customers alike.

Second, we are very pleased that S-274 does not include the special regulations of the cement and concrete industry which appeared in an earlier version of this legislation. We were, and are, strongly opposed to such regulation, believe it is wholly unnecessary to our business, and doubt that it would produce any benefits to the consuming public that would be commensurate with the burdens placed upon our industry — particularly in view of the fact that only a small fraction of our products are sold to the general public.

Broad Scope of S-274

Even so, we are keenly interested in this bill. As it is presently written the bill appears to encompass virtually all types of business. Definitions are broad and obviously intended to be all-inclusive. It would greatly increase the authority of the head of the State weights and measures agency, giving him

extensive rule-making powers having the effect of law. Besides, the regulation of "standards" is added to the existing regulations of weights and measures. Penalty provisions are tightened up in many ways.

Consider, for example, the broad definitions of such terms as "Article", "Commodity", "person", and "sell", in Section 51A:1-2. Consider, also, the commercial standards provided in Section 51A:7-1, Chapter 7.

Rule-Making Powers

The most serious problem posed by this bill is the power given to the director of the division to establish rules and regulations having the effect of law. As the bill is written the director is apparently answerable to no other authority in making such rules (except, inferentially, the governor, and the legislature. However, appealing to the governor for redress is a cumbersome way to deal with an administrative procedure. And the only way the legislature could help is through amendment of the law). The powers are set forth at a number of points in the bill. For example, in Chapter 2, Article IIB, Section 51A:2-16 (p. 17, lines 2-11) is the following:

"The director shall have general supervision over the administration of and shall enforce the provisions of this Title. State weights and measures officials shall be under his direct control. He shall have general supervision over all local weights and measures officials. He shall have and keep a general supervision over the weights, measures, devices and commodities offered for sale, sold, or in use in this State. He shall have the power to examine and test commodities to determine that they comply with the standards. He shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness and suitability of commodities regulated by this act."

Section 51A:2-21 (p. 19, lines 3-9) sets up the general power for rule-making:

"The director is empowered to make reasonable regulations, rules, and orders for the efficient implementation of this Title which shall have the force and effect of law. Violations of these regulations, rules, and orders shall be punishable as

provided in section 51A:3-1 of this Title. Moreover the director is empowered to make reasonable regulations, rules, and orders for the administration and supervision of his office and of the local weights and measures officials."

Subsections following this outline the specific rule-making power. It will be noted that this power is not given to a commission, but directly to the director. Furthermore there is no requirement that he hold a hearing in advance of establishing such rules and regulations. On the contrary, subsection C (p. 20, lines 31-39) makes it very clear that the burden of objecting to any such rules and regulations is clearly upon the objectors:

"Unless otherwise provided in the content of the regulations, rules or orders, such regulations, rules or orders promulgated hereunder shall be effective 30 days from the date of their promulgation, during which period interested parties may submit to the director, in writing, any objections to the proposed regulations, rules or orders and the reasons supporting such objection. In addition, the director may hold a hearing upon the written request of 2 or more interested parties made within said 30-day period, in which case the director may at his discretion further postpone the effective date of the regulation, rule or order."

Section D (p. 20, lines 41-45) emphasizes that such regulations are to be enforced strictly. It reads:

"All persons shall obey such regulations, rules or orders promulgated as provided for in this Title so long as such regulations, rules or orders shall be in force. Any person who shall violate such regulation, rule or order for which a specific penalty is not otherwise provided, shall be subject to a penalty as provided in section 51A:3-1."

This is amplified in Chapter 3, under the penalty provisions, (Section 51A:3-1, p. 26, lines 2-7):

"Any person who violates any of the provisions of this Title or any of the regulations or rules promulgated by the director thereunder, for which a specific penalty is not otherwise provided, upon conviction shall pay a fine of not less than \$25.00 nor more than \$50.00 for a first offense, not less than \$50.00 nor more than \$100.00 for a second offense, and not less than \$100.00 nor more than \$200.00 for each subsequent offense."

Chapter 3 is explicit and detailed in spelling out penalties, the nature of evidence required to prosecute a violation, and enforcement procedures (Chapter 3, Sections A, B, and C).

Recapitulation

To sum up:

1. By definition, virtually all goods are treated as commodities or articles; all sales of goods over 100 pounds are subject to regulation by the act;
2. The director is given extensive rule-making powers, which can be exercised under his own authority, subject to very little restraining by those who will be affected by such rules;
3. The director has ample authority to enforce the law and regulations and rules made under the law.

Recommendations

In brief, we do not believe that the protection of the general public in any way justifies the extensive powers which would be granted by S-274. We believe the sections dealing with rule-making powers would, in effect, amount to delegating legislative authority to the weights and measures executive. These sections should be reviewed very carefully and revised extensively. The rule-making powers of the proposed director should be greatly curtailed, and procedures installed which would make it possible for affected companies to make known their position before any such rules are adopted. This is important, because these companies can often make valuable suggestions, based upon their

intimate knowledge of their own enterprises, which would make it possible to achieve the sound objectives of necessary regulations without applying stifling and costly burdens. One possibility might be to establish a commission, somewhat on the order of the Air Pollution Control Commission, whose membership would include experts in the field of weights and measures, and representatives of industry and other vitally affected groups. In any event, no such rules or regulations should be permitted by law to be adopted until:

- a) Copies of proposed rules have been printed and circulated to business firms concerned with them; and
- b) A public hearing, with ample advance notice, is held giving all affected persons an opportunity to ask questions and to propose any changes to make them equitable and reasonable.

In addition we suggest that you:

Revise the bill to exempt from its provisions transactions which are solely between business firms, i.e., not involving the consumer. This would be done through defining a "merchant" in somewhat the same way as the existing Uniform Sales Act, that is, people who are knowledgable in the particular business.

Redefine "commodity" so that it will apply only to goods sold by the specific industries for which special regulations are set forth in the bill.

Remove the provisions which involve regulation of advertising, since these duplicate provisions of the Fraudulent Advertising Act adopted in 1963.

Revise Section 51A:7-1(c) to state that the section shall not apply to: "Any commodity sold or delivered using only legal units of the United States Standards and Weights and Measures provided, however, there is written evidence thereof". This would replace the existing exemption which applies to written contracts. The purpose is to reduce requirements for delivery tickets and other detailed procedures stated in the section.

Revise several other basic definitions, such as "engaging in business", and "sell", so as to make these apply primarily to sales to consumers.

Thank you for your attention. We shall be glad to supply additional information, about our industry and about our recommendations, if you believe these can be helpful to your consideration of these bills.

6/2/66

NEW JERSEY CRUSHED STONE ASSOCIATION, INC.

MEMBERSHIP LIST

Braen Industries, Inc.	Hawthorne, N. J.
Weldon Industries, Inc.	Westfield, N. .
Great Notch Corporation	Little Falls, N. J. .
M. L. Kernan Quarry Company	South Orange, N. J.
Houdaille Construction Materials, Inc.	Morristown, N. J.
Orange Quarry Company	West Orange, N. J.
Sowerbutt Quarries	Paterson, N. J.
Passaic Crushed Stone Co.	Pompton Lakes, N. J.
Shahmoon Industries, Inc.	Wharton, N. J.
Explosives Sales Co. of N. .	Paterson, N. J.
Dale & Rankin, Inc.	Hanover, N. J.
Bacon Pietsch Company, Inc.	Montclair, N. J.

6/2/66

MINERALS AND ALLIED INDUSTRIES OF NEW JERSEY

MEMBERSHIP LIST

American Cyanamid Company	Wayne, N.J.
Amico Sand & Gravel Company	Riverside, N.J.
Asphar, Inc.	Mt. Holly, N.J.
Barrett Division-Allied Chemical Corp.	New York, N.Y.
Dale & Rankin, Inc.	Hanover, N. J.
Anthony Ferrante & Sons, Inc.	Bernardsville, N.J.
The Glidden Company	Lakehurst, N. J.
Great Notch Corporation	Little Falls, N. J.
Grinnell Sand & Gravel Co., Inc.	Paterson, N. J.
Herbert Sand Co., Inc.	East Brunswick, N. J.
Houdaille Construction Materials, Inc.	Morristown, N. J.
Kingston Trap Rock Company	Kingston, N. J.
T. Landi & Sons, Inc.	Morristown, N.J.
Jesse S. Morie & Son, Inc.	Mauricetown, N.J.
National Glass Sand Corporation	Millville, N. J.
New Jersey Concrete Association	East Orange, N.J.
New Jersey Pulverizing Company	New York, N.Y.
New Jersey Silica Sand Co.	Millville, N. J.
New Jersey Zinc Company	New York, N.Y.
Orange Quarry Company	West Orange, N. J.
Pennsylvania Glass Sand Corporation	Hancock, West Virginia
George F. Pettinos, Inc.	Bala-Cynwyd, Pa.
Shahmoon Industries, Inc.	Wharton, N. J.
South River Sand Co.	Old Bridge, N. J.
Sowerbutt Quarries, Inc.	Paterson, N.J.
Union Building & Construction Co.	Passaic, N. J.
Weldon Industries, Inc.	Westfield, N.J.
Wharton Sand and Stone Co., Inc.	Elizabeth, N.J.
Whitehead Brothers Company	New York, N.Y.

MEMORANDUM ON ASSEMBLY BILL NO. 631
REVISED STANDARDS, WEIGHTS & MEASURES LAW

Powers of the Director

Under the present law, N.J.S.A. 51:1-1 et seq., there is no mention made of the powers with which the Superintendent is to perform his function. He is given the power to issue regulations and rules to "govern the sale of commodities" in section 61 of the Law but the legislature made no express grants of power anywhere else in the Act.

The Assembly Revision, like the Senate Bill No. 252 of 1964, contains a whole article devoted to the powers of the Director. These are, in summary, as follows:

A. General

1. Director given general supervisory authority over commodities. He may examine and test commodities to determine whether they comply with standards he may establish as to quantity, quality, serviceability, fitness and suitability of commodities. He is authorized to issue rules and regulations and orders to implement his supervisory powers. (As mentioned above under the present law the State Superintendent may issue rules and regulations to "govern the sale of commodities" N.J.S.A. 51:1-61.)

B. Administration

Further powers given the Director by the Revision are:

1. The power to use the functions of the State Division of Standards, Weights and Measures for any scientific society, educational institution, firm, corporation or individual within the State of New Jersey engaged in manufacturing or other non-commercial pursuits requiring the use of standards or standard measuring instruments and the power to charge a fee therefor to other than state or local government instrumentalities.

2. The power to establish specifications, tolerances and allowable deviations for containers and measuring and weighing devices. (Presently he is empowered to fix tolerance and allowable deviations for weights, measures and containers of not less than 1/2 of 1% from standard.)

3. The power to govern the possession, advertising, methods of sale or exposure for sale of commodities or services including the promulgation of rules, regulations or orders including standards of net weight, measure or count.

4. The power to establish variances and exemptions under the Commodity Act.

5. The power to establish tolerances for food and other Commodities in package form.

6. The power to grant, renew, suspend, revoke or otherwise act on any license.

7. The power to issue administrative subpoenas.

8. The power to institute legal proceedings to compel compliance with or enjoin violations of the act, rules, regulations or orders.

9. The power to permit seizure, condemnation, confiscation, and the like of fraudulent weighing, measuring and counting devices, or of those which could be used fraudulently.

Rules, Regulations or Orders promulgated by the Director and filed with the Secretary of State become effective 30 days after date of promulgation. Objections in writing may be lodged during this 30 day period. If 2 or more interested persons request in writing, the Director may hold a hearing.

C. Investigation

The Director is given entirely new investigative powers pursuant to which he can have weighed, measured, counted and inspected packages or amounts of commodities kept, offered, exposed for sale, sold or in the process of delivery to determine whether they are in compliance with the law. He may do this by sampling procedures. Any violations may be tagged and ordered off-sale.

Moreover, he is given the power to investigate complaints and, on his own initiative, conduct such investigations as he deems appropriate to promote accuracy in determination and representation of quantity in commercial transaction.

D. Enforcement

Enforcement powers have been supplemented.

Present Law

1. Arrest without warrant when violation occurs within view.
2. Weigh grain, coal or other commodities while in transit from dealer to purchaser.
3. Have access without warrant to places manufacturing, mixing, storing or selling turpentine or linseed oil; pry open containers and take samples.

Revision

1. Arrest without warrant when violation is within view.
2. Weigh grain, coal or other commodities while in transit from dealer to purchaser and have access to any premises without warrant during business hours for testing or inspection purposes or at any time with probable cause to believe that a violation is occurring.
3. Condemn, confiscate, issue removal or stop use orders regarding commodities and devices.

4. Seize without warrant devices, packages or commodities, as evidence.
5. Tag or mark commodities for off-sale.
6. Commandeer persons or vehicles for investigatory purposes.

These powers are all to be considered additional to any given elsewhere.

PENALTIES

Present Law

1. Penalty for violations not otherwise provided for: Not less than \$25.00.
2. Hinder or obstruct official in his duty: Not less than \$100.00 nor more than \$500.00.
3. Altering sealed and tested weights or measures: \$100.00 for each offense.
4. Weights or measures found incorrect after sealing: \$10.00 for each offense.
5. Selling false or unapproved weights and measures: \$50.00.
6. Selling or exposing for sale short weight: 1st offense not less than \$25.00 nor more than \$50.00; 2nd offense \$50.00 - \$100.00; each subsequent offense: \$100.00 - \$200.00 and/or 30 to 90 days imprisonment.

Revision

1. Now violations not otherwise provided for have the following penalties: 1st offense not less than \$25.00 nor more than \$50.00; 2nd offense \$50.00 - \$100.00; each subsequent offense \$100.00 - \$200.00.
2. Hindering or obstructing an official in his duty or impersonation of such officer now punishable by fine of \$100.00 - \$500.00 and/or imprisonment for 30 - 90 days.
3. Use in trade or commerce of an incorrect or false weighing, measuring, or counting device, or possession with intent to so use is a misdemeanor. (Under the present law retention of such a device is condemned.)
4. Representations of incorrect or false weight, measure or count are prohibited.
5. Knowingly and unknowingly misrepresenting quantity of a commodity either bought (if buyer furnishes weighing device) or sold is condemned. This includes sales and purchases in package form (under the present law this prohibition is limited to a knowing sale or delivery of less than the quantity represented of a commodity commonly sold by weight or measure. The revision eliminates the qualification, "Commonly sold by weight or measure").

Violations are deemed separate violations for each day on which occurring and for each place at which occurring on the same day. Moreover, the use, ownership or possession of each separate illegal weighing, measuring or counting device or the illegal selling, offering or exposing for sale or delivery of each separate unit or package of a commodity are deemed separate violations.

Although probably an oversight, the penalty provisions make no reference to applicability for violations of an order of the Director as contrasted with his rules and regulations.

As mentioned above the powers in S-252 are essentially unchanged as they appear in A-631. The changes that were made are significant however in that they indicate an attempt to broaden even more the powers granted. For instance, in S-252, sec. 51A:2-14(e) permits the Director to enter upon premises without a warrant to make a regular test or inspection. Under A-631 the word "regular" is deleted. Again, in 51A:2-21B, S-252 gave the Director the power to issue rules governing methods of sale and advertising, etc. The new bill grants the power to regulate matters "relating to" methods of sale and advertising etc.

SUBMITTED BY: FREDERICK C. SCHMELZ

U. S. DEPARTMENT OF COMMERCE
NATIONAL BUREAU OF STANDARDS

MODEL STATE LAW ON WEIGHTS AND MEASURES

FORM 2

[Provides for a State Division of Weights and Measures and
for county and city sealers of weights and measures.]

as adopted by

The National Conference on Weights and Measures

Amendments through 1964

The National Conference on Weights and Measures
is sponsored by the National Bureau of Standards
in partial implementation of its statutory responsi-
bility for "cooperation with the States in securing
uniformity in weights and measures laws and
methods of inspection."

BE IT ENACTED BY THE LEGISLATURE OF THE

STATE OF _____

SECTION 1. MEANING OF TERMS. - - When used in this Act:

(1) The word "person" shall be construed to mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

(2) The words "weight(s) and (or) measure(s)" shall be construed to mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices, except that the term shall not be construed to include meters for the measurement of electricity, gas (natural or manufactured), or water when the same are operated in a public utility system. Such electricity, gas, and water meters are hereby specifically excluded from the purview of this Act, and none of the provisions of this Act shall be construed to apply to such meters or to any appliances or accessories associated therewith.

(3) The words "sell" and "sale" shall be construed to mean barter and exchange.

(4) The terms "director" and "deputy director" shall be construed to mean, respectively, the State director of weights and measures and the deputy State director of weights and measures.

(5) The term "inspector" shall be construed to mean a State inspector of weights and measures.

(6) The terms "sealer" and "deputy sealer" shall be construed to mean, respectively, a sealer of weights and measures and a deputy sealer of weights and measures of a city, of a county, or of a joint city-county jurisdiction.

(7) The term "intrastate commerce" shall be construed to mean any and all commerce or trade that is begun, carried on, and completed wholly within the limits of the State of _____, and the phrase "introduced into intrastate commerce" shall be construed to define the time and place at which the first sale and delivery of a commodity is made within the State, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(8) The term "commodity in package form" shall be construed to mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this Act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

SEC. 2. 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 one or the other of these systems shall be used for all commercial purposes in the State of _____ . The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the National Bureau of Standards, are recognized and shall govern weighing and measuring equipment and transactions in the State.

SEC. 3. DEFINITIONS OF SPECIAL UNITS OF MEASURE. -- The term "barrel," when used in connection with fermented liquor, shall mean a unit of 31 gallons. The term "ton" shall mean a unit of 2,000 pounds avoirdupois weight. The term "cord," when used in connection with wood intended for fuel purposes, shall mean the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

SEC. 4. STATE STANDARDS OF WEIGHT AND MEASURE. -- Such weights and measures in conformity with the standards of the United States as have been supplied to the State by the Federal Government or otherwise obtained by the State for use as State standards shall, when the same shall have been certified as being satisfactory for use as such by the National Bureau of Standards, be the State standards of weight and measure. The State standards shall be kept in a safe and suitable place in the office or laboratory of the State Division of Weights and Measures, they shall not be removed from the said office or laboratory except for repairs or for certification, and they shall be submitted at least once in ten years to the National Bureau of Standards for certification. The State standards shall be used only in verifying the office standards and for scientific purposes.

SEC. 5. OFFICE AND WORKING STANDARDS AND EQUIP-
MENT. -- In addition to the State standards provided for in section 4 of this Act, there shall be supplied by the State at least one complete set of copies of these to be kept in the office or laboratory of the State Division of Weights and Measures and to be known as "office standards," and also such "field standards" and such equipment as may be found necessary to carry out the provisions of this Act. The office standards and field standards shall be verified upon their initial receipt and at least once each year thereafter, the office standards by direct comparison with the State standards and the field standards by comparison with the office standards.

SEC. 6. STATE DIRECTOR, DEPUTY DIRECTOR, AND
INSPECTORS OF WEIGHTS AND MEASURES. - - There shall be a State director of weights and measures. The _____ shall be, ex officio, the director. There shall be a deputy State director of weights and measures and State inspectors of weights and measures, and necessary technical and clerical personnel, who shall be appointed by the director from eligible lists prepared by the civil-service board and under the rules of said board, and who shall collectively comprise the State Division of Weights and Measures, of which the deputy director shall be the Chief. The director shall be allowed for salaries for himself, the deputy director, the inspectors, and the necessary technical and clerical employees, for necessary equipment and supplies, and for traveling and contingent expenses, such sums as shall be appropriated by the legislature.

[In the absence of a civil-service board in the State, substitute for the third sentence in the preceding paragraph the following: There shall be a deputy State director of weights and measures and State inspectors of weights and measures, and necessary technical and clerical personnel, who shall be appointed by the director and who shall hold office during good behavior, and who shall collectively comprise the State Division of Weights and Measures, of which the deputy director shall be the Chief; they shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until they shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written

answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the governor or a committee which he may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and any other evidence in his own behalf.]

SEC. 7. BONDS. -- A bond, with sureties, to be approved by the secretary of State, and conditioned upon the faithful performance of his duties and the safekeeping of any standards or equipment entrusted to his care, shall forthwith, upon his appointment, be given by the deputy director in the penal sum of \$5,000, and by each inspector in the penal sum of \$1,000; the premiums on such bonds shall be paid by the State.

SEC. 8. GENERAL POWERS AND DUTIES OF DIRECTOR. -- The director shall have the custody of the State standards of weight and measure and of the other standards and equipment provided for by this Act, and shall keep accurate records of the same. The director shall enforce the provisions of this Act. He shall have and keep a general supervision over the weights and measures offered for sale, sold, or in use in the State. He shall annually, in the month of _____, make to the governor a report on all of the activities of his office.

SEC. 9. SPECIFIC POWERS AND DUTIES OF DIRECTOR:
REGULATIONS. -- The director shall issue from time to time reasonable regulations for the enforcement of this Act, which regulations shall have the force and effect of law. These regulations may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties, and (3) exemptions from the sealing or marking requirements of section 15 of this Act with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question. These regulations shall include specifications, tolerances, and regulations for weights and measures of the character of those specified in section 11 of this Act, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official stand-

ards, those (1) that are not accurate, (2) that are of such construction that they are faulty--that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly--or (3) that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44 and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, tolerances, and regulations for commercial weighing and measuring devices of the State of _____, except insofar as specifically modified, amended, or rejected by a regulation issued by the director. For the purposes of this Act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; other apparatus shall be deemed to be "incorrect."

SEC. 10. SAME: TESTING OF STANDARDS: TESTING AT STATE-SUPPORTED INSTITUTIONS. --The director, at least once every five years, shall test the standards of weight and measure procured by any city or county for which the appointment of a sealer of weights and measures is provided by this Act, and shall approve the same when found to be correct, and he shall inspect such standards at least once every two years. He shall from time to time test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which monies are appropriated by the legislature, reporting his findings, in writing, to the supervisory board and to the executive officer of the institution concerned.

SEC. 11. SAME: GENERAL TESTING. -- When not otherwise provided by law, the director shall have the power to inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. It shall be the duty of the director, within a 12-month period, or less frequently if in accordance with a schedule issued by him, and as much oftener as he may deem necessary, to inspect and test, to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or of count, or (2) in computing the basic charge or payment for services rendered

on the basis of weight, measure, or of count: Provided, That with respect to single-service devices--that is, devices designed to be used commercially only once and to be then discarded--and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of such devices; and the lots of which such samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples.

SEC. 12. SAME: INVESTIGATIONS. --The director shall investigate complaints made to him concerning violations of the provisions of this Act, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this Act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

SEC. 13. SAME: INSPECTION OF PACKAGES. --The director shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale, or sold, in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the director may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the director may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (1) sell, or keep, offer, or expose for sale, in intrastate commerce any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section unless and until such package or amount of commodity has been brought into full compliance with all legal requirements, or (2) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements, in any manner except with the specific approval of the director.

SEC. 14. SAME: STOP-USE, STOP-REMOVAL, AND REMOVAL ORDERS. --The director shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this Act he deems it necessary or expedient to issue such orders, and no person shall use, remove from the premises specified, or fail to remove from the premises specified, any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

SEC. 15. SAME: DISPOSITION OF CORRECT AND INCORRECT APPARATUS. --The director shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be "correct" as defined in section 9 of this Act, and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be "incorrect" as defined in section 9 of this Act, but which in his best judgment are susceptible of satisfactory repair: Provided, That such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by a regulation of the director issued under the authority of section 9 of this Act. The director shall condemn, and may seize and may destroy, weights and measures found to be incorrect that, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by section 24 of this Act, or if used or disposed of contrary to the requirements of section 24 of this Act.

SEC. 16. SAME: POLICE POWERS: RIGHT OF ENTRY AND STOPPAGE. --With respect to the enforcement of this Act and any other Acts dealing with weights and measures that he is, or may be, empowered to enforce, the director is hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of the said Acts, and to seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity found to be used, retained, offered, or exposed for sale, or sold, in violation of law. In the performance of his official duties, the director is authorized to enter and go into or upon, without formal

warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the director may specify.

SEC. 17. POWERS AND DUTIES OF DEPUTY DIRECTOR AND INSPECTOR. --The powers and duties given to and imposed upon the director by sections 10, 11, 12, 13, 14, 15, 16, 23, and 45 of this Act are hereby given to and imposed upon the deputy director and inspectors also, when acting under the instructions and at the direction of the director.

SEC. 18. CITY AND COUNTY SEALERS AND DEPUTY SEALERS OF WEIGHTS AND MEASURES: APPOINTMENT. --In and for each city having a population of 30,000 or more, and in and for each county having a population of 30,000 or more, exclusive of any city in such county having a population of 30,000 or more, according to the latest official State or United States census, there shall be a sealer of weights and measures, and such deputy sealers of weights and measures as may be required. The sealer and deputy sealers shall be appointed in any such city by the mayor, and in any such county by the board of county commissioners, from eligible lists furnished by the civil-service board and under the rules of said board where such board exists; otherwise they shall be appointed by the mayor (in the case of a city) or by the board of county commissioners (in the case of a county), with the approval of the director, to hold office during good behavior. A sealer or deputy sealer shall not be removed, discharged, or reduced in pay or position except for inefficiency, incapacity, conduct unbecoming an employee, or other just cause, and until he shall have been furnished with a written statement of the reasons for any such contemplated removal, discharge, or reduction, and shall have been given a reasonable time to make written answer thereto; nor shall such removal, discharge, or reduction be made until the charge or charges shall have been examined into and found true in fact by the common council (in the case of a city) or the board of county commissioners (in the case of a county) or a committee that such council or board may appoint for this purpose, at a hearing, upon reasonable notice to the person charged, at which time he may be represented by counsel and offer testimony of witnesses and other evidence in his own behalf: Provided, That a sealer or deputy sealer so removed, discharged, or reduced shall have the right to appeal to any court of competent jurisdiction in the county where he is or was so employed.

SEC. 19. SAME: BONDS.--A bond, with sureties, to be approved by the appointing power, and conditioned upon the faithful performance of his duties and the safekeeping of any standards or equipment entrusted to his care, shall forthwith, upon his appointment, be given by each sealer and deputy sealer in the penal sum of \$1,000; the premium on such bond shall be paid by the city or county for which the officer in question is appointed.

SEC. 20. SAME: POWERS AND DUTIES.--The sealer of a city or of a county, and his deputy sealers when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the city or the county for which appointed as are granted to and imposed upon the director by sections 11, 12, 13, 14, 15, 16, and 45 of this Act, except that the jurisdiction of a county sealer shall not extend to any city for which a city sealer has been appointed as provided for by section 18 of this Act.

SEC. 21. CITY AND COUNTY STANDARDS AND EQUIPMENT.--The common council of each city and the board of county commissioners of each county for which a sealer has been appointed as provided for by section 18 of this Act shall (1) procure at the expense of the city or county, as the case may be, such standards of weight and measure and such additional equipment, to be used for the enforcement of the provisions of this Act in such city or county, as may be prescribed by the director, (2) provide a suitable office for the sealer, and (3) make provision for the necessary clerical services, supplies, and transportation, and for defraying contingent expenses incident to the official activities of the sealer in carrying out the provisions of this Act. When the standards of weight and measure required by this section to be provided by a city or county shall have been examined and approved by the director, they shall be the official standards for such city or county. It shall be the duty of the sealer to make, or to arrange to have made, at least as frequently as once a year, comparisons between his field standards and appropriate standards of a higher order belonging to his city or county (as the case may be) or to the State, in order to maintain such field standards in accurate condition.

SEC. 22. JOINT JURISDICTIONS.--Notwithstanding the provisions of section 18 of this Act, a county and one or more cities situated therein, each of which would otherwise be required by section 18 of this Act to appoint a sealer, may, with the consent of the director, establish a

joint weights and measures jurisdiction with one sealer and such deputy sealers as may be required, under an agreement between the board of county commissioners and the common council or councils of the city or cities involved. When such a joint jurisdiction is established, the provisions of section 18 of this Act relative to the appointment, removal, discharge, and reduction in pay or position of sealers and deputy sealers, the provisions of section 19 of this Act relative to the giving of bonds and the payment of premiums thereon, and the provisions of section 21 of this Act relative to standards, equipment, office facilities, clerical services, supplies, transportation, and contingent expenses, shall be observed, except that in every case joint action of the county and the city or cities forming the joint jurisdiction shall be required; and the sealer of the joint jurisdiction, and his deputy sealers when acting under his instructions and at his direction, shall have the same powers and shall perform the same duties within the joint jurisdiction for which appointed as are granted to and imposed upon the director by sections 11, 12, 13, 14, 15, 16, and 45 of this Act.

SEC. 23. CONCURRENT JURISDICTION.--In cities and counties for which sealers of weights and measures have been appointed as provided for in this Act, the director shall have concurrent authority to enforce the provisions of this Act.

SEC. 24. DUTY OF OWNERS OF INCORRECT APPARATUS.--Weights and measures that have been rejected under the authority of the director or of a sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within 30 days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct or until specific written permission for such use is issued by the rejecting authority.

SEC. 25. METHOD OF SALE OF COMMODITIES: GENERAL.--Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this Act, commodities not in liquid form shall be sold only by weight, by measure of length

or area, or by count: Provided, That liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold: And provided further, That the provisions of this section shall not apply (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the head or bunch, (3) to commodities in containers standardized by a law of this State or by Federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (6) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The director may issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.

SEC. 26. SAME: PACKAGES: DECLARATIONS OF QUANTITY AND ORIGIN; VARIATIONS; EXEMPTIONS.---Except as otherwise provided in this Act, any commodity in package form introduced or delivered for introduction into or received 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 the contents in terms of weight, measure, or count, and (3) in the case of any package kept, offered, or exposed for sale, or sold any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor: Provided, That in connection with the declaration required under clause (2), neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package, shall be used: And provided further, That under clause (2) the director shall, by regulation, establish (a) reasonable variations to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (b) exemptions as to small packages, and (c) exemptions as to commodities put up in variable weights or

sizes for sale intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

SEC. 27. SAME: DECLARATIONS OF UNIT PRICE ON RANDOM PACKAGES.--In addition to the declarations required by section 26 of this Act, any commodity in package form, the package being one of a lot containing random weights, measures, or counts 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, measure, or count.

SEC. 28. SAME: MISLEADING PACKAGES.--No commodity in package form, shall be so wrapped, nor shall it be in a container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the director.

SEC. 29. SAME: ADVERTISING PACKAGES FOR SALE.--Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package: Provided, That in connection with the declaration required under this section there shall be declared neither the qualifying term "when packed" nor any other words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package.

SEC. 30. SALE BY NET WEIGHT.--The word "weight" as used in this Act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

SEC. 31. MISREPRESENTATION OF PRICE.--Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the 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 cents.

SEC. 32. MEAT, POULTRY, AND SEAFOOD.--Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts), and all seafood except shellfish, offered or exposed for sale, or sold, as food shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

SEC. 33. BREAD.--Each loaf of bread and each unit of a twin or multiple loaf of bread, made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh 1/2 pound, 1 pound, 1 1/2 pounds, or a multiple of 1 pound, avoirdupois weight, within reasonable variations or tolerances that shall be promulgated by regulation by the director: Provided, That the provisions of this section shall not apply to biscuits, buns, or rolls, weighing 4 ounces or less, or to "stale bread" sold and expressly represented at the time of sale as such, and that the marking provisions of section 26 shall not apply to unwrapped loaves of bread.

SEC. 34. BUTTER, OLEOMARGARINE, AND MARGARINE.-- Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight, and only in units of 1/4 pound, 1/2 pound, 1 pound, or multiples of 1 pound, avoirdupois weight.

SEC. 35. FLUID DAIRY PRODUCTS.--All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of 1 gill, 1/2 liquid pint, 10 fluid ounces, 1 liquid pint, 1 liquid quart, 1/2 gallon, 1 gallon, or multiples of 1 gallon: Provided, That packages in units of less than 1 gill shall be permitted.

SEC. 36. FLOUR, CORN MEAL, AND HOMINY GRITS.--When in package form, and when packed, kept, offered, or exposed for sale, or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of 3, 5, 10, 25,

50, or 100 pounds, avoirdupois weight: Provided, That packages in units of less than 3 pounds or more than 100 pounds shall be permitted.

SEC. 37. COAL, COKE, AND CHARCOAL.--All coal, coke, and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke, or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there shall be clearly stated (1) the name and address of the vendor, (2) the name and address of the purchaser, and (3) the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director, or the deputy director or an inspector, or a sealer or deputy sealer, who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: Provided, That if the purchaser carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him.

SEC. 38. HEATING AND COOKING OIL.--All heating and cooking oil shall be sold by liquid measure or by net weight in accordance with the provisions of section 25 of this Act. In the case of each delivery of liquid fuel not in package form, and in an amount greater than 10 gallons in the case of sale by liquid measure or 100 pounds in the case of sale by weight, there shall be rendered to the purchaser, either (a) at the time of delivery or (b) within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or other indelible substance, there shall be clearly and legibly stated (1) the name and address of the vendor, (2) the name and address of the purchaser, (3) the identity of the type of fuel comprising the delivery, (4) the unit price (that is, the price per gallon or per pound, as the case may be), of the fuel delivered, (5) in the case of sale by liquid measure, the liquid volume of the delivery, together with any meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions, and (6) in the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.

SEC. 39. TEXTILE PRODUCTS.--It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject, however, to the following limitations and requirements:

(1) Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting, or embroidery thread or yarn, except nylon hand-knitting yarn, that is not composed in whole or in part of wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of a textile product, sold only for household use, consisting of a package containing two or more similar individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this proviso shall not apply where the individual units are separately marked. Any unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of such yarn, except that any such unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed fifty yards, may be marked to show its linear measure only.

(2) The marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer, or distributor of the product, or a trademark, symbol, brand, or other mark that positively identifies such manufacturer, packer, or distributor.

(3) Reasonable tolerances shall be permitted, and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the director.

(4) The provisions of this section shall not apply to the following textile products when sold at wholesale in bulk by net weight: Cordage, agricultural bag sewing threads, twines, yarns that are to be processed, and yarns that are to be industrially converted into end use products.

SEC. 40. BERRIES AND SMALL FRUITS.---Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of 1/2 dry pint, 1 dry pint, or 1 dry quart: Provided, That the marketing provisions of section 26 of this Act shall not apply to such containers.

SEC. 41. CONSTRUCTION OF CONTRACTS.---Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in sections 2 and 3 of this Act, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

SEC. 42. HINDERING OR OBSTRUCTING OFFICER; PENALTIES.---Any person who shall hinder or obstruct in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

SEC. 43. IMPERSONATION OF OFFICER; PENALTIES.---Any person who shall impersonate in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100.00 or more than \$500.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

SEC. 44. OFFENSES AND PENALTIES.---Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subparagraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment; and

SEC. 39. TEXTILE PRODUCTS.--It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject, however, to the following limitations and requirements:

(1) Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting, or embroidery thread or yarn, except nylon hand-knitting yarn, that is not composed in whole or in part of wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of a textile product, sold only for household use, consisting of a package containing two or more similar individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this proviso shall not apply where the individual units are separately marked. Any unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of such yarn, except that any such unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed fifty yards, may be marked to show its linear measure only.

(2) The marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer, or distributor of the product, or a trademark, symbol, brand, or other mark that positively identifies such manufacturer, packer, or distributor.

(3) Reasonable tolerances shall be permitted, and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the director.

(4) The provisions of this section shall not apply to the following textile products when sold at wholesale in bulk by net weight: Cordage, agricultural bag sewing threads, twines, yarns that are to be processed, and yarns that are to be industrially converted into end use products.

SEC. 40. BERRIES AND SMALL FRUITS.---Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of 1/2 dry pint, 1 dry pint, or 1 dry quart: Provided, That the marketing provisions of section 26 of this Act shall not apply to such containers.

SEC. 41. CONSTRUCTION OF CONTRACTS.---Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in sections 2 and 3 of this Act, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

SEC. 42. HINDERING OR OBSTRUCTING OFFICER; PENALTIES.---Any person who shall hinder or obstruct in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

SEC. 43. IMPERSONATION OF OFFICER; PENALTIES.---Any person who shall impersonate in any way the director, the deputy director, or any one of the inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100.00 or more than \$500.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

SEC. 44. OFFENSES AND PENALTIES.---Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subparagraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$20.00 or more than \$200.00, or by imprisonment for not more than 3 months, or by both such fine and imprisonment; and

upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than \$50.00 or more than \$500.00, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(1) Use or have in possession for the purpose of using for any commercial purpose specified in section 11, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(2) Use, or have in possession for the purpose of current use for any commercial purpose specified in section 11, a weight or measure that does not bear a seal or mark such as is specified in section 15, unless such weight or measure has been exempted from testing by the provisions of section 11 or by a regulation of the director issued under the authority of section 9 of this Act.

(3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(4) Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.

(5) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing, or service.

(6) Take more than the quantity he represents of any commodity, thing, or service, when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.

(7) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell, any commodity, thing, or service in a condition or manner contrary to law or regulation.

(8) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(9) Violate any provision of this Act or of the regulations promulgated under the provisions of this Act for which a specific penalty has not been prescribed.

SEC. 45. INJUNCTION.--The director is authorized to apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provision of this Act.

SEC. 46. PRESUMPTIVE EVIDENCE.--For the purposes of this Act, proof of the existence of a weight or measure or a weighing or measuring device 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, shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand, or vehicle.

SEC. 47. VALIDITY OF PROSECUTIONS.--Prosecutions for violation of any provision of this Act are declared to be valid and proper notwithstanding the existence of any other valid general or specific Act of this State dealing with matters that may be the same as or similar to those covered by this Act.

SEC. 48. SEPARABILITY PROVISION.--If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SEC. 49. REPEAL OF CONFLICTING LAWS.--All laws and parts of laws contrary to or inconsistent with the provisions of this Act, and specifically _____

_____ are repealed insofar as they might operate in the future; but as to offenses committed, liabilities incurred, and claims now existing thereunder, the existing law shall remain in full force and effect.

SEC. 50. CITATION.--This Act may be cited as the "Weights and Measures Act of _____."

SEC. 51. EFFECTIVE DATE.--This Act shall become effective on _____.

PROCEEDINGS

of a

SPECIAL CONFERENCE

on the

PROPOSED REVISION

of

NEW JERSEY'S WEIGHTS AND MEASURES LAW

Conducted by

New Jersey State Chamber of Commerce
Hotel Essex House, Newark, New Jersey
February 20, 1962

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THE PURPOSE AND CONCLUSIONS OF THE CONFERENCE

* * *

To provide a greater degree of coordination to the numerous comments and suggestions offered by divergent business groups, directly concerned with the proposed revision of New Jersey's Standards, Weights, Measures and Containers Law, the New Jersey State Chamber of Commerce arranged and conducted a special all day workshop-type conference in Newark on February 20th.

Attended by approximately 100 representatives of the agricultural, industrial and commercial community of New Jersey, the conference sought to resolve many of the technical questions raised by the proposed law revision and to develop a series of recommendations -- including, where it would be appropriate, specific amendments to Assembly Bill 597 of 1961.

Upon conclusion of the workshop sessions of the conference, the conference committee recommended that all questions, conclusions and recommendations arising from the individual technical sessions be transcribed and submitted to the Division of Weights and Measures and to the Attorney General's office informally by the staff of the State Chamber. It was the feeling of the conference committee that the substance of the conference could best be presented to the Division and the Attorney General at an informal meeting and that such a meeting would not only prove valuable to all concerned but that it would set the stage, so to speak, for additional meetings if they are deemed necessary or desirable.

Accordingly, the proceedings of these individual workshop sessions are recorded on the pages that follow.

* * *

GENERAL WORKSHOP ON ORGANIZATION OF THE
DIVISION OF WEIGHTS AND MEASURES

ORGANIZATION

Present Law:

The Weights and Measures laws are administered and enforced by the Division of Weights and Measures in the Department of Law and Public Safety, acting through offices on the State, county, and municipal levels.

On the State level, the Division is headed by a Superintendent, appointed by the Governor, subject to Senate approval, to serve during the term of the Governor, at a salary fixed in the annual appropriation bill. The State Superintendent is authorized to appoint 3 Assistant Superintendents and 2 Clerical Assistants, under Civil Service, within salary schedules fixed by Civil Service, and Honorary and Special Assistant Superintendents, to serve without compensation, who have same powers as county and municipal Superintendents.

At the county and municipal level, every county, and every municipality with a population of 60,000 or more, is required to have a Weights and Measures Superintendent, appointed by the governing body at a salary fixed by it. Assistant Superintendents may also be designated. All county and municipal weights and measures officials are under civil service, but where Civil Service has not been adopted, such employees may be discharged only after hearing. Municipalities with less than 60,000 population may establish Weights and Measures Departments, but are not required to do so.

Revision:

At the State level, the following changes are made:

- 1) State Superintendent's title is changed to State Director.
- 2) Salary of State Director is fixed at \$11,000 per year.
- 3) Office of Deputy Director is created. He is to be appointed by State Director from among regular employees of Department based upon Civil Service examination.
- 4) Offices of Assistant Superintendents and Clerical Assistants are abolished and replaced by supervisors and staff.
- 5) State Director is given authority to temporarily employ specialists and experts subject to prior approval by Attorney General as to compensation to be paid.

At the county and municipal level, the additional office of Deputy Superintendent is provided for at the discretion of the governing body.

Two new provisions are added:

- 1) All local weights and measures officers must be certified as qualified by the State Director before appointment. A pre-certification training program must be taken, and the county or municipality must have a minimum inventory of testing devices approved by the State Director.

2) The State may obtain court order to force counties and municipalities which are required to have Weights and Measures Superintendents, to appoint them where they have failed to do so.

POWERS AND DUTIES

The following additional specific powers and duties are given to the State Director under the Revision:

(a) The power to establish specifications, tolerances, and allowable deviations for containers and measuring and weighing devices. (Under present law he is empowered to fix tolerances and allowable deviations for weights, measures and containers, of not less than $\frac{1}{2}$ of 1% from standard.)

(b) The power to establish variances and exemptions under the Commodity Act. (Under present law, he has right to regulate sale of commodities generally.)

(c) The power to establish tolerances for foods and other commodities in package form, after first exposure for sale at retail. (Under present law, he has the right to regulate the sale of commodities generally.)

(d) The right to promulgate rules for certification of weights and measures officers.

(e) The right to promulgate rules for granting and revoking licenses.

(f) The power to issue administrative subpoenas.

(g) The power to make rules and provisions for penalties not to exceed \$200.00.

(h) Additional enforcement powers. (Noted hereafter.)

Rules promulgated must be filed with the Secretary of State and cannot become effective until 30 days after promulgation. There is no such provision in the present law.

County and municipal weights and measures officials are given the same additional enforcement powers as the State Director.

The power under the present law to regulate the sale of solid fuels, liquid fuels, and liquefied gases, and the power to regulate those engaged in second-hand weighing and measuring device businesses, is not contained in the Revision, but the regulation of these activities is spelled out in considerable detail in the Revision.

ENFORCEMENT

Present Law:

(a) Arrest without warrant when violation is being committed within view.

- (b) Power to weigh grain, coal, or other commodities while in transit.
- (c) Access to places, without warrant, manufacturing turpentine and linseed oil, and the right to open containers.

Revision:

- (1) Arrest without warrant. Same as present law.
- (2) Access to premises without warrant.
- (3) Ordering off-sale and confiscation.
- (4) Seizure of measuring devices and commodities as evidence, without warrant.
- (5) Tagging commodities ordered off sale.
- (6) Stop any person and require him to proceed to specified place for investigative purposes.

PENALTIES

Additions and Changes:

- (1) Separate violation for each different day and each different place.
- (2) Impersonation of a weights and measures official.
- (3) Use of, or possession with intent to use, a false weighing device. Knowledge of falsity not required.
- (4) Certification of any false weight which may tend to defraud. Knowledge not required.
- (5) Penalty for knowingly selling less than represented quantity is increased from a fine to a misdemeanor.

RECOMMENDATIONS

(1) Section 51A:2-20 B (1) broadens the powers of the State Director under the Commodity Act to make rules and regulations governing advertising of commodities. However, adequate protection for the public is now being provided under other statutes. It is therefore recommended that the word "advertising" be deleted from this paragraph. (Page 14, Section 51A:2-20, line 10.)

(2) Present law requires all municipalities having a population of 60,000 and over to operate a weights and measures agency. In addition, every county must provide for an agency to enforce weights and measures laws in the portions of the counties not served by a municipal program. Not only does this provide some duplication in the administration of a comparatively small program; more serious, this is considered to be discrimination against the larger cities which must pay their pro-rata share of the county program, for which they receive no services, as

well as one hundred per cent of the costs of their own program. Thus, this results in double taxation mandated by State law.

At present the law permits municipalities under 60,000 to operate a weights and measures agency. A-597 makes no changes in the present arrangement of optional authority for municipalities under 60,000 and mandatory responsibility for municipalities of 60,000 and over. It is proposed that optional authority be given to all municipalities regardless of size. In this way, municipalities which wish to administer their own program in spite of double taxation could do so, but none would be required to. Thus, the plan would be equitable and would be in the true home rule tradition.

It is therefore recommended that Section 51A:2-11 be amended to (1) delete the second sentence in the first paragraph, (2) delete the words "or municipal" on lines 8 and 9, and (3) delete on lines 10 and 11 the words "having a population of less than 60,000".

(3) Section 51A:2-20 gives to the State Director the power to fix penalties up to \$200.00 for violations of rules and regulations promulgated by him. The fixing of penalties, even though it be a civil penalty as distinct from a criminal penalty, is primarily a judicial act. While the Legislature may delegate powers to an administrative agent, it must fix adequate standards to guide the administrative agent. This section fixes no standards whatsoever with respect to the amount of the penalty, except the maximum. It is recommended that the specific penalty provisions should be established by legislative action.

(4) Questions were raised as to what appears to be contradictions between Section 51A:2-31 and Sections 51A:5-4, 51A:6-10, 51A:9-15 and 51A:10-10.

COMMODITY ACT WORKSHOP

The workshop confined to the Commodity Act remained in active session for two full hours, yet at its conclusion a considerable number of participants felt that further exploration of this topic will be necessary before a definitive position can be reached on some of the aspects of this section. Appropos of this were the questions which were raised as to the scope and applicability of the various provisions in this section of the proposed act.

The first question raised was whether the proposed revision is intended to apply to manufacturers and wholesalers, or whether it is intended to protect the consumer.

The second question was raised as to the applicability of Section 51A:4-2. It was pointed out that the present law (R.S. 51:1-38) requires that bulk sales and deliveries of coal, coke, charcoal, coal briquettes or other patent fuel in amounts exceeding 100 pounds shall be weighed by a weighmaster and while in transit shall be accompanied by a delivery ticket.

The proposed revision would substitute for the specific solid fuels presently required to be sold by weight all "commodities" and would make other changes in the present law. The word "commodity" is defined in Section 51A:1-2 to mean "any

article of trade and commerce". Thus, it was the opinion of some participants that the revision of the law as set forth in Section 51A:4-2 would broaden the law far beyond the original intent to protect the consuming public.

If it is the intention of this section to broaden the applicability of the law to include all products flowing in interstate and intrastate commerce, whether or not the ultimate consumer is involved, then an extremely important policy question is involved. What is the rationale for this new concept of regulation of commerce in general by the Division of Weights and Measures?

In this connection, it was pointed out that the Federal government has been active in the field of weights and measures for many years, and in order to maintain an even flow of commodities to all markets in the United States, the various states should not be more restrictive than the Federal government.

RECOMMENDATIONS

It is recommended that Section 51A:4-2 be amended on lines 19 and 20 to include entire truck loads when delivered to one destination and consigned to one person.

Section 51A:4-3 should be amended on lines 3 and 4 to add the word "retail" before the word "sale" and to delete the words "or have in his possession with intent to distribute or sell".

In respect to Section 51A:4-8 a question arose as to the meaning of the word "grade".

The workshop group also questions the authority granted to the Division of Weights and Measures to regulate advertising in Section 51A:4-8. It also was the consensus of the group that regulations "governing the possession, advertising, methods of sale or exposure for sale of commodities" (Section 51A:2-20 B, lines 10 and 11) are not the responsibility of the Division of Weights and Measures, but are solely within the province of the Legislature.

This group's final suggestion is to omit the last phrase on line 17 of Section 51A:2-30 B "after first exposure for sale at retail."

PACKAGED FOODS)
MEAT, FISH AND POULTRY PRODUCTS) - WORKSHOP
FROZEN DESSERT)

The package food workshop was attended by representatives from the ice cream, meat processing, butter, and chain store industries. This report embodies the developments which took place at this meeting insofar as the proposed new law (Assembly #597) would affect said industries.

1. A letter dated March 30th, 1961, addressed to Mr. Christie, Deputy State Superintendent of the Division of Weights and Measures from the Meat Trade Institute, Inc., was considered. The letter, in substance, would embody in the proposed new law a regulation promulgated in 1957 concerning labeling requirements of variably weighted cellulose encased processed meats. Upon motion duly made, seconded and passed, the committee urged that the letter be submitted to Mr. Christie for his consideration and adoption under the new law. It was suggested that the point raised by Mr. Joseph Cohn, (counsel for the Meat Trade

¹The letter is reproduced in the Appendix as Exhibit I.

Institute), be reflected in the paragraph entitled "In package form", on page five and again on page twenty-two, paragraph number 51A:4-4 of the new law. Under both sections and more particularly in the definition of "in package form" carcass meat and cheese, merely wrapped in paper or stockinette or cheesecloth, should be excluded from the category of items requiring the showing of net weight.

2. Page 6 - Paragraph 51A:1-4. It was suggested that in the saving of the present rules and regulations, careful study should be made of them for possible inconsistencies with all sections of the new law.

3. Page 13 - Paragraph 51A:2-20. Regulation and Rule Making. It was submitted that the amount of the penalties should be fixed by law. Further, after some period of time, a violator's previous record should be cleared. The practice used in motor vehicle infractions might be considered in this connection.

4. Page 14 - The specific regulation and rule making power. This section caused considerable concern to those present. Some urged the deletion of the word "governing" on line 10. Others present questioned the entire line "governing the possession, advertising, methods of sale or exposure for sale of commodities". It was felt that a need should be proven for this rule making power and a full explanation given concerning this request by Mr. Christie. The Tri-State Packers' Association, Inc., letter of February 15, 1962, to Mr. Acken, was considered on the adoption of the Model State Law provisions to the extent indicated. It was suggested that the letter and the copy of the Model Law be submitted to Mr. Christie for consideration under the sections.² Sub-division 4 concerning the power to "establishing reasonable tolerances for foods and other commodities in package form after first exposure for retail" also involved considerable discussion. A motion was made, seconded and passed requesting the Department of Weights & Measures to consult the Federal regulations generally and to coordinate the two. It was also strongly urged that the Federal law and regulations concerning tolerances should be adopted as much as possible.

5. Page 14 - C. The promulgation of regulations and rules. It was urged that the right to promulgate regulations and rules should be subject to a public hearing with adequate notices to the affected industries. A motion was made and carried that the bill be amended specifically to require the director to promulgate regulations establishing reasonable variations and tolerances with respect to food in packaged form.

6. Page 20 - Article I. Methods of Sale of Commodities, contains at line 15 "an exception" to "commodities in containers standardized by a law of this State or by Federal Law". This section was suggested for consideration under Section "51A:4-3, Sale by Weight; Molded Forms. All frozen desserts in molded form shall be sold by net weight only and be marked in conformity with Section 51A:4-17". It was, upon motion duly made, seconded and passed, urged that this section be deleted on the basis of the statement filed by the Association of Ice Cream Manufacturers of Pennsylvania, New Jersey and Delaware, Inc.³ It was further urged that the added cost which this requirement would make, past industry practice, should exclude the necessity for this type of dessert showing a net weight. No objection

²The letter is reproduced in the Appendix as Exhibit II. The Model State Law on Weight and Measures is obtainable through the National Bureau of Standards, U. S. Department of Commerce.

³This statement appears in the Appendix as Exhibit III.

was made to Section 51A:4-14 requiring "frozen desserts shall weigh not less than 4 5/10 pounds per gallon".

7. Page 22 - 51A:4-2. Sale of commodities in amounts exceeding 100 pounds, it was proposed that an exception should be made from the scope of this section "truckloads" of merchandise providing that the delivery ticket showed, in lieu of the net weight, some other mutually acceptable agreement in existence by custom between a knowing buyer and a knowing seller of a given commodity.

8. Page 22 - 51A:4-4. In addition to the points submitted above, it was suggested that this section be limited to retail sales. Further, it was proposed that on lines 3 and 4 delete "or have in his possession with intent to distribute or sell" and the addition of "retail" before "sale" on line 3.

9. Page 22 - 51A:4-6. It was suggested that paragraph (1) that all commodities in package form shall bear such marking as will "prevent fraudulent or deceptive packaging and marketing practices" was too broad, vague, and subject to further amplification by Mr. Christie and a showing for the need for a comparable reference.

The reference presently under consideration, it was felt, presents enforcement difficulties because of vagueness. It was urged that either the reference be eliminated in its entirety or substituting a standard assuming that a need could be proven for some definitive action along the lines suggested in the present reference.

10. Page 23 - Paragraph 51A:4-8. Advertising; misrepresentation of price. A question was raised as to whether "grade" was a necessary consideration in this paragraph. Further, the proposal involves areas which would be difficult to enforce and might better be accomplished by a standard of some kind.

11. Page 85 - 51A:10-2. Licensing of Poultry Dealers, Brokers and Agents. Purchase by net weight only. This paragraph dealing with live poultry, raised a serious question in the minds of all present as to whether this burden would not be costly, time consuming, and unnecessary insofar as it pertains to a seller and a buyer of poultry in large quantities. With both buyer and seller knowledgeable about the subject matter, and with long experience it was felt that something short of this requirement was deserving of consideration.

12. Page 86 - 51A:10-3. Weight certificate requirement. This paragraph dealing with the detailed requirements concerning a subject with which both parties are conversant, raised a question of necessity of entailing additional cost without commensurate benefit to the parties involved. Without benefit to the consuming public, it was felt that some other arrangement might be proposed by the director as a substitute for this section.

13. Page 86. Section 51A:10-4. Tags on crates; necessity of, and the Section 51A:10-5 concerning weight tickets for crates being transported; tags on crates; removal of poultry in transit, raised questions identical with those enumerated above. In the latter section inquiry was made as to the reason for singling out a vehicle for the transportation of live poultry and the requirement that it bear a poultry license plate. It was submitted that this again adds to the cost of doing business and rebounds ultimately to the disadvantage of the consumer.

14. Section 51A:10-11. This exception excluding legally incorporated agricultural co-operative associations, it was felt, constitutes a discrimination which is unwarranted and objectionable to the industry. It was submitted that no need was shown for granting the indulgence in question in this proposed legislation.

15. Page 82 - Soil Amendments. Section 51A:9-6. It was proposed that this section permitting the retailer to break packages of hundred pounds or less selling in bulk when this was done at the seller's retail establishment had certain inherent objections. It was proposed that the hundred pound package was convenient to any type of purchaser, that the breakage of the package would not afford the ultimate consumer with knowledge concerning the ingredient, its use and the loss of the identity of the product, its origin, etc. Except for this section which might be deleted, the remaining sections were found to be in order.

At the conclusion of the meeting, it was suggested that the above proposals be submitted through the offices of the New Jersey State Chamber of Commerce to Mr. Christie and the Assistant Attorney General for review. Following such review, representatives of the several industries could meet with Mr. Christie for a further discussion of the proposals and questions.

PRECIOUS METALS WORKSHOP

This group recommends that the trade mark requirements of Section 51A:4-52 (Platinum and Alloys) also be included under Sections 51A:4-27 and 51A:4-34 (Gold, Silver and Alloys).

SALE OF ICE

Although no workshop was conducted on the subject of ice sales, it has been suggested that the requirements set forth in Section 51A:4-35 do not conform to present-day merchandising methods.

LAUNDRY WORKSHOP

The laundry industry had been generally satisfied with the amendments which have been proposed in connection with the Weights and Measures Bill. Upon reconsideration of one of these amendments, however, it was feared that it still does not overcome one of the fundamental objections to the bill. Specifically, it is the portion on page 33 headed G. Laundry, Section 51A:4-38 reading as announced as follows:

"Delivery tickets; marking; alteration prohibited. Each delivery of laundry, which is charged for on the basis of weight, shall be accom-

panied by a delivery ticket, which shall have indelibly marked, perforated, stamped or impressed thereon, the name and address of the laundry establishment, the net avoirdupois weight of the laundry, determined prior to washing, the amount of the total charges, and the price per pound or in lieu thereof in clear concise language by which the set charges are computed based on schedules filed with the State Director. Such ticket shall also bear the true name and address of the customer, except if the customer be a transient.

"Such delivery tickets shall in all cases be made out in duplicate, or a record thereof kept as part of the office records of said laundry establishment for a period of 60 days and shall be open to inspection by any weights and measures official within that time."

The industry had received the impression that the method of computing the price did not have to be shown on the ticket as long as the Department of Weights and Measures had the method designated in the price list filed by the laundry. The difficulty could be overcome if Section 51A:4-38 was revised to read as follows:

Delivery tickets; marking; alteration prohibited. Each delivery of laundry, which is charged for on the basis of weight, shall be accompanied by a delivery ticket, which shall have indelibly marked, perforated, stamped or impressed thereon, the name and address of the laundry establishment, the net avoirdupois weight of the laundry, determined prior to washing, the amount of the total charges. (In lieu of designating the price per pound on the ticket, the method by which said charges are computed may be given in a schedule filed with the State Director.) Such ticket shall also bear the true name and address of the customer, except if the customer be a transient.

Such delivery tickets shall in all cases be made out in duplicate, or a record thereof kept as part of the office records of said laundry establishment for a period of 60 days and shall be open to inspection by any weights and measures official within that time.

WEIGHMASTERS WORKSHOP⁴

Assembly Bill #597 completely repeals Title 51, Standard, Weights, Measures and Containers of the revised statutes and all amendments thereof and supplements thereto, and certain statutes related thereto, and revises parts of the statutory law.

Chapter 5 of the proposed legislation is apparently intended to replace Section C, Weighmasters, 51:1-73 to 82.1 inclusive.

The new legislation is proposed by Mr. Samuel H. Christie, Jr., Chairman, Legislative Committee, New Jersey Weights and Measures Association and

⁴See Laws of New Jersey, Title 51, 1953, Article 3, Section C; Regulations 21, amended July 1, 1950; Regulations 23, October 1, 1938; Regulations 30, March 1, 1942; and Regulations 51, December 20, 1955.

Deputy State Superintendent.

The proposed bill would change in a number of respects the current weighmaster law and the regulations issued by the department thereunder. Phraseology is changed, fees for licenses are changed, the term of the certificate is reduced and record keeping rules are changed.

Because of the strenuous opposition by some segments of industry and commerce to many other features of the bill and to Chapter 5, the weighmaster provisions, the bill was not passed last year; however, it is quite certain that the bill will be reintroduced shortly, and, insofar as the weighmasters sections of the bill are concerned, they greatly affect the weighing of trucks and commodities throughout the State of New Jersey.

A conference program on the weighmaster's section of the Act was held by the New Jersey State Chamber of Commerce at the Hotel Essex House, 1050 Broad Street, Newark, on Tuesday, February 20 at 11 a.m. Many interested parties were present.

Since the language, phraseology, arrangement, format and contents of the proposed legislation indicated many changes from the existing law and appeared to be, in many respects, deficient, ambiguous, confusing, burdensome and based on apparent misconceptions of the proper functions and duties of a weighmaster and the use, format and contents of a weight certificate, it is suggested that the proposed bill be rewritten.

The purpose of a weight certificate is to evidence, as may be indicated therein, the weight, measure or count of that which has been weighed, measured or counted. The use of a weight certificate is generally as a third party document in some sort of business transaction. The purpose of certification of a weight certificate is to give the weight certificate status as prima facie evidence and general acceptability in pursuance of a business transaction. The purpose of licensing weighmasters is to give notice to the public that the licensee has been officially recognized as properly qualified by the Department of Weights and Measures to weigh, measure or count and to issue certified weight certificates therefor, in accordance with the Act and the rules and regulations thereunder, and to collect a fee for his services, or the use of the scale, or other device used in weighing, measuring or counting.

On the above premise it would seem that the purpose of the law would be to define a weighmaster, specify his qualifications, prescribe what a weighmaster may or may not do, the methods of weighing, measuring or counting, the specifications of weight certificates, the issuance and the preservation of the same, and the penalty for infractions of the law and rules and regulations made thereunder.

To arrive at the proper wording of a proposed bill, it was deemed necessary to rewrite Chapter 5 in a manner that would express in an orderly fashion and in understandable language what was sought to be accomplished.

Portions of the rewrite were discussed by the conference referred to above. A complete rewrite has now been prepared and is presented for comment by those interested. If you have any comment, will you please communicate in writing immediately with the New Jersey State Chamber of Commerce at 54 Park Place, Newark 2, New Jersey.

It must be remembered that weighing, weighing devices, weighmasters, weight certificates are referred to in many other Chapters and sections of the proposed legislation. Nothing should be included in any other section which would tend to change Chapter 5, or confuse interpretations of Chapter 5. For example, 51A:4-2 as amended states "serialized delivery tickets as required by the weighmaster act shall be executed showing the net quantity in pounds the name and address of the dealer and the signature and the official number of the licensed weighmaster who performed the weighing"

COMMENT

The Weighmaster Act does not require a "serialized delivery ticket".

The Weighmaster Act does not prescribe the necessity of recording on a weight certificate the name and address of the "dealer".

The Weighmaster Act should not require that a weighmaster ascertain "the net quantity in pounds of each load or portion of load contained in the delivery of such commodity, the name and address of the purchaser thereof".

Under Section 51A:10-2, no person shall weigh live poultry unless he is licensed as a dealer, broker or agent. Section 51A:10-3 specifies the content of a weight certificate, execution, furnishing and preservation thereof. There would seem to be no required weighmaster qualifications for the licensing of an individual as a poultry dealer.

In Section 51A:9-4, entitled "Weighmaster requirements in bulk deliveries and delivery tickets", reference is made to 51A:4-8 which is entitled and deals with advertising, and misrepresentation of price. No connection is seen here.

Article II, Solid Fuel, of Chapter 5, Fuel Act, has much to say about licensed weighmasters designated to haul solid fuel, the weight certificates, methods of weighing, penalties, etc.

SUGGESTIONS FOR WEIGHMASTER ACT

51A:5-1 DEFINITIONS

Ref. A "Weighmaster" is one who, for hire, or in employment, shall weigh, same measure or count any article or articles, commodity or vehicle on any certified scale capable thereof, and thereafter shall issue a weight certificate to any interested party, to be used as the basis of any business transaction.

A "licensed weighmaster" is a weighmaster who has been licensed by the State of New Jersey.

A "weight certificate" is a certificate issued, signed and sealed by a licensed weighmaster who has weighed, measured or counted any article or articles, commodity or vehicle on a certified scale in accordance with the provisions of this Act and such rules and regulations authorized by this Act to be promulgated and issued by the Weights and Measures Department of the State of New Jersey.

51A:5-2 Qualifications of an applicant for license as weighmaster.

Ref.

same

Every applicant for a weighmaster's license must be a citizen of the United States or a person who has declared his intention of becoming such a citizen, of the age of 21, of good moral character, and who has the ability to weigh, or measure or count accurately and to make correct certificates.

51A:5-3 License, Application, Investigation, Term, Fee, Insurance, Revocation.

Ref.

51A:5-3

51A:5-5

51A:5-6

Upon presentation of a signed and witnessed application on a form approved by the Department of Weights and Measures, and accompanied by a fee of ten (\$10.00) dollars, the Director, if applicant after investigation is found to be properly qualified, shall issue a license to such applicant to act as a licensed weighmaster, as defined herein, for a period of three years. Such license may be limited to weighing, or may include measuring and counting.

The State Director may require any official of the Weights and Measures Department of the State of New Jersey, or any subdivision thereof, to assist him in investigating any matters in connection with the issuing of any license to any weighmaster, or the renewal or revocation of any such license.

The State Director, upon request of any department, commission, board, institution or agency of the State, or of any subdivision thereof, shall issue, without charge, a limited license to any qualified employe or official of such department, commission, board, institution or agency of the State, or of any subdivision thereof, to act as a weighmaster only within the scope of his official employment in behalf of such department, commission, board, institution or agency of the State, or of any subdivision thereof.

Licenses shall be renewed upon proper application for periods of three years for a fee of ten (\$10.00) dollars.

Licenses shall be evidenced by an appropriate certificate issued to such licensed weighmasters, and each such licensed weighmaster shall be furnished with a license card to be exhibited upon request to any official of the State, or any subdivision thereof, or any person requesting the issuance of a weight certificate.

A record of all licenses issued, suspended or revoked shall be preserved by the Director.

Licenses may be revoked or suspended by the State Director, after hearing, on the following grounds:

(a) That the licensee has not performed or cannot perform the duties of a licensed weighmaster in a capable and reliable manner;

(b) That the licensee misrepresented or concealed information in his application for a license;

(c) That the licensee, in the exercise of his licensed privilege, acted in such a way as to evidence a bad moral character making him unfit to perform the duties of his position;

(d) That the licensee obtained a fee by fraud or misrepresentation;

(e) That the licensee engaged in any transaction, conduct or practice in violation of this Title or the regulations or rules promulgated thereunder;

(f) That the licensee engaged in any transaction, conduct or practice which would have been sufficient cause to refuse the granting of weighmaster's license originally.

51A:5-4 Seals.

Ref. Each licensed weighmaster shall procure, at his own expense, a seal for
51A:5-7 applying an impression upon each weight certificate issued, as evidence of his authority and the accuracy of the weight certificate. The seal shall be of a form and design prescribed by the State Director. Such seal shall, upon revocation or suspension of a license, be forwarded to the State Director and preserved by him for a period of four years and thereafter destroyed.

51A:5-5 Weight Certificate, Contents, Approved Form, Number of Copies, Preservation of Copies.

Ref.

51A:5-8 1. Any weight certificate issued and sealed by any licensed weighmaster
51A:5-10 shall contain the following information:

- (a) The name of the owner of the scale and its location.
- (b) The consecutive number of the certificate.
- (c) The date and time of issuance.
- (d) Suitable identification of that which was weighed such as:
 - If vehicle or other means of transportation -
 1. Owner or operator
 2. License numbers, or
 3. Owner's number or marking, or other identification
 4. Type of vehicle
 - If an article or commodity -
 1. Owner, shipper, or consignee.
 2. Identifying marks or numbers.
 3. Type of package.
 4. Purported type of commodity
 5. Number of items weighed at one time.
 6. With or without dunnage.
- (e) The accurate weight of the vehicle, or the accurate weight, measure or count, whichever is applicable, of the article or articles, or commodity weighed, measured or counted.
- (f) Designation of the weight, as gross or tare, as represented by the individual presenting the vehicle, article or articles, or commodity for weighing.

2. No licensed weighmaster shall record on any weight certificate any net weight, unless, of his own knowledge and by his own computation, he shall believe such net weight to be correct.
3. Weight certificates shall be executed at least in triplicate, two or more copies of the weight certificate to be issued to the individual for whom the weighing, measuring or counting was performed, and one copy, including copies of void certificates, shall be preserved in consecutive order at the scale location, or other nearby convenient place for a period of three years, and shall be open for inspection at all reasonable times by the State Director or any other authorized weights and measures official.

51A:5-6 Reweighting.

Ref. 51A:5-9 Upon presentation of any vehicle, article or articles, or commodity previously weighed, to the licensed weighmaster who previously performed such weighing, within a reasonable time thereafter, such weighmaster shall reweigh such vehicle, article or articles, or commodity, and such reweighing shall be without charge if the weight, upon reweighing, is found to be 2% more or less than the weight shown on the weight certificate initially issued.

Upon presentation of any vehicle, article or articles, or commodity on the scale where it was previously weighed, within a reasonable time thereafter, the owner of such scale shall cause such vehicle, article or articles, or commodity to be reweighed by a licensed weighmaster, and such reweighing shall be without charge if the weight, upon reweighing, is found to be 2% more or less than the weight shown on the weight certificate initially issued.

Any weight certificate found to be incorrect shall be voided.

Any computation of any net weight by any licensed weighmaster, if found to be incorrect, shall be corrected by him, a new certificate shall be issued by him, and the prior certificate voided.

51A:5-7 Penalties; Requesting False Weighing; False Certificate or Other Violation by Weighmaster.

Ref. 51A:4-11 Any person, who shall request a licensed weighmaster to weigh, measure or count any commodity falsely or incorrectly, or who shall request a false or incorrect certificate of weight, measure or count, or any person who shall issue a certificate of weight, measure or count who is not a licensed weighmaster as defined in Section 51A:5-1 of this Title shall be liable to a penalty of not less than \$100.00 nor more than \$500.00.

Any licensed weighmaster who shall issue a false certificate of weight, measure or count, or who shall delegate his authority to any person even though such other person is a licensed weighmaster or who shall preseat a certificate of weight, measure or count with his official seal before performing the work of weighing, measuring or counting, or who shall violate any of the provisions of this Title, shall be liable to a penalty of not less than \$100.00 nor more than \$500.00 and, also, shall forfeit his weighmaster's certificate which shall be surrendered to the State Director.

51A:5-8 Weighing on Scales Outside State Authorized.

Ref. Any licensed weighmaster may weigh, measure or count any vehicle, article
51A:5-12 or articles, or commodity at points located outside of the State, on
devices or scales sealed by the Weights and Measures Department of such
other State, and issue weight certificates as prescribed herein.

51A:5-9 Disposition of License Fees.

Ref. Assembly Bill #597 was amended so that the subject matter contained in
51A:5-4 this section now is included in 51A:2-31.⁵

LIQUID FUEL WORKSHOP

The first item discussed in this workshop session was the requirement set forth in the last paragraph in Section 51A:6-2 which reads as follows:

"No motor vehicle shall be used for transportation of fuel, solid fuel, liquid fuel, or liquefied petroleum gases in this State unless the name of the dealer and the municipality in which his place of business is located is conspicuously displayed on the vehicle in letters at least 3 inches high."

This requirement is not practical for common carriers who work for different dealers and is inconsistent with the theory of common carriers. In addition, this requirement might subject the customer of the common carrier to responsibility for equipment on the highways.

It was recommended that this paragraph be deleted from the proposed bill.

The next amendment recommended is in Chapter 6, Article 3, Section 51A:6-19. The purpose of the changes is to permit private inspectors to calibrate and seal the markers. The change would eliminate the necessity for the State to set up and operate stations for the testing and calibration of tank vehicles. The manufacturers of tank truck equipment provide calibration charts with the units. It would be no great problem for them to provide official calibrations and seals. There are also persons who specialize in calibrating tank vehicles. They are located in various areas and have personnel and facilities available to provide this service. Many Out of State carriers' vehicles will be included in the requirements of Section 51A:6-19, in addition to carriers domiciled in New Jersey. The cost and expense of requiring carriers to send their vehicles to a central station maintained and operated by the State, would be prohibitive. The amendment proposed would also make a certification as to the calibration, good for the life of the tank vehicle except when the vehicle is damaged or altered so as to change the carrying capacity. There would be no obligation for the State to undertake any compensation arrangements with the inspectors. The payment for the inspections would be the sole responsibility of the owner of the bulk tank vehicle. The utilization of private inspectors is not unusual and is also provided for in Section 51A:4-41 to 43.

⁵See Exhibit IV for reference of subject matter to the Uniform Commercial Code adopted on November 30, 1961.

The suggested amendment would read as follows;

AMEND Chapter 6, Article III, Section 51A:6-19.

51A:6-19. Only approved measuring devices to be used; certificate of approval. It shall be illegal to use or to employ any measuring device for use in the purchase and sale of any liquid fuel without the same first being approved as to type and construction by the State Director and calibrated, tested and sealed by any weights and measures official in accordance with the requirements of section 51A:7-2, except as hereinafter authorized. The State Director shall provide a form of certificate to be issued by a weights and measures official, or other authorized person, after the approval, testing, calibration and sealing of any measuring device, which certificate shall expire on the dates provided by the State Director, except as hereinafter otherwise provided. It shall be unlawful to sell or deliver or have in possession with intent to deliver any liquid fuel unless such certificate shall be in possession at all times or carried on the vehicle to which it applies. The State Director, upon application to him, shall appoint and issue certificates of qualification, which may be revoked by him for good cause, to qualified persons as bulk tank vehicle inspectors, and keep a record thereof. These inspectors shall have full authority and power to test, calibrate and seal the marker or markers in the bulk tank vehicle or any compartments thereof and to issue a certificate of approval. The certificate of approval shall not expire except when the bulk tank vehicle or any compartment thereof is damaged or altered so as to change the carrying capacity. The State Director shall not be called upon to pay and shall not be responsible for any charges by the inspectors, but same shall be paid by the owner of the bulk tank vehicle.

AMEND Chapter 6, Article III, Section 51A:6-19, line 11.

After the words "any weights and measures official", add the words "or other authorized person," so that no conflict will exist.

The third item considered was the subject of licensing. It was recommended that Section 51A:6-2 be amended to eliminate the requirement for licensing persons who are common carriers and engaged in the business of delivering only and that the provisions in this section, insofar as they require licensing of persons in the business of selling and delivering of liquid fuel, be rewritten to eliminate the requirement for tank vehicles to be licensed and to carry additional license, and require premises to be licensed in order to secure fees. The reason for supporting the amendment is that this section, as written, would entail a financial burden and appears to be unnecessary for the proper operation of the liquid fuel business. The circumstances involving the sale of liquid fuel are different from those involved in the selling and delivering of solid fuel. Persons who sell liquid fuel would not object to a single license for the organization, as such, but do object to individual licenses for each premise and each motor vehicle.

LIQUEFIED PETROLEUM GAS WORKSHOP

Licensing

This group felt that it is necessary to take general exception to the entire Section 51A:6-2 for several reasons.

First, the requirement for licensing dealers in fuels. It is recognized that a number of years ago it was deemed necessary to license coal dealers in order to combat the problem of bootleg coal. To the best of the group's knowledge, no comparable problem has ever existed or now exists in either the liquid fuel or the liquefied petroleum gas industry. Nor was there any awareness of any appreciable enforcement problem in the liquefied petroleum gas industry.

It was noted that the proposed statute would require the licensing of all dealers in liquefied petroleum gases. This would not only include the so-called bottled gas dealers but also the vast majority of plumbing supply houses, welding supply houses and many trailer parks. Members of the industry cannot help but feel that such a requirement is an unnecessary burden on the industry and is either regulation for the sake of regulation or regulation for the revenue producing benefit of various weights and measures departments.

Secondly, the vehicle licensing requirements are both burdensome and without need. In the liquefied petroleum gas industry a vehicle must have the normal State motor vehicle registration, a safety permit from the LP-Gas Division of the State Police and now a fuel license plate. Where does it end, does it include common carriers?

Thirdly, it was noted that the dealer's name must appear on all vehicles transporting fuels. Where does this leave the common and contract carriers? They may be hauling for the buyer or the seller - yet the seller's name must appear on the truck.

Delivery Tickets and Duplicates (51A:6-33)

The requirement of serially numbered delivery tickets is applicable only to fuels and compressed gases. It does not seem likely that these particular industries are responsible for such a preponderance of all violations within the State that they should be so much more stringently regulated.

It further appears that the method of record retention by the dealer is not properly within the scope of weights and measures regulation. Requirements such as these are particularly burdensome for the small businessman and do not in any manner enhance weights and measures legislation.

In the same manner, the requirement of cylinder or container numbers is again unnecessary and burdensome as it would require a great deal of record keeping and unnecessarily increase the already high cost of doing business. In this respect, it is not unusual for a dealer to delivery thirty or forty cylinders to a single customer.

Meter Numbers (51A:6-34)

The only objection to this section is the requirement of showing the meter number on all invoices. It is not believed that this requirement will enhance the legislation while it will be an additional burden on the gas dealer. There would be no objection to a requirement that the dealer must maintain a record of the meter number of each meter installed along with the name and address of the customer served through that meter.

Compressed Gases (51A:11-1 et seq.)

Liquefied petroleum gases should be excluded from this chapter. The industry has no knowledge of circumstances whereby the sale of this product cannot be properly regulated by the provisions of Chapter 6. This exclusion will also eliminate conflicts between these Chapters.

Recommended Amendments

Section 51A:6-2 - delete in its entirety.

Section 41A:6-33, page 71, lines 10-13 - delete "and the fuel license plate number of the transporting vehicle. Delivery tickets shall be serially numbered and the serial number of the cylinder or container shall be legibly marked on such delivery ticket".

Section 51A:6-33, page 71, lines 15 and 16 - delete "in numerical order, voided tickets included."

Section 51A:6-34, page 71, lines 10 and 11 - delete ", and the serial number of the meter".

Section 51A:11-1, page 90, line 2, after the word "mixture" add the words "other than liquefied petroleum gas".

WEIGHING, MEASURING AND COUNTING DEVICES WORKSHOP

Section 51A:7-1

Question arose of the meaning of word "sealed", as in sealed device.

- a. Does it mean a device which has been tested and found to be acceptable, or
- b. Does it mean a device which has been tagged with a wire and metallic seal.

The L.P.G. vapor meter people present assumed it did not mean (b) above and further assume their equipment is covered elsewhere in the law.

Section 51A:7-2

A considerable discussion developed over the frequency of inspections of scales and devices and the broad powers being given to the director under the proposed bill to set schedules at his own discretion. It was the opinion of the many scale manufacturers represented that this is a weakening of the law from its present form and the broad powers should not be delegated to one individual since he might easily be imposed upon by severe pressure groups. It was felt that the entire content of this paragraph should be rewritten making annual inspections mandatory and if any devices require particular and special attention to be excluded from this requirement, they should be so stated therein.

In its present form, the L.P.G. vapor meter representatives recommended the following changes, to cover their requirements as stated earlier: On line 4, after the words, "shall be tested and sealed once a year or less frequently", insert the words "unless otherwise provided in this Title".

Section 51A:7-3

It was felt there was room for improvement in the wording of this section and recommend that on line 8, after the words "condemned for repair or sealed", insert the words "or returned to service in accordance with paragraph c. of section 51A:7-2".

Section 51A:7-5

The workshop group was again confused by the word "sealed" (See Section 51A:7-1 above) and also the word "alteration". Does alteration mean other than adjustments or does it prevent people from making adjustments once a device has been sealed and approved? These questions were raised by people using analytical balances, etc. as for precious metals, etc. This requires clarification.

Section 51A:7-7

In the paragraph starting at line 11, concern was expressed over the obvious duplication of notice required for every transaction involving a device. Further confusion existed over the word "device" here. It is recommended that approved or unapproved devices be excluded from this requirement of notification if that equipment is not being sold for commercial purposes and use.

Further in this section and regarding the paragraph starting with line 22, representatives of the various scale manufacturers in particular are very unhappy over the requirements to mark equipment with a legend plate if it has not been submitted for type approval. Regardless of the wording, such a marking will leave the impression on any reader that the device does not come up to commercial standards. No other state has such a requirement and the industry cannot accept that it is any more necessary in the State of New Jersey to protect the public than it is in any of the other forty-nine states. This requirement should be removed entirely from the proposed bill.

Section 51A:8-4

Again confusion existed over the word "device". Does equipment which has not been submitted for type approval come under these requirements?

A specific question was raised and that pertains to the need for repairman's licenses by employees of any business concern using equipment and where those employees repair and service their own equipment. The group interpreted this section to mean that such licenses will be necessary and opinions were expressed that not only will this be hard to enforce, it will present a heavy burden on many of the industries of the State.

COMPRESSED GAS WORKSHOP

At the Workshop on Compressed Gases it was reported that the compressed gas industry would file an objection to Paragraph 51A:11-3. At the time the panel was under the impression that this section was applicable to acetylene, but a more careful reading reveals that it would not apply to acetylene as this gas is sold by cubic feet and not by net weight. Therefore no objections to this section will be filed.

It was noted later, however, that if each individual cylinder size of carbon dioxide should be marked with the net contents, it would be an impossibility to have an average weight of 12 cylinders that would be less than the marked weight of any one cylinder in the lot. It was understood that in the carbon dioxide industry the large size cylinders are all market 50 pounds net weight, and if each cylinder is up to its net weight, compliance with this section does not become a problem.

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The conference adjourned at 4:30 P.M.

Peter Dorn
Legislative Representative
New Jersey State Chamber of Commerce
Conference Coordinator

APPENDIX

EXHIBIT I

MEAT TRADE INSTITUTE, INC.
420 Lexington Avenue
New York 17, N. Y.

C O P Y

March 30, 1961

Hon. Samuel H. Christie, Jr.
Deputy State Superintendent
Division of Weights and Measures
Department of Law and Public Safety
187 West Hanover Street
Trenton 25, N. J.

Re: Proposed Revision of Title 51
Laws of New Jersey relating to Weights and Measures

Dear Mr. Christie:

In view of the opinion expressed at the public hearing concerning the above, held on March 28, 1961, that enactment of Title 51A repealing Title 51 would also automatically repeal Regulation 53 relating to processed meats, fish and poultry products, it is respectfully submitted

a. that the same considerations which made advisable the promulgation of said regulation in 1957 still exist and in fact are now much more widely applicable and much more urgent for the protection of the consumer;

b. that, if enactment of the proposed new title should indeed be considered as a repeal of said regulation, the latter should upon enactment of the proposed new title be repromulgated;

c. that said regulation when repromulgated should include the words "per pound of product or fraction thereof" after the words "1/8 of 1 ounce" now appearing in Subsection 4 of Section A of said regulation, as proposed in our letter to you of November 8, 1957, copy of which is enclosed; and

d. that, if any further authority be required to authorize the State Superintendent to promulgate or repromulgate said regulation, such authority should be provided for in the proposed new title.

In this connection may I reiterate that, in the considered and oft-stated opinion of the industry, net weight marking of variably weighted cellulose encased processed meats at the packing plant would not serve to protect the consumer or any other purchaser, and that such protection can be achieved only by continuing the provisions of Regulation 53 in the amended form proposed above, and that said opinion is based upon the following facts:

1. That processed meats are subject to regular and continuous shrinkage, and that the net weight marked on any bulk piece of processed meats at the packing plant or at any other wholesale level of distribution is no longer true or correct at the time when such piece of meat is sold or offered for sale at a subsequent level of wholesale distribution or to the consumer;

EXHIBIT I (continued)

2. That purchasers at wholesale are not concerned with the respective net weights of the variably weighted individual pieces of processed meats purchased and would not be guided by or rely on any net weight markings thereon, but are concerned solely with the net weight of the total quantity purchased and will continue to rely solely on the representation of such weight appearing on the shipping containers and the invoice, and that such purchasers would be fully protected by any law or regulation requiring such representation;

3. That the only purpose served by the presence on any bulk piece of processed meat of a number of net weight markings placed thereon by the seller at each level of wholesale distribution and differing in the net weight shown, would be to mislead the retailer as well as the consumer; and

4. That the consumer purchasing variably weighted cellulose encased processed meats would be afforded much better protection by the presence on such meats of the legend "To be weighed when offered for sale", which would serve to apprise him of his right to true net weight as of the time of purchase by him, and the absence on such meats of any net weight markings other than the net weight marking placed thereon when offered for sale at retail and representing the net weight as of such time.

May I also again call your attention to the fact that a ruling similar to Regulation 53 was promulgated by the New York State Commissioner of Agriculture and Markets on August 31, 1953, and that an amendment thereof identical with the one proposed with respect to Regulation 53 was promulgated by said Commissioner on December 6, 1954; that said ruling as so amended has since been and now is in effect; and that continuation of Regulation 53 in the amended form proposed above would not only continue the similarity of provision in both States, but would actually bring about a uniformity of provision therein and greatly facilitate compliance and enforcement in the portions of both States comprising the metropolitan area and constituting a single processed meats market.

Copies of said New York rulings are enclosed.

Trusting that we will be afforded an opportunity to further discuss the matter with you, in the event that either you or the Legislative Committee may deem it advisable, I am,

Respectfully yours,

JOSEPH COHN, Counsel

JC:mpb
Encs.

APPENDIX

EXHIBIT II

TRI-STATE PACKERS' ASSOCIATION, INC.
Masonic Building Easton, Maryland

February 15, 1962

Mr. Albert H. Acken, Executive Vice President
New Jersey State Chamber of Commerce
54 Park Place
Newark 2, New Jersey

Dear Mr. Acken:

We congratulate your Chamber on setting up the Special Conference to discuss the proposed revision of the N. J. Weights and Measures Law.

Some of our processors may be present but due to earlier commitments it will be impossible for us to attend this important meeting. We would, however, like to again go on record with your fine organization representing all our interests, as follows:

The New Jersey Bill on Weights and Measures is a comprehensive revision of the state's laws in this area. It is apparent that it would place comprehensive rule-making authority on state officials. Not only would the officials be authorized to promulgate virtually any regulations they wish, but they would also be authorized to establish penalties for violations of the regulations. There appears to be inadequate provision for publication of the proposed regulation and other procedural safeguards designed to assure the presentation of objections and comments by interested parties. The substantive provisions are somewhat similar to the model law, but not identical.

In many respects the New Jersey bill is based upon the model state law (copy attached), but in many important respects it is different. To the extent that the processing industry is interested in these matters, we wish to support use of the model law which is clearly an improvement over the New Jersey bill.

In following the Model State Law, adequate safeguards for all concerned will be provided, no barriers to interstate commerce will be raised, and both regulatory officials and manufacturers will have a guide which is fully understood and which can be followed with confidence.

We will appreciate your adding our comments to the conference studies and the results which will enable you to make a strong stand against the proposal and in favor of the provisions of the Model Law.

If we can be of assistance in any way, please let us hear from you. We would appreciate any summary of the conference which may be forthcoming, if available.

Sincerely yours,

(signed) Jack Rue

John W. Rue,
Executive Secretary

AW

JWR/amw
enc: copy Model Law

A P P E N D I X

EXHIBIT III

Statement on behalf of the Association of Ice Cream Manufacturers of Pennsylvania, New Jersey and Delaware, Inc. concerning New Jersey Assembly Introduction A-597, "An Act establishing Title 51A Standards, Weights, Measures and Containers of the New Jersey Statutes, repealing Title 51 Standards, Weights, Measures and Containers of the Revised Statutes and all amendments thereof and supplements thereto and certain statutes related thereto and revising parts of the statutory law."

This statement is addressed to Section "51A:4-13. Sale by weight; molded forms. All frozen desserts in molded form shall be sold by net weight only and be marked in conformity with section 51A:4-17,"

At the outset we wish to be on record as saying that the ice cream industry is most sympathetic to the needs and requests of the "State Division of Weights and Measures". We feel, however, that a recommendation at this time to change our present method of marking from volumetric to net weight would develop a real hardship on the industry and could result in the consumer actually paying more for frozen desserts in molded form without benefit to said consumer.

In order to discuss the question of the practicability of selling frozen desserts in molded form by weight, we wish to classify these products into (5) basic groups:

1. Homogeneous confections- frozen quiescently:
Quiescently Frozen Confection
Quiescently Frozen Dairy Confection
2. Homogeneous Confections-frozen with agitation
Non-coated Ice Milk Confections
3. Heterogeneous confections- all ingredients frozen with agitation:
Ice Cream or Ice Milk coated with water ice or sherbert.
4. Heterogeneous confections which in some portions of finished confections are frozen with agitation other portions of which are frozen without agitation:

Ice Cream or Ice Milk coated with a Quiescently Frozen Confection.
5. Heterogeneous confections produced with agitation and coated with a coating containing fat:

Chocolate Coated Ice-Cream on-a-stick.
Chocolate Coated Ice-Milk on-a-stick.
Chocolate Coated Sherbet on-a-stick.

Confections in group one are generally quiescently frozen and are liquid at normal temperatures. These products have been consistently sold to the consumer for 35 years at the rate of about a billion and a half a year and to our knowledge we have never had or heard of a consumer or dealer complaint on the volume method of labeling and selling. It is our thinking that the consumer understands these stick confections in having a prescribed volume rather than a net-weight listing.

The manufacturing process and all equipment used to produce confections in group one is and has been developed toward producing confections of a definite volume and not confections of a certain weight. The basic batch from which these products are manufactured is a liquid when measured into the individual mold cavities prior to freezing. These confections are usually manufactured in standard sizes from 3 to 4 ounces by volume. The mold cavities available today are 2-2 1/2-2 3/4 - 3 - 3 1/2 and 4 ounces. The industry today has no way or method of checking the weight of individual confections but can control volume accurately by filling each mold cavity properly with liquid. Volume liquid dispensing has been developed at great cost to the industry and there are many modern mechanical devices in use today that have been perfected for this purpose.

The standards and formulas of industry are not uniform and it follows that depending on total solids, the weights of basic mixes and different flavors will vary in extreme cases from 9-1/4 to 9-3/4 pounds per gallon. A most impractical problem would develop if one would try to label accurately as to weight all the different sizes and flavors of confections in group one. These weights to be accurate would be most fractional and would vary from one flavor to another. It would be costly and expensive to imprint bags for different flavors with different fractional weights. In fact, it would greatly increase the cost of these items to the consumers if this step were necessary. Increased costs would develop from larger bag inventories needed-inventory losses and the increased cost of purchasing smaller quantities of water ice bags with individual weight imprints. It also presents a serious production problem to have bags for the same confections in inventory having different weight imprints as the opportunity for error is always present. Under the present system each confection is uniform as to size and can be packed in uniformly imprinted bags.

Millions of dollars worth of molds and filling equipment are all in use today, set up to produce confections to a uniform volume. The consumers understand a statement on the bag that a product is 3 fl. ounces by volume. They could be confused by such listing as net weight 2-11/32 ounces or 3-2/16 ounces. In other words, present day mold cavities have been manufactured to develop a known uniformity expressed as volume and these same cavities used to produce items sold by weight would develop a most difficult and confusing problem.

We can see no real value to the consumer in selling confections by weight and as these products are quiescently frozen without significant overrun, we see no difficulty in enforcement. These confections are of the same approximate volume even where melted. Freezing develops some expansion but the industry always puts into the mold cavities the liquid measure as listed on bags namely, three ounces, four ounces, etc.

EXAMPLE POSSIBLE WEIGHT VARIATIONS GROUP ONE

A quiescently frozen confection mix of one flavor weighing 9-1/4 pounds per gallon would produce confections that would weigh 4.62 ounces at 4 ounces volume. Another flavor of water ice mix at 9-3/4 pounds per gallon would produce confections weighing 4.87 ounces at 4 ounces volume. This is a variation caused only by formula of one quarter ounce per confection.

Three ounce quiescently frozen dairy confections made from nine pound mix formulas as against 9.4 pound formulas would develop a variation of from 3.37 ounces by weight to 3.52 ounces by weight. This is variation caused only by formula of .15 of an ounce per confection.

Under a system of sale by weight the merchandising of confections in group two would first face all the difficulties listed under group one, plus the following:

Confections in group two contain overrun and are manufactured with agitation. There is no way in industry practice today to produce these confections to a positive predetermined weight. The manufacturer strives to produce these products in line with his ideas of consumer appeal at a desired percentage of overrun. He cannot, however, control every batch or every filling of molds with sufficient accuracy to insure accurate weights. He can, however, see that mold cavities are full and give a finished confection of positive pre-determined size or volume.

EXAMPLES POSSIBLE WEIGHT VARIATION GROUP TWO

Overrun products made from 9 pound mix

10% overrun	3.06	
20% overrun	2.82	3.06
30% overrun	2.60	2.28
40% overrun	2.28	.78

This would be a variation of .78 of an ounce per confection by weights caused by the individual manufacturers ideas as to what constitutes a good eating product. The weight would not necessarily be an accurate indication of food value as some manufacturers would use high food solids per gallon while others would use lower food solids.

Under a system of sale by weight Frozen Stick confections in group three would develop all the difficulties mentioned in group one and two, plus the added problem of being a combination product. Most confections in this group are produced automatically by a special one operation method. This special equipment which costs well over \$5,000.00 per installation is produced to deliver a pre-determined number of fluid ounces of a combination product. While these operations can control with accuracy the amount of the different component products delivered, it would be physically impossible for a manufacturer to produce these confections with any positive assurance of weight uniformity. The components usually used in these products vary considerably in weight and any variation in filling would produce under-weight or over-weight confections. It is odd to note that the

under-weight confections would be the most expensive, as these items are generally produced with ice cream weighing about four and a half pounds to the gallon and a lower cost sherbet weighing approximately six pounds to the gallon. It is easy to understand the change in weight per confection that would develop if the amount of these two individual products which are put together mechanically were to vary even slightly. These machines were developed at great cost to the manufacturers and to the industry, and would be absolutely useless if this type of confection had to be produced to sell by weight. The industry at present sees no practical way that items in group three could be produced for sale by weight and sees no consumer value in doing so.

POSSIBLE WEIGHT VARIATION GROUP THREE

These items in actual practice in a four ounce confection will vary according to the amount of six pound sherbet dispensed by the automatic equipment as against the amount of four and a half pound ice cream used.

These confections in actual practice from production alone will vary in weight from 3.12 ounces to 3.34 ounces or a possible variation of .22 of an ounce per confection. A positive volume determination is possible, however, at all times.

Confections in group four develop all the difficulties mentioned in group one and two, plus the fact that being a combination of group one and two they naturally are subject to even greater weight variation. We know of no production method using present equipment and molds that could guarantee confections of this type of uniform weight. However, again a positive volume determination can be made.

POSSIBLE WEIGHT VARIATION GROUP FOUR

This group will show about the same variations as group three.

Confections in group five if required to be sold by weight instead of volume, would make it necessary to change the time tested methods of producing ice cream and ice milk. Modern methods of producing ice cream and ice milk are more efficient and advanced than those of any other food processing industry. Notwithstanding, there is no known method or equipment for production of ice cream or ice milk and filling it into individual cavities that would produce individual confections of a uniform weight.

Added to the above we have the weight variation of various flavors of ice cream and ice milk and the almost impossible situation, under sale by weight, to have different bags for each flavor. Molds cannot be filled to comply with a pre-printed bag weight.

To further complicate the sale by weight of confections in group five, we have the variation in weight per confection caused by the use of chocolate and other flavored coatings. This great difference in the weight of coated confections is caused by production factors, all of which are most difficult to control.

Production conditions with reference to the use of coating vary from day to day and all coatings are sensitive to moisture and adhere to confections in direct relation to the temperature of the coating, the moisture in the coating, the melting point of the coating, the outside humidity and the moisture on the surface of the confection. On good production days with all conditions good, a manufacturer may coat as high as 45 individual confections per pound. On bad days with all production conditions against him a manufacturer may only realize a production of 25 confections per pound of coating. This means a considerable variation in weight in all individual confections caused by production conditions which at times are not possible to control.

The coating variation alone in ice cream stick confections could be .24 of an ounce by weight per confection.

Coatings to produce proper drying times at different seasons of the year also vary in composition and would change the weights of all confections in group five. In other words, there could be a seasonal change in weight of the amount of chocolate coating that would adhere to an individual confection. Coating produced by different manufacturers would also change weights of the confections in group five. This is caused by different formulas used by certain coating manufacturers to produce required flavor characteristics and needed fast drying time. Coatings of different formulas under uniform manufacturing conditions could cause a variation in weight per confection of almost a quarter of an ounce. It would be true then that if a manufacturer wanted to change his supplier of chocolate coating or the type of coating he used, his entire bag inventory would be unusable.

POSSIBLE WEIGHT VARIATION GROUP FIVE

Three fl. ounce confections will vary very greatly as to weight both from differences in ice cream and coating. On coatings alone we calculated that a confection would or could vary .24 of an ounce. Ice cream overrun variation alone could easily account for an additional .2 of an ounce, with all ice cream used well over the State standard for required minimum weight of ice cream.

We also know that 95% or better of all stick confections are produced in standard mold cavity sizes. These cavities can be sent to the weights and measures department for calibration and inspectors could compare and check actual production at plants.

An inspector equipped with an insulated container holding a quantity of dry ice could harden confections purchased, and using a calibrated beaker could immerse these confections in water at time of purchase and then in front of dealer and a competent witness, accurately check volume.

In conclusion, we wish to reiterate that the ice cream industry is most sympathetic to the needs and requests of the "State Division of Weights and Measures." We feel that under a system of sale of frozen desserts in molded form by net weight, as would be required if A-597 is enacted in its present form, could result in higher prices to the consumer without benefit to said consumer.

UNIFORM COMMERCIAL CODE
 Approved November 30, 1961
 Effective January 1, 1963

TITLE 12A

12A:1-202. Prima Facie Evidence by Third Party Documents.

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

MOVING		TRUCK SCALE AT GEO. B. HOLMAN & CO., INC. Webster 9-2210 151 Park Ave., RUTHERFORD, N. J.		STORAGE
SHIPPER		FROM		
CONSIGNEE		TO		
TRUCKMAN		LICENSE I.C.C. NO.		
TRUCK NO.	TRACTOR NO.	TRAILER NO.		
List of Shipments, If Any, on Vehicle at Time Tare Weight Was Obtained.				
ORDER NO.	SHIPPER	NET WEIGHT		
WEIGHT CERTIFICATE				
THIS IS TO CERTIFY THAT THE TRUE AND ACCURATE WEIGHT OF THE ABOVE DESCRIBED VEHICLE, WITHOUT THE CREW THEREON ON				
19	A.M. P.M.	GROSS	LBS.	
WEIGHMASTER				
WEIGHT CERTIFICATE				
THIS IS TO CERTIFY THAT THE TRUE AND ACCURATE WEIGHT OF THE ABOVE DESCRIBED VEHICLE, WITHOUT THE CREW THEREON ON				
19	A.M. P.M.	TARE	LBS.	
WEIGHMASTER				
AXLES	\$	PAID	NET	
No. G-000-00				

SUBMITTED BY: GRISWOLD B. HOLMAN

SENATE COMMITTEE AMENDMENTS
TO
SENATE NO. 327

Amend page 1, Title, line 2, delete "51:1-75,".

Amend page 1, Section 1, lines 4 and 5, delete "include the terms
'licensed weighmaster' and 'certified weighmaster' and shall".

Amend page 2, Section 1, line 19, delete "or other consideration".

Amend page 2, Section 2, line 3, before "shall" insert "and certified
weighers".

Amend page 2, Section 2, line 14, after "weighmaster" insert "or
certified weigher", after "." delete "No certificate shall be".

Amend page 2, Section 2, lines 15-19, delete lines 15-19.

Amend page 2, Section 2, line 21, after "weighmaster" insert "or
certified weigher".

Amend page 2, Section 2, line 24, after "weighmaster's" insert "or
certified weigher's".

Amend page 2, Section 2, line 26, delete "a resident of the State of
New Jersey,".

Amend page 2, Section 3, lines 1-7, delete Section 3.

Amend page 3, Section 4, line 1, delete "4" and insert in lieu thereof "3".

Amend page 3, Section 4, line 3, before "shall" insert "and certified
weigher".

Amend page 3, Section 4, line 11, after "weighmaster's" insert "or certified weigher's".

Amend page 4, Section 5, line 1, delete "5" and insert in lieu thereof "4".

Amend page 4, Section 5, line 13, after "number" insert ",", after "vehicles" insert ",".

Amend page 4, Section 6, line 1, delete "6" and insert in lieu thereof "5".

Amend page 5, Section 7, line 1, delete "7" and insert in lieu thereof "6".

Amend page 5, Section 8, line 1, delete "8" and insert in lieu thereof "7".

Amend page 5, Section 8, line 6, after "a" insert "sealed".

Amend page 5, Section 8, line 7, after "weighmaster" insert "or certified weigher".

Amend page 5, Section 8, line 12, after "is a" delete "public".

Amend page 6, Section 9, line 1, delete "9" and insert in lieu thereof "8".

Amend page 6, Section 9, line 9, delete ";".

Amend page 6, Section 9, lines 10 and 11, delete.

Amend page 6, Section 10, line 1, delete "10" and insert in lieu thereof "9".

Amend page 7, Section 11, line 1, delete "11" and insert in lieu thereof "10".

STATEMENT OF
NEW JERSEY BOTTLERS OF CARBONATED BEVERAGES
RELATIVE TO
SENATE BILL NO. 274

My name is W. L. Lohrfinck, Secretary of the New Jersey Bottlers of Carbonated Beverages, the association which represents the soft drink industry in New Jersey. My address is #2 Holland Road, Middletown, New Jersey.

I am appearing here today on behalf of the 103 manufacturers of soft drinks doing business in this State. The typical bottling plant in New Jersey is owned and operated by residents of this State and they represent a significant segment of the local economy of the communities in which they exist. On behalf of the members of our association I welcome this opportunity to present to you our views on Senate Bill No. 274.

Since any weights and measures law or regulation adopted by the State of New Jersey will have a vital impact on the soft drink industry not only within our borders but also on a national scale I have asked a representative of the national association of the soft drink industry to be present with me at this hearing. Accompanying me today is Mr. Robert L. Callahan, Jr., Legal Counsel of the American Bottlers of Carbonated Beverages, 1128 16th Street, N.W., Washington, D.C.

As residents of New Jersey and businessmen with a stake in her future we are proud of our State. We feel that New Jersey has many unique features and attractions which justify our pride. At the same time, however, we must view with concern any proposed legislation which could tend to hamper the development of our industry in this State. While we do not advocate a blind adherence to the principle of uniformity in the laws of the various States on identical matters we are convinced that such differences as do exist should be predicated only on compelling local circumstances. In the matter of weights and measures regulation it is our considered judgement that the advantages to be derived from adoption of a law

which is uniform with those in our sister states far outweigh any possible benefit in a different legislative concept. As I shall attempt to show you a New Jersey weights and measures law at variance with similar laws in Pennsylvania and New York can create an island of soft drink industry depression in this State.

Our deep concern in this regard flows from the long established use of permanently labeled reusable glass containers as the principal package for our products. While we are presently experiencing a growth market for non-returnable bottles and cans in the soft drink industry, indications are that returnable bottles will continue to account for approximately 70% of our total sales in the foreseeable future.

The use of returnable bottles which are permanently labeled with net content declarations renders the soft drink manufacturer particularly vulnerable to the danger inherent in non-uniform state weights and measures regulations. It is readily evident that where laws are different, requirements for compliance may also be different. We can conceive a very real threat to New Jersey bottlers if the weight and measure laws of this state vary from those of our neighbors.

The returnable bottles to which I referred earlier are a mobile factor in this industry. That is to say a bottle sold by a New Jersey manufacturer might be returned by the purchaser to an outlet in New York or Pennsylvania. By the same token a New Yorker buying a bottle of beverage in his home state might turn it in to a New Jersey outlet which will in turn give it to a New Jersey bottler. If the bottler in this State cannot use that container because it does not comply with New Jersey's weights and measures law he has, of course, suffered an economic loss.

It should also be noted that there are already in existence large stocks of these returnable bottles which complied with existing laws at the time they were produced. If they are subsequently rendered invalid the bottler will be forced to discard them and replace them with new stocks. It is no idle threat to say that many bottlers in New Jersey could not bear such a financial loss and remain in business.

On a national basis it is estimated that there are now in existence about 28 million gross of such containers valued at 25 million dollars. While it is not possible to accurately state the extent of this float in New Jersey we can approximate it by realizing that our bottlers do about 7.6 percent of the total sales volume of the industry every year. An equal share of the returnable bottle float would be about \$1,900,000 as the investment of New Jersey bottlers.

Adoption of laws, or regulations invalidating this investment is our concern today. These bottles to which we refer are in existence now and studies have shown that they cannot be modified.

Other speakers at this hearing have told you of the Model Weights and Measures Law which has been adopted by over half of our States, including Pennsylvania and New York. Without going into great detail on that model we should note that it was drafted by men expert in this field and represents the best thinking of weights and measures officials all across this country. We believe it has worked well in those states where it has been enacted as an instrument of consumer protection.

With an eye toward the right of the consumer to be informed about the net content of the packages offered for his purchase and with a view to the potential adverse effect on an industry which is specially local in character we urge that serious consideration be given to the adoption by our Legislature of the Model State Weights and Measures Law.

STATEMENT OF THE
NEW JERSEY CANNERS ASSOCIATION
IN OPPOSITION TO SENATE BILL NO. 274

The New Jersey Canners Association, on behalf of the canning industry in the State of New Jersey, wishes to express its opposition to Senate Bill No. 274, which would adopt comprehensive government controls affecting the sale of consumer commodities within this state. The bill would repeal most of the existing laws relating to weights and measures and would enact drastic new provisions that would give unprecedented authority to state regulatory officials.

This statement will be addressed solely to those provisions of the bill that would affect the packing, labeling and sale of canned foods. The failure to comment on other provisions of the bill in no way implies endorsement of or support for these provisions.

Our objections to Senate Bill No. 274 are of both a general and specific nature. Because so many provisions of the bill constitute a departure from prior law and from the approach of similar legislation adopted in other states, it will be necessary for us to comment in detail on some of these provisions. But before turning to these detailed comments, we would first like to make clear our general objections to this legislation.

In our view, the most significant defect of Senate Bill No. 274 is that it departs significantly from the Model State Law on Weights and Measures which has been adopted and recommended by the National Conference on Weights and Measures. This Model Law, developed over the years by the cooperative efforts of Weights and Measures officials from every state of the Union, and already enacted in over 25 states, will almost certainly be considered in many other states within the next few years. The Law has thus received intensive consideration not only by the leading state Weights and Measures officials of this country, but by the legislatures in more than half of the states, and has been approved by them as the best approach to weights and measures regulation.

A distinct advantage of the Model Law is that its provisions are by now relatively well understood by those who are in any way affected by them. The Law has been administered and enforced in a number of states for some years, and many states have adopted the Model Regulations that have been recommended by the National Conference to supplement and carry out the Law. Where the Law is somewhat broad, or where several interpretations of a particular provision are possible, these Regulations tend to reduce or eliminate uncertainty. Consequently, the officials know what to look for and what to require, and industry knows what is expected of it.

An even more important advantage of the Model Law is the uniformity it tends to achieve throughout the country in weights and measures regulation. Few would question the vital importance of eliminating trade barriers among the states so that consumer goods can be distributed and sold freely in all markets.

Indeed, the economy of this state is heavily dependent upon the sale of New Jersey fruits, vegetables, and other agricultural products to the vast consumer markets on the East Coast and across the country. If the markets of New York, Philadelphia, Chicago, or Los Angeles were effectively closed to the sale of New Jersey agricultural products by reason of prohibitive labeling restrictions, the impact upon the growers and the entire economy of this state could well be disastrous. In the same way, consumers in New Jersey benefit immeasurably from the number and variety of products that are brought into this state from every state in the nation.

But this free interchange of products among the states would be severely hampered if every state legislature or weights and measures officials were to seek to impose specialized labeling requirements on goods to be sold within the state. Modern methods of distribution make it prohibitively expensive, if not practically impossible, to label goods differently for each state in which they are to be sold.

The need for uniformity in labeling and packaging regulation is the basic reason for the existence of the National Conference on Weights and Measures. The state Weights and Measures officials recognize the need to provide effective regulation at the state level. At the same time, they believe it to be absolutely necessary to make this regulation as uniform as possible, so that goods packed and labeled in one state may be distributed throughout the country.

Accordingly, this Association strongly endorses the adoption of the Model State Law on Weights and Measures, so that New Jersey can exercise leadership in working towards the uniformity so important to the producers and consumers in this state and throughout the country. It has been said that Senate Bill No. 274 in many respects incorporates the Model Law. This may be so, but it is of over-riding significance that the bill frequently differs from the Model Law, and in such a way that the regulatory officials would be given virtually a free hand to impose whatever labeling or packaging requirements they deemed desirable. There are virtually no guidelines for those officials, and no safeguards for the affected industries. In fact, one wonders why it was necessary to introduce a bill containing over 100 pages of detailed provisions, when the same effect might have been achieved by a one-page grant of authority permitting the regulatory officials to adopt whatever regulations they deemed appropriate with respect to weights and measures and related matters.

In our view it is impossible to cure the fundamental objections to this bill on a piecemeal basis. The only reasonable approach is to enact the Model State Law on Weights and Measures. Accordingly, we will not attempt to set out in detail all of the inadequacies of the specific provisions in the Bill. Instead, we will focus on the three or four most objectionable sections in order to demonstrate why we regard the Bill as a wholly unacceptable substitute for the Model Law.

Power of Condemnation

Section 51A:2-14(b) provides that weights and measures officials shall be

vested with power to

"issue stop-use, stop-removal, removal, condemnation, confiscation orders with reference to any weight, measure and device, package, commodity in package form or amount of commodity, which he finds being used, sold, offered, exposed for sale, kept or in the process of delivery in violation of any of the provisions of this Title or the regulations and rules promulgated by the director ..."
(Emphasis added)

The language is very close to that in Section 14 of the Model Law, except that the underlined words "condemnation, confiscation" have been added. The effect of this addition, no matter how innocent it may appear, is to do away with every safeguard for the protection of producers and distributors of consumer commodities, and to make the weights and measures officials both the enforcement officer and the judge. These officials would be authorized by the explicit terms of this section to condemn and destroy any packaged commodity they decide was unlawful. The extraordinary power of condemnation is traditionally reserved to the courts, and only after a trial and proof of a violation has been established. Under this bill an official could condemn a lot of merchandise without even notification to the packer or owner. Any subsequent attempt to challenge the condemnation would of course be futile, for the goods would have already been destroyed.

Power to Adopt Regulations

Here again the proposed bill differs significantly from the Model Law, with the results that the director of the State Division of Standards, Weights and Measures would have virtually unlimited authority to impose controls and restrictions on the sale of packaged commodities. The provisions in the bill may be contrasted with those in the Model Law (differences of significance are underlined):

Senate, No. 274

51A:2-16. "(The director) shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness, and suitability of commodities regulated by this act."

Model Law

(No comparable provision)

The director would be authorized by this provision of the proposed Bill to establish standards "as to the quantity, quality, serviceability, fitness, and suitability of commodities". It is difficult to imagine any regulation of packaged commodities that would not be justified by this extraordinary and novel Section. This broad authority is totally uncalled for in any law, let alone in a weights and measures law. The director could presumably establish standards specifying quantities in which commodities must be sold. He could establish quality or suitability standards according to his own whim. He could prohibit the sale of commodities he deemed as unsuitable or unfit,

whatever that might mean.

Senate, No. 274

51A:2-21.A. "The director is empowered to make reasonable regulations, rules, and orders for the efficient implementation of this Title which shall have the force and effect of law."

51A:2-21.B. "These regulations and rules may include, but are not limited to regulations, rules, or orders: (1) relating to the possession, methods of sale or exposure for sale of commodities or services, governed by this title, and may include standards of net weight, measure, or count."

Under this Section the Director could adopt rules governing "the possession, methods of sale or exposure for sale of commodities". No comparable language is contained in the Model Law, nor in any other law with which we are familiar. Here again there is a grant of extreme power to regulate broad categories of activity without any guidelines or safeguards, and without any relation to weights and measures regulation. Regulation governing the possession and sale of commodities could provide almost anything and still be within the statutory language.

Senate, No. 274

51A:2-21B. "These regulations and rules may include, but are not limited to regulations, rules, or orders: (h) establishing reasonable variations for foods and other commodities in package form including reasonable standards of fill therefore and shall make exemptions as to small packages."

This Section of the proposed bill is typical of the attempt to avoid any of the guidelines, safeguards and restrictions that other state legislatures

Model Law

9. "The director shall issue from time to time reasonable regulations for the enforcement of this Act, which regulations shall have the force and effect of law".

9. "These regulations may include (1) standards of net weight, measure or count, and reasonable standards of fill, for any commodity in package form"

Model Law

26. "...the director shall, by regulation, establish (a) reasonable variations to be allowed (in the statement of the net quantity of the contents,) which may include variations below the declared weight or measure caused by ordinary and Customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (b) exemptions as to small packages,..."

and weights and measures officials have regarded as desirable and necessary. The director could adopt rules "establishing reasonable variations for foods and other commodities in package form." Compare this with the corollary language in Section 26 of the Model Law, which speaks in terms of variations in the statement of the quantity declaration.

(Another provision of the bill -- Section 51A:2-34 -- would also authorize the adoption of standards for cans and jars containing canned fruits, vegetables, and seafoods, and products thereof. Presumably this section is intended to apply solely to containers for fresh products, but it is worded so as to include containers for all forms of these products: fresh, frozen, and canned.)

In summary, the Model Law provides for the reasonable exercise of the rule-making authority to regulate specified aspects of the quantity of the contents of packaged commodities. Senate, No. 274 grants a blank check to the director to adopt virtually any regulations he sees fit, without limitations, guidelines or safeguards.

Another important departure from the Model Law is contained in Section 51A:7-1(h) of the bill, which provides an exception from the general requirement that commodities in liquid form be sold by liquid measure and all others be sold by weight, measure or count. The exception in the Model Law is for commodities in package form when there exists a general consumer usage to express the quantity in some other manner. The bill repeats this exception, but limits it to commodities "other than food in package form." There is no conceivable basis for this limitation. If general consumer usage provides a more accurate and informative way to describe the quantity of the contents of a food package, then that way should be permissible under the law.

Conclusion

Senate Bill No. 274 has been described as an attempt to modernize New Jersey weights and measures law. The claim has been made that the bill largely incorporates the Model State Law on Weights and Measures, but that it necessarily includes many more provisions because of its broader coverage.

The New Jersey Farmers Association respectfully submits that the Senate bill does not incorporate those provisions of the Model Law applicable to the regulation of packaged commodities, except in a few isolated instances. The bill is nothing less than a request for an unprecedented grant of power to regulatory officials to impose their whims and fancies on the producers and distributors of consumer goods. The basis for our unalterable opposition to Senate, No. 274 can be summarized as follows:

1. In every important respect the bill departs from the provisions of the Model Law applicable to packaged commodities. The vital purpose of the National Conference on Weights and Measures--to promote uniformity in weights and measures regulation--would thus be frustrated by one of the leading consuming and producing states in the nation.

2. The bill speaks in broad, ambiguous, and undefined terms. The certainty that is provided by the Model Law and supplementary regulations is necessary if manufacturers and distributors from all parts of the country are to package and label their products with the confidence that they will comply with the laws of the states in which they are sold.

3. The sweeping authority that would be granted to the director would enable him to control every aspect of marketing and distribution. There would be no recourse against his arbitrary exercise of this authority, for the bill by its terms set forth no realistic guidelines or safeguards.

4. Although described as a weights and measures law, this bill is in fact a regimentation of marketing law. Most of the power granted to the director and most of the prohibitions have no relation whatever to weights and measures regulation.

5. The bill would subject New Jersey producers and others who would sell in this state to the constant threat that their packages and labels--lawful in every other state--would be in violation of New Jersey law. The ultimate effect would be to discriminate seriously against New Jersey producers who must sell in this State if they are to operate profitably, and to close the New Jersey markets to producers who are unwilling to conform their practices to the unreasonable requirements of this State.

For these reasons, we respectfully urge that Senate, No. 274 not be enacted and that this State join the increasing number of states that have enacted the Model State Law on Weights and Measures.

American Clam Co., Inc.	Loesburg (Cumberland)
Morris April Bros.	Millville (Cumberland)
Atlantic Food Packers	Trenton (Mercer)
Bon Vivant Soups, Inc.	Newark (Essex)
C & F Cannery, Inc.	Hammonton (Atlantic)
California Packing Corp.	Swedesboro (Gloucester)
Cape May Cannery	Cape May (Cape May)
Cedar Lake Canning Co., Inc.	Cedarville (Cumberland)
G. Di Lullo & Son	Gloucester (Camden)
Farm Fresh Packing Corp.	Hightstown (Mercer)
H. J. Heinz Company	Salem (Salem)
Hunt Foods & Industries, Inc.	Bridgeton (Cumberland)
Manishevitz Food Products Corp.	Vineland (Cumberland)
Minot Food Packers, Inc.	Bridgeton (Cumberland)
National Fruit Product Co., Inc.	Glassboro (Gloucester)
Ocean Spray Cranberries, Inc.	Bordentown (Burlington)
Clement Pappas & Co., Inc.	Cedarville (Cumberland)
Pappas Bros., & Gillies Co., Inc.	Egg Harbor (Atlantic)
P. M. C. Canning Co., Inc.	Swedesboro (Gloucester)
The P. J. Ritter Co.	Bridgeton (Cumberland)
Seabrook Farms Company	Seabrook (Cumberland)
Stokely-Van Camp, Inc.	Trenton (Mercer)
Francis C. Stokes Company	Vincentown (Burlington)
Suzy-Bel Canning Co., Inc.	Port Elizabeth (Cumberland)
Uddo & Taormino Corp. of Vineland	Vineland (Cumberland)
Venice Maid Co., Inc.	Vineland (Cumberland)
Violet Packing Company	Williamstown (Gloucester)

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NEW YORK PAINT, VARNISH and LACQUER ASSOCIATION, Inc.

Affiliated with the National Paint, Varnish and Lacquer Association, Inc.

June 3, 1966.

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**NEW YORK
N. Y. 10016**

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**Telephone (212)
MUrray Hill 3-
2489**

HONORABLE A. DONALD BIGLEY,
Chairman, Senate Business Affairs Committee,
New Jersey State Senate,
Trenton, New Jersey.

Dear Senator Bigley:

For the record of this hearing, we wish to repeat and amplify the comments of the New York Paint, Varnish and Lacquer Association on Senate Bill No. 274 on Weights and Measures, as transmitted earlier in our letter of April 7, 1966.

Our Association represents over 200 member companies engaged in the manufacture and sale of paints and related products in the states of New Jersey and New York. Nearly half of these companies have plants and offices in New Jersey. While weights and measures laws are most often thought of in connection with packaged foods and similar commodities, they affect the products of all segments of industry, including those of our member companies. It is for this reason that we wish to register the strong opposition of the New York Paint, Varnish and Lacquer Association to passage of S. No. 274.

There are many objectionable aspects to S. No. 274 and one of the most serious is that the proposed law, except for a few sections, disregards the basic recommendations of the National Conference on Weights and Measures, together with the Model State Law and Model Regulations

developed by that body. These recommendations have been adopted, in essence, by some 28 states in recent years, including New York, Pennsylvania and Delaware. There is no reason why New Jersey should not do likewise, instead of adopting a law which does not reflect modern concepts. It should be remembered that most New Jersey manufacturers do business in all states of the Union and adoption by New Jersey of a weights and measures law significantly different from those of other states would be disastrous for New Jersey industry and result in higher costs to the consumers of this state and other states in which New Jersey products are sold.

One of the advantages of the Model Law recommended by the National Conference is that it does not attempt, in the act itself, to cover all the many details necessary for administration, and requirements for specific commodities. Instead, these details are covered in the Model State Regulations. Since the latter can be modified or added to by the state director of weights and measures without action by the state legislature, it is much easier to make any changes required by future developments. Because of this approach, the Model Law consists of only 18 pages, in contrast to the 125 pages of S. 274.

Another serious objection to the proposed New Jersey Law lies in the fact it would grant the Director powers which go far beyond the field of weights and measures; no other state we know of grants such powers. In Section 51A: 2-16, for example, it states that the Director "shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness and suitability of commodities....." Since "commodity" embraces any article of trade or commerce, we submit that the Director is not likely to be qualified to establish standards for anything

other than quantity. To establish standards of quality for such diverse things as paint, electronic equipment, chemical specialties or any other of the innumerable products of our present-day technology would require the services of experts in many fields, together with extensive laboratory facilities. We question the need for New Jersey to go to the great expense of providing such services.

Many of the detailed requirements and provisions of S.274, with respect to specific commodities and products of industry, do not reflect up-to-date practices and materials. Most of these have been covered by other interested parties in past years with respect to earlier versions of the proposed weights and measures law. These criticisms have been made known to the New Jersey Division of Weights and Measures but the provisions of S.274 lead us to believe the Division has not given them as serious consideration as they deserve. We agree some improvements have been made in the proposed law each year it has been introduced but many more must be made.

It is the earnest recommendation of the New York Paint, Varnish and Lacquer Association that Senate Bill No. 274 be disapproved by your Committee. We further recommend that before a new bill is introduced, the proposed law be reframed to conform to the recommendations of the National Conference on Weights and Measures, with the format of the Model Law and regulations separate from the basic Act.

Respectfully submitted,

(Signed) ROGER H. HIGGONS

Chairman, Legislative Committee

STATEMENT OF NATIONAL PAINT, VARNISH AND LACQUER ASSOCIATION
ON S. 274
BEFORE THE NEW JERSEY SENATE BUSINESS AFFAIRS COMMITTEE
JUNE 3, 1966

My name is Donald P. Lynott. I am Associate General Counsel for the National Paint, Varnish and Lacquer Association, 1500 Rhode Island Avenue, N. W., Washington, D.C. Our Association has a membership of close to 1200 manufacturers of paint and related products. In the New York - New Jersey area alone we represent over 200 member companies; 50 per cent of these companies have plants and offices in the State of New Jersey.

Any consideration of weights and measures legislation in the various states and the regulations promulgated to carry out such laws should be made against the background provided by the National Conference on Weights and Measures and should inevitably take into consideration the Model Law and Model Regulations, promulgated by that Conference as guides for the assistance of State Legislators and Executive officials.

Cooperation between state officials in the National Conference and industry officials at this time has reached the highest and most desirable stage so that not only are model laws and model regulations recommended after full consideration of industry views, but there also is displayed on the part of industry a hearty cooperation in acquainting the various members of industry with the details of the laws and regulations and in securing sincere and full compliance with them.

The 13 Colonies had an experience with respect to differing laws, regulations, duties and tariffs shortly after the Revolution while the United States of America were banded together

as a federation of independent sovereignties under the Articles of Confederation. Virginia could erect tariff barriers that would halt goods from Massachusetts at the state lines. Massachusetts could retaliate. The confusion in commerce that resulted caused these states to adopt the Constitution of the United States.

It is well to remember that our independence was first declared on July 4, 1776, but it was not until November 17, 1777 that the Congress was able to agree on some form of government which stood some chance of being approved by the several states. The Articles of Confederation were submitted to the states and were ratified by them (with the exception of Maryland) in 1778 and 1779. By July 9, 1778, the Articles were finally approved by a sufficient number of states to become operative.

There followed a period in which it was recognized that uniform rules for interstate commerce were needed if the new nation was to succeed and prosper so that in 1785 work on the Constitution began at the behest of Virginia. The group had been called originally to revise the Articles of Confederation. Instead, it reported to the Continental Congress a Constitution in 1787. By 1788, 11 of the 13 states had ratified the Constitution and North Carolina added her ratification a year later while Rhode Island did not ratify until 1790. Thus, the need for uniform regulation of our interstate commerce became the basic incentive for the Constitution of the United States which has excited the admiration of philosophers and political economists of all ages.

Now the same basic difficulties are present today if we fail to recognize the chaotic confusion that may result if matters so basic as our weights and measures laws are not made uniform throughout the nation. Several reasons underlie this principle.

(1) Our manufacturing and commerce prospers most when it is on a national scale.

(2) Products manufactured for national consumption should not be stopped at state, county or city lines by arbitrary regulations when it is possible to have fair, reasonable and efficient nationally uniform regulations.

(3) A universal rule eliminates the chiselers. There may be one or two or three manufacturers in an industry who would welcome the opportunity to prey upon the public, but when the collective weight of the largest and most responsible groups is put into the picture, there is every reason to believe that fairness, equity and efficiently uniform regulations will result. The collective influence of normal responsible business men in this country will overwhelm chiselers.

(4) The National Conference on Weights and Measures, under the aegis of the distinguished and respected National Bureau of Standards, now headed by a devoted and eminent public servant, M. W. Jensen, Chief of its Weights and Measures Section, is performing a Herculean task of coordinating the activity and interest of regulatory officials from all parts of the country, of the vast preponderance of industry which is regulated by weights and measures laws and of the consuming public in promoting uniform weights and measures legislation among the states. Recently he said:

"Increasingly, since we became a nation, and especially during the last two decades, commerce in the United States has become commerce among states. No state can survive economically without exporting large proportions of its own products and importing products from other states. This is a philosophy that I believe is universally agreed to."

There are many other reasons for supporting this principle of uniformity but I will not take up your time to enumerate the benefits which will flow from uniformity of weights and measures laws.

Both government and industry in this country have one boss - The Public. By the public I don't mean public officials, but the people who elect them and who need and use the products of industry. Diversity of laws, rather than uniformity of laws, will necessarily slow up commerce and add expenses to the buyers of products. Diversity of laws creates enforcement problems which could conceivably swamp the states and their political subdivisions.

In the Model State Law on Weights and Measures, sponsored by the Department of Commerce through the National Bureau of Standards, and the accompanying Model Regulations, there is an unsurpassed guide for uniformity in weights and measures legislation for all the states, counties and municipal subdivisions.

If problems arise from year to year, the Annual National Conference on Weights and Measures provides a Forum where all parties - government, industry and representatives of the consuming public - are free to protest existing regulations or laws, to seek changes or revisions and to maintain an up-to-date and fresh viewpoint which can be transmitted by the various government officials to industry representatives; by industry representatives to the government officials, and by both to the public as a whole in promoting the great objective of uniformity of legislation, regulation and interpretation in this ancient but eminently important field of weights and measures.

There are a great number of objectionable features in the present bill now being considered. Most of these have been illustrated by other parties. We feel it necessary, however, to highlight one in particular which would give the Director of the State Division of Standards, Weights and Measures, the power to establish standards not only as to the quantity, but also the "quality, serviceability, fitness and suitability of commodities". This grant of

power goes too far and greatly beyond the field of weights and measures. It appears quite obvious that the Director, no matter how competent, could not fairly nor adequately establish standards of quality for the many diverse commodities now being produced under modern day technology.

Our main concern, of course, rests in the direction of uniformity of labeling. This is true with all industry. Accordingly, we urgently recommend that Senate Bill No. 274 be disapproved by your Committee and that any proposed law in the future conform to the Model State Law and Regulations now in effect in some 28 States.

Respectfully submitted,

Donald P. Lynott
Associate General Counsel
National Paint, Varnish and Lacquer Association

STATEMENT FOR PUBLIC HEARING - NEW JERSEY SENATE
BUSINESS AFFAIRS COMMITTEE - June 3, 1966
SENATE BILL NO. 274

My name is James H. Bunting and my business address is 375 Memorial Avenue, Camden, New Jersey. I am also a resident of New Jersey. I am employed by Campbell Soup Company, which produces canned, frozen and dried packaged foods at various locations throughout the world, including its original and largest plant located at 100 Market Street, in Camden. It markets these products not only in New Jersey, but nation-wide and in various foreign countries as well. I have been employed by Campbell Soup Company for thirty years. Of that total service with the Company, 25 years have been spent in the Technical Administration Department, which has responsibility for quality control and regulatory compliance (including labeling and fill control) among other responsibilities. My present title in the Technical Administration Department is Manager - Quality Control, Regulatory Services and my regular duties involve insuring compliance with the rules of the government agencies regulating our Camden Plant operations, plus the agencies regulating our plants in other states. I am, therefore, familiar with the problems the Company encounters with regard to the labeling of its products and compliance with the various statutory and regulatory requirements relating to weights and measures. From the regulatory standpoint alone, this includes the requirements of the Food and Drug Administration and the United States Department of Agriculture (Meat and Poultry Inspection Divisions), as well as those of their regulatory counterparts in the several states and of state agencies dealing with weights and measures.

I am generally familiar with the laws of New Jersey relating to weights and measures as they are set forth in Title 51 of the New Jersey Statutes. I have also familiarized myself with Senate Bill No. 274, introduced in the Senate on March 14, 1966. Speaking on behalf of Campbell Soup Company, I am authorized to oppose the enactment of this bill and I would like to direct my comments to those portions of it which have particular significance for Campbell Soup Company, namely, those dealing with packaging, labeling and sale of food products.

First, however, let me say that we are strongly in favor of the enactment of the Model State Law on Weights and Measures as endorsed by the National Conference of Weights and Measures. This Model Law represents the consensus of weights and measures officials from each state under the sponsorship of the National Bureau of Standards. I am advised that the Model Law has been adopted by 19 states, plus Puerto Rico; other states have adopted essential parts of the Model Law. This law has been tested and it works; it has been successfully administered in conjunction with the so-called Model Regulations, which have also been recommended by the National Conference.

More specifically, our reasons for opposing S-274 and favoring the Model Law are:

(a) S-274 is a lengthy, complex law regulating in detail everything from sterling silver to land measurements, including foods. The food industry is already highly regulated by both state and federal law and certainly does not need any additional legal complexities imposed upon it. By comparison, the Model Law is a relatively short and concise statement of what is required of the many industries regulated and of the administrators.

(b) S-274 is significantly different from the Model Law, which has been adopted in its entirety or with slight variations by the neighboring states of Pennsylvania, New York, Delaware and Maryland. If S-274 is adopted, New Jersey then would be an island in the midst of these other states having the Model Law, or its equivalent. In an era of regional planning, this would be a definite setback to

the elimination of trade barriers and to the promotion of uniformity of regulation. Any material departure from the Model Law, such as the enactment of S-274, is very apt to require a food processor to have one inventory of product for New Jersey and a separate inventory for other states. The two inventories might be different in labeling, container size, or product formulation, depending on the regulations promulgated by the Director under S-274. This is not a very pleasing prospect for Campbell Soup Company which produces 171 different products at its Camden Plant. In any event, all this would work to the disadvantage of the State of New Jersey in the following respects:

- (1) Costs to consumers would increase.
- (2) Costs to food processors would increase.
- (3) Costs to out-of-state food processors marketing in New Jersey would also increase, to the disadvantage of the New Jersey consumer.

(c) S-274 does not state in exact and precise language its requirements or the powers and duties of the administrators. This would cause confusion and uncertainty in industry and allow differing interpretations by the administrators. On the other hand, where the Model Law has been adopted, both industry and administrators know what is expected of them, simply because of its widespread and long-standing acceptance. There is a great reservoir of administrative experience among the several states under the regulatory pattern developed under the Model Law, thus helping to produce both certainty and uniformity of application and interpretation.

(d) We do not believe that the defects in S-274 can be corrected by amendments. The problems with it are fundamental, principally that in an area affecting interstate commerce, New Jersey should avoid restrictive, non-conforming legislation. In short, the Model Law is, in our judgment, a reasonable way of providing the best and most effective means of regulating weights and measures in New Jersey.

(e) S-274 would authorize the Director "to establish reasonable standards as to quantity, quality, serviceability, fitness and suitability" of regulated commodities. This would give the Director power to establish standards of quality (for example) for any and all foods (plus any other commodity sold by weight, measure or count) without any restriction. There is no such broad grant of authority in the Model Law.

(f) There are many other parts of S-274 that do not conform to the Model Law. Rather than detailing further the defects of this 125 page bill (as contrasted with the 13 page Model Law), suffice is to say we do not believe that S-274 will now serve the best interests of New Jersey. The bill would handicap New Jersey in economic competition with other states and handicap its consumers perhaps by increasing costs of commodities.

For all these reasons, we oppose S-274 and respectfully urge that it not be enacted. We also respectfully urge that the Model Law be carefully considered as the best and most widely accepted alternative pattern for weights and measures regulation in New Jersey.

SELLERS, CONNER & CUNEO

FORMERLY

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ROGER N. BOYD
GEORGE C. DAVIS
HERBERT L. FENSTER
C. STANLEY DEES
W. STANFIELD JOHNSON
THOMAS H. TRUITT
JOHN M. ALLEN

May 31, 1966

The Honorable
A. Donald Bigley, Chairman
Senate Business Affairs Committee
State House
Trenton, New Jersey

Re: Senate Bill 274

Dear Senator Bigley:

We are counsel to the Chemical Specialties Manufacturers Association, a non-profit trade association headquartered in New York City, which represents more than five hundred member companies engaged in the manufacture and distribution of chemical specialty products for general household use. The members of this Association are, therefore, very much interested in Senate Bill 274.

The necessity for uniformity of weights and measures regulation for consumer products was recognized many years ago by both regulatory officials and the regulated industries. The National Conference on Weights and Measures meets in general session once a year under the sponsorship of the National Bureau of Standards. A Model State Weights and Measures Bill, supported by Model State Regulations for its enforcement and a number of model procedures to determine net contents, have all been approved by the National Conference. The voting members of the Conference are federal, state and local officials concerned with the enforcement of weights and measures laws. The current version of this Bill and Regulations are the result of many, many hours of meetings held over a period of several years at which drafts of the various documents were discussed and debated. Following these

The Honorable
A. Donald Bigley
May 31, 1966

Page Two

extensive debates, and as a result of very careful consideration by appropriate committees of the Conference, the Model Bill and Regulations reached the point where they were adopted by many states. It is most disturbing, therefore, to find the State of New Jersey considering a bill such as S. 274 instead of the Model Bill sponsored by the National Conference.

You can appreciate that a state as important as New Jersey can, by deviating from the Model Bill provisions, establish the provisions for national standards since it would not be feasible economically, and impossible from the marketing standpoint, to comply with regulations which are peculiar to the State of New Jersey.

The Hart Bill, S. 985, which has been reported to the United States Senate, contains provisions for the labeling of net contents which are in all respects similar to the pertinent provisions of the Model State Bill. In addition, there is a very strong preemption section in this Bill which would override state laws and regulations in this field.

We are not aware of any sound basis for criticizing or varying the Model State Bill and Regulations. To the contrary, a body of experience has been developed by regulatory officials and the regulated industry which is extremely important to sound and efficient enforcement. We request, therefore, that your Committee give the utmost consideration to substituting the Model Bill, sponsored by the National Conference on Weights and Measures, for S. 274, and that the Committee not vary this Bill unless a very compelling reason is established by the sponsors of the Bill and then only to the extent necessary to meet such an unusual or peculiar circumstance in the State of New Jersey. We have never been persuaded that the consumer in New Jersey differs from consumers in the adjoining states of New York, Pennsylvania and Maryland where weights and measures regulation and enforcement have followed the pattern recommended by the National Conference.

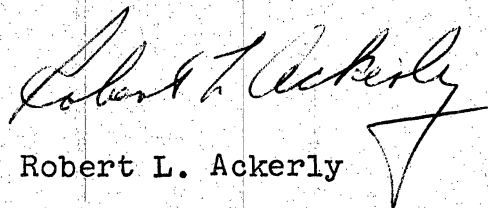
We sincerely appreciate your consideration of our views on this Bill since it is of paramount importance to

The Honorable
A. Donald Bigley
May 31, 1966

Page Three

the members of this Association, each of whom is engaged in distributing chemical specialty products in interstate commerce many of which are sold in each of the fifty states.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert L. Ackerly". The signature is written in dark ink and is positioned above the typed name.

Robert L. Ackerly

RLA:js

COPY

MIDDLE ATLANTIC LUMBERMENS ASSOCIATION

a management organization for retail building products marketing—consumer sales development

2 PENN CENTER PLAZA • PHILADELPHIA, PENNA. 19102 • AREA CODE 215 • 564-2281

JUNE 1, 1966

TO THE HON. SENATOR A. DONALD BIGLEY, CHAIR., SENATE BUSINESS AFFAIRS COM.;
THE MEMBERS OF THE SENATE OF THE STATE OF NEW JERSEY;
THE SUPERINTENDENT OF THE DIVISION OF WEIGHTS AND MEASURES.

HEREWITH A MEMORANDUM FOR CONSIDERATION AT THE PUBLIC HEARING
CALLED FOR 1 P.M., FRIDAY, JUNE 3, 1966.

RE: PROPOSED REVISION OF WEIGHTS AND MEASURES LEGISLATION BY REASON OF
SENATE BILLS S-274, THE SO-CALLED OMNIBUS BILL; S-327, WHICH AMENDS
THE PRESENT WEIGHMASTER'S BILL; AND S-328, WHICH AMENDS THE LUMBER
AND BUILDING MATERIALS SECTION OF THE PRESENT WEIGHTS AND MEASURES LAW.

FROM: MIDDLE ATLANTIC LUMBERMENS ASSOCIATION, WHICH REPRESENTS THE
RETAIL LUMBER DEALERS IN THE 7 COUNTIES COMPRISING THE SOUTHERN
PART OF THE STATE OF NEW JERSEY.

MY NAME IS ROBERT A. JONES, EXECUTIVE VICE PRESIDENT OF THE MIDDLE ATLANTIC
LUMBERMENS ASSOCIATION, 2 PENN CENTER PLAZA, PHILADELPHIA, PA. 19102

LET THE RECORD SHOW THAT MIDDLE ATLANTIC LUMBERMENS ASSOCIATION IS A TRADE
ORGANIZATION WITH A BACKGROUND OF 75 YEARS OF ACHIEVEMENT AND SERVICE FOR
THE PUBLIC AND THE RETAILERS OF NEW JERSEY, PENNSYLVANIA, MARYLAND, DELA-
WARE AND THE DISTRICT OF COLUMBIA. IT IS A FIRM AND ACTIVE BELIEVER IN
JUST LAWS AND REGULATIONS FOR THE PROTECTION OF BOTH INDUSTRY AND THE
PUBLIC. IT HAS ON NUMEROUS OCCASIONS DURING THE PAST YEARS CONSISTENTLY
MADE CONTRIBUTIONS TOWARD THE PROTECTION OF THE PUBLIC AND THE INDUSTRY
IN ITS CONTINUING WORK FOR IMPROVEMENTS IN THE FIELDS OF FIRE CODES,
BUILDING CODES AND LUMBER STANDARDS, TOGETHER WITH PUBLIC HEALTH AND
SAFETY RECOMMENDATIONS AND REGULATIONS.

IT HAS NEVER WAVERED IN ITS POLICY OF PROMOTING PROTECTION, SERVICE AND
SOUND VALUES FOR THE PUBLIC. IT HAS NEVER WAVERED IN ITS CREATIVE EFFORTS
FOR THE ADVANCEMENT AND PROMOTION OF A HIGH CODE OF ETHICS AND A DEEP
SENSE OF COMMUNITY RESPONSIBILITY FOR AND BY THE RETAIL LUMBER AND BUILD-
ING MATERIALS DEALERS IT SERVES. NOR DOES IT CHANGE THIS POLICY TOWAY IN
ITS RECOMMENDATIONS REGARDING THE PROPOSED AMENDMENTS IN THE PRESENT
WEIGHTS AND MEASURES REGULATIONS FOR THE STATE OF NEW JERSEY.

FIRST, THE MIDDLE ATLANTIC LUMBERMENS ASSOCIATION STRONGLY RECOMMENDS THE
ADOPTION AND USE BY THE STATE OF NEW JERSEY OF THE MODEL STATE LAW ON
WEIGHTS AND MEASURES, WHICH HAS BEEN ADOPTED AND RECOMMENDED BY THE NATIONAL
CONFERENCE ON WEIGHTS AND MEASURES, SPONSORED BY THE NATIONAL BUREAU OF
STANDARDS. MR. SAMUEL H. CHRISTIE, JR., ACTING STATE SUPERINTENDENT OF
THE NEW JERSEY DIVISION OF WEIGHTS AND MEASURES IS A MEMBER OF THIS CON-
FERENCE. THIS MODEL LAW HAS BEEN ACTIVELY PROMOTED THROUGHOUT THE NATION,

WAS DEVELOPED BY AND THROUGH THE INTENSIVE STUDY AND CONSTRUCTIVE, CO-OPERATIVE EFFORTS OF WEIGHTS AND MEASURES OFFICIALS FROM ALL THE STATES AND HAS BEEN ENACTED INTO LAW BY TWENTY-ONE STATES. NEW JERSEY IS NOT AND SHOULD NOT BE AN ISLAND UNTO ITSELF IN THIS MATTER, SINCE ITS NEIGHBORING STATES HAVE ALREADY ADOPTED AND USE VERY EFFECTIVELY THE MODEL STATE LAW ON WEIGHTS AND MEASURES. WE DO NOT AGREE THAT THE MODEL LAW IS NOT SOPHISTICATED ENOUGH TO BE EFFECTIVE IN NEW JERSEY.

SECOND, WE BELIEVE S-274, S-327 AND PARTICULARLY S-328 GIVE FAR TOO MUCH AND FAR TOO BROAD POWERS TO THE DIRECTOR OF THE DIVISION OF WEIGHTS AND MEASURES WHICH ARE UNNECESSARY, UNWARRANTED, AND DISCRIMINATORY AGAINST THE HUGE MAJORITY OF LAW-ABIDING, HONEST AND PUBLIC-SPIRITED SMALL RETAIL LUMBER AND BUILDING MATERIALS DEALERS IN NEW JERSEY. IT IMPLIES THAT ALL THESE FINE LUMBERMEN WHO HAVE CONTRIBUTED SO MUCH TO THE GROWTH, DEVELOPMENT AND ADVANCEMENT OF NEW JERSEY NEED SUCH A LICENSING AND POLICING LAW TO PREVENT THEM FROM CHEATING THE PUBLIC. THIS IS NOT TRUE AND SUCH A LAW TENDS TO CREATE IN THE MINDS OF THE PUBLIC THAT ALL DEALERS ARE NOT TRUSTWORTHY. THE TRUTH OF THE MATTER IS THAT ONLY A VERY FEW OPERATORS (GENERALLY FROM OUTSIDE THE STATE, NOT INDUSTRY RECOGNIZED DEALERS) ARE GUILTY OF UNETHICAL PRACTICES. A WEIGHTS AND MEASURES DIVISION LICENSE TO DO BUSINESS WOULD NOT PUT A STOP TO THIS KIND OF OPERATION.

THIRD, TO ENFORCE SUCH A LAW, IF SUCH A LAW WERE NEEDED, WOULD INVOLVE AN ARMY OF QUALIFIED INSPECTORS, TRAINED IN WOOD TECHNOLOGY, BUILDING CODES AND THE GRADING RULES OF VARIOUS SPECIES OF LUMBER THEY WOULD BE CALLED UPON TO INSPECT. THIS WOULD INVOLVE A PROHIBITIVE COST IN TIME, DELAY OF JOBS AND FINANCING OF THE PROJECT TO THE STATE, TO THE LUMBER INDUSTRY AND TO THE PEOPLE OF NEW JERSEY, AND LIKE PROHIBITION, STILL WOULD NOT STOP VIOLATIONS.

FOURTH, THE NEW S-328 WOULD GIVE THE SUPERINTENDENT OF WEIGHTS AND MEASURES COMPLETE AND SOLE AUTHORITY TO PROMULGATE AND ISSUE HIS OWN STANDARDS FOR LUMBER AND RELATED BUILDING MATERIALS WITHOUT CONSIDERATION OF ACCEPTED NATIONAL, SPECIE OR INDUSTRY RECOGNIZED STANDARDS, IF HE CHOSE TO DO SO.

FIFTH, WE BELIEVE IT IS AGAINST THE BEST INTERESTS OF ALL CONCERNED TO GIVE THE SUPERINTENDENT OF WEIGHTS AND MEASURES A PERSONAL POLICE POWER TO ISSUE, REFUSE TO ISSUE, SUSPEND, REVOKE, LIMIT OR RENEW A LICENSE BASED ON HIS OWN OPINION OF A DEALER'S COMPETENCE OR INCOMPETENCE. A PERSON'S COMPETENCE OR INCOMPETENCE IS NO REASON TO DEPRIVE HIM OF HIS CONSTITUTIONAL RIGHTS TO FAIL OR SUCCEED IN ACCORDANCE TO HIS ABILITY, AND CERTAINLY IN EITHER CASE HAS NO BEARING THAT EITHER WOULD OR MIGHT CONTRIBUTE TO A POSSIBLE VIOLATION OF ANY REGULATION. WE DO NOT BELIEVE THAT ANY MORAL LAW, LEGAL AUTHORITY OR CONSTITUTIONAL RIGHT GIVES THE SUPERINTENDENT OF WEIGHTS AND MEASURES THIS POWER OF LIFE OR DEATH OVER ANY BUSINESSMAN IN ANY INDUSTRY UNDER THE FREE ENTERPRISE SYSTEM.

SIXTH, UNDER "DEFINITIONS" THERE ARE TWO (2) KINDS OF DEALER ----
(1) EQUIPPED DEALER, WHO IS REQUIRED TO HAVE A COMPETENT PERSON ON DUTY; (2) AN UNEQUIPPED DEALER WHO APPARENTLY DOESN'T NEED A COMPETENT PERSON ON DUTY. THERE IS NO OTHER STATUTE THAT WE KNOW OF WHICH EVEN REMOTELY GRANTS SUCH DISCRIMINATORY POWER TO ANY ADMINISTRATIVE AGENT, ANYWHERE.

SEVENTH, UNDER SECTION 2, ON PAGE 3, OF S-328, IT STATES THAT THE "SALE, SALE AND DELIVERY, ADVERTISING OR OFFERING FOR SALE NOT IN ACCORDANCE WITH THIS ACT" ARE UNLAWFUL. SINCE THERE ARE NO SPECIFIC STANDARDS OF GRADE, MEASURE OR SPECIE WRITTEN INTO THE ACT, AND THESE ITEMS SHALL BE ESTABLISHED ONLY BY THE SUPERINTENDENT AS HE SEES FIT, THIS PORTION OF THE ACT DISCRIMINATES AND WORKS AN UNDUE HARDSHIP ON ANY DEALER --- EQUIPPED OR UNEQUIPPED --- FROM ADVERTISING, SELLING OR DELIVERING LUMBER AND LUMBER PRODUCTS AND RELATED BUILDING MATERIALS WHICH HAVE NO BEARING ON CONSTRUCTION OR THE INTENT AND MEANING OF THIS ACT.

EIGHTH, ON PAGE 4, PARAGRAPH 7, OF S-328, IT STATES THAT "IN EMERGENCIES, UPON APPLICATION TO THE SUPERINTENDENT BY ANY PERSON REGULARLY LICENSED UNDER THE PROVISIONS OF THIS SECTION" MAY OBTAIN ADDITIONAL VEHICLE EMERGENCY PLATES -- UPON PAYMENT OF \$5 FOR EACH PLATE -- WHICH SHALL BE ATTACHED TO THE VEHICLE. WHEN THE EMERGENCY HAS PASSED THE "EMERGENCY" PLATES SHALL BE REMOVED AND RETURNED TO THE SUPERINTENDENT BUT, OF COURSE, NOT THE \$5. IN A REAL EMERGENCY, THERE WOULD BE LITTLE OR NO TIME TO APPLY FOR SUCH PLATES AND IF THE OFFICES OF THE SUPERINTENDENT WERE CLOSED AT THE TIME OF SUCH EMERGENCY AND A DEALER COULDN'T OBTAIN SUCH EMERGENCY PLATES, HE WOULD BE IN VIOLATION OF THE LAW, AND IF IT WERE DEEMED EXPEDIENT AT THE WHIM OF THE SUPERINTENDENT, MIGHT EVEN BE REFUSED RENEWAL OF HIS LICENSE TO DO BUSINESS UNDER THIS POORLY WRITTEN SECTION OF THE LAW.

NINTH, SECTION 10, PAGE 4, OF S-328 REQUIRES EVERY DEALER TO MAKE OUT DELIVERY TICKETS IN TRIPLICATE AND TO ACCOMPANY EACH DELIVERY WITH A DUPLICATE DELIVERY TICKET -- SERIALLY NUMBERED IN CONSECUTIVE ORDER -- AND STATING DISTINCTLY AND INDELIBLY -- THE SPECIE, QUALITY, QUANTITY, GRADE, NAME AND TYPE OF EACH SUCH LUMBER, LUMBER PRODUCTS OR RELATED BUILDING MATERIALS, TRADEMARK, NAME AND ADDRESS OF THE SELLER, THE NAME AND ADDRESS OF THE PURCHASER AND THE DATE OF DELIVERY. IT FURTHER STATES THAT ONE SUCH TICKET SHALL BE RETAINED AT THE POINT OF SALE OR PLACE FROM WHICH DELIVERY COMMENCES; THE SECOND TICKET SHALL BE DELIVERED TO THE PERSON RECEIVING SUCH LUMBER, ETC., AND THE THIRD TICKET SHALL BE RETAINED BY THE PERSON MAKING THE DELIVERY. IF THIS COMPLEX SYSTEM WERE CARRIED OUT THE WAY IT IS SPELLED OUT IN THE LAW, IT WOULD REQUIRE EVERY TRUCK DRIVER WHO DELIVERS LUMBER, ETC., TO KEEP THE "THIRD COPY" OF THE DELIVERY TICKET AT HIS HOME OR ELSEWHERE FOR A PERIOD OF 2 YEARS AS REQUIRED UNDER THIS SECTION.

TENTH, THE PROVISIONS OF S-328 TO PERMIT THE SUPERINTENDENT TO "ARREST WITHOUT FORMAL WARRANT ANYONE WHO VIOLATES THE LAW" IS ONE THING, BUT TO PERMIT ARBITRARY STOPPING OF VEHICLES IN TRANSIT AT THE WHIM OF AN INSPECTOR, OR TO DEMAND INSPECTION OF DELIVERY TICKETS AT ANY TIME WHERE THEY MUST BE ON FILE IN A DEALER'S PLACE OF BUSINESS FOR A PERIOD OF 2 YEARS, OR TO VEST THE POWER TO SEIZE AS EVIDENCE WITHOUT FORMAL WARRANT, OR TO ISSUE STOP-USE, STOP-REMOVAL, CONDEMNATION, CONFISCATION ORDERS FOR LUMBER, LUMBER PRODUCTS, OR RELATED BUILDING MATERIALS WHILE IN PROCESS OF DELIVERY, AFTER DELIVERY OR AFTER SAME HAVE BEEN INCORPORATED IN A BUILDING, IS, OR COULD BE, NOTHING SHORT OF COMPLETE AND DEMORALIZING HARASSMENT.

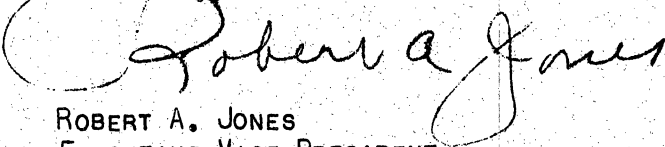
WE RESPECT THE LEADERSHIP AND DESIRE FOR CONSTANT IMPROVEMENT IN PUBLIC AND GOVERNMENT AFFAIRS WHICH HAS CHARACTERIZED THE STATE OF NEW JERSEY SINCE ITS VERY BEGINNING, AND WE ASSURE YOU THAT WE, TOO, WANT TO MAKE

EVERY EFFORT TO SEE THAT THE BEST INTERESTS OF ALL CONCERNED ARE PROPERLY, JUSTLY AND EQUITABLY SERVED. WE BELIEVE IN THIS INSTANCE, HOWEVER, THAT THE BEST WAY TO PROTECT THE PUBLIC AND INSURE THE USE OF PROPER GRADES AND SPECIES OF LUMBER, LUMBER PRODUCTS AND RELATED BUILDING MATERIALS IS THROUGH COORDINATED ACTION AND UNIFORM MODEL STATE LAWS; THE USE OF RECOGNIZED BUILDING CODES DESIGNED AND SUITABLE FOR THE AREAS AND ENVIRONMENTS THEY COVER; AND A REQUIREMENT THAT GRADE MARKING AND BRAND NAME STAMPING OF LUMBER, PLYWOOD AND LUMBER PRODUCTS BE MADE AT POINT OF ORIGIN OR MANUFACTURE.

THEREFORE, THE MIDDLE ATLANTIC LUMBERMENS ASSOCIATION RESPECTFULLY REQUEST THAT THE SENATE OF THE STATE OF NEW JERSEY VOTE AGAINST THE PASSAGE OF SENATE BILLS S-274, S-327 AND S-328, WHICH WOULD ONLY CAUSE UNDUE HARDSHIP ON RETAIL LUMBERMEN AND OTHER WORTHY BUSINESSMEN IN THE STATE AND WOULD NOT ACHIEVE THE OBJECTIVES SAID BILLS SEEK TO ACCOMPLISH.

RESPECTFULLY YOURS,

MIDDLE ATLANTIC LUMBERMENS ASSOCIATION

A handwritten signature in cursive script, reading "Robert A. Jones". The signature is written in dark ink and is positioned below the typed name of the sender.

ROBERT A. JONES
EXECUTIVE VICE PRESIDENT

RAJ:B

THE SOAP AND DETERGENT ASSOCIATION

295 MADISON AVENUE - NEW YORK, N. Y. 10017

TELEPHONE MURRAY HILL 6-3662

June 3, 1966

My name is Scott Pattison, representing the Soap and Detergent Association. This is a national organization of over 100 members, including the makers of all the well-known brands of packaged cleaning products. A number of these companies have important plants in New Jersey -- such as Lever Brothers Company, Colgate-Palmolive, Ultra Chemical -- along with members who make the chemical materials used in detergents such as Enjay Chemical, Allied Chemical, Nopco Chemical and others.

We have gone on record several times opposing S-274 and its predecessor bills. This has not been done lightly. Committees of our members have examined these bills in detail and have indicated the reasons we feel portions of the bill are likely to injure both the manufacturers and the consumers of cleaning products.

Our position is not one of opposing any and all regulation, as businesses are sometimes accused of doing. As a matter of fact, we would prefer to see the present New Jersey weights and measures law and its regulations brought into conformity with other states. After all, the prepackaged commodities our members make and sell must move out from district warehouses in a distribution pattern that cannot follow state lines. If there are differences in requirements -- or the threat of such differences -- extra costs of special packaging or labeling must fall on the New Jersey manufacturers and New Jersey customers.

There is a very simple way to achieve this uniformity. That is, by the substitution in place of the present S-274, of the basic provisions of the Model State Law on Weights and Measures and the application, under this law, of the

Model Regulations, already being applied in over 30 states including New York, Pennsylvania, Delaware and Maryland.

Let me assure you this is not a weak nor questionable base for consumer protection. It was developed by leading State Weights and Measures authorities acting together through their own National Conference on Weights and Measures, including representation of the State of New Jersey! It has been updated and improved on the basis of field experience. It does assure the customer full value so far as the weight, measure or fill of packages and the correct and legible labeling of such packages is concerned,

On the other hand, the powers given to the Director of Weights and Measures under S-274 are extended into areas which those judging this bill by its title would never suspect. The bill says: "He shall have the power to establish reasonable standards as to the quantity, quality, serviceability, fitness and suitability of commodities regulated by this act.

It is difficult for us to imagine how one would ever arrive at special New Jersey state standards of quality and suitability for the thousands of grocery products and others coming under this act. The office of the Director would require specialists in everything from tea-tasting to floor waxing. I seriously doubt that product evaluation on this broad scale was what Senator Keegan or others supporting these powers had in mind.

It seems to us that legitimate powers for the prevention of deception are conveyed in the Model Bill, without opening up the Pandora's box of bureaucratic controls over quality and suitability that are inherent in S-274.

Once the consumer is protected from fraud and deception as the Model Law would do, we believe she is well-equipped to decide on her own standards of serviceability and suitability, and that the cost of trial and error here would be far less than the tax cost she would bear to pay for policing of grocery store shelves on these points under the powers of S-274.

E. Scott Pattison, Manager
The Soap and Detergent Association

STATEMENT OF THE GLASS CONTAINER MANUFACTURERS INSTITUTE, INC.
RELATIVE TO SENATE BILL NO. 274, STATE OF NEW JERSEY, PRESENTED BY
C. EARL WAGNER, DIRECTOR OF TECHNICAL SERVICES AT A HEARING CALLED
BY THE SENATE BUSINESS AFFAIRS COMMITTEE, THE CAPITOL, JUNE 3, 1966

Mr. Chairman, Gentlemen of the Committee. The Glass Container Manufacturers Institute, whose principal offices are located at 330 Madison Avenue, New York City, is composed of 66 companies who are manufacturers of glass containers, the sealing lids used on them, and the raw materials and equipment used in their manufacture. Our members account for somewhere between 90 and 95 percent of the total U. S. output of glass containers. Our members operate eight major glass container manufacturing facilities in the state of New Jersey, and the products of virtually all of our members are to be found in the marketplaces of your state.

The members of our Institute endorse whole-heartedly the protection and assistance that effective statutes in the field of weights and measures afford to both the consumers and producers of the great variety of packaged products available today in this nation.

As producers of convenience containers we are, however, keenly aware that should the requirements of one state differ radically from its neighbor, the use of containers in inter-state commerce would be made difficult.

For this reason we have cooperated fully with the National Conference on Weights and Measures in the development of a model state law, and complementary model state regulations, which a growing number of states have found to provide adequate protection for their citizens without impeding the conduct or increasing the costs of serving the needs and desires of shoppers which recognize cost and quality more readily than state boundaries.

With these general comments as a background, we would like to reiterate our concern with five specific sections of the measure now before you which, if unchanged, would pose substantial problems for glass container manufacturers, and might conceivably hinder effective enforcement of the law. We have previously made note of these sections in letters directed to each member of the Committee, and rather than consume the valuable time of the members by repeating them here, include the pertinent references and comments in the written copy of this statement which is available for each of you.

These comments are offered in a spirit of cooperation, and with real appreciation for this opportunity to make known our views.

Page 7 51A: 1-2 Line 116

In the definition of "Measure Container," the word "device" should be deleted and the words "trade or commercial container designed or intended to be" inserted in lieu thereof.

The reason for this suggested change is that in its present form the definition includes containers and other devices which could be used as measure containers but which were not designed or intended for use as measures by the manufacturer.

Page 55 51A: 7-37 Line 6

The words "and 10 fluid ounce" should be inserted after "1/3 quart."

The reason for this suggested change is to conform this section to 51A: 7-39, Line 5, which prescribes container capacities for milk and cream.

Page 56 51A: 7-39 Lines 15A and 15B

The tolerance shown for the 1/3 quart and 10 fluid ounce capacity sizes is incorrectly shown as 0.75 fluid drams in excess or deficiency. This figure is obviously incorrect, being more in line with a reasonable tolerance on average capacities rather than individual bottle capacities as represented in line 11.

Since the tolerances for the other sizes conform to the recommendations of National Bureau of Standards Handbook 44, we believe it was intended that this tolerance provide for plus or minus 0.75 fluid drams on average capacities and the figure should be corrected to plus or minus 3.00 fluid drams on individual bottle capacities.

Page 76 51A: 8-10 Line 5

Insert after "51A: 8-7" on line 5"; provided, that nothing contained in this act shall require a manufacturer of a container not designed or intended by the manufacturer to be a measure container to obtain such approval or to mark such container as provided in section 51A: 8-10 (3) of this title.

Page 76 51A: 8-10 Lines 8 and 9

It is suggested that the capacity sizes for single service containers be deleted, since these sizes have already been deleted from the definition for "Single Service Container" on Page 9 of the bill.



C. E. Wagner

STATEMENT OF THE NEW JERSEY LP-GAS ASSOCIATION
WITH RESPECT TO NEW JERSEY SENATE BILL NO. 274

Public Hearing - June 3, 1966

Senate Business Affairs Committee

Mr. Chairman:

My name is Moylan E. Brown. I am Executive Secretary of the New Jersey LP-Gas Association and I appear here on behalf of that Association, in opposition to Senate Bill No. 274.

The New Jersey LP-Gas Association represents more than 85% of that industry in the State of New Jersey. Its members are the product producers, equipment and appliance manufacturers, distributors and retailers of LP-gas. In this regard the members of this Association are responsible employers of people in every county of the state. The majority of our members are in fact small, local businessmen who will, to a man, be severely injured if this Bill is passed.

Senate Bill 274 is represented to be a complete revision of Title 51, which is the codified Weights & Measures Statutes in the State of New Jersey. The proposed Bill truly is far more than a revision and up-dating of our Weights & Measures Statutes. This material has been subject to review and discussion since 1957, when a bill very similar to Senate 274 was first prepared by the New Jersey Weights & Measures Association. It was submitted to the Legislature in 1961, as Assembly Bill No. 597. Since then it has been introduced as Senate Bill 252, Assembly Bill 631 and now Senate Bill 274. Although over the years there have been a few changes in these bills, today's bill is, in most respects, the same piece of legislation that has been introduced periodically since 1961. There are still many features of this Bill which are matters of basic disagreement between industry and the Division of Weights & Measures. In addition, there are several items in the

Bill which would appear to open up a pandora's box so far as giving the Division of Weights & Measures carte blanche authority to regulate all commerce and trade within the State of New Jersey.

There are some general sections of this Bill about which we feel so very strongly that we feel compelled to comment on them in addition to those sections which deal specifically with liquefied petroleum gases. We think it is only fair to state that with respect to the compressed gases section, this Bill appears to be technically quite accurate and, as such, contains much good regulation. This does not, however, mean that the same material would necessarily be good legislation, as the art of measurement changes extremely rapidly in today's advancing technology. As a result, we believe it is only proper to first make a statement of policy with respect to this proposed legislation; and secondly, if in its wisdom the Legislature seeks to enact this Bill, to make specific recommendations with respect to the most glaring problems created by the current text of this Bill.

In considering Senate 274, it must first be recognized that this is a minor revenue producing bill insofar as county and local Weights & Measures operations are concerned, in that this Bill provides for licensing weighmasters, sellers of liquid and solid fuels, soil amendments, poultry dealers, dealers in lumber and lumber products, etc. The licensing fees are generally nominal, and the Bill provides for some of these funds to be turned back to county and municipal agencies, with those funds dedicated to the Weights & Measures function in those jurisdictions.

So far as we can determine, the philosophy of licensing in this Bill stems from the old coal act where, to correct a specific situation, the state entered into a licensing requirement for coal trucks and coal dealers because of the amount of bootleg coal coming into New Jersey by truck from Pennsylvania. This situation

has never applied to any of the other industries which would be regulated by this Act, and does not even apply to the coal industry today. Such a taxing provision accomplishes nothing other than placing another financial burden upon an already tax weary business community. It does not, in any way, enhance the accuracy of measurement in sales, or guarantee that an individual will not improperly represent a commodity which he is vending.

In addition, Senate 274 would empower the Director of the State Division of Standards, Weights & Measures to examine and test commodities, to determine that they comply with standards, and would also give him the power to establish standards as to the quality, serviceability, fitness and suitability of commodities. These provisions would appear to indicate that the State Director would have the authority to write his own specifications for any commodity that would be placed upon the markets of the State of New Jersey. Perhaps this is a bit ridiculous, but it would seem to us that, by administrative order, he could arbitrarily establish that no apples could be placed on sale unless they had a minimum diameter of 4-1/2", or that automobiles having a wheel base of less than 32", or more than 56", would be prohibited from sale. We also note with grave concern that the Director is authorized, among other things, to promulgate regulations governing the possession, advertising, methods of sale, or exposure for sale, of services in addition to commodities. This again is very broad extension of the duties of this department and we seriously question if the placing of this much power in the hands of any one state official is in the public interest. To a very great extent Senate Bill 274 does in fact, without so naming it, create a New Jersey Bureau of Standards. Assuming this to be the case, what is going to happen to the tax burden of the citizens of this state if this legislation were implemented and the Director of the Division seriously set out to promulgate these standards and, in so doing, found it necessary to establish all of the laboratory facilities necessary to develop

standards? We fear that we would see a departmental budget that would go right through the ceiling.

This proposed legislation is also essentially a set of technical regulations with respect to the method of sale of many commodities. The art of measurement, as a science, has made tremendous strides in the past decade. In many areas we can expect this advance to continue by leaps and bounds in the next few years. By imposing legislative restraint on the manner and method of sale, it can only serve to hamstring this progress in New Jersey.

Conversely, in a climate of reasonable regulation, a business community has the assist of the greater flexibility of administrative regulation, and the regulation can more nearly keep pace with advancing technology.

It would be far better for the Legislature of New Jersey to establish appropriate guide lines through legislation which would establish the Division, define the scope of its duty, and provide for the promulgation of reasonable regulations by that Division in an orderly fashion, after public hearings. In this respect, it would be most appropriate for the Legislature to consider the Model Weights & Measures Law, which is promulgated by the National Conference of Weights & Measures Officials. This model law was formulated by an association of state and local Weights & Measures Officials, including many from New Jersey. It has been adopted by many of the states and has worked very well.

In some other areas of this Bill the Legislature would be entering into the vendor's business by telling him the precise manner in which he must maintain his records and conduct his affairs. It does not appear to us that it is the prerogative of the Division of Weights & Measures to dictate to an individual businessman that he must buy serially numbered delivery tickets, or that he must file them in a

particular order, so long as he can produce the records desired by the Division at such times as they may have just cause to inspect these records.

It is also noteworthy that among the tremendous powers given to the Director in this legislation, he can, by a stroke of the pen, remove a man from business by revoking his license, yet there is no provision in the legislation for the handling of grievances by a man subject to a division order -- this is not right.

As to our specific recommendations, we are enumerating a few of our major objections to this Bill in the event that the Legislature determines that it will pass a bill of this type. We intentionally do not cover all objections, as we did not feel that we could impose upon the committee for that long a period of time today.

The specific recommendations are as follows:

Page 17 - 51A:2-14(f) - Line 44 - Add after "purposes" ", except when such vehicle is transporting commodities which, because of their perishable or dangerous nature, should not be left unattended or detained for more than the shortest possible time."

Reason: Present wording would conflict with other state laws which preclude the leaving of vehicles transporting dangerous articles unattended on the highways. At the same time, many perishable commodities could be destroyed by the arbitrary action of the Weights & Measures official, even though such action was unnecessary.

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Page 17 - 51A:2-16 - Lines 5 through 10 - Delete the entire paragraph beginning at the sentence on Line 5 which begins with "He shall have" and replace it with the following: "He shall have and keep general supervision over all weights and measures activities in this state. He shall have the power to examine and test all measuring devices used in trade, to determine that they comply with the standards. He shall have the power to establish reasonable standards as to the weight, count and measurement of commodities, as well as permissible deviations from such standards."

Reason: This paragraph, as now written, would give the Director authority to establish standards for all commodities sold, particularly with respect to their quality, serviceability, fitness and suitability. These are areas of control which certainly do not fall within the jurisdiction of the Weights & Measures; i.e. the Department of Agriculture has standards for many commodities which are sold. Certainly there is no reason why the Division should be given such broad and unlimited powers over commerce.

Page 19 - 51A:2-21B(1) - Line 14 - Delete the words "or services".

Reason: It does not appear to us that the Director should have the authority to regulate the sale of services. The sale of services, i.e. how much should a doctor charge for a house call or an operation, which is certainly services, is not something that is within the scope of this division and certainly should be removed.

Page 20 - 51A:2-21C - Lines 31 through 39 to be deleted, with the following substituted: "Unless a longer time is provided in the content of the regulations, rules or orders, such rules, regulations and orders promulgated hereunder shall be

effective 30 days after the date of their adoption following a public hearing. All regulations promulgated hereunder shall be adopted only after such public hearing thereon shall be such as are reasonably necessary for the protection of the public, and shall be in substantial conformity with generally accepted and applicable standards concerning the same subject matter."

Reason: Present wording is obscure, the "unless provided in the content of the regulations, rules or order such regulation... shall be effective 30 days from the date of their promulgation" could permit the Director to make them immediately effective.

In addition, the public hearing should not be optional with the Director, and then only on "the written request of two or more interested parties", but instead should be mandatory and before the regulations are made effective. Public hearings are not particularly desirable in themselves, but the effect of the requirement is that the Director must get industry approval as the regulations are written and before the hearing -- or face objections at the hearing.

Page 21 - 51A:2-22(e) Delete the word "incorrect" on line 14.

Reason: The way this section is now written, the Director may arbitrarily revoke a license for any innocently incorrect act on the part of a dealer or his employee.

Page 21 - 51A:2-22(f) Lines 16 through 18 should be completely deleted.

Reason: Here we are dealing with advertising and related business operations other than weighing, measuring or counting. Some of the areas covered by this section are beyond the scope of

competence of the Division of Weights & Measures to determine the skill, knowledge or business of a seller.

Page 21 - 51A:2-22(h) - Lines 21 and 22 should be deleted in their entirety.

Reason: It would appear that this is a bill collecting section, in that our license to sell could be revoked because we failed to promptly pay a bill which was in honest dispute. This section, again, has no place in legislation of this type.

Page 27 - 51A:3-5 - Lines 5 through 9 - Delete the following sentences: "In the absence of conclusive evidence to the contrary mere possession of such a device or devices in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying, selling or barter is commonly carried on shall constitute proof of intent to use in trade or commerce."

Reason: We seriously suspect that this item is unconstitutional, in that it certainly is not reasonable to make it a crime for us to possess a meter which is out of calibration. If we take such a device and knowingly put it into trade, then we think there is reason for penalty, but the mere possession of a device which has varied from the standard certainly should not be an offense.

Page 29 - 51A:3-10 Lines 1 through 8 - Delete this entire section.

Reason: The mere fact that a device goes out of calibration and perhaps, by failure of the device, goes out in excessive amounts certainly is not necessarily justification for doubling or tripling penalties.

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Page 69 - 51A:7-73 Lines 2 and 8. For the wording "cubic feet or liquid volume" substitute "vapor volume in cubic feet, or equivalent unit; or by liquid volume."

Reason: The wording "cubic feet" of itself does not denote vapor volume, although that probably is intended. (Note - this same usage exists at many other points in the sections covering compressed gases and liquefied petroleum gas).

Page 71 - 51A:7-79 Lines 11 through 13. Delete "delivery tickets shall be serially numbered and the serial number of the cylinder or container shall be legibly marked on such delivery ticket."

Reason: This is an entry of the state into individual businesses by unnecessary regulation and requiring serially numbered delivery tickets. In addition, one must consider that the sale by a hardware store of a 1 lb. LP-gas torch cylinder falls under this act. The same condition applies to Prepto torch and Lumin candle fuel tanks. All of these containers hold LP-gas.

Page 72 - 51A:7-79 Line 14. Delete "numerically" following "shall be". Lines 15 and 16. Delete "unless otherwise allowed by the Director" following "included" and before "for a period". Lines 18 through 23. Delete this entire paragraph starting with "The requirement" and ending with "identification symbol".

Reason: The Division of Weights & Measures might find such information convenient occasionally. However, to obtain it in the manner suggested would entail adding substantially to paper work and to clerical labor. In many cases vendors might be required to completely alter their bookkeeping procedures. The Division

should be asked what it hopes to accomplish by this requirement, so that if there is justification for such information, some more economical method of obtaining it can be developed.

In addition, three new sections should be added to the statutes to provide the appeal procedure on orders of the Director and other means of relief, as well as limiting the effect of the statutes upon rights or remedies currently existing in the Revised Statutes or in common law:

51A:2-21F Any person aggrieved by a ruling, action or order of the Director under this Act, upon application made within 15 days after written notice thereof, shall be entitled to a hearing before the Director who shall, within 30 days thereafter, hold a hearing of which at least 15 day's written notice shall be given to all interested parties. Within 30 days after such hearing, the Director shall issue an appropriate order modifying, approving or disapproving his prior ruling, action or order. A copy of such order shall be served upon all interested parties. Pending the determination by the Director and upon application therefor, the Director may stay the operation of such ruling, action or order upon such terms and conditions as he may deem proper.

51A:2-21G Relief from any final order, ruling, or action of the Director made pursuant to this Act may be sought by application to the Appellate Division of the Superior Court of New Jersey.

51A:10-4(b) This Act shall not, in any way, enlarge or diminish any right or remedy otherwise existent pursuant to the Revised Statutes of New Jersey or at common law, or increase the burden of care ordinarily imposed by the common law of the State upon those within its jurisdiction.

STATEMENT
of the
NEW JERSEY PETROLEUM COUNCIL
before the
NEW JERSEY SENATE BUSINESS AFFAIRS COMMITTEE
Concerning the
PROPOSED LEGISLATION S-274
Assembly Chamber
State House, Trenton
June 3, 1966

My name is Leonard H. Ruppert. I am the Executive Director of the New Jersey Petroleum Council, an organization representing large and small oil companies operating in the State of New Jersey, with offices at 1305 Parkside Avenue, Trenton.

Since we recognize that there are many groups wishing to testify today concerning this complex legislation, including groups associated with my own industry, I shall attempt to keep my remarks brief and not duplicate detailed testimony planned by others. My remarks are in reference to Senate Bill 274.

Over the years, it is my understanding that the petroleum industry and the Division of Weights and Measures have maintained excellent relations. We understand and appreciate the vital role played by weights and measures officials in the everyday conduct of our business and earnestly hope that we can do our part to continue the present cooperative atmosphere between weights and measures officials and the petroleum industry. Our joint goal is, and will continue to be, accurate measurement of petroleum products - all the way from refinery to consumer.

However, we do believe that provisions contained in Senate Bill 274 would in many cases grant unjustified and excessive powers to the Weights and Measures Division and that this legislation in its present form should not be enacted.

We feel that many provisions contained in Article II of this proposed legislation and in the definitions section are not sufficiently definitive or grant powers that are much too broad. These objectionable provisions include the proposed definitions for "mislabeled" or "misbranded", and "misrepresentation" and broad authority granted the director by Section 51A:2-21 covering regulation and rule making.

We endorse generally the objections raised by the New Jersey Chamber of Commerce in this regard and particularly want to go on record as supporting specific objections presented today by the New Jersey LP-Gas industry's representatives and those testifying on behalf of the bulk tank truck carriers group. These recommendations come from experts long associated with their fields and are the result of many meetings dating back several years in reference to proposed New Jersey weights and measures legislation.

We, too, support the Model State Law on Weights and Measures, as adopted by the National Conference on Weights and Measures, and would respectively suggest that this Legislature, in its efforts to revise present statutes, attempt to conform to this model law as much as possible. It is now in operation in many other states and has proved to be effective and workable. Incorporation of its features would do much to further achieve the aim of the National Bureau of Standards to secure uniformity in weights and measures laws and methods of inspection.

If adoption of the model law is found to be unfeasible, we would strongly suggest that the legislation of concern today, Senate 274, undergo extensive amendment before further action is taken by this Legislature. One specific suggestion we would offer is that the language of proposed Chapter 9, Section 51A:9-30 be amended to permit private inspectors to calibrate and seal the markers.

The change would eliminate the necessity for the State to set up and operate stations for the testing and calibration of tank vehicles. The manufacturers of tank truck equipment provide calibration charts with the units. It would be no great problem for them to provide official calibrations and seals. There are also persons who specialize in calibrating tank vehicles. They are located in various areas and have personnel and facilities available to provide this service. There would be no obligation for the State to undertake any compensation arrangements with the inspectors. The payment for the inspections would be the sole responsibility of the owner of the bulk tank vehicle. The certification as to the calibration should be

good for the life of the tank vehicle except when the vehicle is damaged or altered so as to change the carrying capacity. In regard to these suggestions, we would be pleased to work with the Committee to arrive at specific amendatory language should the Committee decide this to be desirable.

We feel, also, that provisions of Chapter 9 requiring that the municipality of the place of business be displayed on each vehicle would create an unnecessary burden to industries such as our own where vehicles are frequently transferred from one place to another. Also, that requirements calling for additional licenses for each vehicle and plant would create considerable additional and unnecessary effort by clerical personnel. Vehicles and plants are presently inspected by weights and measures personnel and the additional licensing appears to be unwarranted for the proper operation of the liquid fuel business.

In addition, our industry objects to several of the provisions of Senate 274 covering delivery tickets and would recommend to this Committee that the bill be revised to conform with the language on delivery tickets to be found in Section 38 of the Model Law adopted by the National Conference on Weights and Measures, a copy of which is submitted with this statement.

As indicated previously, detailed testimony on these and several other points of concern to the petroleum and related industries are covered more extensively in other testimony being presented at this hearing. Again, we do not wish to take the time of this Committee by further duplicating that testimony but do wish to be put on record as supporting it. Further, we stand ready to consult with the Department and this Committee at any time to assist them in their attempts to arrive at a workable solution to any weights and measures problems which may arise in connection with our industry, including the preparation of desired legislation.

Thank you very much for your time and attention.

NATIONAL FOREST PRODUCTS ASSOCIATION

Please address reply to:
New York Office
101 PARK AVENUE
NEW YORK, NEW YORK 10017
Area Code 212. 889-5710

General Offices:

1619 Massachusetts Avenue, N.W.
Washington, D. C. 20036
Area Code 202. 332-1050

May 31, 1966

Honorable H. Donald Bigley
Chairman, Senate Business Affairs Committee
State House
Trenton, New Jersey

Re: Senate Bills No. 328 and No. 274

Dear Senator Bigley:

Due to previous commitments, it is impossible to attend the public hearing on the above referenced Senate bills. We, therefore, sincerely request that the following comments be made a part of the record of these hearings. Thank you very much.

Article VI of Senate Bill No. 274 is similar to S. 328, both dealing with lumber, lumber products and related building materials. As a national federation of 18 major lumber and wood products manufacturers associations, we prefer not to comment on the licensing provisions of the bills.

However, we must strongly object to the provisions in both bills requiring the Commission of Weights and Measures to set standards for all lumber and lumber products. There are some 100 different species of commercially usable trees grown in the United States and Canada. From these trees many thousands of building materials are manufactured. Commercial standards are now used and enforced to a portion of these products, but many more are proprietary materials or specialty items for which no standard exists or for which no standard is needed. As an example; many wood worked products are individual items, custom made for architects, engineers and builders. Others, such as floor bridging, door casings and trim and kitchen cabinets are manufactured by individual dealers, usually on a performance criteria or on an exclusive design.

On the basis of numbers alone, the task of writing a specification or standard for each product would be almost impossible task. It is also certain that the additional expense of conforming to specific standards for each product would have a great effect on the ultimate price paid by the New Jersey consumer.

Honorable H. Donald Bigley
Re: Senate Bills No. 328 and No. 274 -- page two

May 31, 1966

We do not deny, that some abuses have occurred in the sale of building materials in the past. The extent and importance of these practices have, we believe, been greatly exaggerated. During the past two years the lumber industry has actively engaged in a program to require grade marking of all structural lumber and has made great progress in correcting other abuses. No other state has a law similar to the one proposed. Yet in every instance where abuses have occurred it has been possible to correct the situation without promulgating standards for each product.

We have discussed this problem with Mr. Christie. I am sure he will propose modifying amendments. (See attached) These changes, with proper administration will make the proposal more acceptable. At the very least, we urge their incorporation although we firmly believe that the standards promulgating responsibility more properly belongs to qualified experts in the lumber industry.

Thank you very much for your consideration. We trust that you will act in the best interest of the citizens of New Jersey and delete all standard development provisions of Senate Bills No. S274 and S328.

Sincerely,



John Ed Ryan, P.E.

District Manager - Building Code Services
National Forest Products Association
American Walnut Manufacturers Association
American Wood Preservers Institute
Appalachian Hardwood Manufacturers, Inc.
California Redwood Association
Canadian Wood Council
Fine Hardwood Association
Hardwood Dimensions Manufacturers Assoc.
Hardwood Plywood Manufacturers Assoc.
Maple Flooring Manufacturers Association
National Oak Flooring Mfrs. Association
Northeastern Lumber Mfrs. Assn., Inc.
Northern Hardwood & Pine Mfrs. Assn.
Red Cedar Shingle & Handsplit Shake Bureau
Southern Cypress Mfrs. Association
Southern Hardwood Lumber Mfrs. Association
Western Wood Products Association

HER:vm

ccs: R. F. Catchpole, NFPA-Wash. DC
C. Mees, N. Y. and Suburban Lumber Dealers Association, Inc.
J. J. Mulrooney, National-American Wholesale Lumber Assoc.
R. Jones, Middle Atlantic Lumber Association
R. Derow, N. J. Lumber and Building Material Dealers Assoc.
S. H. Christie, Jr. Deputy State Superintendent, Trenton, N. J.
Senator Thomas Keegan, State House Trenton, N. J.

VITAL AMENDMENTS TO SENATE BILL NO. 328

Acceptable, but not endorsed by lumber manufacturing associations.

p. 4 - Section 9 - line 4

Insert between words "Superintendent" and "after" the words

"Where necessary to implement the provisions of this act."

p. 5 - Section 12 - line 5

Add the following words to end of sentence

Where such deviation misrepresents the lumber, lumber products or related building materials or misleads a purchaser of the same.

Note:- Similar amendments needed in applicable sections of SB No. 274.

JAMES S. BUTLER, INC.

Phone: 469-4222

330 Lincoln Boulevard
Middlesex, N. J. 08846

SERVICE STATION INSTALLATION & MAINTENANCE
SERVICE STATION EQUIPMENT
INDUSTRIAL COMPRESSORS
INDUSTRIAL PIPING

June 2, 1966

Senator A. Donald Bigley, Chairman
Business Affairs Committee
State House
Trenton, New Jersey

Re: Bill No. 274

Dear Senator Bigley:

I have just been advised of and invited to attend the hearing on the abovementioned Bill No. 274, on Friday, June 3rd. Unfortunately, due to the press of business and the shortness of the notice, I shall be unable to be there, but trust that this will represent me.

I am licensed by the State of New Jersey, Department of Law and Public Safety, Division of Weights and Measures, and so are the mechanics whom I employ. I have been in the pump and tank business for fifteen years. Also, I am a member of the Petroleum Equipment Contractors Association.

As such, I wish to express the opinion that I am in favor of Bill No. 274, since I feel that anyone who works on Hazardous liquids, such as used in service stations, should be aware of the pitfalls and hazards to be avoided in such work. In order to obtain a license, one must demonstrate that he is qualified to do so.

I feel it is in the public interest to have only licensed men handle pump and tank work, since that protects the public from the dangers to be encountered, as well as guaranteeing honest measurement of the products purchased by the public.

I would appreciate it if you would make known this opinion.

Due to the lack of time, I have taken the liberty of enclosing copies of this letter for your committee, which I ask that you pass on to them.

Thank you for your consideration in this matter.

Sincerely,

James S. Butler

James S. Butler, President
James S. Butler, Inc.

cc: Senators: Feldman
Musto
Goldman
Keegan
Farley
Hillary

STATE OF: *New Jersey* } SS:
COUNTY OF: *Middlesex* }
Executed this *2nd* day of *June* 1966.
Subscribed and sworn before me
this *2nd* day of *June* 19*66*.

E. Pat Butler

E. PAT BUTLER

NOTARY PUBLIC OF NEW JERSEY

MY COMMISSION EXPIRES OCT. 4 1974

Via Special Delivery

June 8th, 1966

Secretary of the Senate
State House
Trenton, New Jersey

Dear Mr. Secretary:

Please be advised that Senator Bigley has authorized the enclosed statement to become a part of the public records of the hearing held last Friday, June 3, 1966, on Senate Bill 274.

My name is John Cramer and I am the Legislative Chairman of the N. J. Tank Truck Carriers Inc. A N.J. Trade Association composed of 26 companies who operate as Common-Tank-Truck Carriers in the state of New Jersey.

At a recent meeting, the members decided to make known to you their requirements and needs as they related to the above legislation. The position of the members of this organization in whose behalf this letter is being written is that the statute, as it involves the delivery of liquid fuels, imposes certain unnecessary licensing fees and impractical requirements which would apply to motor common carriers who deliver liquid fuel.

We unanimously support the adoption of the Model State Law on weights and measures of the U.S. Dept. of Commerce in place of Senate Bill 274. In the event this is not acceptable, we respectfully request the following amendments to Senate Bill 274.

As Common Carriers we feel that we should be exempt from this act because the responsibility for the product should remain with the shipper or purchaser who require our services. If this cannot be considered than we also submit the following:

Article II. Fuel
51A: 9 - 13

Change: Add at the end of line 69 on page 84 as new paragraph: "The provisions of this section shall not apply to common carriers delivering liquid fuel for compensation and who are not engaged in the business of selling and delivering."

Reason: This provision regarding licensing is intended to cover dealers who sell or who sell and deliver liquid fuel, common carriers who deliver liquid fuel, transport various petroleum products and chemicals, and should not be so burdened for a single commodity group.

51A: 9 -30

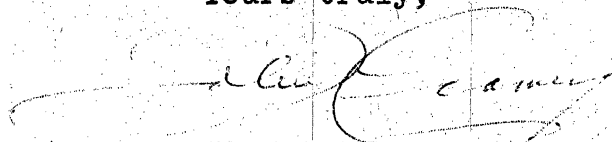
Change: Add new paragraph at end of line 12 on page 93: "Tank Trailers of common carriers delivering liquid fuel for compensation may be calibrated, tested and sealed by the manufacturer, or by private concerns engaged in such business who are approved by the Director to issue a Certificate after the approval, testing, calibration and sealing of the measuring device. Any Tank trailer in operation on the effective date of this law which was previously calibrated, tested and sealed by the manufacturer or an approved concern, may be utilized without further testing if the shape of the tank trailer has not been changed, modified or altered since its initial testing, calibration and sealing of the marker by the approved concern or manufacturer. No such tank trailer put into operation before or after the effective date of this law shall be required to be approved, tested, calibrated and the measuring device sealed at any later time unless the shape of the tank trailer has been changed, modified or altered."

Reason: Manufacturers provide calibration charts with tank trailers. There are commercial concerns in New Jersey and elsewhere with facilities to do tank trailer calibration and who now do this for carriers. The State of New Jersey has no facilities to do this testing. It is believed that literally thousands of tank trailers operate wholly within New Jersey and in interstate commerce into New Jersey, ranging from 5,000 to 8,000 gallons in capacity. To retest all

such units would be an almost impossible job if the present bill became law. Section 51A: 2 - 36 requires annual inspection. The volume of such work would require substantial facilities and personnel not available to the States, cause common carriers substantial loss to utilization of their tank trailers if the State was not able to inspect within the time required, and would serve no useful purpose, because all common carrier deliveries are on bills of lading made out by the shipper and accepted by the consignee as proof of measurement or weight.

Thanking you for your time and consideration on the above matter.

Yours truly,



JOHN CRAMER, Legislative Chairman
N.J. Tank Truck Carriers Inc.

STATEMENT OF
ARTHUR SANDERS, EXECUTIVE SECRETARY
SCALE MANUFACTURERS ASSOCIATION, INC.
WITH RESPECT TO
NEW JERSEY SENATE BILL NO. 274
WEIGHTS AND MEASURES

The Scale Manufacturers Association, Inc. represents some 80% to 85% of the volume of weighing scales produced and sold in the United States. We have five members with headquarters and manufacturing plants located in New Jersey. Including management personnel, design engineers, plant employees, sales, service and clerical people, the members of the Association have a minimum of 1,500 employees who live and work in New Jersey.

To summarize generally, in our considered opinion S-274 is far too extensive in detail; would delegate excessive authority to the State Division of Weights and Measures; is unclear as to which of the wide variety of weights and measures devices may be regulated; authorizes the exercise of possible unreasonable restraints over the right to work and the right to do business; and empowers the Director of the State Division to regulate buying and selling in the state far beyond the needed accuracy controls for quantity deliveries.

We think the matter of revising the New Jersey law could be much simplified by starting with the Model Law prepared and recommended by the National Conference on Weights and Measures and the National Bureau of Standards and making such additions, deletions and revisions as are needed for special situations existing in New Jersey.

The Model Law is kept up to date from year to year and, of course, represents the current thinking of the National Conference, organized on a nationwide basis and sponsored by the National Bureau of Standards. For over 60 years the National Conference has been the forum through which the nation's weights and measures officials and the Bureau have spearheaded the effort for uniformity of laws, regulations and procedure, looking toward uniform weights and measures among all the states.

We very strongly urge that the Model Law be followed in New Jersey in the interest of uniformity among the states. Actually, compared with most other nations, the United States has an awkward system of weights and measures, with the 50 states enacting their own laws and promulgating their own regulations. Most nations have one law and one set of regulations - established by a central government. However, our system is made workable since most of the states do essentially follow the recommendations of the National Conference on Weights and Measures and, thus, we have been able to avoid centralized laws and enforcement.

Expanded Jurisdiction over Weights and Measures Devices - Senate Bill No. 274, March 14, 1966, would greatly expand jurisdiction over weights and measures devices, such as scales, by covering non-commercial or non-trade scales, as well as trade types.

In Section 51A:1-2, at lines 224-231, Pages 10 and 11, the definition of "weight," "measure," and "device" is broad enough to cover any weighing and measuring device, whether designed and used for buying and selling or not.

The matter of confining jurisdiction to "trade and commerce" devices becomes particularly important with respect to scales since there are hundreds of models and many thousands of strictly non-commercial scales sold each year. For example, Section 51A:8-7 requires type approval of all devices in advance of sale or lease, without limitation to commercial devices.

To cite another example of what jurisdiction over non-trade scales can mean, in Sections 51A:8-7, 51A:9-55 and 51A:9-56, the local weights and measures officials are to receive notices from parties to a sale, lease, delivery or installation of a device; and from the licensed repairman, of installations and repairs of any device.

Notices concerning non-trade scales will run to many thousands every year in New Jersey. This requirement will be a very substantial burden on the scale industry and its field offices, on local sales and repair agencies, and also on local weights and measures offices, without offsetting gains or advantages and without improved weights and measures.

The weights and measures laws of New Jersey and of all states have confined themselves to the regulation of commercial weighing and measuring devices - those designed and used for buying and selling transactions. Basically, the only reason for weights and measures laws at all is to govern quantity determinations in buying and selling transactions. Where buying and selling are not involved, there should be no government controls.

51A:7-2 (Pages 38, 39 and 40) - Sale and Delivery of Commodities Over 100 Pounds - This Section requires that sales and deliveries of commodities exceeding 100 pounds shall be weighed and accompanied by a weight ticket.

We think this Section is not sound W & M law by imposing very close and, in many instances, unnecessary controls and supervision over almost all commodity weights over 100 pounds. If enacted, it would be a serious and costly burden on trade and commerce.

The Section also permits the Director to issue regulations which could require for any commodity that all deliveries over 100 pounds be accompanied by weighmaster certificates. This would also be burdensome and would require the issuance of many weighmaster certificates which are really unnecessary. It is doubtful that it will provide for better weights.

This is a revolutionary concept of weights and measures. No other state has found the need for weight tickets on commodities. It will require time-consuming and burdensome delivery ticket issuance and record keeping of duplicate delivery tickets for at least a year.

For the most part, weight certificate controls have been exercised for commodities where either the purchasers were not in a position to protect themselves by having scales to checkweigh receipts, such as retail deliveries of solid fuels; or where there was much public trading in commodities such as grain, cotton, etc., and weight frauds had been uncovered.

We know of no state or local law which imposes sweeping state weighing controls over all commodities, with a few limited exceptions, such as solid fuels. We do not think such controls are essential in any jurisdiction. We know it will impose time-consuming and costly burdens on commerce, agriculture and industry in the state, which can only serve to increase costs and commodity prices. We think such a requirement is a distinct reflection on the honesty and fair dealing of business people in New Jersey.

We think such a requirement should not be imposed, except in particular situations where it is definitely shown to be necessary to protect buyers and sellers, and that it cannot be handled under other provisions of the law, such as prosecutions for shortweight deliveries, for incorrect scales, etc.

We think a delivery certificate for the mere counting of net weight bags is totally unnecessary. Certainly there is no problem about numbers of bags delivered, and the certificated count serves no useful purpose.

This Section discriminates against sales of bulk commodities of over 100 pounds by weight in that it requires them to be weighed and a certificate issued, but does not require such for:

- a) Sales of less than 100 pounds
- b) Railroad car and cargo vessel deliveries
- c) Deliveries to receiving points and processing plants
- d) Loose solid materials sold by cubic measure
- e) Commodities sold by liquid measure - in drums, etc.
- f) Commodities which are bagged or packaged in that such only need to be counted by the weighmaster
- g) Unless it is fully applied to interstate commerce, it is a discrimination against intrastate commerce.

51A:8-7 (Pages 75 and 76) - Type Approval of Devices - The second paragraph of Section 8-7 requires that a sample of a new or altered weights and measures device be submitted for inspection and type approval by the Director, for conformance with the applicable standards and requirements.

Since the first paragraph of this same Section requires that all commercial devices conform to the standards, we think the type approval requirement is an unnecessary burden on device manufacturers and actually accomplishes very little.

The Division and officials in New Jersey have the power to condemn any device which does not conform to applicable requirements, or fails to perform correctly within the tolerance allowances. That power should be sufficient to enforce the specifications and tolerances. Any manufacturer who tries to market a device not in conformance would be very seriously risking his valued goodwill and, in fact, his entire business.

Only a very few other states require type approval of devices, and most of them readily admit they are not sufficiently well qualified from a technical and engineering standpoint to make effective examinations of the more sophisticated devices.

51A:8-2 (Page 73) - Testing Scales Less Frequently Than Once A Year - If the testing of scales is needed at all, they should be tested at least once a year. In fact, we think most scales should be tested at least twice a year. This requirement should be mandatory.

The first sentence of Section 8-2 requires testing at least once a year, but "less frequently in accordance with a schedule issued by the Director."

This is a loophole in the weights and measures law through which a great portion of the scale testing could escape, regardless of the good intentions of the present State Director and his staff. It provides for rule by man and not by law. Who can say what political and other pressures may be brought to bear to exclude the testing of certain categories of scales and measures.

We think also that it is a tactical mistake of weights and measures to have such a provision, as it allows for pressures from budget makers to eliminate certain testing to avoid the expense of the work and reduce the budget. Weights and measures should be strengthening its work and not curtailing it.

This brings up the question: What areas are being considered for testing of less than once a year? It would certainly seem that if this escape provision is to be considered, there should be some rather positive statements of what will be excepted.

New Jersey requires extremely accurate commercial scales. It is a punishable offense to use a false or incorrect scale or to give incorrect weights. Impartial official testing is essential for the protection of the public and business. Scale people believe official testing at least once a year is essential to good weights and measures.

We call your attention to Section 51A:2-29, where it is required that the State Division test at least once a year all scales owned by the state for checking receipts or disbursement of supplies. The public and commerce and industry should be entitled to protection equal to the state.

51A:8-7 (Pages 75 and 76) - Reports of Sales and Installations - This Section (paragraph 3) requires notice to the local official within 72 hours of sale and installation by "any person who is responsible for the final stages of introducing a device into the channels of trade or service . . ."

We are not sure who is the person responsible for giving notice as the "person responsible for the final stages of introducing a device." It could be several different people. Multiple notices should not be required. One notice should be sufficient. It will avoid the waste of clerical time to the sellers and installers and unnecessary paper work at the local weights and measures office.

Why not stipulate that the seller or his agent making the sale or installation shall be responsible for making the notice to the local weights and measures office?

51A:8-7 (Pages 75 and 76) - Marking of Unapproved Devices - The fifth paragraph of this Section requires that devices not approved after submission for type approval for commercial use must be conspicuously marked: "This device must be approved for commercial use."

We object to this requirement as being unnecessary. The state already has stringent requirements for the testing of devices used commercially. Why not enforce the powers granted and condemn any device in commercial use which has not been approved? It is obvious from the law itself that the device "must be approved for commercial use."

51A:9-47 (Page 96) - Dealer's License - (1) It is not clear in the Section, but we think it should be clearly stated, that one dealer's license is all that is required of one person or company for the entire state, regardless of the number of agencies or local places of business which he may have. Regardless of the number of branches, the licensed person or concern is solely responsible under the law. Nothing is gained by requiring several licenses, and it would be a costly burden.

(2) The second paragraph of Section 9-47 requires a "dealer's license" of any person who employs a repairman to service devices. In that case, we think the employer is not a "dealer" but a service agency and should not be required to have a "dealer's license."

51A:9-50 (Page 96) - Qualifications for Repairman's License - We recommend that instead of a system of licensing by examination there be established a system of registration of servicemen based on stated qualifications and competent references, as has been used successfully by many states. Experience elsewhere has shown that stated qualifications and references can establish competence equally as well as examinations, and at much less expense to the state.

We recommend also that registrations be approved for responsible repair agencies operating several establishments in the state, with the agency responsible for the work of all employees servicing devices, and without the necessity of registration or licensing of individual servicemen.

We recommend also that no fees be charged to registrants, either agencies or servicemen, or for dealer's licenses.

Section 51A:9 -49 (lines 1-5) requires the licensing (with examination) of every person who installs or repairs new, used, rebuilt or condemned devices. Under definitions (51A:1-2, lines 81-84), "installation" is described as the physical locating of commercial devices, including initial adjustments so as to make the device weigh correctly.

Scale salesmen who deliver many types of portable scales do "physically locate" the scales and do make simple adjustments to make the device weigh accurately, such as balance adjustments, etc. Such adjustments and physical locating of the scale do not require the services of a trained and qualified scale repairman. Yet, Section 51A:9-49 does require that no person can perform such an "installation" without having first stood an examination, obtained a license and paid a \$10 fee each year as a licensed scale repairman.

There is no need at all for licensing salesmen as repairmen to "physically locate" portable type commercial scales in delivering them to purchasers and to make the minor adjustments needed at that time. This Section of the bill should be made clear in this respect.

Conclusion - To conclude, we think Senate No. 274 goes far beyond the requirements essential to a good weights and measures law and that it exercises unneeded regulation of trade and commerce. We urge that the committee endorse the adoption of the Model Law recommended by the National Conference on Weights and Measures and the National Bureau of Standards.

AMERICAN LUMBER STANDARDS COMMITTEE

WASHINGTON, D. C. 20037

A. J. AGATHER, Chairman
E. M. MCGOWIN, Vice Chairman
P. J. HANRAHAN, Treasurer
J. H. CARR, JR., Secretary

April 1, 1965

Office of Secretary
2126 P STREET, NORTHWEST

Telephone ADams 4-7878

(This list supersedes list dated July 15, 1964)

AGENCIES CERTIFIED BY BOARD OF REVIEW AMERICAN LUMBER STANDARDS COMMITTEE and Facsimiles of their Typical Gradenarks

(Certification by the Board of Review is limited to the inspection and grading of untreated softwood lumber in yard, structural and shop grades. It does not include the grading or inspection of any treated material, poles, piles, cross-arms, car lumber, ties, hardwoods, etc., which are not within the scope of American Lumber Standards.)

Name and Address


Date of Certification

1. PACIFIC LUMBER INSPECTION BUREAU, INC.
White-Henry-Stuart Building
Seattle, Washington 98101

11/22/54

Approval as an inspection agency including mill supervisory service under the rules of West Coast Lumber Inspection Bureau, Western Wood Products Association and Redwood Inspection Service.

 W 25
CONST
DOUG. FIR

 W 25
ONE STAR
REDWOOD


Note: Grading done under WCLIB rules unless WWPB rules indicated in the grade mark. Redwood indicates grading under RIS rules.

2. SOUTHERN PINE INSPECTION BUREAU
National Bank of Commerce Building
New Orleans, Louisiana 70150

11/22/54

Approval of rules they publish and as an inspection agency including mill supervisory service under these rules.

 No. 1 (7)

 No. 2 (7)

Note: Grading done under SPIB rules which they publish.

3. WEST COAST LUMBER INSPECTION BUREAU
1410 Southwest Morrison Street
Portland, Oregon 97205

3/4/55

Approval of rules they publish and as an inspection agency including mill supervisory service under these rules, the rules of the Redwood Inspection Service and the Western Wood Products Association.



Note: Grading done under WCLIB rules which they publish unless WWPA rules indicated in grade mark. Redwood indicates grading under RIS rules.

4. REDWOOD INSPECTION SERVICE
617 Montgomery Street
San Francisco, California 94111

(Supersedes California Redwood Association 11/22/61)
Original Certification 12/13/55

Approval of rules they publish and as an inspection agency including mill supervisory service under these rules, the rules of the West Coast Lumber Inspection Bureau and the Western Wood Products Association.

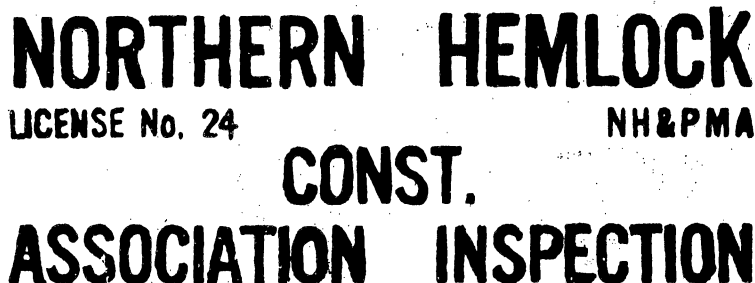


Note: Grading done under RIS rules which they publish unless WCLIB or WWPA rules indicated in grade mark.

5. NORTHERN HARDWOOD AND PINE MANUFACTURERS ASSOCIATION
Suite 207, Northern Building
Green Bay, Wisconsin

5/1/56

Approval of grading rules they publish and as an inspection agency including mill supervisory service under these rules.



Note: Grading done under NH&PMA rules which they publish.

6. WESTERN WOOD PRODUCTS ASSOCIATION
700 Yeon Building
Portland, Oregon 97204

(Supersedes Western Pine
Association 5/7/64)
Original Certification 5/1/56

Approval of grading rules they publish and as an inspection agency including mill supervisory service under these rules and the rules of the West Coast Lumber Inspection Bureau.



Note: Grading done under WPA rules which they publish unless WCLIB rules indicated in grade mark. WPA grade mark acceptable until completely replaced by new WWP symbol.

7. McCALLUM INSPECTION COMPANY
1808 Hayward Avenue
Norfolk, Virginia 23519

2/5/57

Approval as an grading agency under the rules of West Coast Lumber Inspection Bureau and the Southern Pine Inspection Bureau and for Douglas Fir, Larch and Engelmann Spruce only under the rules of the Western Wood Products Association.



Note: Grading done under rules indicated in grade mark. Southern Pine graded under SPIB rules.

8. CALIFORNIA LUMBER INSPECTION SERVICE
1190 Lincoln Avenue
San Jose, California 95125

11/29/57
(Revised 11/13/59)

Approval of rules on Monterey Pine that they publish and as an inspection agency including mill supervisory service under these rules and the rules of the West Coast Lumber Inspection Bureau, Western Wood Products Association and Redwood Inspection Service.

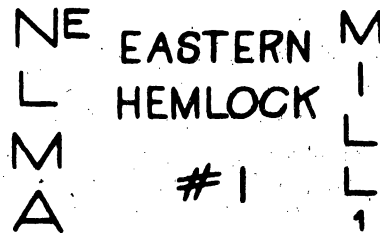
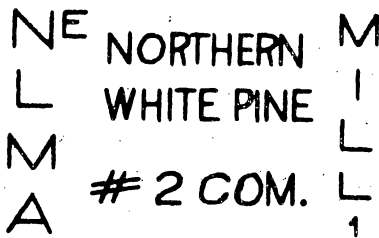


Note: Grading done under rules indicated in grade mark unless involving Monterey Pine which is graded under the rules they publish.

9. NORTHEASTERN LUMBER MANUFACTURERS ASSOCIATION, INC.
271 Madison Avenue
New York 16, New York

11/29/57

Approval of rules they publish and as an inspection agency under these rules and the Eastern Hemlock rules of the Northern Hardwood and Pine Manufacturers Association.

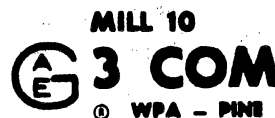


Note: Grading done under NELMA rules which they publish. Eastern Hemlock graded under NH&PMA rules.

10. A. E. GREEN LUMBER INSPECTION SERVICE
861 Willamette, Room 201
Eugene, Oregon

7/23/58
(Revised 11/13/59)

Approval as an inspection agency including mill supervisory service under the rules of West Coast Lumber Inspection Bureau and Western Wood Products Association and for studs only under the rules of the Redwood Inspection Service.



Note: Grading done under rules indicated in grade mark. Redwood studs under RIS rules.

11. GENERAL TESTING AND INSPECTION AGENCY, INC.
2019 North Kilpatrick
Portland, Oregon 97217

5/13/59

Approval as an inspection agency under the rules of West Coast Lumber Inspection Bureau, Western Wood Products Association and Redwood Inspection Service.

GENERAL TEST. & INSP. 21

FIR SEL


WCLIB RULES 15

Note: Grading done under rules indicated in grade mark. Redwood graded under RIS rules.

12. BODE INSPECTION, INC.
451 A Avenue
Lake Oswego, Oregon

5/13/59

Approval as an inspection agency under the rules of West Coast Lumber Inspection Bureau, the Western Wood Products Association and the Redwood Inspection Service.

5  WCLB RULES
UTIL.
W C H E M

Note: Grading done under rules indicated in grade mark. Redwood graded under RIS rules.

13. A. W. WILLIAMS INSPECTION CO., INC.
208 Virginia Street
Mobile, Alabama

8/7/59

Approval as an inspection agency under the rules of the Southern Pine Inspection Bureau, West Coast Lumber Inspection Bureau and the Western Wood Products Association.

A. W. WILLIAMS INSP. CO. 46

No. 2

SPIB RULES SYP

H-24
 STAND. 

DOUG. FIR W.C.L.I.B. RULES
HICKOX INSPECTION

Note: Grading done under rules indicated in grade mark. Southern Pine graded under SPIB rules.

14. FROEHLING AND ROBERTSON, INC.
814 West Cary Street
Richmond, Virginia

11/24/59

Approval as an inspection agency under the rules of the Southern
Pine Inspection Bureau.



Note: Grading done under SPIB rules.

15. SOUTHWESTERN LABORATORIES, INC.
Post Office Box 2671
Houston, Texas 77001

3/1/60

Approval as an inspection agency under the rules of the Southern
Pine Inspection Bureau and the West Coast Lumber Inspection Bureau.

SOUTHWESTERN LABS.
CONSTR - WCLB RULES
D. FIR - 19

Note: Grading done under WCLIB rules except Southern Pine graded
under SPIB rules.

OFFICERS OF THE ASSOCIATION

President

W. J. RUSSELL
Martin Century Farms, Inc.
Lansdale, Pa.

Treasurer

W. J. POTTS
Potts Ice Cream Co.
Philadelphia, Pa.

Vice-President

W. R. WALKER
Walker Creamery Products Co.
Warren, Pa.

Secretary

NORMAN H. THOMAS
Joe Lowe Corp.
New York, N. Y.

Executive Vice-President

DAN A. MACKIN
Association Offices
405 Lexington Avenue
New York 17, N. Y.

BOARD OF DIRECTORS

Terms Expire 1964:

J. L. GARNER, Meadow Gold Dairies, Inc., Pittsburgh, Pa.
J. F. GARBER, JR., Penn Dairies, Inc., Lancaster, Pa.
E. MEYERS, Sealtest Foods Div., National Dairy Products Corp.,
Philadelphia, Pa.
W. J. POTTS, Potts Ice Cream Co., Philadelphia, Pa.
S. N. ROSEBERRY, Pe-Ro Ice Cream Co., State College, Pa.

Terms Expire 1965:

J. J. ERNST, Pennco, Inc., Glenside, Pa.
A. C. KUNKEL, Breyer Ice Cream Div., National Dairy Products Corp.,
Philadelphia, Pa.
N. H. THOMAS, Joe Lowe Corp., New York, N. Y.
J. R. TREXLER, Penn-Cress Ice Cream Co., Cresson, Pa.
R. C. WAGNER, The Borden Co., Pittsburgh, Pa.

Terms Expire 1966:

R. J. HARBISON, III, Harbisons Dairies, Philadelphia, Pa.
JOHN S. LANNING, Berwick Creamery, Berwick, Pa.
H. B. McCLOSKEY, Abbotts Dairies, Philadelphia, Pa.
H. D. NEUMAN, Borden's Ice Cream Co., York, Pa.
PAUL UTT, Borden's Ice Cream Co., Wilmington, Del.
WILLIAM WALKER, Walker Creamery Products Co., Warren, Pa.

Terms Expire 1967:

N. M. CLARK, Sanitary Farms Dairy, Inc., Erie, Pa.
E. H. GOLDSTEIN, Golden Quality Ice Cream Co., Plymouth, Pa.
CHAS. GRAVER, Sealtest Foods Div., National Dairy Products Corp.,
Philadelphia, Pa.
J. O. GREEN, Green's Dairy, Inc., York, Pa.
A. J. ROBINSON, Foremost Dairies, Philadelphia, Pa.
T. H. SAPPPIE, Greenville Dairy Co., Greenville, Pa.
E. E. WILLIAMS, Pioneer Ice Cream Div., The Borden Co., Paterson, N. J.

Terms Expire 1968:

F. BRUCE BALDWIN, JR., Abbotts Dairies, Philadelphia, Pa.
L. G. GALLIKER, Galliker Dairy Co., Johnstown, Pa.
H. H. MULHOLLAND, JR., Mulholland-Harper Co., Denton, Md.
W. J. RUSSELL, Martin Century Farms, Inc., Lansdale, Pa.
R. O. TARDIFF, Breyer Ice Cream Div., National Dairy Products Corp.,
Philadelphia, Pa.

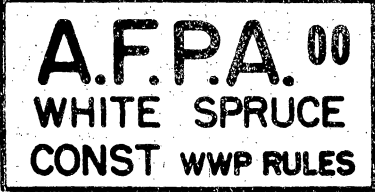
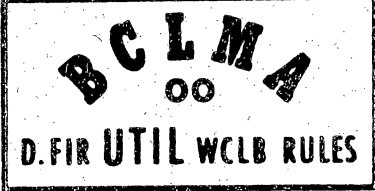

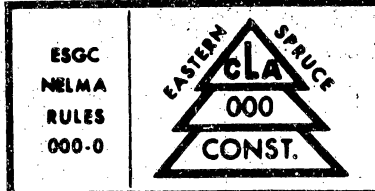

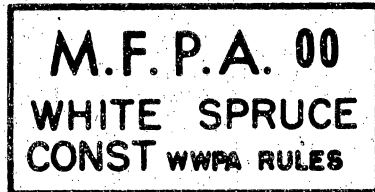
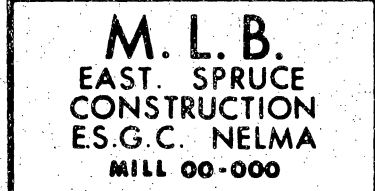
Honorary Directors

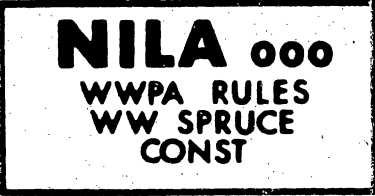
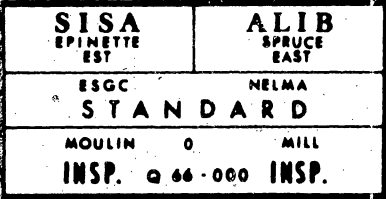
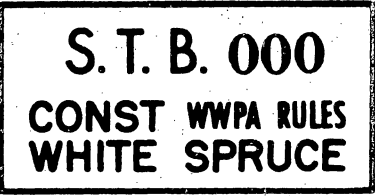

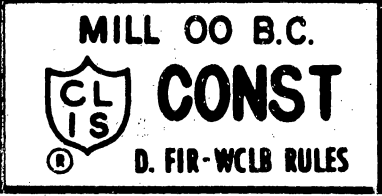

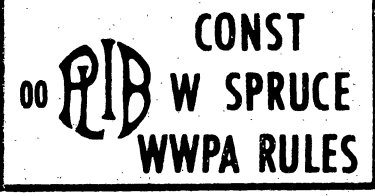
RIDGWAY KENNEDY, JR., Philadelphia, Pa.
JAMES H. MEEHAN, Philadelphia, Pa.
CARL M. NOETZEL, Wilmington, Del.

APPENDIX B

FACSIMILES OF GRADE MARKS USED BY CANADIAN LUMBER
MANUFACTURING ASSOCIATIONS AND AGENCIES AUTHORIZED
TO GRADE MARK LUMBER IN CANADA.

All stamps will show the information indicated on the facsimiles but there may be some minor variations in the arrangement of this information on individual stamps.

FACSIMILE OF GRADE MARK I. LUMBER MANUFACTURING ASSOCIATIONS		ASSOCIATION	MAIN SPECIES	U.S. GRADING RULES USED
		Alberta Forest Products Association, 10428 - 123rd Street, Edmonton, Alberta.	White Spruce Lodgepole Pine	W.W.P.A.
		British Columbia Lumber Manufacturers Association, 1477 Render St., Vancouver 1, B.C.	Douglas Fir West Coast Hemlock Western Red Cedar Sitka Spruce Idaho White Pine	W.C.L.I.B. and W.W.P.A.
		Cariboo Lumber Manufacturers Association, Box 863, Williams Lake, B.C.	Douglas Fir White Spruce Lodgepole Pine	W.C.L.I.B. and W.W.P.A.
		Canadian Lumbermen's Association, 27 Goulbourn Ave., Ottawa 2, Ont.	White Spruce (eastern) Eastern Hemlock White Pine Norway (Red) Pine	N.E.L.M.A. (E.S.G.C.- Canadian Equivalent)
		Interior Lumber Manufacturers Association, 304 Martin Street, Penticton, B.C.	Douglas Fir West Coast Hemlock Western Red Cedar White Spruce (Engelmann) Idaho White Pine Lodgepole Pine Ponderosa Pine Larch White Fir	W.C.L.I.B. and W.W.P.A.
		Manitoba Forest Products Association, 88 Elm Park Rd., St. Vital, Winnipeg 8, Man.	White Spruce Lodgepole Pine	W.W.P.A.
		Maritime Lumber Bureau, P.O. Box 459, Amherst, N.S.	White Spruce (eastern) Eastern Hemlock	N.E.L.M.A. (E.S.G.C.- Canadian Equivalent)

FACSIMILE OF GRADE MARK I. LUMBER MANUFACTURING ASSOCIATIONS		ASSOCIATION	MAIN SPECIES	U.S. GRADING RULES USED
		Northern Interior Lumbermen's Association, 144 George Street, Prince George, B.C.	Douglas Fir West Coast Hemlock Western Red Cedar Sitka Spruce White Spruce Idaho White Pine Lodgepole Pine	W.C.L.I.B. and W.W.P.A.
		Quebec Lumber Manufacturers Association, P.O. Box 657, 5 du Parloir Street, Quebec 4, P.Q.	White Spruce (eastern) Eastern Hemlock White Pine Norway (Red) Pine	N.E.L.M.A. (E.S.G.C.- Canadian Equivalent)
		Saskatchewan Timber Board, Prince Albert, Sask.	White Spruce Lodgepole Pine	W.W.P.A.
II. INDEPENDENT GRADING AGENCIES				
		A. E. Green Lumber Inspection Service, Eugene, Ore.	Douglas Fir West Coast Hemlock Western Red Cedar White Spruce (Engelmann) Idaho White Pine Lodgepole Pine Ponderosa Pine Larch	W.C.L.I.B. and W.W.P.A.
		California Lumber Inspection Service, San Jose, 25, California, (Branch Office: Kamloops, B.C.).	Douglas Fir West Coast Hemlock Western Red Cedar White Spruce (Engelmann) Idaho White Pine Lodgepole Pine Ponderosa Pine Larch	W.C.L.I.B. and W.W.P.A.
		Macdonald and Macdonald Limited, 125 East 4th Avenue, Vancouver 10, B.C.	Douglas Fir West Coast Hemlock Western Red Cedar Sitka Spruce White and Engelmann Spruce Pines	W.C.L.I.B. and W.W.P.A.
		Pacific Lumber Inspection Bureau, White-Henry-Stuart Building, Seattle 1, Wash. B.C. Division Office 1477 W. Pender St., Vancouver 1, B.C.	Douglas Fir West Coast Hemlock Western Red Cedar Sitka Spruce White and Engelmann Spruce Pines	W.C.L.I.B. and W.W.P.A.

Association of Ice Cream Manufacturers of Pennsylvania, New Jersey & Delaware, Inc.

ORGANIZED
• 1907 •

OFFICE OF THE EXEC. VICE PRES. • 405 LEXINGTON AVE., NEW YORK 17, N. Y. • YUkon 6-6697

STATEMENT PRESENTED ON BEHALF OF ASSOCIATION OF ICE CREAM
MANUFACTURERS OF PENNSYLVANIA, NEW JERSEY & DELAWARE, INC.
AT PUBLIC HEARING HELD JUNE 3, 1966 at 1:00 P.M. IN THE
ASSEMBLY CHAMBERS OF THE STATE HOUSE IN TRENTON re

NEW JERSEY SENATE BILL S-274 - 1966 REVISION OF WEIGHTS
AND MEASURES LAW FOR THE STATE OF NEW JERSEY

This statement is presented on behalf of the Association of Ice Cream Manufacturers of Pennsylvania, New Jersey & Delaware, Inc. and the individual members of the Association. I will submit a list of the membership of the Association separately.

It is estimated that, taken together, the members of the Association manufacture, handle or distribute over 75% of the frozen desserts sold in the State of New Jersey.

My name is Fred E. Uetz and I am Assistant to the Divisional Vice President of Production, Pioneer Ice Cream, a Division of the Borden Company in New York City. I have been associated with various aspects of the frozen desserts industry and the Dairy Industry for 34 years and have been active in former legislative hearings in the State of New Jersey and elsewhere, including a hearing held before the Department of Health of the State of New Jersey on December 7, 1964.

I have reviewed the proposed Weights and Measures Law presently known as Senate Bill No. 274 as it pertains to frozen desserts.

In my opinion, based on my experience in the Industry, and in the opinion of other members of the Association, Senate Bill No. 274 is outdated even as to current requirements now embodied in the Food and Drug Section of the Statutes of New Jersey State Department of Health and the Federal Food and Drug Definitions & Standards for Frozen Desserts which govern products moving in interstate commerce.

My comments refer particularly to Sections 51A:7-11 to 51A:7-16 of the Bill. In the first place, the definition of Frozen Desserts does not include the articles presently defined as frozen desserts under laws pertaining to the Department of Health in the State of New Jersey. For example, miscellaneous ice cream and frozen confections and bisque tortoni are omitted from the bill.

Secondly, an inappropriate weight per gallon is established for all frozen desserts. Various weights per gallon are established under various standards of Identity under the Department of Health but all frozen desserts should not be 4-5/10 standards - some should be subject to a higher standard. Ultimately the matter of standards should be left to the Department of Health as is provided in current legislation.

Section 51A:7-14, if included in the ultimate version of a Weights and Measures Bill should contain language conforming to the National Labelling Committee recommendation for plant coding. However, it is not necessary to set forth this argument in full here because plant coding is, in fact, approved by the Department of Health under the laws of New Jersey and plant coding should remain so approved without the necessity of further approval by the Director of Weights and Measures. It would be incongruous to have a particular plant

code approved by one agency and disapproved by another. Consequently one should control and in this case it is submitted that the coding system presently in force should control.

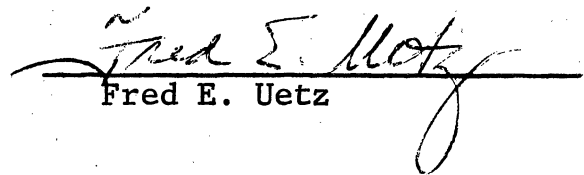
With respect to 51A:7-16 it is unclear to us why labelling requirements are included in a proposed Weights and Measures Bill. Certainly any labelling requirements adopted by the State of New Jersey should be in conformance with labelling requirements recommended by the Federal Food and Drugs and the Bureau of Standards. This uniform policy has been adopted by the New Jersey Department of Health in accordance with current legislation. No definition and inconsistent labelling should be provided for in a Weights and Measures Bill. Consequently the restrictions as to size of lettering and other labelling requirements in the present bill should be deleted in their entirety.

Finally, and most importantly, it is the position of the Frozen Desserts Industry that frozen desserts should continue to be sold as current customer usage dictates and not by net weights. Consequently the provisions that certain frozen desserts in molded forms must be sold by weight only is inappropriate and should be deleted.

This concludes the presentation of the Association of Ice Cream Manufacturers of Pennsylvania, New Jersey & Delaware, Inc. at this Hearing.

The Association will be happy to confer with Weights and Measures officials in order to make constructive solutions for the

re-wording of language but thought it appropriate at the instant hearing to outline some of the reasons why the current proposals, insofar as they pertain to frozen desserts, are inappropriate in today's industry.


Fred E. Uetz

NEW JERSEY LAUNDRY AND CLEANING INSTITUTE

24 LYONS AVENUE
NEWARK, N. J. 07112



TELEPHONE
WAVERLY 6-4000

June 2, 1966

Senator A. Donald Bigley, Chairman
Senate Business Affairs Committee
Assembly Chamber
State House
Trenton, New Jersey

Dear Senator Bigley:

In the name of the New Jersey Laundry and Cleaning Institute, state trade association for the professional laundry and dry-cleaning industry in New Jersey, we wish to submit for the consideration of your Committee the below recommendation on proposed weights and measures legislation.

As background, let us report that we have, through the Chairman of our industry's Weights and Measures Committee, Mr. Lambert Petzinger of the Little Falls Laundry, Little Falls, New Jersey, and our association's legal counsel, Mr. John H. Yauch, Sr., Yauch and Fagan, Newark, New Jersey, been in contact with Mr. Samuel H. Christie, Jr., Acting State Superintendent, Division of Weights and Measures, on several occasions over the past several years on proposed changes as they would affect our industry. Their suggestions have been made, and filed with Mr. Christie.

To enable our industry to live with practical, realistic regulations, and for your favorable consideration, we submit as new wording for Section 5 1 A:7-36 - "LAUNDRY" the following:

"Delivery tickets; marking; alteration prohibited. Each delivery of laundry, which is charged for on the basis of weight, shall be accompanied by a delivery ticket, which shall have indelibly marked, perforated, stamped or impressed thereon, the name and address of the laundry establishment, the net avoirdupois weight of the laundry, determined prior to washing, the amount of the total charges. The basis on which the total charges are computed shall be maintained in the possession of

route salesmen servicing customers and kept on file at each place of business of laundries and, on request, made available for the information of its customers and a copy thereof filed with the State Director. Such ticket shall also bear the true name and address of the customer, except if the customer be a transient.

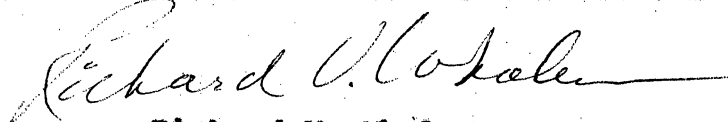
"Such delivery tickets shall in all cases be made out in duplicate, or a record thereof kept as part of the office records of said laundry establishment, together with the basis on which the total charges were determined, for a period of 60 days and shall be open to inspection by any weights and measures official within that time."

I believe that such legislation will serve the purpose of providing customers of laundry service and representatives of the State Director with definite means to exactly determine the basis on which the customers are being charged for such service, and at the same time, will constitute practical procedure which the laundry industry may readily comply with.

We appreciate the opportunity to file this statement, and thank you for your consideration.

Very truly yours,

NEW JERSEY LAUNDRY AND CLEANING INSTITUTE



Richard V. Whalen

Executive Secretary

H. J. HEINZ COMPANY
PITTSBURGH 30, PENNSYLVANIA

D. W. LEEPER, MANAGER
FOOD REGULATION ADMINISTRATION

May 17, 1966

To: Senator A. Donald Bigley
Senator Matthew Feldman
Senator William V. Musto
Senator Maclyn S. Goldman
Senator Frank S. Parley
Senator Thomas J. Hillery
Senator Joseph M. Keegan

Gentlemen:

The purpose of this letter is to convey to you our reactions concerning New Jersey Bill No. S. 274 which is an Act to establish standard weights and measures.

Mr. Peter Dorn of the New Jersey State Chamber of Commerce has written to Mr. Keegan, under date of April 13, a letter which in our opinion very clearly reflects the concern of most of the business community regarding that Act. We should like to endorse his letter in full.

However, since his letter is written from the standpoint of the general business community we thought you might be interested to have the reaction of a national food distributor who has a factory in New Jersey and who distributes very widely in that State.

As is Mr. Dorn, we are deeply troubled by the wide scope of authority that is vested in the Director. The granting of authority is so often an open end grant that the effect of the language is to give authority far beyond the essential authority required to effectively operate weights and measures control. We understand that this bill has been under development for a number of years. It would appear that in the long development of the language of the bill, the enforcement people have endeavored in all sincerity to provide authority to meet every contingency with which they might be faced. However, when this very sincere effort on their part is read from the standpoint of the public which is about to be regulated, the authority granted is frightening in the extreme. It does not represent government of the people, by the people, and for the people in the American tradition but rather represents authority which, if applied as authorized, would constitute dictatorship over broad areas of business activity.

We invite you to put yourselves in the position of a national food manufacturer bearing in mind that as a national manufacturer and distributor, packaging and labeling practices and recipe formulations must meet the requirements of all of the 50 states as well as those of the Federal government. Bear in mind also that reputable manufacturers and distributors have everything to gain from vigorous enforcement of sound Weights and Measures laws, since we, as well as consumers, are adversely affected by unethical practices and deceptions in weights and measures matters.

From this position, then, would you re-examine certain aspects of S. 274 as they combine to grant authority?

AUTHORITY TO STANDARDIZE CONTAINERS

In Section 1-2, page 9, line 178 a "single service container" is defined as meaning "any device so designed as to be used only once as the sole means of determining the quantity of commodity or which is so marked as to indicate that it is so designed as to be used as the sole measure of the contents thereof on the basis of liquid measure, and to serve as the container for the delivery of the commodity." Note that this language by the use of the word "or" creates a definition which includes any can or bottle which might be employed in distribution of pre-packaged food products.

Let us then move to page 76, Section 8-10 which indicates (1) that all single service measure containers must be approved by the Director, (2) shall be in specific capacities of 1 gill, 1/2 pint, 10 fluid ounces, 1 pint, 1 quart, 1/2 gallon, 1 gallon.

We believe that these paragraphs were intended to describe such things as milk bottles, ice cream containers, etc., yet the language of the Act would prohibit, for example, the common 4 1/2 ounce fruit juice can or the familiar 10-1/2 ounce soup can. It would also require that every food container be approved by the Director.

In the same connection may we refer you to page 25, Section 2-34 entitled "Establish Containers for Farm Products". This paragraph is very obviously intended for raw agricultural products but note the following language:

"The Director may in co-operation with the State Department of Agriculture from time to time establish and promulgate standards for containers for agricultural or horticultural products, fresh or salt water food products, and products designed for food purposes manufactured or prepared principally from any agricultural or horticultural products." We submit that the underlined portion of the last quotation extends to the Director the authority to standardize all containers for all food products.

Here again we believe that the present administrators, in endeavoring to achieve full authority to enforce in the areas of farm product containers, have devised language which, possible unintentionally, but nevertheless very definitely, extends their standardizing authority to all packaged foods. We believe that no one person, or no one small group, is capable of planning the package needs for all of the 8,000 or more food items currently being provided to meet the needs of all of the citizens of New Jersey, of all economic levels, of all age groups, and of all family sizes. Furthermore, regardless of his wisdom with respect to his own State, is it economically sound to give the Director of any state the authority to independently standardize packages without regard for the practices of the 49 other states? If this authority were granted to each of the 50 state directors and if it were exercised by each, the confusion in our economy would be incredible.

AUTHORITY TO REGULATE WITH REFERENCE TO THE QUALITY, SERVICABILITY, FITNESS, AND SUITABILITY OF FOODS

Here we refer you to page 17, Section 2-16, lines 7 through 11 referring to the general powers of the Director, from which we quote:

"He shall have the power to examine and test commodities to determine that they comply with standards. He shall have the power to establish reasonable standards as to the quantity, quality, servicability, fitness and suitability of commodities regulated by this act."

We suggest that you substitute in the above the word "foods" for the word "commodity", making the last lines read "-----He shall have the power to establish reasonable standards as to the quantity, quality, servicability, fitness, and suitability of foods -----".

I think it is first pertinent to point out that some of the authorities requested have already been otherwise assigned under the new Jersey Food and Drug legislation.

We can not believe that it is seriously intended that the Director of Weights and Measures should have authority to rule on the nutritional properties or the flavor or the dietary values of foods. Here we have a third example of "open end" regulatory authority. Quite possibly the drafter of this language was thinking primarily about such things as counter scales or about the specific commodities identified in Article 2 of Chapter 7. Such language might be justified for those purposes. However, we firmly feel that the use of language that extends this authority to all foods is definitely contrary to the welfare of the citizens of New Jersey.

As a parallel to this we would refer you to page 15, Section 2-21, lines 18 through 21B. This paragraph grants to the Director specific regulation and rule making power to "(3) establishing permissive variations, tolerances, or exemptions for commodities in Chapter 7, Commercial Standards, and Chapter 9, Licensing Acts" and "(4) establishing reasonable variations for foods and other commodities in package form including reasonable standards of fill therefore and shall make exemptions as to small packages."

Referring now to (3) above, it grants authority to regulate with reference to commodities in Chapter 7. Article 2 of Chapter 7 has a long list of commodities for which statutory definitions are established. However, Article 1 of Chapter 7 embraces all commodities in package form including foods in package form. Undoubtedly the drafter of 2-21-B-4 had in mind variations of quantity of fill of packages, but not wishing to encounter a situation where there might be a problem of enforcement, he expanded the language to authorize the establishment of "reasonable variations for foods in package form." Again we ask: Does this mean variations of nutrition, of flavor, or of dietary sufficiency?

These above authorities are particularly frightening in view of the laboratory facilities and personnel qualifications there are mentioned in other parts of the act. On page 18, Section 2-20 the Director is empowered to establish and maintain laboratories "for the examination and testing in the fulfillment of these duties as set forth in Section 2-18 and 2-19. Sections 2-18 and 2-19 refer respectively to services to non-commercial functions within the state and to the fees granted for such services. Elsewhere in the Act mention is made of the standard weights and standard measures that shall be employed by the Director and by the Inspectors. But no where is any mention made of equipment adequate to evaluate the quality, servicability, fitness and suitability of foods.

Furthermore, there is no provision for adequate development in training of personnel for said services. Sections 2-4 and 2-7 call for skill in the field of "standards of weights and measures" and provide that the position of Deputy Director shall be filled by promotional examination from among the classified employees. In Section 2-17 on page 17 the Director is authorized to employ specialists or experts on a temporary basis but apparently such temporary "experts" would not be eligible for promotion within the department. In other words, we have the situation where authority is granted to control the qualities and properties of foods where there is neither the equipment or personnel available to perform the authorized duties. This would mean that the Director would either operate on basis of personal opinion or would depend on temporarily employed advisers. Obviously neither situation is desirable.

Indeed, even if the laboratory facilities were available, and if the personnel were qualified, we would seriously question the wisdom of having such authority vested at the state level. If such authority was vested in all of the 50 state Directors, and if they all acted as authorized, again, as with package standardization, the economic results would be chaotic.

ARBITRARY AUTHORITY TO REGULATE

In reaching for authority to cover all contingencies, the drafters of the language of this legislation were frequently repetitive in spelling out the authority granted. We have quoted instances of repetition above with respect to foods. A similar situation exists with reference to the relationship between the word "law" and the word "rule". In Section 1-2, lines 92 to 94 and in Sections 2-14, lines 48 to 50 they state that any rule promulgated under this legislation has the force and effect of "law". We ask you to assume the position of a food supplier and to examine the "law making" authority under which you are being asked to operate and the method by which these "laws" are arrived at.

Section 2-21 (C) page 20 provides that the Director may promulgate rules (laws) effective 30 days from date. Interested parties may "submit" objections and if 2 or more mutually agree they may "request" a hearing. Copies of the regulations (laws) shall be made available to the public on request. Note that there are no mandatory hearings in advance of issuing regulations (laws) Note that he is only obliged to give copies of the regulations (laws) to affected parties on the basis of their request. Consider that such rules (laws) can apply to quality, serviceability, fitness, and suitability and that they may apply to simply "possession" or to the "method of sale" or to "exposure for sale" (including advertising). Also that they can refer to the size of package that you have employed for any number of years; and that under the laws of multiple violation, a violation on 2 successive days is a multiple violation and 2 violations in different places on the same day is a multiple violation. Consider further that under "laws" that the Director passes by regulation any inspector can (Section 2-14) condemn and confiscate shipments of your foods. We submit to you Gentlemen of the Committee that this is not the kind of law-making that the citizens of New Jersey deserve. Consumer rights must be protected and deceptive practices must be terminated, yet consumer protection and presence of deception are not defined as necessary premises for making regulations (laws) and note further that while the regulated persons may protest, the Director is under no obligation whatsoever to heed or be influenced by their protest. Again we say, that in reaching for authority to apprehend the criminal, the authors of this language have requested authority which if exercised would do irreparable damage to the business community, to the economy of the state, and ultimately to the freedom of its citizens.

AUTHORITY TO INVESTIGATE PRIVATE RECORDS

In Section 2-24 on page 21 the Director has the following power:

"The Director shall have the power to issue subpoenas, to compel production of any pertinent records, books or documents, or the attendance of witnesses in any matter pertaining to his duties and shall have the power to administer oaths in taking testimony -----."

Note in the preceding that the power to subpoena books, records and documents is not limited to investigation of alleged law violation. Records, books, and documents can be required for purposes of establishing standards of quantity, quality, servcability, fitness and suitability of any commodity; for establishing specifications, tolerances and allowable deviations for containers, for establishing "variations," "tolerances" or "exceptions" for commodities for establishing "variations" for foods and other commodities in package form. Indeed, it is difficult to imagine what area of private business records, books, or documents he might not be able to demand under the above scope of investigative authority. We do not question that the Director needs authority and police power to enforce law and to detect violation. We seriously question the need for such wide unlimited authority to pry into private records, books, or documents as is implied in Section 2-24 as that section relates to other language of the bill.

DISCRIMINATORY EXEMPTIONS FOR FOOD PACKAGES

In Chapter 7, paragraph 7-1 regulations describe the terms in which the net quantity of packages of commodities shall be expressed. The federal law and the laws of the great majority of the states use language very similar to that in lines 1 through 17 of S. 274. However, S. 274 deviates seriously in lines 18 through 20 by inserting in line 18 the words "other than foods in package form." This represents a curious situation. All of the states and the federal government recognize that under certain situations food in package form should be labeled in accordance with general consumer usage. New Jersey by this insertion in line 18 would say that the same could apply to all other commodities but not to foods.

As food manufacturers we strongly protest that we should be required to abandon the terms which are in general consumer usage for describing the net contents of packages of foods. We further object to a situation that would oblige us to have a special label for foods distributed in New Jersey versus the same foods distributed in all other states.

SUMMARY

We have given many hours of thought to the manner in which the language of S. 274 could be modified to provide the authority needed by the Director without infringing unduly upon the rights of the citizens of the state. The difficulty that presents itself is that in most of the situations we have pointed out, the granting of certain authority appears repetitively in two or even three different places in the text, and in differing language. The task results in an attempt to re-write parts of Chapters 1, 2, 7, and 8, simply from the food standpoint. We would not venture to guess what modification might be required from the standpoint of other commodities.

Furthermore, there is no provision for adequate development in training of personnel for said services. Sections 2-4 and 2-7 call for skill in the field of "standards of weights and measures" and provide that the position of Deputy Director shall be filled by promotional examination from among the classified employees. In Section 2-17 on page 17 the Director is authorized to employ specialists or experts on a temporary basis but apparently such temporary "experts" would not be eligible for promotion within the department. In other words, we have the situation where authority is granted to control the qualities and properties of foods where there is neither the equipment or personnel available to perform the authorized duties. This would mean that the Director would either operate on basis of personal opinion or would depend on temporarily employed advisers. Obviously neither situation is desirable.

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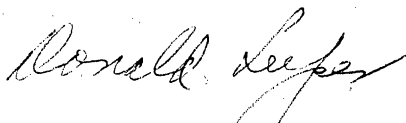
We most respectfully urge that the "Model State Law on Weights and Measures" be submitted by your committee as an alternative to S. 274. As you all know, the "Model Law" has been evolved as the fruit of study by the National Conference of State Weights and Measures Officers. It represents the wisdom gained from many, many years of experience in Weights and Measures enforcement in the old 48 states with all of their diverse economic situations. It has met the tests of court interpretation, and has the active support of the vast majority of the business community. It has been adopted by almost exactly half of the states, including your neighboring states of North Carolina, Virginia, Pennsylvania, Maryland, Ohio, and Connecticut. The New York state law is patterned after the Model Act and Model Regulations. The Model Law is entirely consistent with the Federal Food, Drug and Cosmetic Act (which S. 274 is not) Only Delaware of all your neighboring states has a law that substantially deviates from the Model Law.

We again respectfully urge that you abandon consideration of S. 274 and undertake consideration of the manner in which any special needs of New Jersey can be expressed by addition to (but not alteration of) the Model Law.

Under separate cover we are sending you copies of the Model Law and Model Regulations for your consideration in this respect.

Very truly yours,

H. J. HEINZ COMPANY



D. W. Loeper, Manager
Food Regulation Administration

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