

## CHAPTER 2. GENERAL PROVISIONS

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### Authority

The provisions of this Chapter 2 issued under the Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4104—4194, unless otherwise noted.

### Source

The provisions of this Chapter 2 adopted May 7, 1999, effective May 8, 1999, 29 Pa.B. 2460, unless otherwise noted.

### § 2.1. Definitions.

The following word and terms, when used in this title, have the following meanings, unless the context clearly indicates otherwise:

*ASTM*—The American Society of Testing and Measurement.

*Act*—The Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4101—4194.

*Bureau*—The Bureau of Ride and Measurement Standards in the Department.

*CEWM*—*Certified Examiner of Weights and Measures*—An individual who has successfully completed the training courses prescribed by NIST and approved by the Department in accordance with § 4.6 (relating to training courses), and who holds a current certificate issued by the Department in accordance with the certification standards in this chapter.

*CEWM certificate*—A document issued by the Department to a particular person to evidence that the named individual is a CEWM.

*Certified UPC/PLU inspector*—An individual who is certified by the Department as meeting the training and application requirements of Chapter 5 (relating to UPC scanning systems and PLU devices) and who is lawfully qualified to inspect UPC scanning systems and PLU devices for purposes of the testing and inspections required under section 4112(c) of the act (relating to general testing and inspections).

*Commodity*—Anything such as goods, wares, merchandise, compound mixture or preparation, products of manufacture or tangible personal property which may be lawfully kept, sold or offered for sale or a product being transported by vehicle and sold or priced by weight, or a service priced by weight.

*Commodity in package form*—

- (i) A commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale exclusive of auxiliary shipping container enclosing packages that individually conform to the requirements of the act.

(ii) An individual item or lot of any commodity not in package form but on which there is a marked selling price based on an established price per unit of weight or measure will be construed to be a commodity in package form.

*Consumer package or package of consumer commodity*—A commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions and which usually is consumed or expended in the course of consumption or use.

*Commercial feed facility*—Each separate mill or plant, whether fixed or mobile, or distributor of commercial feed or customer-formula feed, as those terms are defined in 3 Pa.C.S. §§ 5101—5115 (relating to the Commercial Feed Act).

*Commercially used weighing and measuring devices*—

(i) Weights and measures used in determining the weight, measurement or count of commodities or things sold, offered for sale or exposed for sale on the basis of weight, measure or count, or in computing the basic charge or payment for services rendered on the basis of weight, measure, count or time.

(ii) The term also includes UPC scanning systems and PLU devices used to determine the amount due with respect to commodities or things sold, offered for sale or exposed for sale.

*Cord*—The amount of wood that is contained in a space of 128 cubic feet when the wood is racked and well stowed when used in connection with wood intended for fuel purposes.

*Department*—The Department of Agriculture of the Commonwealth.

*Director*—The Director of the Bureau.

*Domestic consumers*—Consumers in residences, apartment houses, stores, churches, office buildings and similar edifices, as distinguished from industrial plants.

*Field standards*—A standard that is calibrated against a reference standard, and is routinely used to calibrate or check material measures, measuring instruments or reference materials.

*Food Act*—31 P. S. §§ 20.1—20.18.

*Food establishment*—

(i) A retail food store and a room, building or place or portion thereof or vehicle maintained, used or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, baking, canning, freezing, packing or otherwise preparing or transporting or handling food.

(ii) The term includes those portions of public eating and drinking licensees which offer food for sale for off-premises consumption, except those portions of establishments operating exclusively under milk or milk products permits.

*Inspector or State inspector*—A State inspector of weights and measures.

*Intrastate commerce*—Commerce or trade that is begun, carried on or completed wholly within the limits of this Commonwealth.

*Introduced into intrastate commerce*—The time and place at which the first sale or delivery, or both, of a commodity is made within this Commonwealth, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

*Licensed public weighmaster*—A person holding a valid weighmaster's license issued in accordance with section 4151 of the act (relating to licenses) and Chapter 8 (relating to training program for inspectors and sealers), and authorized to issue weighmaster's certificates.

*Light fuel oils*—Kerosene, number one fuel oil, number two fuel oil, number three fuel oil and any similar oil used for domestic heating as distinguished from heavy industrial oils.

*Memorandum of understanding*—A written agreement pursuant to which the Department delegates to a city or county all or a portion of the enforcement duties and responsibilities assigned the Department under section 4121(a) of the act (relating to powers and duties of director and inspector) and this chapter, and that is otherwise in conformance with section 4125 of the act (relating to division of responsibilities).

*NCWM*—The National Conference on Weights and Measures.

*NIST*—The National Institute of Standards and Technology.

*Nonconsumer package or package of nonconsumer commodity*—A commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

*OIML*—The International Organization of Legal Metrology.

*Office standards*—A complete set of copies of the State primary standards of weight and measure kept by the State Metrology Laboratory.

*PLU—Price look-up*—A pricing system where numbers are assigned to items or commodities, and the price is stored in a database for recall when the numbers are manually entered. PLU codes are used with scales, cash registers and point-of-sale systems.

*PLU device—Price look-up device*—A device that can access a database price file. The term includes bar code beam or contact scanners, Optical Character Recognition (OCR) scanners or readers, magnetic scanners or readers, alpha or numeric, or both, keyboards, voice response systems and computer-based retail price retrieval systems.

*PLU system—Price look-up system*—A computer-based retail price retrieval system.

*Person*—A corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

*Private certification program*—A program under which a Certified UPC/PLU Inspector inspects a commercially used UPC scanning system or PLU device at least annually on an unannounced basis, and which otherwise conforms with section 4112(c) of the act and Chapter 5.

*Public eating and drinking place*—

(i) A place within this Commonwealth where food or drink is served to or provided for the public, with or without charge, or a place which otherwise conforms to the definition in section 1 of the Public Eating and Drinking Place Law (35 P. S. § 655.1).

(ii) The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

*Public Eating and Drinking Place Law*—The act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13).

*Public weighing*—The weighing of any commodity for any commercial purpose.

*Scanning system*—A general term for any of the several types of PLU technologies capable of communicating with a database price file or retail price retrieval system. The term includes hardware, software and supporting computer systems.

*Sealer*—A sealer or deputy sealer of weights and measures of a city, county or joint city-county jurisdiction.

*Secretary*—The Secretary of the Department.

*Sell or sale*—Barter and exchange.

*Single service device*—A device that is designed to be used commercially only once and then discarded.

*Solid fuel*—Anthracite, semianthracite, bituminous, semibituminous or lignite coal, briquettes, boulets, coke, gashouse coke, petroleum coke, carbon, charcoal or any other natural, manufactured or patented fuel not sold by liquid or metered measure.

*State Metrology Laboratory*—The Pennsylvania Standards Laboratory within the Department of General Services, having custody of the State standards of weight and measure and of other standards and equipment provided for by the act.

*State standards*—Standards of weight and measure which conform with the standards of the United States, which have been certified as being satisfactory for use as the State standards by NIST, which are maintained at the State Metrology Laboratory and which otherwise conform with section 4106 of the act (relating to state standards of weight and measure).

*Type*—A class the individual objects of which are similar to another in design construction, size and material.

*UPC scanning system*—A scanning system capable of reading UPC symbology and reflecting the information represented by that symbology in the price a person pays for commodities or things sold, offered for sale or exposed for sale.

*UPC/PLU inspector's certificate*—A document issued by the Department to a particular person to evidence that the named individual has successfully completed the training necessary for the person to be qualified to inspect UPC scanning systems and PLU devices for purposes of section 4112(c) of the act.

*UPC—Universal product code*—A general term for any of several types of bar code symbology. The term may refer to various versions of symbology developed by the Uniform Code Council, including UPC versions A or E of the Uniform Code Council: Codes 2 of 5, 3 of 9, 128 or any others available now or in the future.

*Use in trade or commerce*—Buying or selling goods, wares, merchandise or services.

*Vehicle*—A device in, upon or by which any property, produce, commodity or article is or may be transported or drawn.

*Weights and measures*—Weights and measures of every kind, instruments and devices for weighing and measuring and any appliances and accessories associated with any or all such instruments or devices.

(i) The term includes the following: parking meters, postal scales and other scales used to determine shipping charges, pill counters, grain moisture meters, coin-operated person weighers, coin-operated air dispensers and coin-operated axle and vehicle scales.

(ii) The term also includes PLU devices and UPC scanning systems in food establishments required to be licensed in accordance with the Food Act.

(iii) The term does not include portable scales used to determine compliance with 75 Pa.C.S. Chapter 49 (relating to size, weight and load), meters for the measurement of electricity, gas, natural or manufactured, steam, coolant or water or the counting or timing of telephone calls when the same are operated in a public utility system or taxi meters. These portable scales, electricity, gas, steam, coolant, water and telephone meters and taxi meters are specifically excluded from the purview of the act and none of the provisions of the act apply to these meters or to any appliances or accessories associated therewith.

#### Authority

The provisions of this § 2.1 amended under the Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4101—4194.

**Source**

The provisions of this § 2.1 amended October 28, 2005, effective October 29, 2005, 35 Pa.B. 5985. Immediately preceding text appears at serial pages (255617) to (255621).

**§ 2.2. Contacting the Department.**

For purposes of this title, a person may contact the Department at the following address:

Department of Agriculture  
Bureau of Ride and Measurement Standards  
2301 North Cameron Street  
Harrisburg, Pennsylvania 17110-9408  
Telephone Number: (717) 787-9089  
FAX Number: (717) 783-4158

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