
SUBSTITUTE SENATE BILL 6099

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Newhouse and Snyder; by request of Department of Agriculture)

Read first time 02/02/94.

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

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

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

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

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

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

16 (c) "Commodity in package form" means a commodity put up or
17 packaged in any manner in advance of sale in units suitable for either
18 wholesale or retail sale, exclusive, however, of an auxiliary shipping
19 container enclosing packages that individually conform to the

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

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

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

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

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

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

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

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

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

36 (l) "Official seal of approval" means the uniform seal or
37 certificate issued by the director or city sealer which indicates that
38 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.

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

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

28 (2) Prior to the establishment and each amendment of the fees
29 authorized under this chapter, a weights and measures fee task force
30 shall be convened under the direction of the department. The task
31 force shall be composed of a representative from the department who
32 shall serve as chair and one representative from each of the following:
33 City sealers, service agents, service stations, grocery stores,
34 retailers, food processors/dealers, oil heat dealers, the agricultural
35 community, and liquid propane dealers. The task force shall recommend
36 the appropriate level of fees to be assessed by the department pursuant
37 to subsection (1) of this section, based upon the level necessary to

1 cover the direct costs of administering and enforcing the provisions of
2 this chapter and to the extent possible be consistent with fees
3 reasonably and customarily charged in the private sector for similar
4 services.

5 (3) The fees authorized under (~~this chapter~~) subsection (1) of
6 this section may be billed only after the director or a city sealer has
7 (~~issued an official seal of approval for~~) officially inspected and
8 tested a weighing or measuring instrument or device or a weight or
9 measure standard.

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

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

22 (6) With the exception of subsection (~~(7)~~) (8) of this section,
23 no person shall be required to pay more than the established inspection
24 and testing fee adopted under this section for any weighing or
25 measuring instrument or device in any two-year period when the same has
26 been found to be correct.

27 (7) (~~Whenever a special request is made by the owner for the~~
28 ~~inspection and testing of a weighing or measuring instrument or device,~~
29 ~~the fee prescribed by the director for such a weighing or measuring~~
30 ~~instrument or device shall be paid by the owner.~~) The department or a
31 city sealer may establish reasonable reinspection and testing fees for
32 each type or class of weighing or measuring instrument or device
33 required to be inspected and tested under this chapter when such a
34 device has been found to be incorrect. These reinspection and testing
35 fees shall be limited to those amounts necessary for the department or
36 a city sealer to cover, to the extent possible, the direct costs
37 associated with the reinspection and testing of each type or class of
38 weighing or measuring instrument or device. At least thirty days prior
39 to adopting the reinspection and testing fee in rule, the department

1 shall consult with the weights and measures program advisory committee
2 and submit a copy of the proposed fee schedule for review to the
3 appropriate standing committees in the house of representatives and the
4 senate. Investigations for cause shall not be construed as
5 reinspections under this subsection.

6 (8) The department or a city sealer may establish reasonable
7 inspection and testing fees for each type or class of weighing or
8 measuring instrument or device specially requested to be inspected or
9 tested by the device owner. These inspection and testing fees shall be
10 limited to those amounts necessary for the department or city sealer to
11 cover the direct costs associated with such inspection and testing.
12 The fees established under this subsection shall not be set so as to
13 compete with service agents normally engaged in such services.

14 **Sec. 4.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read
15 as follows:

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

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

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

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

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

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

1 ~~((f))~~ (e) The establishment of exemptions from the inspection and
2 testing requirements of RCW 19.94.165 with respect to classes of
3 weighing or measuring instruments or devices found to be of such
4 character that periodic inspection and testing is unnecessary to ensure
5 continued accuracy; and

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

12 (2) These rules shall also include specifications and tolerances
13 for the acceptable range of accuracy required of weighing or measuring
14 instruments or devices and shall be designed to eliminate from use,
15 without prejudice to weighing or measuring instruments or devices that
16 conform as closely as practicable to official specifications and
17 tolerances, those (a) that are of such construction that they are
18 faulty, that is, that are not reasonably permanent in their adjustment
19 or will not repeat their indications correctly, or (b) that facilitate
20 the perpetration of fraud.

21 **Sec. 5.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to read
22 as follows:

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

28 (2) The owner of any weighing or measuring instrument or device
29 that has been marked or tagged as rejected by the director or a city
30 sealer shall cause the same to be made correct within thirty days or
31 such longer period as may be authorized by the rejecting authority. In
32 lieu of correction, the owner of such weighing and measuring instrument
33 or device may dispose of the same, but only in the manner specifically
34 authorized by the rejecting authority.

35 ~~((3) Weighing and measuring instruments or devices that have been
36 rejected shall not again be used commercially until they have been
37 officially reexamined and, if found to be correct, had an official seal~~

1 of approval placed upon or issued for such weighing or measuring
2 instrument or device by the rejecting authority.))

3 **Sec. 6.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to read
4 as follows:

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

8 (2) Each city electing to have a city sealer shall adopt rules for
9 the appointment and removal of the city sealer and any deputies
10 required by local ordinance. The rules for appointment of a city
11 sealer and any deputies must include provisions for the advice and
12 consent of the local governing body of such city and, as necessary, any
13 provisions for local civil service laws and regulations.

14 (3) A city sealer (~~((shall))~~) may adopt the fee amounts established
15 by the director pursuant to RCW (~~((19.94.165))~~) 19.94.175. No city shall
16 adopt or charge an inspection, testing, or licensing fee or any other
17 fee upon a weighing or measuring instrument or device that is in excess
18 of the fee amount adopted under RCW (~~((19.94.165))~~) 19.94.175.

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

23 **Sec. 7.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to read
24 as follows:

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

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

35 **Sec. 8.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read
36 as follows:

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

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 15.80 RCW
9 to read as follows:

10 All moneys collected under this chapter shall be placed in the
11 weights and measures account in the state treasury created in RCW
12 19.94.185.

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