

Chapter 34 CONSUMER PROTECTION

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ARTICLE I. IN GENERAL

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Sec. 34-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of consumer affairs or his authorized representative.

(Code 1978, § 8-1)

Cross reference— Definitions generally, § 1-2.

Sec. 34-2. Right to enter.

At any reasonable hour, any council-authorized city staff member may enter the premises of any retail sales establishment in the city for the purpose of inspecting any packaging, marking of products exposed for sale, weights, weighing devices, scales or measures of any kind stored or used in such retail sales establishment in the city that are used or could be used to weigh, measure or apportion any commodity exposed for retail sale. The premises of such retail sales outlet shall include any vehicle,

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place, storeroom or storehouse which is used as a part of such retail sales operation to expose its commodities for sale, or that is used to store, transport, weigh, measure or apportion its products to or for its retail sales customers. Such premises shall include but not be limited to all school lunchrooms and all other places in the city where prepackaged products specified in this section are exposed and offered for sale to schoolchildren, school officials, the consuming public, club members, special groups of any kind or nature or any retail sales outlet of any kind.

(Code 1978, § 8-4)

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ARTICLE II. OFFICE OF CONSUMER AFFAIRS

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Sec. 34-36. Office established; director.

There is created the office of consumer affairs, the head of which shall be annually appointed by the city council and shall be designated "director of consumer affairs."

(Code 1978, § 8-1)

Cross reference— Officers and employees, § 2-36 et seq.

Sec. 34-37. Duties of director.

The duties of the director of consumer affairs shall be to receive complaints of apparent violations, investigate such complaints, notify the person, firm, business or supplier of the nature of such complaint, offer to hold a hearing, relative to such complaint should such complaineer desire to be heard, and to cause such complaint to be corrected either by agreement to comply or to file or cause to be filed, a complaint under other enforcement provisions of this article applicable to such complaint.

(Code 1978, § 8-2)

Sec. 34-38. Assistants to director.

The director of consumer affairs may appoint assistants, from time to time, as the council may authorize and approve.

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(Code 1978, § 8-3)

Sec. 34-39. Duty to keep records of inspections.

It shall be the duty of the director of consumer affairs to keep records of the inspections made by him. Such records shall show the name and address of each person for whom any measurement, inspection, test, condemnation, certification or prosecution is made.

(Code 1978, § 8-5)

Sec. 34-40. Reports.

The director of consumer affairs shall make reports as required by the laws of this state and such additional reports as may be required of the director of consumer affairs by the city manager.

(Code 1978, § 8-6)

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ARTICLE III. STANDARDS AND REGULATIONS

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Sec. 34-71. Sales of commodities generally.

No person, his employee or agent, or the employee or agent of another, shall sell, offer for sale or expose for sale any commodity in bulk or in package form in any quantity of less weight, measure or numerical count than that represented by such person to the purchaser of such commodity. All weights shall be net weights and shall exclude the weight of the package, container or wrapping in which the commodity is placed. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly.

(Code 1978, § 8-18)

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Sec. 34-72. Weight indication on scales to be plainly visible; red or black line thread weight indicator required.

All scales used in retail establishments for the purpose of weighing commodities at the time of sale must have a red or black thread indicator to show the correct weight, and the indicator shall be so placed that the weight indication is in plain view of, and easily readable at the line indicator level, by both the buyer and the seller. It shall be unlawful to place any sign, poster, merchandise or any other article or thing in such position, on or near a scale, that will obstruct the view of either the buyer or the seller, or in any way interfere with the use of such device, or to remove any thread indicator from scales originally equipped with a thread indicator, or to remove, change or tamper with any device on any scales that are standard customer viewing aids. Every thread line indicator must be affixed so that it indicates actual zero weight when scales are empty.

(Code 1978, § 8-19)

Sec. 34-73. Rigid foundation for weighting and measuring devices required.

No person shall use, or retain in his possession for use, any weighting or measuring device unless the installation of any weighting or measuring device is on a suitable and rigid foundation or support.

(Code 1978, § 8-20)

Sec. 34-74. Use of misleading packages and price signs prohibited.

- (a) No commodity in package form shall be wrapped, nor shall it be in a container made, formed or filled, as to mislead the purchaser as to the quantity of the contents of the package.
- (b) No person shall misrepresent the price of a commodity, thing or service sold, offered for sale, or exposed for sale, nor represent the price or the quantity of any commodity, thing or service sold, offered for sale or exposed for sale, in any manner calculated or tending to mislead or deceive an actual or prospective customer. Whenever any price sign, tag, card, poster or other advertisement displaying the price of any commodity or thing includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

(Code 1978, § 8-21)

Sec. 34-75. Sales of meat, cheese, meat food products, fish, poultry, poultry products, milk and milk products.

- (a) No person, his employee or agent, or the employee or agent of another, shall sell, offer for sale or expose for sale any fish, cheese, meat, meat food products or poultry, except as part of a prepared meal or sandwich, other than by standard net weight at the time of sale or delivery; provided, however, that fresh cooked poultry may be sold by the head or by the piece. All eggs exposed for sale in cartons must be labeled according to state or federal grading standards and the weights of such graded eggs must be equal to or greater than the minimum state or federal standards for such grade.
- (b) No person, his employee or agent, or the employee or agent of another, shall sell, offer for sale or expose for sale at retail, any random weight packages of cheese, fish, meat, meat food products or poultry unless the net weights, the price per pound and the total price is clearly and conspicuously marked on all packages. When any of these food products are sold from bulk displays in retail

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stores, the price per pound shall be clearly and conspicuously displayed on or immediately adjacent to the bulk displays. Freshly cooked poultry sold by the head or by the piece shall be exempt from this requirement.

- (c) No unwholesome, tainted, rancid, partially rotten, putrid or noxious food products shall be exhibited or offered for sale for human consumption. Unwholesome shall include, but not be limited to, partially or wholly opened, torn or mutilated packaged products, products that have aged since prepared for sale to the extent that the taste is affected, or products containing mold, weevils or other matter alien to such products that would be obnoxious or offensive to a reasonably prudent person. All products packaged in retail or wholesale food outlet stores for sale in such package to the buying public shall bear the true date of such packaging. When any packaged food product, whether packaged by such store or otherwise, shall be exhibited for sale, that is found to be unwholesome by the purchaser, or so found by an authorized investigator of the state, county or city health department, or of the office of consumer protection, the entire lot of which such prohibited item was a part, shall be caused to be removed from exposure for sale by the sales outlet store owner or manager. Failure to remove such items after notice of unwholesomeness shall be a separate offense in violation of this section.
- (d)
 - (1) All milk and milk products sold and/or exposed for sale in prepackaged containers at any retail sales outlet in the city shall comply with Texas Milk Grading and Labeling Law Specifications and Requirements, as contained in V.T.C.A., Health and Safety Code ch. 435; and the exposure for sale of any such items shall be considered a representation by the owner of such retail establishment, store, sales outlet or other dispensing agency to the prospective buying public, the consumer, that such product is wholesome and that such product exposed for sale meets all of the standards, specifications and requirements of the Texas Milk Grading and Labeling Law and that such product is wholesome and fit for human consumption. Sample certified tests of any such milk products exposed for retail sale by any qualified and authorized federal, state or local testing agent, or agency showing the milk products exposed for retail sale to be substandard, shall constitute a violation of this article; and each such test showing the milk product to be substandard, according to the state milk grading and labeling law, shall constitute a separate offense under this section.
 - (2) Upon each carton, bottle, package or other container containing any milk or milk product offered for retail sale in the city shall be printed or stamped in legible, intelligible lettering of noticeable size and conspicuously displayed on such carton, package, bottle or other container, the date to which such milk or milk product is represented by such retail sales store, or other retail outlet in the city to be wholesome, meeting state milk and milk products standards, safe to use and to be consumed by humans for a reasonable time after its retail purchase or on such date when kept by the purchaser under normal conditions for keeping or storing milk or milk products. Such date so placed on such carton shall be known as either the "buy by" date, the "sell by" date, the "purchase on or before" date or the "pull date." No packaged milk or milk product shall be offered or exposed for retail sale by any retail sales store or outlet in the city bearing a "pull date" which is prior to the date such milk or milk product is offered for sale.
 - (3) Each carton or container of milk or milk product that is exposed for sale by any retail store or outlet in the city under any of the following conditions shall be a violation of this article by such retail store or other retail sales outlet if it is:
 - a. Exposed for retail sale without the "pull date," "purchase by" or "buy on or before" date legibly printed or stamped thereon.
 - b. Exposed for retail sale bearing a "pull date," "purchase by" or "buy on or before" date prior to the date such carton is exposed for sale in such retail sales store or other retail sales outlet.
 - c. Exposed for sale bearing a "pull date," "purchase by" or "buy on or before" date that is not legible or intelligible or that is smeared, altered, overstamped or adulterated in any way.

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- d. Contained in a torn, leaking or otherwise mutilated package, carton or container whereby any part of such milk or milk product is exposed to other than the inside of the sealed carton or package in which it is exposed for sale.

(Code 1978, § 8-22)

Sec. 34-76. Gasoline and petroleum products to be sold under true name.

No person shall sell gasoline, benzene, naphtha, liquid petroleum gas or other similar products of petroleum, capable of being used for illuminating, heating or power purposes, under any other than the true name of the products. Such petroleum products shall be subject to inspection by the director of consumer affairs.

(Code 1978, § 8-23)

Sec. 34-77. False weights and measures.

- (a) No person shall possess, use or permit to be used a weighing or measuring device, which has not been sealed by the director of consumer affairs, as deputy sealer, or other state or local inspector of weights and measures, within one year, in weighing or measuring any commodity which is offered for sale, exposed for sale or sold, or in computing the charge for services rendered based upon weight or measure. The seal shall be conspicuously displayed so that it is visible at all times.
- (b) No person shall possess, use or permit to be used, a device which renders false weight or measure in weighing or measuring any commodity which is offered for sale, exposed for sale or sold, or in computing the charge for services rendered based upon weight or measure.
- (c) No person shall dispose of a condemned weight, measure or weighing or measuring device contrary to law.
- (d) No person shall sell, offer for sale or expose for sale a commodity or service of less quantity than that represented.
- (e) No person as buyer shall take or attempt to take more than the quantity of a commodity or service than that represented.
- (f) No person, his employee or agent, or the employee or agent of another shall sell, offer for sale, expose for sale, use or retain in his possession any device or instrument to be used or calculated to falsify any weight or measure or any weighing or measuring device.

(Code 1978, § 8-24)

Sec. 34-78. Health certificates for food handlers.

No employee of any business establishment in the city shall handle any unpackaged food products that are, or are to be, exposed for sale to the public until the employee shall have been certified by a licensed physician, practicing in the city, to be free of any communicable disease. The health certificate shall be prominently displayed in such place of employment and bearing an examination date of not more than 180 days prior to the current date. Any employer permitting an uncertified employee to handle any fruit, vegetables, produce, meat or other than canned or sanitary packaged food products shall be in violation of this section.

(Code 1978, § 8-25)