

Chapter No. 446
13/HR40/R1664SG
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3/25/13
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HOUSE BILL NO. 772

Originated in House  Clerk

HOUSE BILL NO. 772

AN ACT TO AMEND SECTION 75-27-59, MISSISSIPPI CODE OF 1972, TO ESTABLISH CIVIL PENALTIES AND ADMINISTRATIVE HEARING FOR WEIGHT AND MEASURES VIOLATIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-27-59, Mississippi Code of 1972, is amended as follows:

75-27-59. (1) Any person who * * * by himself * * *, by his * * * agent, or as the * * * agent of another person, * * * commits any one (1) of the acts enumerated in * * * paragraphs (a) through (* * *k) of this * * * subsection is guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment; and upon a second or subsequent conviction * * *, he shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by

imprisonment for not more than one (1) year, or by both such fine and imprisonment. It is unlawful for a person to:

(* * *a) Use or have in possession for the purpose of using for any commercial purpose specified in Section 75-27-23, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure of any device or instrument used to or calculated to falsify any weight or measure.

(* * *b) Use or have in possession for the purpose of current use for any commercial purpose specified in Section 75-27-23, a weight or measure that does not bear a seal or mark such as is specified in Section 75-27-31, unless such weight or measure has been exempted from testing by the provisions of Section 75-27-23, or by a regulation of the director issued under the authority of Section 75-27-19.

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

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

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

(* * *f) 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.

(* * *h) 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.

(* * *i) 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.

(* * *j) * * * Buy or sell pulpwood by any means other than those prescribed in Section 75-27-39.

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

(2) Any person who by himself, by his agent, or as the agent of another person, commits any of the acts enumerated in subsection (1) of this section may be assessed by the director, or his designee, an administrative penalty of:

(a) Not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for a first violation;

(b) Not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for a second violation committed within twelve (12) months of the first violation; and

(c) Not less than One Thousand Dollars (\$1,000.00) nor more than Three Thousand Dollars (\$3,000.00) for a third violation committed within eighteen (18) months from the date of the first violation.

(3) Any person, subject to an administrative penalty, shall have a right to request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The director, or his designee, is authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the director, or his designee, shall be subject to appropriate judicial review.

(4) (a) If the respondent has exhausted his administrative appeals and the civil penalty has been upheld, he shall pay the civil penalty within thirty (30) days of the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the director in any court of competent jurisdiction.

(b) Any civil penalty collected under this act shall be transmitted to the General Fund.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 7, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 8, 2013



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

3/25/13
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