

1 **[As Amended by House Committee of the Whole]**

2  
3 **As Amended by House Committee**

4 *Session of 2001*

5  
6 **HOUSE BILL No. 2102**

7  
8 By Committee on Agriculture

9  
10 1-22

11  
12 AN ACT concerning weights and measures; relating to unlawful acts;  
13 annual testing requirements; **recognized system thereof; [prohib-**  
14 **iting certain highway or bridge plans to be submitted in metric;]**  
15 **[production contracts]** amending K.S.A. 83-145, **83-202**, 83-219 and  
16 83-404 and K.S.A. 2000 Supp. 83-304 and repealing the existing  
17 sections.

18  
19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. K.S.A. 83-145 is hereby amended to read as follows: 83-  
21 145. (a) The secretary of agriculture, or the secretary's authorized rep-  
22 resentative, is authorized to test all weighing and measuring devices used  
23 in the retail sale of liquefied petroleum gas, and shall reject all such de-  
24 vices which are found ~~(a)~~ to be inaccurate and ~~(b)~~ to not clearly indicate  
25 the quantity of liquefied petroleum gas in kilograms or pounds, liters or  
26 gallons, cubic feet or cubic meters or other unit approved by the secretary  
27 of agriculture, or the secretary's authorized representative. ~~It shall be~~  
28 ~~unlawful to use a weighing or measuring device for determining quantities~~  
29 ~~of liquefied petroleum gas which has been rejected by the secretary of~~  
30 ~~agriculture, or the secretary's authorized representative.~~ The secretary of  
31 agriculture, or the secretary's authorized representative, shall conspicu-  
32 ously mark all rejected devices, ~~which~~. *Such* mark shall not be removed  
33 or defaced except upon authorization of the secretary of agriculture or  
34 the secretary's authorized representatives. It shall be unlawful to use a  
35 vapor meter dial which is not equipped with a cubic foot indicator for  
36 testing the accuracy of the meter.

37 (b) It shall be unlawful to use a liquid meter for measuring the vol-  
38 ume, in gallons, of liquefied petroleum gas for retail sale from delivery  
39 vehicles unless such meter is equipped with a ticket printer for use in  
40 issuance of printed tickets showing the volume, in gallons, of the liquefied  
41 petroleum gas delivered.

42 **Sec. 2. K.S.A. 83-202 is hereby amended to read as follows: 83-**  
43 **202. (a) Except as provided further:**

1     **(1) The system of weights and measures in customary use in**  
2 **the United States and the metric system of weights and measures**  
3 **are jointly recognized, and either one or both of these systems shall**  
4 **be used for all commercial purposes in the state.**

5     **(2) The following standards and requirements shall apply to**  
6 **commercial weighing and measuring devices:**

7     **(A) “The standards of the national conference on weights and**  
8 **measures” published in the national institute of standards and**  
9 **technology handbook 44 entitled specifications, tolerances, and**  
10 **other technical requirements for weighing and measuring devices**  
11 **as published on October, 1994 or later versions as established in**  
12 **rules and regulations adopted by the secretary, *except those vehicle***  
13 ***scales installed prior to the effective date of this act and used solely for***  
14 ***the purpose of weighing aggregate products shall be exempt from the***  
15 ***provisions contained in section 2.20 scales, table 6 of such handbook. Such***  
16 ***aggregate product scales shall have a minimum tolerance of +/- 100***  
17 ***pounds. Such exception shall be in effect for a period of three years from***  
18 ***the effective date of this act;***

19     **(B) “the uniform laws and regulations of the national confer-**  
20 **ence on weights and measures” published in the national institute**  
21 **of standards and technology handbook 130 regarding packaging**  
22 **and labeling, the method of sale of commodities, national type**  
23 **evaluation regulation, motor fuel inspection and motor fuel reg-**  
24 **ulation, as published on December, 1994 or later versions as es-**  
25 **tablished in rules and regulations adopted by the secretary;**

26     **(C) “checking the net contents of packaged goods” published**  
27 **in the national institute of standards and technology handbook**  
28 **133, third edition, as published on September, 1988 or later ver-**  
29 **sions as established in rules and regulations adopted by the**  
30 **secretary;**

31     **(D) “checking the net contents of packaged goods” published**  
32 **in the national institute of standards and technology handbook**  
33 **133, third edition, supplement 4, as published on October, 1994**  
34 **or later versions as established in rules and regulations adopted**  
35 **by the secretary; and**

36     **(E) any other handbooks or sections thereof as adopted by the**  
37 **secretary by rules and regulations.**

38     **(b) Whenever there exists an inconsistency between the pro-**  
39 **visions of chapter 83 of the Kansas Statutes Annotated, and amend-**  
40 **ments thereto, and any of the handbooks adopted by reference,**  
41 **the requirements of chapter 83 of the Kansas Statutes Annotated,**  
42 **and amendments thereto, shall control.**

43     Sec. ~~2~~ **3.** K.S.A. 83-219 is hereby amended to read as follows: 83-

1 219. (a) It shall be unlawful for any ~~owner of a commercial weighing or~~  
2 ~~measuring device~~ *person*:

3 (1) To offer or expose for sale, or to sell or otherwise dispose of any  
4 weight, measure or weighing or measuring device that does not meet the  
5 tolerances and specifications required by chapter 83 of the Kansas Stat-  
6 utes Annotated, and amendments thereto, or which has been rejected  
7 without first obtaining the written authorization of the secretary;

8 (2) to use or possess a weight, measure or weighing or measuring  
9 device that is used for or intended to be used for commercial purposes  
10 which does not meet the tolerance and specifications required by chapter  
11 83 of the Kansas Statutes Annotated, and amendments thereto, or that  
12 does not conform to the standard authorized by the secretary for deter-  
13 mining the quantity of any commodity or article of merchandise, for the  
14 purpose of:

15 (A) Buying or selling any commodity or article of merchandise;

16 (B) computation of any charge for services rendered on the basis of  
17 weight or measure;

18 (C) determining weight or measure, either when a charge is made  
19 for such determination or where no charge is made for use of such weight,  
20 measure, weighing or measuring device;

21 (3) except as allowed in K.S.A. 83-225, and amendments thereto, to  
22 break or remove any tag, mark or seal placed on any weighing or meas-  
23 uring device by the secretary or a county or city inspector of weights and  
24 measures, without specific written authorization from the proper author-  
25 ity or to use a weighing or measuring device after the lapse of the au-  
26 thorized period following the placing of a rejection tag thereon by the  
27 secretary, unless further extension of time for any repair purposes is first  
28 obtained from the secretary;

29 (4) to sell, offer or expose for sale, less than the represented quantity  
30 of any commodity, thing or service;

31 (5) to take or attempt to take more of the represented quantity of any  
32 commodity, thing or service when the buyer furnishes the weight, mea-  
33 sure or weighing or measuring device by which the amount of any com-  
34 modity, thing or service is determined;

35 (6) to keep for the purpose of sale, or to offer or expose for sale, or  
36 to sell any commodity in a manner contrary to the law or contrary to any  
37 rule and regulation;

38 (7) to use in retail trade, except in preparation of packages of mer-  
39 chandise put up in advance of sale, a weighing or measuring device that  
40 is not so positioned that its indications may be accurately read and the  
41 weighing or measuring operation observed from a reasonable customer  
42 position;

43 (8) to violate any of the provisions of chapter 83 of the Kansas Statutes

1 Annotated, and amendments thereto, or rules and regulations adopted  
2 thereunder, for which a specific penalty is not provided;

3 (9) to sell or offer for sale, or use or possess for the purpose of selling  
4 or using any device or instrument to be used or calculated to falsify any  
5 weight or measure;

6 (10) to dispose of any rejected weight or measure in a manner con-  
7 trary to law or rules and regulations;

8 (11) to expose for sale, offer for sale or sell any commodity in package  
9 form, without it being so wrapped, or the container so made, formed or  
10 filled, that it will not mislead the purchaser as to the quantity of the  
11 contents of the package;

12 (12) to expose for sale, offer for sale or sell any commodity in any  
13 container where the contents of the container fall below such reasonable  
14 standard of fill as may have been prescribed for the commodity in ques-  
15 tion by the secretary;

16 (13) to misrepresent the price of any commodity or service sold, of-  
17 fered, exposed or advertised for sale by weight, measure or count, nor  
18 represent the price in any manner calculated or tending to mislead or in  
19 any way deceive any person;

20 (14) to misrepresent, or represent in a manner calculated or tending  
21 to mislead or deceive an actual or prospective purchaser, the price of an  
22 item offered, exposed or advertised for sale at retail;

23 (15) to compute or attempt to compute at the time of sale of an item,  
24 a value which is not a true extension of a price per unit which is then  
25 advertised, posted or quoted;

26 (16) to charge or attempt to charge, at the time of the sale of an item  
27 or commodity, a value which is more than the price which is advertised,  
28 posted or quoted;

29 (17) to alter a weight certificate, use or attempt to use any such cer-  
30 tificate for any load or part of a load or for articles or things other than  
31 for which the certificate is given, or, after weighing and before the deliv-  
32 ery of any articles or things so weighted, alter or diminish the quantity  
33 thereof;

34 (18) to hinder or obstruct in any way the secretary or any of the  
35 secretary's authorized agents in the performance of the secretary's official  
36 duties under chapter 83 of the Kansas Statutes Annotated, and amend-  
37 ments thereto or any rules and regulations adopted thereunder;

38 (19) to fail to follow the standards and requirements established in  
39 K.S.A. 83-202, and amendments thereto, or any rules and regulations  
40 adopted thereunder;

41 (20) to fail to pay all fees and penalties as prescribed by chapter 83  
42 of the Kansas Statutes Annotated, and amendments thereto, and the rules  
43 and regulations adopted thereunder;

1 (21) to fail to keep or make available for examination or provide to  
2 the secretary all inspection reports, test reports and any other service  
3 reports or other information on any device owned or operated by the  
4 owner or any agent or employee of the owner and other information  
5 necessary for the enforcement of chapter 83 of the Kansas Statutes An-  
6 notated, and amendments thereto or any rules and regulations adopted  
7 thereunder, and as required by the secretary;

8 (22) to fail to have any commercial weight, measure or weighing and  
9 measuring device tested as required by chapter 83 of the Kansas Statutes  
10 Annotated, and amendments thereto or any rules and regulations adopted  
11 thereunder;

12 (23) to sell or offer or expose for sale liquefied petroleum gas in  
13 packages or containers which do not bear a statement as to tare and net  
14 weight as required by chapter 83 of the Kansas Statutes Annotated, and  
15 amendments thereto or any rules and regulations adopted thereunder, or  
16 packages or containers which bear a false statement as to weights;

17 (24) to sell, use, remove, or otherwise dispose of, or fail to remove  
18 from the premises specified, any weighing or measuring device or package  
19 or commodity contrary to the terms of any order issued by the secretary;  
20 and

21 (25) to violate any order issued by the secretary pursuant to chapter  
22 83 of the Kansas Statutes Annotated, and amendments thereto.

23 (b) It shall be unlawful for any service company or technical repre-  
24 sentative to:

25 (1) Act as or represent such person's self to be a technical represen-  
26 tative without having a valid license issued by the department of  
27 agriculture;

28 (2) certify a device as correct unless the device meets the tolerances  
29 and specifications as required by chapter 83 of the Kansas Statutes An-  
30 notated, and amendments thereto, or any rules and regulations adopted  
31 thereunder;

32 (3) hinder or obstruct in any way the secretary in the performance of  
33 the secretary's official duties under chapter 83 of the Kansas Statutes  
34 Annotated, and amendments thereto or any rules and regulations adopted  
35 thereunder;

36 (4) fail to follow the standards and requirements set forth in K.S.A.  
37 83-202, and amendments thereto, or any rules and regulations adopted  
38 thereunder;

39 (5) fail to complete the testing or placing-in-service report in its en-  
40 tirety and to report the accurate description of the parts replaced, ad-  
41 justed, reconditioned or work performed;

42 (6) file a false or fraudulent service company or technical represen-  
43 tative application or reports to the secretary;

1 (7) fail to pay all fees and penalties as prescribed by chapter 83 of  
2 the Kansas Statutes Annotated, and amendments thereto, and the rules  
3 and regulations adopted thereunder;

4 (8) fail to keep or make available for examination in an accessible and  
5 legible manner or provide to the secretary in a legible manner all inspec-  
6 tion reports, test reports, and any other service or report work information  
7 on any device which the service company or an agent or employee per-  
8 formed work on and other information necessary for the enforcement of  
9 chapter 83 of the Kansas Statutes Annotated, and amendments thereto  
10 or any rules and regulations adopted thereunder.; *or*

11 (9) *sell, offer or expose for sale a weighing or measuring device in-*  
12 *tended to be used commercially, which is not traceable to a national type*  
13 *evaluation program certificate of conformance.*

14 (c) For the purpose of paragraph (a)(4), the selling and delivery of a  
15 stated quantity of any commodity shall be prima facie evidence of rep-  
16 resentations on the part of the seller that the quantity sold and delivered  
17 was the quantity bought by the purchaser.

18 (d) Violation of this section shall be deemed a deceptive act and prac-  
19 tice as defined by K.S.A. 50-626, and amendments thereto. Violations of  
20 the provisions of K.S.A. 83-219, and amendments thereto, may be en-  
21 forced by the secretary under the administrative provisions of chapter 83  
22 of the Kansas Statutes Annotated, and amendments thereto, or by the  
23 attorney general or a county or district attorney under the Kansas con-  
24 sumer protection act.

25 ~~Sec. 3-~~ **4.** K.S.A. 2000 Supp. 83-304 is hereby amended to read as  
26 follows: 83-304. (a) Except as provided by subsection (e), the owner or  
27 operator of a weighing and measuring device which is used commercially  
28 shall have such weighing and measuring device tested and inspected at  
29 least annually for accuracy. The test shall be conducted by either a li-  
30 censed technical representative employed by a licensed service company  
31 or by an authorized representative of any city or county which has estab-  
32 lished a department of public inspection of weights and measures pur-  
33 suant to K.S.A. 83-210, and amendments thereto, or by the secretary,  
34 which inspects such weighing and measuring device in accordance with  
35 rules and regulations adopted by the secretary. If upon inspection by the  
36 secretary or an authorized representative of the secretary, it is found that  
37 the weighing and measuring device has not been tested and inspected for  
38 accuracy and approved within the preceding 365 days, the secretary or  
39 the authorized representative of the secretary shall take the weighing and  
40 measuring device out of service pursuant to the provisions of K.S.A. 83-  
41 215, and amendments thereto. Except as provided further, the test  
42 weights or equipment used by the service company shall have been ap-  
43 proved and sealed by the secretary pursuant to K.S.A. 83-214, and amend-

1 ments thereto, within 365 days preceding the date of the tests. Test  
2 weights or equipment which has the nominal capacity of 250 pounds or  
3 greater, are housed in a grain elevator or similar structure and are used  
4 to test scales in grain elevators or similar facilities shall have been ap-  
5 proved and sealed by the secretary pursuant to K.S.A. 83-214, and amend-  
6 ments thereto, within three calendar years preceding the date of the test.  
7 Except at the option of the city or county which has an established de-  
8 partment of public inspection of weights and measures, tests and inspec-  
9 tions shall be at the expense of the owner or operator of the weighing  
10 and measuring device. In any city or county which has a department of  
11 public inspection which inspects such weighing and measuring device,  
12 the test may be conducted by an authorized representative of the city or  
13 county weights and measures department. Farmers or ranchers who own  
14 and operate a weighing and measuring device used in private treaty trans-  
15 actions are exempt from the annual testing requirements. *Volumetric*  
16 *provers which are stationary or which exceed the testing capacity of the*  
17 *state metrology lab due to engineering design or the capacity of the prover*  
18 *are exempt from the annual testing requirement.*

19 (b) A service company or the city or county department of public  
20 inspection of weights and measures or an authorized representative of  
21 the secretary which conducts tests pursuant to this section shall, at the  
22 time of testing and inspection, promptly furnish to the owner or operator  
23 of the weighing and measuring device a report showing the results of the  
24 tests and inspection. The city or county department of public inspection  
25 of weights and measures *and service company* reports shall also be sent  
26 to the secretary, as required by rules and regulations adopted by the  
27 secretary, ~~however~~. No report shall be furnished later than 10 days after  
28 the test or inspection of the device has occurred.

29 (c) Subject to the provisions of K.S.A. 83-215, and amendments  
30 thereto, the owner or operator of a weighing and measuring device which  
31 is found to be out of the tolerances or specifications required by chapter  
32 83 of the Kansas Statutes Annotated, and amendments thereto or any  
33 rules and regulations adopted thereunder, at the time of testing shall  
34 withdraw immediately the weighing and measuring device from further  
35 use until the necessary corrections, adjustments or repairs are made and  
36 the weighing and measuring device is determined to be accurate by a  
37 service company or the city or county department of public inspection of  
38 weights and measures or an authorized representative of the secretary.  
39 Weighing and measuring devices which have been repaired or serviced  
40 shall meet the tolerances and specifications established in chapter 83 of  
41 the Kansas Statutes Annotated, and amendments thereto, and those rules  
42 and regulations adopted by the secretary prior to being placed or returned  
43 to service. The service company or the city or county department of public

1 inspection of weights and measures shall notify the secretary of any weigh-  
2 ing and measuring devices which are found not to comply with such tol-  
3 erances and specifications and are thus inaccurate and cannot be adjusted,  
4 repaired or serviced so as to comply with the standards and tolerances  
5 established in chapter 83 of the Kansas Statutes Annotated, and amend-  
6 ments thereto. Such notification shall be as required by the secretary,  
7 pursuant to rules and regulations, ~~however~~. Such notification shall be  
8 furnished to the department no later than 10 days after the service com-  
9 pany or city or county department of public inspection of weights and  
10 measures has found the weighing and measuring device to be in noncom-  
11 pliance with the tolerance and specifications required for such weighing  
12 and measuring device. A copy of the report prepared by the service com-  
13 pany or city or county department of public inspection of weights and  
14 measures or the secretary showing the results of the weighing and meas-  
15 uring device test and the work done to correct any deficiencies shall be  
16 filed with the secretary by the service company.

17 (d) Each service company shall be required to keep at such company's  
18 corporate headquarters or at such company's resident agent's office a copy  
19 of all reports regarding the installation, repair, calibration and other work  
20 the service company or the technical representatives employed by the  
21 service company performed on the commercial weighing and measuring  
22 devices. Such reports shall be legible and maintained in an accessible  
23 manner and for a period of time as established by the secretary pursuant  
24 to rules and regulations. The owner or operator of a weighing and meas-  
25 uring device shall also be required to retain copies of all reports regarding  
26 the installation, repair or adjustment or any of the aforementioned done  
27 to the weighing and measuring device at the site where the measuring  
28 and weighing device is used. Such reports shall be legible and maintained  
29 in an accessible manner and for a period of time as established by the  
30 secretary pursuant to rules and regulations.

31 (e) The secretary may adopt rules and regulations providing for in-  
32 spection of vapor meters at intervals less frequently than annually if the  
33 secretary determines that annual inspections are not necessary to protect  
34 the public interest. In adopting any such rules and regulations, the sec-  
35 retary shall take into consideration the standard for inspections of vapor  
36 meters adopted by the national institute of standards and technology of  
37 the United State department of commerce.

38 Sec. 4-5. K.S.A. 83-404 is hereby amended to read as follows: 83-  
39 404. (a) The owner or operator of a dispensing device which is used for  
40 commercial purposes shall have such device tested and inspected ~~at least~~  
41 ~~annually for accuracy~~ **at least once within every 18-month period.**  
42 The test shall be conducted by either an authorized representative of any  
43 city or county which has established a department of public inspection of



1 weights and measures pursuant to K.S.A. 83-210, and amendments  
2 thereto, or by the secretary, which inspects such dispensing devices in  
3 accordance with rules and regulations adopted by the secretary. ~~If upon~~  
4 ~~inspection by the secretary, it is found that the dispensing device has not~~  
5 ~~been tested and inspected for accuracy and approved within the preced-~~  
6 ~~ing 12 calendar months, the secretary shall take the dispensing device out~~  
7 ~~of service pursuant to the provisions of K.S.A. 83-215, and amendments~~  
8 ~~thereto.~~ **If upon inspection by the secretary, it is found that the**  
9 **dispensing device has not been tested and inspected for accuracy**  
10 **and approved within the preceding 18 months, the secretary shall**  
11 **take the dispensing device out of service pursuant to the provisions**  
12 **of K.S.A. 83-215, and amendments thereto.** The test weights and  
13 measures used by the service company shall have been approved and  
14 sealed by the secretary pursuant to K.S.A. 83-214, and amendments  
15 thereto, every 365 days. Except at the option of the city or county which  
16 has an established department of public inspection of weights and meas-  
17 ures, annual tests and inspections shall be at the expense of the owner or  
18 operator. In any city or county which has a department of public inspec-  
19 tion of weights and measures which annually inspects such dispensing  
20 devices, the tests may be conducted by an authorized representative of  
21 such city or county weights and measures department. Farmers or ranch-  
22 ers who own and operate a dispensing device used in private treaty trans-  
23 actions are exempt from the annual testing requirements.

24 (b) The city or county department of public inspection of weights and  
25 measures or the secretary which conducts tests pursuant to this section,  
26 at the time of testing and inspection, shall promptly furnish to the owner  
27 or operator a report showing the results of the tests and inspection. Such  
28 reports shall also be sent to the secretary, as required by rules and reg-  
29 ulations adopted by the secretary, however, no report shall be furnished  
30 later than 10 days after the test or inspection of such device has occurred.

31 (c) Subject to the provisions of K.S.A. 83-215, and amendments  
32 thereto, the owner and operator of a dispensing device which is found to  
33 be inaccurate at the time of testing shall withdraw immediately the device  
34 from further use until the necessary corrections, adjustments or repairs  
35 are made and the device is determined to be accurate by a service com-  
36 pany or the city or county weights and measures department or an au-  
37 thorized representative of the secretary. The devices which have been  
38 repaired or serviced shall meet the tolerances and specifications adopted  
39 by the secretary by rules and regulations. The service company or the city  
40 or county shall notify the secretary of any devices which are found not to  
41 comply with such tolerances and specifications and those which are not  
42 able to be serviced or repaired so as to comply with such tolerances and  
43 specifications. The service company shall report to the secretary within

1 the time frames and in a manner established in rules and regulations  
2 adopted by the secretary of any dispensing device which has been in-  
3 stalled, repaired, calibrated or fails to comply with the required tolerances  
4 and specifications.

5 (d) Each service company shall be required to keep at such company's  
6 corporate headquarters or at such company's resident agent's office a copy  
7 of all reports regarding the installation, repair, calibration and other work  
8 the service company or the technical representatives employed by the  
9 service company performed on the commercial dispensing devices. Such  
10 reports shall be legible and maintained in an accessible manner and for  
11 a period of time as established by the secretary pursuant to rules and  
12 regulations. The owner or operator of a dispensing device shall also be  
13 required to retain copies of all reports regarding installation, repair or  
14 adjustment or any of the aforementioned done to the dispensing device  
15 at the site where the dispensing device is used. Such reports shall be  
16 legible and maintained in an accessible manner and for a period of time  
17 as established by the secretary pursuant to rules and regulations.

18 **[New Sec. 6. As used in sections 6 thru 8, and amendments**  
19 **thereto:**

20 **[(a) "Active contractor" means a person who owns a commod-**  
21 **ity that is produced by a contract producer at the contract pro-**  
22 **ducer's contract operation according to a production contract;**

23 **[(b) "passive contractor" means a person who furnishes man-**  
24 **agement services to a contract producer and who does not own a**  
25 **commodity that is produced by the contract producer at the con-**  
26 **tract producer's contract operation according to a production con-**  
27 **tract; and**

28 **[(c) "production contract" means an oral or written agreement**  
29 **that provides for the production of a commodity or the provision**  
30 **of management services relating to the production of a commodity**  
31 **by a contract producer with an active contractor or passive con-**  
32 **tractor. A production contract is executed when it is signed or**  
33 **orally agreed to by each party to the contract or by a person au-**  
34 **thorized to act on the party's behalf.**

35 **[New Sec. 7. It shall be an unfair practice for any contractor**  
36 **or processor knowingly to engage or permit any employee or agent**  
37 **to engage in the following practices in connection with a produc-**  
38 **tion contract:**

39 **[(a) To refuse to allow a contract producer or contract pro-**  
40 **ducer's representative the use of state inspected scales for weights**  
41 **used to determine contract payments; and**

42 **[(b) to refuse to allow a contract producer or the contract pro-**  
43 **ducer's designated representative to observe, by actual observa-**

1 tion at the time of weighing, the weights and measures used to  
2 determine the contract producer's compensation under a produc-  
3 tion contract.

4 [New Sec. 8. (a) A contractor or processor committing an un-  
5 fair practice pursuant to section 7, and amendments thereto, shall  
6 be subject to a civil penalty in an amount equal to the amount of  
7 actual damages suffered by the producer.

8 [(b) A producer who suffers damages because of a contractor's  
9 or processor's violation of section 7, and amendments thereto, may  
10 obtain appropriate legal and equitable relief, including damages,  
11 as a suit in common law pursuant to code of civil procedure.

12 [(1) In such a civil action against the contractor or processor,  
13 the court shall award the producer who is the prevailing party,  
14 reasonable attorney fees and other litigation expenses.

15 [(2) In order to obtain injunctive relief, the producer is not  
16 required to post a bond, prove the absence of an adequate remedy  
17 at law, or show the existence of special circumstances, unless the  
18 court for good cause otherwise orders. The court may order any  
19 form of prohibitory or mandatory relief that is appropriate under  
20 principles of equity, including but not limited to, issuing a tem-  
21 porary or permanent restraining order.

22 [(c) The attorney general or the county or district attorney  
23 shall enforce the provisions of this act. In enforcing the provisions  
24 of this act, the attorney general or the county or district attorney  
25 may do all of the following: (1) Apply to the district court for an  
26 injunction to do any of the following:

27 [(A) Restrain a contractor or processor from engaging in con-  
28 duct or practices in violation of this act; or

29 [(B) require a contractor or processor to comply with provi-  
30 sions of this act;

31 [(2) apply to district court for the issuance of a subpoena to  
32 obtain a production contract for purposes of enforcing this act; and

33 [(3) bring an action in district court to enforce penalties pro-  
34 vided in subsections (a) and (b).]

35 [New Sec. 9. On and after July 1, 2001, the secretary of trans-  
36 portation is hereby prohibited from requiring that plans or spec-  
37 ifications for any proposed highway or bridge project be submitted  
38 to the department of transportation utilizing the metric system of  
39 measurements.]

40 Sec. ~~5- 6-~~ [10.] K.S.A. 83-145, ~~83-202~~, 83-219 and 83-404 and  
41 K.S.A. 2000 Supp. 83-304 are hereby repealed.

42 Sec. ~~6- 7-~~ [11.] This act shall take effect and be in force from and  
43 after its publication in the statute book.