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## Legal Information for Broiler Growers

### How Much Did Your Birds *Really* Weigh?

In most poultry growing arrangements, the weight of birds at the end of the growout period is compared with the weight of feed consumed, and then is used to figure out the payment due to growers. Many growers complain of improper activities when it comes to weighing the birds. You should know what the law says about weighing broilers.

#### **What does the Packers & Stockyards Act require when it comes to weighing birds?**

USDA has established extensive regulations under the Packers & Stockyards Act (P&S Act) that set out the rules for weighing poultry. These rules set out proper weighing procedures, care of scales, information that must be included on scale tickets, and information that must be disclosed in contracts and settlement sheets. These requirements are discussed in further detail below. Contract and settlement sheet requirements are discussed in separate information pieces.

#### **Reasonable care and promptness**

The company must weigh your birds promptly. The company must move your birds promptly after they are loaded. It must weigh your birds as soon as they arrive at the processing plant, holding yard, or other scale. The company must use reasonable care when weighing live poultry to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

Reasonable care and promptness is also required with respect to loading, transporting, holding, yarding, feeding, watering, or otherwise handling live birds to prevent avoidable loss.

#### **Maintenance and operation of scales**

The scales your company uses to weigh your birds must be installed, maintained, and operated to insure accurate weights. There are detailed regulations for the proper operation of scales on which poultry is to be weighed for purposes of settlement. They include:

1. The scales must be inspected about every six months.
2. The company must report on tests and inspections to USDA.

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3. If a scale fails a test, it may not be used again until it passes one.
4. All vehicle scales must be long enough and have enough capacity to weigh the truck and trailer together at one time. A trailer may be weighed by itself, as long as the gross weight and tare weight are both of the trailer alone.
5. The company must hire qualified people to operate the scales.
6. The company must give copies of the federal regulations for weighing live poultry to the scale operators, and require them to comply with the regulations.

### **Do I have the right to watch my birds being weighed?**

Yes, you have the right to watch your birds being weighed. In fact, anyone with a legitimate interest in a load of poultry is entitled to observe the process of balancing the scale between loads, the weighing process, and the process of recording the actual weight. If you ask the company employee using the scale to check the zero balance of the scale or reweigh a load of poultry, he or she must do it. USDA employees may also ask the company to reweigh birds.

### **Is it legal for the company to hand write scale tickets?**

The weight on a scale ticket should not be written by hand. All scales used to weigh live poultry for the purpose of settlement must be attached to a printer, which must be used to print weight values on a scale ticket or other document. Your payment must be based on the actual weight of your birds, as shown on the scale ticket.

### **What information must be included on a scale ticket?**

The scale ticket must show certain information. That information includes:

1. The name of the agency performing the weighing service,
2. The name of the company,
3. The name and address of the grower,
4. The name or initials of the person who weighed the poultry (state law may require a signature),
5. The location of the scale,
6. The gross weight, tare weight, and net weight,
7. The date and time when the gross weight and tare weight were measured, and
8. The number of poultry weighed.

If the poultry is weighed on a vehicle scale, the scale ticket must also show:

1. The weather conditions,
2. Whether the driver was on the truck at the time of weighing, and
3. The license number of the truck or the truck number.

### **Are there other requirements for scale tickets?**

There should be at least two copies of the scale ticket. Scale tickets should be serially numbered, and they should be used in order. You should be given one copy of the scale ticket, and the other one should be kept by the company.

### **What can I do if I think my company is underweighing my birds?**

If you believe your company may have violated the P&S Act or the regulations, you can complain to USDA by calling their violations hotline at 1-800-998-3447.

You could also file a lawsuit, if your contract does not require you to use ADR first. The poultry industry has seen a number of successful lawsuits brought by growers complaining they were underpaid because their birds were underweighed.

### **Are there other legal claims I could make about underweighing?**

Growers have also had some success with underweighing claims based on state law, including fraud, breach of contract, and violation of state unfair and deceptive trade practices acts. There have probably been more cases related to misweighing than any other problem in the poultry industry. Reviewing these cases with an attorney may help give you a sense of how strong your claim is. You may want to contact FLAG – [www.flaginc.org](http://www.flaginc.org) or 651-223-5400 – for a summary of important cases related to this issue.

Keep in mind that under your contract, you may have to try Alternative Dispute Resolution (ADR) before, or even instead of, going to court. Another information sheet in this series discusses ADR.

