



FIFTEENTH GUAM LEGISLATURE  
1979 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

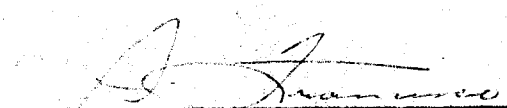
This is to certify that Substitute Bill No. 49, "An Act to repeal and reenact Chapter III of Title XLIV of the Government Code relative to weights and measures", was on the 3rd day of December 1979, duly and regularly passed.

  
THOMAS V. C. TANAKA  
Speaker

ATTESTED:

  
JAMES H. UNDERWOOD  
Legislative Secretary

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This Act was received by the Governor this 28<sup>th</sup> day of  
December, 1979, at 10:15 o'clock A.M.

  
SIERRA L. FRANCISCO  
Assistant Staff Officer  
Governor's Staff

APPROVED:

  
PAUL M. CALVO  
Governor of Guam

DATED: 1/8/80 3:15 p.m.

P.L. 15-91

FIFTEENTH GUAM LEGISLATURE  
1979 (FIRST) Regular Session

Bill No. 49  
(As Substituted by the  
Committee on Commerce,  
Tourism & Transportation)

Introduced by J. H. Underwood

AN ACT TO REPEAL AND REENACT CHAPTER III  
OF TITLE XLIV OF THE GOVERNMENT CODE  
RELATIVE TO WEIGHTS AND MEASURES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Chapter III of Title XLIV of the Government Code  
3 is repealed and reenacted to read:

4 "CHAPTER III

5 Weights and Measures

6 Section 47200. Definitions. As used in this Chapter:

7 (1) 'weights and measures' means all weights and  
8 measures of every kind, instruments and devices for  
9 weighing and measuring, and any appliance and accessories  
10 associated with any or all such instruments and devices;

11 (2) 'weight' as used in connection with any commodity,  
12 means net weight; except where the label declares that the  
13 product is sold by drained weight, the term means net  
14 drained weight;

15 (3) 'correct' as used in connection with weights and  
16 measures, means conformance to all applicable requirements  
17 of this Chapter;

18 (4) 'primary standards' means the physical standards  
19 of the territory which serve as the legal reference from  
20 which all other standards and weights and measures are  
21 derived;

22 (5) 'secondary standards' means the physical  
23 standards which are traceable to the primary standards

1 through comparisons, using acceptable laboratory procedures,  
2 and used in the enforcement of weights and measures laws  
3 and regulations;

4 (6) 'Director' means the Director of the Department  
5 of Revenue and Taxation;

6 (7) 'person' means both plural and the singular, as  
7 the case demands, and includes individuals, partnerships,  
8 corporations, companies, societies and associations  
9 including governmental agencies;

10 (8) 'sale from bulk' means the sale of commodities  
11 when the quantity is determined at the time of sale; and

12 (9) 'package' means any commodity put up or packaged  
13 in any manner in advance of sale in units suitable for  
14 either wholesale or retail sale.

15 Section 47201. Systems of Weights and Measures. The  
16 customary system of weights and measures used in the United  
17 States and the metric system of weights and measures are  
18 jointly recognized and either one or both of these systems  
19 shall be used for all commercial and governmental purposes  
20 in the territory. The definitions of basic units of  
21 weights and measures, the tables of weights and measures,  
22 and weights and measures equivalents as published by the  
23 National Bureau of Standards are recognized and shall govern  
24 weighing and measuring equipment and transactions in the  
25 territory.

26 Section 47202. Physical Standards. Weights and  
27 measures that are traceable to the United States prototype  
28 standards supplied by the Federal government or approved  
29 as being satisfactory by the National Bureau of Standards,  
30 shall be the territory's primary standards of weights and

1 measures and shall be maintained in such calibration as  
2 prescribed by the National Bureau of Standards. All  
3 secondary standards may be prescribed by the Director and  
4 shall be verified upon their initial receipt and as often  
5 thereafter as deemed necessary by the Director.

6 Section 47203. Technical Requirements for Weighing  
7 and Measuring Devices. The specifications, tolerances and  
8 other technical requirements for weighing and measuring  
9 devices as adopted by the National Conference on Weights  
10 and Measures and published in the National Bureau of  
11 Standards Handbook 44, 'Specifications, Tolerances, and  
12 Other Technical Requirements for Commercial Weighing and  
13 Measuring Devices', and supplements thereto or revisions  
14 thereof, shall apply to weighing and measuring devices in  
15 the territory, except insofar as modified or rejected by  
16 regulation.

17 Section 47204. Weights and Measures Division:  
18 Personnel. There shall be a Division of Weights and  
19 Measures located for administrative purposes within the  
20 Department of Revenue and Taxation. The Division is charged  
21 with, but not limited to, performing the following functions:

22 (1) assuring that weights and measures in commercial  
23 and governmental service within the territory are suitable  
24 for their intended use, properly installed, accurate and are  
25 so maintained by their owner or user;

26 (2) preventing unfair or deceptive dealing by weight  
27 or measure in any commodity or service advertised, packaged,  
28 sold or purchased within this territory;

29 (3) making available to all users of physical  
30 standards or weighing and measuring equipment the precision

1 calibration and related metrological certificate capabili-  
2 ties of the weights and measures facilities of the  
3 Division;

4 (4) promoting uniformity, to the extent such confor-  
5 mance is practicable and desirable, between weights and  
6 measures requirements in this territory and those of other  
7 states and federal agencies; and

8 (5) encouraging desirable economic growth while  
9 protecting the consumer through the adoption by rule of  
10 weights and measures requirements as necessary to assure  
11 equity among buyers and sellers.

12 Section 47205. Powers and Duties of the Director. The  
13 Director shall:

14 (1) maintain traceability of the territory standards  
15 to the National Bureau of Standards;

16 (2) enforce the provisions of this Chapter;

17 (3) issue reasonable regulations for the enforcement  
18 of this Chapter, which regulations shall have the force  
19 and effect of law;

20 (4) establish labeling requirements, establish  
21 requirements for the presentation of cost-per-unit  
22 information, establish standards of weight, measure or  
23 count, and reasonable standards of fill for any packaged  
24 commodity and may establish requirements for open dating  
25 information;

26 (5) grant any exemptions from the provisions of this  
27 Chapter or any regulations promulgated pursuant thereto and  
28 when appropriate to the maintenance of good weighing and  
29 measuring practices within the territory;

30 (6) conduct investigations to ensure compliance with

1 this Chapter;

2 (7) delegate to appropriate personnel any of these  
3 responsibilities for the proper administration of this  
4 Division;

5 (8) test annually the standards of weights and  
6 measures used within the territory and approve the same when  
7 found to be correct;

8 (9) inspect and test weights and measures kept,  
9 offered or exposed for sale;

10 (10) inspect and test to ascertain if they are correct,  
11 weights and measures used:

12 (a) in determining the weight, measure or count  
13 of commodities or things sold or offered or exposed  
14 for sale, on the basis of weight, measure or count;  
15 or

16 (b) in computing the basic charge or payment for  
17 services rendered on the basis of weight, measure or  
18 count.

19 (11) test all weights and measures used in checking the  
20 receipt or disbursement of supplies in every institution  
21 for the maintenance of which funds are appropriated by the  
22 Legislature;

23 (12) approve for use and mark such weights and measures  
24 as he finds to be correct and shall reject and mark as  
25 rejected, such weights and measures as he finds to be  
26 incorrect;

27 (13) may seize weights and measures that have been  
28 rejected and not corrected within the time specified or if  
29 used or disposed of in a matter not specifically authorized.  
30 The Director shall condemn and may seize the weights and

1 measures found to be incorrect that are not capable of being  
2 made correct;

3 (14) Weigh, measure or inspect packaged commodities  
4 kept, offered or exposed for sale, sold or in the process  
5 of delivery, to determine whether they contain the amounts  
6 represented and whether they are kept, offered or exposed  
7 for sale in accordance with this Chapter or regulations  
8 promulgated pursuant thereto. In carrying out the  
9 provisions of this Section, the Director shall employ  
10 recognized sampling procedures, such as those designed in  
11 the National Bureau of Standards;

12 (15) prescribe, by regulation, the appropriate term or  
13 unit of weight or measure to be used, whenever he determines  
14 in the case of a specific commodity that an existing  
15 practice of declaring the quantity by weight, measure,  
16 numerical count or combination thereof does not facilitate  
17 value comparisons by consumers or offers an opportunity for  
18 consumer confusion;

19 (16) allow reasonable variations from the stated  
20 quantity of contents which shall include those caused by  
21 loss or gain of moisture during the course of good  
22 distribution practice or by unavoidable deviations in good  
23 manufacturing practice only after the commodity has entered  
24 intrastate commerce; and

25 (17) establish a schedule of fees for the annual  
26 inspection of a scale, weight or measure and other services  
27 performed by the Division in accordance with the provisions  
28 of this Section and the regulations promulgated thereunder,  
29 provided that such schedule of fees includes a charge of  
30 not less than Two Dollars (\$2.00) per device inspected.

1 Records of charges made pursuant to this provision shall be  
2 kept so that such money may be earmarked in annual budgets  
3 for the purchase of equipment.

4 Section 47206. Special Police Powers. When necessary  
5 for enforcement of this Chapter or regulations promulgated  
6 pursuant thereto, the Director is:

7 (1) Authorized to enter any commercial premises during  
8 normal business hours, except that in the event such  
9 premises are not open to the public, he shall first present  
10 his credentials and obtain consent before making entry  
11 thereto, unless a search warrant has previously been  
12 obtained;

13 (2) empowered to issue stop-use, hold and removal  
14 orders with respect to any weights and measures commercially  
15 used and stop-sale, hold and removal orders with respect  
16 to any packaged commodities or bulk commodities kept,  
17 offered or exposed for sale;

18 (3) empowered to seize, for use as evidence, without  
19 formal warrant, any incorrect or unapproved weight, measure,  
20 package or commodity found to be used, retained, offered or  
21 exposed for sale or sold in violation of the provisions of  
22 this Chapter or regulations promulgated pursuant thereto;

23 (4) empowered to stop any commercial vehicle and,  
24 after presentment of his credentials, inspect the contents,  
25 require that the person in charge of that vehicle produce  
26 any documents in his possession concerning the contents and  
27 require him to proceed with the vehicle to some specified  
28 place for inspection; and

29 (5) With respect to the enforcement of this Chapter,  
30 the Director or his duly authorized designee vested with



1 special police powers may arrest any violator of this  
2 Chapter in accordance with provisions of the Criminal  
3 Procedure Code.

4 Section 47207. Powers and Duties of Officials. Any  
5 weights and measures official appointed for the territory  
6 shall have the duties enumerated in Section 47205(9)  
7 through 47205(14) and the power enumerated in Section  
8 47206 of this Code.

9 Section 47208. Misrepresentation of Quantity. No  
10 person shall sell, offer or expose for sale less than the  
11 quantity of commodity or service he represents, not take  
12 any more than the quantity of commodity or service he  
13 represents when he furnishes the weight or measure by means  
14 of which the quantity is determined.

15 Section 47209. Misrepresentation of Pricing. No  
16 person shall misrepresent the price of any commodity or  
17 service sold, offered, exposed or advertised for sale by  
18 weight, measure or count nor represent the price in any  
19 manner calculated or tending to mislead or in any way  
20 deceive a person.

21 Section 47210. Method of Sale. Except as otherwise  
22 provided by the Director, commodities in liquid form shall  
23 be sold by liquid measure or by weight, and commodities  
24 not in liquid form shall be sold only by weight or by  
25 measure or by count, so long as the method of sale provides  
26 accurate quantity information.

27 Section 47211. Sale from Bulk. Whenever the quantity  
28 is determined by the seller, bulk sales in excess of Twenty  
29 Dollars (\$20) shall be accompanied by a delivery ticket  
30 containing the following information:

- 1 (1) the name and address of the vendor and purchaser;
- 2 (2) the date delivered;
- 3 (3) the quantity delivered and the quantity upon which
- 4 the price is based, if this differs from the delivered
- 5 quantity;
- 6 (4) the identity in the most descriptive terms
- 7 commercially practicable, including any quality representa-
- 8 tion made in connection with the sale; and
- 9 (5) the count of individually wrapped packages, if
- 10 more than one.

11 Section 47212. Information Required on Packages.

12 Except as otherwise provided in this Chapter or by

13 regulations promulgated pursuant thereto, any package kept

14 for the purpose of sale or offered or exposed for sale shall

15 bear on the outside of the package a definite, plain and

16 conspicuous declaration of:

17 (1) the identity of the commodity in the package,

18 unless the same can easily be identified through the wrapper

19 or container;

20 (2) the quantity of contents in terms of weight,

21 measure or count; and

22 (3) the name and place of business of the manufacturer,

23 packer or distributor, in the case of any package kept,

24 offered or exposed for sale or sold in any place other

25 than on the premises where packed.

26 Section 47213. Declarations of Unit Price on Random

27 Packages. In addition to the declarations required by

28 Section 47212 of this Chapter, any package being one of a

29 lot containing random weights of the same commodity and

30 bearing the total selling price of the package shall bear

1 on the outside of the package a plain and conspicuous  
2 declaration of the price per single unit of weight.

3 Section 47214. Advertising Packages for Sale.

4 Whenever a packaged commodity is advertised in any manner  
5 with the retail price stated, there shall be closely and  
6 conspicuously associated with the retail price a declaration  
7 of quantity as is required by law or regulation to appear  
8 on the package. Where a dual declaration is required, only  
9 the declaration that sets forth the quantity in terms of the  
10 smaller unit of weight or measure need appear in the  
11 advertisement.

12 Section 47215. Offenses and Penalties. Any person who  
13 violates the following enumerated provisions or any  
14 provision of this Chapter or regulations promulgated  
15 pursuant thereto, for which a specific penalty has not been  
16 prescribed, shall be guilty of a misdemeanor. No person  
17 shall:

18 (1) use or have in possession for use in commerce any  
19 incorrect weight or measure;

20 (2) remove any tag, seal or mark from any weight or  
21 measure without specific written authorization from the  
22 proper authority; or

23 (3) hinder or obstruct any weights and measures  
24 official in the performance of his duties.

25 Section 47216. Injunction. The Director is  
26 authorized to apply to any court of competent jurisdiction  
27 for a temporary or permanent injunction restraining any  
28 person from violating any provision of this Chapter.

29 Section 47217. Presumptive Evidence. Whenever there  
30 shall exist a weight or measure or weighing or measuring

1 transported or drawn; and

2 (3) 'Director' means the Director of the Department of  
3 Revenue and Taxation or his delegate.

4 Section 47226. Enforcing Officer: Rules and  
5 Regulations. The Director is authorized to enforce the  
6 provisions of this Chapter and he shall issue from time to  
7 time reasonable regulations for the enforcement in  
8 accordance with the Administrative Adjudication Act.

9 Section 47227. Qualifications for Weighmaster. A  
10 resident of the territory of Guam, not less than 18 years  
11 of age, of good moral character, who has the ability to  
12 weigh accurately and to make correct weight certificates,  
13 and who has received from the Director a license as a  
14 public weighmaster, shall be styled and authorized to act  
15 as a public weighmaster.

16 Section 47228. License application. An application  
17 for a license as a public weighmaster shall be made upon a  
18 form provided by the Director. A fee of Twenty-Five Dollars  
19 (\$25) shall be paid upon submission of the application.

20 Section 47229. Evaluation of qualifications of  
21 applicants: Records. The Director may adopt rules for  
22 determining the qualifications for licensure as a public  
23 weighmaster. The Director may pass upon the qualifications  
24 of the applicant upon the basis of the information supplied  
25 in the application or he may examine such applicant orally  
26 or in writing, or both, for the purpose of determining his  
27 qualifications. He shall grant licenses as public weigh-  
28 masters to such applicants as may be found to possess the  
29 required qualifications. The Director shall keep a record  
30 of all such applications and of all licenses issued thereon.

1           Section 47230. License fees. Before the issuance of  
2 any license as a public weighmaster, or any renewal thereof,  
3 the applicant shall pay to the Director a fee of Twenty-Five  
4 Dollars (\$25). Licenses shall expire two (2) years after  
5 issuance. Such fees shall be deposited in the General Fund.

6           Section 47231. Limited licenses. Without charge, the  
7 Director shall issue a limited license as a public weigh-  
8 master to any qualified officer or employee of the govern-  
9 ment authorizing him to act as a public weighmaster within  
10 the scope of his employment.

11           Section 47232. Public weighmaster. Oath, seal. Each  
12 public weighmaster shall, before entering upon his duties,  
13 make oath to execute faithfully his duties. The issuance of  
14 a license as a public weighmaster shall not obligate the  
15 territory to pay to the licensee any compensation for his  
16 services as a public weighmaster. Each public weighmaster  
17 shall, at his own expense, provide himself with an  
18 impression seal. His name and the words 'Territory of Guam'  
19 shall be inscribed around the outer margin of the seal and  
20 words 'public weighmaster' shall appear in the center  
21 thereof. The seal shall be impressed upon each weight  
22 certificate issued by a public weighmaster.

23           Section 47233. Weight certificate: Required entries.  
24 The Director shall prescribe the form of weight certificate  
25 to be used by a public weighmaster. The weight certificate  
26 shall state the date of issuance, the kind of property,  
27 produce, commodity or article weighed, the name of the  
28 declared owner, agent of the owner or of the consignee of  
29 the material weighed, the accurate weight of the material  
30 weighed, the means by which the material was being

1 transported at the time it was weighed and such other  
2 available information as may be necessary to distinguish or  
3 identify the property, produce, commodity or article from  
4 others of like kind. Such weight certificate, when so made  
5 and properly signed and sealed, shall be prima facie  
6 evidence of the accuracy of the weights shown.

7 Section 47234. Weight certificate: Execution,  
8 requirements. A public weighmaster shall not enter on a  
9 weight certificate issued by him any weight values but such  
10 as he has personally determined and he shall make no  
11 entries on a weight certificate issued by some other person.  
12 A weight certificate shall be so prepared as to show  
13 clearly that weight or weights were actually determined. If  
14 the certificate form provides for the entry of gross, tare  
15 and net weights, in any case in which only the gross, the  
16 tare or the net weight is determined by the weighmaster,  
17 he shall strike through or otherwise cancel the printed  
18 entries for the weights not determined or computed. If  
19 gross and tare weights are shown on a weight certificate and  
20 both of these were not determined on the same scale and on  
21 the day for which the certificate is dated, the weighmaster  
22 shall identify on the certificate the scale used for  
23 determining each such weight and the date of each such  
24 determination.

25 Section 47235. Scale used: Type, test. When making  
26 a weight determination as provided for by this Chapter, a  
27 public weighmaster shall use a weighing device that is of a  
28 type suitable for the weighing of the amount and kind of  
29 material to be weighed and that has been tested and approved  
30 for use by the Director or his delegate within a period of

1 twelve (12) months immediately preceding the date of the  
2 weighing.

3 Section 47236. Scale used: Capacity, platform size,  
4 one-draft weighing. A public weighmaster shall not use any  
5 scale to weigh a load the value of which exceeds the nominal  
6 or rated capacity of the scale. When the gross or tare  
7 weight of any vehicle or combination of vehicles is to be  
8 determined, the weighing shall be performed upon a scale  
9 having a platform of sufficient size to accommodate such  
10 vehicle or combination of vehicles fully, completely and as  
11 one entire unit. If a combination of vehicles must be  
12 broken upon into separate units in order to be weighed as  
13 prescribed herein, each such separate unit shall be  
14 entirely disconnected before weighing and a separate weight  
15 certificate shall be issued for each such separate unit.

16 Section 47237. Copies of weight certificates. A  
17 public weighmaster shall keep and preserve for at least one  
18 year, or for such longer period as may be specified in the  
19 regulations, a legible carbon copy of each weight  
20 certificate issued by him. The copies shall be open at all  
21 reasonable times for inspection by any weights and measures  
22 officer of this territory.

23 Section 47238. Reciprocal acceptance of weight  
24 certificates. Whenever in any other jurisdiction which  
25 licenses public weighmasters, there is statutory authority  
26 for the recognition and acceptance of the weight  
27 certificates issued by public weighmasters of this territory,  
28 the Director of this territory is authorized to recognize  
29 and accept the weight certificates of such other juris-  
30 diction.

1           Section 47239. Optional licensing. The following  
2 persons shall not be required but may obtain licenses as  
3 public weighmasters: (1) a government weights and measures  
4 officer when acting within the scope of his official  
5 duties; (2) a person weighing property, produce,  
6 commodities or articles that he or his employer, if any,  
7 is either buying or selling; and (3) a person weighing  
8 property, produce, commodities or articles in conformity  
9 with the requirements of Federal statutes or the statutes  
10 of this territory relative to warehousemen or processors.

11           Section 47240. Prohibited acts. No person shall  
12 assume the title public weighmaster or any title of similar  
13 import, perform the duties or acts to be performed by a  
14 public weighmaster under this Chapter, hold himself out as a  
15 public weighmaster, issue any weight certificate, ticket,  
16 memorandum or statement for which a fee is charged or  
17 engage in the full-time or part-time business of public  
18 weighing, unless he holds a valid license as a public  
19 weighmaster. 'Public weighing', as used in this section,  
20 shall mean the weighing for any person, upon request, of  
21 property, produce, commodities or articles other than those  
22 which the weigher or his employer, if any, is either buying  
23 or selling.

24           Section 47241. Suspension and revocation of license.  
25 The Director is authorized to suspend or revoke the license  
26 of any public weighmaster when a licensed public weighmaster  
27 has been convicted in any court of competent jurisdiction of  
28 violating any provision of this Chapter or of any regulation  
29 issued under authority of this Chapter.

30           Section 47242. Offenses and penalties. Any person



1 who requests a licensed public weighmaster to weigh any  
2 property, produce, commodity or article falsely or  
3 incorrectly, or who requests a false or incorrect weight  
4 certificate, or any person who issues a weight certificate  
5 simulating the weight certificate prescribed in the Chapter  
6 and who is not a public weighmaster, shall be guilty of a  
7 misdemeanor and upon conviction for the first offense shall  
8 be punished by a fine in any sum not less than Twenty-Five  
9 Dollars (\$25.00) or more than One Hundred Dollars (\$100.00);  
10 and upon a second or subsequent conviction such person shall  
11 be punished by a fine in any sum not less than One Hundred  
12 Dollars (\$100.00) or more than Five Hundred Dollars  
13 (\$500.00), or by imprisonment for not less than thirty days  
14 (30) or more than ninety days (90) or by both fine and  
15 imprisonment.

16 Section 47243. Offenses and penalties: Malfeasance.  
17 Any public weighmaster who falsifies a weight certificate  
18 or who delegates his authority to any person not licensed as  
19 a public weighmaster or who preseals a weight certificate  
20 with his official seal before performing the act of  
21 weighing, shall be guilty of a misdemeanor.

22 Section 47244. Offenses and penalties: General. Any  
23 person who violates any provision of this Chapter or any  
24 rule or regulation promulgated pursuant thereto for which  
25 no specific penalty has been provided shall be guilty of a  
26 misdemeanor."

27 Section 3. Section 2 of this Act shall become effective  
28 ninety (90) days after enactment.

15TH GUAM LEGISLATURE

VOTING RECORD

SBILL/RESOLUTION NO. 49

MAIN SPONSOR NOT VOTING 9/14/19

SENATOR	AYE	NAY	MAIN SPONSOR NOT VOTING	ABSENT
AGUON, Katherine B.	✓			
BAMBA, Cecilia C.	✓			
BLAS, Frank F.	✓			
CHARFAUROS, Edward T.		✓		
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
ESPALDON, Ernesto M.	✓			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	<del>✓</del>			
PALOMO, Antonio M.	✓			
PALOMO, Benigno M.	✓			
PEREZ, Peter, Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TAITANO, Richard F.	✓			
TANAKA, Thomas V. C.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

20 1 0 0