

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

New Rule No.: 80-13-6-.03

Rule Title: Registration Requirements for Weights and Measures and Fees Therefor.

 New; x Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? Yes

Is there another less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? Minimum No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer John McVella

Date: 3-17-2014

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
DIVISION OF MARKETING

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Rule No. & Title: 80-13-6-.03 Registration Requirements for Weights and Measures and Fees Therefor.

Intended Action: To Amend Rule

Substance of Proposed Action: This rule will provide the Commissioner of Agriculture and Industries with the ability to implement testing of weighing and measuring devices through a registered service agent as described in Ala. Code §8-16-7.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on the meeting date May 13, 2014 in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama.

Final Date for Comment and Completion of Notice: May 13, 2014,

Contact Person at Agency: Patrick B. Moody, Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. 240-7117.

3-17-2014
Date

John McMillan
John McMillan
Commissioner of Agriculture
And Industries

80-13-6.03 Registration Requirements For Weights And Measures And Fees Therefor.

Effective, October 1, 2004, any person, firm, incorporated or unincorporated association or organization, corporation, partnership, limited liability company, cooperative, two or more individuals having a joint or common interest or other business entity that can be identified by distinct geographic location including, but not limited to subsidiaries, branches, substations or locations, affiliates and satellites possessing and maintaining, a measuring device as defined herein, who is selling, offering or exposing for sale any commodity, by weight or measure, as defined in §8-16-1 et seq., Code of Ala. 1975, as amended shall be considered a separate and unique individual or entity and subject to this regulation. Each such separate and unique individual or entity shall pay an annual registration fee which shall be assessed by and become payable to the Department of Agriculture and Industries for any weighing or measuring device. ~~inspected by the Department of Agriculture and Industries, based on measurement of weight categories provided herein.~~

(a) Those devices designed to measure weight between 0 to 1000 pounds or the metric equivalent shall be considered lightweight medium duty scales. Each individual or entity employing the use of a lightweight medium duty scale in the normal course of its business or trade shall pay to the Commissioner of Agriculture and Industries a fee of \$20.00 per each device, or in the alternative, shall pay an annual fee of \$150.00 per business location.

(b) Those devices designed to measure weight between 1001 to 50,000 pounds or the metric equivalent shall be considered a medium duty scale. Each individual or entity employing the use of a medium duty scale in the normal course of its business or trade shall pay to the Commissioner of Agriculture and Industries a fee of \$30.00 per each device, or in the alternative, shall pay an annual fee of \$150.00 per business location.

(c) Those devices designed to measure weight between 50,001 to 400,000 pounds or the metric equivalent shall be considered a heavy duty scale. Each individual or entity employing the use of a heavy duty scale in the normal course of its business or trade shall pay to the Commissioner of Agriculture and Industries a fee of \$50.00 per each device, or in the alternative, shall pay an annual fee of \$150.00 per business location.

(d) Those devices designed to dispense any substance at a rate of 20 gallons or the metric equivalent or greater per minute shall be considered a high speed dispenser. Each individual or entity employing the use of a high speed dispenser in the normal course of its business or trade shall pay to the Commissioner of Agriculture and Industries a fee of \$50.00 per each device, or in the alternative, shall pay an annual fee of \$150.00 per business location. Nothing in this rule shall apply to those devices dispensing any substance at a rate of less than 20 gallons or metric equivalent per minute.

(e) Those devices utilized by commercial dairy farming entities designed to contain and dispense volumes of milk for introduction into commerce shall be considered a dairy milk tank. Each individual or entity employing the use of a dairy milk tank in the normal course of its business shall pay to the Commissioner of Agriculture and Industries a fee of \$50.00 per each device, or in the alternative, shall pay an annual fee of \$150.00 per business location.

(f) No individual or entity remitting any fees to the Alabama Department of Agriculture and Industries under Chapters 19, 21, 22, 23, or 26 of Title 2 of the Code of Ala. 1975, as amended other than nursery dealer fees found in 80-10-1.03(3) of the Alabama Administrative Code, fertilizer dealer fees found in 80-16-.12(b) of the Alabama Administrative Code, or supplemental seed container sales fees found in 80-11-1.07(a) of the Alabama Administrative Code shall be required to pay in the aggregate an amount under this regulation in excess of \$30.00 for any one twelve month period beginning October 1 and ending September 30.

(g) Scales and weighing devices utilized in livestock markets as defined in Chapter 15 of Title 2 of the Code of Ala. 1975, as amended shall be specifically exempt from this regulation.

(h) Any individual or entity found in violation of any portion of this regulation by the Alabama Department of Agriculture and Industries shall be placed under written notice of violation by the Commissioner of Agriculture and Industries or his or her duly authorized agents. Said individual or entity will have thirty days from the date of violation notice to comply with this regulation. If, after the expiration of said 30 day period, said individual or entity shall be immediately subject to any and all penalties relating to weights and measures provided for

in the Code of Ala. 1975, as amended or the Alabama Administrative Code.

(i) All individuals or entities registering any of the devices listed in (b) and (c) above shall, at any and all times the registered device or devices is/are utilized, have on duty a weigh master as outlined in §8-16-50 et seq. of the Code of Ala. 1975, as amended. Beginning October 1, 2004, a fee of \$20.00 payable to the Commissioner of Agriculture and Industries shall be assessed each person appointed or designated as a weighmaster. The certificate of appointment or designation provided for in §8-16-50(d) of the Code of Ala. 1975, as amended shall be prominently displayed in a conspicuous manner at the location where the device or devices is/are utilized.

(j) Governmental entities shall be exempt from the fees outlined hereinabove.

Author: John P. Hagood, Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §§8-16-15, 8-16-51, 8-16-7.

History: New Rule: Filed August 16, 2004; Effective September 20, 2004. **Amended:** Filed August 17, 2012; Effective September 22, 2012. **Amended:**