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CHAPTER 11.

 PUBLIC WEIGHMASTERS

**SECTION 39‑11‑10.** Administration of chapter.

The provisions of this chapter shall be administered by the Commissioner of Agriculture or his duly authorized agents.

**SECTION 39‑11‑20.** “Public weighmaster” defined.

(A) “Public weighmaster” is:

(1) Any person licensed by the Commissioner of Agriculture to weigh, measure, or count any commodity and issue for it a statement or memorandum of the weight, measure, or count accepted as the accurate weight or measure or count.

(2) Any person engaged in the business of public weighing or measuring for hire or award.

(3) Any person engaged in the business of buying or selling grain or soybeans who uses a moisture meter or other measuring device to determine the moisture content of these commodities.

(4) Any person who weighs, measures, or counts any commodity and declares the weight or measurement to be the true and accurate weight or measurement upon which the purchase, sale, or exchange of the commodity is based and received compensation for the act.

(B) The following may not be construed to be public weighmasters:

(1) Retailers weighing or measuring commodities for sale by them at retail directly to consumers.

(2) A person weighing, measuring, or counting property, produce, commodities or articles on which property, produce, commodity or article the package net weight is declared in conformity with the South Carolina weights and measures law.

(3) Employees of the South Carolina Department of Agriculture authorized to perform their department’s duties.

**SECTION 39‑11‑30.** Registration fees of weighmasters and deputy weighmasters.

Each public weighmaster shall pay a registration fee of five dollars to the Department of Agriculture for the privilege of operating in the locality of his principal place of business. An additional registration fee of one dollar shall be paid for each deputy public weighmaster and for each additional registration fee the Department shall issue a deputy’s license. No deputy weighmaster may be registered unless the principal business locality has a licensed weighmaster.

**SECTION 39‑11‑40.** Employment or designation of deputy weighmasters.

Public weighmasters may employ or designate any person to act for them as deputy public weighmaster, and shall be responsible for all acts performed by such person. The public weighmaster shall forward to the Department of Agriculture the name and address of persons so appointed.

**SECTION 39‑11‑50.** Renewal of registration.

Persons previously registered to be public weighmasters, and deputy weighmasters, shall, before July first of each year, pay a renewal registration fee of one dollar for the fiscal year commencing with July first of such year, which shall be for all or any part of such year. Failure of a person previously registered to renew his registration on or before July first of any one year shall forfeit his right to serve as a public weighmaster. No license shall be issued to a person who has failed to renew his registration and forfeited his right to serve as a public weighmaster until written application shall have been made by him to the Department.

**SECTION 39‑11‑60.** Length of registration.

Notwithstanding the provisions of Section 39‑11‑50, after June 8, 1971 registrations and renewals thereof for public weighmasters and deputy weighmasters shall be for three years.

**SECTION 39‑11‑70.** Repealed by 1989 Act No. 76 Section 5, eff May 10, 1989.

**SECTION 39‑11‑80.** Refusal or revocation of license.

The Commissioner of Agriculture, after a hearing, may refuse to issue or may revoke a public weighmaster license issued to any person who cannot capably or reliably perform the duties of a public weighmaster, and he may, after a hearing, refuse to renew a public weighmaster license to any person who has not capably or reliably performed the duties of a public weighmaster.

The Commissioner of Agriculture may refuse to issue or may revoke a deputy public weighmaster license issued to any person who cannot capably or reliably perform the duties of a deputy public weighmaster.

**SECTION 39‑11‑90.** Limited licenses for public officers and employees.

The Commissioner may, upon request and without charge, issue a limited license as a licensed public weighmaster to any qualified officer or employee of a city or county of this State or of a State commission, board, institution, or agency, authorizing such officer or employee to act as a licensed public weighmaster only within the scope of his official employment in the case of an officer or employee of a city or county or only for and on behalf of the State commission, board, institution, or agency in the case of an officer or employee thereof.

**SECTION 39‑11‑100.** Public weighmaster stamp.

Each public weighmaster shall obtain a public weighmaster stamp for stamping weight or measure certificates. The public weighmaster stamp is the property of the State and must be forfeited and returned to the Department of Agriculture upon termination of the performance of the duties as public weighmaster.

Each public weighmaster registered under this chapter shall obtain from the Commissioner of Agriculture the stamp as provided in this chapter and pay for the stamp at actual cost to the State. The Commissioner of Agriculture shall prescribe the form and design of the weighmaster stamp.

Monies collected under this section must be deposited with the State Treasurer and expended for the purpose described in this section. All stamps issued to the public weighmasters must be paid for from this fund.

Stamps returned to the Commissioner of Agriculture must be defaced and destroyed or otherwise disposed of by the Department of Agriculture.

The public weighmaster stamp is a recognized authority of accuracy, and the stamp must be applied to all weight or measure certificates at the time of issuance, if requested by the customer to whom the certificate is issued.

**SECTION 39‑11‑110.** Issuance of certificates by weighmasters; records.

It shall be the duty of every public weighmaster registered under this chapter to issue a certificate of weight, measure, count, recording or readings on forms approved by the Commissioner of Agriculture to enforce the provisions of this chapter together with rules and regulations relating thereto. All public weighmasters shall keep and preserve, as records, for a period of one year from date of issuance unless otherwise specified in regulations authorized by the Commissioner of Agriculture, copies of all certificates issued upon public weighings, measurings, or counts. These records shall at all times be open for inspection by the Commissioner of Agriculture or by his authorized representatives.

**SECTION 39‑11‑120.** Contents of certificates; penalty for alterations.

Certificates of weights and measures issued by public weighmasters shall contain the accurate and correct weight or measure or count of any and all commodities or products weighed or measured or counted. Any public weighmaster who alters the certificate is guilty of a misdemeanor.

**SECTION 39‑11‑130.** Compelling return of state stamp upon violation of chapter.

The department may direct and compel the return of the state stamp where the public weighmaster is guilty of a violation of this chapter.

**SECTION 39‑11‑140.** Certain acts declared misdemeanors.

Any person shall be guilty of a misdemeanor who does any one of the following acts:

(a) Requests a public weighmaster, or any person employed by him, to weigh, or measure any commodity falsely or incorrectly.

(b) Requests a false or incorrect certificate of weights and measures.

(c) Acts as a public weighmaster or deputy public weighmaster without first being licensed.

**SECTION 39‑11‑150.** Reweighing commodity of disputed weight or measure for which certificate has previously been issued by weighmaster.

When doubt or differences arise as to the correctness of the net or gross weight or measure of any amount or part of any commodity for which a State certificate of weights and measures has been issued by a public weighmaster, the owner, agent, or consignee may, upon complaint to the Commissioner of Agriculture, have the amount or part thereof reweighed by the Department of Agriculture or a public weighmaster designated by it, upon depositing a sufficient sum of money to defray the actual cost of reweighing with the Commissioner of Agriculture or his representative. If, on reweighing, a difference from the original certified weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of the erroneous certificate.

**SECTION 39‑11‑160.** Net weight and actual weight.

When any commodity is sold subject to public weighmaster weights, such weights shall be the true net weight. Net weight is the correct or actual weight of the commodity excluding the weight of the container or conveyance. Actual weight shall mean the weight obtained from draft of vehicle loads. In determining the net weight of any commodity, the entire weight of the vehicle and load must rest on the scale at one time.

**SECTION 39‑11‑170.** Penalties.

A person or weighmaster who violates any of the provisions of this chapter or any regulations issued for the purpose of carrying out the intent of this chapter is guilty of a misdemeanor and, upon conviction, must be fined or imprisoned as provided in Section 46‑41‑170(1).

In addition to the remedies provided in this chapter, the commissioner may apply for an injunction to the circuit court, and the circuit court has jurisdiction upon hearing and full cause showing to grant a temporary or permanent injunction, or both, restraining a person from violating or continuing to violate any of the provisions of this chapter or any regulation, the injunction to be issued without bond.

The commissioner, by issuing his order, may place a public weighmaster who violates the provisions of this chapter, or an unlicensed person found to have been acting as a public weighmaster, on probation or levy a civil penalty of not more than one thousand dollars, or both. All monies received as civil penalties must be remitted to the general fund of the State. The levy of a civil penalty pursuant to this section may be appealed to the court of common pleas for the county in which the violation occurred.

**SECTION 39‑11‑180.** Weighing of leaf tobacco.

All leaf tobacco offered for sale in a leaf tobacco warehouse shall be weighed by a public weighmaster or a deputy weighmaster acting under the public weighmaster’s instructions, and shall be accompanied by a public weighmaster certificate. It shall remain in custody of the warehouse operator from and after the time it is weighed by the public weighmaster until it is sold or the bids are rejected by the owner thereof. The provisions of this section shall not be effective until July 1, 1968.

**SECTION 39‑11‑190.** Repealed by 1997 Act No. 30, Section 4, eff May 21, 1997.

**SECTION 39‑11‑200.** Rules and regulations.

The Commissioner of Agriculture is authorized to prescribe and issue such rules and regulations as may be necessary for the proper enforcement of this chapter and any person who shall violate any rules and regulations issued by the Commissioner of Agriculture shall be guilty of a violation of this chapter.

**SECTION 39‑11‑210.** Disposition of moneys collected.

All moneys collected by this chapter shall be deposited with the State Treasurer and shall be used for the enforcement of this chapter.

**SECTION 39‑11‑220.** Chapter inapplicable to certain materials used for construction of buildings or roads.

This chapter shall not apply to the sale of all solids, mined or excavated, which are commonly used for construction of buildings or roads, whether or not they are in their natural state, such as sand, rock, gravel, Portland cement, or asphaltic concrete products and crushed stone.