

TITLE 71
WEIGHTS AND MEASURES

CHAPTER 3
ENFORCEMENT AND PENALTIES

71-303. INTERFERING WITH OFFICERS -- PENALTY. Any person who shall hinder or obstruct in any way the director, administrator or bureau chief, or any of the inspectors, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars (\$20.00) or more than two hundred dollars (\$200), or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.

[71-303, added 1969, ch. 43, sec. 28, p. 108; am. 1974, ch. 18, sec. 241, p. 364.]

71-304. IMPERSONATION OF OFFICERS -- PENALTY. Any person who shall impersonate in any way the director, the administrator or bureau chief, or any one (1) of the inspectors, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

[71-304, added 1969, ch. 43, sec. 29, p. 108; am. 1974, ch. 18, sec. 242, p. 364.]

71-305. ACTS CONSTITUTING MISDEMEANORS -- PENALTIES. Any person who, by himself, or by his servant or agent, or as the servant or agent of another person, performs any one (1) of the acts enumerated in subparagraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon first conviction thereof, shall be punished by a fine of not less than twenty dollars (\$20.00) or more than two hundred dollars (\$200) or by imprisonment for not more than three (3) months, or by both such fine and imprisonment. Upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(1) Use or have in possession for the purpose of using for any commercial purpose specified in section [71-113](#), [Idaho Code,] sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(2) Use, or have in possession for the purpose of current use for any commercial purpose specified in section [71-113](#), [Idaho Code,] a weight or measure that does not bear a seal or mark such as is specified in section [71-117](#), unless such weight or measure has been exempted from testing by the provisions of section [71-113](#), [Idaho Code,] or by a regulation of the director issued under the authority of section [71-111](#), [Idaho Code,] or unless the apparatus has been placed in service as provided by a regulation of the director issued under the authority of section [71-111](#), [Idaho Code].

(3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(4) Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.

(5) Sell, or offer to 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 weight or measure 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 weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(9) Violate any provision of this act or of the regulations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

[71-305, added 1969, ch. 43, sec. 30, p. 108.]

71-306. INJUNCTIONS -- IMPOUNDING OF COMMODITIES. The director is authorized to apply to any district court for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provisions of this act, and may order any commodity or weight or measure to be seized and held pending the outcome of said action.

[71-306, added 1969, ch. 43, sec. 31, p. 108.]

71-307. PRESUMPTIVE PROOF OF USE OF WEIGHT OR MEASURE. For the purposes of this act, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, inclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence on [of] conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, inclosure, stand or vehicle.

[71-307, added 1969, ch. 43, sec. 32, p. 108.]

71-308. REVIEW OF ORDERS -- APPEAL. (1) Any person aggrieved by any "stop-use order," "stop-removal order," "removal order," "rejection," "condemnation," "off sale order" or other action or investigation made or done pursuant to this act may within thirty (30) days after an order is issued or any action is taken, petition the director for a hearing to determine the matter as provided for in relation to contested cases by [chapter 52, title 67](#), Idaho Code, and may thereafter as provided for in [chapter 52, title 67](#), Idaho Code, appeal any decision of the director.

(2) The director shall give due notice and hold a hearing within ten (10) days after confiscating any apparatus or commodity under section [71-117](#) [, Idaho Code,] or seizing any apparatus of [or] commodity for evidence under section [71-118](#) [, Idaho Code]. Said hearing shall be held under the provisions of [chapter 52, title 67](#), Idaho Code, and shall be for the

purpose of determining whether any such commodity or apparatus was properly confiscated or seized, and to determine whether or not such commodity or apparatus was used for, or is in, violation of any provision of this act, and to determine the disposition to be made of such commodity or apparatus. Any such decision may be appealed from as provided for in [chapter 52, title 67](#), Idaho Code.

[71-308, added 1969, ch. 43, sec. 33, p. 108.]