

Weights and Measures, Inspection Of. Sealer of Weights and Measures, Duty Of. Packages, When Examined.

Sealer of weights and measures may examine and inspect packages to determine quantity or count, or measure, thereof when such measure, weight or count constitutes the unit of computing the price but not where a package is sold as a whole.

It is the duty of the inspector and deputy sealer to make occasional investigations to determine whether or not the law is being evaded.

Nov. 25th, 1911.

Hon. T. M. Swindlehurst,
Secretary of State,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 16th inst., submitting the question:

Has the state sealer of weights and measures, his inspectors or deputies, the authority and may they be required to examine and test packages stamped or marked with weight or measure and which are sold or offered for sale within the State of Montana?

Section 10, Chapter 34, Laws of 1911, provides in part:

"The state sealer of weights and measures or his inspectors or deputy sealers of weights and measures may at irregular intervals examine the commodities sold or offered for sale and test them for correct weight, measure or count.

Where the commodity is sold by the weight or by the measure, or by the count, so that such weight or measure or count is the unit for determining the price, then authority exists for making the inspection, but where the commodity is sold by the package, then neither the weight, measure or count, is material, for the unit for determining the price is the package as a whole.

For instance, where oil is sold at so much per can then the size of the can is immaterial so far as the sealer of weights and measures is concerned, but where it is sold by the gallon the can in which it is delivered and which is reputed to contain a certain number of gallons may be measured by the inspector or deputy sealer to determine whether or not it contains the number of gallons sold, and the same is true of any other article sold either by weight or by measure or by count.

And the state sealer of weights and measures, his inspectors or deputies being charged with the execution of this law, it becomes their duty to make occasional inspections in some form or manner that will satisfy them that the law is not being evaded.

Yours very truly,

ALBERT J. GALEN,

Attorney General.