

# ALLEN COUNTY CODE TITLE 1 GENERAL PROVISIONS

## ARTICLE 31 WEIGHTS AND MEASURES ENFORCEMENT

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### 31-01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMMERCIAL WEIGHING AND MEASURING DEVICE.** A weight or measure or weighing or measuring device used to establish size, quantity, area or other quantitative measurement of a commodity sold or bartered by weight or measurement, or where the price to be paid for producing the commodity is based upon the weight or measurement of the commodity. The term includes an accessory attached to, or used in connection with, a commercial weighing or measuring device when the accessory is so designed or installed that its operation may affect the accuracy of the device.

**INCORRECT** As applied to a commercial weighing and measuring device includes any failure to comply with the requirements of Handbook 44: Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices adopted by the National Conference on Weights and Measures, and published by the National Institute of Standards and Technology, excluding paragraph S.5 of section 3.30, as adopted by the State of Indiana.

**INSPECTOR or DEPUTY INSPECTOR.** The Inspector and Deputy Inspector(s) for the Department of Weights and Measures for Allen County.

**PERSON.** Any individual, partnership, corporation, proprietor, agent, lessee, or employee placing in service, using or employing a weighing or measuring device or who is engaged in the selling or bartering of goods or commodities within Allen County.

### 31-02 PURPOSE

It is the intent of this chapter to apply fair and effective enforcement practices of Indiana's Weights and Measures laws with respect to commercial weighing and measuring devices.

### 31-03 INCORRECT WEIGHING AND MEASURING DEVICES

(A) No person shall use or employ within Allen County an incorrect weighing or measuring device. A person who violates this section shall be fined \$25 per device.

(B) A person placing the following commercial weighing and measuring device in service shall not place the devices until an Inspector or Deputy Inspector has been notified of the location of said device, the device has been re-inspected, and any tags, stickers, security seals, etc., if any, are replaced on the instrument by the Inspector or Deputy Inspector. The Department of Weights and Measures may grant exceptions if immediate resealing is impractical. If exception is granted, the Inspector or Deputy Inspector shall issue a confirmation number to the person to document the notification. A person who violates this section shall be fined \$25 per day for each device until the Department of Weights and Measures is informed as required by this section:

(1) A commercial weighing and measuring device previously rejected as incorrect or condemned by an Inspector or Deputy Inspector and placed in service for the first time after its rejection or condemnation; or

(2) A commercial weighing and measuring device in service after repair.

### **31-04 DUTY TO REPORT**

A person who operates weighing or measuring devices shall inform the Department of Weights and Measures that a device has been installed and provide the location of said device prior to that device being placed in service. A person who violates this section shall be fined \$50 per device.

### **31-05 REFUSAL OF INSPECTION**

If any person fails to present a device or devices for annual or random inspection, or fails to allow the Department of Weights and Measures to conduct an inspection on the premises, the person shall be prohibited from placing the device(s) in use. The Department of Weights and Measures shall have the authority to order the person owning or operating the device(s) to present the device(s) for inspection at a time designated by the department. A person who violates this section shall be fined \$50 per day per device from the time the inspection is denied until the time the inspection occurs. A citation shall be issued for each day the violation occurs, and each citation shall be considered a separate violation.

### **31-06 MOBILE DEVICES**

If a weighing or measuring device is mobile or otherwise operated at more than one location and is not made available to be inspected by the Department of Weights and Measures at a permanent business location during normal business hours, the person shall be prohibited from placing the device in use. The Department of Weights and Measures shall have the authority to order the person owning or operating the device to present the device for inspection by the department at a time and location designated by the department. A person who fails to comply with such orders of the Department of Weights and Measures shall be fined \$50 per day per instrument from the time the order by the department was given until the time the person presents the device for inspection. A citation shall be issued for each day the violation occurs, and each citation shall be considered a separate violation.

### **31-07 SECURITY SEALS**

Unless an exception is granted regarding post repair 31-03(B)(2) no weighing or measuring device shall be used in the business of selling, buying, bartering or exchanging of goods or commodities if the security seal has been cut, severed, or removed. A person who violates this section shall be fined \$50 per device.

### **31-08 ENFORCEMENT**

(A) The Inspector or Deputy Inspector may issue to the violator a citation that shall be written on a citation ticket and one copy kept on file in the Weights and Measure's office and a second copy kept on file in the Board of Commissioner's office. The Inspector or Deputy Inspector shall determine a fine as set forth in this chapter and the violator shall have ten days to correct the conditions of the violation and pay the fine to the Department of Weights and Measures.

(B) If within the ten days the violator fails to correct the conditions of the violation and pay the fine to the office of Weights and Measures, a summons may be issued, and a court date assigned. The court may impose such additional penalties, up to and including a fine of \$2,500, as it deems appropriate in accordance with Indiana Code 34-28-5

(C) Fines may be doubled if a person has a prior violation of this section within a 12-month period.

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