

County Council of Cuyahoga County, Ohio

Ordinance No. O2026-0008

Sponsored by: County Executive Ronayne/Department of Consumer Affairs Co-sponsored by: Councilmembers Turner, Conwell & Miller	An Ordinance amending Chapter 1302 (Weights and Measures) of Title 13 (Commercial Regulation) of the Cuyahoga County Code to conform the County’s weights-and-measures program to current state law and national standards and to establish price-verification, item-pricing, penalty, and consumer-remedy provisions.
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WHEREAS, Article X, Section 3 of the Ohio Constitution and the Cuyahoga County Charter vest in the County the powers of local self-government and authorize the County to establish local regulatory programs for the protection of the residents of Cuyahoga County in their commercial transactions; and

WHEREAS, accurate weights, measures, and pricing are essential to fair dealing in commerce and to the protection of consumers and honest merchants within Cuyahoga County; and

WHEREAS, Chapter 1327 of the Ohio Revised Code and the Handbooks of the National Institute of Standards and Technology, including Handbooks 44, 130, and 133, establish the technical standards for commercial weighing and measuring devices, packaging, and price verification that the County's weights-and-measures program administers and enforces; and

WHEREAS, the existing Chapter 1302 of the Cuyahoga County Code requires amendment to conform its definitions and procedures to current state law and national standards, to incorporate price-verification and package-checking requirements, to establish proportional penalties and reinspection procedures, and to provide for administrative appellate review by the Administrative Appeals Board established under Section 205.11 of this Code; and

WHEREAS, the County intends that this Chapter supplement, and not conflict with, the general laws of the State of Ohio.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Chapter 1302 (Weights and Measures) of Title 13 (Commercial Regulation) of the Cuyahoga County Code is hereby amended to read as follows, with additions indicated by underlining and deletions indicated by strikethrough.

Chapter 1302: Weights and Measures

Section 1302.01: Definitions

~~As used in Chapter 1302:~~

~~A. “Correct” shall mean conformance to all applicable requirements of this Chapter.~~

~~B. “Department” shall mean the Cuyahoga County Department of Consumer Affairs.~~

~~C. “Director” shall mean the Director of the Department of Consumer Affairs.~~

~~D. “Package” shall mean any commodity enclosed in a container or wrapped in any manner in advance of wholesale or retail sale. An individual item or lot of any commodity on which there is marked a selling price based on an established price per unit of weight or of measure shall be considered a package or packages.~~

~~E. “Person” shall mean any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust partnership, association, cooperative, or other legal entity.~~

~~F. “Primary standards” means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.~~

~~G. “Secondary standards” means the physical standards that are traceable to the primary standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.~~

~~H. “Sale from Bulk” shall mean the sale of commodities when the quantity is determined at the time of the sale.~~

~~I. “Seal” shall mean any official tag, seal, wire, or mark of the Cuyahoga County Department of Consumer Affairs, Weights and Measures Division, indicating a device has been inspected.~~

~~J. “Sealer” shall mean the Cuyahoga County Fiscal Officer. When in this Chapter the words “Sealer” are used, they shall mean the Fiscal Officer, or any of his or her delegates duly authorized to perform the duties of such officer.~~

~~K. "Short-weight Packages" shall mean any "standard pack" or "pre-pack commodity" whose net contents is not equal to or exceed the labeled or advertised quantity at the retail outlet.~~

~~L. "Weight" means as used in connection with any commodity or service net weights. "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.~~

~~M. "Weight(s) and/or Measure(s)" shall mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices~~

As used in Chapter 1302:

A. "Point-of-sale system" shall mean any system that uses a Universal Product Code scanner, price look-up code, or any other system that relies upon the retrieval of electronically stored pricing information to complete a consumer transaction.

B. "Certificate of Conformance" shall mean a certificate issued under the National Type Evaluation Program (NTEP) as published in NCWM Publication 14, certifying that a device type has been evaluated and found to comply with the applicable requirements of NIST Handbook 44.

C. "Commercial weighing and measuring device" shall mean any device described in the National Institute of Standards and Technology Handbook 44, or its supplements and revisions, used in any commercial transaction, including but not limited to retail scales, fuel dispensers, vehicle scales, vehicle tank meters, LPG meters, and electric vehicle supply equipment (EVSE) dispensers that sell electricity by the kilowatt-hour.

D. "Correct" shall mean that a device, in addition to being accurate, conforms to all applicable specification requirements of this Chapter. A device that fails to meet any applicable requirement for being correct is "incorrect."

E. "Department" shall mean the Cuyahoga County Department of Consumer Affairs.

F. "Director" shall mean the Director of the Department of Consumer Affairs.

G. "Package" shall mean any commodity enclosed in a container or wrapped in any manner in advance of wholesale or retail sale. An individual item or lot of any

commodity on which there is marked a selling price based on an established price per unit of weight or of measure shall be considered a package or packages.

H. "Inspector" means any person as designated by Cuyahoga County who is certified with the State or in the process of certification with the State to perform weights and measures duties in the field.

I. "Inspection Report" means a written report including the results of the weights and measures test. If violations are found during the course of testing, the report may include a notice of violation issued pursuant to Section 1302.04(A)(2) identifying the violation and the corrective action required.

J. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

K. "Regulated transaction" shall mean any transaction in which a commodity or service is sold, offered, or advertised for sale by weight, measure, volume, length, count, or any other quantitative representation, regardless of whether the buyer is a consumer, business, or other entity, and regardless of whether the transaction occurs at a fixed retail location, through electronic commerce, delivery, curbside pickup, or any other sales channel.

L. "Sale from Bulk" shall mean the sale of commodities when the quantity is determined at the time of the sale.

M. "Seal" shall mean any official tag, seal, wire, or mark of the Cuyahoga County Department of Consumer Affairs, Weights and Measures Division, indicating a device has been inspected or tested.

N. "Sealer" shall mean the Cuyahoga County Fiscal Officer or designee, who shall be an Inspector.

O. "Working standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.

P. "Serviceperson" shall mean any individual who is registered with the State and who, for compensation, installs, services, repairs, reconditions, or places into service a commercially used weighing and measuring device.

Q. "Short-weight Packages" shall mean any "standard pack" or "pre-pack commodity" whose net contents are not equal to or exceed the labeled or advertised quantity at the retail outlet.

R. "Weight," as used in connection with any commodity, means net weight. "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are

not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

S. "Weight(s) and/or Measure(s)" shall mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

T. Incorporation of Chapter 1301 Definitions. All terms used in this Chapter that are defined in Section 1301.01 shall have the meanings set forth therein. Such terms include, without limitation, Charging Document, Civil Citation, Final Order, Respondent, Corrective Compliance, Assurance of Voluntary Compliance, and Administrative Appeals Board. Where a term defined in Section 1301.01 conflicts with a definition in this Chapter, the definition in this Chapter shall control.

U. "Condemned order," "off-sale order," "stop-use order," and "stop-sale order" each refer to an order issued under Section 1302.04(A)(2) or Section 1302.07(E) prohibiting the use, sale, or offer for sale of a weighing or measuring device, package, or commodity. The terms are used interchangeably.

Section 1302.02: Filing Consumer Complaints

The obligations and prohibitions in this Chapter shall supplement and be consistent with any and all ~~State, state of Ohio laws,~~ rules, regulations, and procedures governing weights and measures. Any person who ~~feels~~ believes they have been subjected to unfair or deceptive practices or unconscionable consumer sales acts or practices directly related to any violation of this Chapter, the Ohio Revised Code, or the Ohio Administrative Code related to weights and measures laws may ~~file a complaint in writing with contact~~ the Cuyahoga County Department of Consumer ~~Affairs.~~ Affairs to file a complaint in writing or verbally. The complaint should be filed ~~at any time within two (2) years from the date of the alleged violation or within a reasonable time after the consumer discovers or should have discovered the violation, whichever is later.~~ Filing a complaint pursuant to this Chapter does not toll the statute of limitations for any other action before another entity or court. The complaint should state enough details of the incident to allow the Department to investigate the circumstances surrounding the incident, and at a minimum, the complaint should state the name and address of the person alleged to have committed the violation, the details of the violation, and any other information the Department deems necessary: the violation.

Section 1302.03: Standards for Weights and Measures

A. The systems of weights and measures

The definitions of basic units of weight and measure, the tables of weights and measures, and weights and measures equivalents as published by the National

Institute of Standards and Technology are recognized and adopted by the Department and shall govern weighing and measuring equipment and transactions in the county.

B. Technical requirements for weighing and measuring devices

The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," and supplements thereto or revisions thereof, shall apply to weighing and measuring devices in the county, except insofar as modified or rejected by applicable provisions of the Ohio Revised Code or Ohio Administrative Code.

C. Information required on packages. ~~Except~~

As set out in ORC 1327.57, and except as otherwise provided in this Chapter or by regulation promulgated pursuant hereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

1. The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;
2. The net quantity of the contents in terms of weight, measure, or count;
3. The name and place of business of the manufacturer, packer, or distributor, in the case of any package kept, offered, or exposed for sale or sold in any place other than on the premises where packed.

D. Declarations of unit price on random weight packages

In addition to the declarations required in ~~Section 1302.05(I)~~ subsection (C) of this Chapter, Section, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

E. Advertising packages for sale

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or regulations to appear on the package. Where a dual declaration is required, the declaration that sets forth the quantity in terms

of the smaller unit of weight or measure ~~need~~ must appear in the advertisement. ~~F. Prohibitions. No person shall: 1. Use or have in possession for use in commerce any incorrect weight or measure. 2. Remove any seal from any weight or measure device without specific written authorization from the proper authority. 3. Hinder or obstruct any Weights and Measures' official in the performance of his or her duties. 4. Sell, offer or expose, use or keep to be used, any weight or measure for weighing or measuring any article bought, sold, offered or exposed for sale, which is liable to indicate false or inaccurate weight or measure, or which does not conform to the standard established by law. 5. Sell, offer or expose any weight or measure for weighing or measuring of products for sale without said weight and measure having been tested, marked and sealed by weights and measures official. 6. Misrepresent the price of any commodity or service, sold, offered, exposed or advertised for sale by weight, measure or count, or represent the price in any manner calculated or tending to mislead or in any way deceive a person.~~

Section 1302.04: Duty of Testing and Sealing

~~A. When necessary for the enforcement of this Chapter, the Sealer is hereby:~~

~~1. Authorized to enter any commercial premises during normal business hours, except in the event such premises are not open to the public.~~

~~2. Empowered to issue violations and condemned orders with respect to any weights and measures commercially used, and issue violations and off sale orders with respect to any packaged commodities or bulk commodities, kept, offered or exposed for sale.~~

~~3. Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale or sold in violation of the provisions of this Chapter.~~

~~4. With respect to the enforcement of this Chapter, the Sealer is hereby vested with the authority and is to investigate any commercial vendors within the county found to possess weighing and/or measuring devices which are in violation of this Chapter.~~

A. When necessary for the enforcement of this Chapter, the Sealer is hereby:

1. Authorized to enter, during normal business hours, any commercial premises;

2. Empowered to issue notices of violation and stop-sale orders with respect to any weights and measures commercially used or any packaged

commodities or bulk commodities kept, offered, or exposed for sale. A notice of violation under this subsection shall identify the device or commodity, the nature of the violation, the corrective action required, and the time period within which the violation must be corrected;

3. Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered or exposed for sale, or sold in violation of the provisions of this Chapter;

4. Vested with the authority to investigate any commercial vendors within the county found to possess weighing and/or measuring devices which are in violation of this Chapter.

B. Inspection and Reinspection.

1. The Sealer may conduct unannounced inspections and testing of commercial weighing and measuring devices and point-of-sale systems within the county, and may conduct other weights and measures testing, including but not limited to price verification under NIST Handbook 130 and package checking under NIST Handbook 133, at such intervals as the Director determines necessary to protect consumers and ensure compliance with this Chapter.

2. When a device or point-of-sale system fails an initial inspection, the owner or operator shall cause the device or system to be corrected within the prescribed timeframe and shall notify the Department when it is ready for reinspection. The Department may also reinspect any establishment that fails a price-verification inspection conducted under NIST Handbook 130.

3. The Department may, following the first reinspection, charge a reinspection fee, as provided in Section 1302.07(H), for a device or system that failed its initial inspection and was not corrected within the prescribed timeframe.

Section 1302.05: Equipment

A. Suitability of equipment

Commercial equipment shall be suitable for the service in which it is used with respect to elements of its design, including but not limited to its weighing capacity (for weighing devices), its computing capability (for computing devices), its rate of flow (for liquid measuring devices), the character, number, size, and location of its indicating or recording elements, and the value of its smallest unit and unit prices.

B. Accessibility for testing purposes

A device shall be so located, or such facilities for normal access thereto shall be provided, to permit inspecting and testing the device; inspecting and applying security seals to the device; and readily bringing the testing equipment of the Weights and Measures official to the device by customary means and in the amount and size deemed necessary by such official for the proper conduct of the test. Otherwise, it shall be the responsibility of the device owner or operator to supply such special facilities, including such labor as may be needed to inspect, test, and seal the device, and to transport the testing equipment to and from the device, as required by the Weights and Measures official.

C. Method of operation

Equipment shall be operated only in ~~the~~ a manner that is obviously indicated by its construction or that is indicated by instructions on the equipment.

D. Installation

A device shall be installed in accordance with the manufacturer's instructions, including any instructions marked on the device. A device installed in a fixed location shall be installed so that neither its operation nor its performance will be adversely affected by any characteristic of the foundation, supports, or any other detail of the installation.

E. Position of equipment

A device or system equipped with a primary indicating element and used in direct sales, except for prescription scales, shall be positioned so that its indications may be accurately read and the weighing or measuring operation may be observed from some reasonable "customer" and "operator" position. The permissible distance between the equipment and a reasonable customer and operator position shall be determined ~~in each case upon the~~ on a case-by-case basis of the individual circumstances, particularly the size and character of the indicating element.

F. Maintenance of equipment

All equipment in service and all mechanisms and devices attached thereto or used in connection therewith shall be continuously maintained in proper operating condition throughout the period of such service. Equipment in service at a single place of business found to be in error predominantly in a direction favorable to the device user shall not be considered "maintained in a proper operating condition."

G. Requirements for the method of sale of commodities

The ~~Uniformed~~ Uniform Regulation for the Method of Sale of Commodities as adopted by the ~~National Conference on Weights and Measures~~ and published in National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to the method of sale of commodities in the county, ~~except insofar as modified or rejected by applicable provisions of the Ohio Revised Code or Ohio Administrative Code.~~ county.

H. Requirements for packaging and labeling

The Uniform Packaging and Labeling Regulation as ~~adopted by the National Conference on Weights and Measures~~ and published in the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to packaging and labeling in the county, except insofar as modified or rejected by regulation.

I. Requirements for price verification

The Examination Procedures for Price Verification as ~~adopted by the National Conference on Weights and Measures~~ and published in the National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations," and supplements thereto or revisions thereof, shall apply to price verification in the county, except insofar as modified or rejected by regulation.

J. Requirements for package checking

The procedures for checking the net contents of packaged goods as published in the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and supplements thereto or revisions thereof, shall apply to the checking of packaged commodities in the county.

K. Itinerant vendor

All itinerant vendors using a weighing or measuring device in the county shall have that device inspected and tested by the Weights and Measures officials at the point of sale. ~~K. Obstructing county weights and measures inspector prohibited. No person shall obstruct or hinder County Weights and Measures inspectors in the performance of any of the duties imposed upon him or her by the provisions of this Chapter.~~

Section 1302.06: Deceptive Practices Prohibited Acts

~~No person shall do any of the following:~~

~~A. Sell, offer, or expose for sale less than the quantity he represents;~~

~~B. Take any more than the quantity he represents when, as a buyer, he furnishes the weight or measure by means of which the quantity is determined;~~

~~C. Represent the quantity he sells or offers or exposes for sale in any manner tending to mislead or in any way to deceive~~

No Supplier shall:

A. Use or have in possession for use in commerce any incorrect weight or measure.

B. Sell, offer, or expose for sale less than the quantity represented.

C. Take any more than the quantity represented when, as a buyer, furnishing the weight or measure by means of which the quantity is determined.

D. Represent the quantity sold, offered, or exposed for sale in any manner calculated or tending to mislead or in any way to deceive.

E. Misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count, or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

F. Remove any seal from any weight or measure device without specific written authorization from the Department.

G. Hinder or obstruct any weights and measures official in the performance of his or her duties.

H. Sell, offer, or expose for sale, or use or keep to be used, any weight or measure for weighing or measuring any article bought, sold, offered, or exposed for sale, which is liable to indicate false or inaccurate weight or measure, or which does not conform to the standard established by law.

I. Sell, offer, or expose any weight or measure for weighing or measuring of products for sale without said weight and measure having been tested, marked, and sealed by a weights and measures official.

J. Use in commerce any commercial weighing or measuring device that does not hold a National Type Evaluation Program (NTEP) Certificate of Conformance as defined in Section 1302.01(B).

K. Violate any provision of this Chapter or any regulation promulgated pursuant hereto.

Section 1302.07: Remedies

~~A. Upon finding a violation of this Chapter, the Director shall expeditiously cause the same to be corrected or where there is evidence of intent to defraud commence a civil action in the name of the county to recover a civil penalty in the amounts prescribed. In lieu of instituting or continuing a cause of action for recovery of such civil penalty may be released, settled or compromised by the Director.~~

~~B. Seek injunctive relief as a means of enforcing this Chapter. Said injunctive relief may include, but is not limited to, an Assurance of Voluntary Compliance prohibiting the alleged violator from engaging in an unfair or deceptive practice; stipulation for payment of penalty and/or investigative costs. Any settlement shall be in writing and made a matter of public record.~~

~~C. Violation of an assurance entered pursuant to this section shall be treated as a violation of this Chapter and shall be subject to all the penalties provided therefor.~~

~~D. In enforcing this Chapter, the Director shall be subject to the jurisdiction, investigation, and enforcement provisions and procedures in Chapter 1301 of the Cuyahoga County Code, as long as it does not conflict with any other weights and measures laws enacted by other political subdivisions within the County.~~

~~E. A violation of any provision of this Chapter shall be punishable by a payment of a civil penalty in the sum of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00). Subsequent violations shall be punishable by a payment of a civil penalty of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).~~

A. Upon finding a violation of this Chapter, the Director shall expeditiously cause the same to be corrected or, where the violation is not timely corrected or there is evidence of intent to defraud, commence a civil action in the name of the county to recover a civil penalty in the amounts prescribed. In lieu of instituting or continuing a cause of action for recovery of such civil penalty, the penalty may be released, settled, or negotiated by the Director.

B. The Director may seek injunctive relief, enter into an Assurance of Voluntary Compliance, or both, as a means of enforcing this Chapter. An Assurance of Voluntary Compliance entered under this subsection shall prohibit the alleged violator from engaging in the conduct alleged to violate this Chapter and may include stipulation for payment of penalty or investigative costs. Any settlement shall be in writing and made a matter of public record.

C. Violation of an Assurance of Voluntary Compliance entered under Section 1301.05(D) in connection with a violation of this Chapter shall be treated as a violation of this Chapter and shall be subject to all the penalties provided therefor.

D. Incorporation of Chapter 1301 Procedures. In enforcing this Chapter, the Director shall be subject to the investigation and enforcement provisions and procedures set out in Chapter 1301 of the Cuyahoga County Code, including but not limited to the authority to issue Charging Documents and Civil Citations, and the administrative enforcement procedures of Section 1301.08. The remedies available under Chapter 1301, including injunctive relief, cease-and-desist orders, and Assurances of Voluntary Compliance, shall remain available to the Director for enforcement of this Chapter. A notice of violation issued by the Sealer or an Inspector under Section 1302.04(A)(2) shall constitute grounds for the Director to issue a Charging Document under Section 1301.05(B); the Director may also elect to proceed by Civil Citation under Section 1301.06 where the eligibility criteria of that section are satisfied. The limitations period in Section 1301.04 applies to County actions under this Chapter as if the term "this Chapter" in Section 1301.04 referred to this Chapter.

E. Stop-Use and Stop-Sale Orders

1. Authority. The Sealer or Director may issue an immediate stop-use or stop-sale order when a device or commodity: (a) fails to meet accuracy standards by more than the applicable tolerance; (b) has been tampered with or has a broken seal; or (c) poses an immediate risk of consumer harm.

2. Duration. A stop-use or stop-sale order remains in effect until: (a) the device is repaired, recalibrated, and passes reinspection; or (b) the order is lifted by the Director or by order of the Administrative Appeals Board or court.

3. Expedited Review. A respondent may request expedited review of a stop-use or stop-sale order by filing with the Administrative Appeals Board within five (5) business days. The Board shall conduct a review within five (5) business days and issue a decision within two (2) business days thereafter.

4. Violation of Order. Operation of a device or sale of a commodity in violation of a stop-use or stop-sale order shall constitute a separate violation subject to the maximum civil penalties under subsection (F) regardless of whether it is a first violation.

5. Exclusive Review; No Stay. A stop-use, stop-sale, or condemned order is reviewable exclusively as provided in paragraph (3) of this subsection and is not subject to the automatic stay under Section 205.11(E)(2). The inclusion of the substance of such an order in a subsequent Final Order does not stay, suspend, or terminate the order pending any appeal of that Final Order.

F. Civil Penalties. A violation of any provision of this Chapter shall be punishable by a payment of a civil penalty as prescribed in the penalty provisions of Section 1301.07(H).

1. Where a violation involves an uncorrected condition—including but not limited to the continued use or operation of a commercial weighing or measuring device or point-of-sale system that has failed inspection, that is subject to a stop-use, stop-sale, or condemned order under Sections 1302.04(A)(2) or 1302.07(E), or that has been found to maintain inaccurate pricing—and the respondent has been served with written notice identifying the violation and specifying a correction period of not fewer than fourteen (14) calendar days, each inspection the violation remains uncorrected after expiration of the correction period shall constitute a separate offense; provided, however, that no correction period is required for violations of a stop-use, stop-sale, or condemned order, which are immediately enforceable.

2. Per-inspection penalties shall not exceed the lesser of (i) the maximum penalty applicable to the violation under Section 1301.07(H), or (ii) the remaining aggregate available under this subsection. Each per-inspection assessment under this subsection shall be incorporated into the existing Final Order in the matter as a supplemental Final Order under Section 1301.08(C), with a fresh appeal trigger under Section 1301.08(E) running from service of the supplemental order. Where no Final Order has yet issued, the Director shall issue a Charging Document under Section 1301.05(B) and proceed under Section 1301.08. Aggregate per-inspection penalties for a single continuing violation shall not exceed twenty thousand dollars (\$20,000); provided, however, that upon a finding that the conduct was Willful, the aggregate shall not exceed the greater of one hundred thousand dollars (\$100,000) or five (5) times the total consumer harm.

G. Opportunity to Cure. For first-time violations involving device calibration or accuracy that do not involve intentional tampering, fraud, or consumer harm exceeding five hundred dollars (\$500), the respondent shall have fourteen (14) calendar days from service of the Inspection Report to correct the violation and provide proof of correction to the Department. If the violation is timely corrected and the respondent has no prior violations within three (3) years, no civil penalty shall be imposed, but the Director may assess reasonable reinspection costs. The opportunity to cure does not apply to: (a) violations involving intentional tampering, fraud, or deception; (b) violations causing actual consumer harm exceeding five hundred dollars (\$500); (c) second or subsequent violations of the same or similar nature within three (3) years; or (d) violations involving operation of a device after a stop-use order.

H. Reinspection Fees. In addition to any civil penalty, the Director may assess a reinspection fee against any Supplier whose commercial weighing or measuring device or point-of-sale system fails an inspection conducted pursuant to this Chapter. The reinspection fee shall not exceed thirty-five dollars (\$35) per reinspection.

I. Relationship to Other Enforcement Authorities.

1. State Weights and Measures Penalties. The civil penalties provided in this section are in addition to, and independent of, any penalties that may be assessed by the State of Ohio under ORC 1327.62 or ORC 1327.99. Nothing in this section shall be construed to limit the authority of the Director of Agriculture to assess penalties or pursue enforcement under state law, nor shall the assessment of a state penalty preclude the County from assessing a civil penalty under this section for the same or related conduct. A Supplier shall not, however, be required to pay both a state civil penalty under ORC 1327.62 and a county civil penalty under this section for the identical violation arising from the same inspection; where both the State and the County assess civil penalties for the identical violation, the County shall credit against its penalty any amount actually paid by the Supplier to the State for that violation.

2. Attorney General Consumer Protection Actions. The limitation on County civil penalty actions set forth in Section 1301.05(G) of this Code shall apply only to actions brought under Chapter 1301 and shall not bar, limit, or affect the assessment of civil penalties or reinspection fees under this Chapter. An action by the Ohio Attorney General under ORC 1345.07 shall not preclude the County from assessing or collecting any penalty or fee authorized by this Chapter.

3. Municipal Enforcement. Nothing in this section shall be construed to limit the authority of any municipal corporation within the county that has appointed a weights and measures official in accordance with ORC 1327.52 to enforce weights and measures laws within that municipality's jurisdiction.

J. [Reserved.]

K. Appeal. Any Final Order issued pursuant to this Chapter shall be subject to appeal to the Administrative Appeals Board pursuant to Section 205.11 of this Code, in accordance with the procedures set forth in Section 1301.08(E). The time for filing an appeal and the standard of review shall be as provided in Section 205.11.

L. Application of Corrective Compliance Orders. Where a violation of this Chapter has caused consumer harm but the affected consumers are not identifiable from records in evidence, the Director may, in lieu of a Corrective Compliance Order under Section 1301.07(G), direct that the Supplier pay an equivalent amount for the benefit of consumers harmed by similar violations.

Section 1302.08: Price Refunds; Price Information

A. A ~~person~~ Supplier who uses an electronic scanner to record the price of a commodity or thing and who sells the commodity or thing at a price higher than the posted or advertised price of that commodity or thing shall at least ~~shall~~ refund to a person who

purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale.

B. A ~~person~~ Supplier who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the ~~requirement~~ requirements of this section.

C. In addition to the signage required by subsection (B), any Supplier operating a point-of-sale system shall conspicuously display, at or near each customer exit, the Department's consumer complaint telephone number and website address, as designated by the Director.

D. Whoever violates any provisions of this Section may be subject to penalties provided in Section ~~1302.07~~. 1301.07(H).

E. Public Posting of Violations. Where a Final Order issued under Section 1301.08 finds that a point-of-sale system has failed a price-verification inspection conducted pursuant to Section 1302.05(I), the Final Order may require the Supplier to post a public notice of the violation, in a form prescribed by the Director, at each customer entrance of the location where the violation occurred. The notice shall remain posted for not fewer than thirty (30) calendar days. The posting requirement is subject to the automatic stay under Section 205.11(E)(2) during pendency of any timely appeal.

Section 1302.09: Sales of Petroleum Products

A. Definition

For the purpose of this Chapter, “petroleum products” includes all liquid products having a predominant content of derivatives of petroleum and customarily used in motor vehicles.

B. Posting of petroleum product prices

Street signage is not required. However, when street signage is used, the sign shall match the product price at which the product is displayed. The signs must be visible to the motorist before entering the station to purchase fuel. The conditions applicable to the sale of the fuel at the advertised price must also be on the advertising sign (i.e., full service or self-service and cash price or credit price). The total size of the figures indicating a fractional or decimal number which is part of the price shall be at least forty percent (40%) the size of the largest figure in the whole number accompanying said fractional or decimal number.

C. Retail dispenser labeling

All retail dispensing devices must identify conspicuously the type and price of product, the particular grade of the product, and the applicable automotive fuel rating.

D. Prohibited advertising practices

No ~~person~~ Supplier shall advertise in and about the premises where the petroleum product is sold, whether by display, sign, or otherwise, the sale of petroleum products to be sold or delivered by means of a device of the computing type at a price less than or more than that for which said computing device has been set.

E. Penalties

Whoever violates any provisions of this Section may be subject to penalties provided in Section 1302.07.

Section 1302.10: Scanner Accuracy Requirements

A. Accuracy Standard. Every retail establishment using scanners or electronic price lookup systems shall maintain a failure rate not greater than two percent (2%), consistent with the price-verification procedures of NIST Handbook 130.

B. Calculation. The failure rate shall be calculated as the number of items scanned at an incorrect price divided by the total number of items scanned, multiplied by one hundred.

C. Correct Price. An item scans at the "correct price" if the scanned price equals:

1. The price displayed on the item;
2. The shelf price displayed in reasonable proximity to the item; or
3. The advertised price, if the item is currently advertised.

D. Lowest Price Controls. If multiple prices are displayed for an item (e.g., item tag, shelf tag, advertised price), the consumer shall be entitled to purchase the item at the lowest displayed or advertised price.

Section 1302.11: Item Pricing Requirements

A. Shelf Pricing. For items with prices displayed on a shelf tag or sign in reasonable proximity to the item, the displayed price must be accurate and match the price at the point of sale.

B. Sale Items. When items are offered at a reduced price, the reduced price shall be clearly displayed at the point of display. If the original price is also displayed, it shall not be false or inflated.

Section 1302.12: Consumer Remedies — Pricing Errors

A. Overcharge Refund. If a consumer is charged more than the correct price for any item, the retail establishment shall, upon notification, refund the overcharge.

B. Notice of Policy. Retail establishments shall post notice of the consumer remedy under this section at or near checkout locations.

Section 1302.13: Jurisdiction and Applicability

A. Territorial Jurisdiction.

1. This Chapter shall apply throughout the unincorporated area of the county and in all municipal corporations and townships within the county, except as provided in subsection (A)(2).

2. This Chapter shall not apply within any municipal corporation that has appointed a weights and measures official in accordance with ORC 1327.52, unless such municipality has consented to county enforcement by written agreement with the County. Where such an agreement exists, the terms of the agreement shall govern the scope of county enforcement within that municipality.

3. For purposes of this Chapter, a regulated transaction shall be deemed to occur within the county if: (a) the commodity is weighed, measured, or dispensed at a location within the county; (b) the commodity is delivered to or picked up by the buyer at a location within the county; or (c) the seller maintains the weighing or measuring device or point-of-sale system used in the transaction at a location within the county.

B. Applicability to All Regulated Transactions.

This Chapter shall apply to all regulated transactions, as defined in Section 1302.01(K), occurring within the county's jurisdiction as established by subsection (A), regardless of the sales channel through which the transaction is initiated or completed, including but not limited to transactions conducted in person, by telephone, through electronic commerce, or through third-party delivery platforms.

C. Net-Content and Labeling Requirements for Remote Transactions.

Any Supplier who sells, offers, or exposes for sale any commodity by weight, measure, volume, count, or other quantitative representation through an online platform, mobile application, or other electronic means for delivery or pickup within the county shall be subject to all labeling, net-content, and accuracy requirements of this Chapter as if the sale occurred at a fixed retail location.

D. Designation of Additional Device Categories.

County Council may, by ordinance and upon the recommendation of the Director, designate additional categories of weighing, measuring, or dispensing devices as subject to the inspection and testing requirements of this Chapter, as technological developments warrant, consistent with the Ohio Revised Code and applicable federal law.

Section 1302.14: Coordination Between Consumer Protection and Weights and Measures Enforcement

A. Distinct Functions. The Department of Consumer Affairs enforces Chapter 1301 to address unfair, deceptive, and unconscionable consumer practices. The Fiscal Officer, as Sealer of Weights and Measures under ORC 319.55, enforces Chapter 1302 through powers delegated to the Director to ensure accuracy of commercial weighing and measuring devices.

B. Referral from Weights and Measures. When an inspection conducted under Weights and Measures authority reveals pricing discrepancies that have resulted in consumer overcharges, the Inspector or Sealer conducting the inspection shall:

1. Issue appropriate orders under Weights and Measures authority to correct the device or database error;

2. Refer the matter to Consumer Affairs if:

a. The overcharges affect or are likely to have affected multiple consumers;

b. The pricing discrepancy exceeds ten percent (10%) of the tested items;

c. The establishment has a prior history of pricing violations; or

d. Consumer Corrective Compliance relief may be warranted.

C. Consumer Protection Follow-Up. Upon receiving a referral under subsection (B), the Director may:

1. Investigate for potential violations of this Chapter or other Chapters within this Title;

2. Pursue Consumer Corrective Compliance relief through an AVC or enforcement order;

3. Issue Civil Citations or Charging Documents as appropriate.

D. No Duplicate Penalties. A supplier shall not be subject to civil penalties under both Chapter 1301 and this Chapter for the same specific conduct. However:

1. Weights and Measures corrective orders and Consumer Protection corrective compliance orders address different harms and both may apply;

2. A pattern of violations may support Consumer Protection enforcement even after individual incidents have been addressed through Weights and Measures orders.

D. Procedural Integration. Where this Chapter invokes the enforcement procedures of Chapter 1301 pursuant to Section 1302.07(D), the provisions of Sections 1301.05 through 1301.08 shall apply to the enforcement of Chapter 1302 violations.

Section 1302.15: Severability

The provisions of this Chapter are severable. If any provision of this Chapter, or its application to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application. The County Council declares that it would have enacted each remaining provision irrespective of the invalidity of any other.

SECTION 2. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance shall take effect and be in force from and after the later of (a) the earliest period allowed by law, or (b) the effective date of the ordinance enacting Section 205.11 (Administrative Appeals Board) of the Cuyahoga County Code, so that the administrative appellate review provided for in this Chapter is available upon the effective date of this Ordinance.

On a motion by Ms. Simon, seconded by Ms. Turner, the foregoing Ordinance was duly enacted.

Yeas: Conwell, Jones, Turner, Houser, Simon, Kelly, Sweeney, Casselberry
Gallagher, Schleper and Miller

Nays: None

<u>Dale Miller</u>	<u>7/8/2026</u>
County Council President	Date
<u>Chris Ronayne</u>	<u>7/9/2026</u>
County Executive	Date
<u>Andria Richardson</u>	<u>7/8/2026</u>
Clerk of Council	Date

First Reading/Referred to Committee: June 23, 2026
Committee(s) Assigned: Education, Environment & Sustainability

Additional Sponsorships Requested on the Floor: July 7, 2026

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