

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 607
HOUSE BILL 879

AN ACT TO CLARIFY AND UPDATE THE WEIGHTS AND MEASURES ACT OF 1975.

The General Assembly of North Carolina enacts:

Section 1. G.S. 81A-29 is amended by adding a new subdivision (6) to read:

"(6) Manufacture, use or possess a counterfeit seal, tag, mark, certificate, label or decal representing, imitating or copying the same issued by the commissioner under this act."

Sec. 2. G.S. 81A-37, G.S. 81A-38, G.S. 81A-39, G.S. 81A-40, G.S. 81A-43, G.S. 81A-50, G.S. 81A-56, G.S. 81A-57, G.S. 81A-60, G.S. 81A-62, G.S. 81A-63 and G.S. 81A-64 are repealed.

Sec. 3. Chapter 81 A of the General Statutes is amended by adding a new section to read:

"§ 81A-50.1. Purpose. — This Article licenses and regulates public weighmasters in order to ensure accurate quantities of products upon sale to purchasers."

Sec. 4. G.S. 81A-51 is rewritten to read:

"§ 81A-51. Definitions. — For purposes of this Article, the following words, terms and phrases are defined as follows:

- (1) 'Board' means North Carolina Board of Agriculture.
- (2) 'Commissioner' means the North Carolina Commissioner of Agriculture or his designated agent.
- (3) 'Department' means the North Carolina Department of Agriculture.
- (4) 'Product' means any product, commodity or article.
- (5) 'Public weighmaster' means any person who shall weigh, measure or count, or who shall ascertain from a weighing, measuring or recording device for any other person and declare the weight to be the accurate weight of the product upon which the purchase, sale or exchange is based, and receive compensation for the act.
- (6) 'Weigh' means weigh, measure, count, read or record.
- (7) 'Weight' means weight, measure, count, reading or recording."

Sec. 4. Chapter 81A of the General Statutes is amended by rewriting G.S. 81A-52, G.S. 81A-53, G.S. 81A-54 and G.S. 81A-55 to read:

"§ 81A-52. License. — All public weighmasters shall be licensed. Any person not less than 18 years of age who wishes to be a public weighmaster shall apply to the Department on a form provided by the Department. The Board may adopt rules for determining the qualifications of the applicant for a license. Public weighmasters shall be licensed for a period of one year beginning the first day of July and ending on the thirtieth day of June, and a fee of ten dollars (\$10.00) shall be paid for each person licensed at the time of the filing of the application.

"§ 81A-53. Certificates of weight. — All public weighmasters shall issue certificates of weight, measure, count, reading or recording on forms approved by the Commissioner and shall enforce the provisions of this Chapter and all rules and regulations promulgated thereunder without compensation from the State. Each certificate issued shall indicate the date on which a product is weighed, counted, read or recorded. A certificate issued by a public weighmaster shall be considered the accurate weight of a product at the time the product is put into the

natural channels of trade, with the qualification that reasonable variations or tolerances shall be permitted as established by rules and regulations enacted pursuant to this Chapter. If any person questions the accuracy of the weight of any product for which a certificate has been issued, a complaint shall be made to the public weighmaster who issued the certificate or to the Commissioner before the product is moved from the city, town or community where the certificate was issued. The product shall be reweighed by the public weighmaster issuing the certificate or by the Commissioner, if the product is kept in accordance with G.S. 81A-58. If, upon reweighing, a difference in excess of the tolerance allowed by the Chapter is found in the original weight, the cost of reweighing shall be borne by the public weighmaster responsible for issuing the faulty certificate. Otherwise, the cost shall be borne by the complainant.

"§ 81A-54. Official seal of the public weighmaster. — It shall be the duty of every public weighmaster to obtain from the Department an official seal for the sum of five dollars (\$5.00), inscribed with the following words: 'North Carolina Public Weighmaster' and any other design or legend the Commissioner considers necessary. The seal shall be stamped or impressed on every certificate issued pursuant to this Article. The weighers of tobacco in leaf tobacco warehouses may use, instead of the seal, their signatures in ink or other indelible substance posted in a conspicuous and accessible place in the warehouse. All seals remain the property of the State and shall be returned to the Commissioner upon termination of duties as a public weighmaster.

"§ 81A-55. Violations by public weighmasters; by others; penalties. — (a) Any public weighmaster who refuses to issue a certificate as prescribed by this Article, or who issues a certificate giving a false weight, or who misrepresents the weight to any person, or who otherwise violates any provisions of this Article or the rules and regulations pursuant to this Article, may have his license revoked, suspended or terminated by the Commissioner.

(b) The following acts by other persons are also violations of this Article:

- (1) requesting a public weighmaster to weigh a product inaccurately;
- (2) requesting an inaccurate certificate prescribed by this Article;
- (3) impersonating a public weighmaster;
- (4) erasing, changing or altering any certificate issued by a public weighmaster;
- (5) increasing or decreasing the weight of a product for the purpose of deception; or
- (6) violating any other provision of this Article."

Sec. 5. Chapter 81A of the General Statutes is amended by rewriting G.S. 81A-58 and G.S. 81A-59 to read:

"§ 81A-58. Duty of custodian of product. — If any product is to be offered for sale, or is sold, and is weighed or measured or counted by any public weighmaster and a certificate is issued prior to sale or acceptance of the product by the purchaser, or if any product is offered for sale, sold or delivered pending the weighing, measuring or counting of the product by any public weighmaster and the issuance of a certificate, the person who is in custody of the product shall keep, protect and prevent any increase or decrease in weight in the time intervening between the weighing and the issuance of the certificate and the sale, and the time intervening between the sale and the presentation of the product to the weighmaster for weighing, measuring or counting and the issuance of a certificate. Any loss sustained in the weight of the product while in custody shall be borne by the custodian.

"§ 81A-59. Weighing tobacco. — All leaf tobacco offered for sale in a leaf tobacco warehouse in North Carolina shall remain in the custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bid is rejected by the owner."

Sec. 6. Chapter 81A is amended by rewriting G.S. 81A-61 to read:

"§ 81A-61. Approval of devices used. — When making a weight determination, a public weighmaster shall use a weighing device that is of a type suitable for the weighing of the

product to be weighed and that has been tested and approved for use by the Commissioner within a period of 12 months immediately preceding the date of the weighing."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1981.