

**CHAPTER 238**  
**SB 311-FN-A – FINAL VERSION**

03/21/12 1266s  
03/28/12 1484s  
25Apr2012... 1703h  
15May2012... 2146h  
06/06/12 2482EBA

2012 SESSION

12-2963  
08/10

SENATE BILL            ***311-FN-A***

AN ACT                relative to weights and measures.

SPONSORS:            Sen. Carson, Dist 14; Sen. White, Dist 9; Sen. Groen, Dist 6; Rep. C. McGuire,  
Merr 8; Rep. Winter, Merr 3; Rep. Bettencourt, Rock 4

COMMITTEE:          Executive Departments and Administration

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AMENDED ANALYSIS

This bill:

I. Establishes a director of the division of weights and measures.

II. Establishes a weights and measures advisory board.

III. Allows the commissioner of the department of agriculture, markets, and food to collect certain fees related to weights and measures and adopt procedures to investigate weights and measures complaints.

IV. Establishes requirements for delivery tickets and invoices on petroleum products delivery.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears [~~in brackets and struckthrough.~~]  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twelve*

AN ACT                    relative to weights and measures.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            238:1 New Sections; Division of Weights And Measures; Director. Amend RSA 438 by inserting  
2 after section 8 the following new sections:

3            438:8-a Division Director; Duties. The director shall operate under the duties prescribed to him  
4 or her by the commissioner, including but not limited to:

5            I. Subject to direction from the commissioner, the director of weights and measures shall  
6 direct and supervise the functions of the division of weights and measures including the work of the  
7 inspectors, the metrologist, and the clerical staff.

8            II. The director, in accordance with the policies of the department of administrative services,  
9 shall keep records on the weights and measures inspectors which shall include, by employee, the  
10 hours worked, approval of any overtime hours worked and the reason therefor, and accurate records  
11 of leave time accrued and used.

12            III. The director shall, with the approval of the commissioner, establish a written procedure  
13 for prosecuting violations of this chapter and shall make judicious use of the civil penalty system in  
14 lieu of criminal prosecution when in his or her judgment it will be equally or more effective in  
15 enforcing the provisions of this chapter.

16            IV. The director shall, with approval of the commissioner, establish a written code of conduct  
17 for the inspectors which shall be available upon request and shall establish written regulations and  
18 standard operating procedures for the inspectors.

19            V. The director shall provide quarterly reports of investigations of complaints to the advisory  
20 board. Such reports shall include the date and nature of the complaint, the investigator of the  
21 complaint, and the resolution of the complaint.

22            438:8-b Weights and Measures Advisory Board.

23            I. There shall be a weights and measures advisory board consisting of 11 members. With  
24 the exception of the member from the general court, the members shall be appointed by  
25 commissioner of the department of agriculture, markets, and food, and shall include the following:

26                    (a) Two members nominated by the New Hampshire Grocers Association.

27                    (b) One member nominated by the Oil Heat Council of New Hampshire.

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- 1 (c) One member who is a scrap dealer.
- 2 (d) Two members who are farmers, one of whom is engaged in retail of his or her  
3 products.
- 4 (e) One legislator from the house of representatives, appointed by the speaker of the  
5 house of representatives.
- 6 (f) One member nominated by the Propane Gas Association of New England.
- 7 (g) One member nominated by the Independent Oil Marketers Association of  
8 New England.
- 9 (h) One member of the general public who is not involved commercially with weights and  
10 measures.
- 11 (i) One member who is a weights and measures service technician registered under RSA  
12 438:14-a.

13 II. The director of weights and measures shall serve as an ex-officio, nonvoting member of  
14 the board.

15 III. Following an initial appointment for staggered terms, each board member shall serve for  
16 a term of 4 years. Board members shall not serve more than 2 consecutive terms. The board shall  
17 annually elect from among its members a chairman and a vice-chairman.

18 IV. Board members shall serve without compensation, except that they shall receive  
19 reimbursement for mileage when in the performance of their duties. This reimbursement shall be a  
20 charge against the appropriation for the department for weights and measures.

21 V. The board shall meet at least 2 times per year at a time and place to be fixed by the  
22 chairman. Additional meetings shall occur either upon his or her own motion or at the request of 3  
23 or more board members.

24 VI. The weights and measures advisory board shall regularly advise the director of the  
25 division of weights and measures and the commissioner on all matters related to the enforcement of  
26 this chapter.

27 238:2 New Subparagraphs; Authority to Collect Fees. Amend RSA 438:8, I by inserting after  
28 subparagraph (j) the following new subparagraphs:

29 (k) The collection of fees set in departmental rules Agr 1410.03 through 1410.07.

30 (l) Procedures for investigating complaints about weights and measures generally.

31 238:3 Applicability. The provisions of RSA 438:8, I(k) as inserted by section 2 of this act shall  
32 not be construed as allowing the commissioner of agriculture, markets, and food to change the fees  
33 set in departmental rules Agr 1410.03 through 1410.07 prior to June 30, 2013.

34 238:4 Petroleum Products Delivery Tickets and Invoices. Amend RSA 438:33 to read as follows:

35 438:33 Furnace and Stove Oil.

36 I. All distillate heating oil sold at retail shall be sold by liquid measure or by net weight in

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1 accordance with the provisions of RSA 438:20.

2 II. In the case of each delivery of such liquid fuel not in package form and in an amount  
3 greater than 100 gallons in the case of sale by liquid measure, or 100 pounds in the case of sale by  
4 weight, there shall be rendered to the purchaser at the time of delivery, **or as otherwise specified**  
5 **by the customer**, a printed delivery ticket which shall clearly state the following:

6 (a) ~~[The name and address of the vendor;]~~ **The date the product was delivered.**

7 (b) The name and address of the ~~[purchaser;]~~ **vendor, including the street, city, state,**  
8 **and zip code.**

9 (c) ~~[The identity of the type of fuel comprising the delivery;]~~ **The name and address of**  
10 **the purchaser.**

11 (d) ~~[The unit price, that is, the price per gallon or per pound, as the case may be, of the~~  
12 ~~fuel delivered;]~~ **The type of product being delivered.**

13 (e) In the case of sale by liquid measure, the liquid volume of the delivery shall be  
14 determined by a meter with a register printing the meter readings on a ticket from which such liquid  
15 volume shall be computed and expressed in terms of the gallon and its binary or decimal  
16 subdivisions (said ticket shall not be inserted into the register until immediately before delivery is  
17 begun, and in no case shall a ticket be in the register when the vehicle is in motion); or the liquid  
18 volume may be determined by a vehicle tank used as a measure when in full compliance with the  
19 National Institute of Standards and Technology Handbook 44, as adopted by the National  
20 Conference of Weights and Measures, and calibrated by a weights and measures official. Sale by a  
21 liquid measuring device, as defined in said Handbook 44, and sale by a vapor meter are excluded  
22 from this paragraph[;].

23 (f) In the case of sales by weight, the net weight of the delivery, together with any  
24 weighing scale readings from which such net weight has been computed, expressed in terms of tons  
25 or pounds avoirdupois.

26 (g) **If there is correction for temperature:**

27 (1) **The net gallons or liters delivered; and**

28 (2) **The statement: "The volume delivered has been adjusted to the volume at**  
29 **60 degrees Fahrenheit."**

30 III. **All invoices, whether mailed or left at time of delivery, shall contain at least the**  
31 **following:**

32 (a) **The date the product is delivered;**

33 (b) **The name and address of the vendor, including the street, city, state, and zip**  
34 **code;**

35 (c) **The name and address of the purchaser, including the street, city, state, and**  
36 **zip code;**

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1           (d) *The type of product being delivered;*

2           (e) *The unit price, per gallon or liter, of the product being delivered;*

3           (f) *The total computed price for the volume delivered or the terms of any prompt*  
4 *payment discount being offered to the purchaser.*

5           238:5 Police Powers, Right of Entry and Stoppage. Amend RSA 438:15 to read as follows:

6           438:15 Police Powers, Right of Entry and Stoppage. With respect to the enforcement of this  
7 chapter and any other law dealing with weights and measures that he *or she* is or may be  
8 empowered to enforce, the commissioner, or ~~his~~ *the commissioner's* inspectors at his *or her*  
9 direction, is hereby vested with special police powers, and is authorized to arrest, without formal  
10 warrant, any violator of said laws, and to seize for use as evidence, without formal warrant, incorrect  
11 or unsealed weights and measures or amounts or packages of commodity found to be used, retained,  
12 offered, or exposed for sale or sold in violation of law. ~~[In the performance of his official duties, the~~  
13 ~~commissioner is authorized to enter and go into or upon, without formal warrant, any structure or~~  
14 ~~premises, and to stop any person whatsoever and to require him to proceed, with or without any~~  
15 ~~vehicle of which he may be in charge, to some place which the commissioner may specify.]~~

16           238:6 Effective Date. This act shall take effect upon its passage.

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18 Approved: June 18, 2012

19 Effective Date: June 18, 2012