



3 3009 00700 0946

State of New Jersey
DEPARTMENT OF WEIGHTS AND MEASURES

**Law to license and
regulate persons engaged in the
business of selling, trading-in, receiving,
installing, or repairing condemned,
rebuilt or used weighing or
measuring devices.**

Chapter 182, P. L. 1938.

TRENTON, NEW JERSEY
1940

DEPARTMENT OF LAW AND PUBLIC SAFETY

Division of Weights and Measures

NJ/KAG
L4/W4
1940
C.1

NEW JERSEY
STATE DEPARTMENT OF WEIGHTS AND
MEASURES

Chapter 182, P. L. N. J. 1938

AN ACT to license and regulate persons engaging in the business of selling, trading-in, receiving, installing, or repairing condemned, rebuilt or used weighing or measuring devices, and providing penalties for the violation thereof.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Definitions: For the purpose of this act, the following words shall be deemed to have the meaning herein given them:

(a) "Department" shall mean the State Department of Weights and Measures.

(b) "Person" or "persons" shall be construed to include any individual, partnership, association, corporation or other form of business enterprise.

(c) "Weights and measures officer" shall be construed to mean and include the State Superintendent of Weights and Measures or his assistants or inspectors, county or assistant county superintendents of weights and measures or inspectors, and municipal or assistant municipal superintendents of weights and measures or inspectors.

(d) "Weighing or measuring devices" as used in this act shall be deemed to mean and to include any scale, weight, scale beam, patent balance, computing scale, spring scale, person weighing scale operated for profit, steel-yard, liquid measure, gas-line dispensing device, grease dispensing device, counter measure, or any other instrument or apparatus, and accessories connected therewith used in trade and commerce in the State of New Jersey in weighing or measuring any commodity, fluid, or article of merchandise, or person; *provided*, the term shall not include any meter, measure or scale used by a public utility subject to the jurisdiction

of the Board of Public Utility Commissioners of this State for measuring any commodity or service furnished or sold by such public utility.

(e) "Repair," "repairing," and "repaired," shall be construed to mean any partial or complete construction or reconstruction, repair, alteration, installation or adjustment of any weighing or measuring devices used in trade and commerce in the State of New Jersey.

(f) "Repairman" shall mean any person engaging in the partial or complete constructing or reconstructing, repairing, altering, installing or adjusting of any weighing or measuring devices used in trade and commerce in the State of New Jersey.

(g) "Adjustment" and "adjusting". The moving of any part of a weighing or measuring device to obtain a correct zero indication only shall not be construed to come within the meaning of these terms.

(h) "Magistrate" shall be deemed and understood to mean and include all justices of the peace, judges of the city criminal courts, police judges, recorders, mayors, and other officers having powers of a committing magistrate; *provided, however*, that no justice of the peace shall sit as magistrate under this act within the corporate limits of any municipality within this State having a police judge, police justice, recorders' court or city criminal court.

(i) "Engaging in business" or "engaged in business" shall be deemed and understood to mean and include any single transaction, act, or sale.

2. It shall be unlawful for any person to engage in the business of selling, trading-in, receiving, installing or repairing condemned, rebuilt or used weighing or measuring devices in this State without first obtaining from the State Superintendent of Weights and Measures a license and registration to so engage in any said business.

3. Application for the said license and registration shall be made to the department upon the form prescribed and furnished by the State Superintendent of Weights and Measures, and shall be verified

by the applicant under oath, or if the applicant shall be a partnership, association, or corporation, under the verification and oath of a duly elected officer or official representative thereof.

4. Upon the application being filed, the State Superintendent of Weights and Measures shall examine into the same and cause an inquiry to be made concerning the person making such application, and if it should appear satisfactory to him therefrom, he shall issue to the applicant a license and registration; it being provided, however, that any person engaging in the practical operations of repairing any device subject to the provisions of this act, shall, upon the approval of his application by the State Superintendent of Weights and Measures, be notified to report at a place and time to be designated by the said State Superintendent of Weights and Measures, and to there undergo an examination into his technical qualifications to engage in such business.

5. Examinations shall be conducted by the State Superintendent of Weights and Measures, his duly authorized assistants, or by any competent weights and measures officer or officers of this State, whom the said State Superintendent of Weights and Measures may designate or assign to conduct such examinations.

6. The State Superintendent of Weights and Measures shall issue rules and regulations governing the examination of applicants for licenses to repair weighing and measuring devices. The regulations shall specify the qualifications for limited and unlimited licenses, and shall declare the conditions under which licenses will be revoked.

7. The State Superintendent of Weights and Measures may, at his discretion, issue to any applicant, under the terms of the regulations authorized by this act, a license to repair limited classes or kinds of weighing and measuring devices.

8. Any person who qualifies in the form and manner prescribed by the regulations authorized under the terms of this act to repair weighing or

measuring devices shall receive a license to repair the classes or kinds of weighing devices for which he qualifies. Applicants who do not qualify shall not receive a license, it being *provided, however*, that the denial of a license at any time shall not prejudice the issue of a license at any later examination.

9. Licenses and registrations shall be issued for a term of one year from the date of issue and shall be renewable at the expiration thereof. Each license issued shall state the name, business address of the person to whom it is issued, whether it is a limited or unlimited license, and if limited, the classes or kinds of weighing or measuring devices the licensee is authorized to repair, and shall continue in effect for the prescribed period unless revoked or suspended for reasons hereinafter specified in this act.

10. The State Superintendent of Weights and Measures may revoke or suspend the license of any person convicted of any violation of this act or for any of the following reasons: wilful fraud or misrepresentation practiced in procuring any such license or renewal of the same; dishonesty; gross incompetency; and conduct of a character likely to deceive or defraud the public; the loaning of his license or registration by the licensee to any person; the obtaining of a fee or compensation by fraud or misrepresentation; the wilful advertising or publishing by the licensee of grossly false, fraudulent or misleading statements of his business, skill, knowledge or methods of operation; and for any conduct or practice at variance with the purpose of this act. No certificate of license shall be revoked or suspended until after a hearing before the State Superintendent of Weights and Measures of which hearing the holder of said certificate of license shall have at least ten days' notice, either personally or by registered mail, sent to the holder at his or her address as contained in the records of the department.

11. Any person licensed to repair weighing or measuring devices shall report to the department or to the weights and measures officer of his county or municipality, work for which compensation was received or is receivable. The report shall contain the

name and address of the person for whom the work was done, identification of the weighing or measuring device, nature of the work performed and the date the work was completed.

12. Every person engaged as in this act provided shall within ten (10) days, after the making of a repair, or the sale and delivery of a repaired, rebuilt, exchanged, or used weighing or measuring device, in writing, notify the department or the county or municipal superintendent of weights and measures in whose jurisdiction the said device is located, giving the name and address of the person for whom such repair has been made or to whom a repaired, rebuilt, exchanged, or used weighing or measuring device has been sold or delivered, and a statement shall be made by the licensee that the same has been so altered, rebuilt, or repaired as to conform to the standard specifications and regulations of the department.

13. Any person who accepts any weighing or measuring device which has been condemned by any weights and measures officer, in trade for a new or used weighing or measuring device, and which is intended to be repaired, rebuilt, dismantled or destroyed, shall upon receipt thereof remove the condemned tags and such condemned tags shall be returned to the department or to a weights and measures officer within ten (10) days thereafter, with a statement describing the weighing or measuring device, giving the number of the device if obtainable, and the name and address of the person from whom it was received together with a statement of what disposition has been made of the weighing or measuring device.

14. Every person engaged in any business covered by the provisions of this act shall submit their testing equipment at least once a year to a weights and measures officer for comparison and calibration with the standards maintained by such officer. After comparison and calibration with such standards, the weights and measures officer shall issue to such person a statement or a certificate of his findings.

15. Every person licensed and registered pursuant to the provisions of this act shall maintain a record or register in which the following information shall be kept:

(a) The name and address of every person for whom weighing or measuring devices are repaired.

(b) The name and address of every person to whom a repaired, rebuilt, exchanged, or used weighing or measuring apparatus or device has been sold or delivered.

(c) Such records shall at all times be open for inspection by any weights and measures officer.

16. Every person who maintains or carries on the business of selling, trading-in, receiving or engaging in the repairing of condemned, rebuilt, or used weighing and measuring devices, shall for the license and registration prescribed by this act, pay a license fee of twenty-five dollars (\$25.00) per annum. Every person engaging only in the repairing of weighing and measuring devices shall for the license and registration prescribed in this act pay a fee of five dollars (\$5.00) per annum, which fees shall be paid to the State Superintendent of Weights and Measures, and by this officer shall be turned over to the State Treasurer.

17. The State Superintendent of Weights and Measures shall have general supervision of the administration of this act and shall make such rules and regulations as he may deem necessary for its enforcement.

18. The State Superintendent of Weights and Measures, his duly authorized assistants and inspectors, county and assistant county superintendents of weights and measures and inspectors, and municipal and assistant municipal superintendents of weights and measures and inspectors, are hereby charged with the enforcement of this act.

19. Any person violating any of the provisions of this act, shall, upon being found guilty of a first offense, pay a fine of not less than twenty-five dollars (\$25.00), nor more than fifty dollars (\$50.00), and shall, upon being found guilty of a second offense

pay a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and shall, upon being found guilty of any subsequent offense pay a fine of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00); *provided, however,* that any person unable to pay a fine imposed under the provisions of this act shall be committed to jail for a period of not less than ten (10) days nor more than ninety (90) days.

20. An action to recover any penalty incurred under the provisions of this act may be brought in the name of the State of New Jersey by any duly appointed weights and measures officer by complaint in writing, duly verified by such weights and measures officer, which verification may be upon information and belief, or may be verified by the complaining witness to be filed with any magistrate of any municipality in this State alleging the violation in said municipality of any of the provisions of this act or acts supplementary thereto or amendatory thereof, who is hereby authorized to issue a summons returnable in from one to ten days from the date thereof, same to be served not less than two days prior to the return thereof or a warrant directed to any weights and measures officer, or to any constable or police officer, commanding him to cause the person or persons so complained of to be summoned or arrested and brought before such magistrate, who shall at the return of the said summons or warrant forthwith in a summary way hear and determine the guilt or innocence of such person or persons, and upon conviction shall impose upon such person or persons so convicted the penalty or penalties prescribed for such offense, together with the costs of prosecution of the proceedings before such magistrate, and if any person or persons shall fail to pay the penalty or penalties, so imposed, together with the costs of prosecution, execution shall be issued against his or their goods and chattels, body or bodies without any order of the court for that purpose first had and obtained. If the officer executing any such writ shall be unable to find sufficient goods and chattels of said defendant or defendants in his bailiwick to make the amount of

said judgment and costs, he shall take the body of the defendant or defendants and deliver him or them to the keeper of the common jail of said county for a period not to exceed ten days, except as may be otherwise in this act in this respect provided; or until said penalty and costs are sooner paid; *provided, however,* that the defendant or defendants may be released upon order of the magistrate before the expiration of any imprisonment, prescribed in default of payment of any judgment, upon the written order of the committing magistrate or a justice of the Supreme Court, in the discretion of said judicial officer, after one day's notice of time and place of application for such order to the State Superintendent of Weights and Measures. It shall be the duty of the city attorney of any municipality wherein such violation shall take place to assist in the prosecution of the same, unless such municipality has no such municipal superintendent of weights and measures as provided for in section 51:1-43 of the Revised Statutes, in which case the public prosecutor or the county wherein such violation shall take place shall assist in such prosecution. All fines and penalties collected from persons offending against the provisions of this act shall be paid by the magistrate receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county collector of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents. For violation of any of the provisions of this act, done within the view of any weights and measures officer, such weights and measures officer is authorized, without warrant, to arrest the offender or offenders and to conduct him or them before any magistrate having jurisdiction in such county wherein such arrest is made and offense committed, and such magistrate is hereby authorized and required on verified complaint in writing, setting forth the nature of the offense for which said arrest was made, to be filed then and there with such

magistrate, before the commencement of the hearing, to hear and determine in a summary way the guilt or innocence of such person or persons, and inflict the penalties provided by law.

Any party to any proceeding instituted under this act may appeal from the judgment or sentence of the magistrate to the court of common pleas of the county in which the said proceedings take place, *provided*, that the party appealing shall, within ten days after the date of the said judgment, file a written notice of appeal with the magistrate, pay the costs of such proceedings, and deliver to such magistrate a bond to the opposite party in double the amount of the judgment appealed from, with at least one sufficient surety, conditioned to prosecute the said appeal and to stand to and abide by such further order or judgment as may hereinafter be made against said party, which appeal shall act as a stay of execution, unless said appeal shall be dismissed for want of jurisdiction in the court appealed to, in which case the magistrate may issue execution as in this act provided upon the remanding and dismissal of the appeal papers to said magistrate with certified copy of the order of dismissal as aforesaid.

Whenever an appeal shall be taken as aforesaid, it shall be the duty of the magistrate, to send all papers, together with a transcript of the proceedings in the case to the next term of the court of common pleas of the said county, if at least five days shall intervene between the rendition of said judgment and the commencement of said term of court; but, if otherwise, then said proceeding shall be brought on and heard at the next subsequent term of said court which court shall hear and determine such appeal in the same way and manner as said case was heard and determined by such magistrate, who shall render final judgment therein, upon which judgment in case of affirmance of conviction, execution directed to the sheriff as herein provided, may issue; *provided, however*, that if the defendant shall be committed to jail under any execution provided for in

this act, on failure to pay the amount due of penalty and costs, such commitment shall be construed as a waiver and release of any appeal bond previously given in the proceeding.

21. The provisions of this act shall not be applicable to any person or to a bona fide employee solely and exclusively employed by such person, who repairs or installs any weighing or measuring device owned, operated or used by the said person in connection with his business in the sale of commodities in trade and commerce in the State of New Jersey.

22. All other acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

23. This act shall take effect immediately.

Approved May 14, 1938.