CHAPTER 64-02
WEIGHING AND MEASURING DEVICES

64-02-01. Definitions.

In this title:

1. "Calibrate" means to compare a standard, or weighing or measuring device, to another standard and eliminate by adjustment any variation in the accuracy of the item being compared, but does not include the field repair of a weighing or measuring device.
2. "Commission" means the public service commission.
3. "Test" means to measure to determine if a standard or weighing or measuring device is within the permitted tolerance.
4. "Transient vendor" means a wholesale or retail seller of produce, fruit, nuts, or seafood that sells to the public at a temporary location, on a seasonal basis, open less than one hundred twenty business days each year.
5. "Weighing or measuring device" means any scale, weight, measure, instrument, or device used or offered for use for weighing or measuring in commerce.

64-02-02. Weights and measures - Supervision by public service commission - Installation of weighing or measuring devices under special variance permit.

All weighing or measuring devices in this state must be supervised and controlled by the commission. A variance permit for the installation or relocation of a device deviating from requirements under this chapter may be issued by the commission when the device meets service requirements within accepted tolerances. The commission may request that an application for a variance permit include complete construction plans and a statement of the specific reasons why deviations are necessary or desirable. The commission may impose limitations or conditions on the construction and use of any weighing or measuring device.

64-02-03. Commission rules.

The commission may adopt rules having the force and effect of law.

64-02-04. Tolerance - Uniformity established by commission.

The commission shall establish uniform tolerance or reasonable variances for weighing and measuring devices.

64-02-05. Employees - Compensation.

The commission shall employ and fix the compensation of employees necessary to carry out the provisions of this title.

64-02-05.1. Director of weights and measures.

Repealed by S.L. 1989, ch. 764, § 31.

64-02-06. Employees of department shall give bond.

Repealed by S.L. 1989, ch. 764, § 31.

64-02-07. Duties of commission.

The commission shall:

1. Maintain the calibration of the state weights and measures standards that are traceable to the United States standards. All secondary standards must be calibrated by a national institute of standards and technology-recognized metrology laboratory as often as the commission deems necessary.
2. Keep a seal to impress the letters "N.D." and the date of sealing upon the weighing or measuring devices that are sealed.
3. Test, correct, and seal, when found to be accurate, all the copies of the standards used in the state for the purpose of testing the weighing or measuring devices used in the state, and keep a record thereof.

4. Have general supervision of the weighing or measuring devices used as standards in the state.
5. Upon the written request of any person, test or calibrate weighing or measuring devices used as standards in the state.
6. Keep a complete record of the standards, weighing or measuring devices, and all testing and sealing equipment owned by the state, and maintain traceability of the state standards to the United States standards.

64-02-08. Purchase, lease, or disposal of equipment.

The commission shall purchase or lease any equipment necessary for carrying out the provisions of this title and may sell equipment which is obsolete or unsuitable. Proceeds from sale or disposal must be paid into the general fund of the state treasury.

64-02-09. Standards of weights and measures.

The commission shall maintain the following standards of weights and measures, which must conform to the United States standards:

1. One surveyor's chain, sixty-six United States survey feet in length.
2. One yard [in meters, equal to 36 divided by 39.37] measure.
3. One United States survey foot [in meters, equal to 12 divided by 39.37] measure and one international foot [exactly .3048 meters] measure.
4. One inch [25.40 millimeters] measure.
5. One one hundred pound [45.36 kilograms] weight.
6. One fifty pound [22.68 kilograms] weight.
7. One twenty-five pound [11.34 kilograms] weight.
8. One ten pound [4.54 kilograms] weight.
9. One one pound [.4536 kilogram] weight.
10. One half-pound [.2268 kilogram] weight.
11. One quarter-pound [.1134 kilogram] weight.
12. One one-eighth of a pound [.0567 kilogram] weight.
13. One one-sixteenth of a pound [.0284 kilogram] weight or one ounce [28.35 grams] weight.
14. One set of apothecaries' weights from one pound [.4536 kilogram] to one grain [64.80 milligrams] and one set of troy weights from one pound [.3732 kilogram] to one grain [64.80 milligrams].
15. Other weighing and measuring devices necessary to test and calibrate standards.

These standards are the legal standards of weights and measures for this state, and must be used for testing the secondary standards used to test weighing or measuring devices.

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1.	Test overhead monorail, track, dormant, deck, and hanging scale of one thousand pounds [453 kilograms] or less capacity	53.00
2.	Test movable platform scale	11.00
3.	Test counter or computing scale	11.00
4.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
5.	Test a retail motor fuel device	11.00
6.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
7.	Test mobile delivery gasoline and fuel oil meter	24.00
8.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
9.	Test propane, ag chemical, or liquid fertilizer meter	39.00
10.	Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	11.00
11.	Witnessing any of the above tests	Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin.

64-02-11. Payment of test fee before using weighing or measuring device.

No weighing or measuring device that has been sealed by the commission may be used, sold, or exposed for sale until the fee charged for the test has been paid.

64-02-12. Fees collected - Paid into state treasury.

All fees and charges collected by the commission under section 64-02-10 must be paid into the general fund of the state treasury.

64-02-13. Commission to test weighing or measuring devices.

The commission may test or calibrate weighing or measuring devices. The owner of any weighing or measuring device used in this state is responsible for its accuracy and condition. The public service commission shall determine the frequency of required testing for each category of weighing and measuring device, which may not exceed twenty-four months. If upon testing the weighing or measuring device is within the permitted tolerance, it must be sealed. Inspections and testing of farm milk bulk tank equipment may be made only by the state dairy department under section 4-30-18. Inspections and testing of oil and gas production meters and measuring devices may be made only by or under the direction of the industrial commission under section 38-08-04. If upon complaint the commission finds the weighing or measuring device is within the permitted tolerance, the cost of the test, unless waived by the commission, must be paid by the complainant and in all other cases the cost of testing must be paid by the owner of the equipment.

64-02-13.1. Exception from regularly scheduled test of weighing or measuring device.

A weighing or measuring device used to conduct sales by a transient vendor is exempt from this chapter.

64-02-14. Incorrect weighing or measuring devices.

A weighing or measuring device that does not meet applicable design or tolerance requirements must be marked in the manner set by the commission and may not be used in commerce without the consent of the commission.

64-02-15. Vendor's weighing or measuring device.

The commission may enter into or upon any land or premises to stop any vendor and require the vendor, if necessary, to proceed to some place which the commission may specify for the purpose of making a test of the weighing or measuring devices used by the vendor.

64-02-15.1. Duty of commission to test accuracy of oil and gas production meters.

Repealed by S.L. 1993, ch. 367, § 5.

64-02-16. Licensing coin-weighing machine or scale and public gasoline pump required - Fee.

Repealed by S.L. 1961, ch. 387, § 2.

64-02-17. Form of application for licensing coin-weighing machines, scales, and public gasoline pumps.

Repealed by S.L. 1961, ch. 387, § 2.

64-02-18. Form of license for coin-weighing machines, scales, and public gasoline pumps - License displayed - Unlicensed machine confiscated and penalty assessed in lieu thereof.

Repealed by S.L. 1961, ch. 387, § 2.

64-02-19. Salaries of employees of the department.

Repealed by S.L. 1989, ch. 764, § 31.

64-02-20. Expenses.

The commission may purchase supplies and equipment and may incur necessary expenses in carrying out the provisions of this title within legislative appropriations made for such purpose. Traveling expenses are allowed employees as provided in section 54-06-09.