

## CHAPTER 239

### WEIGHTS, MEASURES

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#### 239.001 CITATION.

Sections 239.001 to 239.003 may be cited as the "metric implementation and standards act."

*History: 1974 c 474 s 1*

#### 239.002 PURPOSE AND POLICY.

In recognition of the facts that (1) only about one dozen countries in the world have not yet adopted or begun to implement the metric system of weights and measures; (2) the United States is one, and the only major industrialized nation, of that remaining number; (3) the secretary of commerce of the United States, pursuant to a two-year study under the Metric Study Act of 1968, has recommended that the United States now begin a deliberate change to the metric system; (4) economists and other students of international trade recognize the pressing necessity of such a change if this country is to maintain and improve its rightful place in the world trade community; and (5) as the continued economic growth of this state and its local industry is inextricably linked with the ability of the United States to hold and competitively serve foreign export markets, it is, therefore, declared to be in the best interest of the state of Minnesota and its citizens that this state now begin the gradual but deliberate implementation of the metric system of weights and measures.

*History: 1974 c 474 s 2; 1986 c 444*

#### 239.003 IMPLEMENTATION; COMMISSIONER OF ADMINISTRATION.

The commissioner of administration shall have general supervisory authority over the implementation of the metric system in the state of Minnesota. The commissioner of administration shall promulgate such rules as may be necessary to plan for the gradual implementation in the commerce of this state the metric system of weights and measures. The rules promulgated by the commissioner of administration pursuant to this subdivision shall:

(1) Provide for the full conversion of the commerce of this state to the metric system when this system has been fully adopted as national standards by the Congress of the United States; and

(2) Insure that all state departments, divisions, agencies, boards and commissions having any authority and/or responsibility in matters concerning standards of weights and measurement in this state shall forthwith initiate planning for the gradual conversion to and implementation of the metric system of weights and measures in this state.

*History: 1974 c 474 s 3; 1985 c 248 s 70*

**239.004 CONSULTATION WITH COMMISSIONER OF EDUCATION.**

The commissioner of education shall in consultation with the commissioner of administration develop and implement a plan of public education on the metric system of weights and measures. The commissioner of education shall implement the plan.

**History:** 1974 c 474 s 4

**239.01 DIVISION OF WEIGHTS AND MEASURES; JURISDICTION.**

There is hereby created a division to be known as the division of "weights and measures" hereafter referred to as the division, and it shall be under the jurisdiction of the department of public service, which shall have supervision and control over all weights, weighing devices, and measures in the state.

**History:** (5270) 1911 c 156 s 1; 1971 c 25 s 42,44; 1971 c 74 s 5

**239.02 SUPERVISOR; DEPUTIES, EMPLOYEES.**

The department shall appoint in accordance with chapter 43A, a supervisor of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter.

**History:** (4634, 5271) RL s 1959; 1911 c 140 s 3; 1911 c 156 s 2; 1921 c 382 s 1; 1971 c 25 s 43; 1977 c 364 s 12; 1981 c 210 s 54

**239.03** [Superseded by Minnesota Statutes, chapter 43.]

**239.04** [Repealed, 1971 c 25 s 45; 1976 c 2 s 163]

**239.05 DEFINITIONS.**

Subdivision 1. **Person.** The word "person," as used in sections 239.01 to 239.10, means person or persons, corporation, partnership, stock company, or the agent or employee thereof.

Subd. 2. [Repealed, 1974 c 347 s 17]

Subd. 3. [Repealed, 1974 c 347 s 17]

Subd. 4. [Repealed, 1974 c 347 s 17]

Subd. 5. [Repealed, 1974 c 347 s 17]

Subd. 6. [Repealed, 1974 c 347 s 17]

**History:** (5283, 5285-11) 1911 c 156 s 12; 1935 c 216 s 1; 1949 c 549 s 1,2; 1Sp1981 c 4 art 1 s 97

**239.06 RULES.**

The department shall prescribe and adopt such rules 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.

**History:** (5275) 1911 c 156 s 3; 1971 c 25 s 67; 1985 c 248 s 70

**239.07 DUTIES AND POWERS; STANDARD OF WEIGHTS AND MEASURES.**

The division 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 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.

**History:** (5276) 1911 c 156 s 4; 1971 c 25 s 44; 1971 c 74 s 7; 1977 c 364 s 13

### **239.08 INSPECTING, TESTING, SEALING; INCORRECT WEIGHTS, MEASURES.**

The division 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 as often as necessary, see that the weights, measures, and all apparatus used in the state are correct. In the general performance of this duty the division, or any of its employees, may enter or go into and upon any stand, place, building, or premises to stop any vendor or any dealer and require the person, 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 division shall be sealed with proper devices to be approved by the department. Any employee shall condemn, seize, and destroy incorrect weights, measures, or weighing or measuring devices which, in the judgment of the division 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 division. 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 division.

**History:** (5277) 1911 c 156 s 5; 1971 c 25 s 44,67; 1971 c 74 s 8; 1977 c 364 s 14; 1986 c 444

### **239.081 INSPECTING TRACK SCALES.**

The department shall supervise and inspect all track scales, and may direct any carrier to transport, move, and switch to any track scale free of charge any car used in the inspection and testing of scales. The department shall require the installation and maintenance of track scales at terminals, warehouses, and at other points in the state where scales are deemed necessary. The department shall prescribe reasonable rules for the weighing of railroad cars and of freight. Rules of the department promulgated under chapter 218 and in effect on January 1, 1976, which pertain to installation or inspection of track scales or the weighing of railroad cars and freight shall continue in effect until amended or repealed by the department.

**History:** 1980 c 460 s 31; 1985 c 248 s 70

### **239.09 SPECIAL POLICE OFFICERS.**

The division and all authorized employees under the provisions of sections 239.01 to 239.10 are hereby made special police officers 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.

**History:** (5280) 1911 c 156 s 8; 1971 c 25 s 44; 1971 c 74 s 9; 1Sp1981 c 4 art 1 s 98; 1986 c 444

**239.10 ANNUAL INSPECTION.**

The department shall charge a fee to the owner for the costs of the regular inspection of scales, weights, measures, and weighing or measuring devices. The cost of any other inspection must be paid by the owner if the inspection is performed at the owner's request or if the inspection is made at the request of some other person and the scale, weight, measure, or weighing or measuring device is found to be incorrect. The department may fix the fees and expenses for regular inspections and special services by rule pursuant to section 16A.128, except that no additional fee may be charged for retail petroleum pumps, petroleum vehicle meters, and petroleum bulk meters that dispense petroleum products for which the petroleum inspection fee required by section 296.13 is collected. Money collected by the department for its regular inspections, special services, fees, and penalties must be paid into the state treasury and credited to the state general fund.

*History: (5282) 1911 c 156 s 11; 1915 c 281 s 1; 1969 c 399 s 1; 1969 c 1031 s 11; 1971 c 25 s 44.67; 1971 c 74 s 10; 1977 c 364 s 15; 1981 c 357 s 76; 1983 c 301 s 175; 1984 c 654 art 3 s 79*

**239.11 [Obsolete]****239.12 TEST METERS.**

The department may 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 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 department to make an inspection and test of all such meters, mechanical devices, and measures upon the premises of such petitioning consumers. Thereupon the department, 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 department within 30 days of the completion of such inspection and test, and deposited to the credit of the general 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 department. The department, 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 department, 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 department. 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 department. In the general performance of its duty, the department, or any of its employees, may enter or go into or upon any premises, building, stand, or place at all reasonable times.

*History: (5285-1) 1927 c 291 s 1; 1931 c 98; 1971 c 25 s 67; 1977 c 364 s 16*

**239.13 [Repealed, 1974 c 347 s 17]**

- 239.14 [Repealed, 1974 c 347 s 17]  
 239.15 [Repealed, 1974 c 347 s 17]  
 239.16 [Repealed, 1974 c 347 s 17]  
 239.17 [Repealed, 1974 c 347 s 17]  
 239.18 [Repealed, 1974 c 347 s 17]  
 239.19 [Repealed, 1974 c 347 s 17]  
 239.20 [Repealed, 1977 c 364 s 20]  
 239.21 [Repealed, 1974 c 347 s 17]  
 239.22 [Repealed, 1949 c 549 s 7]  
 239.225 [Repealed, 1974 c 347 s 17]

### 239.23 OFFENSES; PENALTIES.

Any person who shall offer or expose for sale, sell or use, or possess 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 as provided by sections 239.01 to 239.10, 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 division, or sell or offer or expose for sale less than the quantity represented; or sell or offer or expose for sale any such commodities in the manner contrary to law; or sell or offer for sale or possess 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.

**History:** (5278) 1911 c 156 s 6; 1971 c 25 s 44; 1971 c 74 s 12; 1977 c 364 s 17; 1986 c 444

### 239.24 HINDERING OFFICIAL; PENALTY.

Any person hindering, impeding, or restricting in any way any employee of the division while in the performance of official duty shall be guilty of a misdemeanor.

**History:** (5279) 1911 c 156 s 7; 1971 c 25 s 44; 1971 c 74 s 13; 1977 c 364 s 18; 1986 c 444

### 239.25 OBSTRUCTION OF INSPECTION.

Every person, association, or corporation that refuses to allow entrance upon or into 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.

**History:** (5285-2) 1927 c 291 s 2; 1986 c 444

- 239.26 [Repealed, 1974 c 347 s 17]  
 239.27 [Repealed, 1980 c 509 s 94]

### 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.

**History:** (7021) RL s 2724; 1913 c 560 s 1

### 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.

**History:** (7022) RL s 2725; 1913 c 560 s 2

**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.

*History: (7023) RL s 2726; 1913 c 560 s 2*

**239.31 HUNDREDWEIGHT.**

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

*History: (7024) RL s 2727; 1913 c 560 s 3*

**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.

*History: (7025) RL s 2728; 1913 c 560 s 4; 1935 c 270*

**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. If a measurement is made by weight, the term "cord" or any other term used to describe freshly cut green aspen in 100 inch or pole lengths containing  $133\frac{1}{3}$  cubic feet of loosely or irregularly piled wood for transportation constitutes 4,300 pounds during the period of May 1 through October 31 and 4,500 pounds during the period of November 1 through April 30. Specified weights are based on 74 cubic feet of solid wood content per cord.

*History: (7026) 1913 c 560 s 5; 1985 c 260 s 1*

**239.34 STANDARD WEIGHT OF COAL AND CHARCOAL.**

In all contracts for the sale of coal, charcoal, and ice, the term "ton" shall mean 2,000 pounds. A sale of coal and charcoal, except by weight, is hereby prohibited.

*History: (7027) 1913 c 560 s 6; 1973 c 89 s 1*

**239.35 STANDARD WEIGHT OF FLOUR.**

In all contracts for the sale of flour, the term "barrel" shall mean 196 net pounds avoirdupois.

*History: (7028) 1913 c 560 s 7*

**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.

**History:** (7029) 1913 c 560 s 8

### 239.37 VARIATIONS; DUTY OF DEPARTMENT.

The department 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.

**History:** (7031) 1913 c 560 s 10; 1971 c 25 s 67

### 239.38 SEALING.

Every person who shall buy, sell, or dispose of any goods or commodities by an unsealed weight, measure, or scale kept by the person, 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.

**History:** (7032) RL s 2729; 1975 c 313 s 23; 1986 c 444

239.39 [Repealed, 1975 c 313 s 24]

239.40 [Repealed, 1975 c 313 s 24]

239.41 [Repealed, 1975 c 313 s 24]

239.42 [Repealed, 1975 c 313 s 24]

239.43 [Repealed, 1975 c 313 s 24]

### 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.

**History:** (7030) 1913 c 560 s 9; 1977 c 364 s 19

239.45 [Repealed, 1976 c 239 s 75]

### 239.46 FINES.

All fines collected under the provisions of sections 239.28 to 239.38 shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought.

**History:** (7035) RL s 2732; 1976 c 239 s 76

### 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.

**History:** 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. This subdivision shall not require containers as above specified when such berries and small fruits are picked by the consumer on the grower's property.

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.

**History:** (10402, 10403, 10404) 1913 c 66 s 1-3; 1971 c 137 s 1

### 239.52 WEIGHTS AND MEASURES FEES.

The department of public service shall adjust the schedule of fees for regular and special weights and measures inspections to recover the amount of money appropriated for the weights and measures program, other than the cost of (1) checkweighing or the weighing of prepackaged goods to determine whether the content weight listed on the package is accurate, (2) testing for the quality of petroleum products, (3) inspections or investigations made as a result of a complaint received by the department, if the scale weight, measure, or weighing or measuring device is found to be correct, and (4) court appearances by department personnel on behalf of other governmental agencies. The department of public service shall review and adjust its schedule of fees for regular and special inspections at the end of each six months and have all fees charged approved by the commissioner of finance before they are adopted, so as to insure that the fees charged shall be sufficient to pay all the recoverable costs connected with regular and special inspections during the fiscal year.

**History:** 1947 c 634 s 20; 1969 c 399 s 1; 1971 c 25 s 46,67; 1981 c 357 s 77

239.521 [Repealed, 1981 c 357 s 115]

### 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 represented; or who shall retain 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.

**History:** (10401) RL s 5115; 1986 c 444