

1 HB357  
2 148967-3  
3 By Representatives Lee, Chesteen, Fincher, Faust, Davis,  
4 McCampbell, Clouse, Jones, Shiver, Williams (D), Ball,  
5 Patterson, Buttram, Baker, Rich, Weaver, Hill, Standridge,  
6 Laird, Farley, Drake, Sessions, Baughn and Grimsley  
7 RFD: Agriculture and Forestry  
8 First Read: 28-FEB-13

1  
2 ENROLLED, An Act,

3 To amend Sections 8-16-1, 8-16-6, 8-16-7, and  
4 8-16-18, Code of Alabama 1975, to define registered service  
5 agent and to provide further for the duties of the  
6 Commissioner of Agriculture and Industries with respect to a  
7 registered service agent; to require the annual testing and  
8 inspection of all weighing or measuring devices to be  
9 performed by a registered service agent; and to authorize the  
10 Board of Agriculture and Industries to adopt a schedule of  
11 civil fines for violations related to weights and measures.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 8-16-1, 8-16-6, 8-16-7, and  
14 8-16-18, Code of Alabama 1975, are amended to read as follows:

15 "§8-16-1.

16 "For the purposes of this chapter, the following  
17 terms shall have the meanings respectively ascribed to them by  
18 this section:

19 "(1) REGISTERED SERVICE AGENT. Any individual,  
20 agency, firm, company, or corporation that for hire,  
21 commission, or other payment of any kind, services, repairs,  
22 or reconditions any weighing or measuring devices, and that  
23 registers with the Commissioner of Agriculture and Industries.

24 "(2) SELL or SALE. Such terms shall include barter  
25 and exchange.

1           "~~(1)~~(3) WEIGHTS, MEASURES or WEIGHING OR MEASURING  
2 DEVICES. Such terms include all weights, scales, beams,  
3 measures of every kind, instruments and mechanical devices for  
4 weighing, or measuring, and any appliances and accessories  
5 connected with any or all such instruments.

6           "§8-16-6.

7           "(a) With respect to weights and measures, the  
8 Commissioner of Agriculture and Industries shall have the  
9 following duties:

10           "(1) ~~He shall~~ To try and prove by the state  
11 standards, at least once in five years, all weights, measures,  
12 and other apparatus which may belong to any county or city and  
13 shall seal such when found to be accurate, stamping on them  
14 the letter "A" and the last two figures of the year with seals  
15 which he or she shall have and keep for that purpose.

16           "(2) ~~He shall~~ To have and keep a general supervision  
17 of the weights, measures, and weighing and measuring devices  
18 offered for sale, sold, or in use in the state.

19           "(3) Upon the written request of any citizen, firm,  
20 corporation, or educational institution in the state, ~~he shall~~  
21 to test or calibrate weights, measures, weighing, or measuring  
22 devices, and instruments or apparatus used as standards in  
23 this state.

24           "(4) ~~He shall~~ To assure that at least once annually  
25 ~~test~~ all scales, weights, and measures used in checking the

1 receipts and disbursements of supplies in every institution  
2 for the maintenance of which moneys are appropriated by the  
3 Legislature are inspected, and ~~he shall~~ report in writing his  
4 or her findings through the supervisory board and to the  
5 executive officer of the institution concerned. At the request  
6 of such board or executive officer, the Commissioner of  
7 Agriculture and Industries shall appoint in writing one or  
8 more employees then in the actual service of each institution  
9 who shall act as special deputy or deputies, without extra  
10 compensation, for the purpose of checking the receipts and  
11 disbursements of supplies.

12 "(5) ~~He shall include~~ To include a report of the  
13 work done by his or her office in his general report to the  
14 State Board of Agriculture and Industries.

15 "(6) ~~He shall inspect~~ To inspect all standards and  
16 apparatus used by the counties and cities at least once in  
17 five years and shall keep a record of the same.

18 "(7) ~~He shall, at~~ At least once in five years, to  
19 visit the various cities and counties of the state in order to  
20 inspect the work of the local sealers of weights and measures,  
21 and.

22 "(8) ~~He shall issue~~ To issue from time to time  
23 regulations for guidance for city and county sealers, and the  
24 ~~said~~ regulations shall govern the procedure to be followed by  
25 ~~the aforesaid~~ these officers in the discharge of their duties.

1           "§8-16-7.

2           "(a) When not otherwise provided by law, the  
3           Commissioner of Agriculture and Industries within the state,  
4           the county sealer within the county and the city sealer within  
5           the city shall have the power and it shall be their duty to  
6           inspect, test, try, and ascertain if they are correct all  
7           weights, measures, and weighing or measuring devices kept,  
8           offered, or exposed for sale, sold, used, or employed in  
9           proving the size, quantity, extent, area, or measurement of  
10          quantities, things, produce, or articles for distribution or  
11          consumption purchased or offered or submitted for sale, hire,  
12          or reward, in computing any charge for services rendered on  
13          the basis of weight or measure or in determining weight or  
14          measure when a charge is made for such determination.

15          "(b) They shall have the power to, and shall from  
16          time to time, weigh or measure and inspect packages or amounts  
17          of commodities of whatsoever kind kept for the purpose of  
18          sale, offered, or exposed for sale, sold, or in the process of  
19          delivery in order to determine whether the same contain the  
20          amount represented and whether they are offered for sale or  
21          sold in a manner in accordance with the law.

22          "(c) They shall, at least once each year and as much  
23          oftener as they may deem necessary, see that all weights,  
24          measures, and weighing or measuring devices used are correct.

1           "(d) They ~~may~~, for the purpose above mentioned and  
2 in the general performance of their official duties, at any  
3 reasonable time, may enter and go into or upon, without formal  
4 warrant, any stand, place, building, or premises or stop any  
5 vendor, peddler, junk dealer, coal wagon, ice wagon, delivery  
6 wagon, or any person whatsoever and require him or her, if  
7 necessary, to proceed to some place which the local sealer may  
8 specify for the purpose of making the proper test.

9           "(e) The commissioner may perform such testing of  
10 weighing or measuring devices through a registered service  
11 agent. The commissioner's duty to inspect and test weighing or  
12 measuring devices used for commercial transaction is fulfilled  
13 by the registered service agent's inspection and test for  
14 accuracy.

15           "(f) A registered service agent shall perform the  
16 inspection and test of weighing and measuring devices in  
17 accordance with the rules promulgated by the Board of  
18 Agriculture and Industries. The registered service agent who  
19 performs the recalibration or repair may be, but is not  
20 required to be, the same registered service agent who  
21 performed the inspection. The registered service agent who  
22 performs the inspection and test of weighing and measuring  
23 devices may be an agent or employee of the owner or an  
24 affiliate of the owner of the weighing and measuring devices.

1           "(g) The Department of Agriculture and Industries  
2 shall approve a decal and upon approval, the department shall  
3 provide a decal to registered service agents. After the device  
4 meets all requirements as promulgated by the Board of  
5 Agriculture and Industries the registered service agent shall  
6 place an approved decal conspicuously on the weighing or  
7 measuring device.

8           "(h) The registered service agent shall provide all  
9 inspection and test reports of the weighing or measuring  
10 devices to the commissioner. The commissioner may adopt a  
11 uniform reporting system to be utilized by all registered  
12 services.

13           "(i) The commissioner may adopt a system to  
14 periodically monitor, inspect, or test such weighing or  
15 measuring devices to check the accuracy of the work of the  
16 registered service agent.

17           "(j) The power conferred on the commissioner in  
18 subsection (d) above shall not apply to a registered service  
19 agent.

20           "(k) Beginning October 1, 2013, the commissioner may  
21 suspend or revoke the certificate of registration of a  
22 registered service agent for violating any provisions of this  
23 article.

24           "(l) If the certificate of registration of a  
25 registered service agent has been suspended or revoked, then

1 the service agent may not register with the department as a  
2 service agent for at least one year.

3 ~~"(e)~~ (m) Whenever the Commissioner of Agriculture or  
4 Industries or a local sealer of weights and measures finds a  
5 violation of the statutes relating to weights and measures, he  
6 or she shall cause the violator to be prosecuted.

7 "(n) Notwithstanding the provisions of this section,  
8 the testing, inspection, and examination of all weights,  
9 measures, and weighing or measuring devices is subject to the  
10 oversight authority of the commissioner as set forth  
11 hereinabove.

12 "§8-16-18.

13 "(a) Any person violating any provision of this  
14 chapter or the rules and regulations issued hereunder shall be  
15 guilty of a misdemeanor and, upon conviction, unless otherwise  
16 provided in this chapter, shall be fined not more than \$500  
17 and may also be sentenced to hard labor for not more than six  
18 months.

19 "(b) In addition to the criminal penalty provided  
20 for in subsection (a), the Board of Agriculture and Industries  
21 may adopt a schedule of civil fines for violations of this  
22 chapter. All fines collected under this chapter shall be  
23 deposited into the Agricultural Fund in the State Treasury."



1                   Section 2. This act shall become effective following  
2           its passage and approval by the Governor, or its otherwise  
3           becoming law.

