

CHAPTER 239

WEIGHTS, MEASURES

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239.01 DEPARTMENT CREATED; JURISDICTION. 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; DEPUTIES, EMPLOYEES. 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239.03 [Superseded by Minnesota Statutes, Chapter 43.]

239.04 FEES 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.

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

Subd. 3. **Concentration point.** As used in sections 239.13 to 239.27, the term "concentration point" means any stock yard at which livestock is assembled by rail or other means of transportation, and at which livestock 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 livestock 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.

Subd. 4. **Buyer or dealer.** As used in sections 239.13 to 239.27, the term "buyer" or "dealer" means any person, firm, corporation, or his or its employees, agents, or representatives, engaged as a buyer or dealer of livestock their agents or representatives, except persons engaged exclusively in the sale of meats at retail and persons licensed under Minnesota Statutes 1945, Section 31.185.

Subd. 5. **Packers.** As used in sections 239.13 to 239.27, the term "packers" means any person engaged in the business as a dealer and buyer of livestock 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 and persons licensed under Minnesota Statutes 1945, Section 31.185.

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

[1911 c 156 s 12; 1935 c 216 s 1; 1949 c 549 s 1, 2] (5283, 5285-11)

239.06 RULES AND REGULATIONS. 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; 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 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 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 ANNUAL INSPECTION. 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 [Obsolete]

239.12 TEST METERS. 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 PACKING PLANTS AND STOCK YARDS, WEIGHERS. The commission shall appoint at packing plants, slaughtering houses, and concentration points where the average daily number of livestock slaughtered or handled is 500 head or more, and the commission may appoint at packing plants, slaughtering houses, and concentration points, on application from such packing plant, slaughtering house, or concentration point, where the average daily number of livestock slaughtered or handled is 250 head or more, but less than 500 head, such weighers as may be necessary for weighing livestock, provided that no weighers shall be appointed at packing plants or slaughtering houses at which the only livestock slaughtered or handled is purchased or acquired at a public stockyard. The commission shall prescribe and follow such reasonable regulations as it deems necessary for determining such daily average. Such weighers shall weigh all livestock coming to these places for sale, 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 livestock 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; 1951 c 230 s 1; 1951 c 360 s 1; 1957 c 343] (5285-12)

239.14 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 livestock market, in the state at which the average daily number of head of livestock bought and sold is 250 or more; and provided, further, that if at any location where weighing is performed in accordance with this act and the total annual fees collected are insufficient to pay the cost of such weighing, the annual deficit shall be assessed and collected against the buyer or buyers of the livestock at such location or locations in such manner as the commission may prescribe. Moneys so collected shall be deposited in the state treasury and known as the livestock weighing fund, and shall be paid out only on the order of the commission and the auditor's warrant.

[1935 c 216 s 3; 1951 c 360 s 2] (5285-13)

239.15 QUALIFICATIONS. No weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchase, or sale of livestock, 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. Subdivision 1. **Enforcement.** The commission shall prescribe such rules and regulations as may be necessary to enforce all of the provisions of sections 239.13 to 239.21, 239.26 and 239.27.

Subd. 2. **Accounts to be kept.** Every owner or proprietor of a packing plant, slaughtering house, or concentration point and every livestock 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 such person which such accounts, records, and memoranda shall disclose. There-

after 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.

Subd. 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 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.

Subd. 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; 1949 c 549 s 3] (5285-17)

239.18 LIVESTOCK BUYERS, LICENSES. Subdivision 1. **Agents, licenses.** All buyers or dealers of livestock shall be duly licensed as hereinafter provided. No agent shall act for any such buyer or dealer unless the buyer or dealer 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 or dealer shall be accountable and responsible for the acts of his or its agents.

Subd. 2. **Application for license.** Each livestock commission merchant, person, firm, corporation, or his or its employees, agents, and representatives, before engaging in the business of buying and dealing in livestock, shall, on or before July 1 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.

Subd. 3. **Surety bonds; termination and cancelation of licenses.** Each applicant shall file with his application a surety bond naming him as principal, issued by a responsible surety company in a principal sum which shall be fixed by the commission on a graduated scale based on the amount of business the applicant has done during the preceding twelve month period, but which shall be not less than the sum of \$5,000. The commission shall by rule after public hearing fix a formula for determining the graduated amount of all bonds in excess of \$5,000, which formula shall be based on a percentage of the gross business of the licensee in a preceding twelve month period. If the licensee has not previously engaged in business as a livestock buyer or dealer, the commission shall require a financial statement from the applicant and on the basis of the financial statement, and on any other factor it may deem pertinent, shall fix the bond at a sum which in its judgment will protect the public. The commission may at any time raise or lower such bond requirements if it appears from an audit of the licensee's books and his financial statement that a modification of such bond requirements is justified. The railroad and warehouse commission shall be named as trustee in the bond which bond shall be for the purpose of protecting any person dealing with the licensee, or his or their agent or agents, within the state of Minnesota, from loss by reason of the failure to pay when due to the person or persons entitled thereto the purchase price of all livestock purchased from such persons by said principal or his or their agents and representatives. Such bond shall run continuously during the period such license shall be in force and effect. In case of default by the licensee the commission shall have the power to require the licensee and the surety company to appear

before it at a hearing held for the purpose of determining all liability of the licensee under the terms of his bond, and after said hearing, based on the evidence adduced thereat, the commission shall make its order fixing and determining the liability of the licensee and of the surety company because of the licensee's default and if the bond is insufficient to cover the liability of all claimants, the commission shall prorate the proceeds of the bond among the claimants on a percentage basis. Before such hearing the commission shall publish a notice setting forth the licensee's default and requiring all claimants to file proof of claim with the commission within three months of the date such notice is published or be barred from participating in the proceeds of such bond. Such publication shall be made in a newspaper published at the county seat of the county in which the licensee has his principal place of business and if the licensee maintains an auction pavilion which is not located at his principal place of business, publication shall also be made in a newspaper at or near the location of such livestock pavilion. The order of the commission may be enforced by appropriate proceedings in the district court of Ramsey county and any party aggrieved by the order of the commission may appeal to said district court in the manner provided for appeal from other proceedings before the commission. Upon the filing of the bond as required by the commission and the payment of the sum of \$15, a license entitling the applicant to conduct the business of buying livestock at the places named in the application shall be issued. Such licenses shall run until the succeeding July 1, at which time they may be renewed by the payment of the aforesaid fee. In lieu of the bond required under the provisions of this subdivision, the applicant may file with the commission the dealer's bond filed by him with the United States department of agriculture and in effect pursuant to the provisions of the Packers and Stockyards Act, as amended, (7 U.S.C. 181 et seq.) the minimum amount of which is \$5,000, unless the commission shall determine that the amount of the federal bond is insufficient in any instance, in which event the commission shall by order fix the reasonable amount of the bond required to protect the public interest. A similar license shall be required of and shall be issued to each agent of the licensee upon the payment of \$15, and no agent shall engage in the buying or dealing in livestock without first securing such license.

No surety bond shall be required of any agent or employee of a livestock commission merchant, person, firm, or corporation, licensed under this section. Unless otherwise canceled by the commission or the licensee, the license of all agents or employees shall terminate with the expiration of the principal's license. An agent's or employee's license may be canceled by the principal when such cancelation has been approved by the commission.

Subd. 4. Withholding of licenses; revocation. 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 livestock; (2) that the applicant or licensee has been guilty of fraudulent practices in the purchase of livestock or in dealing in livestock; (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; or (4) that the applicant or licensee has violated or failed to comply with the provisions of Minnesota Statutes, Chapter 35, or the rules and regulations of the state livestock sanitary board. Before any license shall be revoked the licensee shall be furnished with a statement of the complaints 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 the 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.

The provisions of Laws 1963, Chapter 552 shall take effect and be in force from and after July 1, 1963.

Subd. 5. Claims against surety. Any person claiming to be damaged by any breach of the conditions of a bond given by an applicant or licensee may enter complaint thereof to the commission, which complaint shall be a written statement of the facts constituting the complaint and shall file it in the office of the secretary

of the commission within one year from such breach of the conditions of the bond. Unless such complaint is filed with the commission within one year from such breach of the conditions of the bond, no action may be maintained by such person against the surety and in no event, may an action be commenced against the surety unless such action is brought within one year from and after the date on which the complaint is filed with the secretary of the commission.

[1935 c 216 s 8; 1949 c 549 s 4-6; 1953 c 465 s 1, 2; 1957 c 920; 1963 c 552 s 1, 2] (5285-18)

239.19 LIVESTOCK 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 livestock 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 livestock 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 LIVESTOCK FED BEFORE WEIGHING. The seller may require the buyer of his livestock to give the livestock 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 [Repealed, 1949 c 549 s 7]

239.225 OVERAGES TURNED OVER TO STATE TREASURER. All excess moneys arising from inability to make fractional change at tariff rates, in the weighing of animals, by the railroad and warehouse commission, which excess is retained by any person, firm, corporation, or association shall be paid on demand to the railroad and warehouse commission and forthwith deposited in the office of the state treasurer and credited to the livestock weighing fund therein; and that all such moneys heretofore similarly arising and retained, which have been heretofore paid to such commission and are now in the state treasury and not otherwise appropriated, are hereby appropriated and credited to such livestock weighing fund.

[1943 c 123 s 1]

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 nor more than \$100 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. 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 nor more than \$100 or by imprisonment for not less than ten nor more than 90 days for each offense.

[1911 c 156 s 7] (5279)

239.25 OBSTRUCTION OF INSPECTION. 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 GROSS MISDEMEANORS. Any weigher who shall knowingly or carelessly weigh any livestock 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 livestock, or otherwise, shall be guilty of a gross misdemeanor and upon conviction punished by a fine of not less than \$100 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. 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 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)

239.28 DRY MEASURES. The standard measure of capacity for commodities sold by dry measure shall be the bushel containing 2150.42 cubic inches. The half bushel, peck, half peck, quarter peck, quart, and pint shall be derived by successively dividing that measure by two.

[R L s 2724; 1913 c 560 s 1] (7021)

239.29 LIQUID MEASURE. The standard measure of capacity for liquids shall be the wine gallon, containing 231 cubic inches; and 31.50 gallons shall constitute a barrel, except for fermented malt liquors which shall be a barrel of 31 gallons, and 63 gallons a hogshead.

[R L s 2725; 1913 c 560 s 2] (7022)

239.30 LINEAL MEASURE. The standard measure of length, from which all other measures of extension, lineal, superficial, or solid, shall be derived, is the yard, of three feet, or 36 inches.

[R L s 2726; 1913 c 560 s 2] (7023)

239.31 HUNDREDWEIGHT. In contracts for the sale of goods or commodities, the term "hundredweight" shall mean 100 pounds avoirdupois.

[R L s 2727; 1913 c 560 s 3] (7024)

239.32 STANDARD WEIGHT OF BUSHEL. In contracts for the sale of any of the following articles, the term "bushel" shall mean the number of pounds avoirdupois herein stated:

Corn, in ear, 70; beans (except lima beans, scarlet runner pole beans, white runner pole beans and broad windsor beans), smooth peas, wheat, clover seed, Irish potatoes and alfalfa, 60; broom corn seed and sorghum seed, 57; shelled corn (except sweet corn), rye, lima beans, flaxseed and wrinkled peas, 56; sweet potatoes and turnips, 55; onions and rutabagas, 52; buckwheat, hempseed, rapeseed, beets, green apples, walnuts, rhubarb, hickory nuts, chestnuts, tomatoes, scarlet runner pole beans and white runner pole beans, 50; barley, millet, Hungarian grass seed, sweet

corn, cucumbers and peaches, 48; broad windsor beans, 47; carrots, timothy seed and pears, 45; parsnips, 42; spelt or spilts, 40; cranberries, 36; oats and bottom onion-sets, 32; dried apples, dried peaches and top onion-sets, 28; peanuts, 22; blue grass, orchard grass and redtop seed, 14; plastering hair, unwashed, 8; plastering hair, washed, 4; lime, 80; but if sold by the barrel the weight shall be 200 pounds. In contracts for the sale of green apples, the term "bushel" shall mean 2150.42 cubic inches.

[R L s 2728; 1913 c 560 s 4; 1935 c 270] (7025)

239.33 STANDARD MEASUREMENT OF WOOD. In all contracts for sale of wood the term "cord" shall mean 128 cubic feet of wood, in four foot lengths; and if the sale is of "sawed wood," a cord shall mean 110 cubic feet when ranked, or 160 cubic feet when thrown irregularly or loosely into a conveyance for delivery to the purchaser; and if the sale is of "sawed and split wood," a cord shall mean 120 cubic feet, when ranked, and 175 cubic feet when thrown irregularly and loosely into a conveyance for delivery.

[1913 c 560 s 5] (7026)

239.34 STANDARD WEIGHT OF COAL, CHARCOAL AND ICE. In all contracts for the sale of coal, charcoal, and ice, the term "ton" shall mean 2,000 pounds. A sale of coal, charcoal, and ice, except by weight, is hereby prohibited.

[1913 c 560 s 6] (7027)

239.35 STANDARD WEIGHT OF FLOUR. In all contracts for the sale of flour, the term "barrel" shall mean 196 net pounds avoirdupois.

[1913 c 560 s 7] (7028)

239.36 FRACTIONAL PARTS. All contracts for the sale of a fractional part of a bushel, barrel, ton, or cord of any article or commodity on which the legal weight or measurement per bushel, barrel, ton, or cord has been established, shall require and mean a like fractional part of the legal and established weight or measurement per bushel, barrel, ton, or cord.

[1913 c 560 s 8] (7029)

239.37 VARIATIONS; DUTY OF COMMISSION. The commission shall establish uniform tolerances or reasonable variation to take care of unavoidable shrinkage, and of scale variations in handling and weighing of any of the articles mentioned in this chapter.

[1913 c 560 s 10] (7031)

239.38 SEALING. Every person engaged in any business requiring the use of weights or measures shall cause those used by him to be tested and sealed by the county sealer. Every person who shall buy, sell, or dispose of any goods or commodities by an unsealed weight, measure, or scale kept by him, or shall knowingly use any such weight, measure, or scale which has been sealed, but is incorrect, shall be guilty of a misdemeanor; but no contract of sale shall thereby be rendered void.

[R L s 2729] (7032)

239.39 TESTING UPON REQUEST. Upon written request of any person aggrieved, and payment of \$1, and mileage at the rate of 20 cents per mile going and returning, the county sealer or his deputy shall test any weights, measures, or scales used in his county, whether already sealed or not. If such sealer or deputy shall give to the person complained of prior notice of such testing, he shall be guilty of a misdemeanor.

[R L s 2730] (7033)

239.40 NEGLECT TO PROCURE STANDARDS. When a county treasurer is requested, in writing, to procure any standard of weight or measure required by law to be kept by him, he shall procure the same within 20 days thereafter, or forfeit to the county \$100 at the suit of any interested person.

[R L s 2731] (7034)

239.41 WEIGHT OF BREAD; STANDARD AVOIRDUPOIS WEIGHT; TWIN OR MULTIPLE LOAVES. It shall be unlawful for any person, firm, or corporation to manufacture, produce for sale, sell, or offer or expose for sale in this state bread in loaves of any other weight than the following standard avoirdupois weights: one pound, one and one-half pounds, or any multiple of one pound.

When twin or multiple loaves are baked the weights herein specified shall apply to each unit of the twin or multiple loaf, but nothing in sections 239.41 to 239.43 and

239.45 shall be construed to prohibit making a twin loaf of a total weight of 16 or 24 ounces if the same be marked and sold as a pound or a pound and a half loaf.

[1927 c 351 s 1] (7035-1)

239.42 BREAD TO BE WRAPPED. Each loaf or twin loaf of bread sold within this state shall be wrapped in a clean wrapper or clean wrapping paper in such manner as to completely protect the bread from dust, dirt, vermin or other contamination, the wrapping to be done in the bakery where made at any time prior to or at the time of sale of such bread. Where three or more loaves of bread are sold and delivered at the bakery for personal use, then and in that case the bread may be wrapped in bulk.

Every loaf or twin loaf of bread sold within this state shall have affixed on the loaf or on the outside of the wrapper in a plain statement the weight of the loaf or twin loaf of bread, together with the name and address of the manufacturer.

[1927 c 351 s 2; 1931 c 322 s 1] (7035-2)

239.43 NET WEIGHT CONSTRUED. The weights specified in sections 239.41 to 239.43 and 239.45 shall be construed to mean net weights within a period of 24 hours after baking. A variation at the rate of one ounce per pound over or one ounce per pound under the specified weight of each individual loaf shall not be a violation of sections 239.41 to 239.43 and 239.45; provided, that the total weight of 25 loaves of bread of a given variety shall in no case fall below 25 times the unit weight.

[1927 c 351 s 3; 1931 c 322 s 2] (7035-3)

239.44 PENALTY FOR VIOLATION. Whoever in buying shall take any greater number of pounds or cubic feet to the bushel, barrel, ton, or cord, as the case may be, than is allowed and provided in sections 239.28 to 239.37, or in selling, shall give any less number, shall be guilty of a misdemeanor; and upon conviction thereof punished by a fine of not less than \$10 nor more than \$100 or by imprisonment for not less than ten nor more than 90 days in the county jail and the cost of such proceeding.

[1913 c 560 s 9] (7030)

239.45 VIOLATIONS; PENALTY. Any person, firm, or corporation which shall violate any provision of sections 239.41 to 239.43 shall be guilty of a misdemeanor; and upon conviction punished by a fine of not less than \$10 nor more than \$100 and each separate sale or violation of any provision shall constitute a separate offense.

[1927 c 351 s 4] (7035-4)

239.46 FINES. All fines collected under the provisions of sections 239.28 to 239.40 shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought.

[R L s 2732] (7035)

239.51 STANDARD WEIGHTS OF CERTAIN CONTAINERS. Subdivision 1. **Standard weights; exceptions.** It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of 3, 5, 10, 25, 50, and 100 pounds, and multiples of 100 pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy, and hominy grits.

The provisions of this section shall not apply to:

(a) The retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock;

(b) The sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds or for export;

(c) Flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than three pounds;

(d) The exchange of wheat for flour by mills grinding for toll.

Subd. 2. **Penalty.** Any violation of this section constitutes a misdemeanor.

[1945 c 295]

239.511 CONTAINERS FOR SMALL FRUITS. Subdivision 1. **Legal size.** It shall be unlawful for any person to sell, offer for sale, or give away, any containers for the distribution of berries or small fruits in less quantities than one bushel, unless the containers are of the capacity of one quart, one pint, or one-half pint, or

multiples of a quart standard dry measure, and all sales of raspberries, blackberries, blueberries, currants, gooseberries, strawberries, and similar berries, and all plums, cherries, and similar small fruit, in less quantities than one bushel shall be by dry measure, or in containers as above specified. The possession of containers for berries or small fruit shall be presumptive evidence that they were to be used for distribution.

Subd. 2. **Refilling.** In no case shall such containers be refilled for use in the sale of berries or small fruits of any kind whatsoever.

Subd. 3. **Penalty.** Any person violating the provisions of subdivisions 1 and 2 shall be guilty of a misdemeanor and punished by a penalty of not less than \$10 nor more than \$100 or by imprisonment in the county jail for not less than ten nor more than 90 days.

[1913 c 66 s 1-3] (10402, 10403, 10404)

239.52 WEIGHTS AND MEASURES REVOLVING FUND. The revolving fund established by Laws 1947, Chapter 634, Section 20, shall be used to employ personnel and pay other expenses for special weights measures inspections only. All receipts from such special inspections shall be deposited in the account so established and are hereby reappropriated to that purpose. The railroad and warehouse commission is directed to adjust the schedule of fees for such special inspections to provide that each type of fee charged shall be sufficient to cover the cost of such special inspection, and that the aggregate of fees collected shall be sufficient to pay for all salaries and other expenses connected with such special inspections. The railroad and warehouse commission shall review and adjust its schedule of fees for such special inspections at the end of each six months and have all fees charged approved by the commissioner of administration before they are adopted, so as to insure that the fees charged shall be sufficient to pay all the salaries and expenses connected with such special inspections during the fiscal year, and that the unobligated balance, including accounts receivable, in the revolving fund at the end of each fiscal year shall not be less than \$10,000. The unobligated balances in said revolving fund in excess of \$10,000, as of June 30 of each fiscal year, shall be cancelled into the general revenue fund.

[1947 c 634 s 20]

239.521 WEIGHTS AND MEASURES REVOLVING FUND, ABOLITION; ADJUSTMENT OF FEES. The revolving fund established by Laws 1947, Chapter 634, Section 20, as set forth in Minnesota Statutes 1965, Section 239.52 is abolished. All moneys therein contained are transferred to the general revenue fund in the state treasury. The railroad and warehouse commission shall continue to adjust fees as prescribed in said section 239.52.

[Ex1967 c 48 s 85]

239.53 USING FALSE WEIGHTS AND MEASURES. Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly delivering less than the quantity he represents; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the foregoing provisions of this section; or who shall knowingly mark or stamp false or short weights or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so marked, shall be guilty of a misdemeanor.

[R L s 5115] (10401)