

**CHAPTER 27. EXEMPTIONS AND VARIATIONS****EXEMPTIONS**

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**Authority**

The provisions of this Chapter 27 issued under sections 8 and 21 of the Weights and Measures Act of 1965 (76 P. S. §§ 100-8 and 100-21), unless otherwise noted.

**Source**

The provisions of this Chapter 27 adopted October 21, 1970, effective October 22, 1970, 1 Pa.B. 441, unless otherwise noted.

**EXEMPTIONS****§ 27.1. General.**

Whenever a consumer commodity or package of consumer commodity is exempted from the requirements for dual quantity declaration, the net quantity declaration required to appear on the package shall be in terms of the largest whole unit except as provided in § 23.53(a)(3) (relating to multiunit packages).

**§ 27.2. Random packages.**

(a) A random package bearing a label conspicuously declaring the net weight, the price per pound and the total price shall be exempt from the type size, dual declaration, placement and free area requirements of this title. In the case of a random package packed at one place for subsequent sale at another, neither the price per unit of weight nor the total selling price need appear on the package, provided the package label includes both prices at the time it is offered or exposed for sale at retail.

(b) This exemption of this section also applies to uniform weight packages of cheese and cheese products labeled in the same manner and by the same type of equipment as random packages exempted by this section.

**§ 27.3. Small confections.**

Individually wrapped pieces of “penny candy” and other confectionery of less than 1/2 ounce net weight per individual piece shall be exempt from the labeling requirements of this title when the container in which the confectionery is shipped is in conformance with the labeling requirements of this title. Similarly, when the confectionery items are sold in bags or boxes, the items shall be exempt from the labeling requirements of this title, including the required declaration of net quantity of contents, when the declaration of the bag or box meets the requirements of this title.

**§ 27.4. Individual servings.**

Individual serving-size packages of foods containing less than 1/2 ounce or less than 1/2 fluid ounce for use in restaurants, institutions and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this title.

**§ 27.5. Cuts, plugs and twists of tobacco and cigars.**

When individual cuts, plugs and twists of tobacco and individual cigars are shipped or delivered in containers that conform to the labeling requirements of this title, the individual cuts, plugs and twists of tobacco and cigars shall be exempt from the labeling requirements.

**§ 27.6. Reusable glass containers.**

Nothing in this title may be deemed to preclude the continued use of reusable or returnable glass containers; however, the glass containers ordered after February 30, 1970 shall conform to the requirements of this title.

**§ 27.7. Cigarettes and small cigars.**

Cartons of cigarettes and small cigars, containing 10 individual packages of 20, labeled in accordance with the requirements of this title, shall be exempt from the requirements set forth in §§ 23.21(1), 23.23 and 23.53 (relating to general; type size in principal display panel; and multiunit package); however, the cartons shall bear a declaration of the net quantity of commodity in the package.

**§ 27.8. Labeling required by Federal law.**

Packages of meat and meat products, poultry and poultry products, tobacco and tobacco products, insecticides, fungicides, rodenticides, alcoholic beverages and seeds shall be exempt from the requirements set forth in §§ 23.13(f), 23.21(1), and 23.23(a) (relating to weight, liquid measure or count terminology; general; type size in principal display panel) only if the quantity labeling requirements for the products are specified in Federal law so as to follow reasonable sound principles of providing consumer information.

**§ 27.9. Fluid dairy products and frozen desserts.**

Fluid dairy products, ice cream and similar frozen desserts shall be exempted as set forth in the following provisions:

(1) If packaged in 1/2 liquid pint and 1/2 gallon containers, such products are exempt from the requirements for stating net contents of 8 fluid ounces and 64 fluid ounces, which may be expressed as 1/2 pint and 1/2 gallon, respectively.

(2) If packaged in 1 liquid pint, 1 liquid quart and 1/2 gallon containers, the products are exempt from the dual net contents declaration requirements of § 23.13(1f)(2) (relating to weight, liquid measure or count terminology).

(3) If measured by and packaged in 1/2 liquid pint, 1 liquid pint, 1 liquid quart, 1/2 gallon and 1 gallon measure containers as defined in "Measure Container Code of National Bureau of Standards Handbook 44," the products are exempt from the requirements of § 23.21 (relating to general) that the declaration of net contents be located within the bottom 30% of the principal display panel.

(4) Milk and milk products when measured by and packaged in glass or plastic containers of 1/2 liquid pint, 1 liquid pint, 1 liquid quart, 1/2 gallon, and 1 gallon capacities are exempt from the placement requirement of § 23.21 that the declaration of net contents be located within the bottom 30% of the principal display panel, only if other required label information is conspicuously dis-

played on the cap or outside closure, and the required net quantity of contents declaration is conspicuously blown, formed, molded on or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

**§ 27.10. Real and imitation fruit juice beverages and drinking water.**

Single-strength and less than single-strength fruit juice beverages, any imitations of the beverages, and drinking water shall be exempted as set forth in the following provisions:

(1) If packaged in glass, plastic or fluid milk type paper containers of 8 and 64 fluid ounce capacity, the products are exempt from the requirements of § 23.13(b)(2) (relating to weight, liquid measure or count terminology), to the extent that net contents of 8 fluid ounces and 64 fluid ounces (or 2 quarts) may be expressed as 1/2 pint (or 1/2 pint) and 1/2 gallon (or 1/2 gallon), respectively.

(2) If packaged in glass, plastic or fluid milk type paper containers of 1 pint, 1 quart and 1/2 gallon capacities, are exempt from the dual net contents declaration requirements of § 23.13(f)(2).

(3) If packaged in glass or plastic containers of 1/2 pint, 1 pint, 1 quart, 1/2 gallon and 1 gallon capacities, are exempt from the placement requirement of § 23.21(1) (relating to general) that the declaration of net contents be located within the bottom 30% of the principal display panel, only if other required label information is conspicuously displayed on the cap or outside closure and the required net quantity of contents declaration is conspicuously blown, formed, molded into or permanently applied to that part of the glass or plastic container that is at or above the shoulder of the container.

**§ 27.11. Soft drink bottles.**

Bottles of soft drinks shall be exempt from the placement requirements for the declaration of either or both of the following, if there is compliance with that provision:

(1) *Identity*. If the declaration appears on the bottle closure.

(2) *Quantity*. If the declaration is blown, formed or molded on or above the shoulder of the container and if other information required by this regulation appears only on the bottle closure.

**§ 27.12. Multiunit soft drink packages.**

Multiunit packages of soft drinks are exempt from the requirement for a declaration of either or both of the following, if there is compliance with that provision:

(1) *Responsibility.* If the declaration appears on the individual units and is not obscured by the multiunit packaging, or if the outside container bears a statement to the effect that the declaration will be found on the individual units inside.

(2) *Identity.* If the declaration appears on the individual units and is not obscured by the multiunit packaging.

**§ 27.13. Butter.**

If butter is packaged in 4 ounce, 8 ounce and 1 pound units with continuous label copy wrapping, butter is exempt from the requirements that the statement of identity in § 23.1(a) (relating to general) and the net quantity declaration in § 23.21(5) (relating to general) be generally parallel to the base of the package. If packaged in 8 ounce and 1 pound units, butter is exempt from the requirement for location in § 23.21(1) of net quantity declaration and, if packaged in one pound units, is exempt from the requirement for dual quantity declaration in § 23.13(f)(1) (relating to weight, liquid measure or count terminology).

**§ 27.14. Eggs.**

Cartons containing 12 eggs shall be exempt from the requirement for location in § 23.21 (relating to general) of net quantity declaration. If the cartons are designed to permit division in half, each half shall be exempt from the labeling requirements of this title if the undivided carton conforms to the requirements.

**§ 27.15. Flour.**

Packages of wheat flour packaged in units of 2, 5, 10, 25, 50 and 100 pounds shall be exempt from the requirement for location in § 23.21(1) (relating to general) of the net quantity declaration and, if packaged in units of 2 pounds, shall be exempt also from the requirement for a dual quantity declaration in § 23.13(f)(1) (relating to weight, liquid measure or count terminology).

**§ 27.16. Small packages.**

On a principal display panel of 5 square inches or less, the declaration of quantity need not appear in the bottom 30% of the principal display panel if that declaration satisfies the other requirements of this title.

**§ 27.17. Multiunit packages.**

On individual units of a multiunit retail package, the declaration of quantity need not appear in the bottom 30% of the principal display panel if that declaration satisfies the other requirements of this title.

**§ 27.18. Decorative containers.**

The principal display panel of a cosmetic marketed in a “boudoir-type” container including decorative cosmetic containers of the “cartridge,” “pill box,”

“compact” or “pencil” variety, and those with a capacity of 1/4 ounce or less, may be a tear-away tag or tape affixed to the decorative container and bearing the mandatory label information as required by this title.

**§ 27.19. Combination packages.**

Combination packages are exempt from the requirements of the following:

- (1) Location, as provided in § 23.21(1) (relating to general).
- (2) Free area, as provided in § 23.21(4).
- (3) Minimum height of numbers and letters, as provided in § 23.23(a) (relating to type size in principal display panel).

**§ 27.20. Margarine.**

Margarine in 1 pound rectangular packages, except for packages containing whipped or soft margarine or packages containing more than four sticks, shall be exempt from the requirement in this title for location in § 23.21(1) (relating to general) of the net quantity declaration, and shall be exempt from the requirement for a dual quantity declaration of § 23.13(f)(1) (relating to weight, liquid measure or count terminology).

**§ 27.21. Corn flour.**

Corn flour packaged in conventional 5, 10, 25, 50 and 100 pound bags shall be exempt from the requirement for location of § 23.21(1) (relating to general) of the net quantity declaration.

**§ 27.22. Prescription and insulin drugs.**

Prescription and drugs containing insulin subject to section 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act are exempt from this title.

**§ 27.23. Camera film.**

Camera film packaged and labeled for retail sale is exempt from the net quantity statement requirements of this title which specify how measurement of commodities should be expressed, only if there is compliance with the following provisions:

- (1) The net quantity of contents on packages of movie film and bulk still film is expressed in terms of the number of lineal feet of usable film contained therein.
- (2) The net quantity of contents on packages of still film shall be expressed in terms of the number of exposures the contents will provide. The length and width measurements of the individual exposures, expressed in millimeters or inches, are authorized as an optional statement, as, for example: “36 exposures, 36 × 24 mm” or “12 exposures, 2 1/4 × 2 1/4 in.”

**§ 27.24. Paint and kindred products.**

Paints, varnishes, lacquers, thinners, removers, oils, resins and solvents, if packed in 1 liquid pint and 1 liquid quart units are exempt from the dual quantity declaration requirements of § 23.13(f)(2) (relating to weight, liquid measure or count terminology).

**§ 27.25. Automotive antifreeze.**

Automotive cooling system antifreeze, if packed in 1 liquid quart units, in metal or plastic containers, are exempt from the dual quantity declaration requirements of § 23.13(f)(2) (relating to weight, liquid measure or count terminology).

**§ 27.26. Motor oils.**

Motor oils, if packed in 1 liquid quart units, are exempt from the dual quantity declaration requirements of § 23.13(f)(2) (relating to weight, liquid measure or count terminology). Additionally, motor oil in 1 liquid quart, 1 gallon, 1 1/4 gallon, 2 gallon and 2 1/2 gallon units, bearing the principal display panel on the body of the container, is exempt from the requirements of §§ 21.11, 23.1 and 25.1 (relating to consumer and nonconsumer packages; general), to the extent that the SAE grade is required to appear on the principal display panel, only if the SAE grade appears on the can lid and is expressed in letters and numerals in type size of at least 1/4 inch.

**§ 27.27. Bakery products.**

Bakery products customarily sold on the basis of count rather than weight and offered for sale in transparent packages by the producer, at a retail bakery store, are exempt from the requirements of this title.

**VARIATIONS****§ 27.31. Packaging.**

Variations from the packaging regulations of this title shall be allowed if there is compliance with the following provisions:

- (1) *Variations from declared net quantity.* Variations from the declared net weight, measure or count shall be permitted if caused by unavoidable deviations in weighing, measuring or counting the contents of individual packages which occur in good packaging practice, but the variations may not be permitted to the extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity which is kept, offered, exposed for sale or sold, is below the quantity stated, and no unreasonable shortage in a package may be permitted, even though overages in other packages in the same shipment, delivery or lot compensate for the shortage. Variations above the declared quantity may not be unreasonably large.

(2) *Variations resulting from exposure.* Variations from the declared weight or measure shall be permitted if caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce. The phrase “introduced into intrastate commerce” as used in this paragraph means the time and the place at which the first sale and delivery of a package is made within the Commonwealth, the delivery being either of the following:

- (i) Directly to the purchaser or to his agent.
- (ii) To a common carrier for shipment to the purchaser, and if a shipment, delivery or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations will not be permitted.

**Cross References**

This section cited in 70 Pa. Code § 27.32 (relating to magnitude of permitted variations).

**§ 27.32. Magnitude of permitted variations.**

The magnitude of variations permitted in § 27.31 (relating to packaging) shall, in the case of a shipment, delivery or lot, be determined by the facts in the individual case.

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