

51:1-29 ✓

4 March 1955

Weights & measures law.

A. J. R. S. 51:1-29

51:1-96

Legislative

Histories

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DATE: March 4, 1955

SUBJECT: Legislative History of R. S. 51:1-29; 51:1-96 ✓

In response to your request for information and materials on the legislative history of the weights and measures laws (particularly, the passages— R. S. 51:1-29 and 51:1-96), we have ascertained and assembled the following:

The library collection contains no legislative hearings or committee reports with respect to these passages.

R. S. 51:1-29

This section was first enacted as Chapter 181, N. J. L. 1916 (H. B. 18). The statement on H. 18 is as follows:

"The object of this bill is to require manufacturers and packers of articles of food to mark on the outside of the package (containing food, food products, etc.) the net weight, measure or numerical count contained in said package. This bill is in harmony with the Federal law as regards marking, allowable deviations and tolerances."

The Annual Reports of the New Jersey Department of Weights and Measures contain statements as to the Department's sponsorship of the enacted legislation. These passages will be found in: Report, 1914, p. 12-13; Report, 1915, p. 11; and Report, 1916, p. 8-9. Copies of these reports are enclosed for your reference.

This section was amended by N. J. L. 1919, chapter 214, sec. 1 (S. 181). The statement on S. 181 is as follows:

"The purpose of this act is to make the procedure in all weights and measures' cases uniform, by making the procedure in this case the same as in the other acts dealing with weights and measures."

The section was further amended by N. J. L. 1921, c. 95, sec. 1, p. 157 (S.B. 220). The statement on the bill is as follows:

"The purpose of this act is to provide a uniform system of procedure for the enforcement of the act for the prevention of deception in the distribution of food in package form, and it is desired to make the procedure sections conform to established practice in the courts in which such actions are instituted and for expedition in hearing the same."

The Department of Weights and Measures' Annual Report, 1920, p. 18, contains reference to this legislation. The report is enclosed.

R. S. 51:1-96

This section was first enacted as N. J. L. 1911, chapter 201, sec. 26 (S. 49). There is no statement on S. 49.

Section 26 was amended by N. J. L. 1913, chapter 194, sec. 1, p. 350 (A. 270). There is no statement on the bill.

The Department of Weights and Measures' Annual Report, 1912, p. 24, contains reference to this legislation (Section 26). A copy of this report is enclosed for your reference.

Section 26 was further amended by N. J. L. 1918, chapter 11 (S. 67). The following is paragraph 3 of the statement on S. 67:

"It also provides for an increase in penalties for third offense, to include imprisonment as well as fines."

New Jersey Department of Weights and Measures' Annual Report, 1918, p. 8-9, refers to this section. The report is enclosed.

Section 26 was last amended by N. J. L. 1953, chapter 48, sec. 3 (S. 44). This bill was a general revision of R. S. Title 51 introduced by Senator Clapp. There is no statement on the bill.

I hope that this information will be of some assistance to you. If, after reading it, you would like us to make any further search, we should be happy to do so at your direction. We shall appreciate it if you will return the enclosed annual reports when they have served your purpose.

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Such a law is an absolute necessity and it would rid the State of the numerous odd sizes which are now used to defraud consumers. As a further precaution it would be advisable to have the capacity stenciled, or otherwise permanently marked, in a durable manner, on the outside of the basket. This would enable purchasers to ascertain at a glance just what they were getting and paying for.

I would also ask that a law be enacted making mandatory the use of standard dry measurement quart and pint boxes for the sale of small fruits and berries. All sizes are now permissible, but many of them are short. The law suggested would do away with these short baskets and boxes.

All superintendents of the State should be vested with police privileges. In some municipalities the superintendents already have them, but the majority have not, and when they encounter offenders are compelled to wait until a policeman can be secured to make the arrest. Such a proceeding should be unnecessary, and we would make it so by enacting a law on lines suggested.

An amendment should also be made to Section 26, Article 5, Chapter 201, Laws of New Jersey. Several times during the year just past we had cases dismissed from Court because we were unable to prove that the weights and measures in use were known to be false, notwithstanding the fact that the evidence was most complete. We would amend the section by striking out the words "with knowledge that the same is false," as we believe the use, ownership or possession of weights, measures and scales that are false is the most satisfactory kind of evidence, and should be so recognized in Court, without our having to prove that they were used with knowledge. The proposed amendment would permit the superintendent to judge when a tradesman is using incorrect standards without his knowledge.

We would also like to abolish present method of trying cases before juries, because it has not worked out as satisfactorily as we could wish. Offenders have succeeded in having their cases delayed and finally quashed. The trials, in addition, have proven very expensive. We would substitute for present procedure a law which would enable city magistrates to pass judgment. This method would be more agreeable than the present method, and would, we think, be far more satisfactory.

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honest. Many will not sign their names, though we treat all communications with the utmost confidence. We investigate all complaints carefully—whether the letters are signed or not. The assertions made are rarely substantiated by our investigations. Those who sign their complaints are always favored with a complete report of the investigation made by our officials. While it does not always meet with their approval, yet it has a tendency to reassure them that conditions are not actually as bad as they had believed.

The demand for copies of "What Every Housewife Should Know," continues unabated. The pamphlet has been improved by the addition of some new matter. The booklet has done much to further weights and measures work and is largely responsible for the co-operation we have received from housewives. Over 40,000 copies have been distributed.

LEGISLATIVE RECOMMENDATIONS.—The Net Weight Container bill is the most important piece of weights and measures legislation ever introduced in this State, we think. The bill requires all foodstuffs put up in package form to have the net weight, numerical count, or measure marked plainly on the outside of the package. Such a law is needed in New Jersey and we fully expect the bill we have introduced to pass. Consumers buy many articles of food in packages and in many instances are unable to determine just what they are getting for their money.

The preference these days seems to be in favor of package goods, notwithstanding they cost more than goods in bulk. There is not much difference in the quality usually. It costs to place foodstuffs in packages. Then there is the advertising to be considered and the giving of premiums, both of which are necessities that cannot be dispensed with. Manufacturers, to realize on their investments, must get a higher price for their goods and reduce the contents of the packages. This course has been uniformly followed, with the result that today we pay more and get less when buying package goods. There is no doubt upon this point. After considering the matter, we are of the opinion that people want package goods—they're cleaner. Since they want them, let them have them, but, first, let them see what they are paying for and getting—that is what our Net Weight Container bill seeks to bring about. Most of the large manufacturers mark the weight of contents on their packages; some others make no reference on their packages to weight of contents. The bill we have presented will place competition on a fairer basis. If enacted, it will eliminate confusion and dissatisfaction among manufacturers and it will save the housewife money. New York and Pennsylvania have similar laws in operation and in both states conditions have been materially improved.

The bill we have had introduced applies solely to foodstuffs. We believe it was more necessary to legislate on this important phase than any other. Later on, if it is desired, the law can be amended so as to include everything put up in packages. It is not drastic in its present form—it will not become effective until one year after its passage. Those having goods on hand that do not comply will thus have every opportunity to dispose of them. This is an excellent feature and will not result in hardship on anyone.

The second bill introduced aims to bring about uniformity in the weight of two agricultural products, viz., oats and buckwheat. At present, New Jersey differs from Pennsylvania and New York on both products, which results in some confusion. The bill now before the Legislature straightens the difficulty and we feel certain it will pass. It follows the National Bureau of Standards' recommendation for uniformity in legislation between adjoining states.

Part II—WORK IN CITIES AND COUNTIES

STATISTICS OF INSPECTIONS.

It is hardly necessary to go into details regarding the tables presented on following pages. They are arranged in the same manner followed in other reports issued by the Department. They show clearly what each official has done.

The tables are in two divisions. The first shows the work performed by county officials, the second is given over to the performances of the municipal men. Summaries of the work of city and county are shown, together with a general review in table form of both branches. Names of those convicted on charges of short-weighting and short-measuring are not given in this report. The information is on file at this office, however, and may be examined by anyone wishing to do so.

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and Game Farm, Forked River, and State Fish Hatchery at Hacketts-town.

OFFICE.—This Department now contains equipment sufficient to meet general requirements. This is fortunate because we are frequently called upon to make tests of different kinds of apparatus. In several instances we have been able to render valuable assistance to manufacturers, who were in need of accurate standards. Merchants in all lines of business often avail themselves of our facilities for having tests made of supplies purchased. It is hardly necessary to add that no charges are ever made for services rendered.

Weights and measures work in New Jersey attracts attention outside the State. We are in receipt of letters on various phases of work from officials desirous of taking up some certain division of inspection we have completed. We always furnish any data necessary.

The pamphlet, "What Every Housewife Should Know," continues to be favorably regarded by housewives. The demand continues for copies and over 50,000 pamphlets have been distributed to date. The booklet contains much interesting data and is worth anyone's reading. It is distributed free.

Correspondence on general subjects has increased and there are other evidences of a healthy, wholesome sentiment for honest weights and measures.

RECOMMENDATIONS.—While it is true that we have been able to bring about improved conditions, because of our law being one of the best, there yet remains room for improvement in our law. Additional legislation is needed if we are to cope with the ever-changing conditions of the times. The Legislature of 1915 failed to pass our Net Weight Container law. It was explained to us that the bill had met with opposition sufficiently strong to block its passage. This is to be regretted because a Net Weight Container law is needed urgently.

We are so firmly convinced that such a law is necessary that we have introduced another bill this year, similar in purport to the bill of last year. It requires manufacturers of foodstuffs placed in packages to mark the net weight, measure or numerical count on the outside of their packages. This is not a drastic bit of legislation and many manufacturers outside of New Jersey already follow out the recommendations in our bill; some other manufacturers—both in and out of the State—do not mark their packages. Our law would apply to all and would prove of great benefit to housewives. Dealers, too, would be benefited because competition would be placed on a more equitable basis and confusion would be eliminated. If the Legislature's members could be made to realize the importance of the bill introduced they would not hesitate about passing it.

Another bill we have had introduced provides for a delivery ticket, showing the number of pounds of hay contained in the load

serious to warrant more than a reprimand. The "checking-up" process on the part of officials is commendable and has a tendency to prevent the practice of fraud.

MOTORISTS SAFEGUARDED.

Gasoline pumps have supplanted measures to such an extent in the sale of gasoline that it is rather unusual to find the latter in use. This is not as strange as it may appear at first glance, because pumps are easier and quicker to operate and just as accurate as measures. These facts have been taken into consideration by superintendents, who have directed their efforts towards pumps to make sure that they measure correctly. Tests and inspections are made frequently for the purpose of detecting anything that may be wrong. If the pump is not measuring accurately, the sooner the fact is known and the pump adjusted the better for all concerned. Some motorists are of the opinion that the pumps, when they do get out of order, immediately work to the advantage of dealers. Such an opinion is wrong. Our experience has been that the pumps sometimes favor the dealers, sometimes consumers when they get out of order.

It is also worth mentioning that the type of equipment used for pumping purposes is constantly being improved upon. Every effort apparently is being put forth to insure accuracy in measuring gasoline, which is constantly growing in use. Officials are doing well in devoting time to this branch of inspection.

THE NET WEIGHT LAW VS. THE CONSUMER.

Briefly, the Net Weight Law, which has been in operation since the first of October, requires manufacturers of foodstuffs in packages to mark the net weight, measure or numerical count on the outside of the package. In other words, it forbids manufacturers to "weigh-in" wrappings, cartons, paper, etc. Consumers buying foodstuffs in package form to-day—and thousands never purchase in any other way—know just the quantity that they are getting for their money. They were not certain before. The act has been in operation only a short time, but its effects are already markedly beneficial. Ultimately, it will save consumers thousands of dollars, because the tendency to-day leans more and more to the sale of foodstuffs in packages. It means much to housewives to be able to see at a glance just what they are getting for their money. Already there are all kinds of teas, coffees, butter, sugar, dried fruits and vegetables—such as

beans and peas—and many other articles sold in package form. Under the Net Weight Law manufacturers must mark just what quantity is contained in the package. Merchants, too, share in the benefits of the act. It makes competition fairer and does away with the fraud that was formerly practiced.

There is no legitimate objection to the sale of food in package form. The plan has a number of advantages, chief of which must be mentioned its being sanitary. Eventually, in our opinion, most articles of food will be sold in the form of packages. The innovation may not come for a few years, but there are many evidences now pointing to the time when the method will be generally adopted. When the time does come for food to be sold exclusively in package form, our law will effectually take care of the situation. //

To make the provisions of the law better understood, so that it might be complied with more readily and more intelligently, the Department compiled a list of decisions and opinions covering various phases of the act. The pamphlets are filled with interesting data on the law and how it should be construed. They have been liberally distributed by officials among those affected by the new law. The present co-operation has been largely brought about by the pamphlet, although officials also helped considerably.

STATE INSTITUTIONS VISITED.

The same careful attention that has been given to equipment in use in the various State institutions in the past was again in evidence during 1916. The need for correct standards is just as great almost in institutions as in mercantile establishments because of the large supply of foodstuffs and fuel used annually. This is understood, and we have been careful to test all of the apparatus used in the service of the State. In several instances the inspections were very timely because the standards in use had become inaccurate and were operating to the advantage of the tradesmen. The error was corrected almost as soon as discovered.

In all, twenty-one institutions were visited at least once. Some were visited oftener where such inspections were deemed necessary.

EDUCATIONAL WORK CONTINUED.

For the purpose of furthering what has already been done to educate the public—both buying and selling—the Department issued during 1916 two very interesting pamphlets. Reference

ature are being distributed for this purpose, containing all necessary information for the use of the householder; and this work will be carried forward with the least possible delay until the entire State is conversant with the new statute and its requirements. We believe about one year sufficient time to prepare the purchasing public for the innovation of buying strictly by weight and ordering their commodities in this manner, no such term as bushel, peck, quart, etc., hereafter to be recognized in actual trade within the boundaries of New Jersey; it will then be our purpose to submit to the Legislature for enactment into law, an amendment absolutely abolishing the dry measure from use in trade. And a commendable feature of our present law is, that while the consumer is being educated to the new condition, he is at the same time being protected, for no merchant can sell him any dry commodity by measure without a certain weight being involved, which latter the purchaser must at all times receive.

The merchant is also receiving his share of attention in our plan of education, for he is not only being personally instructed by representatives of the state department and weights and measures officials all over the state, but is also being supplied with large placards for hanging in his place of business, which cards embody and keep readily before the eyes of both dealer and consumer, information as to the standard weights to be delivered to purchasers, and abstracts from the law pertaining to this particular provision.

As to the efficiency of the new act, a humorous incident recently brought to our attention, and based on fact, perhaps gives the best illustration. In the event referred to, a huckster accosted a prototype on the street and was heard to remark that: "Since New Jersey passed the sale-by-weight law, a feller can't earn an honest livin'."

Our contention has always been that sale strictly by weight is the only satisfactory method of doing business, with its tendency to eliminate disputes between consumer and merchant, and its fairness throughout.

Another amendment to our laws just enacted, provides a jail penalty for persons found guilty of a third or subsequent infraction of the weights and measures statutes. This fills a long-felt need, as it was found in the past that a fine did not always have the effect of causing fraudulent merchants to discontinue their dishonest practices. Now, however, with an increasing fine for each additional offence,

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culminating with a jail sentence for a third or subsequent disregard of the mandates of our act, merchants with dishonest tendencies are very likely to realize that a policy of strictly honest dealing is the only one that will pay in the end.

Still another provision is the requirement that county and municipal weights and measures officials shall furnish the State Superintendent with monthly reports covering their activities, as well as the annual report heretofore demanded; also that inspections and tests of weighing and measuring equipment in use throughout the State shall be made at least once annually, instead of once in two years, which was all that the law previously required. This we believe will definitely insure equipment being kept always at a high standard of correctness. We do not wish to imply through this that all tests are made only at intervals of this length, for the reason that equipment in constant use is always given careful attention and tested probably several times in the course of a year to insure its accuracy.

The new act also provides that the time of appealing from court decisions be extended to ten days. This gives ample opportunity for either party concerned in a prosecution, to file appeals with the Court of Common Pleas from the judgment or sentence of the District Court or police magistrate, and is, in every respect, advisable and just, the previous limit of two days having been found inadequate.

ASSISTANT STATE SUPERINTENDENTS ACTIVE

The Assistant State Superintendents have worked in conjunction with local superintendents through the State during the past eight months, making surprise inspections of the operations of merchants engaged in the various branches of trade, and excellent results have been obtained through this method of procedure. Our assistants while with these local officials also aided them with the work of testing and general investigations, the large amount of labor developing upon county and municipal superintendents in these days making this course advisable. The best of feeling prevails in all weights and measures channels, team work being a prominent feature, and officials everywhere act as a unit in advancing every movement suggested by the department for the benefit of our citizens.

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granges, and growers' and shippers' associations throughout the State have been instructed as to the requirements of the act, and weights and measures men everywhere are now enforcing it. The new law has been received with acclaim by every honest packer and shipper in New Jersey; objectors are few and viewed with an eye of suspicion. This act, though a very simple one and easy to understand, will, no doubt, prove one of the best of its kind ever placed on the books for the protection of New Jersey interests.

RECOMMENDATIONS.

The need for a good, sound bread law has so long been apparent that it is felt our weights and measures statutes, or in fact the weights and measures laws of any State, will never be complete without it. No branch of business dealing in essential commodities has the latitude that the baking industry at present enjoys. Neither quality, quantity or price is regulated and the bakers are certainly "free lances". Public opinion and the press has had no effect upon them and they are doing just as they please. Conditions wherein a loaf of bread ranges anywhere from 11 to 14 ounces, selling for the same price in various sections of the State and offered to the public as a full pound loaf, would certainly seem to warrant correction, and it is strongly recommended that not another year be allowed to go by without having such legislation passed as will remedy existing evils in this business.

The standardization of containers for food stuffs is also a subject for recommendation. This is a matter that will have to be taken up by the Federal Government, and New Jersey has for the past two years been advocating Congressional action to cover this. The subject is a highly technical one and would take a considerable amount of space to explain. We would not feel justified in including details of this matter in this report, on account of it not being a strictly State proposition. Suffice to say that there is such a variation in the sizes of containers for food stuffs on the market to-day, and the number is increasing with such leaps and bounds, that it is getting beyond all reason, and the deceptions practiced are of such a nature that something should be done to stop it before conditions grow worse. Underfilling of cans and boxes is common, the practice of packers being to use an oversize container for the commodities they put