

LOUISIANA WEIGHTS AND MEASURES COMMISSION HEARING
MINUTES

MAY 24, 2018

9:30 a.m.

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

I. CALL TO ORDER

Chairman Larry Terrell called the hearing to order at 9:30 a.m.

II. ROLL CALL AND DECLARATION OF QUORUM

Commission Members present

Mr. Larry Terrell, Chairman
Mr. Dave George, Vice Chairman
Mr. Joseph Al Moreaux
Mr. Michael Hensgens
Mr. Justin Alford
Mr. Mark Westmoland
Mr. Chuck Garrett
Mr. Brad Terral

Members absent

Mr. Nolan Percy
Mr. Brian Girardot

LDAF staff present

Emily Andrews, LDAF Attorney-General Counsel, Steve Sessums, Bobby Fletcher Jr., Paul Floyd, Milton Hunter, Archie Lambert, Jarrad Poirrier, Tricia Berry, Steven Coco, Teri Berken, Laura Oliver and Nicole Robino

Also in attendance

Michael Heier, Hearing Officer for Attorney General Office
Lisan Yousuf and Asif Bashir with Yousuf Shell - Case # 18-05-09
Nick Sohani with GX Louisiana LLC – Case # 17-11-07
Roy St. Pierre Jr. – LDAF Visitor
Epney Brasher – LDAF Visitor
Paul Coreil - Visitor

DECLARATION OF QUORUM

Eight (8) members being present Chairman Larry Terrell declared a quorum

III. APPROVAL OF MARCH 29, 2018 MINUTES

Motion made by Mr. Justin Alford and seconded by Mr. Mark Westmoland to approve the minutes. All the members were in favor. Motion carried

IV. SPECIAL RECOGNITION

Mr. Al Moreau was recognized for serving over 25 years as a commission member on our LDAF Weights & Measures Commission Board. He is retiring. Bobby Fletcher presented Mr. Moreau with a plaque. Mr. Moreau was a Former Inspector with Ag & Forestry in the Thibodeaux area.

V. PUBLIC COMMENTS

None

VI. ADJUDICATORY HEARING

CONTINUED

(1) Case No. 17-11-07

**Gerstner Memorial Hop In
1717 Gerstner Memorial Drive
Suite B
Lake Charles, LA 70601**

14 violations

14 – 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

Mr. Heier granted a continuance on this case due to lack of service.

(2) Case No. 18-03-03
Downman Road Shell
3901 Downman Road
New Orleans LA 70126

19 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

18 - 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

Mr. Heier granted a continuance on this case at the request of their attorney

(3) Case No. 18-03-14
Tiger Touchdown #6
398 Main Street
Arnaudville LA 70512

5 violations

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

Mr. Heier granted a continuance on this case due to lack of service

**(4) Case No. 18-05-01
Tiger Touchdown 4
5239 Big Lake Road
Lake Charles LA 70605**

4 violations

4 – Removal of tag unlawfully - LA. R.S. 3:4610

No one shall remove from any weight, measure, or measuring device, contrary to law or regulation, and tag placed thereon by the department

Mr. Heier granted a continuance on this case due to lack of service

**(5) Case No. 18-05-02
Big Boy
1705 Gause Boulevard
Slidell LA 70458**

6 violations

3 - 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

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.

Mr. Heier granted a continuance on this case due to lack of service

(6) Case No. 18-05-03
Wag A Bag 1
912 Polk Street
Mansfield LA 71052

6 violations

1 - 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

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.

Mr. Heier granted a continuance on this case due to lack of service

(7) Case No. 18-05-10
Chef Menteur Shell
9232 Chef Menteur Highway
New Orleans LA 70127

12 violations

12- 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.

Mr. Heier granted a continuance on this case at the request of their attorney

STIPULATIONS

- (8) **Case No. 17-09-01**
Brothers Food Mart # 116
2439 Manhattan Blvd Suite 401
Harvey LA 70058

6 violations

2 - 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

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 \$1,500.00 **Motion** to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Dave George. All members were in favor. Motion carried

- (9) **Case No. 17-09-02**
Brothers Food Mart #123
1944 Belle Chasse Hwy
Gretna LA 70056

6 violations

6 - 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 \$1,500.00 **Motion** to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Mark Westmoland. All members were in favor. Motion carried

(10) Case No. 17-09-12
Brothers Food Mart #112
1600 Manhattan Blvd
Harvey LA 70058

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 \$1,000.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Dave George. All members were in favor. Motion carried

(11) Case No. 17-09-13
Brothers Food Mart #152
1200 Westbank Expressway
Westwego LA 70094

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 \$1,000.00
Motion to accept the stipulation and recommended penalty by Mr. Dave George and seconded by Mr. Michael Hensgens. All members were in favor. Motion carried

(12) **Case No. 17-09-14**
Brothers Food Mart #117
3449 Manhattan Blvd
Harvey LA 70058

3 violations

2 - 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

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 \$750.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Mark Westmoland. All members were in favor. Motion carried

(13) **Case No. 17-09-15**
Brothers Food Mart #125
3659 Lapalco Blvd
Harvey LA 70058

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 \$1,500.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Dave George. All members were in favor. Motion carried

(14) **Case No. 18-03-05**
Brothers Food Mart #101
9000 Westbank Expressway
Westwego LA 70094

2 violations

2 – 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

Stipulation received. The department recommended a penalty of \$500.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Mark Westmoland. All members were in favor. Motion carried

(15) **Case No. 18-05-04**
General Nutrition Center #186
484 West Prien Lake Road
Suite 484
Lake Charles LA 70601

11 violations

11- 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 \$2,750.00
Motion to accept the stipulation and recommended penalty by Mr. Justin Alford and seconded by Mr. Michael Hensgens. All members were in favor. Motion carried

(16) **Case No. 18-05-05**
Dollar General Store #2251
380 Sam Houston Jones Parkway
Lake Charles LA 70612

3 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

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 \$1,500.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Dave George. All members were in favor. Motion carried

(17) **Case No. 18-05-06**
Auto Zone Store #1450
2550 Medora Street
Lake Charles LA 70601

9 violations

4 - 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

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 \$2,250.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Justin Alford. All members were in favor. Motion carried

(18) **Case No. 18-05-07**
Dollar General Store #8777
5725 Highway 14
Lake Charles LA 70607

10 violations

10 - 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 \$2,500.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Justin Alford. All members were in favor. Motion carried

(19) **Case No. 18-05-08**
Kickapoo Corner
4144 Highway 171
Gloster LA 71030

8 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

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 \$2,000.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Mark Westmoland. All members were in favor. Motion carried

(20) Case No. 18-05-11
MHM Discount, LLC
617 North Broad Street
New Orleans LA 70119

10 violations

5 - 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

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 \$2,500.00
Motion to accept the stipulation and recommended penalty by Mr. Michael Hensgens and seconded by Mr. Dave George. All members were in favor. Motion carried

(21) Case No. 18-03-13
Family Dollar Store #11735
415 S Eastern Avenue
Crowley LA 70526

4 violations

2 - 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. Michael Hensgens and seconded by Mr. Justin Alford. All members were in favor. Motion carried

ADJUDICATORY

(22) Case No. 18-05-09
Yousuf Shell
3400 Franklin Avenue
New Orleans LA 70122

22 violations

2 - 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

20 - 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. Dave George and seconded by Mr. Mark Westmoland to find Yousuf Shell guilty as charged;

The Motion set before the Commission is assessing the penalty of \$500.00 per violation suspending 50% pending a successful re-inspection of a sample size of 50 items in 30 days with 98% accuracy, **Motion** made by Mr. Michael Hensgens and seconded by Mr. Justin Alford. All members were not in favor.

(23) **Case No. 17-05-18**
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.

Motion made by Mr. Michael Hensgens and seconded by Mr. Dave George to find Super Saver Express guilty as charged **Motion** made by Mr. Dave George and seconded by Mr. Al Moreaux to accept the departments recommended penalty of \$2,000 payable within 30 days. All members were in favor. Motions carried

VII. NEW BUSINESS

Our Assistant Commissioner, Dr. Sessums recommended developing some training videos for our inspectors. We have completed a series of training videos with our own public information officers and civil service group in Louisiana on Class I Scales and Price Verification Videos and an App for our inspectors that can be watched on their Smart Phones. In addition to the training videos, we developed a consumer version of each of those types of inspections that will be on our website and our LDAF Facebook page.

A consumer video of a taxi inspection was played for the commission.

VIII. OLD BUSINESS

none

IX. PUBLIC COMMENT

none

X. NEXT MEETING DATE

Next Commission Hearing is scheduled for Wednesday September 19, 2018 @ 9:30 a.m.

XI. ADJOURNMENT

Motion made by Mr. Michael Hengens and seconded by Mr. Justin Alford
All members were in favor. Motion carried



Mr. Larry Terrell, Chairman