

A Bill for an Act Relating to Measurement Standings and Increased Utilization of the Metric System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The title to Chapter 486, Hawaii Revised Statutes, is amended to read:

**“MEASUREMENT STANDARDS AND
UNIFORM PACKAGING AND LABELING”**

SECTION 2. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “commodity in package form” to read:

“(2) “Commodity in package form” means a measure of a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of measure, is a commodity in package form.”

SECTION 3. Section 486-7, Hawaii Revised Statutes, is amended by amending the definitions of “director” and “deputy director” to read:

“(5) “Director of measurement standards”, “deputy director of measurement standards” and “deputy to the chairman” mean, respectively, the state director of measurement standards, the state deputy director of measurement standards and the deputy to the chairman of the board of agriculture and may be referred to hereafter as the director, deputy director, and deputy to the chairman of the board of agriculture, respectively.”

SECTION 4. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “gasoline” to read:

“(6) “Gasoline” means any product which conforms to the standards as established by the American Society for Testing and Materials, or the United States Environmental Protection Agency or any successor agency.”

SECTION 5. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “inspector” to read:

“(8) “Inspector” means any qualified State officer or employee designated

by the director as an inspector.”

SECTION 6. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “lubricating oil” to read:

“(12) “Lubricating product” means those products which are intended for use in internal combustion engines, or for purposes of lubrication, and which as established by the American Society for Testing and Materials, or the Society of Automotive Engineers, or their successor agencies. Lubricating product containers shall be marked so as to disclose whether the contents have previously been used for any other lubricating purposes, or have been re-run, filtered, redistilled, re-claimed, or re-refined or in any other manner reprocessed or re-blended.”

SECTION 7. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “octane number or octane rating” to read:

“(16) “Octane index” means the resultant of the RON (Research Octane Number) plus MON (Motor Octane Number) divided by two.”

SECTION 8. Section 486-1, Hawaii Revised Section, is amended by amending the definition of “petroleum product” to read:

“(18) “Petroleum product” shall have the meaning established under chapter 486D.”

SECTION 9. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “standard test” or “standard method” to read:

“(21) “Standard test” or “standard method” means any test or method conducted or prescribed in accordance with the latest published standards, as provided in section 486-1 () and as approved by rule of the director.”

SECTION 10. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “vehicle tank” to read:

“(23) “Vehicle tank” means any tank, which is mounted on a vehicle and is intended for use as a measure per se.”

SECTION 11. Section 486-1, Hawaii Revised Statutes, is amended by amending definition of “weight certificate” to read:

“(24) “Certificate of measure” means a certificate of measure issued in compliance with this chapter, and shall be prima facie evidence of the accuracy of the amount shown.”

SECTION 12. Section 486-1, Hawaii Revised Statutes, is amended by amending the definition of “weights and measures” to read:

“(25) “Measure” means all measures of every kind, including but not limited to weights, mass, lengths, volume, and count; instruments and devices for measuring; and any appliances and accessories associated with any or all such instruments and devices.”

SECTION 13. Section 486-1, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately designated and to read:

“() “Measurement standard” includes any standard or definition or model or reference or measurement recommended by the United States

Metric Board. As established by the Secretary of Commerce, including weights and measures, or any other artifact or reproducible definition of a unit of measure, including those of the SI; and including the definition of a lot, a sample, and applicable tolerances, as may be established by the director. Such measurement standards, insofar as they may be traceable, shall conform if appropriate to their counterpart at the National Bureau of Standards, the American Society for Testing and Materials, the American National Standards Institute, the American National Metric Council, the International Standards Organization, the International Organization of Legal Metrology and the International Bureau of Weights and Measures.”

() “Metric system” means the SI or International System of Units, as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce. The modernized metric system is identified by the capital letters “SI” in all languages. Whenever the term “metric” or “metric system” or “metric system of measurement” is used, it shall mean “SI.”

SECTION 14. Section 486-2, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-2 Systems of measurements.** The United States customary system of weights and measures and the metric system of measurements are jointly recognized, and either one or both shall be used by rule of the director for all measurement purposes in the State. The definitions of basic units of measure, the tables of measure, and measure equivalents, the specifications, tolerances and other technical requirements for measuring devices, as published by the National Bureau of Standards, in handbook 44, current edition, and adopted, or modified and adopted by the director, together with the measurement standards provided for herein, are recognized and shall govern measurement standards, measuring equipment and measuring transactions in the State.”

SECTION 15. Section 486-4, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-4 State measurement standards.** The State measurement standards shall be in conformity with the measurement standards of the United States. As applicable, they shall have been calibrated for such use by the National Bureau of Standards or other appropriate agency and shall be maintained in such calibration, as is now or may hereafter be prescribed by that bureau or agency or any successor agency, by and within the laboratory of the State division of measurement standards. They shall not be removed from that laboratory except upon request of the National Bureau of Standards or other appropriate or successor agency for calibration audit provided that they may be relocated for the convenience of the State by directive of the governor.”

SECTION 16. Section 486-6, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-6 State director, deputy director, deputy to the chairman, inspectors and measurement standards personnel.** There is hereby established a division of measurement standards. The chairman of the board of agriculture shall be the state director of measurement standards. The director shall appoint a

deputy director of measurement standards, who shall head and administer the division and such technical and clerical personnel as are necessary to carry out this chapter. The deputy director shall be subordinate to the deputy to the chairman.”

SECTION 17. Section 486-7, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 486-8, Hawaii Revised Statutes is amended to read:

“**Sec. 486-8 General powers and duties of director.** The director shall have the custody of the state measurement standards including the other standards and equipment provided for by this chapter, and shall keep accurate records of the same. The director shall enforce this chapter. He shall have and keep a general supervision over the measurement standards established, and measures offered for sale, sold, or in use in the State. He shall annually, as established by directive of the governor, make to the governor a report on all of the activities of the division of measurement standards.”

SECTION 19. Section 486-9, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-9 Specific powers and duties of the director; regulations.** The director shall issue from time to time reasonable regulations for the enforcement of this chapter. These regulations shall have the force and effect of law and shall govern the use or application of measurement standards and measuring transactions in the State. These regulations may include:

- (1) Standards of net measure, and reasonable standards of fill for any commodity in package form,
- (2) Rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used, by inspectors and measurement standards personnel in the discharge of their official duties,
- (3) Exemptions from the sealing, labeling, marking, or other requirements of this chapter,
- (4) Rules governing the voluntary registration of servicemen and service agencies,
- (5) Schedules and fees for licensing commercial measuring devices and measurement standards for testing or certification,
- (6) Specifications, tolerances, and other technical requirements with respect to the packaging, handling, storing, advertising, labeling, dispensing, and selling of petroleum products which the director deems necessary for the protection of the consumer,
- (7) Rules to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest, and
- (8) Such other rules or regulations as he deems necessary for the enforcement of this chapter; such rules and regulations being consistent with State and federal policy.

These regulations shall include specifications, tolerances and other technical requirements designed to eliminate from use those measures and measurement

standards:

- (A) That are not accurate,
- (B) That are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or
- (C) That facilitate the perpetration of fraud.

In addition the director shall promulgate rules relating to SI definitions, standards, tolerances, use, applicability, units and any other rule not inconsistent with the recommendations of the United States Metric Board or the Secretary of Commerce. The specifications, tolerances, and other technical requirements for measuring devices as recommended and published by the National Bureau of Standards in handbook 44, current edition, or any of the standards setting bodies identified under section 486-1(), together with regulations issued by the director under authority of this chapter, shall be the specifications, tolerances, and other technical requirements for measures and measurement standards of the state.

The director may, pursuant to chapter 91, adopt, in whole or in part, any amendment or supplement to the National Bureau of Standards publication or any subsequent or similar publication by such bureau, or its successor, and any measurement standard published by the standards setting bodies identified under section 486-1 (). For the purpose of this chapter, a measure and measurement standard is "correct" when it conforms to all applicable sections of this chapter or to such regulations promulgated pursuant thereto; all other measures and measurement standards are "incorrect".

SECTION 20. Section 486-10, Hawaii Revised Statutes, is amended to read:

"Sec. 486-10 Testing at state-supported institutions. The director shall from time to time test all measures used in establishing or verifying any other measurement, including any measure or measurement standard used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, reporting his findings, in writing, to the supervisory board and to the executive officer of the institution concerned."

SECTION 21. Section 486-11, Hawaii Revised Statutes, is amended to read:

"Sec. 486-11 General testing. Unless otherwise provided by law, the director shall inspect and test, to ascertain if they are correct, all measurement standards and measuring devices kept, offered, or exposed for sale, sold or in use in the state. The director may, as often as he deems necessary, inspect and test, to ascertain if they are correct, all measurement standards and measuring devices used (1) in determining the measurement of commodities or things sold, or offered or exposed for sale, on the basis of measure; (2) in computing the basic charge or payment, including taxes, for services rendered on the basis of measure; (3) in determining measurement when a charge is made for such determination, including the payment of any associated tax; provided, that in

compliance with a regulation of the director, tests may be made on representative samples of such commodities or things or devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples, and provided, that with respect to single-service devices designed to be used commercially only once and to be then discarded or with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing requirements of this section will be satisfied when inspections and tests are made on representative samples of such devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples.”

SECTION 22. Section 486-13, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-13 Inspection of packages.** The director shall measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale or sold in accordance with law. When such packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the director may order them off sale and may mark or tag them to show them to be illegal. The director may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall (1) sell, or keep, offer or expose for sale, in intrastate commerce, any package or amount of commodity in package form unless, or in the case where a package or amount of commodity in package form has been ordered off sale or marked or tagged as provided in this section, unless and until such package or amount of commodity in package form is or has been brought into full compliance with all legal requirements, or (2) dispose of any package or amount of commodity in package form that has been ordered off sale or marked or tagged as provided in this section and that has subsequently been brought into full compliance with all legal requirements, until written authorization for such disposal has been issued by the director; provided that nothing in this section shall prohibit the director from authorizing disposal under sub-paragraph (2) of this section or section 486-14, when, in his discretion, the best interest of the public will be served by such authorization.”

SECTION 23. Section 486-14, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-14 Stop-use, stop-removal, stop movement and removal orders.** The director may issue stop-use orders, stop-removal orders, stop movement and removal orders with respect to measures and measurement standards being, or susceptible of being, commercially used, and issue stop-removal orders, stop movement and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the law he deems it

necessary or expedient to issue such orders, and no person shall use, remove or move from the premises specified, or fail to remove from the premises specified, any measure, measurement standard, package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, stop movement or removal order issued under the authority of this section."

SECTION 24. Section 486-15, Hawaii Revised Statutes, is amended to read:

"Sec. 486-15 Disposition of correct and incorrect apparatus. The director shall approve for use, and seal or mark with appropriate devices, such measures and measurement standards as he finds upon inspection and test to be "correct" as defined in section 486-9, and shall reject and mark or tag as "rejected" such measures and measurement standards as he finds, upon inspection or test, to be "incorrect" as defined in section 486-9, provided, that such sealing or marking shall not be required with respect to such measures and measurement standards as may be exempted therefrom by a regulation of the director, issued under the authority of section 486-9. Measures and measurement standards that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by section 486-18, or if used or disposed of contrary to the requirements of section 486-18. In carrying out this section, the director may use such terms as "rejected," "accepted," "incorrect," "correct," "inaccurate," "accurate," "tested," "approved," "certified," or terms of similar import on marks or tags or certificates, as necessary, to convey to all interested parties the condition or state of the device or apparatus so marked or tagged. Any such mark or tag shall be subject to section 486-9."

SECTION 25. Section 486-16, Hawaii Revised Statutes, is amended to read:

"Sec. 486-16 Enforcement; citation and notice to appear; penalty; right of entry and inspection; stopping vehicles. The director, deputy director, deputy to the chairman and any authorized inspector or other authorized measurement standards personnel may, upon arresting any person for violation of this chapter, including rules and regulations promulgated thereunder, take the name, address, and any other pertinent information of such person and issue to him a citation and notice to appear, printed in the form hereinafter described, and answer to the charge against him at a certain place and at a time within seven days after such arrest.

There shall be a form of citation and notice to appear for use in citing violators of this chapter and the rules and regulations promulgated by the director which do not mandate the physical arrest of such violators. The citation and notice to appear shall be printed in a form commensurate with the form of other citations and notice to appear used in modern methods of arrest and shall be designed to include all necessary information. The form and contents of the citation and notice to appear shall be as adopted or prescribed by the district courts.

In every case when a citation and notice to appear is issued, the original of the same shall be given to the violator; provided, that the district courts may

prescribe the issuance to the violator of a carbon copy of the citation and notice to appear and provide for the disposition of the original and any other copies. Every citation and notice to appear shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

Any person who fails to appear at the place and within the time specified in the citation and notice to appear issued to him shall be fined not more than \$500 or imprisoned not more than six months, or both, regardless of the disposition of the charge of which he was originally arrested.

In the event any person fails to comply with the citation and notice to appear given on such person, or if any person fails or refuses to deposit bail as required and within the time permitted, the arresting officer or employee who issued the citation shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

The director may seize, without formal warrant, incorrect or unsealed measures, measurement standards, or amounts or packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law.

The director may stop any vehicle subject to this chapter and require the driver to move the vehicle to a designated place for inspection.

The director may, in the public interest, serve suitable notices or warnings rather than resorting to prosecution for minor violations.

The director may enter and go into or upon at any reasonable time, without formal warrant, in accordance with the law, any structure, premises, or any other place where commercial transactions or articles subject to this chapter are being conducted or located.

When a complaint is made to any prosecuting officer of the violation of this chapter, including any rules and regulations promulgated thereunder, the arresting officer or employee who issued the citation and notice to appear shall subscribe to it under oath administered by another official whose name has been submitted to the prosecuting officer and who has been designated by the director to administer the same."

SECTION 26. Section 486-17, Hawaii Revised Statutes, is amended to read:

"Sec. 486-17 Powers and duties of deputy director and inspector; and other measurement standards personnel. The director may delegate any of his powers and duties to the deputy director which he shall deem necessary and proper to carry out the provisions of this chapter. The deputy director may similarly delegate any of his authority and responsibility to the inspectors or other measurement standards personnel when such delegation is deemed necessary for the efficient and effective enforcement of this chapter."

SECTION 27. Section 486-18, Hawaii Revised Statutes, is amended to read:

"Sec. 486-18 Duties of owners of incorrect apparatus. Measures and measurement standards that have been rejected under the authority of the director shall remain subject to the control of the rejecting authority until such time as they have been type approved for use, by the director, as provided under

ACT 58

section 486-15 or until suitable repair or disposition thereof has been made as required by this section. The owners of the unapproved or rejected measures or measurement standards shall cause the same to be type approved or made correct within thirty days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Measures and measurement standards subject to this chapter that have not been type approved or that have been rejected shall not be used until they have been officially type approved or reexamined and found to be correct or until specific written permission for such use is issued by the rejecting authority, or until the rejection tag has been removed and the rejected device or apparatus repaired or corrected and placed in service by a person duly registered to perform the acts under a regulation issued by the director for the registration of measures servicemen and service agencies.”

SECTION 28. Section 486-19, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-19 Method of sale of commodities; general.** Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this chapter, commodities not in liquid form shall be sold only by weight, mass, volume, length, area, or by count; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply, if exempted by a regulation of the director, (1) to commodities when sold for immediate consumption on the premises where sold, (2) to vegetables when sold by the head or bunch, (3) to commodities in containers standardized by a law of this state or by federal law, (4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner, (5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or (6) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The director may issue such reasonable regulations as may be necessary to assure that the measure of any commodity for sale reflects accurate and fair practices to all concerned.”

SECTION 29. Section 486-20, Hawaii Revised Statutes, is amended to read:

“**Sec. 486-20 Packages; declarations of quantity and origin; variations; exemptions.** Except as otherwise provided in this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce, shall bear on the outside of the package such definite, plain, and conspicuous declarations of (1) the identity of the commodity in the package, (2) the net quantity of the contents in terms of measure, and (3) in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the

manufacturer, packer, or distributor, as may be prescribed by regulation issued by the director; provided, that, in connection with the declaration required under item (2) above, neither the qualifying term "when packed" or any words of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package shall be used; and provided further, that under item (2) above the director shall, by regulation, establish (A) reasonable variations to be allowed, which may include variations from the declared measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in a change in measure, (B) exemptions to small packages, and (C) exemptions as to commodities put up in variable measures for sale intact and either customarily not sold as individual units or customarily measured at time of sale to the consumer."

SECTION 30. Section 486-21, Hawaii Revised Statutes, is amended to read:

"Sec. 486-21 Declarations of unit price on random packages. In addition to the declarations required by section 486-20, and commodity in package form, the package being one of a lot containing random measure of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of measure."

SECTION 31. Section 486-23, Hawaii Revised Statutes, is amended to read:

"Sec. 486-23 Advertising packages for sale. Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package; provided, that, where the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that sets forth the quantity in terms of the smaller unit of measure (the declaration that is required to appear first and without parentheses on the package) need appear in the advertisement; and provided further, that there shall not be included as part of the declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or any other terms of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package."

SECTION 32. Section 486-24, Hawaii Revised Statutes, is amended to read:

"Sec. 486-24 Sale by net measure. The word "measure" as used in this chapter in connection with any commodity in package form shall mean net measure."

SECTION 33. Section 486-25, Hawaii Revised Statutes, is amended to

read:

“Sec. 486-25 Misrepresentation of price. Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by measure, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of measure includes a fraction of a cent, all numerals expressing the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.”

SECTION 34. Section 486-26, Hawaii Revised Statutes, is amended to read:

“Sec. 486-26 Bulk deliveries sold in terms of measure. When a commodity is purchased in bulk and the commodity is sold in terms of measure, the delivery of such commodity shall be accompanied by a “certificate of measure,” in a form prescribed by the director, and shall contain at least the following information:

- (1) Name and address of the vendor,
- (2) Name and address of the purchaser,
- (3) The net quantity of the delivery, and
- (4) The date, time and place of quantity determination and the name of the person who made such determination.

The director may by regulation require any additional data that will assure positive accurate description of the quantities determined.”

SECTION 35. Section 486-27, Hawaii Revised Statutes, is amended to read:

“Sec. 486-27 Measure master’s license, fee; regulations; offenses; penalties. The director may issue licenses to a qualified measure master. For the purpose of this section, a measure master is a person who is licensed to issue certificates of measure. An annual license fee of \$20 shall be paid and the fee shall be deposited into the general fund. The director may provide by regulation for the exemption of state or county employees who qualify as a measure master from payment of the license fee.

The director may pursuant to chapter 91 adopt rules and regulations governing, but not limited to, the following subject matter:

- (1) Qualifications as to age, character, ability to measure, experience, and education of a measure master;
- (2) Creation of a seal to be utilized by a measure master;
- (3) Execution requirements of a certificate of measure;
- (4) Bonding;
- (5) Record keeping;
- (6) Prohibited acts;
- (7) Suspension and revocation of a license;
- (8) Such other matters that will effectuate the purpose of this section.

Any person who (1) requests a measure master to measure any property, produce, commodity, or article falsely or incorrectly, (2) requests a false or

incorrect certificate of measure, or (3) issues a certificate of measure simulating, forging, or duplicating the certificate of measure as set forth in section 486-26 and who is not a measure master, shall be fined not less than \$500 or imprisoned not less than three months, or both.

Any measure master who falsifies a certificate of measure, or who delegates his authority to any person who is not a measure master, or who preseals a certificate of measure with his official seal before performing the act of measuring, shall be fined not less than \$1,000 or imprisoned not less than six months, or both.

Any person who violates any provision of this section or any rule or regulation adopted pursuant thereto for which no specific penalty has been provided shall be fined not less than \$100 nor more than \$500."

SECTION 36. Section 486-30, Hawaii Revised Statutes, is amended to read:

"Sec. 486-30 Offenses and penalties. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in paragraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$20 or more than \$200, or by imprisonment for not more than three months, or both; and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than \$50 or more than \$500, or by imprisonment for not more than one year, or both.

- (1) Use or have in possession for the purpose of using for any purpose specified in section 486-11, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect or unapproved measure or measurement standard or any device or instrument used to or calculated to falsify any measure.
- (2) Use, or have in possession for the purpose of current use for any purpose specified in section 486-11, an unapproved or approved measure or measurement standard that does not bear a seal or mark such as is specified in section 486-15, unless such measure or measurement standard has been exempted from testing by the provisions of section 486-9 or 486-11 or by a regulation of the director issued under the authority of section 486-9, or unless the device has been placed in serve* as provided by a regulation of the director issued under the authority of section 486-11.
- (3) Dispose of any rejected or condemned measure or measurement standard in a manner contrary to law or regulation.
- (4) Remove from any measure or measurement standard, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.
- (5) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing, or service.
- (6) Take more than the quantity he represents of any commodity, thing, or service when, as buyer, he furnishes the measure or measurement

*Probably should read "service."

standard by means of which the amount of the commodity, thing, or service is determined.

- (7) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.
- (8) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a measure that is not so positioned that its indications may be accurately read and the measuring operation observed from some position which may reasonably be assumed by a customer.
- (9) Violate any provision of this chapter or the regulations promulgated under this chapter for which a specific penalty has not been prescribed."

SECTION 37. Section 486-33, Hawaii Revised Statutes, is amended to read:

"Sec. 486-33 Presumptive evidence. For the purpose of the effective enforcement of this chapter, proof of the existence of a measure or measurement standard in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be "presumptive proof of the susceptibility of commercial use" of such measure or measurement standard."

SECTION 38. Section 486D-1, Hawaii Revised Statutes, is amended by amending the definitions of "director" and "deputy director" and to add the definition of "deputy to the chairman" to read:

- (4) "Director," "deputy director" and "deputy to the chairman" mean, respectively the state director of measurement standards, the state deputy director of measurement standards and the deputy to the chairman of the board of agriculture as provided for in section 486-6."

SECTION 39. Section 486D-1, Hawaii Revised Statutes, is amended by amending the definition of "division" to read:

- (5) "Division" means the state division of measurement standards."

SECTION 40. Section 486D-4, Hawaii Revised Statutes, is amended to read:

"Sec. 486D-4 General powers and duties of directors. The director shall enforce this chapter, through the division of measurement standards. The director shall keep accurate records of all petroleum transactions and report on them annually to the governor."

SECTION 41. Section 292-2, Hawaii Revised Statutes, is amended by amending the definition of "director" to read:

- (3) "Director" means the director of measurement standards, or his designated representative."

SECTION 42. Section 292-13, Hawaii Revised Statutes, is amended to read:

"Sec. 292-13 Disclosure requirements. All certificates of ownership, as issued by the respective counties, shall by license year 1980 be standardized in a

form to be prescribed by the director of administrative services for district courts, and such certificates shall have on the reverse side thereof space for entering endorsements, among other requirements established under section 286-47. Each certificate shall have, in printed form on the bottom of the reverse side, the following statement: "The information entered hereon includes the license number and odometer indication on the date of title transfer of the passenger car described hereon; it is accurate to the best of my knowledge and I understand an inaccurate statement may make me liable to the transferee (buyer), pursuant to Chapter 292, Hawaii Revised Statutes, and Section 409(A) of the Federal Motor Vehicle Information and Cost Savings Act of 1972. My signature hereon constitutes personal knowledge that any false or incomplete data may create a liability, in civil action to transferee (buyer) and in criminal action under statute cited."

SECTION 43. Section 328-2, Hawaii Revised Statutes, is amended by amending the definition of "principal display panel" to read:

"Principal display panel" means that part, or those parts of a package or label that is, or are, so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display and purchase.

Whenever the principal display panel of the package is not coincident with the principal display panel of the label, the principal display panel of the package shall govern the declaration of quantity type size and the principal display panel of the label shall govern its location.

Whenever a difference of opinion exists as to which panel of a package constitutes the principal display panel, the larger panel most likely to be displayed shall be so construed.

Whenever a consumer package has more than one principal display panel, each such panel shall bear all mandatory information required by this part and the Federal Act."

SECTION 44. Section 328-2.1, Hawaii Revised Statutes, is repealed.

SECTION 45. **Employment rights unaffected by name changes.** No person currently employed by the division of weights and measures on a permanent basis, either through civil service or under a collective bargaining agreement, including exempt employees, shall in any manner be affected by the change in the division's name, except to the extent of the titular change occasioned by this act and the redefinitions herein contained.

The present deputy director of weights and measures shall become the state deputy director of measurement standards and shall continue to administer and head the division of measurement standards, and each inspector of weights and measures shall become an inspector, and all technical, secretarial, keypunch and clerical employees and metrologists shall remain similarly titled within the division of measurement standards, upon the effective date of this act, without any loss of rights, seniority, vacation, tenure, sick leave or other accrued right or pay status.

SECTION 46. **Savings protection.** All rules and regulations currently in effect and promulgated under chapters 486, 486D, and 292, Hawaii Revised

ACT 58

Statutes, in accordance with chapter 91, Hawaii Revised Statutes, shall, irrespective of their title or identification of the enforcement agency, remain in effect until such time as they may be amended or reratified, at which time the proper enforcement identification and titular changes shall be made.

SECTION 47. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 48. This Act shall take effect upon its approval.

(Approved May 6, 1977.)

*Edited accordingly.