

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 477**

Introduced by McCollister, 20; Groene, 42.

Read first time January 17, 2017

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to weights and measures; to amend section
- 2 89-197, Revised Statutes Cumulative Supplement, 2016; to prohibit
- 3 certain unlawful acts as prescribed; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 89-197, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3 89-197 It shall be unlawful for any person to:

4 (1) Use in commerce any weighing and measuring device which is not  
5 correct;

6 (2) Remove any tag, seal, or mark of a stop-use, stop-sale, hold, or  
7 removal order issued by the department from any weighing and measuring  
8 device or commodity without specific written authorization from the  
9 department;

10 (3) Fail to report to the department when any tag, seal, or mark of  
11 a stop-use, stop-sale, hold, or removal order issued by the department  
12 has been removed from any weighing and measuring device or commodity  
13 without specific written authorization from the department if such person  
14 operates a weighing and measuring establishment and knows or has reason  
15 to know the tag, seal, or mark has been removed;

16 (4) Hinder, obstruct, or refuse to assist the director in the  
17 performance of his or her duties;

18 (5) Maintain or have in his or her possession any commercial  
19 weighing and measuring device that has not been registered and inspected  
20 in accordance with the provisions of the Weights and Measures Act;

21 (6) Sell or keep for sale less than the quantity he or she  
22 represents of a commodity;

23 (7) Take more than the quantity he or she represents of a commodity  
24 when, as buyer, he or she furnishes the weight or measure by means of  
25 which the amount of the commodity is determined;

26 (8) Operate any weighing and measuring establishment without a valid  
27 permit, while the permit is suspended, or after the permit has been  
28 revoked if a permit is required by the act;

29 (9) Determine a gross weight and tare weight to arrive at a net  
30 weight by the use in commerce of different weighing and measuring devices  
31 that in combination will not meet the absolute value of maintenance

1 tolerance;

2 (10) Falsify in any manner, by any means, or by or through a  
3 representative a recorded representation or documentation from any  
4 weighing and measuring device or any representation or delivery ticket of  
5 a commodity bought or sold by weight, measure, or count;

6 (11) Use any commercial weighing and measuring device in a  
7 commercial application unless a Certificate of Conformance has been  
8 issued for such device unless exempt in section 89-186.01;

9 (12) Sell any weighing and measuring device for use in a commercial  
10 application unless a Certificate of Conformance has been issued for such  
11 devices unless exempt in section 89-186.01;

12 (13) Use, add to, or modify a commercial weighing and measuring  
13 device in any way which makes the device not correct unless such change  
14 has been authorized by the director as provided for in the act;

15 (14) Misrepresent the price of any commodity kept for sale or sold  
16 by weight, measure, or count or represent the price in any manner  
17 calculated or tending to mislead or in any way deceive a person;

18 (15) Misrepresent the quantity of any commodity kept for sale or  
19 sold or represent the quantity in any manner calculated or tending to  
20 mislead or in any way deceive a person;

21 (16) Fail to pay all fees as prescribed by the act and the rules and  
22 regulations adopted and promulgated pursuant to the act;

23 (17) Refuse to keep and make available for examination by the  
24 department all books, papers, and other information necessary for the  
25 enforcement of the act;~~or~~

26 (18) Use commercial weighing and measuring devices not in accordance  
27 with rules and regulations adopted and promulgated by the director  
28 pursuant to subdivision (3)(d) of section 89-187; ~~or~~

29 (19) Advertise an automotive spark ignition engine fuel on a price  
30 sign that is not available at all fueling positions unless a second  
31 automotive spark ignition engine fuel which is available at all fueling

1 positions is advertised on the same sign and in the same font size,  
2 style, and illumination. For purposes of this subdivision, automotive  
3 spark ignition engine fuel means gasoline and its blends with oxygenates  
4 such as alcohol and ethers; or

5 (20) Offer the same grade of engine fuel at different prices instead  
6 of at an identical base price at each retail dispenser from which the  
7 engine fuel is offered for sale when such fuel is from a single storage  
8 tank or from multiple storage tanks that are joined in such a manner that  
9 the fuel is commingled while still in the tanks. This subdivision does  
10 not prohibit discounts for cash payments, self-service, customer loyalty  
11 programs, or other programs except for octane sold at the base price at  
12 each retail dispenser.

13 Sec. 2. Original section 89-197, Revised Statutes Cumulative  
14 Supplement, 2016, is repealed.