

Business and Professions Code Division 5

Extracts from the

BUSINESS AND PROFESSIONS CODE

of California

PERTAINING TO

**WEIGHTS AND MEASURES
AND PETROLEUM PRODUCTS**

JANUARY 2015



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS**

Edmund G. Brown, Jr.
Governor

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**BUSINESS AND
PROFESSIONS CODE**

DIVISION 5

Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

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(Rev. 1/15)

§ 12001. DEFINITIONS: APPLICATION

The definitions in this chapter apply to this division only and do not affect the provisions of any other division.

Added Stats. 1939 ch 43 § 1.

§ 12002. “DEPARTMENT”

“Department” means the Department of Food and Agriculture.

Added Stats. 939 ch 43 § 1; Amended Stats. 1989 ch 246 § 1.

§ 12003. “DIRECTOR”

“Director” or “Secretary” means the Secretary of Food and Agriculture.

Added Stats. 1939 ch 43 §1 Amended Stats. 1989 ch 246 § 2; Amended Stats. 1994 ch 592 § 1.

§ 12004. “STATE SEALER”

“State Sealer” means the chief of the division of the department charged with the enforcement of the provisions of this division.

Added Stats. 1939 ch 43 § 1.

§ 12005. “NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY”

Whenever any provision of this division makes reference to the National Bureau of Standards, that reference shall be construed to include the National Institute of Standards and Technology.

Added Stats. 1989 ch 1047 § 1.

§ 12006. “COUNTY SEALER”

“County Sealer” means any sealer appointed by a county. A county may in its discretion refer to its sealer as the county director of weights and measures.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 254 § 1.

§ 12007. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 1.]

Note - Repealed section defined "City Sealer".

§ 12008. "SEALER"

"Sealer", when used without qualification, includes the State Sealer, county sealers and their deputies and inspectors.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 1; Stats. 1967 ch 286 § 2.

§ 12009. "SELL"

"Sell," in any of its variant forms, includes barter, exchange, trade, rent, lease, keep for sale, offer for sale, or expose for sale, in any of their variant forms.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1995 ch 156 § 1.

§ 12009.5. "DISTRIBUTE"

"Distribute", in any of its variant forms, includes keep for distribution, offer for distribution, or expose for distribution, in any of their variant forms.

Added Stats. 1979 ch 527 § 1.

§ 12010. "USE"

"Use", in any of its variant forms, includes keep for use in any of its variant forms.

Added Stats. 1939 ch 43 § 1.

§ 12011. "PERSON"

"Person" includes person, firm, corporation or association.

Added Stats. 1939 ch 43 § 1. Prior Law: Stats. 1913 ch 597 § 39 p 1096.

§ 12011.5. “COPIES”, “STANDARDS”, “COPIES OF STANDARD WEIGHTS AND MEASURES”

Wherever in this division the terms “copies” or “standards” or “copies of the standard weights and measures” are used, such terms shall refer to the original standards in the possession of the department or to true and accurate copies derived therefrom.

Added Stats. 1939 ch 992 § 2.

§ 12011.6. “CONTAINER”

“Container” means any receptacle or carton, whether lidded or unlidded, into which a commodity is packed or placed, or any wrappings with or into which any commodity is wrapped or put for sale.

Added Stats. 1949 ch 1384 § 1.

§ 12011.7. “PALLET”

“Pallet” means any portable platform upon which containers or material is placed to facilitate handling.

Added Stats. 1961 ch 344 § 1; effective May 13, 1961.

§ 12012. EXERCISE OF SECRETARY’S POWERS THROUGH STATE SEALER OR OTHERWISE

The secretary may exercise any power conferred upon the department or upon the State Sealer by this division through the State Sealer or otherwise.

Added Stats. 1939 ch 43 § 1; Amended Stats. 2012 ch 661 § 18.

§ 12012.1. ACTION BY SECRETARY OR COUNTY SEALER TO ENJOIN VIOLATIONS OR THREATENED VIOLATIONS OF PROVISIONS OR REGULATIONS

The secretary may bring an action to enjoin the violation, or the threatened violation, of any provision of this division, or of any regulation adopted pursuant thereto, in the superior court in the county in which such violation occurs or is about to occur. There may be joined in one proceeding any number of defendants alleged to be violating the same provisions or regulations, although their properties, interests, residence, or place of business, may be in several counties and the violations separate and distinct. Any proceeding which is brought pursuant to this section shall be governed in all other respects by the provisions of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure. The county sealer of any county acting through the district attorney or county counsel of that county may bring an action to enjoin the violation in such county or the threatened violation in such county of any provision of this division or of any regulation adopted pursuant

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thereto in the same manner as may the secretary, and if the secretary joins as a party plaintiff, such actions shall not be limited to violations occurring within the county.

Added Stats. 1973 ch 977 § 1; Amended Stats. 2012 ch 661 § 19.

§ 12013. SEALERS AS HAVING POWERS OF PUBLIC OFFICER TO ARREST: PROCEDURE TO BE FOLLOWED: LIABILITY: SERVICE OF PROCESSES AND NOTICES

- (a) Any sealer shall have the authority, as a public officer, to arrest, without a warrant, any person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this division, the violation of which is declared to be a public offense.

In any case in which an arrest is made pursuant to this authority for an offense declared to be a misdemeanor or an infraction, the arresting officer may, instead of taking the person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code, unless the arrested person demands to be taken before a magistrate. The provisions of such chapter shall thereafter apply with respect to any proceeding based upon the issuance of a citation pursuant to this authority.

This subdivision shall not be interpreted to prevent further restriction by the board of supervisors of a county of the authority of a county sealer or his deputies to make arrests.

- (b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.
- (c) Any sealer may serve all processes and notices throughout the state; provided that county sealers and their deputies are authorized to serve processes and notices only within the boundaries of the county which employs them.

Added Stats. 1968 ch 1222 § 29; Amended Stats. 1979 ch 527 § 2.

§ 12014. SEALING OR CONDEMNING BEFORE TESTING AS MISDEMEANOR: EXCEPTION FOR PLANNED PROGRAM OF PROBABILITY SAMPLING

- (a) Except as provided in subdivision (b), any sealer who seals any weight, measure, balance or weighing or measuring instrument or apparatus before first testing and making it conform with the standards of the state, or who condemns any weight, measure, balance or weighing or measuring instrument or apparatus without first testing it is guilty of a misdemeanor.

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(b) A sealer may engage in a planned program of probability sampling of devices, using methods approved by the director. The sealing of a device by a sealer pursuant to such sampling and testing program is exempt from the provisions of subdivision (a).

Added Stats. 1939 ch 43 § 1; Amended Stats. 1979 ch 527 § 3.

§ 12015. SEALER TO CAUSE PROSECUTION OF VIOLATOR

Any sealer having knowledge of a violation of any of the provisions of any law relating to weights and measures shall cause the violator to be prosecuted.

Added Stats. 1939 ch 43 § 1.

§ 12015.3. CIVIL PENALTY FOR VIOLATION OF PROVISIONS OF DIVISION

(a) The sealer may levy a civil penalty against a person violating any provision of this division or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars (\$1,000) for each violation. It is a complete defense to a criminal prosecution for a violation of any provision of this division or a regulation adopted pursuant to any provision of this division that the defendant has been assessed and has paid a civil penalty under this section for the same act or acts constituting the violation. Any civil penalty under this section shall be cumulative to civil remedies or penalties imposed under any other law.

(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing. The request shall be made within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the sealer's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the sealer may take the action proposed without a hearing.

(c) If the person upon whom the sealer levied a civil penalty requested and appeared at a hearing, the person may appeal the sealer's decision to the secretary within 30 days of the date of receiving a copy of the sealer's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, states the grounds for the appeal, and includes a copy of the sealer's decision. The appellant shall file a copy of the appeal with the sealer at the same time it is filed with the secretary.

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(2) The appellant and the sealer may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the secretary, present the record of the hearing including written evidence that was submitted at the hearing and a written argument to the secretary stating grounds for affirming, modifying, or reversing the sealer's decision.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the sealer, and the secretary.

(5) The secretary shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the secretary finds substantial evidence in the record to support the sealer's decision, the secretary shall affirm the decision.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practicable.

(7) On an appeal pursuant to this section, the secretary may affirm the sealer's decision, modify the sealer's decision by reducing or increasing the amount of the penalty levied so that it is within the secretary's guidelines for imposing civil penalties, or reverse the sealer's decision. Any civil penalty increased by the secretary shall not be higher than that proposed in the sealer's notice of proposed action given pursuant to subdivision (b). A copy of the secretary's decision shall be delivered or mailed to the appellant and the sealer.

(8) Any person who does not request a hearing pursuant to subdivision (b) may not file an appeal pursuant to this subdivision.

(9) Review of a decision of the secretary may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the appeal and review procedures provided in this section, the sealer, or his or her representative, may file a certified copy of a final decision of the sealer that directs the payment of a civil penalty and, if applicable, a copy of any decision of the secretary or his or her authorized representative rendered on an appeal from the sealer's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

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(e) If the civil penalty is levied by the State Sealer, the revenues derived therefrom shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation, shall be used by the State Sealer to carry out his or her responsibilities under this division. If the civil penalty is levied by the county sealer, the revenues shall be deposited in the general fund of the county and, upon appropriation by the board of supervisors, shall be used by the county sealer to carry out his or her responsibilities under this division.

(f) This section does not apply to violations involving utility meters, or to violations involving the testing and inspection of utility meters, in mobilehome parks, recreational vehicle parks, or apartment complexes, where the owner of the park or complex owns and is responsible for the utility meters.

(g) Upon the written request of the Attorney General of California, any district attorney, or any city prosecutor or city attorney described in subdivision (a) of Section 17206, the State Sealer or the county sealer within their respective jurisdictions, shall provide all reports and records regarding any actions that occurred within the four months prior to the date of the written request in which civil penalties were levied pursuant to this section or liability for costs incurred are determined pursuant to Section 12015.5.

(h) No investigative costs shall be imposed pursuant to Section 12015.5 for violations for which civil penalties are imposed pursuant to this section.

Added Stats. 1994 ch 592 § 2; Amended Stats. 1997 ch 476 § 1; Amended Stats. 2000, ch 512 § 1; Amended Stats. 2005, ch 529 § 1.

§ 12015.5. LIABILITY FOR INVESTIGATIVE COSTS

Any person convicted of violating any of the provisions of this division, or, except as provided in Section 12015.3, any person who is determined to be civilly liable for violating any of the provisions of this division, shall be liable for reasonable costs incurred in investigating the action.

Added Stats. 1994 ch 592 § 3; Amended Stats. 2005 ch 529 § 2.

§ 12016. HINDERING OR OBSTRUCTING SEALER OR DEPUTY: MISDEMEANOR

Any person who hinders or obstructs in any way any sealer, in the performance of his official duties, is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1965 ch 83 § 2.

§ 12017. COMPLIANCE BY CORPORATE OFFICERS, DIRECTORS AND MANAGERS: MISDEMEANOR

All officers, directors and managers of corporations, whose respective corporations use or sell any weights, measures, or weighing or measuring instruments which are subject to General Provisions - Division 5

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inspection shall comply with the provisions of this division on behalf of their respective corporations; and all officers, directors and managers of corporations, whose respective corporations sell any commodity which is subject to inspection shall comply with the provisions of this division on behalf of their respective corporations.

In case any corporation violates any of the provisions of this division, the corporation and the officers thereof directly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12018. NEGLIGENCE OR REFUSAL TO EXHIBIT WEIGHT, ETC., TO SEALER: MISDEMEANOR

Any person neglecting or refusing to exhibit any weight, measure, weighing or measuring instrument, or appliances and accessories connected therewith in his possession or under his control, to any sealer for inspection and examination is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12019. FALSE WEIGHT OR MEASURE: DEFINITION

A false weight or measure is one which does not conform to the standard established or recognized by this division.

Added Stats. 1939 ch 43 § 1.

§ 12020. USE OF INCORRECT WEIGHT OR MEASURE OR INSTRUMENT: MISDEMEANOR

It shall be unlawful for any person, by himself or through or for another, to use for commercial purposes any weight or measure or weighing, measuring or counting instrument, knowing it to be "incorrect" as this term is defined in subdivision (d) of Section 12500. Every person who violates this section is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1947 ch 465 § 1; Stats. 1973 ch 977 § 2.

§ 12021. MARKING OR STAMPING FALSE OR SHORT WEIGHT OR MEASURE ON CONTAINER: TAKING FALSE TARE: SALE: MISDEMEANOR

Every person who knowingly marks or stamps false or short weight or measure, or knowingly takes false tare, on any container, or knowingly sells any container so marked, is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 306 § 1.

§ 12022. ADDING SUBSTANCE TO INCREASE WEIGHT: PUNISHMENT

Every person who, in putting up in any container, goods usually sold by weight, puts in or conceals therein any other substance including moisture, except such moisture as may be included or absorbed by the goods or commodity contained therein during preparation for market or processing in accordance with ordinary commercial practice, for the purpose of increasing the weight of such container with intent thereby to sell the goods therein or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars (\$25) for each offense. The amount of added moisture contained in poultry meat as defined in Section 380.20 of the Agricultural Code shall not exceed 4 percent by weight or any greater amount established by regulation of the director.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 306 § 2; Stats. 1959 ch 2009 § 2.

§ 12022.5. FRESH MEATS OR ROASTS: ADVERTISING OR SELLING ON BASIS OF NET WEIGHT NOT INCLUDING ADDED FAT: EFFECT OF LABEL CONTAINING TERM “FAT ADDED”

Fresh meat or roasts of any kind or cut shall be exposed, advertised, offered for sale or sold on the basis of net weight of the fresh meat or roast only, and any added fat of any kind whatsoever either wrapped within or injected with a larding needle or otherwise inserted in such fresh meat or roast shall be considered as tare weight only.

Notwithstanding the above provision, added fat shall not be considered tare weight if the meat package containing such added fat is clearly and prominently labeled in eight-point type or larger with the term “fat added.”

Added Stats. 1976 ch 1077.

§ 12023. SELLING ACCORDING TO GROSS WEIGHT OR MEASURE: MISDEMEANOR

Except as provided elsewhere in this code any person who by himself or his employee or agent, or as the employee or agent of another, sells any commodity according to gross weight or measure is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1967 ch 272 § 1.

§ 12023.5. SALE OF JUTE CORDAGE, ETC., ON GROSS WEIGHT BASIS: WHEN PROVISIONS NOT APPLICABLE

Notwithstanding any other provision of this code or any other law, jute cordage, hard fiber cordage, and hard fiber twine (whether covered or uncovered) may be marked and sold on a gross weight basis. The provisions of the foregoing sentence shall not apply to sales in

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retail stores for consumer use of any such product which has been removed from the wrapper or container in which it was received by the retailer.

Added Stats. 1955 ch 1076 § 1; Amended Stats. 1965 ch 190 § 1.

§ 12024. SELLING IN LESS QUANTITY THAN REPRESENTED: PENALTY

Every person, who by himself or herself, or through or for another, sells any commodity in less quantity than he or she represents it to be, is guilty of a misdemeanor, except as provided in Section 12024.3.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1982 ch 1380 § 1.

§ 12024.1. MISREPRESENTING CHARGE FOR SERVICE RENDERED: MISDEMEANOR

Every person, by himself, or through or for another, who willfully misrepresents a charge for service rendered on the basis of weight, time, measure, or count is guilty of a misdemeanor.

Added Stats. 1969 ch 731 § 1.

§ 12024.2. UNLAWFUL COMPUTATION OF VALUE: MISDEMEANOR: INFRACTION UNDER DESIGNATED CIRCUMSTANCES

(a) It is unlawful for any person, at the time of sale of a commodity, to do any of the following:

(1) Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.

(2) Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

(b) A violation of this section is a misdemeanor, punishable by a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the overcharge is more than one dollar (\$1).

(c) A violation of this section is an infraction, punishable by a fine of not more than one hundred dollars (\$100), when the overcharge is one dollar (\$1) or less.

(d) As used in subdivisions (b) and (c), “overcharge” means the amount by which the charge for a commodity exceeds a price that is advertised, posted, marked, displayed, or quoted to that consumer for that commodity at the time of sale.

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(e) Except as provided in subdivision (f), for purposes of this section, when more than one price for the same commodity is advertised, posted, marked, displayed, or quoted, the person offering the commodity for sale shall charge the lowest of those prices.

(f) Pricing may be subject to a condition of sale, such as membership in a retailer-sponsored club, the purchase of a minimum quantity, or the purchase of multiples of the same item, provided that the condition is conspicuously posted in the same location as the price.

Amended Stats. 1977 ch 778; Amended Stats. 1982 ch 1380 § 2; Amended Stats. 1983 ch 1245 § 1; Amended Stats. 1988 ch 922 § 1; Amended Stats. 2004 ch 752, § 2.

§ 12024.3. SELLING PREPACKAGED COMMODITIES IN LESS QUANTITY THAN REPRESENTED: MISDEMEANOR: INFRACTION

(a) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is a misdemeanor punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if any of the following occurs:

(1) The violation is willful.

(2) The total monetary value of the shortage, calculated on the basis of the average error of an individual lot, exceeds two dollars (\$2), as determined pursuant to regulations adopted pursuant to Section 12211.

(3) The total monetary value of shortages, calculated on the basis of the average error of each individual lot, as determined from a sample of packages selected pursuant to regulations adopted pursuant to Section 12211, within all lots found to be in violation of Section 12024 at a single location, exceeds ten dollars (\$10).

(b) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is an infraction, punishable by a fine of not more than one hundred dollars (\$100), if the violation is of less monetary value than that specified in subdivision (a) and it is not willful.

Added Stats. 1982 ch 1380 § 3; Amended Stats. 1983 ch 1245 § 2.

§ 12024.5. SALE OF FOWL, MEAT OR FISH OTHER THAN BY WEIGHT: READY-TO-EAT ITEMS

It is unlawful for any person to sell or advertise for sale any dressed poultry or any other fowl or rabbit in dressed form, either cooked or uncooked, or smoked, fresh, frozen, cooked, dried, or pickled meats or fish other than by weight determined at the time of sale on a scale properly sealed in accordance with this division. Any commodity specified in this section, however, need not be weighed at the time of sale if at that time it is packed in a package or container upon which appears the net weight of the commodity therein. Except

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as provided below, any person, including, but not limited to, a manufacturer, processor, packer, wholesaler, or jobber that packs any commodity specified in this section in any package which is intended for retail sale, shall mark the net weight of the commodity therein upon the package. Packages of these products intended for retail sale need not be marked by the packer with the net weight of the commodity if they are to be marked with the net weight of the commodity by the retailer who purchases or receives the packages from the packer. This section does not apply to any of the following ready-to-eat food items:

- (a) Items sold for consumption on the premises.
- (b) Items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold.
- (c) Ready-to-eat meat, poultry, or seafood cooked or heated on the premises but not packaged in advance of sale.
- (d) Sandwiches when offered or exposed for sale on the premises where packed or produced and not intended for resale.

Added Stats. 1939 ch 1028 § 1; Amended Stats. 1941 ch 861 § 1; Stats. 1949 ch 1384 § 2; Stats. 1955 ch 394 § 1; Stats. 1957 ch 566 § 1; Stats. 1965 ch 713 § 1; Stats. 1967 ch 176 § 1; Stats. 1969 ch 411 § 1; Amended Stats. 1986 ch 1516 § 1.

§ 12024.55. DOOR-TO-DOOR SALESPERSONS: PRICE STATEMENT ON PACKAGES

Packages of meat, fish or poultry offered for sale by door-to-door salespersons shall display the price per pound for each type and cut in the package. The price per pound shall be separately and accurately stated and shall be preceded by the words "price per pound" on each principal display panel of the package, as the term "principal display panel" is defined by regulations of the director adopted pursuant to Section 12610. All numbers and letters of the price per pound shall be of uniform size, at least one-quarter inch (6.35 millimeters) in height, and shall be generally parallel to the net quantity statement.

Weights and Measures

There shall in addition be an area surrounding the statement of price at least equal in width to the height of the letters and numbers in the statement of price which shall be free of any printed material.

Added Stats. 1979 ch 527 § 4; Repealed Stats. 1982 ch 532 § 1; Added Stats. 1982 ch 532 § 2.

§ 12024.6. PROHIBITION OF ADVERTISING INTENDED TO ENTICE CUSTOMER INTO TRANSACTION OTHER THAN REPRESENTED

No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a customer into a transaction different from that originally represented.

Added Stats. 1975 ch 907 § 1.

§ 12024.7. STATEMENT OF WEIGHT AND TYPE OF CUTS OF MEAT SOLD: ITEMIZED STATEMENT SHOWING QUANTITY OF FRUITS, VEGETABLES AND OTHER FOOD PRODUCTS DELIVERED IN CONNECTION WITH MEAT SALE

Any person who sells meat directly to the consumer on the basis of primal cuts or carcass weight shall supply the buyer with an accurate statement of weight at time of sale of the carcass or primal cut purchased, and shall supply a complete and accurate statement which shall contain the weight of the meat delivered to the buyer and the number and type of cuts. When any fruits, vegetables, or other food products are sold as part of a combination sale with meat sold directly to the consumer on the basis of primal cuts or carcass weight, the seller shall supply an itemized statement showing the net quantity of any fruits, vegetables, and other food products delivered to the buyer. This section shall also apply to any person who custom cuts any meat animal carcass or part of such carcass for the owner, except the carcass of any game mammal taken as authorized by the Fish and Game Code.

Added Stats. 1967 ch 1449 § 1.

§ 12024.8. INAPPLICABILITY OF PROVISIONS TO FISH NOT USED FOR HUMAN CONSUMPTION

The provisions of Section 12024.5 shall not apply to fish not used for human consumption.

Added Stats. 1968 ch 141 § 1.

§ 12024.9. STATEMENT OF WEIGHTS SUPPLIED TO CONSUMER UPON DIRECT SALE OF MEAT ON BASIS OF PRIMAL CUTS OR CARCASS WEIGHT

- (a) All terms contained in this section which are defined by the United States Department of Agriculture shall have the same meaning as defined by such department.
- (b) "Retail cuts" as used in this section shall mean a cut of meat from a primal cut for direct sale to the consumer.
- (c) "Freezer meat" as used in this section means any uncooked meat which is sold directly to the consumer on the basis of primal cuts, carcass weight or any specified portion of a carcass, other than retail cuts.
- (d) "Variety pack" as used in this section means freezer meat cut or packaged, or both, into retail cuts or other frozen food products, or both, sold for a stipulated total price.
- (e) "Consumer" as used in this section means any purchaser of freezer meat or variety pack meat.
- (f) Whenever any retail cuts of meat are sold in a variety pack the retailer shall furnish, at the time of sale, an itemization of the total net weight of each of the various retail cuts sold and the total net weight of the entire meat purchase, and a separate itemization shall be furnished for frozen food products other than meat indicating price and weight of each product.
- (g) Whenever freezer meat is sold directly to the consumer, the consumer shall be supplied at the time of sale with the weight of the carcass or primal cuts before cutting and a complete and accurate inventory which shall contain the net weight of meat delivered. The consumer shall also be supplied with complete cutting instructions for each cut of meat process and an exact inventory of each such cut. The consumer shall also be furnished with the total weight of ground meat from carcass or primal cuts.
- (h) A half of beef shall consist of a forequarter and a hindquarter from the same animal. When beef is sold as a half of beef, the consumer shall be furnished an invoice listing the weight of each such quarter. Not more than 8 percent tolerance differential shall be allowed.
- (i) Whenever the consumer buys freezer meats or variety packs, the entire order shall be delivered to the consumer or held and maintained in storage and available for such consumer.

Added Stats. 1975 ch 454 § 1.

§ 12024.10. RETENTION OF DOCUMENT STATING WEIGHT AND CUT OF MEAT SOLD

A true and legible copy of each document issued pursuant to Section 12024.7 or 12024.9 shall be retained by the person, company, or corporation issuing the document for a period of one year and shall be made available for inspection by a sealer upon request. This section shall not apply to primal cuts of meat which are smaller than one quarter of a carcass.

Added Stats. 1981 ch 758 § 1.

§ 12024.11. REGULATION OF THE SALE OR ADVERTISEMENT OF WOOD FUEL

The secretary shall adopt necessary rules and regulations pertaining to the sale or advertisement of wood for fuel purposes in order to standardize quantities of measurement and to protect against deceptive marketing practices.

Added Stats. 1982 ch 758 § 1; Amended Stats. 2012 ch 661 § 20.

§ 12024.12. MAINTAINING RECORDS FOR KOSHER MEAT PURCHASES

Added Stats. 1985 ch 452 § 1; Amended Stats. 1986 ch 1193 § 1; Amended Stats. 1988 ch 990 § 1; Amended Stats. 1992 ch 63 § 1; Expired by own terms January 1, 1994.

§ 12024.13. WEIGHTS AND MEASURES: BEVERAGE CONTAINERS: REDEMPTION VALUE

- (a) A dealer of a beverage in a container subject to Division 12.1 (commencing with Section 14500) of the Public Resources Code shall not charge an amount for a redemption payment for a beverage container that is greater than the amount set forth in Section 14560 of the Public Resources Code.
- (b) For purposes of this section, “dealer” has the same meaning as in Section 14510 of the Public Resources Code.
- (c) A violation of this section is an infraction punishable by a fine of not more than one hundred dollars (\$100) when the overcharge is (\$1) or less.
- (d) In the written report required pursuant to Section 12209, a sealer shall separately report any action taken to enforce this section that results in a penalty being levied for a violation of this section.

(Rev. 1/15)

General Provisions

- (e) Nothing in this section is intended to limit or alter the authority of the Department of Resources Recycling and Recovery under the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500) of the public Resources Code).

Added Stats. 2014, Ch. 605, Sec. 1. Effective January 1, 2015.

§ 12025. REFUSAL TO EXHIBIT COMMODITY BEING SOLD AT GIVEN WEIGHT OR QUANTITY: MISDEMEANOR

Any person, who by himself, or his employee or agent, or as proprietor or manager, refuses to exhibit any commodity being sold at a given weight or quantity, or ordinarily so sold, to a sealer for the purpose of allowing the same to be proved as to the quantity thereof is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12025.5. IDENTIFICATION OF COMMODITY OR CONTAINER ORDERED OFF SALE UNDER §§ 12211 OR 12607

Whenever any commodity or any container is ordered off sale under the provisions of Section 12211 or Section 12607 of this division, the sealer shall cause the commodity or container affected by such off-sale order to be identified by a tag or other suitable device with the words "off sale". It shall be unlawful to remove or obliterate any such tag or device placed upon such commodity or container or in any way dispose of or commingle such commodity or container or prepare, pack, place, deliver for shipment, deliver for sale, sell, or cause to be loaded, shipped, or transported, any such commodity or container before it has been released by the sealer.

Added Stats. 1959 ch 1792 § 1; Amended Stats. 1967 ch 272 § 2; Stats. 1969 ch 1309 § 1.

§ 12026. VIOLATION OF PROVISIONS: MISDEMEANOR

(a) Except as otherwise specifically provided, any person violating any of the provisions of this division is guilty of a misdemeanor.

(b) It is unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards adopted under the provisions of this division.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1989 ch 818 § 1.

(Rev. 1/15)

§ 12026.5. REMEDIES AND PENALTIES PROVIDED AS NONEXCLUSIVE

Except as otherwise specifically provided, the remedies or penalties provided by this division are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Added Stats. 1979 ch 527 § 5.

§ 12027. RULES AND REGULATIONS AUTHORIZED

The secretary may make such rules and regulations as are reasonably necessary for the purpose of carrying out the provisions of this division.

Amended Stats. 1957 ch 1749 § 28; Amended Stats. 2012 ch 661 § 21.

§ 12028. ADOPTION OF REGULATIONS

Added Stats. 1994 ch 592 § 4; Amended Stats. 2004 ch 676 § 8; Repealed Stats. 2005 ch 529 § 3.

§ 12029. LEGISLATIVE ANALYST STUDY OF CIVIL PENALTIES

The Legislative Analyst shall conduct a study of the civil penalties imposed pursuant to Section 12015.3 and report its findings to the Legislature and the Governor by January 1, 2000. The report shall include all of the following:

- (a) An analysis of whether civil penalties are effective as an alternative enforcement mechanism for violations of weights and measures laws and regulations.
- (b) A review of how the department and the counties use the revenue brought in from the civil penalties.
- (c) A recommendation on whether civil penalties are a feasible alternative to criminal prosecution and criminal penalties.

Added Stats. 1997 ch 476 § 2.

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