

## CHAPTER 239

## WEIGHTS, MEASURES

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

The weights and measures division, referred to in this chapter as the division, is created under the jurisdiction of the department of public service. The division has supervision and control over all weights, weighing devices, and measures in the state.

*History: 1991 c 198 s 1*

**239.011 DIVISION RESPONSIBILITIES AND POWERS.**

Subdivision 1. **Responsibilities.** The division shall:

(1) ensure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate, and properly maintained by their owners or users;

(2) prevent unfair or deceptive dealing by weight or measure in a commodity or service advertised, packaged, sold, or purchased within the state;

(3) make the precision calibration and related metrological certification capabilities of the division available to users of physical standards or weighing and measuring equipment;

(4) promote uniformity, to the extent practicable and desirable, between the weights and measures requirements of Minnesota and those of other states and federal agencies; and

(5) adopt weights and measures requirements that will protect consumers, promote equity between buyers and sellers, and encourage desirable economic growth.

Subd. 2. **Duties and powers.** To carry out the responsibilities in section 239.01 and subdivision 1, the director:

(1) shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and keep a seal so formed as to impress, when appropriate, the letters "MINN" and the date of sealing upon the weights and measures that are sealed;

(2) has general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the state;

(3) shall maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology;

(4) shall enforce this chapter;

(5) shall grant variances from department rules, within the limits set by rule, when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship;

(6) shall conduct investigations to ensure compliance with this chapter;

(7) may delegate to division personnel the responsibilities, duties, and powers contained in this section;

(8) shall test annually, and approve when found to be correct, the standards of weights and measures used by the division, by a town, statutory or home rule charter city, or county within the state, or by a person using standards to repair, adjust, or calibrate commercial weights and measures;

(9) shall inspect and test weights and measures kept, offered, or exposed for sale;

(10) shall inspect and test, to ascertain if they are correct, weights and measures commercially used to:

(i) determine the weight, measure, or count of commodities or things sold, offered, or exposed for sale, on the basis of weight, measure, or count; and

(ii) compute the basic charge or payment for services rendered on the basis of weight, measure, or count;

(11) shall approve for use and mark weights and measures that are found to be correct;

(12) shall reject, and mark as rejected, weights and measures that are found to be incorrect and may seize them if those weights and measures:

(i) are not corrected within the time specified by the director;

(ii) are used or disposed of in a manner not specifically authorized by the director; or

(iii) are found to be both incorrect and not capable of being made correct, in which case the director shall condemn those weights and measures;

(13) shall weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amount represented and whether they are kept, offered, or exposed for sale in accordance with this chapter and department rules. In carrying out this section, the director must employ recognized sampling procedures, such as those contained in National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(14) shall prescribe the appropriate term or unit of weight or measure to be used for a specific commodity when an existing term or declaration of quantity does not facilitate value comparisons by consumers, or creates an opportunity for consumer confusion;

(15) shall allow reasonable variations from the stated quantity of contents, including variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice, only after the commodity has entered commerce within the state;

(16) shall inspect and test petroleum products in accordance with this chapter and chapter 296;

(17) shall distribute and post notices for used motor oil and lead acid battery recycling in accordance with sections 239.54, 325E.11, and 325E.115; and

(18) shall collect inspection fees in accordance with sections 239.10, 239.52, and 239.78.

**History:** 1991 c 198 s 2

### **239.012 SYSTEMS OF WEIGHTS AND MEASURES; RULES.**

**Subdivision 1. Recognized systems.** The system of weights and measures in customary use in the United States and the metric system of weights and measures are both recognized. One or both of these systems must be used for commercial purposes in the state.

**Subd. 2. Rules.** The department shall adopt by rule definitions of basic units of weights and measures, tables of weights and measures, and weights and measures equivalents to govern weighing and measuring equipment and transactions in the state.

**History:** 1991 c 198 s 3

### **239.02 DIRECTOR; DEPUTIES, EMPLOYEES.**

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

**History:** 1991 c 198 s 4

**239.05 DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in sections 239.01 to 239.53 have the meanings given them in this section.

Subd. 7. **Correct.** "Correct," when used in connection with weights and measures, means conformance with the applicable requirements of this chapter, and rules adopted under the authority granted by this chapter.

Subd. 8. **Director.** "Director" means the director of the division of weights and measures of the department of public service.

Subd. 9. **Metrology.** "Metrology" means the science and practice of precise measurement, including measurement of mass, length, volume, and temperature.

Subd. 10. **Net weight.** "Net weight" means the weight of a commodity excluding materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

Subd. 11. **Package.** "Package" means a commodity put up or packaged in advance of sale in units suitable for either wholesale or retail sale.

Subd. 12. **Person.** "Person," means person or persons, corporation, partnership, stock company, society, association, or the agent or employee thereof.

Subd. 13. **Primary standards.** "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

Subd. 14. **Sale from bulk.** "Sale from bulk" means the sale of commodities when the quantity is determined at the time of the sale.

Subd. 15. **Secondary standards.** "Secondary standards" means the physical standards that are used in enforcing weights and measures laws. These standards must be traceable to the primary standards.

Subd. 16. **Traceability; traceable.** "Traceability" and "traceable" mean:

(1) the ability to relate individual measurement results, through an unbroken chain of calibrations, to the United States national standards maintained by the United States Department of Commerce, National Institute of Standards and Technology; and

(2) the ability to produce evidence on a continuing basis to demonstrate that the measurement processes used by the division are producing results within the limits of uncertainty designated by the National Institute of Standards and Technology.

Subd. 17. **Weight.** "Weight" means net weight when it is used in connection with a commodity sold by weight.

Subd. 18. **Weights and measures.** "Weights and measures" mean weights and measures of every kind, instruments and devices for weighing and measuring, and appliances and accessories associated with these instruments and devices.

**History:** 1991 c 198 s 5

**239.07** [Repealed, 1991 c 198 s 12]

**239.08** [Repealed, 1991 c 198 s 12]

**239.09 SPECIAL POLICE POWERS.**

When necessary to enforce this chapter or rules adopted under the authority granted by section 239.06, the director is:

(1) authorized and empowered to arrest, without formal warrant, any violator of sections 325E.11 and 325E.115 or of the statute in relation to weights and measures;

(2) empowered to seize for use as evidence and without formal warrant, any false weight, measure, weighing or measuring device, package, or commodity found to be used, retained, or offered or exposed for sale or sold in violation of law;

(3) during normal business hours, authorized to enter commercial premises;

(4) if the premises are not open to the public, authorized to enter commercial premises only after presenting credentials and obtaining consent or after obtaining a search warrant;

(5) empowered to issue stop-use, hold, and removal orders with respect to weights and measures commercially used, and packaged commodities or bulk commodities kept, offered, or exposed for sale, that do not comply with the weights and measures laws; and

(6) empowered, upon reasonable suspicion of a violation of the weights and measures laws, to stop a commercial vehicle and, after presentation of credentials, inspect the contents of the vehicle, require that the person in charge of the vehicle produce documents concerning the contents, and require the person to proceed with the vehicle to some specified place for inspection.

**History:** 1991 c 198 s 6

### **239.091 METHOD OF SALE.**

The method of sale for a commodity must provide an accurate and adequate quantity of information that will allow the buyer to make price and quantity comparisons. The department may adopt rules to administer this section.

**History:** 1991 c 198 s 7

### **239.092 SALE FROM BULK.**

Bulk sales of commodities, when the buyer and seller are not both present to witness the measurement, must be accompanied by a delivery ticket containing the following information:

(1) the name and address of the person who weighed or measured the commodity;

(2) the date delivered;

(3) the quantity delivered;

(4) the count of individually wrapped packages delivered, if more than one is included in the quantity delivered;

(5) the quantity on which the price is based, if different than the quantity delivered; and

(6) the identity of the commodity in the most descriptive terms commercially practicable, including representations of quality made in connection with the sale.

This section is not intended to conflict with the bulk sale requirements of the department of agriculture. If a conflict occurs, the law and rules of the department of agriculture govern.

**History:** 1991 c 198 s 8

### **239.093 INFORMATION REQUIRED IN PACKAGES.**

A package offered, exposed, or held for sale must bear a clear and conspicuous declaration of:

(1) the identity of the commodity in the package, unless the commodity can be easily identified through the wrapper or container;

(2) the net quantity in terms of weight, measure, or count;

(3) the name and address of the manufacturer, packer, or distributor, if the packages were not produced on the premises where they are offered, exposed, or held for sale; and

(4) the unit price, if the packages are part of a lot containing random weight packages of the same commodity.

This section is not intended to conflict with the packaging requirements of the department of agriculture. If a conflict occurs, the laws and rules of the department of agriculture govern.

**History:** 1991 c 198 s 9

**239.094 PACKAGED COMMODITIES; ADVERTISING FOR SALE.**

When a packaged commodity is advertised with its retail price, the quantity declaration that appears on the package must also appear in the advertisement.

**History:** 1991 c 198 s 10

**239.37** [Repealed, 1991 c 198 s 12]

**239.76 SPECIFICATIONS OF PETROLEUM PRODUCTS.**

*[For text of subd 1, see M.S.1990]*

Subd. 1a. **Oxygenated gasoline required.** (a) After October 31, 1995, gasoline sold or offered for sale as fuel for a motor vehicle licensed in Minnesota or another jurisdiction in air quality nonattainment counties must have a minimum oxygen content of 2.7 percent.

(b) After October 31, 1997, the requirement for oxygenated gasoline in paragraph (a) applies statewide.

*[For text of subds 2 to 7, see M.S.1990]*

**History:** 1991 c 302 s 2

**239.78 INSPECTION FEES.**

A person who owns petroleum products held in storage at a pipeline terminal, river terminal, or refinery shall pay an inspection fee of 75 cents for every 1,000 gallons sold or withdrawn from the terminal or refinery storage. The revenue from the fee must cover the amounts appropriated for petroleum product quality inspection expenses, for the inspection and testing of petroleum product measuring devices as required by this chapter, and for petroleum supply monitoring under chapter 216C.

The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue may collect the inspection fees along with any taxes due under chapter 296.

**History:** 1991 c 233 s 87; 1991 c 235 art 1 s 6