

Item under Consideration:

Adopt a new Handbook 130 Uniform Shipment Law as follows:

X. Uniform Shipment Law

Section 1. Purpose

To ensure transparent, equitable, and accountable shipment practices concerning the weight, measure, and classification of shipped freight.

Section 2. Scope

This Act:

- (a) establishes an enforcement program;**
- (b) empowers the state to promulgate regulations as needed to carry out the provisions of the Act;**
- (c) provides for civil and criminal penalties.**

Section 3. Definitions

As used in this Act:

3.X. Bill of Lading (BOL) / Waybill. – A legal instrument used in the transportation and shipment industries which lists the freight being shipped and the terms under which they will be delivered.

3.X. Carrier. – A person, company, or entity engaged in handling, transporting, or delivering freight as part of a commercial transaction.

3.X. Freight. - Goods or cargo transported by truck, train, ship, or aircraft for commercial purposes.

3.X. Freight Class. – A system that groups freight into categories based on four factors: density, handling, stowability, and liability.

3.X. Freight Quote. – Documentation provided by a logistics service provider that outlines the cost of transporting goods from one location to another, based on factors such as weight, dimensions, distance, and shipping method.

3.X. Handling Unit. – A single item or group of items that are packaged together and handled as a single unit throughout the shipping process. Handling units refer to packages or containers designed to facilitate the efficient and safe transportation and storage of freight, which may vary in size and form.

3.X. Inspection Certificate. – A document used to signify that shipped freight has been inspected pertaining to classification, density, weight, volume, quantity, or measure.

3.X. Logistics Service Provider (LSP). – An entity that offers logistics-related services such as transportation, warehousing, freight forwarding, or supply chain coordination on behalf of another party. This includes, but is not limited to, carrier, third party logistics provider, freight forwarder, and consignee (receiver of goods).

3.X. Measuring System. – A device or combination of devices, including equipment and software, used to measure and record the density, weight, volume, quantity, or measurement of freight, as approved by the jurisdiction where the system is used.

3.X. National Motor Freight Classification (NMFC) Code. – A numeric code used to classify freight for shipping.

3.X. Progressive Number (Pro / Tracking Number). – A unique numeric identifier issued by a carrier for identification and tracking of a shipper's specific order.

3.X. Shipment. – A quantity of goods shipped with a logistics service provider.

3.X. Shipper. – Individuals or businesses that send or request goods using a logistics service provider.

3.X. Terminal or Service Center. – A facility designated for managing and coordinating the movement of trucks and goods, and may facilitate the assessment of goods for weight, measure, and freight classification.

3.X. Unique Identifier. – A distinct code or number assigned by a logistics service provider to identify an individual, entity, document, or item within a specific operational or shipment tracking system.

3.X. Director. – The _____ of the Department of _____.

Section 4. Enforcing Official: Rules and Regulations

The Director is authorized to:

(a) enforce the provisions of this Act;

(b) issue reasonable regulations for the enforcement of this Act that shall have the force and effect of law; and

(c) adopt rules that include, but are not limited to;

(1) adherence to the provided freight quote from the logistics service provider is required, contingent upon the shipper supplying accurate and complete documentation pertaining to the shipment;

- (2) the weighing, measuring, and freight class accuracies that must be followed as outlined in Section 5. Weighing and Measuring Practice and Equipment Used;
- (3) the required information that shall be submitted by the logistics service provider to the shipper, if a correction is applied; and
- (4) the period of recordkeeping in accordance with, Title 49 CFR Part 379, Appendix A, U.S. Department of Transportation;

Section 5. Weighing and Measuring Practices and Equipment Used

All entities, including but not limited to, shippers and logistics service providers, shall use weighing and measuring practices and equipment:

- (a) in accordance with the requirements of NIST Handbook 44, “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices”, as revised and amended; and
- (b) that have been examined, tested, and approved for use by either a weights and measures official or authorized service provider. In the absence of an applicable NTEP program for said device, it shall be used in accordance with the manufacturer’s approved application.

Section 6. Weighing Device Used

All entities, including but not limited to shippers and logistics service providers, shall use an NTEP-approved weighing device. In the absence of an applicable NTEP program for said device, it shall be used in accordance with the manufacturer’s approved application.

Section 7. Measuring Device Used

All entities, including but not limited to shippers and logistics service providers, shall use an NTEP-approved measuring device. In the absence of an applicable NTEP program for said device, it shall be used in accordance with the manufacturer’s approved application.

Section 8. Inspection Certificate - Required Entries

- (a) The documentation, when properly completed and signed, including digital signatures, shall be prima facie evidence of the accuracy of the recorded results and procedures followed.
- (b) The recorded information to be provided on the documentation shall be prescribed by the Director and will include, but not be limited to, the following:
 - (1) employee identifier of the individual(s) who conduct(s) the inspection;
 - (2) date and time of the inspection;
 - (3) identifying information for the issuing terminal to include physical address and contact information;
 - (4) unique identifier of the weighing or measuring device used to conduct the inspection;

- (5) indicated reweigh or remeasure value from the weighing device or measuring device for each handling unit;
- (6) indicated NMFC code and commodity description related to freight class for each handling unit or shipment correlating to a change in weight, measure, quantity, volume, or density;
- (7) identifying information for both the Pro Number and BOL, if applicable; and
- (8) name and address of the shipper from the point of origin.

Section 9. Copies of Inspection Certificates

Logistics service providers shall keep and preserve for the period of two years, a legible copy of each inspection certificate issued to the shipper. The certificates, as required in Section 8. Inspection Certificate - Required Entries, shall be available for inspection within 48 hours by a weights and measures official during normal business hours.

Section 10. Prohibited Acts

It shall be unlawful if any entity:

- (a) violates any provisions of this Act or any regulation promulgated under this Act, with intent to defraud; or
- (b) knowingly or with intent to defraud -
 - (1) provides a false commodity description, freight class, NMFC code, density, weight, or measurement. either orally or written;
 - (2) satisfies fewer than all requirements of this Act as stated in Sections 5, 6, 7, 8, and 9;
 - (3) hinders or obstructs in any way the Director or their authorized agent in the performance of the Director's official duties under this Act;
 - (4) uses or have in their possession a measuring system or any of its components that have been designed, modified, or used to facilitate fraud, or that has not been approved for commercial use by a weights and measures agency and/or official, or other authorized regulatory authority having jurisdiction over the measuring system.

Section 11. Civil Penalties

11.1. Assessment of Penalties. – Any entity who by themselves or by their servant or agent commits any of the acts enumerated in Section 10. Prohibited Acts may be punished for the violation with a written warning and/or assessed by the _____ a civil penalty, as deemed appropriate upon consideration of all the circumstances surrounding the violation. The range for penalties in each category shall be as follows:-

- (a) a warning or fine of not less than \$ _____ nor more than \$ _____ for a first violation,

(b) a warning or fine of not less than \$ _____ nor more than \$ _____ for a second violation within _____ from the date of the first violation, and

(c) a fine of not less than \$ _____ nor more than \$ _____ for a third violation within _____ from the date of the first violation.

11.2. Administrative Hearing. – Any entity subject to a civil penalty shall have a right to request an administrative hearing within _____ days of receipt of the notice of the penalty. The Director or their designee shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the Director shall be subject to appropriate judicial review.

11.3. Collection of Penalties. – If the respondent has exhausted their administrative appeals and the civil penalty has been upheld, they shall pay the civil penalty within _____ days after the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the Director in any court of competent jurisdiction to recover the penalty. Any civil penalty collected under this Act shall be transmitted to _____.

Section 12. Criminal Penalties

12.1. Misdemeanor. – Any entity who by themselves or by their servant or agent commits any of the acts enumerated in Section 10. Prohibited Acts or violates any other provision of this Act shall be guilty of a Class _____ misdemeanor and upon conviction shall be punished by a fine not less than \$ _____, nor more than \$ _____, or by imprisonment for not less than _____ nor more than _____, or both fine and imprisonment.

12.2. Felony. – Any entity who by themselves or their servant or agent who intentionally commits any of the acts enumerated in Section 10. Prohibited Acts or repeatedly violates any other provision of this Act shall be guilty of a Class _____ felony and upon conviction shall be punished by a fine not less than \$ _____ and/or by imprisonment for not less than _____, nor more than _____.

Section 13. Restraining Order and Injunction

The Director is authorized to apply to any court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining any person from violating any provision of this Act.

Section 14. Validity of Prosecutions

Prosecutions for violation of any provision of this Act are declared to be valid and proper notwithstanding the existence of any other valid general or specific Act of this state dealing with matters that may be the same as or similar to those covered by this Act.

Section 15. Severability Provision

If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected.

Section 16. Repeal of Conflicting Laws

All laws and parts of laws contrary to or inconsistent with the provisions of this Act, and specifically _____, are repealed insofar as they might operate in the future; but as to offenses committed, liabilities incurred, and claims now existing there under, the existing law shall remain in full force and effect.

Section 17. Citation

This Act may be cited as the “Shipment Act of _____.”

Section 18. Effective Date

This Act shall become effective on _____.