

Chapter 81A.

Weights and Measures Act of 1975.

Article 1.

Administration of Chapter.

§ 81A-1. Weights and measures program provided for.

In order to protect the purchasers or sellers of any commodity, and to provide uniform standards of weight and uniform standards of measure throughout the State, which must be in conformity with the standards of weight and the standards of measure established by Congress, the Commissioner is hereby authorized to establish and maintain a weights and measures program as is hereinafter provided. (1927, c. 261, s. 1; 1945, c. 280, s. 1; 1975, c. 544.)

§ 81A-2. Administration of these Articles.

The provisions of this Chapter shall be administered by the Commissioner or his authorized agent. For the purpose of administering and giving effect to the provisions of this Chapter, the provisions of Handbook 44 as adopted by the National Conference on Weights and Measures, are hereby adopted except insofar as modified or rejected by the North Carolina Board of Agriculture. The North Carolina Board of Agriculture is empowered to make such further rules and regulations as may be necessary to make effective the purposes and provisions of this Chapter. Except as otherwise provided in G.S. 81A-30.1, all fees or moneys received by the Commissioner pursuant to this Chapter shall be placed in the Department of Agriculture and Consumer Services fund for the purpose of enforcing this Chapter. (1927, c. 261, s. 2; 1931, c. 150; 1943, c. 762, s. 1; 1949, c. 984; 1975, c. 544; 1997-261, s. 109; 1998-215, s. 4(b).)

§ 81A-3. Systems of weights and measures.

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one or both of these systems shall be used for all commercial purposes in the State. 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. (1975, c. 544.)

§ 81A-4. Board of Agriculture authorized to establish standards of weights and measures for commodities having none.

The Board of Agriculture is authorized and directed and empowered to establish standards of weights and measures for any commodity if no standard has been established by Congress or by the laws of the State of North Carolina; provided, however, that when a standard is established by Congress, or by the laws of the State of North Carolina, such standard shall supersede the standard or standards established by the Board of Agriculture. (1945, c. 280, s. 1; 1949, c. 984; 1975, c. 544.)

§ 81A-5. Employment of Director of Weights and Measures and authorized agents.

The Commissioner may employ a Director of Weights and Measures and such other employees as may be necessary in carrying out the provisions of this Chapter and he may fix and regulate their duties. All authority vested in the Commissioner by virtue of the provisions of this Chapter

may with like force and effect, be executed by such authorized agents of the Commissioner as defined in this Chapter. (1927, c. 261, ss. 3, 4; 1949, c. 984; 1975, c. 544.)

§ 81A-6. Salaries and expenses.

The Commissioner shall request sufficient funds for the proper administration of the duties prescribed in this Chapter. (1927, c. 261, s. 5; 1931, c. 150; 1949, c. 984; 1975, c. 544.)

§ 81A-7. Local inspection of weights and measures.

When any city or county appoints a local inspector of weights and measures, the appointment and regulation of his work must be pursuant to the rules and regulations of the Department of Agriculture and Consumer Services and his work shall be subject to the supervision of the Commissioner or his authorized agent. (1927, c. 261, s. 6; 1949, c. 984; 1975, c. 544; 1997-261, s. 109.)

§ 81A-8. Standards of weights and measures.

Weights and measures that are traceable to the U.S. Prototype Standards supplied by the United States, or approved as being satisfactory by the National Institute of Standards and Technology, shall be the State primary standards of weights and measures, and shall be maintained in such calibration as prescribed by the National Institute of Standards and Technology. All secondary standards may be prescribed by the Commissioner and shall be verified upon their initial receipt and as often thereafter as deemed necessary by the Commissioner or his authorized agent. Complete record of the standards belonging to the State shall be maintained by the Commissioner. (1927, c. 261, s. 9; 1943, c. 543; 1949, c. 984; 1975, c. 544; 1991, c. 636, s. 22.)

§ 81A-9. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) Adjustment. – "Adjustment" is an act involving the tightening or loosening, or lengthening or shortening, or movement, of any part of a weighing or measuring device, or the coordination of mechanical action of parts or electronic components with or upon each other, so as to make the weighing or measuring device give correct indications of applied weight or measure values within legal tolerance, and the correctness of indications shall be determined by test provided for under definition of the term "service" as defined in this Chapter.
- (2) Authorized Agent. – An "authorized agent" is any employee of the North Carolina Department of Agriculture and Consumer Services designated by the Commissioner to enforce any provisions of this Chapter and who is designated by an official identification card issued by the Commissioner.
- (3) Barrel. – The term "barrel," when used in connection with beer, ale, porter, and other similar fermented liquor is a unit of 31 liquid gallons; fractional parts of a barrel shall be understood to mean like fractional parts of 31 gallons.
- (4) Bulk Sale. – The term "bulk sale" is the sale of commodities when the quantity is determined at the time of sale.
- (5) Bushel. – The term "bushel" when used in connection with dry measure and standard containers is a unit of 2150.42 cubic inches, of which the dry quart and dry pint, respectively, are the one-thirty-second and one-sixty-fourth parts.

- (6) Commissioner of Agriculture. – "Commissioner" is the Commissioner of Agriculture of the State of North Carolina.
- (7) Condemned Equipment. – "Condemned equipment" is equipment that is permanently out of service.
- (8) Cord. – "Cord" when used in connection with purchases of wood is a quantity of wood consisting of any number of sticks, bolts or pieces laid parallel and together so as to form a rick or stack occupying a space four feet wide, four feet high and eight feet long, or such other dimensions that will when multiplied together equal 128 cubic feet by volume, construed as being seventy percent (70%) solid and thirty percent (30%) air space or 90 solid cubic feet.
- (9) Correct. – "Correct" is conformance to all applicable requirements of this Chapter.
- (10) Flour. – "Flour" is any finely ground product of wheat, or other grain, corn, peas, beans, seed or other substance, with or without added ingredients, intended for use as food for man.
- (11) Gallon. – "Gallon" when used in connection with liquid measure is a unit of 231 cubic inches, of which the liquid quart, liquid pint and gill are, respectively, the quarter, the one-eighth and the one-thirty-second parts.
- (12) Installation. – "Installation" is an act involving the erection, or building, or assembling of parts, or the placing or setting up of a weighing or measuring device so as to give correct indications of applied weight or measure values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under definition of the term "service" as defined in this Chapter.
- (13) Maintenance. – "Maintenance" is an act pursuant to the retention of a weighing or measuring device in such working condition as to give correct applied weight or measure value indications within legal tolerance when used as intended, which may involve either or both adjustment or repair before or after inaccuracy develops in fact, and the correctness of indications shall be determined by test provided for under the term "service" as defined in this Chapter.
- (14) Meal. – "Meal" is any product of grain, corn, peas, beans, seed or other substance coarsely ground, with or without added ingredients, either bolted, or unbolted, including grits and hominy, intended for use as food for man.
- (15) Package. – "Package" is any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.
- (16) Person. – "Person" is both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, firms, societies, and associations.
- (17) Pound. – "Pound," used in connection with weight is the avoirdupois pound as declared by act of the United States Congress, except in those cases where it is common practice to use the "troy" pound or "apothecaries" pound, and the "ounce" is one-sixteenth part of an avoirdupois pound.
- (18) Primary Standards. – "Primary standards" are the physical standards of the State which serve as the legal reference from which all other standards, weights and measures are derived.

- (19) Rejected Equipment. – "Rejected equipment" is equipment that is incorrect, which is considered susceptible of proper repair.
- (20) Repair. – "Repair" is an act involving the replacement or mending of a broken or nonadjustable part or parts and the restoration of a weighing or measuring device to such working condition as to give correct indications of applied weight or measure values within legal tolerance when used for the purpose intended, and the correctness of indications shall be determined by test provided for under the term "service" as defined in this Chapter.
- (21) Sale or Sell. – "Sale" or "sell" is the ordinary meaning of said words and includes barter and exchange.
- (22) Scale Technician. – A "scale technician" is any person who, for hire or award, renders service involving adjustment, installation, repair, or maintenance of a scale or weighing device, either used or intended to be used in determining weight value, or values, by either physical act, instruction, or supervision.
- (23) Secondary Standards. – "Secondary standards" are the physical standards which are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and regulations.
- (24) Service. – "Service" is activity involving adjustment, installation, repair, or maintenance or a combination of two or more of these activities with respect to a weighing or measuring device.
- (25) Ton. – "Ton" is a unit of 2,000 pounds, avoirdupois weight.
- (26) Weight. – "Weight" when used in connection with any commodity is net weight; provided, however, where the label declares that the product is sold by drained weight, weight means net drained weight.
- (27) Weight(s) and (or) Measure(s). – "Weight(s) and (or) measure(s)" are all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices. (1927, c. 261, ss. 20, 21; 1941, c. 237, s. 2; 1945, c. 280, s. 1; 1947, c. 380; 1975, c. 544; 1991, c. 636, s. 23; 1997-261, s. 7.)

§ 81A-10. Reimbursement of expenses.

When any manufacturer requests prototype approval of any commercial weighing or measuring device, said manufacturer shall reimburse the Department of Agriculture and Consumer Services for expenses incurred in the prototype examination of the device before final prototype approval is granted. Travel expenses shall be at the rates established by G.S. 138-6 or any law enacted in substitution therefor. (1981, c. 495, s. 1; 1997-261, s. 109.)

§ 81A-11: Repealed by Session Laws 2005-276, s. 42.1(h), effective September 1, 2005.

§ 81A-12. Fee schedule.

The following fees apply to all weights that are tested and certified to meet tolerances less stringent than the American Society for Testing and Materials (ASTM) Standard E617 Class 4. This includes the National Institutes of Standards and Technology (NIST) Class F tolerance. If the weight error exceeds three-fourths of the applicable tolerance, adjustment may be required at an additional fee equal to the normal fee. No extra fee shall be charged for the normal adjustment of

a weight cart. Even if weights are rejected or condemned, fees shall be assessed for the test performed.

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Customary	Fee/Unit	Metric	Fee/Unit
0-10 lb	\$ 5.00	0-5 kg	\$ 5.00
11-100 lb	\$ 10.00	6-50 kg	\$ 10.00
101-1000 lb	\$ 20.00	51-500 kg	\$ 20.00
1001-2500 lb	\$ 30.00	501-1000 kg	\$ 30.00
2501-6000 lb	\$ 50.00	1001-2500 kg	\$ 50.00
Weight Carts up to 6000 lb	\$ 125.00 (includes adjustment)		

(b) The following fees apply to all weights that are tested and certified to meet ASTM Standard E617 Class 4 or the International Organization of Legal Metrology (IOLM) R111 Class F2 tolerances. If the weight error exceeds three-fourths of the applicable tolerance, adjustment may be required at an additional fee equal to the normal fee. Even if weights are rejected or condemned, fees shall be assessed for the test performed.

Customary	Fee/Unit	Metric	Fee/Unit
0-10 lb	\$ 10.00	0-5 kg	\$ 10.00
11-100 lb	\$ 20.00	6-50 kg	\$ 20.00
101-1000 lb	\$ 40.00	51-500 kg	\$ 40.00
1001-2500 lb	\$ 60.00	501-1000 kg	\$ 60.00
2501-6000 lb	\$ 100.00	1001-2500 kg	\$ 100.00

(c) The following fees apply to all weights that are calibrated. Calibration means determining actual mass and conventional mass values with an assigned uncertainty specific to the test. If necessary and considered feasible by the metrologist, adjustments to ASTM Class 1, 2, or 3 tolerances or IOLM Class E2, F1, or F2 tolerances may be made for an additional fee of two times the normal fee. Adjustments to weights of this group shall require a minimum of 10 days for weights to return to environmental equilibrium before a final calibration value can be assigned. Even if weights are rejected or condemned, fees shall be assessed for the test performed.

Customary	Fee/Unit	Metric	Fee/Unit
0-20 lb	\$ 20.00	0-10 kg	\$ 20.00
21-50 lb	\$ 40.00	11-30 kg	\$ 40.00
51-1000 lb	\$ 70.00	31-500 kg	\$ 70.00
1001-2500 lb	\$ 130.00	501-1000 kg	\$ 130.00
2501-6000 lb	\$ 200.00	1001-2500 kg	\$ 200.00

(d) The following fees apply to all weights that are calibrated using NIST weighing designs. These weights are tested in groups (typically either a 1, 2, 3, 5 series or a 1, 2, 2, 5 series) and are subject to the minimum per series fee shown. The best uncertainty possible from the North Carolina Standards Laboratory shall be assigned to the mass values of the weights. If necessary and considered feasible by the metrologist, adjustments to ASTM Class 0, 1, 2, or 3 tolerances or IOLM Class E1, E2, F1, or F2 tolerances may be made for an additional fee of two times the normal fee. Adjustments to weights of this group shall require a minimum of 10 days for weights to return to environmental equilibrium before a final calibration value can be assigned.

Weight Range	Fee/Unit or Series
0-1 kg	\$30.00 each, with a minimum charge of \$90.00 (3 weights) per series
2-30 kg	\$50.00 each, with a minimum charge of \$150.00 (3 weights) per series

0-2 lb \$30.00 each, with a minimum charge of \$90.00 (3 weights) per series
 3-50 lb \$50.00 each, with a minimum charge of \$150.00 (3 weights) per series

(e) The following fees apply to volumetric standard calibration.

Provers or Test Measures Tested By the Volume Transfer Method

Customary	Fee/Test Point	Metric	Fee/Test Point
0-5 gal	\$30.00	0-20 liters	\$30.00
Over 5 gal	Add \$0.40 per each additional gallon	Over 20 liters	Add \$0.10 per each additional liter

Volumetric Flasks, Graduates, Provers, Slicker Plate Standards, or Test Measures Tested By the Gravimetric Calibration Method

Customary	Fee/Test Point	Metric	Fee/Test Point
0-100 gal set-up fee	\$50.00	0-500 liters set-up fee	\$50.00
Calibration Fee	Add \$2.00 per gallon	Calibration Fee	Add \$0.50 per liter

Small Volume Provers (SVPs) Tested By the Gravimetric Calibration Method

Customary	Fee/Test Point	Metric	Fee/Test Point
0-100 gal set-up fee	\$100.00	0-500 liters set-up fee	\$100.00
Calibration Fee	Add \$2.00 per gallon	Calibration Fee	Add \$0.50 per liter

(f) The following fees apply to tape measures and rigid rules.

Set-Up Fee \$40.00 per instrument
 Calibration Fee \$10.00 per calibration interval

(g) The following fees apply to liquid-in-glass and electronic thermometers.

Set-Up Fee \$40.00 per instrument
 Calibration Fee \$20.00 per calibration point

Resistance Thermometry Coefficient

Calculation and Report \$100.00 per instrument

(h) Any special tests or weight cleaning shall be billed at the rate of seventy dollars (\$70.00) per hour prorated to the nearest tenth of an hour, with a minimum charge of thirty-five dollars (\$35.00).

(i) A minimum charge of twenty-five dollars (\$25.00) per invoice shall apply.

(j) If travel is required in connection with the performance of any of these services, the Department shall be reimbursed at the rates provided in G.S. 138-6.

(k) The Department may refuse to accept for testing any weight or measure the Department deems unsuited for its intended use.

(l) The fee for tests performed on weights or measures that will be used primarily outside of the State of North Carolina shall be twice the amounts set forth in this section. (2005-276, s. 42.1(i).)

§ 81A-13. Reserved for future codification purposes.

§ 81A-14. Reserved for future codification purposes.