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SECOND SUBSTITUTE HOUSE BILL 2522

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State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Revenue (originally sponsored by Representatives Rayburn, Chandler, Chappell, Foreman, Hansen, Silver, Lemmon and Springer; by request of Department of Agriculture)

Read first time 02/08/94.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,  
2 19.94.160, 19.94.175, 19.94.185, 19.94.190, 19.94.216, 19.94.255,  
3 19.94.280, 19.94.320, and 19.94.360; adding a new section to chapter  
4 19.94 RCW; and adding a new section to chapter 15.80 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 19.94.010 and 1992 c 237 s 3 are each amended to read  
7 as follows:

8 (1) Unless the context clearly requires otherwise, the definitions  
9 in this section apply throughout this chapter and to any rules adopted  
10 pursuant to this chapter.

11 (a) "City" means a first class city with a population of over fifty  
12 thousand persons.

13 (b) "City sealer" means the person duly authorized by a city to  
14 enforce and administer the weights and measures program within such  
15 city and any duly appointed deputy sealer acting under the instructions  
16 and at the direction of the city sealer.

17 (c) "Commodity in package form" means a commodity put up or  
18 packaged in any manner in advance of sale in units suitable for either  
19 wholesale or retail sale, exclusive, however, of an auxiliary shipping

1 container enclosing packages that individually conform to the  
2 requirements of this chapter. An individual item or lot of any  
3 commodity not in packaged form, but on which there is marked a selling  
4 price based on established price per unit of weight or of measure,  
5 shall be construed to be a commodity in package form.

6 (d) "Consumer package" or "package of consumer commodity" means a  
7 commodity in package form that is customarily produced or distributed  
8 for sale through retail sales agencies or instrumentalities for  
9 consumption by persons, or used by persons for the purpose of personal  
10 care or in the performance of services ordinarily rendered in or about  
11 a household or in connection with personal possessions.

12 (e) "Cord" means the measurement of wood intended for fuel or pulp  
13 purposes that is contained in a space of one hundred twenty-eight cubic  
14 feet, when the wood is ranked and well stowed.

15 (f) "Department" means the department of agriculture of the state  
16 of Washington.

17 (g) "Director" means the director of the department or duly  
18 authorized representative acting under the instructions and at the  
19 direction of the director.

20 (h) "Fish" means any waterbreathing animal, including shellfish,  
21 such as, but not limited to, lobster, clam, crab, or other mollusca  
22 that is prepared, processed, sold, or intended for sale.

23 (i) "Net weight" means the weight of a commodity excluding any  
24 materials, substances, or items not considered to be part of such  
25 commodity. Materials, substances, or items not considered to be part  
26 of a commodity shall include, but are not limited to, containers,  
27 conveyances, bags, wrappers, packaging materials, labels, individual  
28 piece coverings, decorative accompaniments, and coupons.

29 (j) "Nonconsumer package" or "package of nonconsumer commodity"  
30 means a commodity in package form other than a consumer package and  
31 particularly a package designed solely for industrial or institutional  
32 use or for wholesale distribution only.

33 (k) "Meat" means and shall include all animal flesh, carcasses, or  
34 parts of animals, and shall also include fish, shellfish, game,  
35 poultry, and meat food products of every kind and character, whether  
36 fresh, frozen, cooked, cured, or processed.

37 (l) "Official seal of approval" means the uniform seal or  
38 certificate issued by the director or city sealer which indicates that  
39 a weights and measures standard or a weighing or measuring instrument

1 or device conforms with the specifications, tolerances, and other  
2 technical requirements adopted in RCW 19.94.195.

3 (m) "Person" means any individual, receiver, administrator,  
4 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
5 copartnership, joint venture, club, company, business trust,  
6 corporation, association, society, or any group of individuals acting  
7 as a unit, whether mutual, cooperative, fraternal, nonprofit, or  
8 otherwise.

9 (n) "Poultry" means all fowl, domestic or wild, that is prepared,  
10 processed, sold, or intended or offered for sale.

11 (o) "Service agent" means a person who for hire, award, commission,  
12 or any other payment of any kind, installs, inspects, checks, adjusts,  
13 repairs, reconditions, or systematically standardizes the graduations  
14 of a weighing or measuring instrument or device.

15 (p) "Ton" means a unit of two thousand pounds avoirdupois weight.

16 (q) "Weighing or measuring instrument or device" means any  
17 equipment or apparatus used commercially to establish the size,  
18 quantity, capacity, count, extent, area, heaviness, or measurement of  
19 quantities, things, produce, or articles for distribution or  
20 consumption, that are purchased, offered or submitted for sale, hire,  
21 or award on the basis of weight, measure or count, including any  
22 accessory attached to or used in connection with a weighing or  
23 measuring instrument or device when such accessory is so designed or  
24 installed that its operation affects, or may effect, the accuracy or  
25 indication of the device. This definition shall be strictly limited to  
26 those weighing or measuring instruments or devices governed by Handbook  
27 44 as adopted under RCW 19.94.195.

28 (r) "Weight" means net weight as defined in this section.

29 (s) "Weights and measures" means the recognized standards or units  
30 of measure used to indicate the size, quantity, capacity, count,  
31 extent, area, heaviness, or measurement of any consumable commodity.

32 (t) "Secondary weights and measures standard" means (~~any object~~)  
33 the physical standards that are traceable to the primary standards  
34 through comparisons, used by the director, a city sealer, or a service  
35 agent that under specified conditions defines or represents a  
36 recognized weight or measure during the inspection, adjustment,  
37 testing, or systematic standardization of the graduations of any  
38 weighing or measuring instrument or device.

1 (2) The director shall prescribe by rule other definitions as may  
2 be necessary for the implementation of this chapter.

3 **Sec. 2.** RCW 19.94.160 and 1992 c 237 s 5 are each amended to read  
4 as follows:

5 Weights and measures standards that are in conformity with the  
6 standards of the United States as have been supplied to the state by  
7 the federal government or otherwise obtained by the state for use as  
8 state weights and measures standards, shall, when the same shall have  
9 been certified as such by the national institute of standards and  
10 technology or any successor organization, be the ((state)) primary  
11 standards of weight and measure. The state weights and measures  
12 standards shall be kept in a place designated by the director and shall  
13 ((not be removed from such designated place except for repairs or for  
14 certification. These state weights and measures standards shall be  
15 submitted at least once every ten years to the national institute of  
16 standards and technology or any successor organization for  
17 certification)) be maintained in such calibration as prescribed by the  
18 national institute of standards and technology or any successor  
19 organization.

20 **Sec. 3.** RCW 19.94.175 and 1992 c 237 s 7 are each amended to read  
21 as follows:

22 (1) ((The department shall establish reasonable, biennial  
23 inspection and testing fees for each type or class of weighing or  
24 measuring instrument or device required to be inspected and tested  
25 under this chapter. These inspection and testing fees shall be  
26 equitably prorated within each such type or class and shall be limited  
27 to those amounts necessary for the department to cover, to the extent  
28 possible, the direct costs associated with the inspection and testing  
29 of each type or class of weighing or measuring instrument or device.

30 (2) Prior to the establishment and each amendment of the fees  
31 authorized under this chapter, a weights and measures fee task force  
32 shall be convened under the direction of the department. The task  
33 force shall be composed of a representative from the department who  
34 shall serve as chair and one representative from each of the following:  
35 City sealers, service agents, service stations, grocery stores,  
36 retailers, food processors/dealers, oil heat dealers, the agricultural  
37 community, and liquid propane dealers. The task force shall recommend

1 the appropriate level of fees to be assessed by the department pursuant  
2 to subsection (1) of this section, based upon the level necessary to  
3 cover the direct costs of administering and enforcing the provisions of  
4 this chapter and to the extent possible be consistent with fees  
5 reasonably and customarily charged in the private sector for similar  
6 services.

7 (3)) The following fees shall be charged for the inspection and  
8 testing of weighing or measuring instruments or devices required to be  
9 inspected and tested under this chapter:

- 10 (a) Weighing devices:
- 11 (i) Small scales "zero to four hundred pounds  
12 capacity" . . . . . \$ 12.00
- 13 (ii) Intermediate scales "four hundred one pounds to  
14 five thousand pounds capacity" . . . . . \$ 50.00
- 15 (iii) Large scales "over five thousand pounds  
16 capacity" . . . . . \$ 105.00
- 17 (iv) Large scales with supplemental devices . . . . . \$ 125.00
- 18 (v) Railroad track scales . . . . . \$ 800.00
- 19 (b) Liquid fuel metering devices:
- 20 (i) Motor fuel meters with flows of less than twenty  
21 gallons per minute . . . . . \$ 12.00
- 22 (ii) Motor fuel meters with flows of more than twenty  
23 but not more than one hundred fifty gallons per  
24 minute . . . . . \$ 40.00
- 25 (iii) Motor fuel meters with flows over one hundred  
26 fifty gallons per minute . . . . . \$ 50.00
- 27 (c) Liquid petroleum gas meters:
- 28 (i) With one inch diameter or smaller dispensers  
29 that are not compensated for temperature  
30 variations . . . . . \$ 50.00
- 31 (ii) With one inch diameter or smaller dispensers  
32 that are compensated for temperature  
33 variations . . . . . \$ 50.00
- 34 (iii) With greater than one inch diameter dispensers  
35 that are not compensated for temperature  
36 variations . . . . . \$ 75.00

1	(iv)	<u>With greater than one inch diameter dispensers</u>	
2		<u>that are compensated for temperature</u>	
3		<u>variations . . . . .</u>	<u>\$ 75.00</u>
4	(d)	<u>Fabric meters . . . . .</u>	<u>\$ 12.00</u>
5	(e)	<u>Cordage meters . . . . .</u>	<u>\$ 12.00</u>
6	(f)	<u>Mass flow meters . . . . .</u>	<u>\$ 35.00</u>
7	(g)	<u>Taxi meters . . . . .</u>	<u>\$ 12.00</u>

8 ~~(2)~~ The fees authorized under this chapter ~~((may))~~ shall be billed  
9 only after the director or a city sealer has ~~((issued an official seal~~  
10 ~~of approval for a))~~ officially inspected and tested any weighing or  
11 measuring instrument or device ((or a weight or measure standard)).

12 ~~((4) All fees))~~ (3) Any fees assessed under this chapter shall  
13 become due and payable thirty days after billing by the department or  
14 a city sealer. A late penalty of one and one-half percent per month  
15 may be assessed on the unpaid balance more than thirty days in arrears.

16 ~~((5))~~ (4) Fees upon weighing or measuring instruments or devices  
17 within the jurisdiction of the city that are collected under this  
18 section by city sealers shall be deposited into the general fund, or  
19 other account, of the city as directed by the governing body of the  
20 city. ((On the thirtieth day of each month, city sealers shall,  
21 pursuant to procedures established and upon forms provided by the  
22 director, remit to the department for administrative costs ten percent  
23 of the total fees collected.

24 ~~(6))~~ (5) With the exception of subsection ((7)) (6) of this  
25 section, no person shall be required to pay more than the established  
26 inspection and testing fee adopted under this section for any weighing  
27 or measuring instrument or device in any two-year period when the same  
28 has been found to be correct.

29 ~~((7) Whenever a special request is made by the owner for the~~  
30 ~~inspection and testing of a weighing or measuring instrument or device,~~  
31 ~~the fee prescribed by the director for such a weighing or measuring~~  
32 ~~instrument or device shall be paid by the owner.))~~

33 (6) The department or a city sealer may establish reasonable  
34 inspection and testing fees for each type or class of weighing or  
35 measuring instrument or device specially requested to be inspected or  
36 tested by the device owner. These inspection and testing fees shall be  
37 limited to those amounts necessary for the department or city sealer to  
38 cover the direct costs associated with such inspection and testing.

1 The fees established under this subsection shall not be set so as to  
2 compete with service agents normally engaged in such services.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.94 RCW  
4 to read as follows:

5 (1) The department or a city sealer may establish reasonable  
6 reinspection and testing fees for each type or class of weighing or  
7 measuring instrument or device required to be inspected and tested  
8 under this chapter when such a device has been found to be incorrect.  
9 These reinspection and testing fees shall be limited to those amounts  
10 necessary for the department or a city sealer to cover, to the extent  
11 possible, the direct costs associated with the reinspection and testing  
12 of each type or class of weighing or measuring instrument or device.  
13 Investigations for cause shall not be construed as reinspections under  
14 this section.

15 (2) Prior to the establishment and each amendment of the fees  
16 authorized under this section, a weights and measures fee task force  
17 shall be convened under the direction of the department. The task  
18 force shall be composed of a representative from the department who  
19 shall serve as chair and one representative appointed by the director  
20 from each of the following: City sealers, service agents, service  
21 stations, grocery stores, retailers, food processors/dealers, oil heat  
22 dealers, the agricultural community, and liquid propane dealers. The  
23 task force shall recommend the appropriate level of fees to be assessed  
24 by the department by rule pursuant to subsection (1) of this section,  
25 based upon the level necessary to cover the direct costs of  
26 administering and enforcing the provisions of this section and to the  
27 extent possible be consistent with fees reasonably and customarily  
28 charged in the private sector for similar services.

29 (3) This section expires June 30, 1995.

30 **Sec. 5.** RCW 19.94.185 and 1992 c 237 s 8 are each amended to read  
31 as follows:

32 All moneys collected under this chapter shall be placed in the  
33 weights and measures account hereby established in the state treasury.  
34 Moneys deposited in this account may be spent only following  
35 appropriation by law and shall be used solely for the purposes ~~((of~~  
36 ~~weighing or measuring instrument or device inspection and testing))~~  
37 relating to the enforcement or implementation of this chapter.

1       **Sec. 6.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read  
2 as follows:

3       (1) The director and duly appointed city sealers shall enforce the  
4 provisions of this chapter. The director shall adopt rules for  
5 enforcing and carrying out the purposes of this chapter including but  
6 not limited to the following:

7       (a) Establishing state standards of weight, measure, or count, and  
8 reasonable standards of fill for any commodity in package form;

9       (b) The establishment of technical and reporting procedures to be  
10 followed, any necessary report and record forms, and marks of rejection  
11 to be used by the director and city sealers in the discharge of their  
12 official duties as required by this chapter;

13       (c) The establishment of technical test procedures, reporting  
14 procedures, and any necessary record and reporting forms to be used by  
15 service agents when installing, repairing, inspecting, or standardizing  
16 the graduations of any weighing or measuring instruments or devices;

17       (d) ~~((The establishment of fee payment and reporting procedures and  
18 any necessary report and record forms to be used by city sealers when  
19 remitting the percentage of total fees collected as required under this  
20 chapter;~~

21       ~~(e))~~ (e)) The establishment of exemptions from the sealing or marking  
22 inspection and testing requirements of RCW 19.94.250 with respect to  
23 weighing or measuring instruments or devices of such character or size  
24 that such sealing or marking would be inappropriate, impracticable, or  
25 damaging to the apparatus in question;

26       ~~((f))~~ (e) The establishment of exemptions from the inspection and  
27 testing requirements of RCW 19.94.165 with respect to classes of  
28 weighing or measuring instruments or devices found to be of such  
29 character that periodic inspection and testing is unnecessary to ensure  
30 continued accuracy; and

31       ~~((g))~~ (f) The establishment of inspection and approval  
32 techniques, if any, to be used with respect to classes of weighing or  
33 measuring instruments or devices that are designed specifically to be  
34 used commercially only once and then discarded, or are uniformly  
35 mass-produced by means of a mold or die and are not individually  
36 adjustable.

37       (2) These rules shall also include specifications and tolerances  
38 for the acceptable range of accuracy required of weighing or measuring  
39 instruments or devices and shall be designed to eliminate from use,

1 without prejudice to weighing or measuring instruments or devices that  
2 conform as closely as practicable to official specifications and  
3 tolerances, those (a) that are of such construction that they are  
4 faulty, that is, that are not reasonably permanent in their adjustment  
5 or will not repeat their indications correctly, or (b) that facilitate  
6 the perpetration of fraud.

7       **Sec. 7.** RCW 19.94.216 and 1992 c 237 s 12 are each amended to read  
8 as follows:

9       The department shall:

10       (1) Biennially inspect and test the secondary weights and measures  
11 standards of any city for which the appointment of a city sealer is  
12 provided by this chapter and shall issue an official seal of approval  
13 for same when found to be correct. The department shall, by rule,  
14 establish a reasonable fee for (~~such~~) this and any other inspection  
15 and testing services performed by the department's metrology  
16 laboratory.

17       (2) Biennially inspect, test, and, if found to be correct, issue an  
18 official seal of approval for any weighing or measuring instrument or  
19 device used in an agency or institution to which moneys are  
20 appropriated by the legislature or of the federal government and shall  
21 report any findings in writing to the executive officer of the agency  
22 or institution concerned. The department shall collect a reasonable  
23 fee, to be set by rule, for testing any such weighing or measuring  
24 instrument or device.

25       (3) Inspect, test, and, if found to be correct, issue a seal of  
26 approval for classes of weighing or measuring instruments or devices  
27 found to be few in number, highly complex, and of such character that  
28 differential inspection and testing frequency is necessary including,  
29 but not limited to, railroad track scales and grain elevator scales.  
30 The department shall develop rules regarding the inspection and testing  
31 procedures to be used for such weighing or measuring instruments or  
32 devices which shall include requirements for the provision,  
33 maintenance, and transport of any weight or measure standard necessary  
34 for inspection and testing at no expense to the state. The department  
35 may collect a reasonable fee, to be set by rule, for inspecting and  
36 testing any such weighing and measuring instruments or devices. This  
37 fee shall not be unduly burdensome and shall cover, to the extent  
38 possible, the direct costs of performing such service.

1       **Sec. 8.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to read  
2 as follows:

3       (1) Weighing or measuring instruments or devices that have been  
4 rejected under the authority of the director or a city sealer shall  
5 remain subject to the control of the rejecting authority until such  
6 time as suitable repair or disposition thereof has been made as  
7 required by this section.

8       (2) The owner of any weighing or measuring instrument or device  
9 that has been marked or tagged as rejected by the director or a city  
10 sealer shall cause the same to be made correct within thirty days or  
11 such longer period as may be authorized by the rejecting authority. In  
12 lieu of correction, the owner of such weighing and measuring instrument  
13 or device may dispose of the same, but only in the manner specifically  
14 authorized by the rejecting authority.

15       (~~(3) Weighing and measuring instruments or devices that have been~~  
16 ~~rejected shall not again be used commercially until they have been~~  
17 ~~officially reexamined and, if found to be correct, had an official seal~~  
18 ~~of approval placed upon or issued for such weighing or measuring~~  
19 ~~instrument or device by the rejecting authority.))~~

20       **Sec. 9.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to read  
21 as follows:

22       (1) There may be a city sealer in every city and such deputies as  
23 may be required by ordinance of each such city to administer and  
24 enforce the provisions of this chapter.

25       (2) Each city electing to have a city sealer shall adopt rules for  
26 the appointment and removal of the city sealer and any deputies  
27 required by local ordinance. The rules for appointment of a city  
28 sealer and any deputies must include provisions for the advice and  
29 consent of the local governing body of such city and, as necessary, any  
30 provisions for local civil service laws and regulations.

31       (3) A city sealer (~~(shall)~~) may adopt the fee amounts established  
32 (~~(by the director pursuant to RCW 19.94.165))~~ under RCW 19.94.175.  
33 However, no city shall adopt or charge an inspection, testing,  
34 reinspection, retesting, or licensing fee or any other fee upon a  
35 weighing or measuring instrument or device that is in excess of the fee  
36 amounts ((adopted under RCW 19.94.165)) established by the department  
37 under the provisions of this chapter for substantially similar  
38 services.

1 (4) A city sealer shall keep a complete and accurate record of all  
2 official acts performed under the authority of this chapter and shall  
3 submit an annual report to the governing body of his or her city and  
4 shall make any reports as may be required by the director.

5 **Sec. 10.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to  
6 read as follows:

7 (1) In cities for which city sealers have been appointed as  
8 provided for in this chapter, the director shall have general  
9 ~~((supervisory powers over such))~~ oversight of city ((sealers)) weights  
10 and measures programs and may, when he or she deems it reasonably  
11 necessary, exercise concurrent authority to carry out the provisions of  
12 this chapter.

13 (2) When the director elects to exercise concurrent authority  
14 within a city with a duly appointed city sealer, the director's powers  
15 and duties relative to this chapter shall be in addition to the powers  
16 granted in any such city by law or charter.

17 **Sec. 11.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read  
18 as follows:

19 In addition to the declarations required by RCW 19.94.350, any  
20 commodity in package form, the package being one of a lot containing  
21 random weights, measures or counts of the same commodity ~~((and bearing~~  
22 ~~the total selling price of the package))~~ at the time it is exposed for  
23 sale at retail, shall bear on the outside of the package a plain and  
24 conspicuous declaration of the price per single unit of weight,  
25 measure, or count and the total selling price of the package.

26 NEW SECTION. **Sec. 12.** A new section is added to chapter 15.80 RCW  
27 to read as follows:

28 All moneys collected under this chapter shall be placed in the  
29 weights and measures account in the state treasury created in RCW  
30 19.94.185.

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