

LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
MINUTES
MAY 24, 2017
9:30 a.m.

Louisiana Department of Agriculture & Forestry
Veterans' Memorial Auditorium
5825 Florida Blvd.
Baton Rouge, LA 70806

I. CALL TO ORDER

The hearing was called to order by Mr. LeBlanc at 9:40 a.m.

II. ROLL CALL

Commission Members present

Mr. Marcy LeBlanc Sr., Chairman
Mr. Dave George, Vice Chairman
Mr. Joseph Al Moreaux
Mr. Nolan Percy
Mr. Larry Terrell
Mr. Michael Hensgens
Mr. Frank LoPinto

Members absent

Mr. Brian Girardot
Mr. Brad Terral

LDAF staff present

Lindsey Hunter, LDAF Legal Counsel
Steve Sessums, Bobby Fletcher, Jr., Paul Floyd, Milton Hunter, Archie Lambert,
Tricia Berry, Teri Berken, Nicole Robino, Lisa Sonnier,
Mark Ott and Jami Mcdougal (from Management and Finance)

Also in attendance

Michael Heier, Hearing Officer for Attorney General Office

III. DECLARATION OF QUORUM

Eight (8) members being present Mr. LeBlanc declared a quorum

IV. INTRODUCTION OF ASSISTANT COMMISSIONER AND APPOINTMENT OF DIRECTOR AND ASSISTANT DIRECTOR

The new Assistant Commissioner of Agro-Consumer Services is now Mr. Steve Sessums he informed the commission that Mr. Benjy Rayburn is now the Assistant Commissioner of Agricultural & Environmental Sciences. Mr. Sessums then introduced Mr. Bobby Fletcher, Jr., the new Director of Weights and Measures and Mr. Paul Floyd, the new Assistant Director for Weights and Measures

The Commission requested the new Director and Assistant Director to introduce Them selves

Motion was made by Mr. Terrell and seconded by Mr. LeBlanc to accept Mr. Sessums as the Assistant Commissioner, of Agro-Consumer Services and Mr. Fletcher as the Director and Mr. Floyd as the Assistant Director of the Weights & Measures Division All members were in favor. Motion carried

V. APPROVAL OF NOVEMBER 9, 2016 MINUTES

Motion made by Mr. Hensgens and seconded by Mr. Alford to approve the minutes All members were in favor

VI. PUBLIC COMMENTS

none

VII. ADJUDICATORY HEARING

(1) Case No. 17-05-01

**Dollar General # 12668
1912 South State Street
Abbeville LA 70510**

6 violations

1 - Overcharge - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

5 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$900.00
Motion to accept the stipulation and recommended penalty by Mr. Alford and seconded by Mr. LoPinto and passed unanimously

(2) **Case No. 17-05-02**
Circle K #2723767
28437 Highway 43
Albany LA 70711

13 violations

6 - Overcharge - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

7 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$2,275
Motion to accept the stipulation and recommended penalty by Mr. Alford and seconded by Mr. Percy and passed unanimously

(3) **Case No. 17-05-05**
Cracker Barrel #220
1420 Fortune Road
Youngsville LA 70592

6 violations

2 - Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

4 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$900.00
Motion to accept the stipulation and recommended penalty by Mr. Hensgens and seconded by Mr. Percy and passed unanimously

- (4) **Case No. 17-05-06**
Circle K #8344
107 South Jefferson Street
Lake Charles LA 70605

7 violations

5 - Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

2 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$950.00
Motion to accept the stipulation and recommended penalty by Mr. LoPinto and seconded by Mr. George and passed unanimously

- (5) **Case No. 17-05-09**
Sav and Go
4452 Ryan Street
Lake Charles LA 70605

3 violations

2- Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

1 - Price not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Motion made by Mr. Terrell and seconded by Mr. George to find Sav and Go in violation. The initial proposed penalty was \$750 but after discussion it was amended to the maximum fine of \$1,500 Motion made by Mr. LoPinto and seconded by Mr. Terrell to accept the amended penalty of \$1,500 and passed by a vote of 6 to 2

(6) **Case No. 17-05-10**
Office Depot # 446
1708 East 70th Street
Shreveport LA 71105

7 violations

5 - Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

2- Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$875.00
Motion to accept the stipulation and recommended penalty by Mr. Hensgens and seconded by Mr. George and passed unanimously

(7) **Case No. 17-05-11**
Family Dollar #21180
826 North Parkerson Ave
Crowley LA 70526

4 violations

1 - Overcharge - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

3 - Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$500.00
Motion to accept the stipulation and recommended penalty by Mr. Percy and seconded by Mr. Terrell and passed unanimously

(8) Case No. 17-05-12
EZ Mart #693
4500 Nelson Road
Lake Charles LA 70605

5 violations

4 - Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

1- Price not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$875.00
Motion to accept the stipulation and recommended penalty by Mr. LoPinto and seconded by Mr. LeBlanc and passed unanimously

(9) Case No. 17-05-13
CVS #5560
3604 West Pinhook Road
Broussard LA 70518

8 violations

6 - Overcharges - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

2 - Prices not displayed – LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$1,000.00
Motion to accept the stipulation and recommended penalty by Mr. Moreaux and seconded by Mr. LoPinto and passed unanimously

(10) Case No. 17-05-14
Shop Rite #80
1110 East Prien Lake Road
Lake Charles LA 70601

4 violations

1 - Overcharge - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

3 – Prices not displayed – LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$500.00
Motion to accept the stipulation and recommended penalty by Mr. LoPinto and seconded by Mr. Percy and passed unanimously

(11) Case No. 17-05-15
Jean Lafitte RV Park
2101 Pujol Road
Lake Charles LA 70615

12 violations

3 - Overcharges - LA. R.S. 3:4617

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

9- Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Motion made by Mr. Hensgens and seconded by Mr. Alford to find Jean Lafitte RV Park in violation. The initial proposed penalty was \$3,000 but after discussion it was amended to the maximum fine of \$6,000 Motion made by Mr. Terrell and seconded by Mr. LeBlanc to accept the amended penalty of \$6,000 and passed by a vote of 6 to 2

(12) Case No. 17-05-16
Starbucks #13620
4055 Ryan Street
Lake Charles LA 70605

4 violations

4- Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$500.00
Motion to accept the stipulation and recommended penalty by Mr. LeBlanc and seconded by Mr. LoPinto and passed unanimously

(13) Case No. 17-05-17
Toys R Us # 7043
3405 Highway 14
Lake Charles LA 70605

6 violations

1 – Overcharge - LA. R.S. 3:4617 (A)

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer

5- Prices not displayed - LAC 7:XXXV.117

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible

B. The price displayed on the shelf, commodity or item required by subsection A of this section shall be precisely equal to the price actually charged by the seller

Stipulation received. The department recommended a penalty of \$750.00
Motion to accept the stipulation and recommended penalty by Mr. George and seconded by Mr. Terrell and passed unanimously

(14) Case No. 17-05-18 (CONTINUED CASE)
Super Saver Express
2706 S. Beglis Pkwy
Sulphur LA 70665

4 violations

4 - violations-LA R.S. 3:4682 (A) and (B)

Products not conforming to specifications, duty of commissioner

A. When the analysis of a sample of a petroleum product taken in conformity with the provisions of this Subpart discloses that the product from which the sample was taken does not conform to the specifications fixed by the commissioner it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subpart.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner may, by written notice, suspend the sale or distribution of this product. The retailer or distributor upon whom a notice of suspension is served, is prohibited from doing business in the sale or distribution of this product until formally released by order of the commissioner. The order of suspension given by the commissioner must apply only to that product and cannot be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subpart.

Ms. Hunter requested this case be continued, request granted by Mr. Heier

VIII. NEW BUSINESS

Mr. Fletcher informed the commission that the division is responsible for checking 130,000 commercial devices annually and 40 inspectors statewide are in charge of the various inspections. He then presented a slide show explaining the following Weights & Measures inspections:

- Scale inspections
- Different types of scales inspected
- Typical gas & hi-volume diesel pump inspections
- What fuel is tested for in our fuel lab

Mr. Floyd presented a slide show explaining the following Weights & Measures Inspections:

- Price verification inspections
- Different types of errors found during a price inspection
- Explained how a case gets brought before the board
- Taxi cab inspections
- Package inspections
- What field standards our metrology lab certifies

Mr. Floyd updated the commission on the future of Weights & Measures We're trying to make a major effort toward getting more consistent results from the inspectors in the field on the price verification inspections throughout the state also wanting to do more package inspections. Mr. Floyd also discussed how the department is trying to add a viscometer in the fuel lab for testing motor oil. The regulations for the Uber and Lyft transportation network companies were also discussed

IX. OLD BUSINESS

none

X. PUBLIC COMMENT

none

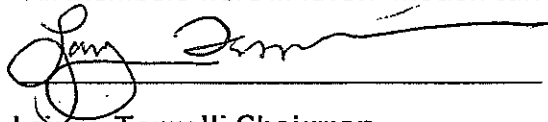
XI. NEXT MEETING DATE

Next Commission Hearing sometime in September 2017

XII. ADJOURNMENT

Motion made by Mr. Alford and seconded by Mr. Terrell

All members were in favor. Motion carried



Larry Terrell Chairman