

LEGISLATIVE HISTORY CHECKLIST

NJSA: 51:1-2 et al (Weights and measures-- various amendments)

CHAPTER 167

Laws Of: 1986

BILL NO: S1557

Sponsor(s): Brown and others

Date Introduced: January 30, 1986

Committee: Assembly: Law, Public Safety, Defense and Corrections

Senate: Law, Public Safety and Defense

Amended during passage: Yes

Date of Passage: Assembly: October 20, 1986 Substituted for A1962 (not attached since identical to S1557). Amendments during passage denoted by asterisks.

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Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

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Reports: No

Hearings: No

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Referred to in statements:

KF National Conference on Weights and Measures
1665 Model state laws and regulations . . . (NBS handbook 130).
295 National Bureau of Standards, 1983.
N37

Chapter 167 Law of 1986
Approved 12-3-86

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SENATE, No. 1557

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Senators BROWN, GRAVES, CAUFIELD and CONTILLO

Referred to Committee Law, Public Safety and Defense

AN ACT concerning weights and measures and revising parts of
the statutory law.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. R. S. 51:1-2 is amended to read as follows:

2 51:1-2. As used in this chapter:

3 **["Assistant superintendent" means assistant superintendent of**
4 **weights and measures;**

5 **"Superintendent" means in all instances superintendent of**
6 **weights and measures;]**

7 a. *"Commodity" means any article of food, drink, trade or com-*
8 *merce, or any service or amusement, goods, wares, merchandise,*
9 *or fuel measured by any weighing and measuring or counting sys-*
10 *tem;*

11 b. *"Commodity in package form" means a commodity put up*
12 *or packaged in any manner in advance of sale in units suitable for*
13 *either wholesale or retail sale. An individual item or lot of any*
14 *commodity not in package form as defined in this section, but on*
15 *which there is marked a selling price based on an established price*
16 *per unit of weight or of measure, shall be construed to be a com-*
17 *modity in package form. Where the term "package" is used in*
18 *chapter 1 of Title 51 of the Revised Statutes, it shall be construed*
19 *to mean "commodity in package form" as herein defined. For the*
20 *purpose of this definition, single unit produce items wrapped in*
21 *clear film shall not be construed as commodities in package form;*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted February 24, 1986.**

22 c. "Food" or "foods" means articles used for food or drink for
 23 man or animals; chewing gum, and articles used as ingredients of
 24 the foregoing;

25 d. "Physical property" means mass, weight, length, volume, pres-
 26 sure, electricity, electromagnetic forces, radiation, thermodynamics,
 27 coefficients of expansion, gravitational forces or any other measur-
 28 able attribute or quantity, including count;

29 e. "Weight and measure" or "weights and measures" [includes
 30 any weight, measure, scale beam, patent balance, spring scale, per-
 31 son-weighing machine operated for profit, steelyard, tape, counter
 32 measure, receptacle of any kind, or any other instrument or ap-
 33 paratus and accessories connected therewith used in weighing or
 34 measuring any commodity, fluid or article of merchandise or per-
 35 son] means a device, apparatus, or instrument designed or used
 36 to weigh, measure, count or time any physical property or deter-
 37 mine value and any auxiliary apparatus and accessories that indi-
 38 cate quantity or value or records representative thereof;

39 f. "Weights and measures official" or "weights and measures of-
 40 ficer" means at the State level, the State superintendent, deputy
 41 State superintendent, assistant State superintendent, State super-
 42 visor, State metrologist, and State weights and measures officers
 43 of all grades; and at the county and municipal levels, means the
 44 superintendent, deputy superintendent, assistant superintendents
 45 of all grades, and weights and measures officers of all grades.

1 2. R. S. 51:1-3 is amended to read as follows:

2 51:1-3. The [standards] inch-pound system of weights and mea-
 3 sures in [this State] customary use in the United States and the
 4 metric system or System International (SI) of weights and mea-
 5 sures are jointly recognized, and one or the other, or both, of these
 6 systems shall be [those recognized or furnished by the United
 7 States] used for all purposes in this State. The definitions of basic
 8 units of weight and measure, the tables of weight and measure, and
 9 the weights and measures equivalents, as published by the Na-
 10 tional Bureau of Standards, are recognized and shall govern weigh-
 11 ing and measuring equipment and transactions in this State. It is
 12 the intent of the Legislature that nothing in this section shall man-
 13 date the exclusive use of SI; however, its use within this State is
 14 encouraged.

1 3. R. S. 51:1-6 is amended to read as follows:

2 51:1-6. [The state geologist shall preserve in his office a survey-
 3 or's hardened steel tape, fifty feet in length, of United States stan-
 4 dard measurement, graduated in feet and hundreths, with proper

5 adjustment for temperature and with a spring balance attachment
6 to pull not less than six pounds nor more than seven pounds. This
7 tape shall be the standard of measurement for surveying land. The
8 standard tape shall be subject to the use in the office of the state
9 geologist or under his supervision, of any surveyor of this State
10 for the purpose of testing chains or tape used by such surveyor.】

11 *Steel measuring tapes used by professional land surveyors and*
12 *professional engineers shall be compared by the State superinten-*
13 *dent at least once in five years with standards traceable to the*
14 *National Bureau of Standards. Every professional land surveyor*
15 *and professional engineer engaged in surveying and engineering*
16 *within this State shall test and note the actual variation of his elec-*
17 *tronic distance measuring device from the "Calibration Base Lines"*
18 *established by the National Geodetic Survey at least once each*
19 *year. He shall submit to the State superintendent over the appro-*
20 *priate professional seal, a copy of his notes, including the date and*
21 *time of the test on forms acceptable to the National Geodetic Sur-*
22 *vey.*

1 4. R. S. 51:1-29 is amended to read as follows:

2 51:1-29. a. No person shall distribute 【or】, *expose for sale*, sell,
3 or have in his possession with intent to distribute, *expose for sale*
4 or sell【,】 any article 【of food】 *or commodity* in package form, un-
5 less the 【net quantity of the contents be plainly and conspicuously
6 marked on the outside of the package in terms of weight, measure
7 or numerical count】 *label bears statements:*

8 (1) *Specifying the identity of the commodity in common terms;*

9 (2) *Identifying the legal name and principal place of business*
10 *of the manufacturer, packer or distributor. The statement shall*
11 *include the street address, city, state and zip code, except that the*
12 *street address may be omitted if it is shown in a current city direc-*
13 *tory or telephone directory. If a person manufactures, packs or*
14 *distributes a commodity in package form at a place other than his*
15 *principal place of business, the statement may contain the princi-*
16 *pal place of business address in lieu of the actual place where the*
17 *commodity was manufactured, packed or is to be distributed, un-*
18 *less that statement would be misleading. Packages packed on the*
19 *premises where sold shall not be required to comply with this para-*
20 *graph; and,*

21 (3) *Specifying the net quantity of the contents by weight, mea-*
22 *sure, count or volume as prescribed by the State superintendent.*

23 b. Reasonable variations, tolerances and exemptions 【as to small
24 packages】 *from the requirements of subsection a. shall be per-*

25 mitted. The State superintendent shall by **[order]** *regulation* fix
 26 **[such]** *the permitted variations*, tolerances and exemptions **[as to**
 27 small packages as shall have been or may hereafter be fixed by the
 28 Secretary of the Treasury, the Secretary of Agriculture and the
 29 Secretary of Commerce of the United States of America.

30 Such tolerances and exemptions shall be published at the end
 31 of the session laws of the Legislature next thereafter published
 32 after the making of said order and shall take effect when so pub-
 33 lished.

34 If any such tolerance or exemption, so adopted, shall be changed
 35 by the three secretaries above named, it shall not continue in effect
 37 in this State after such change has become effective. Any such order
 38 may be prima facie proven in any court by the mere production of
 39 the volume of such laws continuing the publication thereto].

40 *c. No container or package in which commodities are packaged*
 41 *shall have a false bottom, false sidewalls, false lid or covering, or*
 42 *be otherwise so constructed or filled, wholly or partially, as to facili-*
 43 *tate the perpetration of a deception. No container or package shall*
 44 *be nonfunctionally slack filled, that is, filled to substantially less*
 45 *than its capacity for reasons other than (1) protection of the con-*
 46 *tents of the package or (2) the requirements of machines used for*
 47 *enclosing the contents in the package.*

48 *d. Any person [violating any of the provisions] who manufac-*
 49 *tures, packs, distributes, exposes for sale or sells any commodity*
 50 *in package form in violation of this section shall for the first of-*
 51 *fense be liable to a civil penalty of not less than \$50.00 nor more*
 52 *than \$100.00, and for a second offense to a civil penalty of not less*
 53 *than \$100.00 nor more than \$250.00, and for each subsequent of-*
 54 *fense to a civil penalty of not less than \$250.00 nor more than*
 55 *\$500.00.*

56 *(1) No person shall be convicted of or assessed a civil penalty*
 57 *for a second or subsequent offense pursuant to this subsection un-*
 58 *less the previous conviction:*

59 *(a) Occurred no earlier than one year prior to the occur-*
 60 *rence of the second or subsequent offense; and*

61 *(b) Occurred at the same place of business as the second or*
 62 *subsequent offense. For the purposes of this paragraph, "same*
 63 *place of business" means identical store or outlet.*

64 *(2) Nothing in this subsection shall be deemed (a) to authorize*
 65 *or permit the imposition of penalties for second or subsequent of-*
 66 *fenses in conjunction with an adjudication of guilt based upon*
 67 *multiple counts or complaints arising from the same inspection, or*

68 (b) to mandate the imposition of penalties for a second or subse-
 69 quent offense if, in the discretion of the court, the imposition of a
 70 penalty for a first offense would be just and proper.

71 e. A shipment, delivery, aggregation or lot of a commodity in
 72 package form may be examined for compliance ***[to]** **with** the
 73 required net quantity statement for determining the acceptance or
 74 rejection (off-sale action) by means of recognized sampling, sta-
 75 tistical principles and methods published by the National Bureau
 76 of Standards. Packages having a minus error exceeding the Maxi-
 77 mum Allowable Variation (MAV) shall be held in violation and
 78 appropriate legal action may be taken with respect to these indi-
 79 vidual packages according to the provisions of this section.

80 f. Notwithstanding any provision in Title 51 of the Revised Stat-
 81 utes, when a prosecution has been initiated against a retailer alleg-
 82 ing a violation regarding any commodity in package form, the
 83 manufacturer or supplier of that package shall be substituted as
 84 the party-defendant upon motion, with the consent of all parties
 85 and the consent of that manufacturer or supplier, who shall agree
 86 to submit to the jurisdiction of the court. If a judgment imposed
 87 against a manufacturer or supplier remains unsatisfied, the State
 88 superintendent may docket that judgment in the Superior Court,
 89 and may enforce that judgment in the same manner as a judgment
 90 originating from the Superior Court.

1 5. R. S. 51:1-54 is amended to read as follows:

2 51:1-54. The State superintendent shall have general supervision
 3 of the administration of the provisions of **[this chapter]** *Title 51*
 4 *of the Revised Statutes*. He shall have general supervision over
 5 the work of county and municipal superintendents. He shall make
 6 such rules for the administration of the affairs of his office and of
 7 the offices of the county and municipal superintendents as may be
 8 necessary for **[its]** *the proper enforcement of Title 51 of the Re-*
 9 *vised Statutes*. **[Assistant state superintendents]** *State weights*
 10 *and measures officials* shall be under his direct control.

1 6. R. S. 51:1-55 is amended to read as follows:

2 51:1-55. The State superintendent shall be the custodian of all
 3 standards of weight and measure. He shall procure, at the expense
 4 of the State, a set of standards properly certified by the **[national**
 5 **bureau of standards]** *National Bureau of Standards*. He shall **[sub-**
 6 **mit all standards of the state once in 10 years to the national**
 7 **bureau of standards for certification]** *maintain traceability of the*
 8 *State standards to the national standards in the possession of the*
 9 *National Bureau of Standards*. He shall correct the standards of

10 the several counties and municipalities, *and other government agen-*
 11 *cies* and shall at least once in five years compare them with the
 12 standards in his possession. *In addition, he shall at least once in*
 12A *every* five years calibrate or verify standards used by professional*
 13 *land surveyors and professional engineers in the performance of*
 14 *their duties with the expense to be borne by the owners of the de-*
 15 *vice. The State superintendent, upon request, shall compare and*
 16 *verify any electronic distance measuring device with the expense*
 17 *to be borne by the owner of the device.*

1 7. R. S. 51:1-61 is amended to read as follows:

2 51:1-61. The State superintendent may **[make]** *adopt, pur-*
 3 *suant to the provisions of the "Administrative Procedure Act,"*
 4 *P. L. 1968, c. 410 (C. 52:14B-1 et seq.) rules and regulations***[,**
 5 *which shall govern the sale of commodities]* *necessary for the im-*
 6 *plementation of the provisions of Title 51 of the Revised Statutes.*
 7 *Statutes, rules and regulations published by the United States*
 8 *Government and standardizing groups listed in the National Bu-*
 9 *reau of Standards Publication 417, DIRECTORY OF UNITED*
 10 *STATES STANDARDIZATION ACTIVITIES, or any subse-*
 11 *quent publication may be adopted by title or reference only.*
 12 *Regulations may include but are not limited to:*

13 *a. Provisions for the administration and enforcement of Title*
 14 *51 of the Revised Statutes, and the supervision and training of*
 15 *personnel;*

16 *b. Testing, inspecting and reporting procedures and exemptions*
 17 *from the sealing or marking requirements of Title 51 of the Re-*
 18 *vised Statutes with respect to weights and measures of a character*
 19 *or size for which the sealing or marking thereof would not be ap-*
 20 *propriate;*

21 *c. Definitions;*

22 *d. Specifications, tolerances and technical requirements for*
 23 *weights and measures;*

24 *e. Methods of sale for commodities and services;*

25 *f. Standards of net contents, net weight, measure, volume, length,*
 26 *area, time, or count and reasonable standards of fill for any com-*
 27 *modity in package form, including exemptions, variations and*
 28 *tolerances with regard to those standards;*

29 *g. Exemptions from disclosure pursuant to the public records*
 30 *law, P. L. 1963, c. 73 (C. 47:1A-1 et seq.), of reports or records in*
 31 *the custody of any weights and measures officer involving trade*
 32 *secrets or computer programs if the owner of the secret or program*
 33 *so requests the exemption. Nothing in this subsection shall prevent*

34 *a weights and measures officer from introducing that information*
 35 *in a proceeding necessary for the enforcement of Title 51 of the*
 36 *Revised Statutes, but, upon application by the owner, the court may*
 37 *seal the record with regard to that information.*

38 *h. Any other matter which the State superintendent deems neces-*
 39 *sary for the effective enforcement of laws relating to standards,*
 40 *weights and measures, consistent with the provisions of Title 51*
 41 *of the Revised Statutes.*

1 8. R. S. 51:1-64 is amended to read as follows:

2 51:1-64. Each **superintendent and assistant superintendent**
 3 *weights and measures officer* shall be **furnished with** *issued a*
 4 *badge or a similar identification device* displaying his official num-
 5 *ber when he has satisfactorily completed a course of instruction in*
 6 *weights and measures conducted under the direction of the State*
 7 *superintendent.* **and** *He shall exhibit* **the same when demanded**
 8 *at any time* **that badge or identification upon demand** during the
 9 performance of his *official duties.* The State superintendent shall
 10 design, number, register and issue such *badge or identification de-*
 11 *vices.*

1 9. R. S. 51:1-79 is amended to read as follows:

2 51:1-79. All public weighmasters shall keep and preserve ac-
 3 *curate records for a period of six years* of all public weighings,
 4 which records shall be **open** *available* at all times for inspection
 5 by the State superintendent **of weights and measures** or **his as-**
 6 **stant superintendents** *and weights and measures officer.*

1 10. R. S. 51:1-88 is amended to read as follows:

2 51:1-88. No person shall refuse to exhibit any weights, mea-
 3 **sures** **or**, *packages, containers, weight certificates, delivery*
 4 *tickets, invoices or any other document setting forth the quantity*
 5 *or value of any commodity or service* to any **superintendent or as-**
 6 **stant superintendent** *weights and measures officer* for the pur-
 7 pose of being inspected and examined, nor shall any person refuse
 8 to admit such officer to his place of business, during **the** *his*
 9 *usual hours of business,* nor shall any person who may be buying,
 10 selling or delivering goods, liquids **or**, commodities, *or services*
 11 from any **conveyance** *vehicle in transit* refuse to permit such
 12 officer to examine any weights, measures **or**, *packages, con-*
 13 *tainers, weight certificates, delivery tickets, invoices or any other*
 14 *document setting forth quantity or value of any commodity or ser-*
 15 *vice* which may be in or about **such conveyance** *the vehicle,* un-
 16 der a *civil penalty of not less than \$100.00* for every such offense.

1 11. R. S. 51:1-91 is amended to read as follows:

2 51:1-91. No person shall alter or change in any manner any
 3 weight or measure, or allow the same to be done, after the same
 4 has been tested and sealed *or tested and condemned* by any *weights*
 5 *and measures* officer [or inspector] under authority of law, so that
 6 the same shall weigh or measure incorrectly, under a *civil* penalty
 7 of not less than \$100.00 nor more than \$500.00 for each offense
 8 unless the person has been duly licensed and registered pursuant
 9 to the provisions of P. L. 1938, c. 182 (C. 51:1-113 et seq.). This
 10 section shall not prohibit any authorized person from making ad-
 11 justments necessary to achieve zero balance on any weighing or
 12 measuring device.

1 12. R. S. 51:1-93 is amended to read as follows:

2 51:1-93. Every weight or measure sold, leased or delivered
 3 after sale to any person within the State for use in the purchase
 4 or sale of commodities or service shall be of the legal standard as
 5 provided in this [chapter] Title.

6 Every person selling, leasing or delivering, or buying, renting or
 7 receiving any such weight or measure shall furnish to the local
 8 superintendent of the county or municipality in which such weights
 9 or measures are installed, a statement in writing, showing the sale
 10 or lease and location of such weights and measures *within 10 days*.

10A Any person who shall sell or lease a false weight or measure or
 11 a weight or measure that has not been approved as to type, con-
 12 struction and operation by the State superintendent, or who
 13 otherwise violates this section shall be liable to a *civil* penalty of
 14 not less than \$100.00 nor more than \$500.00 for each offense.

1 13. R. S. 51:1-96 is amended to read as follows:

2 51:1-96. a. [Any] No person [who injures or defrauds another
 3 by using] shall use, or [causes] cause to be used, or [has] have
 4 in his possession: (1) A weight or measure found to be incorrect
 5 after having been theretofore duly tested and sealed; or [a] (2) A
 6 false weight, measure or other apparatus for the measurement
 7 of a physical property, or for determining the quantity or value of
 8 any commodity or article of merchandise, or [sells or exposes
 9 for sale less than the quantity he represents] service, or both. Any
 10 person who violates this subsection shall for the first offense be
 11 liable to a *civil* penalty of not less than \$50.00 nor more than
 12 \$100.00, and for a second offense to a *civil* penalty of not less than
 13 \$100.00 nor more than \$250.00, and for each subsequent offense to
 14 a *civil* penalty of not less than \$250.00 nor more than \$500.00, or
 15 imprisonment for not less than 30 days nor more than 90 days, or
 16 both, the amount of such penalty to be determined, as aforesaid,

17 in the discretion of the county district court or municipal court
18 having jurisdiction].

19 *b. No person shall be convicted of or assessed a civil penalty for*
20 *a second or subsequent offense pursuant to this section unless the*
21 *previous conviction:*

22 *(1) Occurred no earlier than one year prior to the occurrence of*
23 *the second or subsequent offense; and*

24 *(2) Occurred at the same place of business as the second or sub-*
25 *sequent offense. For the purposes of this subsection, "same place*
26 *of business" means identical store or outlet.*

27 *c. Nothing in this section shall be deemed: (1) to authorize or*
28 *permit the imposition of penalties for a second or subsequent of-*
29 *fense in conjunction with an adjudication of guilt based upon multi-*
30 *ple counts or complaints arising from the same inspection, or (2)*
31 *to mandate the imposition of penalties for a second or subsequent*
32 *offense, if, in the discretion of the court, the imposition of a penalty*
33 *for a first offense would be just and proper.*

34 **[d. The provisions of subsections b. and c. shall not apply to*
35 *violations of subsection a. where a weight or measure is found to*
36 *be incorrect after sealing.]**

1 14. R. S. 51:1-97 is amended to read as follows:

2 51:1-97. [Any person who knowingly sells or exposes for sale
3 or delivers or causes to be delivered less than the quantity repre-
4 sented of any commodity commonly sold by weight or measure or
5 other apparatus for determining quantity shall be liable to the
6 penalties set forth in section 51:1-96 of this title].

7 *a. No person shall:*

8 *(1) Sell or expose for sale less than the quantity represented of*
9 *a commodity or service;*

10 *(2) Take any more of the quantity represented of any commodity*
11 *or service when, as a buyer, he furnishes the weight or measure by*
12 *which the commodity or service is determined;*

13 *(3) Deliver or cause to be delivered less than the quantity or ser-*
14 *vice represented of any commodity or service commonly sold by*
15 *weight, measure, count or time;*

16 *(4) Misrepresent the price of any commodity or service sold, of-*
17 *fered, exposed, or advertised for sale by weight, measure, count,*
18 *or time, nor represent the price in any manner calculated or tend-*
19 *ing to mislead or in any way deceive a person;*

20 *(5) Falsify, prerecord, issue or have in his possession a meter*
21 *register, delivery ticket, invoice, bill or any document which con-*
22 *tains a quantity representation recorded prior to the actual mea-*
23 *surement at the time of delivery of the commodity; or*

24 (6) *Preprint, postprint, alter, or have in his possession a credit*
 25 *card, receipt or original containing a false representation of the*
 26 *quantity or value of petroleum products delivered.*

27 *Any person who violates the provisions of this subsection shall*
 28 *be liable for the first offense to a civil penalty of not less than*
 29 *\$50.00 nor more than \$100.00, and for a second offense to a civil*
 30 *penalty of not less \$100.00 nor more than \$250.00, and for each sub-*
 31 *sequent offense to a civil penalty of not less than \$250.00 nor more*
 32 *than \$500.00.*

33 *b. No person shall be convicted of or assessed a civil penalty for*
 34 *a second or subsequent offense pursuant to this section unless the*
 35 *previous conviction:*

36 (1) *Occurred no earlier than one year prior to the occurrence of*
 37 *the second or subsequent offense; and*

38 (2) *Occurred at the same place of business as the second or sub-*
 39 *sequent offense. For the purposes of this subsection, "same place*
 40 *of business" means identical store or outlet.*

41 *c. Nothing in this section shall be deemed: (1) to authorize or*
 42 *permit the imposition of penalties for a second or subsequent of-*
 43 *fense in conjunction with an adjudication of guilty based upon*
 44 *multiple counts or complaints arising from the same inspection, or*
 45 (2) *to mandate the imposition of penalties for a second or subse-*
 46 *quent offense, if, in the discretion of the court, the imposition of a*
 47 *penalty for a first offense would be just and proper.*

1 15. R. S. 51:1-100 is amended to read as follows:

2 51:1-100. The use, ownership or possession of each separate
 3 weight, measure **[or]**, container or commodity in package form in
 4 violation of any of the provisions of this chapter shall be deemed
 5 as separate violations thereof.

1 16. R. S. 51:1-102 is amended to read as follows:

2 51:1-102. Each weight or measure used by any **[superintendent**
 3 **or assistant superintendent]** *weights and measures officer* as a stan-
 4 dard for testing the weights and measures used in trade, commerce
 5 or in:

6 *a. Any weights and measures office;*

7 *b. The enforcement of law; or*

8 *c. Any engineering or surveying shall be marked by the State*
 9 *superintendent in such manner as he may determine. A certificate*
 10 *to the correctness thereof designating it by number and giving the*
 11 *date of its comparison with any of the standard weights and mea-*
 12 *surements shall be presumptive evidence that such weight or measure*
 13 *has continuously since the date of such comparison conformed with*
 14 *the said standards and the national and State standards. Such*

15 certificate shall be signed *and sealed* by the State superintendent
 16 **【or the superintendent of such county or municipality】** *in a manner*
 17 *determined by him.*

18 Any certificate substantially setting forth the above facts and
 19 purporting to be signed *and sealed* by **【such a】** *the State* superin-
 20 tendent, shall upon its production, be admitted as such presumptive
 21 evidence without further proof of its authenticity.

1 17. R. S. 51:1-103 is amended to read as follows:

2 51:1-103. An action for the recovery of a penalty for violation
 3 of **【this chapter】** *Title 51 of the Revised Statutes* shall be within
 4 the jurisdiction of and may be brought before **【any county district**
 5 **court, criminal judicial district court】** *the Superior Court* or mu-
 6 nicipal court in the county *or municipality* where the offense is com-
 7 mitted or where the defendant may reside, *or where the defendant*
 8 *may be found, or where the measurement of quantity determination*
 9 *was physically made*, which court is hereinafter referred to in **【this**
 10 **article】** *Title 51 of the Revised Statutes as the "court."*

1 18. R. S. 51:1-105 is amended to read as follows:

2 51:1-105. A penalty incurred for the violation of any of the pro-
 3 visions of this Title may be enforced pursuant to **【the Penalty En-**
 4 **forcement Law】** *"the penalty enforcement law"* (N. J. S. 2A:58-1
 5 et seq.) in a summary proceeding brought in the name of the State
 6 by **【a superintendent, assistant superintendent, or inspector】** *any*
 7 *weights and measures officer.*

8 **【The court may issue a summons or warrant. The warrant or**
 9 **summons may be directed to any superintendent, assistant super-**
 10 **intendent, inspector or to any constable or police officer command-**
 11 **ing him to cause the person complained of to be arrested and**
 12 **brought before the court. A summons or warrant issued by a court**
 13 **under this article shall be valid throughout the State. An officer**
 14 **who may serve the summons or warrant in the county in which it**
 15 **was issued may also serve the summons or warrant and make ar-**
 16 **rest on the warrant in any county of the State.**

17 If any person shall fail to pay the penalty or penalties imposed
 18 together with the costs of the proceedings, the court shall commit
 19 him to the common jail of the county where the conviction is had,
 20 for a period not exceeding 30 days, except where the period of
 21 imprisonment is otherwise provided for, or until the penalty and
 22 costs are sooner paid.】

23 *All proceedings and all judgments arising therefrom shall be*
 24 *pursued and entered in accordance with "the penalty enforcement*
 25 *law," N. J. S. 2A:58-1 et seq. and the Rules Governing the Courts*
 26 *of the State of New Jersey. Judgments recovered in favor of the*

27 *State in any court may be docketed in the Superior Court and,*
 28 *thereafter, shall operate as a judgment obtained in that court.*

1 19. R. S. 51:1-106 is amended to read as follows:

2 51:1-106. A [superintendent, assistant superintendent, or in-
 3 spector] *weights and measures officer* on the violation of any of
 4 the provisions of this Title within his view or *presence* may with-
 5 out warrant arrest the offender and conduct him before the court
 6 having jurisdiction [in the municipality where the arrest is made
 7 or the offense committed].

8 *A weights and measures officer may order off sale, issue stop-*
 9 *use or removal orders, or may seize and take possession of any*
 10 *commodity in package form, weight or measure, documents or other*
 11 *items when he has reason to believe that any provision of Title 51*
 12 *of the Revised Statutes or any regulation adopted thereunder has*
 13 *been violated.*

14 *Any weights and measures officer, his employer, or the State*
 15 *shall not be liable for damages by reasons of that seizure.*

1 20. (New section) Whenever it appears that a person engages in
 2 practices in violation of Title 51 of the Revised Statutes or regula-
 3 tions adopted pursuant thereto and other statutes relating to
 4 weights and measures, the State superintendent may seek to ob-
 5 tain in an action in the Superior Court an injunction prohibiting
 6 that person from continuing those practices.

7 The court may make orders or judgments to prevent that per-
 8 son from engaging in any prohibited practices.

1 21. (New section) The State superintendent shall have the power
 2 to issue subpoenas to compel the production of any pertinent rec-
 3 ords, books, or documents or the attendance of witnesses in any
 4 matter pertaining to his duties under Title 51 of the Revised Stat-
 5 utes and other statutes relating to weights and measures and shall
 6 have the power to administer oaths in taking testimony. Subpoenas
 7 shall be issued under the seal of the State superintendent and
 8 shall be served in the same manner as subpoenas issued from any
 9 court in this State. The failure of any person to obey a subpoena
 10 may result in the State superintendent applying to the Superior
 11 Court for appropriate relief.

1 22. (New section) No conviction of a violation of Title 51 of the
 2 Revised Statutes prior to the effective date of this 1986 amendatory
 3 and supplementary act shall be considered for the purpose of as-
 4 sessing a penalty for a second or subsequent offense pursuant to
 5 R. S. 51:1-29, R. S. 51:1-91, R. S. 51:1-96, or R. S. 51:1-97.

1 23. R. S. 51:1-57, R. S. 51:1-92, and R. S. 51:1-99 are repealed.

1 24. This act shall take effect immediately.

LAW AND PUBLIC SAFETY—GENERAL

Wts. and measures stats.—Revises

Revises weights and measures statutes to recognize modern packaging, marketing, and weighing and measuring systems.

STATEMENT

This bill amends portions of chapter 1 of Title 51 of the Revised Statutes, which concerns weights and measures. The purpose of the bill is to modernize the weights and measures statutes by recognizing modern packaging practices and marketing systems as well as technological improvements in weighing and measuring systems. The bill also revises administrative and enforcement powers of the State superintendent of weights and measures.

The revisions contained in this bill are in accordance with the Federal Fair Packaging and Labeling Act, the Model State Weights and Measures Law and other model regulations published in the National Bureau of Standards Handbook H-130 as adopted by the National Conference of Weights and Measures.

Section 1 of the bill adds to chapter 1 of Title 51 of the Revised Statutes the definitions of several terms. These definitions reflect modern terminology and modern packaging techniques. Today, most food items are packaged on premises other than those on which they are sold, rather than arriving at a store in bulk and being packaged there. Included in the terms defined in section 1 is "weight and measure," the definition of which is intended to reach any set of electronic components that interact with each other to accomplish a task involved in a commercial transaction, so that state-of-the-art devices may be regulated as they develop and are introduced from time to time.

The definitions relating to weights and measures personnel are included to prevent the confusion that results when the job titles that are used differ from those that appear in the statutes.

Section 2 revises R. S. 51:1-3 to authorize and encourage use of the metric system in New Jersey. The customary inch-pound system also will be recognized. This section recognizes the definitions of basic units of weight and measure, the tables of weight and measure, and the weights and measures equivalent as published by the National Bureau of Standards.

Section 3 amends R. S. 51:1-6 to recognize modern surveying procedures and equipment and require that nationally recognized forms be used.

Subsection a. of section 4 requires that a commodity in package form be labeled to provide information about the identity of the commodity, the identity of the manufacturer, packer, or distributor, and the net quantity of the contents of the package. These labeling requirements currently are found in the New Jersey Administrative Code and are based on federal requirements.

Subsection b. of section 4 permits reasonable variations from these labeling requirements, as defined by the State superintendent in regulations.

Subsection c. of section 4 prohibits "slack filling," or filling a container to substantially less than its capacity, except under certain circumstances.

Subsection d. of section 4 amends current law to establish that the fines imposed for violating a provision of section 4 are civil penalties. In order to protect merchants, this subsection also establishes that a violation will not be considered a second or subsequent offense unless the first offense occurred within the previous year and at the same store or outlet. In addition, subsection d. requires a court to impose the penalty for a first offense when a merchant's first offense consists of multiple charges arising from the same inspection and permits a court, in its discretion, to impose a penalty for a first offense when the violation constitutes a second or subsequent offense, if such a penalty would be just and proper.

Subsection e. of section 4 permits inspection of commodities in package form for their compliance with the requirement that they bear a label stating the net quantity contained in the package, by methods approved by the National Bureau of Standards.

Subsection f. of section 4 permits the manufacturer or supplier of a commodity in package form to be substituted for the retailer as the party-defendant when a prosecution is initiated alleging a violation regarding the commodity in package form.

Section 5 proposes certain amendments to R. S. 51:1-54 that are of a housekeeping nature.

Section 6 amends R. S. 51:1-55 to codify the existing national practice of tracing all standards to the National Bureau of Standards. This section also requires the State Superintendent of Weights and Measures periodically to test certain devices used by professional land surveyors and professional engineers with the expense of the test to be borne by the owner of the device.

Section 7 amends R. S. 51:1-61 to authorize the State superintendent to adopt rules for the implementation of Title 51 of the Revised Statutes. This section specifically authorizes the adoption of existing industry standards that are necessary for uniformity as well as standards written by agencies listed by the National Bureau of Standards. Subsections a. through f. enumerate areas of specific rule-making authority. Subsection g. protects business secrets and computer programs from disclosure under the public records law.

Section 8 amends R. S. 51:1-64 to establish that credentials will be issued to weights and measures officers only after they have completed a course of instruction in weights and measures conducted under the direction of the State superintendent.

Section 9 amends R. S. 51:1-79 to provide weights and measures officers with greater accessibility to the records of public weighmasters.

Section 10 amends R. S. 51:1-88 to require that not only weights and measures but also other documents and packages will be available for inspection by weights and measures officers. These changes will provide greater protection to consumers by permitting violations to be detected at all levels of the marketing chain.

Section 11 amends R. S. 51:1-91 to prohibit the alteration of weights and measures devices after they have been condemned as well as after they have been found correct and sealed, unless the person making the alteration is licensed. This section exempts from the altering prohibition adjustments necessary to achieve zero balance.

Section 12 amends R. S. 51:1-93 to provide that when a new or different weights and measures device is put into use, the local or county superintendent is to be informed within 10 days. This section clarifies that a violation carries a civil penalty.

Section 13 amends R. S. 51:1-96 to establish that it is unlawful to possess, use, or cause to be used a weight or measure found to be incorrect after having been tested and sealed. This section also removes language requiring that before a violation can occur, injury or fraud against another person must take place. Additional language added to this section limits the liability of a violator similar to the limitations contained in section 4 of the bill.

Section 14 amends R. S. 51:1-97 to eliminate the requirement that a violation of the law governing the sale or quantities less than those represented cannot occur unless the violator knowingly commits the violation. The requirement that a violation be committed knowingly made enforcement of this section extremely difficult. Paragraphs (1) through (6) of subsection a. recognize the many areas of weights and measures laws and are designed to remedy specific problem areas.

Section 15 amends R. S. 51:1-100 to clarify that each violation of a provision of Title 51 is a separate violation.

Section 16 revises R. S. 51:1-102 to further the accuracy and traceability of standards used in trade and commerce, standards used by county and municipal weights and measures offices, and

standards used by law enforcement officials, engineers and surveyors. This section is intended to increase public confidence in the accuracy of standards tested and sealed by the State superintendent.

Section 17 amends R. S. 51:1-103 to modernize its terminology and to broaden the venue for prosecution of weights and measures violations.

Section 18 amends R. S. 51:1-105 to require that penalties for weights and measures violations be enforced under "the penalty enforcement law," (N. J. S. 2A:58-1 et seq.). This section will improve the docketing and enforcement of judgments, some of which now go uncollected.

Section 19 amends R. S. 51:1-106 to authorize a weights and measures official who witnesses a violation of the provisions of Title 51 of the Revised Statutes to order off sale, items found to be not in compliance with weights and measures laws. This change will improve the enforcement of weights and measures laws.

Section 20 is a new section based upon language found in other statutes. This section permits injunctive relief to be granted upon a showing that a violation has occurred rather than requiring that irreparable harm to the people of New Jersey must be shown before relief is granted. This section will improve enforcement of weights and measures statutes.

Section 21 is a new section that gives the State superintendent administrative subpoena power similar to that vested in other regulatory agencies.

Section 22 requires that no conviction of a violation of Title 51 of the Revised Statutes prior to the effective date of the bill will be considered for the purpose of assessing a penalty for a second or subsequent offense under R. S. 51:1-19, R. S. 51:1-91, R. S. 51:1-96, or R. S. 51:1-97.

Section 23 repeals R. S. 51:1-57, R. S. 51:1-92, and R. S. 51:1-99. All of these sections have been incorporated into various sections of this bill.

Section 24 is the effective date.

LAW AND PUBLIC SAFETY—GENERAL

Wts. and measures stats.—Revises

Revises weights and measures statutes to recognize modern packaging, marketing, and weighing and measuring systems.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
SENATE, No. 1557

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1986

The Senate Law, Public Safety and Defense Committee favorably reports Senate Bill No. 1557 with committee amendments.

As amended by the committee, this bill revises portions of chapter 1 of Title 51 of the Revised Statutes, which concerns weights and measures. The purpose of the bill is to modernize the weights and measures statutes by recognizing modern packaging practices and marketing systems as well as technological improvements in weighing and measuring systems. The bill also revises administrative and enforcement powers of the State superintendent of weights and measures.

The revisions contained in this bill are in accordance with the federal Fair Packaging and Labeling Act, the Model State Weights and Measures Law and other model regulations published in the National Bureau of Standards Handbook H-130 as adopted by the National Conference of Weights and Measures.

What follows is a section-by-section summary of the amended bill's provisions.

Section 1 of the bill adds to chapter 1 of Title 51 of the Revised Statutes the definitions of several terms. These definitions reflect modern terminology and modern packaging techniques. Today most food items are packaged on premises other than those on which they are sold, rather than arriving at a store in bulk and being packaged there. Included in the terms defined in section 1 is "weight and measure," the definition of which is intended to reach any set of electronic components that interact with each other to accomplish a task involved in a commercial transaction, so that state-of-the-art devices may be regulated as they develop and are introduced from time to time. One current example, mention of which is not intended to act as a limitation on the definition of "weight and measure," is scanners.

The definitions relating to weights and measures personnel are included to prevent the confusion that results when the job titles that are used differ from those that appear in the statutes.

Section 2 revises R. S. 51:1-3 to authorize and encourage use of the metric system in New Jersey. The customary inch-pound system also will be recognized. This section recognizes the definitions of basic units

of weight and measure, the tables of weight and measure, and the weights and measures equivalents as published by the National Bureau of Standards.

Section 3 amends R. S. 51:1-6 to recognize modern surveying procedures and equipment and require that nationally recognized forms be used.

Subsection a. of section 4 requires that a commodity in package form be labeled to provide information about the identity of the commodity, the identity of the manufacturer, packer, or distributor, and the net quantity of the contents of the package. These labeling requirements currently are found in the New Jersey Administrative Code and are based on federal requirements.

Subsection b. of section 4 permits reasonable variations from these labeling requirements, as defined by the State superintendent in regulations.

Subsection c. of section 4 prohibits "slack filling," or filling a container to substantially less than its capacity, except under certain circumstances.

Subsection d. of section 4 amends current law to establish that the fines imposed for violating a provision of section 4 are civil penalties. In order to protect merchants, this subsection also establishes that a violation will not be considered a second or subsequent offense unless the first offense occurred within the previous year and at the same store or outlet. In addition, subsection d. authorizes a court to impose the penalty for a first offense when a merchant's first offense consists of multiple charges arising from the same inspection and permits a court, in its discretion, to impose a penalty for a first offense when the violation constitutes a second or subsequent offense, if such a penalty would be just and proper.

Subsection e. of section 4 permits inspection of commodities in package form for their compliance with the requirement that they bear a label stating the net quantity contained in the package, by methods approved by the National Bureau of Standards. The committee amended this subsection by changing the word "to" to "with," to correct a grammatical error.

Subsection f. of section 4 permits the manufacturer or supplier of a commodity in package form to be substituted for the retailer as the party-defendant when a prosecution is initiated alleging a violation regarding the commodity in package form.

Section 5 proposes certain amendments to R. S. 51:1-54 that are of a housekeeping nature.

Section 6 amends R. S. 51:1-55 to codify the existing national practice of tracing all standards to the National Bureau of Standards. This

section also requires the State Superintendent of Weights and Measures periodically to test certain devices used by professional land surveyors and professional engineers with the expense of the test to be borne by the owner of the device.

Section 7 amends R. S. 51:1-61 to authorize the State superintendent to adopt rules for the implementation of Title 51 of the Revised Statutes. This section specifically authorizes the adoption of existing industry standards that are necessary for uniformity as well as standards written by agencies listed by the National Bureau of Standards. Subsections a. through f. enumerate areas of specific rule-making authority. Subsection g. protects business secrets and computer programs from disclosure under the public records law.

Section 8 amends R. S. 51:1-64 to establish that credentials will be issued to weights and measures officers only after they have completed a course of instruction in weights and measures conducted under the direction of the State superintendent.

Section 9 amends R. S. 51:1-79 to provide weights and measures officers with greater accessibility to the records of public weighmasters.

Section 10 amends R. S. 51:1-88 to require that not only weights and measures but also other documents and packages will be available for inspection by weights and measures officers. These changes will provide greater protection to consumers by permitting violations to be detected at all levels of the marketing chain.

Section 11 amends R. S. 51:1-91 to prohibit the alteration of weights and measures devices after they have been condemned as well as after they have been found correct and sealed, unless the person making the alteration is licensed. This section exempts from the altering prohibition adjustments necessary to achieve zero balance.

Section 12 amends R. S. 51:1-93 to provide that when a new or different weights and measures device is put into use, the local or county superintendent is to be informed within 10 days. This section clarifies that a violation carries a civil penalty.

Section 13 amends R. S. 51:1-96 to establish that it is unlawful to possess, use, or cause to be used a weight or measure found to be incorrect after having been tested and sealed. This section also removes language requiring that before a violation can occur, injury or fraud against another person must take place. Additional language added to this section limits the liability of a violator similar to the limitations contained in section 4 of the bill. The committee amended this section to permit these limitations on the liability of a violator to operate even when a violation of subsection a. of this section occurs with a weight or measure found to be incorrect after sealing.

Section 14 amends R. S. 51:1-97 to eliminate the requirement that

a violation of the law governing the sale of quantities less than those represented cannot occur unless the violator knowingly commits the violation. The requirement that a violation be committed knowingly made enforcement of this section extremely difficult. Paragraphs (1) through (6) of subsection a. recognize the many areas of weights and measures laws and are designed to remedy specific problem areas.

Section 15 amends R. S. 51:1-100 to clarify that each violation of a provision of Title 51 is a separate violation.

Section 16 revises R. S. 51:1-102 to further the accuracy and traceability of standards used in trade and commerce, standards used by county and municipal weights and measures offices, and standards used by law enforcement officials, engineers and surveyors. This section is intended to increase public confidence in the accuracy of standards tested and sealed by the State superintendent.

Section 17 amends R. S. 51:1-103 to modernize its terminology and to broaden the venue for prosecution of weights and measures violations.

Section 18 amends R. S. 51:1-105 to require that penalties for weights and measures violations be enforced under "the penalty enforcement law," (N. J. S. 2A:58-1 et seq.). This section will improve the docketing and enforcement of judgments, some of which now go uncollected.

Section 19 amends R. S. 51:1-106 to authorize a weights and measures official who witnesses a violation of the provisions of Title 51 of the Revised Statutes to order off sale, items found to be not in compliance with weights and measures laws. This change will improve the enforcement of weights and measures laws.

Section 20 is a new section based upon language found in other statutes. This section permits injunctive relief to be granted upon a showing that a violation has occurred rather than requiring that irreparable harm to the people of New Jersey must be shown before relief is granted. This section will improve enforcement of weights and measures statutes.

Section 21 is a new section that gives the State superintendent administrative subpoena power similar to that vested in other regulatory agencies.

Section 22 requires that no conviction of a violation of Title 51 of the Revised Statutes prior to the effective date of the bill will be considered for the purpose of assessing a penalty for a second or subsequent offense under R. S. 51:1-29, R. S. 51:1-91, R. S. 51:1-96, or R. S. 51:1-97.

Section 23 repeals R. S. 51:1-57, R. S. 51:1-92, and R. S. 51:1-99. All of these sections have been incorporated into various sections of this bill.

Section 24 is the effective date.

ASSEMBLY LAW, PUBLIC SAFETY, DEFENSE AND
CORRECTIONS COMMITTEE

STATEMENT TO
SENATE, No. 1557

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 1986

The Assembly Law, Public Safety, Defense and Corrections Committee favorably reports Senate Bill No. 1557 OCR.

Senate Bill No. 1557 revises portions of chapter 1 of Title 51 of the Revised Statutes, which concerns weights and measures. The purpose of the bill is to modernize the weights and measures statutes by recognizing modern packaging practices and marketing systems as well as technological improvements in weighing and measuring systems. The bill also revises administrative and enforcement powers of the State Superintendent of Weights and Measures in the Department of Law and Public Safety.

The revisions contained in this bill are in accordance with the federal Fair Packaging and Labeling Act, the Model State Weights and Measures Law, and other model regulations published in the National Bureau of Standards Handbook H-130 as adopted by the National Conference of Weights and Measures.

The following is a section-by-section summary of the bill's provisions.

Section 1 of the bill adds to R. S. 51:1-2 the definitions of several terms. These definitions reflect modern terminology and modern packaging techniques. Today most food items are packaged on premises other than those on which they are sold, rather than arriving at a store in bulk and being packaged there. Included in the terms defined in section 1 is "weight and measure," the definition of which is intended to reach any set of electronic components that interact with each other to accomplish a task involved in a commercial transaction, so that state-of-the-art devices may be regulated as they develop and are introduced from time to time.

Section 2 revises R. S. 51:1-3 to recognize the customary inch-pound system and also to authorize and encourage the use of the metric system. This section recognizes the definitions of basic units of weights and measures, the tables of weights and measures, and the weights and measures equivalents as published by the National Bureau of Standards.

Section 3 amends R. S. 51:1-6 to recognize modern surveying procedures and equipment, and to require that nationally recognized forms be used.

Subsection a. of section 4 requires that a commodity in package form be labeled to provide information about the identity of the commodity, the identity of the manufacturer, packer, or distributor, and the net quantity of the contents of the package. These labeling requirements currently are found in the New Jersey Administrative Code and are based on federal requirements.

Subsection b. of section 4 permits reasonable variations from these labeling requirements as permitted by the State superintendent in regulations.

Subsection c. of section 4 prohibits "slack filling," or filling a container to substantially less than its capacity, except under certain circumstances.

A violation of the slack fill provision requires a showing on a case-by-case basis of deception or fraud upon consumers. The committee recommends that regulations should be promulgated before enforcement of the nonfunctional slack fill prohibition is undertaken. The scope of the slack fill prohibition applies to immediate product containers only.

Subsection d. of section 4 amends current law to establish that the fines imposed for violating a provision of section 4 are civil penalties. In order to protect merchants, this subsection also establishes that a violation will not be considered a second or subsequent offense unless the first offense occurred within the previous year and at the same store or outlet. In addition, subsection d. authorizes a court to impose the penalty for a first offense when a merchant's first offense consists of multiple charges arising from the same inspection and permits a court, in its discretion, to impose a penalty for a first offense when the violation constitutes a second or subsequent offense, if such a penalty would be just and proper.

Subsection e. of section 4 permits inspection of commodities in package form by methods approved by the National Bureau of Standards for their compliance with the requirement that they bear a label stating the net quantity contained in the package.

Subsection f. of section 4 permits the manufacturer or supplier of a commodity in package form to be substituted for the retailer as the party-defendant when a prosecution is initiated alleging a violation regarding the commodity in package form.

Section 5 proposes certain amendments to R. S. 51:1-54 that are of a housekeeping nature.

Section 6 amends R. S. 51:1-55 to codify the existing national practice of tracing all standards to the National Bureau of Standards. This

section also requires the State Superintendent of Weights and Measures periodically to test certain devices used by professional land surveyors and professional engineers with the expense of the test to be borne by the owner of the device.

Section 7 amends R. S. 51:1-61 to authorize the State superintendent to adopt rules for the implementation of Title 51 of the Revised Statutes. This section specifically authorizes the adoption of existing industry standards that are necessary for uniformity as well as standards written by agencies listed by the National Bureau of Standards. Subsections a. through f. enumerate areas of specific rule-making authority. Subsection g. protects business secrets and computer programs from disclosure under the public records law.

Section 8 amends R. S. 51:1-64 to establish that credentials will be issued to weights and measures officers only after they have completed a course of instruction in weights and measures conducted under the direction of the State superintendent.

Section 9 amends R. S. 51:1-79 to provide weights and measures officers with greater accessibility to the records of public weighmasters.

Section 10 amends R. S. 51:1-88 to require that not only weights and measures but also other documents and packages will be available for inspection by weights and measures officers. These changes will provide greater protection to consumers by permitting violations to be detected at all levels of the marketing chain.

Section 11 amends R. S. 51:1-91 to prohibit the alteration of weights and measures devices after they have been condemned, as well as after they have been found correct and sealed, unless the person making the alteration is licensed.

Section 12 amends R. S. 51:1-93 to provide that when a new or different weights and measures device is put into use, the local or county superintendent is to be informed within 10 days. This section clarifies that a violation carries a civil penalty.

Section 13 amends R. S. 51:1-96 to establish that it is unlawful to possess, use, or cause to be used a weight or measure found to be incorrect after it has been tested and sealed. This section also removes language requiring that before a violation can occur, injury or fraud against another person must take place. Additional language limits the liability of a violator similar to the limitations contained in section 4 of the bill.

Section 14 amends R. S. 51:1-97 to eliminate the requirement that a violation of the law governing the sale of quantities less than those represented cannot occur unless the violator knowingly commits the violation. The requirement that a violation be committed knowingly made enforcement of this section extremely difficult. Paragraphs (1)

through (6) of subsection a. recognize the many areas of weights and measures laws and are designed to remedy specific problem areas.

Section 15 amends R. S. 51:1-100 to clarify that each violation of a provision of Title 51 is a separate violation.

Section 16 revises R. S. 51:1-102 to further the accuracy and traceability of standards used in trade and commerce, standards used by county and municipal weights and measures offices, and standards used by law enforcement officials, engineers and surveyors. This section is intended to increase public confidence in the accuracy of standards tested and sealed by the State superintendent.

Section 17 amends R. S. 51:1-103 to modernize its terminology and to broaden the venue for prosecution of weights and measures violations.

Section 18 amends R. S. 51:1-105 to require that penalties for weights and measures violations be enforced under "the penalty enforcement law," (N. J. S. 2A:58-1 et seq.). This section will improve the docketing and enforcement of judgments, some of which now go uncollected.

Section 19 amends R. S. 51:1-106 to authorize a weights and measures official who witnesses a violation of the provisions of Title 51 of the Revised Statutes to order off sale items found to be not in compliance with weights and measures laws. This change will improve the enforcement of weights and measures laws.

Section 20 is a new section based upon language found in other statutes. This section permits injunctive relief to be granted upon a showing that a violation has occurred rather than requiring that irreparable harm to the people of New Jersey must be shown before relief is granted. This section will improve enforcement of weights and measures statutes.

Section 21 is a new section that gives the State superintendent administrative subpoena power similar to that vested in other regulatory agencies.

Section 22 requires that no conviction of a violation of Title 51 of the Revised Statutes prior to the effective date of the bill will be considered for the purpose of assessing a penalty for a second or subsequent offense under R. S. 51:1-29, R. S. 51:1-91, R. S. 51:1-96, or R. S. 51:1-97.

Section 23 repeals R. S. 51:1-57, R. S. 51:1-92, and R. S. 51:1-99. All of these sections have been incorporated into the supplementary sections of this bill.

Section 24 is the effective date.

As released from this committee, Senate Bill No. 1557 OCR is identical to Assembly Bill No. 1962 Aca.
