

SENATE FILE 2269  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 3075)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to devices used for weighing and measuring, by  
2 providing for the regulation of the devices, motor fuel, and  
3 persons who service the devices, and providing for fees and  
4 penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2269

S-5038

- 1 Amend Senate File 2269 as follows:
- 2 1. Page 1, line 20, by striking the word
- 3 "vehicle" and inserting the following: "~~vehicle~~".
- 4 2. Page 2, line 2, by striking the words "device
- 5 other" and inserting the following: "device, other".
- 6 3. Page 2, lines 2 and 3, by striking the words
- 7 "pump meter" and inserting the following: "pump,".
- 8 4. Page 7, by striking lines 9 and 10 and
- 9 inserting the following: "caused the complaint."
- 10 5. Page 11, by striking lines 27 through 30.
- 11 6. By renumbering as necessary.

By DAVID JOHNSON

S-5038 FILED MARCH 8, 2006

SF 2269

1 Section 1. Section 214.1, Code 2005, is amended to read as  
2 follows:

3 214.1 DEFINITIONS.

4 For the purpose of this chapter:

5 1. "Commercial scale" means the same as defined in section  
6 215.26.

7 2. "Commercial weighing and measuring device" or "device"  
8 means the same as defined in section 215.26.

9 ~~3. "Motor vehicle fuel" means a substance or~~  
10 ~~combination of substances which is intended to be or is~~  
11 ~~capable of being used for the purpose of propelling or running~~  
12 ~~by combustion any internal combustion engine and is kept for~~  
13 ~~sale or sold for that purpose~~ a substance or combination of  
14 substances which is intended to be or is capable of being used  
15 for the purpose of operating an internal combustion engine,  
16 including but not limited to a motor vehicle, and is kept for  
17 sale or sold for that purpose.

18 ~~4. "Motor vehicle fuel pump" means a stationary pump,~~  
19 ~~meter, or similar weighing and measuring device which is used~~  
20 ~~for measuring retail to measure motor vehicle fuel.~~

21 ~~3. "Public scale" shall mean any scale or weighing device~~  
22 ~~for the use of which a charge is made or compensation is~~  
23 ~~derived.~~

24 5. "Retail dealer" means the same as defined in section  
25 214A.1.

26 6. "Wholesale dealer" means the same as defined in section  
27 214A.1.

28 Sec. 2. Section 214.2, Code 2005, is amended to read as  
29 follows:

30 214.2 LICENSE.

31 A person who uses or displays for use any a commercial  
32 weighing and measuring device, as defined in section 215.26,  
33 shall secure obtain a license from the department.

34 Sec. 3. Section 214.3, subsection 1, Code 2005, is amended  
35 to read as follows:

1     1. ~~The A~~ license for the inspection of a commercial  
2 weighing and measuring device other than for a motor fuel pump  
3 meter shall expire on December 31 of each year~~7-and.~~ A  
4 license for the inspection of a motor vehicle fuel pump meter  
5 shall expire on June 30 of each year. ~~The amount of the fee~~  
6 ~~due for each license shall be as provided in subsection 37~~  
7 ~~except that the fee for a motor vehicle fuel pump shall be~~  
8 ~~four dollars and fifty cents if paid within one month from the~~  
9 ~~date the license is due.~~ A person shall apply to the  
10 department to be issued a license or to renew a license as  
11 provided by the department. The person shall pay the  
12 department a license fee as provided in section 214.3A.

13     Sec. 4. Section 214.3, subsection 3, Code 2005, is amended  
14 by striking the subsection.

15     Sec. 5. NEW SECTION. 214.3A LICENSE FEE SCHEDULE.

16     The department shall charge a fee for a license that it  
17 issues or renews pursuant to section 214.3. The fee shall be  
18 submitted with the license application. The amount of the fee  
19 is as follows:

20     1. For commercial scales, the fee shall be based on its  
21 capacity as follows:

22     a. Five hundred pounds or less, nine dollars.

23     b. More than five hundred pounds but not more than five  
24 thousand pounds, sixteen dollars and fifty cents.

25     c. More than five thousand pounds but not more than fifty  
26 thousand pounds, forty-six dollars and fifty cents.

27     d. More than fifty thousand pounds but not more than one  
28 hundred twenty thousand pounds, eighty-four dollars.

29     e. More than one hundred twenty thousand pounds, one  
30 hundred six dollars and fifty cents.

31     2. For meters, the fee shall be based on the type of meter  
32 as follows:

33     a. A motor fuel pump which is used by a retail dealer,  
34 four dollars and fifty cents if the fee is paid before August  
35 1 after the date that license expires as provided in section

1 214.3. The fee shall be nine dollars if the fee is paid on or  
2 after August 1.

3 b. A mass bulk meter, nine dollars.

4 c. A refined or bulk meter, nine dollars.

5 d. A stationary bulk fuel meter, nine dollars.

6 e. A stationary liquid petroleum gas meter, nine dollars.

7 f. A moisture meter, twenty-four dollars.

8 g. A liquid petroleum bulk truck meter, fifty-two dollars  
9 and fifty cents.

10 Sec. 6. Section 214.4, subsection 1, unnumbered paragraph  
11 1, Code 2005, is amended to read as follows:

12 If the department does not receive payment of the license  
13 fee required pursuant to section ~~214-3~~ 214.3A within one month  
14 from the due date, the department shall send a notice to the  
15 owner or operator of the device. The notice shall be  
16 delivered by certified mail. The notice shall state all of  
17 the following:

18 Sec. 7. Section 214.4, subsection 1, paragraph b, Code  
19 2005, is amended to read as follows:

20 b. The owner or operator has fifteen days after receipt of  
21 the notice to pay the license fee ~~required-pursuant-to-section~~  
22 ~~214-3~~.

23 Sec. 8. Section 214.5, Code 2005, is amended to read as  
24 follows:

25 214.5 INSPECTION STICKERS.

26 1. For each If the department licenses a commercial  
27 weighing and measuring device licensed pursuant to section  
28 214.2, the department shall also issue an inspection sticker,  
29 which upon its inspection and approval of the device.

30 2. The inspection sticker shall not exceed two inches by  
31 two inches in size. The inspection sticker shall be displayed  
32 prominently on the front of the commercial weighing and  
33 measuring device. and-the-defacing-or-wrongful-removal-of-the

34 3. A person shall not deface or wrongfully remove an  
35 inspection sticker shall-be-punished-as-provided-in-chapter

1 189.

2 4. Absence The absence of an inspection sticker on a  
3 commercial weighing and measuring device is prima facie  
4 evidence that the ~~commercial-weighing-and-measuring~~ device is  
5 being operated contrary to law.

6 Sec. 9. Section 214.6, Code 2005, is amended to read as  
7 follows:

8 214.6 OATH OF WEIGHMASTERS.

9 ~~All-persons-keeping-public-scales~~ A person who keeps a  
10 commercial scale, before entering-upon-their engaging in the  
11 person's duties as weighmasters a weighmaster, shall be sworn  
12 before some a person having authority to administer oaths,--to.  
13 The person who takes the oath shall swear to keep their the  
14 person's scales correctly balanced, to make true weights, and  
15 to render a correct account to the person having who requests  
16 that a weighing done be performed.

17 Sec. 10. Section 214.8, Code 2005, is amended to read as  
18 follows:

19 214.8 PENALTY PENALTIES -- LIABILITY FOR DAMAGES.

20 1. Any-weighmaster-violating-any-of-the-provisions-of  
21 sections-214.6-and-214.7, shall be Except as provided in  
22 subsection 2, a person who violates a provision of this  
23 chapter is guilty of a simple misdemeanor,--and-be. Each day  
24 that a continuing violation occurs shall be considered a  
25 separate offense.

26 2. The state may proceed against a person who violates  
27 this chapter by initiating an alternative civil enforcement  
28 action in lieu of a prosecution. The alternative civil  
29 enforcement action may be brought against the person as a  
30 contested case proceeding by the department under chapter 17A  
31 or as a civil judicial proceeding by the attorney general upon  
32 referral by the department. The department may impose,  
33 assess, and collect the civil penalty. The civil penalty  
34 shall be for at least one hundred dollars but not more than  
35 one thousand dollars for each violation. Each day that a

1 continuing violation occurs shall be considered a separate  
2 offense.

3 a. Except as provided in paragraph "b", the state is  
4 precluded from prosecuting a violation pursuant to subsection  
5 1, if the state is a party in the alternative civil  
6 enforcement action, the department has made a final decision  
7 in the contested case proceeding, or a court has entered a  
8 final judgment.

9 b. If a party to an alternative civil enforcement action  
10 fails to pay the civil penalty to the department within thirty  
11 days after the party has exhausted the party's administrative  
12 remedies and the party has not sought judicial review in  
13 accordance with section 17A.19, the department may order that  
14 its final decision be vacated. When the department's final  
15 decision is vacated, the state may initiate a criminal  
16 prosecution, but shall be precluded from bringing an  
17 alternative civil enforcement action. If a party to an  
18 alternative civil enforcement action fails to pay the civil  
19 penalty within thirty days after a court has entered a final  
20 judgment, the department may request that the attorney general  
21 petition the court to vacate its final judgment. When the  
22 court's judgment has been vacated, the state may initiate a  
23 criminal prosecution, but shall be precluded from bringing an  
24 alternative civil enforcement action.

25 3. A person who violates a provision of this chapter is  
26 liable to the a person who is injured as a result of the  
27 violation for all damages sustained.

28 Sec. 11. Section 214.9, Code 2005, is amended to read as  
29 follows:

30 214.9 SELF-SERVICE MOTOR VEHICLE FUEL PUMPS.

31 ~~Self-service~~ A self-service motor vehicle fuel pumps  ~~pump~~  
32 located at a motor vehicle fuel stations station may be  
33 equipped with an automatic latch-open devices device on the  
34 fuel dispensing hose nozzle only if the nozzle valve is the  
35 automatic closing type.

1 Sec. 12. Section 214.10, Code 2005, is amended to read as  
2 follows:

3 214.10 RULES.

4 The department ~~of-agriculture-and-land-stewardship~~ may  
5 ~~promulgate~~ adopt rules pursuant to chapter 17A as necessary to  
6 promptly and effectively enforce the provisions of this  
7 chapter.

8 Sec. 13. Section 214.11, Code 2005, is amended to read as  
9 follows:

10 214.11 INSPECTIONS -- RECALIBRATIONS -- PENALTY.

11 The department ~~of-agriculture-and-land-stewardship~~ shall  
12 provide for an annual inspections inspection of all each motor  
13 ~~vehicle~~ fuel pumps pump which is licensed under this chapter.  
14 ~~Inspections~~ The inspection shall be-for-the-purpose-of  
15 ~~determining~~ determine the accuracy of the pumps-measuring  
16 ~~mechanisms, and-for-such-purpose-the-department's-inspectors~~  
17 meter and the correctness of associated equipment. In order  
18 to carry out an inspection, the department may enter upon the  
19 premises of any a wholesale dealer or retail dealer, ~~as-they~~  
20 ~~are-defined-in-section-214A.1,~~ of motor ~~vehicle~~ fuel or a  
21 person selling or offering to sell fuel oil within this state.  
22 Upon completion of an inspection, the inspector shall affix  
23 the department's seal to the measuring mechanism of the motor  
24 fuel pump. The seal shall be appropriately marked, dated, and  
25 recorded by the inspector. If the owner of an inspected and  
26 sealed motor fuel pump is registered with the department as a  
27 servicer in accordance with section 215.23, or employs a  
28 person so registered as a servicer, the owner or other  
29 servicer may open the motor pump pump's dispenser, break the  
30 department's seal, recalibrate the measuring mechanism if  
31 necessary, and reseal the motor fuel pump ~~as-long-as,~~ if the  
32 department is notified of the recalibration within forty-  
33 eight hours, on a form provided by the department. ~~A-person~~  
34 ~~violating-a-provision-of-this-section-is, upon-conviction,~~  
35 ~~guilty-of-a-simple-misdemeanor.~~

1 Sec. 14. Section 215.1, Code 2005, is amended to read as  
2 follows:

3 215.1 DUTY TO INSPECT.

4 The department shall regularly inspect all commercial  
5 weighing and measuring devices, and when complaint is made to  
6 the department that any false or incorrect ~~weights weight~~ or  
7 ~~measures-are~~ measure is being made, the department shall  
8 inspect the commercial weighing and measuring devices which  
9 caused the complaint. The department may also inspect the  
10 reliability of a commercial scanner to determine its accuracy.  
11 The department may conduct a random inspection of prepacked  
12 goods to determine whether the goods' weight is recorded  
13 accurately.

14 Sec. 15. Section 215.2, Code 2005, is amended to read as  
15 follows:

16 215.2 SPECIAL INSPECTION REQUEST -- FEES.

17 The fee for a special tests test, including but not limited  
18 to, using state inspection equipment, for the calibration,  
19 testing, certification, or repair of a commercial weighing and  
20 measuring device shall be paid by the servicer or person  
21 requesting the special test ~~in-accordance-with-the-following~~  
22 schedule. The amount of the inspection fee shall be as  
23 follows:

24 1. ~~Class-S7-scales~~ For a commercial scale, seventy-five  
25 dollars per hour.

26 2. ~~Class-M7-meters~~ For a meter, fifty-two dollars and  
27 fifty cents per hour.

28 Sec. 16. Section 215.4, Code 2005, is amended to read as  
29 follows:

30 215.4 TAG FOR INACCURATE DEVICE -- REINSPECTION -- FEE.

31 A commercial weighing and measuring device found to be  
32 inaccurate upon inspection by the department shall be tagged  
33 "condemned rejected until repaired" repaired and the "licensed  
34 for commercial use" inspection sticker shall be removed. If  
35 notice is received by the department that the device has been

1 repaired and upon reinspection the device is found to be  
2 accurate, the license fee shall not be charged for the  
3 reinspection. However, a second license fee shall be charged  
4 if upon reinspection the device is found to be inaccurate. If  
5 at a third reinspection the device is found to be inaccurate,  
6 the license fee shall be charged and the device shall be  
7 tagged "condemned" and removed from service.

8 Sec. 17. Section 215.9, Code 2005, is amended to read as  
9 follows:

10 215.9 POWER OF CITIES LIMITED.

11 ~~Commodities~~ A city ordinance shall not require that a  
12 commodity be weighed upon-any-scale-bearing-the-inspection  
13 card,-issued-by or measured if the commodity is weighed or  
14 measured by a commercial weighing and measuring device  
15 licensed by the department,-shall-not-be-required-to-be  
16 reweighed-by-any-ordinance-of-any-city,-nor-shall-their. A  
17 city ordinance shall not restrict the sale, of a commodity at  
18 the-weights-so a weight or measure ascertained,-and-because  
19 thereof,-be,-by-such-ordinance,-prohibited-or-restricted by a  
20 commercial weighing and measuring device licensed by the  
21 department.

22 Sec. 18. Section 215.10, Code 2005, is amended to read as  
23 follows:

24 215.10 INSTALLATION OF NEW SCALES.

25 ~~1. It shall be unlawful to~~ A person shall not install a  
26 commercial scale,-used-for-commercial-purposes-in-this-state,  
27 unless the commercial scale is so installed that it is easily  
28 accessible for inspection and testing by equipment of the  
29 department, and with due regard to the scale's size and  
30 capacity. The installation shall be made consistent with the  
31 requirements of section 215.18 and rules adopted by the  
32 department.

33 2. Every A commercial scale manufacturer or dealer shall,  
34 upon selling a commercial scale ~~of-the-above-types-in-Iowa,~~  
35 submit to the department upon forms provided by the

1 department, the make, capacity of the scale, the date of sale,  
2 and the date and location of its installation.

3 Sec. 19. Section 215.15, Code 2005, is amended to read as  
4 follows:

5 215.15 SCALE PIT.

6 Scale A scale pit shall have be installed to ensure that  
7 there is proper room for an inspector or service person to  
8 repair or inspect the scale. Scale The installation shall be  
9 made consistent with the requirements of section 215.18 and  
10 rules adopted by the department. The scale pit shall remain  
11 dry at all times and adequate drainage shall be provided for  
12 the purpose of inspecting and cleaning.

13 Sec. 20. Section 215.17, Code 2005, is amended to read as  
14 follows:

15 215.17 TEST WEIGHTS TO BE USED.

16 1. A person engaged in scale repair work for hire shall  
17 use only test weights sealed by the department in determining  
18 the effectiveness of repair work and the test weights shall be  
19 sealed as to their accuracy once each year. However, a person  
20 shall not claim to be an official scale inspector and shall  
21 not use the test weights except to determine the accuracy of  
22 scale repair work done by the person and the person shall not  
23 be entitled to a fee for their use.

24 2. ~~A fee shall be charged and collected~~ The department  
25 shall impose and collect fees at the time of inspection for  
26 the inspection of such weights as follows:

27 a. A laboratory fee of seventy-five dollars per hour.

28 b. A service fee which shall be as follows:

29 (1) All weights up to and including 25  
30 pounds..... \$ 1.10 each

31 (2) Over twenty-five pounds capacity,  
32 up to and including 50 pounds..... 2.25 each

33 (3) Over 50 pounds capacity, up to and  
34 including 100 pounds..... 3.00 each

35 (4) Over 100 pounds capacity, up to

1	and including 500 pounds.....	4.50 each
2	(5) Over 500 pounds capacity, up to	
3	and including 1,000 pounds.....	7.50 each
4	(6) The fee for all tank calibrations shall be as follows:	
5	(a) 100 gallons up to and including	
6	300 gallons .....	\$ 4.50
7	(b) 301 gallons up to and including	
8	500 gallons .....	7.50
9	(c) 501 gallons up to and including	
10	1,000 gallons .....	11.25
11	(d) 1,001 gallons up to and including	
12	2,000 gallons .....	15.00
13	(e) 2,001 gallons up to and including	
14	3,000 gallons .....	18.00
15	(f) 3,001 gallons up to and including	
16	4,000 gallons .....	21.00
17	(g) 4,001 gallons up to and including	
18	5,000 gallons .....	24.00
19	(h) 5,001 gallons up to and including	
20	6,000 gallons .....	27.00
21	(i) 6,001 gallons up to and including	
22	7,000 gallons .....	30.00
23	(j) 7,001 gallons and up .....	37.50

24 3. Calibration shall not be required ~~of~~ for a tank which  
25 is not used for the purpose of measuring, or which is equipped  
26 with a meter, and vehicle tanks loaded from meters and  
27 carrying a printed ticket showing gallonage shall not be  
28 required to be calibrated.

29 4. The department shall deposit moneys collected in fees  
30 which are imposed under this section into the metrology fund  
31 created in section 215.17A.

32 Sec. 21. NEW SECTION. 215.17A METROLOGY FUND.

33 1. A metrology fund is created in the state treasury under  
34 the control of the department. The fund is composed of moneys  
35 collected in fees required to be paid to the department

1 pursuant to section 215.17. The fund may also include moneys  
2 appropriated by the general assembly and moneys available to  
3 and obtained or accepted by the department from the United  
4 States or private sources for placement in the fund.

5 2. Moneys in the fund are subject to an annual audit by  
6 the auditor of state. The metrology fund is subject to  
7 warrants written by the director of the department of  
8 administrative services, drawn upon the written requisition of  
9 the department.

10 3. Moneys in the fund are appropriated exclusively to the  
11 department for the exclusive purpose of maintaining,  
12 replacing, and upgrading equipment used in the department's  
13 metrology laboratory.

14 4. The department may adopt rules pursuant to chapter 17A  
15 which are necessary to administer this section.

16 5. Section 8.33 shall not apply to moneys in the fund.  
17 Notwithstanding section 12C.7, moneys earned as income or  
18 interest from the fund shall remain in the fund until expended  
19 as provided in this section.

20 Sec. 22. Section 215.26, Code 2005, is amended by adding  
21 the following new subsections:

22 NEW SUBSECTION. 0A. "Commercial scale" means a weighing  
23 and measuring device which is used to determine the mass of a  
24 body by using the effect of gravity on that body, if the  
25 device is in the possession of a person who uses the device as  
26 part of a business.

27 NEW SUBSECTION. 0B. "Commercial scanner" means an  
28 electronic system that uses a laser bar code reader to  
29 retrieve product identity, price, or other information stored  
30 in the memory of a computer as defined in section 22.3A.

31 Sec. 23. Section 215.26, subsection 1, Code 2005, is  
32 amended to read as follows:

33 1. "Commercial weighing and measuring device" or "device"  
34 means a weight or measure or weighing or measuring device used  
35 to establish size, quantity, area or other quantitative

1 measurement of a commodity sold by weight or measurement, or  
2 where the price to be paid for producing the commodity is  
3 based upon the weight or measurement of the commodity. The  
4 term includes an accessory attached to or used in connection  
5 with a commercial weighing or measuring device when the  
6 accessory is so designed or installed that its operation may  
7 affect the accuracy of the device. Commercial weighing and  
8 measuring device includes a public commercial scale as-defined  
9 under-section-214-1.

10 Sec. 24. NEW SECTION. 215.27 PENALTIES.

11 1. Except as provided in subsection 2, a person who  
12 violates a provision of this chapter commits a simple  
13 misdemeanor. Each day that a continuing violation occurs  
14 shall be considered a separate offense.

15 2. The state may proceed against a person who violates  
16 this chapter by initiating an alternative civil enforcement  
17 action in lieu of a prosecution. The alternative civil  
18 enforcement action may be brought against the person as a  
19 contested case proceeding by the department under chapter 17A  
20 or as a civil judicial proceeding by the attorney general upon  
21 referral by the department. The department may impose,  
22 assess, and collect the civil penalty. The civil penalty  
23 shall be for at least one hundred dollars but not more than  
24 one thousand dollars for each violation. Each day that a  
25 continuing violation occurs shall be considered a separate  
26 offense.

27 a. Except as provided in paragraph "b", the state is  
28 precluded from prosecuting a violation pursuant to subsection  
29 1, if the state is a party in the alternative civil  
30 enforcement action, the department has made a final decision  
31 in the contested case proceeding, or a court has entered a  
32 final judgment.

33 b. If a party to an alternative civil enforcement action  
34 fails to pay the civil penalty to the department within thirty  
35 days after the party has exhausted the party's administrative

1 remedies and the party has not sought judicial review in  
2 accordance with section 17A.19, the department may order that  
3 its final decision be vacated. When the department's final  
4 decision is vacated, the state may initiate a criminal  
5 prosecution, but shall be precluded from bringing an  
6 alternative civil enforcement action. If a party to an  
7 alternative civil enforcement action fails to pay the civil  
8 penalty within thirty days after a court has entered a final  
9 judgment, the department may request that the attorney general  
10 petition the court to vacate its final judgment. When the  
11 court's judgment has been vacated, the state may initiate a  
12 criminal prosecution, but shall be precluded from bringing an  
13 alternative civil enforcement action.

14 Sec. 25. Section 215A.10, Code 2005, is amended to read as  
15 follows:

16 215A.10 PENALTY.

17 1. Every Except as provided in subsection 2, a person who  
18 uses or causes to be used a moisture-measuring device in  
19 commerce with knowledge that such the moisture-measuring  
20 device has not been inspected and approved by the department  
21 in-accordance-with-the-provisions-of as provided in this  
22 chapter shall-be is guilty of a simple misdemeanor.

23 2. The state may proceed against a person who violates  
24 this chapter by initiating an alternative civil enforcement  
25 action in lieu of a prosecution. The alternative civil  
26 enforcement action may be brought against the person as a  
27 contested case proceeding by the department under chapter 17A  
28 or as a civil judicial proceeding by the attorney general upon  
29 referral by the department. The department may impose,  
30 assess, and collect the civil penalty. The civil penalty  
31 shall be for at least one hundred dollars but not more than  
32 one thousand dollars for each violation. Each day that a  
33 continuing violation occurs shall be considered a separate  
34 offense.

35 a. Except as provided in paragraph "b", the state is

1 precluded from prosecuting a violation pursuant to subsection  
2 1, if the state is a party in the alternative civil  
3 enforcement action, the department has made a final decision  
4 in the contested case proceeding, or a court has entered a  
5 final judgment.

6 b. If a party to an alternative civil enforcement action  
7 fails to pay the civil penalty to the department within thirty  
8 days after the party has exhausted the party's administrative  
9 remedies and the party has not sought judicial review in  
10 accordance with section 17A.19, the department may order that  
11 its final decision be vacated. When the department's final  
12 decision is vacated, the state may initiate a criminal  
13 prosecution, but shall be precluded from bringing an  
14 alternative civil enforcement action. If a party to an  
15 alternative civil enforcement action fails to pay the civil  
16 penalty within thirty days after a court has entered a final  
17 judgment, the department may request that the attorney general  
18 petition the court to vacate its final judgment. When the  
19 court's judgment has been vacated, the state may initiate a  
20 criminal prosecution, but shall be precluded from bringing an  
21 alternative civil enforcement action.

22 Sec. 26. NAME CHANGE. Sections 214A.16 and 422.11C, Code  
23 2005, are amended by striking the words "motor vehicle fuel  
24 pump" or "motor vehicle fuel pumps" and inserting the  
25 following: "motor fuel pump" or "motor fuel pumps".

26 Sec. 27. CODE EDITOR DIRECTIVE. The Code editor shall  
27 transfer section 215.26 to the beginning of chapter 215.

28 Sec. 28. Section 214A.12, Code 2005, is repealed.

29 **EXPLANATION**

30 This bill amends Code chapters 214, 215, and 215A, which  
31 regulate commercial weighing and measuring devices such as  
32 scales and meters, and also provide for the inspection of  
33 weights and measures, by the department of agriculture and  
34 land stewardship. In general, Code chapters 214 and 215A  
35 regulate devices and Code chapter 215 regulates service

1 agencies engaged in the business of installing, servicing, or  
2 repairing these devices. There are references to Code chapter  
3 214A, which regulates motor vehicle fuel. The Code chapters  
4 contain some overlapping provisions.

5 The bill changes the names of terms used in the Code  
6 chapters. It changes the term "motor vehicle fuel pump" to  
7 "motor fuel pump" and "public scale" to "commercial scale".  
8 The bill defines these terms and makes the use of terms  
9 consistent throughout all three Code chapters. It also  
10 rewrites language in the chapters for consistency and  
11 readability.

12 Many of the provisions in Code chapters 214, 215, and 215A  
13 relate to licensure and inspection requirements. The bill  
14 rewrites a provision in Code chapter 214 which provides for  
15 fees charged for both issuing and renewing a license. Under  
16 Code section 214.3, the license fee is generally based on the  
17 capacity of the device or the type of device in service. The  
18 bill eliminates a number of names for specific scales (counter  
19 scales, portable platform scales, livestock monorail scales,  
20 single animal scales, grain test scales, and precious metal  
21 and gems scales). It amends provisions in Code section 215.17  
22 to establish an hourly laboratory fee. It also provides that  
23 all inspection fees enumerated in that section must be  
24 deposited into a trust fund under the control of the  
25 department for its use in maintaining, replacing, and  
26 upgrading equipment used in the metrology laboratory.

27 The bill includes special penalty provisions in each of the  
28 Code chapters. These chapters are codified in Title V,  
29 subtitle 4, of the Code. Code section 189.21 provides a  
30 general penalty for a violation of a provision in the  
31 subtitle. The penalty is a simple misdemeanor. Code sections  
32 214.8 and 214A.11 have duplicative penalty provisions. A  
33 simple misdemeanor is punishable by confinement for no more  
34 than 30 days or a fine of at least \$50 but not more than \$500  
35 or by both. The bill provides that the state may proceed

1 against a person who violates a provision in one of these  
2 chapters by initiating an alternative civil enforcement action  
3 in lieu of a criminal prosecution. The amount of the civil  
4 penalty ranges from \$100 to \$1,000. An alternative civil  
5 enforcement action may be brought as a contested case  
6 proceeding within the department under the Iowa administrative  
7 procedure Act (Code chapter 17A) or as a court case by the  
8 attorney general. If the state brings an alternative civil  
9 enforcement action, it is precluded from bringing a criminal  
10 prosecution. There is one exception. If the party found in  
11 violation of the law fails to pay the civil penalty to the  
12 department within a 30-day period, the department may take  
13 steps to vacate the administrative order or court judgment  
14 which imposed the civil penalty and the state may initiate the  
15 criminal prosecution, but is precluded from bringing a new  
16 alternative civil enforcement action.

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Johnson co-chair  
Hancock co-chair  
Ragan  
Rielly  
Graskill  
Hahn

SSB# 3075  
Agriculture  
Succeeded By  
(SF) HF 2269

SENATE/HOUSE FILE  
BY (PROPOSED DEPARTMENT  
OF AGRICULTURE AND  
LAND STEWARDSHIP BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to devices used for weighing and measuring, by  
2 providing for the regulation of the devices, motor vehicle  
3 fuel, and persons who service the devices, and providing for  
4 fees and penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 214.1, Code 2005, is amended to read as  
2 follows:

3 214.1 DEFINITIONS.

4 For the purpose of this chapter:

5 1. "Commercial scale" means the same as defined in section  
6 215.26.

7 2. "Commercial weighing and measuring device" or "device"  
8 means the same as defined in section 215.26.

9 ~~3. "Motor vehicle fuel" means a substance or~~  
10 ~~combination of substances which is intended to be or is~~  
11 ~~capable of being used for the purpose of propelling or running~~  
12 ~~by combustion any internal combustion engine and is kept for~~  
13 ~~sale or sold for that purpose the same as defined in section~~  
14 214A.1.

15 ~~2. 4. "Motor vehicle fuel pump" pump meter" means a~~  
16 ~~stationary pump, meter, or similar weighing and measuring~~  
17 ~~device which is used for measuring retail to measure motor~~  
18 ~~vehicle fuel.~~

19 ~~3. "Public scale" shall mean any scale or weighing device~~  
20 ~~for the use of which a charge is made or compensation is~~  
21 ~~derived.~~

22 5. "Retail dealer" means the same as defined in section  
23 214A.1.

24 6. "Wholesale dealer" means the same as defined in section  
25 214A.1.

26 Sec. 2. Section 214.2, Code 2005, is amended to read as  
27 follows:

28 214.2 LICENSE.

29 A person who uses or displays for use ~~any a~~ commercial  
30 weighing and measuring device, ~~as defined in section 215.26,~~  
31 shall ~~secure~~ obtain a license from the department.

32 Sec. 3. Section 214.3, subsection 1, Code 2005, is amended  
33 to read as follows:

34 1. ~~The~~ A license for the inspection of a commercial  
35 weighing and measuring device other than for a motor vehicle

1 fuel pump meter shall expire on December 31 of each year~~7-and.~~  
2 A license for the inspection of a motor vehicle fuel pump  
3 meter shall expire on June 30 of each year. The amount of the  
4 fee due for each license shall be as provided in subsection 3~~7~~  
5 except that the fee for a motor vehicle fuel pump shall be  
6 four dollars and fifty cents if paid within one month from the  
7 date the license is due. A person shall apply to the  
8 department to be issued a license or to renew a license as  
9 provided by the department. The person shall pay the  
10 department a license fee as provided in section 214.3A.

11 Sec. 4. Section 214.3, subsection 3, Code 2005, is amended  
12 by striking the subsection.

13 Sec. 5. NEW SECTION. 214.3A LICENSE FEE SCHEDULE.

14 The department shall charge a fee for a license that it  
15 issues or renews pursuant to section 214.3. The fee shall be  
16 submitted with the license application. The amount of the fee  
17 is as follows:

18 1. For commercial scales, the fee shall be based on its  
19 capacity as follows:

20 a. Five hundred pounds or less, nine dollars.

21 b. More than five hundred pounds but not more than five  
22 thousand pounds, sixteen dollars and fifty cents.

23 c. More than five thousand pounds but not more than fifty  
24 thousand pounds, forty-six dollars and fifty cents.

25 d. More than fifty thousand pounds but not more than one  
26 hundred twenty thousand pounds, eighty-four dollars.

27 e. More than one hundred twenty thousand pounds, one  
28 hundred six dollars and fifty cents.

29 2. For meters, the fee shall be based on the type of meter  
30 as follows:

31 a. A motor vehicle fuel pump meter which is used by a  
32 retail dealer, four dollars and fifty cents if the fee is paid  
33 before August 1 after the date that license expires as  
34 provided in section 214.3. The fee shall be nine dollars if  
35 the fee is paid on or after August 1.

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

- 1 b. A mass bulk meter, nine dollars.
- 2 c. A refined or bulk meter, nine dollars.
- 3 d. A stationary bulk fuel meter, nine dollars.
- 4 e. A stationary liquid petroleum gas meter, nine dollars.
- 5 f. A moisture meter, twenty-four dollars.
- 6 g. A liquid petroleum bulk truck meter, fifty-two dollars
- 7 and fifty cents.

8 Sec. 6. Section 214.4, subsection 1, unnumbered paragraph  
9 1, Code 2005, is amended to read as follows:

10 If the department does not receive payment of the license  
11 fee required pursuant to section ~~214.3~~ 214.3A within one month  
12 from the due date, the department shall send a notice to the  
13 owner or operator of the device. The notice shall be  
14 delivered by certified mail. The notice shall state all of  
15 the following:

16 Sec. 7. Section 214.4, subsection 1, paragraph b, Code  
17 2005, is amended to read as follows:

18 b. The owner or operator has fifteen days after receipt of  
19 the notice to pay the license fee ~~required-pursuant-to-section~~  
20 ~~214.3~~.

21 Sec. 8. Section 214.5, Code 2005, is amended to read as  
22 follows:

23 214.5 INSPECTION STICKERS.

24 1. For each If the department licenses a commercial  
25 weighing and measuring device licensed pursuant to section  
26 214.2, the department shall also issue an inspection sticker,  
27 which upon its inspection and approval of the device.

28 2. The inspection sticker shall not exceed two inches by  
29 two inches in size. The inspection sticker shall be displayed  
30 prominently on the front of the commercial weighing and  
31 measuring device, and-the-defacing-or-wrongful-removal-of-the

32 3. A person shall not deface or wrongfully remove an  
33 inspection sticker shall-be-punished-as-provided-in-chapter  
34 189.

35 4. Absence The absence of an inspection sticker on a

1 commercial weighing and measuring device is prima facie  
2 evidence that the commercial weighing and measuring device is  
3 being operated contrary to law.

4 Sec. 9. Section 214.6, Code 2005, is amended to read as  
5 follows:

6 214.6 OATH OF WEIGHMASTERS.

7 ~~All persons keeping public scales~~ A person who keeps a  
8 commercial scale, before entering upon their engaging in the  
9 person's duties as weighmasters a weighmaster, shall be sworn  
10 before some a person having authority to administer oaths, to.  
11 The person who takes the oath shall swear to keep their the  
12 person's scales correctly balanced, to make true weights, and  
13 to render a correct account to the person having who requests  
14 that a weighing done be performed.

15 Sec. 10. Section 214.8, Code 2005, is amended to read as  
16 follows:

17 214.8 ~~PENALTY~~ PENALTIES -- LIABILITY FOR DAMAGES.

18 1. Any weighmaster violating any of the provisions of  
19 sections 214.6 and 214.7, shall be Except as provided in  
20 subsection 2, a person who violates a provision of this  
21 chapter is guilty of a simple misdemeanor, and be. Each day  
22 that a continuing violation occurs shall be considered a  
23 separate offense.

24 2. The state may proceed against a person who violates  
25 this chapter by initiating an alternative civil enforcement  
26 action in lieu of a prosecution. The alternative civil  
27 enforcement action may be brought against the person as a  
28 contested case proceeding by the department under chapter 17A  
29 or as a civil judicial proceeding by the attorney general upon  
30 referral by the department. The department may impose,  
31 assess, and collect the civil penalty. The civil penalty  
32 shall be for at least one hundred dollars but not more than  
33 one thousand dollars for each violation. Each day that a  
34 continuing violation occurs shall be considered a separate  
35 offense.

1 a. Except as provided in paragraph "b", the state is  
2 precluded from prosecuting a violation pursuant to subsection  
3 1, if the state is a party in the alternative civil  
4 enforcement action, the department has made a final decision  
5 in the contested case proceeding, or a court has entered a  
6 final judgment.

7 b. If a party to an alternative civil enforcement action  
8 fails to pay the civil penalty to the department within thirty  
9 days after the party has exhausted the party's administrative  
10 remedies and the party has not sought judicial review in  
11 accordance with section 17A.19, the department may order that  
12 its final decision be vacated. When the department's final  
13 decision is vacated, the state may initiate a criminal  
14 prosecution, but shall be precluded from bringing an  
15 alternative civil enforcement action. If a party to an  
16 alternative civil enforcement action fails to pay the civil  
17 penalty within thirty days after a court has entered a final  
18 judgment, the department may request that the attorney general  
19 petition the court to vacate its final judgment. When the  
20 court's judgment has been vacated, the state may initiate a  
21 criminal prosecution, but shall be precluded from bringing an  
22 alternative civil enforcement action.

23 3. A person who violates a provision of this chapter is  
24 liable to the a person who is injured as a result of the  
25 violation for all damages sustained.

26 Sec. 11. Section 214.9, Code 2005, is amended to read as  
27 follows:

28 214.9 SELF-SERVICE MOTOR VEHICLE FUEL PUMPS PUMP METERS.

29 Self-service A self-service motor vehicle fuel pumps pump  
30 meter located at a motor vehicle fuel stations station may be  
31 equipped with an automatic latch-open devices device on the  
32 fuel dispensing hose nozzle only if the nozzle valve is the  
33 automatic closing type.

34 Sec. 12. Section 214.10, Code 2005, is amended to read as  
35 follows:

1 214.10 RULES.

2 The department ~~of agriculture and land stewardship~~ may  
3 promulgate adopt rules pursuant to chapter 17A as necessary to  
4 promptly and effectively enforce the provisions of this  
5 chapter.

6 Sec. 13. Section 214.11, Code 2005, is amended to read as  
7 follows:

8 214.11 INSPECTIONS -- RECALIBRATIONS -- PENALTY.

9 The department ~~of agriculture and land stewardship~~ shall  
10 provide for an annual inspections inspection of ~~all~~ each motor  
11 vehicle fuel ~~pumps~~ pump meter which is licensed under this  
12 chapter. ~~Inspections~~ The inspection shall be ~~for the purpose~~  
13 ~~of determining~~ determine the accuracy of the ~~pumps~~ measuring  
14 ~~mechanisms, and for such purpose the department's inspectors~~  
15 meter and the correctness of associated equipment. In order  
16 to carry out an inspection, the department may enter upon the  
17 premises of ~~any~~ a wholesale dealer or retail dealer, ~~as they~~  
18 ~~are defined in section 214A.1,~~ of motor vehicle fuel or a  
19 person selling or offering to sell fuel oil within this state.  
20 Upon completion of an inspection, the inspector shall affix  
21 the department's seal to the measuring mechanism of the motor  
22 vehicle fuel pump meter. The seal shall be appropriately  
23 marked, dated, and recorded by the inspector. If the owner of  
24 an inspected and sealed motor vehicle fuel pump meter is  
25 registered with the department as a servicer in accordance  
26 with section 215.23, or employs a person so registered as a  
27 servicer, the owner or other servicer may open the motor  
28 vehicle fuel pump meter's dispenser, break the department's  
29 seal, recalibrate the measuring mechanism if necessary, and  
30 reseal the motor vehicle fuel pump as long as meter, if the  
31 department is notified of the recalibration within forty-  
32 eight hours, on a form provided by the department. ~~A person~~  
33 ~~violating a provision of this section is, upon conviction,~~  
34 ~~guilty of a simple misdemeanor.~~

35 Sec. 14. Section 214A.1, Code 2005, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 2A. "Motor vehicle fuel pump meter" means  
3 the same as defined in section 214.1.

4 Sec. 15. Section 214A.5, Code 2005, is amended to read as  
5 follows:

6 214A.5 SALES SLIP ON DEMAND.

7 1. Each A wholesale dealer or retail dealer in this state  
8 shall, when making a sale of motor vehicle fuel, give to each  
9 a purchaser upon demand a sales slip, upon which must be  
10 ~~printed the words "This motor vehicle fuel conforms to the~~  
11 ~~standard of specifications required by the state of Iowa."~~

12 2. Each A wholesale dealer in this state shall, when  
13 making a sale of oxygenate octane enhancer, give to each a  
14 purchaser upon demand a sales slip upon which must be printed  
15 the words "This oxygenate octane enhancer conforms to the  
16 standard specifications required by the state of Iowa."

17 Sec. 16. Section 214A.7, Code 2005, is amended to read as  
18 follows:

19 214A.7 DEPARTMENT INSPECTION -- SAMPLES TESTED.

20 The department, ~~its agents or employees,~~ shall, from time  
21 to time, make or cause to be made tests of any motor vehicle  
22 fuel or oxygenate octane enhancer which is being sold, or held  
23 or offered for sale within this state, ~~and for such purposes~~  
24 ~~the inspectors have the right to.~~ An inspector may enter upon  
25 the premises of any wholesale dealer or retail dealer ~~of motor~~  
26 ~~vehicle fuel or oxygenate octane enhancer within this state,~~  
27 and to take from any container a sample of the motor vehicle  
28 fuel or oxygenate octane enhancer, not to exceed eight sixteen  
29 fluid ounces. The sample shall be sealed and appropriately  
30 marked or labeled by the inspector and delivered to the  
31 department. The department shall make, or cause to be made,  
32 complete analyses or tests of the motor vehicle fuel or  
33 oxygenate octane enhancer by the methods specified in section  
34 214A.2.

35 Sec. 17. Section 214A.11, Code 2005, is amended to read as

1 follows:

2 214A.11 VIOLATIONS PENALTIES.

3 1. Any Except as provided in subsection 2, a person  
4 violating-the-provisions who violates a provision of this  
5 chapter shall-be is guilty of a simple misdemeanor. Each day  
6 that a continuing violation occurs shall be considered a  
7 separate offense.

8 2. The state may proceed against a person who violates  
9 this chapter by initiating an alternative civil enforcement  
10 action in lieu of a prosecution. The alternative civil  
11 enforcement action may be brought against the person as a  
12 contested case proceeding by the department under chapter 17A  
13 or as a civil judicial proceeding by the attorney general upon  
14 referral by the department. The department may impose,  
15 assess, and collect the civil penalty. The civil penalty  
16 shall be for at least one hundred dollars but not more than  
17 one thousand dollars for each violation. Each day that a  
18 continuing violation occurs shall be considered a separate  
19 offense.

20 a. Except as provided in paragraph "b", the state is  
21 precluded from prosecuting a violation pursuant to subsection  
22 1, if the state is a party in the alternative civil  
23 enforcement action, the department has made a final decision  
24 in the contested case proceeding, or a court has entered a  
25 final judgment.

26 b. If a party to an alternative civil enforcement action  
27 fails to pay the civil penalty to the department within thirty  
28 days after the party has exhausted the party's administrative  
29 remedies and the party has not sought judicial review in  
30 accordance with section 17A.19, the department may order that  
31 its final decision be vacated. When the department's final  
32 decision is vacated, the state may initiate a criminal  
33 prosecution, but shall be precluded from bringing an  
34 alternative civil enforcement action. If a party to an  
35 alternative civil enforcement action fails to pay the civil

1 penalty within thirty days after a court has entered a final  
2 judgment, the department may request that the attorney general  
3 petition the court to vacate its final judgment. When the  
4 court's judgment has been vacated, the state may initiate a  
5 criminal prosecution, but shall be precluded from bringing an  
6 alternative civil enforcement action.

7 Sec. 18. Section 214A.16, Code 2005, is amended to read as  
8 follows:

9 214A.16 NOTICE OF BLENDED FUEL -- DECAL.

10 If motor vehicle fuel containing a renewable fuel is sold  
11 from a motor vehicle fuel pump meter, the pump motor vehicle  
12 fuel pump meter shall have affixed a decal identifying the  
13 name of the renewable fuel. The decal may be different based  
14 on the type of renewable fuel used. The design and location  
15 of the decal shall be prescribed by rules adopted by the  
16 department. A decal identifying a renewable fuel shall be  
17 consistent with standards adopted pursuant to section 159A.6.  
18 The department may approve an application to place a decal in  
19 a special location on a motor vehicle fuel pump meter or  
20 container or use a decal with special lettering or colors, if  
21 the decal appears clear and conspicuous to the consumer. The  
22 application shall be made in writing pursuant to procedures  
23 adopted by the department.

24 Sec. 19. Section 215.1, Code 2005, is amended to read as  
25 follows:

26 215.1 DUTY TO INSPECT.

27 The department shall regularly inspect all commercial  
28 weighing and measuring devices, and when complaint is made to  
29 the department that any false or incorrect weights weight or  
30 measures-are measure is being made, the department shall  
31 inspect the commercial weighing and measuring devices which  
32 caused the complaint. The department may also inspect the  
33 reliability of a commercial scanner to determine its accuracy.  
34 The department may conduct a random inspection of prepacked  
35 goods to determine whether the goods' weight is recorded

1 accurately.

2 Sec. 20. Section 215.2, Code 2005, is amended to read as  
3 follows:

4 215.2 SPECIAL INSPECTION REQUEST -- FEES.

5 The fee for a special tests test, including but not limited  
6 to, using state inspection equipment, for the calibration,  
7 testing, certification, or repair of a commercial weighing and  
8 measuring device shall be paid by the servicer or person  
9 requesting the special test ~~in accordance with the following~~  
10 schedule. The amount of the inspection fee shall be as  
11 follows:

12 1. Class-S<sub>7</sub>-scales For a commercial scale, seventy-five  
13 dollars per hour.

14 2. Class-M<sub>7</sub>-meters For a meter, fifty-two dollars and  
15 fifty cents per hour.

16 Sec. 21. Section 215.4, Code 2005, is amended to read as  
17 follows:

18 215.4 TAG FOR INACCURATE DEVICE -- REINSPECTION -- FEE.

19 A commercial weighing and measuring device found to be  
20 inaccurate upon inspection by the department shall be tagged  
21 "condemned rejected until repaired" repaired and the "licensed  
22 for commercial use" inspection sticker shall be removed. If  
23 notice is received by the department that the device has been  
24 repaired and upon reinspection the device is found to be  
25 accurate, the license fee shall not be charged for the  
26 reinspection. However, a second license fee shall be charged  
27 if upon reinspection the device is found to be inaccurate. If  
28 at a third reinspection the device is found to be inaccurate,  
29 the license fee shall be charged and the device shall be  
30 tagged "condemned" and removed from service.

31 Sec. 22. Section 215.9, Code 2005, is amended to read as  
32 follows:

33 215.9 POWER OF CITIES LIMITED.

34 Commodities A city ordinance shall not require that a  
35 commodity be weighed upon any scale bearing the inspection

1 ~~card, issued by~~ or measured if the commodity is weighed or  
2 measured by a commercial weighing and measuring device  
3 licensed by the department, ~~shall not be required to be~~  
4 ~~reweighed by any ordinance of any city, nor shall their.~~ A  
5 city ordinance shall not restrict the sale of a commodity at  
6 the weights so a weight or measure ascertained, and because  
7 thereof, be, by such ordinance, prohibited or restricted by a  
8 commercial weighing and measuring device licensed by the  
9 department.

10 Sec. 23. Section 215.10, Code 2005, is amended to read as  
11 follows:

12 215.10 INSTALLATION OF NEW SCALES.

13 ~~1. It shall be unlawful to~~ A person shall not install a  
14 commercial scale, used for commercial purposes in this state,  
15 unless the commercial scale is so installed that it is easily  
16 accessible for inspection and testing by equipment of the  
17 department, ~~and~~ with due regard to the scale's size and  
18 capacity. The installation shall be made consistent with the  
19 requirements of section 215.18 and rules adopted by the  
20 department.

21 2. Every A commercial scale manufacturer or dealer shall,  
22 upon selling a commercial scale ~~of the above types in Iowa,~~  
23 submit to the department upon forms provided by the  
24 department, the make, capacity of the scale, the date of sale,  
25 and the date and location of its installation.

26 Sec. 24. Section 215.15, Code 2005, is amended to read as  
27 follows:

28 215.15 SCALE PIT.

29 ~~Scale~~ A scale pit shall ~~have~~ be installed to ensure that  
30 there is proper room for an inspector or service person to  
31 repair or inspect the scale. Scale The installation shall be  
32 made consistent with the requirements of section 215.18 and  
33 rules adopted by the department. The scale pit shall remain  
34 dry at all times and adequate drainage shall be provided for  
35 the purpose of inspecting and cleaning.

1 Sec. 25. Section 215.17, Code 2005, is amended to read as  
2 follows:

3 215.17 TEST WEIGHTS TO BE USED.

4 1. A person engaged in scale repair work for hire shall  
5 use only test weights sealed by the department in determining  
6 the effectiveness of repair work and the test weights shall be  
7 sealed as to their accuracy once each year. However, a person  
8 shall not claim to be an official scale inspector and shall  
9 not use the test weights except to determine the accuracy of  
10 scale repair work done by the person and the person shall not  
11 be entitled to a fee for their use.

12 2. ~~A fee shall be charged and collected~~ The department  
13 shall impose and collect fees at the time of inspection for  
14 the inspection of such weights as follows:

15 a. A laboratory fee of seventy-five dollars per hour.

16 b. A service fee which shall be as follows:

17 (1) All weights up to and including 25  
18 pounds..... \$ 1.10 each

19 (2) Over twenty-five pounds capacity,  
20 up to and including 50 pounds..... 2.25 each

21 (3) Over 50 pounds capacity, up to and  
22 including 100 pounds..... 3.00 each

23 (4) Over 100 pounds capacity, up to  
24 and including 500 pounds..... 4.50 each

25 (5) Over 500 pounds capacity, up to  
26 and including 1,000 pounds..... 7.50 each

27 (6) The fee for all tank calibrations shall be as follows:

28 (a) 100 gallons up to and including  
29 300 gallons ..... \$ 4.50

30 (b) 301 gallons up to and including  
31 500 gallons ..... 7.50

32 (c) 501 gallons up to and including  
33 1,000 gallons ..... 11.25

34 (d) 1,001 gallons up to and including  
35 2,000 gallons ..... 15.00

1	(e) 2,001 gallons up to and including	
2	3,000 gallons .....	18.00
3	(f) 3,001 gallons up to and including	
4	4,000 gallons .....	21.00
5	(g) 4,001 gallons up to and including	
6	5,000 gallons .....	24.00
7	(h) 5,001 gallons up to and including	
8	6,000 gallons .....	27.00
9	(i) 6,001 gallons up to and including	
10	7,000 gallons .....	30.00
11	(j) 7,001 gallons and up .....	37.50

12 3. Calibration shall not be required ~~of~~ for a tank which  
13 is not used for the purpose of measuring, or which is equipped  
14 with a meter, and vehicle tanks loaded from meters and  
15 carrying a printed ticket showing gallonage shall not be  
16 required to be calibrated.

17 4. The department shall deposit moneys collected in fees  
18 which are imposed under this section into the metrology fund  
19 created in section 215.17A.

20 Sec. 26. NEW SECTION. 215.17A METROLOGY FUND.

21 1. A metrology fund is created in the state treasury under  
22 the control of the department. The fund is composed of moneys  
23 collected in fees required to be paid to the department  
24 pursuant to section 215.17. The fund may also include moneys  
25 appropriated by the general assembly and moneys available to  
26 and obtained or accepted by the department from the United  
27 States or private sources for placement in the fund.

28 2. Moneys in the fund are subject to an annual audit by  
29 the auditor of state. The metrology fund is subject to  
30 warrants written by the director of the department of  
31 administrative services, drawn upon the written requisition of  
32 the department.

33 3. Moneys in the fund are appropriated exclusively to the  
34 department for the exclusive purpose of maintaining,  
35 replacing, and upgrading equipment used in the department's

1 metrology laboratory.

2 4. The department may adopt rules pursuant to chapter 17A  
3 which are necessary to administer this section.

4 5. Section 8.33 shall not apply to moneys in the fund.  
5 Notwithstanding section 12C.7, moneys earned as income or  
6 interest from the fund shall remain in the fund until expended  
7 as provided in this section.

8 Sec. 27. Section 215.26, Code 2005, is amended by adding  
9 the following new subsections:

10 NEW SUBSECTION. 0A. "Commercial scale" means a weighing  
11 and measuring device which is used to determine the mass of a  
12 body by using the effect of gravity on that body, if the  
13 device is in the possession of a person who uses the device as  
14 part of a business.

15 NEW SUBSECTION. 0B. "Commercial scanner" means an  
16 electronic system that uses a laser bar code reader to  
17 retrieve product identity, price, or other information stored  
18 in the memory of a computer as defined in section 22.3A.

19 Sec. 28. Section 215.26, subsection 1, Code 2005, is  
20 amended to read as follows:

21 1. "Commercial weighing and measuring device" or "device"  
22 means a weight or measure or weighing or measuring device used  
23 to establish size, quantity, area or other quantitative  
24 measurement of a commodity sold by weight or measurement, or  
25 where the price to be paid for producing the commodity is  
26 based upon the weight or measurement of the commodity. The  
27 term includes an accessory attached to or used in connection  
28 with a commercial weighing or measuring device when the  
29 accessory is so designed or installed that its operation may  
30 affect the accuracy of the device. Commercial weighing and  
31 measuring device includes a public commercial scale as-defined  
32 under-section-214-1.

33 Sec. 29. NEW SECTION. 215.27 PENALTIES.

34 1. Except as provided in subsection 2, a person who  
35 violates a provision of this chapter commits a simple

1 misdemeanor. Each day that a continuing violation occurs  
2 shall be considered a separate offense.

3 2. The state may proceed against a person who violates  
4 this chapter by initiating an alternative civil enforcement  
5 action in lieu of a prosecution. The alternative civil  
6 enforcement action may be brought against the person as a  
7 contested case proceeding by the department under chapter 17A  
8 or as a civil judicial proceeding by the attorney general upon  
9 referral by the department. The department may impose,  
10 assess, and collect the civil penalty. The civil penalty  
11 shall be for at least one hundred dollars but not more than  
12 one thousand dollars for each violation. Each day that a  
13 continuing violation occurs shall be considered a separate  
14 offense.

15 a. Except as provided in paragraph "b", the state is  
16 precluded from prosecuting a violation pursuant to subsection  
17 1, if the state is a party in the alternative civil  
18 enforcement action, the department has made a final decision  
19 in the contested case proceeding, or a court has entered a  
20 final judgment.

21 b. If a party to an alternative civil enforcement action  
22 fails to pay the civil penalty to the department within thirty  
23 days after the party has exhausted the party's administrative  
24 remedies and the party has not sought judicial review in  
25 accordance with section 17A.19, the department may order that  
26 its final decision be vacated. When the department's final  
27 decision is vacated, the state may initiate a criminal  
28 prosecution, but shall be precluded from bringing an  
29 alternative civil enforcement action. If a party to an  
30 alternative civil enforcement action fails to pay the civil  
31 penalty within thirty days after a court has entered a final  
32 judgment, the department may request that the attorney general  
33 petition the court to vacate its final judgment. When the  
34 court's judgment has been vacated, the state may initiate a  
35 criminal prosecution, but shall be precluded from bringing an

1 alternative civil enforcement action.

2 Sec. 30. Section 422.11C, subsection 1, paragraph c, Code  
3 2005, is amended to read as follows:

4 c. "Metered pump" means a motor vehicle fuel pump meter  
5 licensed by the department of agriculture and land stewardship  
6 pursuant to chapter 214.

7 Sec. 31. CODE EDITOR DIRECTIVE. The Code editor shall  
8 transfer section 215.26 to the beginning of chapter 215.

9 Sec. 32. Section 214A.12, Code 2005, is repealed.

10

#### EXPLANATION

11 This bill amends Code chapters 214, 214A, and 215, which  
12 regulate commercial weighing and measuring devices such as  
13 scales and meters, and also provide for the inspection of  
14 weights and measures, by the department of agriculture and  
15 land stewardship. In general, Code chapter 214 regulates  
16 devices and Code chapter 215 regulates service agencies  
17 engaged in the business of installing, servicing, or repairing  
18 these devices. Code chapter 214A generally regulates the  
19 storage and dispensing of motor vehicle fuel at the wholesale  
20 and retail levels. The three Code chapters contain some  
21 overlapping provisions.

22 The bill changes the names of terms used in the Code  
23 chapters. It changes the term "motor vehicle fuel pump" to  
24 "motor vehicle fuel pump meter" and "public scale" to  
25 "commercial scale". The bill defines these terms and makes  
26 the use of terms consistent throughout all three Code  
27 chapters. It also rewrites language in the chapters for  
28 consistency and readability.

29 Many of the provisions in Code chapters 214 and 215 relate  
30 to licensure and inspection requirements. The bill rewrites a  
31 provision in Code chapter 214 which increases the fees charged  
32 for both issuing and renewing a license. Under Code section  
33 214.3, the license fee is generally based on the capacity of  
34 the device or the type of device in service. The bill  
35 eliminates a number of names for specific scales (counter

1 scales, portable platform scales, livestock monorail scales,  
2 single animal scales, grain test scales, and precious metal  
3 and gems scales). It amends provisions in Code section 215.17  
4 to establish an hourly laboratory fee. It also provides that  
5 all inspection fees enumerated in that section must be  
6 deposited into a trust fund under the control of the  
7 department for its use in maintaining, replacing, and  
8 upgrading equipment used in the metrology laboratory.

9 The bill includes special penalty provisions in each of the  
10 Code chapters. These chapters are codified in Title V,  
11 subtitle 4, of the Code. Code section 189.21 provides a  
12 general penalty for a violation of a provision in the  
13 subtitle. The penalty is a simple misdemeanor. Code sections  
14 214.8 and 214A.11 have duplicative penalty provisions. A  
15 simple misdemeanor is punishable by confinement for no more  
16 than 30 days or a fine of at least \$50 but not more than \$500  
17 or by both. The bill provides that the state may proceed  
18 against a person who violates a provision in one of these  
19 chapters by initiating an alternative civil enforcement action  
20 in lieu of a criminal prosecution. The amount of the civil  
21 penalty ranges from \$100 to \$1,000. An alternative civil  
22 enforcement action may be brought as a contested case  
23 proceeding within the department under the Iowa administrative  
24 procedure Act (Code chapter 17A) or as a court case by the  
25 attorney general. If the state brings an alternative civil  
26 enforcement action, it is precluded from bringing a criminal  
27 prosecution. There is one exception. If the party found in  
28 violation of the law fails to pay the civil penalty to the  
29 department within a 30-day period, the department may take  
30 steps to vacate the administrative order or court judgment  
31 which imposed the civil penalty and the state may initiate the  
32 criminal prosecution, but is precluded from bringing a new  
33 alternative civil enforcement action.

34

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