

AGRICULTURE CODE

TITLE 2. DEPARTMENT OF AGRICULTURE

CHAPTER 13. WEIGHTS AND MEASURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 13.001. DEFINITIONS. (a) In this chapter:

(1) "Commercial weighing or measuring device" means a weighing or measuring device used in a commercial transaction.

(1-a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 10, eff. June 14, 2019.

(2) "Operator" or "user" means a person in possession or control of a weighing or measuring device.

(3) "Sell" includes barter or exchange.

(4) "Weighing or measuring device" means a scale or a mechanical or electronic device used to dispense or deliver a commodity by weight, volume, flow rate, or other measure or to compute the charge for a service.

(5) "Weight or measure of a commodity" means the weight or measure of a commodity as determined by a weighing or measuring device.

(b) A reference to the weight of a commodity in this chapter is a reference to the net weight of the commodity.

(c) In this chapter, "commodity" does not include motor fuel.

Acts 1981, 67th Leg., p. 1022, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2005, 79th Leg., Ch. 43 (H.B. [760](#)), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.01, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. [2174](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 5, eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 10(1), eff. September 1, 2020.

Sec. 13.002. ENFORCEMENT OF CHAPTER. (a) The department shall enforce the provisions of this chapter and shall supervise all weighing or measuring devices sold or offered for sale in this state. The department may purchase apparatus as necessary for the administration of this chapter.

(b) The department shall, to the extent practical and cost effective, allow another state agency by interagency contract to execute the department's responsibilities under Subsection (a). The contract may cover the whole state or only a specified region. Acts 1981, 67th Leg., p. 1023, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 4.01, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 2, eff. September 1, 2009.

Sec. 13.007. CIVIL PENALTY; INJUNCTION. (a) A person who violates Subchapter B or C or a rule adopted under Subchapter B or C is liable to the state for a civil penalty not to exceed \$500 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

(b) On request of the department, the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred shall file suit to collect the penalty.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the General Revenue Fund. All civil penalties recovered in suits first instituted by a local government or governments under this section shall be equally divided between the State of Texas and the local government or governments with 50 percent of the recovery to be paid to the General Revenue Fund and the other 50 percent equally to the local government or governments first instituting the suit.

(d) The department is entitled to appropriate injunctive

relief to prevent or abate a violation of this chapter or a rule adopted under this chapter. On request of the department, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.

(e) The department and the attorney general may each recover reasonable expenses incurred in obtaining injunctive relief and civil penalties under this section, including investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition expenses. The expenses recovered by the department may be appropriated only to the department for the administration and enforcement of this chapter. The expenses recovered by the attorney general may be appropriated only to the attorney general.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 19, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.02, eff. September 1, 2013.

#### SUBCHAPTER B. STANDARD WEIGHTS AND MEASURES

Sec. 13.021. LEGAL STANDARDS. (a) The legal standard for the weight or measure of a commodity in this state is the standard weight or measure adopted and used by the government of the United States for that commodity. If the United States does not provide a standard weight or measure for a commodity, the standard for that commodity is that established by this subchapter.

(b) The department may adopt rules for the purpose of administering this subchapter and bringing about uniformity between the standards established under this subchapter and the standards established by federal law.

(c) Except as otherwise provided by an express contract, a contract for work or sales by weight or measure of a commodity shall be construed in accordance with the standards of this subchapter.

(d) The standards of this subchapter shall be the guide for making any adjustment of weighing or measuring devices under the law of this state.

Acts 1981, 67th Leg., p. 1023, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.03, eff. September 1, 2013.

Sec. 13.022. STANDARD FOR LENGTH AND SURFACE. (a) The standard unit of length and surface is the yard. The yard is divided into three equal parts called feet. Each foot is divided into 12 parts called inches. All measures of extension, including lineal, superficial, and solid measures, shall be derived and ascertained from the yard.

(b) For measure of a commodity commonly sold by the yard, including cloth, the yard may be divided into halves, quarters, eighths, and sixteenths.

(c) The rod, pole, or perch contains 5-1/2 yards. The mile contains 1,760 yards. The Spanish vara contains 33-1/3 inches.

(d) If land is measured by the English rule, the chain for measuring land shall be 22 yards long and divided into 100 equal parts called links.

(e) For land measure, the acre is measured horizontally and contains 4,840 square yards, and a square mile contains 640 acres.

Acts 1981, 67th Leg., p. 1024, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.023. STANDARD FOR WEIGHT. (a) The standard for weight is the standard of avoirdupois and troy weights. Other weights shall be derived and ascertained from that standard.

(b) The avoirdupois pound bears to the troy pound the ratio of 7,000 grains to 5,760 grains. The avoirdupois pound is divided into 16 equal parts called ounces.

(c) The hundredweight consists of 100 avoirdupois pounds. The ton consists of 2,000 avoirdupois pounds.

(d) The troy ounce is equal to one-twelfth of a troy pound.

Acts 1981, 67th Leg., p. 1024, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.024. STANDARD FOR LIQUID CAPACITY. (a) The

standard unit of measure of capacity for liquids is the gallon.

(b) Except as provided by Subsection (c), all other measures of capacity for liquids are derived from the gallon by continual division by two, making half gallons, quarts, pints, half pints, and gills.

(c) A mechanism or machine that is adapted to measure and deliver liquid by volume and that indicates fractional parts of a gallon shall indicate the fractional parts either in terms of binary submultiple subdivisions or in terms of tenths of a gallon.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 10, eff. June 14, 2019.

Acts 1981, 67th Leg., p. 1024, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.04, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 6, eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 10(2), eff. September 1, 2020.

Sec. 13.025. STANDARD FOR SOLID CAPACITY. (a) The standard unit of measure of capacity for a solid is the half bushel.

(b) The peck, half-peck, quarter-peck, quart, and pint measures for solid commodities are derived from the half bushel by successively dividing that measure by two.

(c) The bushel contains  $2,150\frac{42}{100}$  cubic inches. The half bushel contains  $1,075\frac{20}{100}$  cubic inches. The gallon contains 231 cubic inches.

(d) In measuring dry commodities, the measure may not be heaped but shall be stricken with a straight stick or roller.

Acts 1981, 67th Leg., p. 1024, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.026. CORD. (a) A cord is equal to 128 cubic feet or the contents of a space 8 feet long, 4 feet wide, and 4 feet high.

(b) A cord of wood intended for use as fuel is the amount of wood contained in a space of 128 cubic feet when the wood is ranked and well-stowed and one-half the kerf of the wood is included.

Acts 1981, 67th Leg., p. 1024, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.027. STANDARD NET WEIGHT OR COUNT SET BY RULE. (a) The department by rule may establish a standard net weight or net count for any commodity and prescribe tolerances for those standards as the department considers necessary for the proper protection of the public.

(b) A person violates this chapter if the person fails or refuses to comply with the rules adopted under this section.

Acts 1981, 67th Leg., p. 1025, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.05, eff. September 1, 2013.

Sec. 13.028. STANDARD WEIGHT PER BUSHEL FOR CERTAIN COMMODITIES. If the following commodities are sold by the bushel and no agreement is made by the parties as to the measurement or weight, the bushel shall consist of the listed number of pounds:

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Acts 1981, 67th Leg., p. 1025, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES.

(a) The department by rule may exempt a weighing or measuring device from a requirement established by this chapter if the department determines that imposing or enforcing the requirement:

- (1) is not cost-effective for the department;
- (2) is not feasible with current resources or



standards; or

(3) will not substantially benefit or protect consumers.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10, eff. June 14, 2019.

Added by Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. 2174), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10(3), eff. September 1, 2020.

Sec. 13.030. SALE OF COMMODITIES BY NET WEIGHT. (a) If a commodity is sold on the basis of weight, the net weight of the commodity shall be employed in the sale. A contract concerning goods sold on the basis of weight shall be construed to employ net weight.

(b) This section does not apply to bales of cotton.

(c) A person commits an offense if, in the sale of a commodity by weight, the person employs a weight other than net weight.

Acts 1981, 67th Leg., p. 1026, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 13.031. SALE OF COMMODITIES BY PROPER MEASURE. (a) Except as otherwise provided by this section, a liquid commodity shall be sold by liquid measure. A commodity, including a good, ware, or merchandise item, that is not liquid shall be sold by length, weight, or numerical count if the commodity has been or is capable of being sold by one of those measures.

(b) A liquid commodity may be sold by other than liquid measure if sold for immediate consumption on the premises where sold.

(c) A liquid commodity may be sold by weight if there is a general consumer usage to express the quantity of the commodity by weight and the expression gives accurate information as to the weight of the commodity.

(d) This section does not prevent the sale of:

(1) fruits, vegetables, or other dry commodities in the standard barrel or by other method provided for by state or federal law;

(2) berries and small fruits in boxes as provided for by other state law; or

(3) vegetables or fruits by the head or bunch if the vegetable or fruit is usually sold in that manner.

(e) This section does not apply to a commodity in an original package, which includes any wholesale or retail package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or the coverings or wrappings of a commodity, that is put up by the manufacturer, that may be labeled, branded, stenciled, or otherwise marked, and that makes one complete package.

(f) A person violates this chapter if, in violation of this section, the person sells a liquid commodity by other than liquid measure or a commodity that is not liquid by a measure other than length, weight, or numerical count.

Acts 1981, 67th Leg., p. 1026, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.06, eff. September 1, 2013.

Sec. 13.032. STANDARD FILL AND QUANTITY LABELING FOR COMMODITIES IN PACKAGE FORM. (a) For the purpose of preventing the sale of commodities in package form with containers that mislead the purchaser as to quantity, the department by rule may establish a standard fill for commodities in package form. The rules must be reasonable with respect to the physical characteristics of the container, the prevailing method of handling and transporting the package, and generally accepted good commercial practice in filling methods. The rules shall provide for reasonable variations and tolerances.

(b) Except as otherwise provided by this section, a commodity in package form shall be plainly and conspicuously marked on the outside of the package with:

(1) the net quantity of the contents in terms of

weight, measure, numerical count, or a combination thereof, which is generally used by consumers and users to express the quantity of such commodity; and

(2) the name and place of business of the manufacturer, packer, or distributor.

(c) The department by rule shall provide exemptions from the requirements of Subsection (b)(1) of this section for small packages and from the requirements of Subsection (b)(2) of this section for packages sold on the premises where packed.

(d) The department by rule shall prescribe reasonable variations or tolerances for the statement of net quantity required under Subsection (b)(1) of this section.

(e) A box or carton used for shipping purposes containing a number of packages that are individually marked in accordance with Subsection (b) of this section is not required to be marked in accordance with that subsection.

(f) A commodity is in package form if for wholesale or retail it:

(1) is in a package, carton, case, can, box, bag, barrel, bottle, or phial, on a spool or similar holder, in a container or band, in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind;

(2) is put up by the manufacturer or, if put up prior to ordering, by the vendor;

(3) is suitable for labeling, branding, stenciling, or marking in another manner; and

(4) makes one complete package.

(g) This section does not apply to bales of cotton, commodities in package form of which the manner of sale is regulated by other law, or to stationery in tablet form.

(h) A person commits an offense if the person sells, keeps for sale, or offers or exposes for sale a commodity in package form that is:

(1) not labeled in accordance with this section;

(2) in a container that is made, formed, filled, or wrapped so as to mislead the purchaser as to the quantity of the contents; or

(3) in a container the contents of which fall below the standard fill prescribed by rule under Subsection (a) of this section.

Acts 1981, 67th Leg., p. 1026, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1985, 69th Leg., ch. 276, Sec. 1, eff. Aug. 26, 1985.

Sec. 13.033. SALE OF MILK OR CREAM IN NONSTANDARD CONTAINER. A person violates this chapter if the person sells or keeps, offers, or exposes for sale milk or cream in bottles or other containers of a capacity other than one of the standard liquid measures provided for by Section 13.024.

Acts 1981, 67th Leg., p. 1027, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.07, eff. September 1, 2013.

Sec. 13.034. SALE OF CHEESE, MEAT, OR MEAT FOOD PRODUCT BY NONSTANDARD WEIGHT. (a) Except as otherwise provided by this section or Section 13.032 of this code, cheese, meat, and meat food products shall be sold by standard net weight.

(b) Cheese, meat, or a meat food product may be sold by other than standard net weight if sold for immediate consumption on the premises where sold.

(c) Poultry may be sold by live weight if weighed at the time of sale. Poultry dressed or killed prior to the time of sale, whether cooked or uncooked, shall be sold by net weight at the time of sale. Fresh-cooked poultry may be sold by the piece or by the head.

(d) A person violates this chapter if, in violation of this section, the person sells or keeps, offers, or exposes for sale cheese, meat, or a meat food product by a measure other than standard net weight.

(e) In this section:

(1) "Meat or meat food product" includes fresh, cured, or salt meats; poultry; fish; sausage; chili; headcheese; souse meat; loaf meat; boneless meat; shredded meat; hamburger; and

any other manufactured, prepared, or processed meat or meat food product.

(2) "Poultry" includes turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowl.

Acts 1981, 67th Leg., p. 1027, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.08, eff. September 1, 2013.

Sec. 13.035. PRICE ADVERTISEMENT; MISREPRESENTATION OF PRICE OR QUANTITY. (a) If a price sign, card, tag, poster, or other advertisement displaying the price of a commodity or other item includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility to those of the whole number.

(b) A person violates this chapter if the person:

(1) misrepresents the price of a commodity, item, or service sold or offered or exposed for sale; or

(2) represents the price or the quantity of a commodity, item, or service sold or offered or exposed for sale in a manner intended or tending to mislead or deceive an actual or prospective customer.

Acts 1981, 67th Leg., p. 1028, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.09, eff. September 1, 2013.

Sec. 13.036. FALSE REPRESENTATION OF COMMODITY QUANTITY. A person violates this chapter if the person or the person's servant or agent:

(1) sells or offers or exposes for sale a quantity of a commodity or service that is less than the quantity the person represents; or

(2) as a buyer furnishing the weight or measure of a commodity or service by which the amount of the commodity or service is determined, takes or attempts to take more than the quantity the person represents.

Acts 1981, 67th Leg., p. 1028, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 5, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.10, eff. September 1, 2013.

Sec. 13.037. USE OF INCORRECT WEIGHING OR MEASURING DEVICE.

(a) A person commits an offense if the person or the person's servant or agent knowingly uses an incorrect weighing or measuring device in:

- (1) buying or selling a commodity;
- (2) computing a charge for services rendered on the basis of weight or measure; or
- (3) determining the weight or measure of a commodity, if a charge is made for the determination.

(b) For the purpose of this section, a weighing or measuring device is incorrect if it:

- (1) does not conform as closely as practicable to the official standards;
- (2) is not accurate;
- (3) is of a construction that is not reasonably permanent in adjustment or does not correctly repeat its indications;
- (4) facilitates the perpetration of fraud; or
- (5) does not conform to the specifications and tolerances established by the department under Section [13.114](#).

Acts 1981, 67th Leg., p. 1028, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 5, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.11, eff. September 1, 2013.

Sec. 13.038. SALE OF COMMODITY IN VIOLATION OF SUBCHAPTER. A person violates this chapter if the person or the person's servant or agent sells or keeps, offers, or exposes for

sale a commodity in violation of this subchapter.

Acts 1981, 67th Leg., p. 1029, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.12, eff. September 1, 2013.

Sec. 13.039. TESTING OF PACKAGE BY DEPARTMENT. (a) The department shall from time to time weigh or measure a package or an amount of any commodity that is kept or offered for sale, sold, or in the process of delivery, in order to determine:

(1) if the commodity is of the amount or quantity represented; or

(2) if the commodity is being offered for sale or sold in accordance with law.

(b) If the department finds that a package or any lot of a commodity contains less of the commodity than the amount represented, the department may seize the package or the commodity as evidence.

(c) A person commits an offense if the person or the person's employee or agent refuses to exhibit a commodity being sold or offered for sale at a given weight or quantity, or ordinarily sold in that manner, to the department for testing and proving as to quantity.

Acts 1981, 67th Leg., p. 1029, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 5, eff. September 1, 2009.

Sec. 13.040. STOP-SALE ORDER. (a) If the department has reason to believe that a commodity is being sold or kept, offered, or exposed for sale in violation of this chapter or that a commodity or service is being sold or offered for sale by or through the use of a weighing or measuring device that is in violation of this chapter, the department may issue and enforce a written or printed order to stop the sale of the commodity or service. The department shall present the order to the owner or custodian of the commodity or seller of the service. The person receiving the order may not sell

the commodity or provide the service until discharged by a court under Subsection (b) or until the commissioner finds that the commodity or weighing or measuring device is in compliance with this chapter.

(b) The owner or custodian of a commodity or a person selling or offering for sale a service prohibited from sale by an order of the department is entitled to sue in a court of competent jurisdiction where the commodity is found or the service is being sold or offered for sale for a judgment as to the justification of the order and for the discharge of the commodity or service in accordance with the findings of the court.

(c) This section does not limit the right of the department to proceed as authorized by other sections of this code.

Acts 1981, 67th Leg., p. 1029, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.13, eff. September 1, 2013.

Sec. 13.041. PENALTIES; DEFENSE. (a) An offense under Section 13.030, 13.032, 13.037, or 13.039 is a Class C misdemeanor.

(b) It is a defense to prosecution or to the imposition of a civil or administrative penalty for a violation of Sections 13.030-13.038 that a discrepancy between the actual weight or volume at the time of sale to a consumer and the weight marked on the container or a discrepancy between the fill of a container and the capacity of the container is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

Acts 1981, 67th Leg., p. 1029, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 20, eff. Sept. 1, 1989.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.14, eff. September 1, 2013.

#### SUBCHAPTER C. INSPECTION AND REGISTRATION OF WEIGHING OR MEASURING DEVICES



Sec. 13.1001. AUTHORITY TO INSPECT. (a) If the department has reason to believe that a weighing or measuring device is being used for a commercial transaction and the device is not registered with the department, the department may inspect the device and the records of the owner, operator, or user of the device that relate to use of the device to determine whether the device is in compliance with this chapter.

(b) The department has reason to believe a weighing or measuring device is being used for a commercial transaction if:

(1) the weighing or measuring device is found in close proximity to commodities being sold or offered for sale by weight or measure and the device appears to be under the control or in the possession of the person selling the commodities or offering the commodities for sale; or

(2) other available evidence is sufficient for a prudent person to believe that the weighing or measuring device is being used for a commercial transaction.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.15, eff. September 1, 2013.

Sec. 13.1002. EXEMPTION OF CERTAIN WEIGHING OR MEASURING DEVICES. Notwithstanding any other law, a commercial weighing or measuring device is exempt from this subchapter, including the inspection requirements under Section 13.101 and the registration requirements under Section 13.1011, if the device is exclusively used to weigh food:

(1) sold ready for immediate consumption, regardless of whether the food is consumed on the premises where the food is weighed and sold; and

(2) not exempted from sales and use taxes under Section 151.314, Tax Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 409 (H.B. 2029), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 52 (H.B. 2223), Sec. 1, eff. May 17, 2019.

Sec. 13.101. INSPECTION OF DEVICES. (a) Unless a commercial weighing or measuring device is exempt from the application of this section by department rule, a commercial weighing or measuring device shall be inspected and tested for correctness by the department at least once every four years, or more often as required by the department, if it:

(1) is kept for sale, sold, or used by a proprietor, agent, lessee, or employee in proving the weight or measure, including the size, quantity, extent, or area, of any item; or

(2) is purchased, offered, or submitted by a proprietor, agent, lessee, or employee for sale, hire, or award.

(b) The department may, to the extent necessary to ensure compliance with the official standards, implement risk-based inspections, respond to complaints, and, as a term of probation, require or perform additional inspection and testing of commercial weighing or measuring devices.

(c) A person who uses or keeps for use, or has or offers for sale, a commercial weighing or measuring device is responsible for having the device inspected and tested as required by this section, department rule, or department order imposing a term of probation.

(d) The department may inspect and test a commercial weighing or measuring device less frequently than required by Subsection (a):

(1) to accommodate complaint-based and risk-based inspection schedules; or

(2) in response to an emergency or a limitation in department funding.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 10, eff. June 14, 2019.

Acts 1981, 67th Leg., p. 1030, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 21, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 122, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 200, Sec. 4(b), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 7, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.16, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. 2174), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10(4), eff. September 1, 2020.

Sec. 13.1011. REQUIRED REGISTRATION. (a) Unless a commercial weighing or measuring device is exempt from the application of this section by department rule, a person who owns or operates a commercial weighing or measuring device shall register the device with the department before using the device for a commercial transaction.

(b) An application for a device registration must:

(1) be submitted to the department on a form prescribed by the department;

(2) be accompanied by any other document or form required by the department; and

(3) include the registration fee required under Section 13.1151.

(c) A registration under this section is valid for one year unless a different period is established by department rule. The registration must be renewed at or before the end of each registration period and the application for renewal must include the renewal fee required by department rule.

(d) If a person fails to register or renew a registration as required by this section and pay the fee required under Section 13.1151, the department may assess a late fee against the person, prohibit the operation of the weighing or measuring device, or both assess the fee and prohibit the operation of the device.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10, eff. June 14, 2019.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 57(a), eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 43 (H.B. 760), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 8, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.17, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. 2174), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10(5), eff. September 1, 2020.

Sec. 13.111. REPAIR OR DESTRUCTION OF INCORRECT COMMERCIAL WEIGHING OR MEASURING DEVICES. (a) If, in the judgment of the department, a commercial weighing or measuring device found to be incorrect is not capable of being repaired, the department may condemn, seize, and destroy the device.

(b) If, in the judgment of the department, an incorrect commercial weighing or measuring device is capable of being repaired, the department shall place on the device a tag or other mark with the words "Out of Order." The owner or user of the commercial weighing or measuring device may not use it until it is reinspected and released for use by the department or inspected and released for use in any other manner authorized by department rule.

(c) The owner, operator, or user of a commercial weighing or measuring device may not destroy, replace, or otherwise dispose of a device declared to be incorrect or condemned under this section except as provided by department rule.

Acts 1981, 67th Leg., p. 1032, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1995, 74th Leg., ch. 419, Sec. 4.03, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 28(7), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.18, eff. September 1, 2013.

Sec. 13.112. TESTS FOR STATE INSTITUTIONS. As requested by

the comptroller or the governing body of a state institution, the department shall test each weighing or measuring device used by a state institution for any purpose, including a weighing or measuring device used in checking the receipt and distribution of supplies. The department shall report results of the test to the chairman of the governing body of the institution.

Acts 1981, 67th Leg., p. 1033, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 23, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.80, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 12, eff. September 1, 2009.

Sec. 13.113. STANDARDS USED IN INSPECTION. (a) The standards of weights and measures maintained by the department and certified by the National Institute of Standards and Technology or a metrology laboratory certified by the National Institute of Standards and Technology are the state's standards by which all state and local standards of weights and measures are tried, authenticated, proved, and certified.

(b) The department shall maintain the primary standards in a safe and suitable place in the offices of the department. The standards may not be moved except for repairs or certification. The department shall maintain the standards in good order and shall submit them to the National Institute of Standards and Technology or to a laboratory approved by the National Institute of Standards and Technology for certification as required to maintain recognition of the department's metrology laboratory.

(c) In addition to the standards kept by the state, the department shall maintain a complete set of copies of the original standards for use in adjusting local standards or in the performance of other official duties. The department may purchase additional sets of standards as necessary for use by a department inspector or other department personnel.

(d) At the request of a city, the department shall furnish the city with copies of the state's standards or test and approve other standards acquired by the city. The city shall reimburse the state for the actual cost of the standards furnished, plus the costs of freight and certification. All standards furnished to or tested for a city shall be true and correct and certified by the department. The copies used by a city may be of any suitable material or construction that the city requests, subject to approval by the department.

(e) The department, or a metrology laboratory certified by the National Institute of Standards and Technology and approved by the department, shall inspect and correct the standards used by a department inspector, other department employee, or individual or business licensed by the department to perform device maintenance activities under Subchapter I.

(f) The department may adopt rules to regulate the frequency and place of inspection and correction of the standards used by an individual or business licensed by the department to perform device maintenance activities under Subchapter I.

(g) The department may inspect any standard used by an individual or business licensed by the department to perform device maintenance activities described by Subchapter I if the department has reason to believe a standard is no longer in compliance with this chapter.

(h) The department shall keep a record of the inspection and character of standards inspected under this section.

Acts 1981, 67th Leg., p. 1033, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1989, 71st Leg., ch. 230, Sec. 24, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 13, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 113 (H.B. [1527](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.19, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1036 (H.B. [1730](#)), Sec. 1, eff.

June 15, 2017.

Sec. 13.114. TOLERANCES. The department shall establish specifications and tolerances for commercial weighing or measuring devices used in this state. The specifications and tolerances shall be similar to those recommended by the National Institute of Standards and Technology.

Acts 1981, 67th Leg., p. 1033, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 25, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 14, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.20, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. [2174](#)), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 7, eff. September 1, 2020.

Sec. 13.115. FEES FOR DEPARTMENT INSPECTION. (a) The department may collect a fee for each test of a weighing or measuring device required by this subchapter or performed on request of the owner.

(b) Repealed by Acts 1995, 74th Leg., ch. 419, Sec. 10.09(5), eff. Sept. 1, 1995.

(c) The department shall charge a fee, as provided by department rule, for tolerance testing of a weight by the department's metrology laboratory.

(d) The department shall charge a fee, as provided by department rule, for tolerance testing of a measure by the department's metrology laboratory.

(e) The department shall charge a fee, as provided by department rule, for precision testing performed by the department's metrology laboratory.

(f) The department shall charge a fee, as provided by department rule, for precision testing of tapes, rules, glassware,

and other weighing or measuring devices performed by the department's metrology laboratory.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 924, Sec. 3.27(2), eff. September 1, 2013.

(h) This section does not prevent a city from operating an agency for the testing of weights and measures.

Acts 1981, 67th Leg., p. 1034, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1983, 68th Leg., p. 4282, ch. 682, Sec. 1, eff.

Sept. 1, 1983; Acts 1985, 69th Leg., ch. 239, Sec. 57(c), (d), eff.

Sept. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.02,

eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 419, Sec. 2.06,

10.09(5), eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 15, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.21, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.27(2), eff. September 1, 2013.

Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a) The department may charge the owner or operator of a weighing or measuring device a fee, as provided by department rule, to recover the costs of registration and inspection of a weighing or measuring device required to be registered or inspected under this chapter.

Subsection (b) was repealed by Acts 2019, 86th Leg., R.S., Ch. 1219

(S.B. 2119), Sec. 10, eff. June 14, 2019.

(b) Notwithstanding any other law, the department may not in a state fiscal biennium increase a fee under Subsection (a) for a motor fuel metering device by an amount that exceeds 10 percent of the amount of the fee at the end of the preceding state fiscal biennium.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 57(a), eff. Sept. 1,

1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.03,

eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 419, Sec. 2.07, eff.



Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 43 (H.B. 760), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 43 (H.B. 760), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 43 (H.B. 760), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 16, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 841 (H.B. 2174), Sec. 7, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 10(7), eff. September 1, 2020.

Sec. 13.117. REFUSING TO ALLOW TEST OF WEIGHING OR MEASURING DEVICE. A person commits an offense if the person refuses to allow a weighing or measuring device under the person's control or in the person's possession to be inspected, tested, or examined by the department, and the inspection, test, or examination is required or authorized by this chapter.

Acts 1981, 67th Leg., p. 1035, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 16, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.22, eff. September 1, 2013.

Sec. 13.118. HINDERING DEPARTMENT PERSONNEL. A person commits an offense if the person hinders or obstructs in any way the department, a department inspector or other department personnel in the performance of official duties.

Acts 1981, 67th Leg., p. 1035, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 16, eff. September 1, 2009.

Sec. 13.119. REMOVAL OF REGISTRATION TAG. A person commits an offense if the person removes or obliterates a tag or device placed or required by the department to be placed on a weighing or measuring device under this chapter.

Acts 1981, 67th Leg., p. 1035, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 16, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.23, eff. September 1, 2013.

Sec. 13.120. SALE OR USE OF INCORRECT WEIGHING OR MEASURING DEVICE. (a) The department may condemn and prohibit the sale or distribution of any incorrect weighing or measuring device that is sold, offered for sale, or about to be sold in this state.

(b) A person commits an offense if the person or the person's servant or agent knowingly:

(1) offers or exposes for sale, hire, or award or sells an incorrect weighing or measuring device;

(2) possesses an incorrect weighing or measuring device; or

(3) sells, offers for sale, uses, or possesses for the purpose of sale or use a device or instrument to be used to falsify or intended to falsify a weight or measure.

Acts 1981, 67th Leg., p. 1035, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 17, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.24, eff. September 1, 2013.

Sec. 13.121. DISPOSING OF CONDEMNED WEIGHING OR MEASURING DEVICE. A person commits an offense if the person or the person's servant or agent disposes of a weighing or measuring device condemned under Section 13.111 or 13.120 in a manner contrary to those sections.

Acts 1981, 67th Leg., p. 1036, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. 2925), Sec. 17, eff. September 1, 2009.

Sec. 13.122. PENALTIES. An offense under each of Sections 13.117 through 13.121 is a Class C misdemeanor.

Acts 1981, 67th Leg., p. 1036, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1989, 71st Leg., ch. 230, Sec. 26, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 369, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.25, eff. September 1, 2013.

#### SUBCHAPTER E. PUBLIC WEIGHER

Sec. 13.251. DEFINITION. In this subchapter, "public weigher" means a business certified under this subchapter to issue an official certificate declaring the accurate weight or measure of a commodity that the business is requested to weigh.

Acts 1981, 67th Leg., p. 1039, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, Sec. 14, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.01, eff. September 1, 2009.

Sec. 13.255. CERTIFICATE. (a) A public weigher may not officially weigh a commodity unless the weigher has obtained from the department a certificate of authority.

(b) A public weigher must submit a fee, as provided by department rule, with the application for a certificate of authority.

Acts 1981, 67th Leg., p. 1040, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, Sec. 14, eff.

Sept. 1, 1981; Acts 1985, 69th Leg., ch. 239, Sec. 59, eff. Sept. 1,

1985; Acts 1989, 71st Leg., ch. 230, Sec. 30, eff. Sept. 1, 1989;

Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.04, eff. Sept. 1,

1991; Acts 1995, 74th Leg., ch. 419, Sec. 2.08, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.02, eff. September 1, 2009.

Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF CERTIFICATE. (a) The department shall revoke, modify, or suspend the certificate of authority of a public weigher, assess an administrative penalty, place on probation the public weigher whose certificate has been suspended, or reprimand a public weigher for a violation of this subchapter or a rule adopted by the department under this subchapter.

(b) If a certificate suspension is probated, the department may require the public weigher to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or renew professional education until the public weigher attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(c) If the department proposes to revoke, modify, or suspend a public weigher's certificate, the public weigher is entitled to a hearing conducted under Section 12.032. The decision of the department is appealable in the same manner as provided for contested cases under Chapter 2001, Government Code.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 31, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 419, Sec. 3.03, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.03, eff. September 1, 2009.

Sec. 13.256. BOND. Each public weigher shall execute a bond in accordance with rules adopted by the department. The bond must be conditioned on the accurate weight or measure of a commodity

being reflected on the certificate issued by the public weigher, on the protection of a commodity that the public weigher is requested to weigh or measure, and on compliance with all laws and rules governing public weighers. The bond is not void on first recovery. A person injured by the public weigher may sue on the bond.

Acts 1981, 67th Leg., p. 1040, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, Sec. 14, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 5.04, eff. September 1, 2009.

Sec. 13.257. RECORDING OF WEIGHTS AND MEASURES. (a) On each certificate of weight or measure of a commodity that a public weigher issues, the public weigher shall include the:

(1) time and date that the weight or measure of the commodity was taken;

(2) signature and license number of the public weigher; and

(3) seal of the department.

(b) A public weigher shall retain in a well-bound book a copy of each certificate. The department and members of the general public may inspect the record on request.

Acts 1981, 67th Leg., p. 1041, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, Sec. 14, eff. Sept. 1, 1981; Acts 1993, 73rd Leg., ch. 50, Sec. 3, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 5.05, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 19, eff. September 1, 2009.

Sec. 13.258. DUTIES OF THE DEPARTMENT. The department shall supervise public weighers and shall adopt rules necessary to enforce this subchapter. On application by an interested party,

the department shall review the weight or measure of a commodity certified by a public weigher and may require the commodity to be reweighed or remeasured.

Acts 1981, 67th Leg., p. 1041, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, Sec. 14, eff. Sept. 1, 1981.

Sec. 13.259. PENALTY FOR ISSUING A FALSE CERTIFICATE. (a) A public weigher who intentionally or knowingly issues a certificate of weight or measure of a commodity giving a false weight or measure for the commodity commits an offense.

(b) An offense under this section is a Class B misdemeanor.  
Acts 1981, 67th Leg., p. 1041, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, Sec. 14, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 5.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 20, eff. September 1, 2009.

Sec. 13.260. PENALTY FOR ISSUING CERTIFICATE WITHOUT AUTHORITY. (a) A person who intentionally or knowingly issues an official certificate of weight or measure of a commodity without first obtaining a certificate of authority under Section [13.255](#), who issues an official certificate of weight or measure of a commodity after revocation of the person's certificate of authority, or who issues an official certificate of weight or measure of a commodity without executing a bond as required under Section [13.256](#) commits an offense.

(b) An offense under this section is a Class C misdemeanor.  
Acts 1981, 67th Leg., p. 1041, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, Sec. 14, eff. Sept. 1, 1981.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 913 (H.B. [2925](#)), Sec. 21, eff. September 1, 2009.

Sec. 13.261. RULES. The department shall adopt rules governing the bond requirements and fees imposed under this subchapter.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 60, eff. Sept. 1, 1985.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.07, eff. September 1, 2009.

SUBCHAPTER I. LICENSING OF SERVICE TECHNICIANS AND SERVICE COMPANIES

Sec. 13.451. DEFINITIONS. In this subchapter:

(1) "License holder" means a person who holds a service company license or a service technician license.

(2) "Service company" means a person who holds a service company license issued by the department under this subchapter.

(3) "Service technician" means an individual who holds a service technician license issued by the department under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.452. DEVICE MAINTENANCE ACTIVITIES. A person performs device maintenance activities if the person or the person's employee:

(1) places a commercial weighing or measuring device in service;

(2) installs, calibrates, or repairs a commercial weighing or measuring device; or

(3) removes an out-of-order tag, stop-sale order, security seal, lock, condemnation notice, or other form of use prohibition placed on a weighing or measuring device by the department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.453. POWERS AND DUTIES OF DEPARTMENT. (a) To verify compliance with licensing requirements, trade practices, department rules, and this chapter, the department may periodically or in response to a complaint or previous violation inspect an applicant's or license holder's:

- (1) facilities;
- (2) inspecting and testing equipment and procedures;
- (3) repair and calibration equipment, standards, and procedures;
- (4) transportation equipment; and
- (5) invoices, work orders, and other records related to device maintenance activities.

(b) The department may periodically or in response to a complaint or previous violation monitor and inspect or test weighing or measuring devices that have been inspected and tested by a license holder and any standards used by the license holder during an inspection or test.

(c) The department by rule may adopt additional requirements for the issuance of a license and for the denial of an application for a license or renewal of a license. Rules adopted by the department under this subsection must be designed to protect the public health, safety, and welfare and the proper inspection, testing, and operation of commercial weighing or measuring devices.

(d) The department may adopt other rules necessary for the regulation of device maintenance activities, for the proper operation of commercial weighing or measuring devices, and to protect the health, safety, and welfare of the public and license holders.

(e) The department may specify the date, time, and place for any inspection authorized by this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 3.26, eff. September 1, 2013.

Sec. 13.454. EXEMPTIONS FROM LICENSE REQUIREMENTS. (a) A person is not required to hold a license issued under this subchapter if the person:



(1) is a department employee who is performing device maintenance activities in the scope of the person's duties for the department;

(2) is the owner or operator of a commercial weighing or measuring device or an employee of the owner or operator of a commercial weighing or measuring device and the person:

(A) completely removes the commercial weighing or measuring device from the location at which the device was installed, including a device subject to an out-of-order tag, stop-sale order, security seal, lock, condemnation notice, or other item placed on the device by the department to prohibit use of the device; and

(B) notifies the department of the device's removal not later than the 10th day after the date the device was removed in the manner provided by department rule; or

(3) performs device maintenance activities only on a device that is:

(A) exempt from the registration requirements of Section 13.1011 under department rules;

(B) exempt from the inspection requirements of Section 13.101 under department rules; and

(C) not required to be inspected by other department rules.

(b) The department is not required to hold a license issued under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.455. SERVICE TECHNICIAN LICENSE REQUIRED. Unless the individual is exempt from the licensing requirement, an individual may not perform or offer to perform device maintenance activities unless the individual holds a service technician license issued by the department under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.456. SERVICE COMPANY LICENSE REQUIRED. (a) Unless

the person is exempt from the license requirement, a person may not employ an individual who performs or offers to perform device maintenance activities unless the person holds a service company license issued by the department under this subchapter.

(b) Unless the individual is exempt from the licensing requirement, an individual may not perform or offer to perform device maintenance activities as a sole proprietor unless the individual holds a service technician license and a service company license issued by the department under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.457. APPLICATION FOR LICENSE. An applicant for a license under this subchapter must submit to the department:

- (1) an application form prescribed by the department;
- (2) any other documents required by the department;

and

- (3) a fee in an amount set by the department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.458. SERVICE TECHNICIAN LICENSE REQUIREMENTS.

(a) The department shall issue a license to each qualified applicant who applies for a service technician license.

(b) The department by rule may require an applicant for the issuance or renewal of a service technician license to meet one or more of the following requirements:

- (1) provide to the department proof that the applicant has completed an academic, trade, or professional course of instruction approved by the department;

- (2) pass a written test; or

- (3) pass a practical skills test.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.459. SERVICE COMPANY LICENSE REQUIREMENTS. (a) The department shall issue a license to each qualified applicant who

applies for a service company license.

(b) An applicant for the issuance or renewal of a license under this section must:

(1) submit to the department a certificate of insurance evidencing that the applicant has an insurance policy that meets the requirements of Section 13.460 effective for the period for which the license is to be issued or renewed; and

(2) meet any other requirements provided by department rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.460. INSURANCE POLICY REQUIRED FOR SERVICE COMPANY. A service company shall maintain at all times while the service company performs device maintenance activities a current effective operations liability insurance policy issued by an insurance company authorized to do business in this state or by a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance in an amount set by the department and based on the type of licensed activities to be performed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.461. TERM OF LICENSE. A license issued under this subchapter is valid for one year unless a different term is established by department rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.462. LICENSE RENEWAL. A person licensed under this subchapter must periodically renew the person's license. The license expires unless the license holder submits an application for renewal accompanied by the renewal fee set by the department or by the late fee set by the department and meets the requirements for renewal.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26,

eff. September 1, 2013.

Sec. 13.463. PRACTICE BY LICENSE HOLDER. (a) A license holder shall perform device maintenance activities in compliance with department rules.

(b) A license holder may use only equipment approved by the department, as provided by department rules, when performing device maintenance activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.

Sec. 13.464. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 13.455 or 13.456 or causes another person to violate Section 13.455 or 13.456.

(b) An offense under Subsection (a) is a Class B misdemeanor, unless the person has been previously convicted of an offense under this section, in which case the offense is a Class A misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. 1494), Sec. 3.26, eff. September 1, 2013.