

CHAPTER 239

DEPARTMENT OF WEIGHTS AND MEASURES

Sec.	Sec.
239.01 Department created; jurisdiction of commission	239.13 Commission to appoint weighers at packing plants
239.02 Commissioner of weights and measures; deputies and employees; compensation	239.14 Commission to fix fees
239.03 Salaries	239.15 Qualifications of weighers
239.04 Fees to be paid into state treasury	239.16 Bonds
239.05 Definitions	239.17 Rules and regulations; dockage; grades; inspectors; salary
239.06 Rules and regulations; power to make	239.18 Live stock buyers must be licensed
239.07 Duties and powers of department; standard of weights and measures	239.19 Live stock buyers shall keep records
239.08 Inspecting, testing, sealing; incorrect weights, measures	239.20 Scales tested
239.09 Powers as special policemen	239.21 Live stock fed before weighing
239.10 No fee for annual inspection of weights and measures	239.22 Bonds filed
239.11 Laws unrepealed	239.23 Offenses; penalties
239.12 Commission to test meters; procedure; fees; condemnation; entry	239.24 Hindering official a misdemeanor
	239.25 Obstruction of inspection; penalty
	239.26 Certain acts deemed gross misdemeanor
	239.27 Violations; gross misdemeanor

239.01 DEPARTMENT CREATED; JURISDICTION OF COMMISSION. There is hereby created a department to be known as the department of "weights and measures" hereafter referred to as the department, and it shall be under the jurisdiction of the commission, which shall have supervision and control over all weights, weighing devices, and measures in the state.

[1911 c. 156 s. 1] (5270)

239.02 COMMISSIONER OF WEIGHTS AND MEASURES; DEPUTIES AND EMPLOYEES; COMPENSATION. The commission shall appoint a commissioner of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter; and fix their compensation upon a graduated scale, based upon efficiency and length of service. The commission shall provide for such examinations as it may deem necessary to determine the qualifications and fitness of appointees.

The commissioner of weights and measures and the deputies shall give a bond in a sum to be fixed and approved by the commission.

[R. L. s. 1959; 1911 c. 140 s. 3; 1911 c. 156 s. 2; 1921 c. 382 s. 1] (4634) (5271)

239.03 SALARIES. The salary of the commissioner of weights and measures shall be \$2,500 per annum, and all deputies not to exceed \$1,500 per annum.

[1919 c. 454 s. 1] (5272)

239.04 FEES TO BE PAID INTO STATE TREASURY. All moneys collected by the department for special services, fees, and penalties shall be paid into the state treasury and credited to a fund known as the weights and measures fund, and be available for the use of the department of weights and measures.

[1919 c. 454 s. 2] (5273)

239.05 DEFINITIONS. Subdivision 1. **Person.** The word "person," as used in sections 239.01 to 239.11, means person or persons, corporation, partnership, stock company, or the agent or employee thereof.

Subdivision 2. **Packing plants and slaughtering houses.** As used in sections 239.13 to 239.27, the terms "packing plants" and "slaughtering houses" mean plants, houses, and places of business where live stock purchased or acquired at places within the state are slaughtered.

Subdivision 3. **Concentration point.** As used in sections 239.13 to 239.27, the term "concentration point" means any stock yard at which live stock is assembled by rail or other means of transportation, and at which live stock is bought and sold or is assembled for shipment or reshipment to a packing plant or a public stockyard, or graded or weighed for the purpose of establishing a basis for sale or reshipment. A railroad stockyard owned and operated by a railroad company and used as a railroad facility and which is used by the public only for loading and unloading of live stock shipped by rail; and a stockyard or place where only feeder pigs weighing 50 pounds or less, are sold, are each not to be considered a "concentration point" as the term is used in these sections.

MINNESOTA STATUTES 1941

Subdivision 4. **Live stock buyer.** As used in sections 239.13 to 239.27, the term "buyer" means any person, firm, corporation, or his or its employees, agents, or representatives, engaged in buying slaughter live stock direct from producers, their agents or representatives, except persons engaged exclusively in the sale of meats at retail.

Subdivision 5. **Packers.** As used in sections 239.13 to 239.27, the term "packers" means any person engaged in the business of buying live stock for purposes of slaughter or of manufacturing or preparing meats or meat products for sale or shipment within the state. "Packers" shall not include persons engaged exclusively in the sale of meats at retail.

Subdivision 6. **Live stock commission merchant.** As used in sections 239.13 to 239.27, the term "live stock commission merchant" means any person or firm engaged in selling or buying live stock at a public terminal live stock market.

[1911 c. 156 s. 12; 1935 c. 216 s. 1] (5283) (5285-11)

239.06 RULES AND REGULATIONS; POWER TO MAKE. The commission shall prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter, and it may change, modify, or amend any or all rules when deemed necessary and the rules so made shall have the force and effect of law.

[1911 c. 156 s. 3] (5275)

239.07 DUTIES AND POWERS OF DEPARTMENT; STANDARD OF WEIGHTS AND MEASURES. The department shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and submit them to the bureau of standards at Washington, D. C., for certification when it is deemed necessary; and keep a seal so formed as to impress the letters "MINN" and the date of sealing upon the weights and measures that are sealed; it shall test, correct, and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state and keep a record thereof; it shall have general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state; and upon the written request of any person test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state; it shall keep a complete record of the standards, balances, and all testing and sealing apparatus owned by the state, and annually, during the first 15 days of January, make a report of its actions to the governor of the state.

[1911 c. 156 s. 4] (5276)

239.08 INSPECTING, TESTING, SEALING; INCORRECT WEIGHTS, MEASURES. The department or any of its employees shall have power to inspect and test all weights, scales, beams, and measures of every kind, instruments and mechanical devices for measurement, and tools, appliances, or accessories connected with any or all such instruments for measurement that are kept, offered, or exposed for sale, or sold, or used, or employed within this state by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by any person for sale, hire, or reward; and it shall, at least once in each year, and as much oftener as may be deemed necessary, see that the weights, measures, and all apparatus used in the state are correct. In the general performance of this duty the department, or any of its employees, may enter or go into and upon any stand, place, building, or premises to stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer and require him, if necessary, to proceed to some place which the scaler may specify for the purpose of making proper tests. Scales, weights, measures, or weighing or measuring instruments that are found, upon inspection, to correspond with the standards in the possession of the department shall be sealed with proper devices to be approved by the commission. Any employee shall condemn, seize, and destroy incorrect weights, measures, or weighing or measuring devices which, in the judgment of the department cannot be satisfactorily repaired, and such as are incorrect and yet may be repaired, shall be marked as "condemned for repair," in the manner to be prescribed by the department. The owners or users of any scales, weights, measures, or weighing or measuring instruments which have been so disposed of shall have the same repaired or corrected within 30 days, and

MINNESOTA STATUTES 1941

1833

DEPARTMENT OF WEIGHTS AND MEASURES 239.12

the same shall not be used or disposed of in any way without the consent of the department.

[1911 c. 156 s. 5] (5277)

239.09 POWERS AS SPECIAL POLICEMEN. The department and all authorized employees under the provisions of sections 239.01 to 239.11 are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statute in relation to weights and measures, and to seize for use as evidence and without formal warrant, any false weight, measure, or weighing or measuring device or package or kind of commodity found to be used, retained, or offered or exposed for sale or sold in violation of law.

[1911 c. 156 s. 8] (5280)

239.10 NO FEE FOR ANNUAL INSPECTION OF WEIGHTS AND MEASURES. No fee shall be charged for the regular annual inspection of scales, weights, measures, and weighing or measuring devices. At all other times, the cost of the inspection shall be paid by the owner when the same is performed at his request; and when made at the request of some other person the cost shall be paid by the owner, if the scale, weight, measure, and weighing or measuring device is found to be incorrect; otherwise by the person making the request. The commission shall have power to fix the fees and expenses for all special services. All moneys collected by the department for special services, fees, and penalties shall be paid into the state treasury, and credited to the state revenue fund.

[1911 c. 156 s. 11; 1915 c. 281 s. 1] (5282)

239.11 LAWS UNREPEALED. Sections 239.01 to 239.11 shall not apply to nor repeal section 177.01.

[1911 c. 156 s. 13] (5284)

239.12 COMMISSION TO TEST METERS; PROCEDURE; FEES; CONDEMNATION; ENTRY. The commission shall have power to inspect and test all meters, mechanical devices, and measures of every kind, and tools, appliances, and accessories connected therewith, used, employed, kept, sold, or offered or exposed for sale within this state for the purpose of measuring the amount, quantity or extent of electricity, gas, or water furnished, sold, or distributed to the public by any person, association, corporation, or municipality except cities of the first class having, or which may hereafter have, meter inspection departments. Upon petition of at least ten consumers of electricity, gas, or water within the territorial limits of any municipality and upon the deposit with the clerk of such municipality by each of such consumers of a fee of 25 cents for each such meter, mechanical device, and measure installed or used upon the premises of each such petitioning consumer, the governing body of such municipality may request the commission to make an inspection and test of all such meters, mechanical devices, and measures upon the premises of such petitioning consumers. Thereupon the commission, within a reasonable time after the receipt by it of such request, shall proceed to make an inspection and test of all of such meters, mechanical devices, and measures upon the premises of all such petitioning consumers and upon the premises of all other consumers within such municipality who, at the time of such inspection and test, shall have deposited with the clerk of such municipality the fee of 25 cents for each such meter, mechanical device, and measure upon the premises of such consumers. All such fees collected by the clerk of any such municipality shall be remitted by such municipality to the commission within 30 days of the completion of such inspection and test, and deposited to the credit of the weights and measures fund. All such meters, mechanical devices, and measures found, upon inspection, to be correct and accurate, shall be sealed with proper devices to be approved by the commission. The commission, or any of its employees, shall condemn, seize and destroy all incorrect and inaccurate meters, mechanical devices, and measures which, in the judgment of the commission, cannot be satisfactorily repaired; and such as are incorrect and inaccurate and yet may be repaired shall be marked as "Condemned for Repair," in the manner to be prescribed by the commission. The owner of such meters, mechanical devices, and measures which have been so "Condemned for Repair" shall have the same repaired and corrected within 30 days; and such meters, mechanical devices, and measures shall not be disposed of without the consent of the commission. In the general performance of its duty, the commission, or any of its employees, may enter or go into or upon any premises, building, stand, or place at all reasonable times.

[1927 c. 291 s. 1; 1931 c. 98] (5285-1)

239.13 COMMISSION TO APPOINT WEIGHERS AT PACKING PLANTS. The commission shall appoint at packing plants, slaughtering houses, and concentration points where the average daily number of live stock slaughtered or handled is 250 head or more, such weighers as may be necessary for weighing live stock, provided that no weighers shall be appointed at packing plants or slaughtering houses at which the only live stock slaughtered or handled is purchased or acquired at a public stockyard as defined by section 226.01. The commission shall prescribe and follow such reasonable regulations as it deems necessary for determining such daily average. Such weighers shall weigh all live stock coming to these places for sale or slaughter, unless the same has been previously weighed by state weighers, and keep a record thereof. Upon request the weighers shall furnish the interested parties a certificate setting forth the number of animals weighed and the actual weight of such animal or animals. Such certificate shall be prima facie evidence of the facts therein certified. The scales at all such places on which live stock is weighed shall be constructed and maintained in accordance with requirements of the department of weights and measures, and be tested up to the maximum draft that may be weighed thereon by the department of weights and measures at least once every 30 days.

[1935 c. 216 s. 2] (5285-12)

239.14 COMMISSION TO FIX FEES. The commission shall prescribe the fee necessary to cover the cost of such weighing, to be assessed and collected from the seller in such manner as the commission may prescribe; provided, that the fee assessed be the same, and the manner of collection thereof be uniform at all markets, including the public terminal live stock market, in the state at which the average daily number of head of live stock bought and sold is 250 or more. All moneys so collected shall be deposited in the state treasury and known as the live stock weighing fund, and paid out only on the order of the commission and the state auditor's warrant.

[1935 c. 216 s. 3] (5285-13)

239.15 QUALIFICATIONS OF WEIGHERS. No weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchase, or sale of live stock, nor in the employment of any person or corporation engaged therein.

[1935 c. 216 s. 4] (5285-14)

239.16 BONDS. Every such weigher shall give to the state a bond in the sum of \$2,000, conditioned for the faithful discharge of his duties.

[1935 c. 216 s. 5] (5285-15)

239.17 RULES AND REGULATIONS; DOCKAGE; GRADES; INSPECTORS; SALARY. Subdivision 1. **Number of inspectors.** The commission shall prescribe rules and regulations relating to the weighing, fill, dockage, grades, and inspection of live stock, and it shall be the duty of every owner or operator of any packing plant, slaughtering house, and concentration point to comply with such rules and regulations, and the commission shall employ not more than nine inspectors at a salary not to exceed \$3,000 each per annum to supervise and inspect the weighing, grading, fill, and dockage of live stock at packing plants, slaughtering houses, concentration points, and public stock yards, and to insure compliance with such rules and regulations and with the provisions of sections 239.13 to 239.22, 239.26, and 239.27. Nothing herein contained shall authorize or empower the commission to employ or designate any person to fill, dock, or grade live stock.

Subdivision 2. **Accounts to be kept.** Every owner or proprietor of a packing plant, slaughtering house, or concentration point and every live stock commission merchant shall keep within the state such accounts, records, and memoranda as will fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stock holding or otherwise. The commission is authorized to require annual or more frequent reports from every owner or proprietor of any packing plant, slaughtering house, concentration point, or public stockyards subject to the provisions of sections 239.13 to 239.22, 239.26, and 239.27 in such forms and relating to such matters and things connected with such business as the commission may prescribe. The commission shall at all times have access to all accounts, records, and memoranda existing and required to be kept by owners or operators of packing houses, slaughtering houses, concentration points, and public stockyards subject to sections 239.13 to 239.22, 239.26, and 239.27. The commission may prescribe the manner and form in which such accounts, records, and memoranda shall be kept and the matters and things connected with the business of

MINNESOTA STATUTES 1941

1835

DEPARTMENT OF WEIGHTS AND MEASURES 239.18

such person which such accounts, records, and memoranda shall disclose. Thereafter any person who fails to keep accounts, records, and memoranda in the manner and form prescribed or approved by the commission shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both.

Subdivision 3. Access to accounts. Any employee or agent of the commission duly authorized in writing by the commission shall at all reasonable times, for the purpose of examination, have access to and the right to copy any book, account, record, paper, or correspondence relating to the business of any owner or operator of a packing plant, slaughtering house, concentration point, or public stockyards, or to which the commission is authorized to have access under the provisions hereof. Any person who upon demand refuses any duly authorized employee or agent of the commission such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall, upon conviction thereof, be liable to a penalty of \$500.00 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. This penalty shall be recoverable in a civil suit brought in the name of the State of Minnesota and paid into the treasury of the state as miscellaneous receipts.

Subdivision 4. Courts, jurisdiction. Upon the application of the attorney general of the state at the request of the commission, the district courts of the state shall have jurisdiction to issue writs of mandamus commanding the owner or operator of any packing plant, slaughtering house, or concentration point to comply with the provisions of this section, or any order of the commission made in pursuance thereof.

[1935 c. 216 s. 7] (5285-17)

239.18 LIVE STOCK BUYERS MUST BE LICENSED. **Subdivision 1. Agents, licenses.** All buyers of live stock shall be duly licensed as hereinafter provided. No agent shall act for any such buyer unless the buyer is duly licensed and has designated such agent to act in his behalf and notified the commission in his application for license or in writing of such appointment, and requested the commission to issue to such agent an agent's license. The buyer shall be accountable and responsible for the acts of his or its agents.

Subdivision 2. Application for license. Each live stock commission merchant, person, firm, corporation, or his or its employees, agents, and representatives, before engaging in the business of buying live stock, shall, on or before June 30th each year, file an application with the commission on a form prescribed by it for a license to transact such business. The application shall state the nature of the business as hereinabove set forth, the names of the persons applying for the license, and if the applicant be a firm, association, partnership, or corporation, the full name of each member of such firm, association, or partnership, or the names of the officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership, or corporation, the post-office address of the principal place of business of the applicant and such other facts as the commission shall prescribe.

Subdivision 3. Surety bonds required. Each applicant shall file with his application a surety bond issued by a responsible surety company in the sum of \$2,000, in which the commission shall be the obligee but which shall be for the purpose of protecting any person dealing with such applicant, or his or their agent or agents, from loss by reason of acts of fraud, dishonesty, forgery, and theft on the part of the principal or his or their agents and representatives. The commission shall thereupon issue to such applicant, on payment of the sum of \$5.00, a license entitling the applicant to conduct the business of buying live stock at the places named in the application until the 31st day of March next following. A similar license shall be issued to each agent upon the payment of \$5.00, and no agent shall engage in the buying of live stock without first securing a license.

Subdivision 4. Licenses, when not granted, when revoked. The commission may decline to grant or may revoke a license when it is satisfied that (1) the applicant or licensee has violated the laws of this state governing the shipment or transportation of live stock; (2) that the applicant or licensee has been guilty of fraudulent practices in the purchase of live stock or in dealing in live stock; or (3) that the applicant or licensee has violated or failed to comply with the provisions of sections 239.13 to 239.22, 239.26, and 239.27. Before any license shall be revoked the licensee shall be furnished with a copy of the complaint made against him and a hearing shall be had before the commission upon at least ten days' notice to the

licensee to determine whether such license shall be revoked or declined, which notice may be served either by registered mail addressed to the address of the licensee as shown in his application or in the manner provided by law for the service of a summons. At the time and place fixed for hearing the commission or any official, employee, or agent of the commission authorized by the commission shall receive evidence, administer oaths, examine witnesses, and hear the testimony, and thereafter file an order either dismissing the proceedings or revoking the license.

[1935 c. 216 s. 8] (5285-18)

239.19 LIVE STOCK BUYERS SHALL KEEP RECORDS. Each buyer shall keep a record, in form satisfactory to the commission, showing the grading of animals purchased, the number and weight of animals of each grade included in the purchase, the price per hundred pounds paid for the animals of each grade, the number of animals docked, the number of animals in each grade docked, and the amount of dockage of each grade and such other accounts, records, and memoranda concerning his buying transactions as may from time to time be required by the commission, and the commission shall at all times have access to such accounts, records, and memoranda and may at any time examine live stock purchased by the buyer and take such action as it deems necessary to prevent or discover violations of sections 239.13 to 239.22, 239.26, and 239.27.

[1935 c. 216 s. 9] (5285-19)

239.20 SCALES TESTED. The buyers of slaughter live stock operating at concentration points shall have scales upon which the animals are weighed, inspected and tested by a scale inspector of the department of weights and measures at least once every 30 days at their own expense. All such scales shall be tested up to the maximum draft that may be weighed on the scales.

[1935 c. 216 s. 10] (5285-20)

239.21 LIVE STOCK FED BEFORE WEIGHING. The seller may require the buyer of his live stock to give the live stock such feed as it will consume during a two-hour period prior to weighing, the feed to be furnished by the buyer at the expense of the seller, and after such feeding the animals shall be given by the buyer free access to water until their thirst is fully quenched. If feeding is omitted, the actual scale weight shall apply as the sole basis for settlement with the shipper.

[1935 c. 216 s. 11] (5285-21)

239.22 BONDS FILED. All bonds required by sections 239.13 to 239.22, 239.26, and 239.27 shall be filed with the secretary of state. Suit may be brought thereon by any person injured by the misconduct of the principal.

[1935 c. 216 s. 12] (5285-22)

239.23 OFFENSES; PENALTIES. Any person who shall offer or expose for sale, sell or use, or have in his possession a false scale, weight or measure, or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed within one year, as provided by sections 239.01 to 239.11, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure, or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the department, or sell or offer or expose for sale less than the quantity he represents; or sell or offer or expose for sale any such commodities in the manner contrary to law; or sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used to, or calculated to, falsify any weight or measure, or refuse to pay any fee charged for testing and sealing or condemning any scale, weight, or measure, or weighing or measuring device, shall be guilty of a misdemeanor; and, upon conviction, fined a sum not less than \$20.00, nor more than \$100.00, or by imprisonment for not less than ten days, nor more than 90 days, and the costs of such proceeding. No scale, weight, measure, or weighing or measuring device that has been sealed by the department shall be used, sold, or exposed for sale until the fee charged for the service has been paid.

[1911 c. 156 s. 6] (5278)

239.24 HINDERING OFFICIAL A MISDEMEANOR. Any person hindering, impeding, or restricting in any way any employee of the department while in the performance of his official duty shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$20.00 nor more than \$100.00 or by imprisonment for not less than ten, nor more than 90, days for each offense.

[1911 c. 156 s. 7] (5279)

MINNESOTA STATUTES 1941

1837

DEPARTMENT OF WEIGHTS AND MEASURES 239.27

239.25 OBSTRUCTION OF INSPECTION; PENALTY. Every person, association, or corporation that refuses to allow entrance upon or into his or its premises, building, stand, or place for the purpose of inspection as prescribed in section 239.12, or that shall use, employ, keep, sell, or offer or expose for sale any such meters, mechanical devices, or measures in violation of section 239.12 shall be guilty of a misdemeanor; and each violation thereof shall constitute a separate offense.

[1927 c. 291 s. 2] (5285-2)

239.26 CERTAIN ACTS DEEMED GROSS MISDEMEANOR. Any weigher who shall knowingly or carelessly weigh any live stock improperly, or give any false certificate of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such weigher in the performance of his duty by preventing his proper access to the scales used in the weighing of live stock, or otherwise, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$100.00, nor more than \$1,000, or by imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment.

[1935 c. 216 s. 6] (5285-16)

239.27 VIOLATIONS; GROSS MISDEMEANOR. Any person who shall violate any of the provisions of sections 239.13 to 239.22, 239.26, and 239.27, and for which violation no penalty is hereinbefore specified, shall be guilty of a gross misdemeanor; and, upon conviction, punished for each such offense by a fine of not less than \$100.00, nor more than \$1,000, or by imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment.

[1935 c. 216 s. 13] (5285-23)