



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5638

by Rep. Donald L. Moffitt

#### SYNOPSIS AS INTRODUCED:

225 ILCS 470/40

from Ch. 147, par. 140

225 ILCS 470/56.1

from Ch. 147, par. 156.1

Amends the Weights and Measures Act. Provides individuals 60 days after the issuance of notice from the Department of Agriculture to pay a fee or monetary penalty under the Act before the Department may prohibit that person from using commercial weighing and measuring devices. Provides that penalties not paid within 60 days of notice may (rather than shall) be submitted to the Attorney General's office for collection. Provides that the Department may prohibit a person from using a commercial weighing or measuring device for any administrative penalty not paid within 60 days' notice from the Department. Effective immediately.

LRB099 15933 MLM 40250 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Weights and Measures Act is amended by  
5 changing Sections 40 and 56.1 as follows:

6 (225 ILCS 470/40) (from Ch. 147, par. 140)

7 Sec. 40. Inspection fee; Weights and Measures Fund. The  
8 Director and each sealer shall collect and receive from the  
9 user of weights and measures a commercial weighing or measuring  
10 device inspection fee. For the use of its Metrology Laboratory,  
11 the testings of weights and measures and such other inspection  
12 and services performed, the Department shall set a fee, the  
13 amount of which shall be according to a Schedule of Weights and  
14 Measures Inspection Fees established and published by the  
15 Director. The fees so collected and received by the State shall  
16 be deposited into a special fund to be known as the Weights and  
17 Measures Fund. All weights and measures inspection fees,  
18 metrology fees, weights and measures registrations, and  
19 weights and measures penalties collected by the Department  
20 under this Act shall be deposited into the Weights and Measures  
21 Fund. The amount annually collected shall be used by the  
22 Department for activities related to the enforcement of this  
23 Act and the Motor Fuel and Petroleum Standards Act, and for the

1 State's share of the costs of the Field Automation Information  
2 Management project. No person shall be required to pay more  
3 than 2 inspection fees for any one weighing or measuring device  
4 in any one year when found to be accurate. When an inspection  
5 is made upon a weighing or measuring device because of a  
6 complaint by a person other than the owner of such weighing or  
7 measuring device, and the device is found accurate as set forth  
8 in Section 8 of this Act, no inspection fee shall be paid by  
9 the complainant. Any time a weighing or measuring device is  
10 found to be inaccurate, the user shall pay the inspection fee.

11 If any person fails or refuses to pay, within 60 days after  
12 the issuance of notice from the Department, a fee authorized by  
13 this Section or a monetary penalty resulting from an  
14 administrative hearing for a violation of this Act, the  
15 Department may prohibit that person from using commercial  
16 weighing and measuring devices. In addition to prohibiting the  
17 use of the device, the Department may also recover interest at  
18 the rate of 1% per month from the time the payment is owed to  
19 the Department until the time the Department recovers the fee.

20 (Source: P.A. 96-1333, eff. 7-27-10.)

21 (225 ILCS 470/56.1) (from Ch. 147, par. 156.1)

22 Sec. 56.1. Administrative penalties; judicial review. When  
23 an administrative hearing is held, the hearing officer, upon  
24 determination of any violation of any Section of this Act shall  
25 levy the following administrative monetary penalties:

1 (A) A penalty of \$500 for a first violation.

2 (B) A penalty of \$1,500 for a second violation at the  
3 same location within 2 years of the first violation.

4 (C) A penalty of \$2,500 for a third or subsequent  
5 violation at the same location within 2 years of the second  
6 violation.

7 The penalty so levied shall be collected by the Department.  
8 Any penalty not paid within 60 days of notice from the  
9 Department ~~may shall~~ be submitted to the Attorney General's  
10 office for collection. The Department may prohibit a person  
11 from using a commercial weighing or measuring device for any  
12 administrative penalty not paid within 60 days' notice from the  
13 Department.

14 All final administrative decisions of the Department are  
15 subject to judicial review under the Administrative Review Law.  
16 The term "administrative decision" is defined as in Section  
17 3-101 of the Code of Civil Procedure.

18 (Source: P.A. 96-1333, eff. 7-27-10; 97-333, eff. 8-12-11.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.