
HOUSE BILL 1524

State of Washington

54th Legislature

1995 Regular Session

By Representatives Chandler, Mastin and McMorris

Read first time 01/30/95. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to weights and measures; amending RCW 19.94.005,
2 19.94.010, 19.94.160, 19.94.165, 19.94.185, 19.94.190, 19.94.216,
3 19.94.250, 19.94.255, 19.94.280, 19.94.320, 19.94.360, and 19.94.510;
4 adding new sections to chapter 19.94 RCW; repealing RCW 19.94.175; and
5 prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** (1) No weighing or measuring instrument or
8 device may be used for commercial purposes in the state unless its
9 commercial use is registered annually. If its commercial use is within
10 a city that has a city sealer and a program for testing and inspecting
11 weighing and measuring instruments and devices, the commercial use of
12 the instrument or device shall be registered with the city. If its
13 commercial use is outside of such a city, the commercial use of the
14 instrument or device shall be registered with the department.

15 A city with such a sealer and program may establish an annual fee
16 for registering the commercial use of such an instrument or device with
17 the city. The annual fee shall not exceed the fee established in
18 subsection (2) of this section for registering the use of a similar
19 instrument or device with the department.

1 (2) The annual fee for registering such an instrument or device
2 with the department is: For a small instrument or device, three
3 dollars; for a medium-sized instrument or device, twelve dollars and
4 fifty cents; and for a large instrument or device, twenty-three dollars
5 and fifty cents. This fee shall be paid to the department of revenue
6 concurrently with the payment of business and occupation taxes and
7 shall be remitted by the department of revenue to the department of
8 agriculture.

9 (3) For the purposes of this section:

10 (a) The following are small weighing or measuring instruments or
11 devices: Scales of zero to four hundred pounds capacity, liquid fuel
12 metering devices with flows of not more than twenty gallons per minute,
13 liquid petroleum gas meters with one inch in diameter or smaller
14 dispensers, fabric meters, cordage meters, mass flow meters, and taxi
15 meters.

16 (b) The following are medium-sized weighing or measuring
17 instruments or devices: Scales of four hundred one to five thousand
18 pounds capacity, liquid fuel metering devices with flows of more than
19 twenty but not more than one hundred fifty gallons per minute, and
20 liquid petroleum gas meters with greater than one inch diameter
21 dispensers.

22 (c) The following are large weighing or measuring instruments or
23 devices: Scales of more than five thousand pounds capacity, and liquid
24 fuel metering devices with flows over one hundred fifty gallons per
25 minute.

26 (4) The department shall maintain a list of cities with city
27 sealers and programs for testing and inspecting weighing and measuring
28 instruments and devices. The department shall provide the list of such
29 cities and any changes in the list to the department of revenue. The
30 list shall be available to the public upon request.

31 NEW SECTION. **Sec. 2.** (1) Except as provided in subsections (2)
32 and (3) of this section, the department shall test and inspect each
33 biennium a sufficient number of weighing and measuring instruments and
34 devices to ensure that the provisions of this chapter are enforced and
35 to provide a statistically significant assessment of whether the
36 instruments and devices in commercial service within the testing and
37 inspection jurisdiction of the department are correct.

1 (2) Except as provided in RCW 19.94.216, this section does not
2 apply to an instrument or device located in an area of the state that
3 is within a city with a city sealer and a program for testing and
4 inspecting weighing and measuring instruments and devices unless the
5 city sealer does not possess the equipment necessary to test and
6 inspect the instrument or device.

7 (3) The department shall inspect and test classes of weighing or
8 measuring instruments or devices found to be few in number, highly
9 complex, and of such character that differential inspection and testing
10 is necessary including, but not limited to, railroad track scales and
11 grain elevator scales. The department shall develop rules regarding
12 the inspection and testing procedures to be used for such weighing or
13 measuring instruments or devices which shall include requirements for
14 the provision, maintenance, and transport of any weight or measure
15 standard necessary for inspection and testing at no expense to the
16 state. The department may collect a reasonable fee, to be set by rule,
17 for inspecting and testing any such weighing and measuring instruments
18 or devices. This fee shall not be unduly burdensome and shall only
19 cover, and shall cover to the extent possible, the direct costs of
20 performing such service.

21 **Sec. 3.** RCW 19.94.005 and 1992 c 237 s 1 are each amended to read
22 as follows:

23 The legislature finds:

24 (1) The accuracy of weighing and measuring instruments and devices
25 used in commerce in the state of Washington affects every consumer
26 throughout the state and is of vital importance to the public interest.

27 (2) Fair weights and measures are equally important to business and
28 the consumer.

29 ~~(3) ((A continuing study of this state's weights and measures
30 program is necessary to ensure that the program provides proper
31 enforcement and oversight to safeguard consumers, business, and
32 interstate commerce.~~

33 ~~(4))~~) This chapter safeguards the consuming public and ensures that
34 businesses receive proper compensation for the commodities they
35 deliver.

36 **Sec. 4.** RCW 19.94.010 and 1992 c 237 s 3 are each amended to read
37 as follows:

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

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

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

10 (c) "Commodity in package form" means a commodity put up or
11 packaged in any manner in advance of sale in units suitable for either
12 wholesale or retail sale, exclusive, however, of an auxiliary shipping
13 container enclosing packages that individually conform to the
14 requirements of this chapter. An individual item or lot of any
15 commodity not in packaged form, but on which there is marked a selling
16 price based on established price per unit of weight or of measure,
17 shall be construed to be a commodity in package form.

18 (d) "Consumer package" or "package of consumer commodity" means a
19 commodity in package form that is customarily produced or distributed
20 for sale through retail sales agencies or instrumentalities for
21 consumption by persons, or used by persons for the purpose of personal
22 care or in the performance of services ordinarily rendered in or about
23 a household or in connection with personal possessions.

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

27 (f) "Department" means the department of agriculture of the state
28 of Washington.

29 (g) "Director" means the director of the department or duly
30 authorized representative acting under the instructions and at the
31 direction of the director.

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

35 (i) "Net weight" means the weight of a commodity excluding any
36 materials, substances, or items not considered to be part of such
37 commodity. Materials, substances, or items not considered to be part
38 of a commodity shall include, but are not limited to, containers,

1 conveyances, bags, wrappers, packaging materials, labels, individual
2 piece coverings, decorative accompaniments, and coupons.

3 (j) "Nonconsumer package" or "package of nonconsumer commodity"
4 means a commodity in package form other than a consumer package and
5 particularly a package designed solely for industrial or institutional
6 use or for wholesale distribution only.

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

11 (l) "Official seal of approval" means the uniform seal or
12 certificate issued by the director (~~(or city sealer)~~) which indicates
13 that a weights and measures standard (~~(or a weighing or measuring~~
14 ~~instrument or device)~~) conforms with the specifications, tolerances,
15 and other technical requirements adopted in RCW 19.94.195.

16 (m) "Person" means any individual, receiver, administrator,
17 executor, assignee, trustee in bankruptcy, trust, estate, firm,
18 copartnership, joint venture, club, company, business trust,
19 corporation, association, society, or any group of individuals acting
20 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
21 otherwise.

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

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

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

29 (q) "Weighing or measuring instrument or device" means any
30 equipment or apparatus used commercially to establish the size,
31 quantity, capacity, count, extent, area, heaviness, or measurement of
32 quantities, things, produce, or articles for distribution or
33 consumption, that are purchased, offered or submitted for sale, hire,
34 or award on the basis of weight, measure or count, including any
35 accessory attached to or used in connection with a weighing or
36 measuring instrument or device when such accessory is so designed or
37 installed that its operation affects, or may effect, the accuracy or
38 indication of the device. This definition shall be strictly limited to

1 those weighing or measuring instruments or devices governed by Handbook
2 44 as adopted under RCW 19.94.195.

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

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

7 (t) "Secondary weights and measures standard" means ~~((any object))~~
8 the physical standards that are traceable to the primary standards
9 through comparisons, used by the director, a city sealer, or a service
10 agent that under specified conditions defines or represents a
11 recognized weight or measure during the inspection, adjustment,
12 testing, or systematic standardization of the graduations of any
13 weighing or measuring instrument or device.

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

16 **Sec. 5.** RCW 19.94.160 and 1992 c 237 s 5 are each amended to read
17 as follows:

18 Weights and measures standards that are in conformity with the
19 standards of the United States as have been supplied to the state by
20 the federal government or otherwise obtained by the state for use as
21 state weights and measures standards, shall, when the same shall have
22 been certified as such by the national institute of standards and
23 technology or any successor organization, be the ~~((state))~~ primary
24 standards of weight and measure. The state weights and measures
25 standards shall be kept in a place designated by the director and shall
26 ~~((not be removed from such designated place except for repairs or for~~
27 ~~certification. These state weights and measures standards shall be~~
28 ~~submitted at least once every ten years to))~~ be maintained in such
29 calibration as prescribed by the national institute of standards and
30 technology or any successor organization ~~((for certification)).~~

31 **Sec. 6.** RCW 19.94.165 and 1992 c 237 s 6 are each amended to read
32 as follows:

33 ~~((1) Unless otherwise provided by the department,)~~ All weighing
34 or measuring instruments or devices used for commercial purposes within
35 this state shall be ~~((inspected and tested for accuracy by the director~~
36 ~~or city sealer at least once every two years and, if found to be))~~

1 correct(~~(, the director or city sealer shall issue an official seal of~~
2 ~~approval for each such instrument or device.~~

3 ~~(2) Beginning fiscal year 1993, the schedule of inspection and~~
4 ~~testing shall be staggered so as one half of the weighing or measuring~~
5 ~~instruments or devices under the jurisdiction of the inspecting and~~
6 ~~testing authority are approved in odd fiscal years and the remaining~~
7 ~~one half are inspected and tested in even fiscal years.~~

8 ~~(3) The department may provide, as needed, uniform, official seals~~
9 ~~of approval to city sealers for the purposes expressed in this~~
10 ~~section)).~~

11 NEW SECTION. **Sec. 7.** The department or a city sealer may
12 establish reasonable inspection and testing fees for each type or class
13 of weighing or measuring instrument or device specially requested to be
14 inspected or tested by the device owner. These inspection and testing
15 fees shall be limited to those amounts necessary for the department or
16 city sealer to cover the direct costs associated with such inspection
17 and testing. The fees established under this subsection shall not be
18 set so as to compete with service agents normally engaged in such
19 services.

20 **Sec. 8.** RCW 19.94.185 and 1992 c 237 s 8 are each amended to read
21 as follows:

22 All moneys collected under this chapter shall be placed in the
23 weights and measures account hereby established in the state treasury.
24 Moneys deposited in this account may be spent only following
25 appropriation by law and shall be used solely for the purposes of
26 ~~((weighing or measuring instrument or device inspection and testing))~~
27 implementing or enforcing this chapter.

28 **Sec. 9.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read
29 as follows:

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

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

1 (b) The establishment of technical and reporting procedures to be
2 followed, any necessary report and record forms, and marks of rejection
3 to be used by the director ~~((and))~~, city sealers, and registered
4 service agents in the discharge of their ~~((official duties as))~~
5 activities required by this chapter;

6 (c) The establishment of technical test procedures, reporting
7 procedures, and any necessary record and reporting forms to be used by
8 service agents when testing and inspecting instruments or devices under
9 RCW 19.94.255(3) or when otherwise installing, repairing, inspecting,
10 or standardizing the graduations of any weighing or measuring
11 instruments or devices;

12 ~~((The establishment of fee payment and reporting procedures and~~
13 ~~any necessary report and record forms to be used by city sealers when~~
14 ~~remitting the percentage of total fees collected as required under this~~
15 ~~chapter;~~

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

21 ~~((f))~~ (e) The establishment of exemptions from the inspection and
22 testing requirements of ~~((RCW 19.94.165))~~ section 2 of this act with
23 respect to classes of weighing or measuring instruments or devices
24 found to be of such character that periodic inspection and testing is
25 unnecessary to ensure continued accuracy; and

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

32 (2) These rules shall also include specifications and tolerances
33 for the acceptable range of accuracy required of weighing or measuring
34 instruments or devices and shall be designed to eliminate from use,
35 without prejudice to weighing or measuring instruments or devices that
36 conform as closely as practicable to official specifications and
37 tolerances, those (a) that are of such construction that they are
38 faulty, that is, that are not reasonably permanent in their adjustment

1 or will not repeat their indications correctly, or (b) that facilitate
2 the perpetration of fraud.

3 **Sec. 10.** RCW 19.94.216 and 1992 c 237 s 12 are each amended to
4 read as follows:

5 The department shall:

6 (1) Biennially inspect and test the secondary weights and measures
7 standards of any city for which the appointment of a city sealer is
8 provided by this chapter and shall issue an official seal of approval
9 for same when found to be correct. The department shall, by rule,
10 establish a reasonable fee for ~~((such))~~ this and any other inspection
11 and testing services performed by the department's metrology
12 laboratory. Each such fee shall fully recover the laboratory's costs
13 incurred in performing the service governed by the fee.

14 (2) Biennially inspect~~((7))~~ and test~~((, and, if found to be~~
15 ~~correct, issue an official seal of approval for))~~ any weighing or
16 measuring instrument or device used in an agency or institution to
17 which moneys are appropriated by the legislature or of the federal
18 government and shall report any findings in writing to the executive
19 officer of the agency or institution concerned. The department shall
20 collect a reasonable fee, to be set by rule, for testing any such
21 weighing or measuring instrument or device.

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

36 **Sec. 11.** RCW 19.94.250 and 1992 c 237 s 16 are each amended to
37 read as follows:

1 (1) (~~The director or a city sealer shall, from time to time,~~
2 ~~inspect any weighing or measuring instrument or device, except those~~
3 ~~weighing or measuring instruments or devices exempted under the~~
4 ~~authority of RCW 19.94.190, to determine if it is correct.)) If the
5 director or a city sealer discovers upon inspection that a weighing or
6 measuring instrument or device is "incorrect," but in his or her best
7 judgment is susceptible of satisfactory repair, he or she shall reject
8 and mark or tag as rejected any such weighing or measuring instrument
9 or device.~~

10 (2) The director or a city sealer may reject or seize any weighing
11 or measuring instrument or device found to be incorrect that, in his or
12 her best judgment, is not susceptible of satisfactory repair.

13 (3) Weighing or measuring instruments or devices that have been
14 rejected under subsection (1) of this section may be confiscated and
15 may be destroyed by the director or a city sealer if not corrected as
16 required by RCW 19.94.255 or if used or disposed of contrary to the
17 requirements of that section.

18 (4) A weighing or measuring instrument or device used for
19 commercial purposes within the state may not be rejected if it is
20 incorrect to the economic benefit of the customer. However, if the
21 director or city sealer finds such an error, the director or sealer
22 shall notify the owner of the instrument or device regarding the error.

23 **Sec. 12.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to
24 read as follows:

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

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

37 (3) Weighing and measuring instruments or devices that have been
38 rejected shall not again be used commercially until they have been

1 (~~officially~~) reexamined and(~~, if~~) found to be correct(~~, had an~~
2 ~~official seal of approval placed upon or issued for such weighing or~~
3 ~~measuring instrument or device by the rejecting authority~~) by the
4 department, city sealer, or a service agent registered with the
5 department.

6 (4) If an instrument or device marked or tagged as rejected is
7 found to be correct by a service agent registered with the department,
8 the agent shall provide a signed certification to the owner or operator
9 of the instrument or device so indicating and shall report to the
10 rejecting authority as provided by rule under RCW 19.94.190(1)(c).

11 **Sec. 13.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to
12 read as follows:

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

16 (2) Each city electing to have a city sealer shall adopt rules for
17 the appointment and removal of the city sealer and any deputies
18 required by local ordinance. The rules for appointment of a city
19 sealer and any deputies must include provisions for the advice and
20 consent of the local governing body of such city and, as necessary, any
21 provisions for local civil service laws and regulations.

22 (3) (~~A city sealer shall adopt the fee amounts established by the~~
23 ~~director pursuant to RCW 19.94.165. No city shall adopt or charge an~~
24 ~~inspection, testing, or licensing fee or any other fee upon a weighing~~
25 ~~or measuring instrument or device that is in excess of the fee amount~~
26 ~~adopted under RCW 19.94.165.~~

27 (~~4~~)) A city sealer shall keep a complete and accurate record of
28 all official acts performed under the authority of this chapter and
29 shall submit an annual report to the governing body of his or her city
30 and shall make any reports as may be required by the director.

31 (4) The city sealer shall test and inspect a sufficient number of
32 weighing and measuring instruments and devices to ensure that the
33 provisions of this chapter are enforced in the city and to provide a
34 statistically significant assessment of whether the instruments and
35 devices in commercial service within the city are correct. This
36 subsection does not apply to instruments or devices for which the
37 sealer does not have the necessary testing or inspection equipment or

1 to instruments or devices that are to be inspected by the department
2 under RCW 19.94.216(2).

3 **Sec. 14.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to
4 read as follows:

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

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

15 NEW SECTION. **Sec. 15.** (1) Except as authorized by the department,
16 a service agent who intends to place back into commercial service a
17 weighing or measuring instrument or device under RCW 19.94.255(3) shall
18 receive an official registration certificate from the director prior to
19 performing such a service. This registration requirement does not
20 apply to the department or a city sealer.

21 (2) Except as provided in section 17 of this act, a registration
22 certificate is valid for two years. It may be renewed by submitting a
23 request for renewal to the department.

24 NEW SECTION. **Sec. 16.** (1) Each request for an official
25 registration certificate shall be in writing, under oath, and on a form
26 prescribed by the department and shall contain any relevant information
27 as the director may require, including but not limited to the
28 following:

29 (a) The name and address of the person, corporation, partnership,
30 or sole proprietorship requesting registration;

31 (b) The names and addresses of all individuals requesting an
32 official registration certificate from the department; and

33 (c) The tax registration number as required under RCW 82.32.030 or
34 uniform business identifier provided on a master license issued under
35 RCW 19.02.070.

1 (2) Each individual when submitting a request for an official
2 registration certificate shall pay a fee to the department in the
3 amount of two hundred fifty dollars per individual.

4 (3) The department shall issue a decision on a request for an
5 official registration certificate within twenty days of receipt of the
6 request. If an individual is denied their request for an official
7 registration certificate, the department must notify that individual in
8 writing stating the reasons for the denial and shall refund any
9 payments made by that individual in connection with the request.

10 NEW SECTION. **Sec. 17.** (1) The department shall have the power to
11 revoke, suspend, or refuse to renew the official registration
12 certificate of any service agent for any of the following reasons:

13 (a) Fraud or deceit in obtaining an official registration
14 certificate under this chapter;

15 (b) A finding by the department of a pattern of intentional
16 fraudulent or negligent activities in the installation, inspection,
17 testing, checking, adjusting, or systematically standardizing and
18 approving the graduations of any weighing or measuring instrument or
19 device;

20 (c) Knowingly placing back into commercial service any weighing or
21 measuring instrument or device that is incorrect;

22 (d) A violation of any provision of this chapter; or

23 (e) Conviction of a crime or an act constituting a crime under the
24 laws of this state, the laws of another state, or federal law.

25 (2) Upon the department's revocation of, suspension of, or refusal
26 to renew an official registration certificate, an individual shall
27 have the right to appeal this decision in accordance with the
28 administrative procedure act, chapter 34.05 RCW.

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

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

1 **Sec. 19.** RCW 19.94.510 and 1992 c 237 s 35 are each amended to
2 read as follows:

3 (1) Any person who, by himself or herself, by his or her agent or
4 employee, or as the agent or employee of another person, knowingly
5 performs any one of the acts enumerated in (a) through ~~((k))~~ (j) of
6 this subsection is subject to a civil penalty of no more than one
7 thousand dollars:

8 (a) Use or have in possession for the purpose of using for any
9 commercial purpose a weighing or measuring instrument or device that is
10 intentionally calculated to falsify any weight, measure, or count of
11 any commodity, or to sell, offer, expose for sale or hire or have in
12 possession for the purpose of selling or hiring an incorrect weighing
13 or measuring instrument or device or any weighing or measuring
14 instrument or device calculated to falsify any weight or measure.

15 ~~(b) ((Knowingly use or have in possession for current use in the
16 buying or selling of any commodity or thing, for hire or award, or in
17 the computation of any basic charge or payment for services rendered on
18 the basis of weight, measurement, or count, or in the determination of
19 weight, measurement or count, when a charge is made for such
20 determination, any incorrect weighing or measuring instrument or
21 device.~~

22 ~~(e))~~ Dispose of any rejected weighing or measuring instrument or
23 device in a manner contrary to law or rule.

24 ~~((d))~~ (c) Remove from any weighing or measuring instrument or
25 device, contrary to law or rule, any tag~~((, seal))~~, stamp or mark
26 placed thereon by the director or a city sealer.

27 ~~((e))~~ (d) Sell, offer or expose for sale less than the quantity
28 he or she represents of any commodity, thing or service.

29 ~~((f))~~ (e) Take more than the quantity he or she represents of any
30 commodity, thing, or service when, as buyer, he or she furnishes the
31 weight, measure, or count by means of which the amount of the
32 commodity, thing or service is determined.

33 ~~((g))~~ (f) Keep for the purpose of sale, advertise, offer or
34 expose for sale or sell any commodity, thing or service in a condition
35 or manner contrary to law or rule.

36 ~~((h))~~ (g) Use in retail trade, except in the preparation of
37 packages put up in advance of sale and of medical prescriptions, a
38 weighing or measuring instrument or device that is not so positioned
39 that its indications may be accurately read and the weighing or

1 measuring operation observable from some position which may reasonably
2 be assumed by a customer.

3 ~~((i))~~ (h) Knowingly ~~((approve or issue an official seal of~~
4 ~~approval for any weighing or measuring instrument or device known to be~~
5 ~~incorrect))~~ placing back into commercial service as provided in RCW
6 19.94.255(3) any weighing or measuring instrument or device that is
7 incorrect.

8 ~~((j))~~ (i) Fails to disclose to the department or a city sealer
9 any knowledge of information relating to, or observation of, any device
10 or instrument added to or modifying any weighing or measuring
11 instrument or device for the purpose of selling, offering, or exposing
12 for sale, less than the quantity represented of a commodity or
13 calculated to falsify weight or measure, if the person is a service
14 agent.

15 ~~((k))~~ (j) Violate any other provision of this chapter or of the
16 rules adopted under the provisions of this chapter for which a specific
17 penalty has not been prescribed.

18 (2) Any person who, by himself or herself, by his or her agent or
19 employee, or as the agent or employee of another person, performs any
20 of the following acts is subject to a civil penalty of no more than
21 five thousand dollars:

22 (a) Knowingly adds to or modifies any weighing or measuring
23 instrument or device by the addition of a device or instrument that
24 would allow the sale, or the offering or exposure for sale, of less
25 than the quantity represented of a commodity or falsification of weight
26 or measure.

27 (b) Commits as a fourth or subsequent infraction any of the acts
28 listed in subsection (1) of this section.

29 NEW SECTION. Sec. 20. A person who owns a weighing or measuring
30 instrument or device and uses or permits the use of the instrument for
31 commercial purposes in violation of section 1 of this act is subject to
32 a civil penalty of fifty dollars for each such instrument or device
33 used or permitted to be used in violation of section 1 of this act.

34 NEW SECTION. Sec. 21. (1) Whenever the department tests or
35 inspects a weighing or measuring instrument or device and finds the
36 instrument or device to be incorrect to the economic benefit of the
37 owner/operator of the instrument or device and to the economic

1 detriment of the consumer, the instrument or device owner may be
2 subject to the following civil penalties:

3	<u>Deviation from Handbook 44 Tolerance</u>	<u>Penalty</u>
4	More than 0% but not more than 5%	\$ 25
5	More than 5% but not more than 10%	\$ 50
6	More than 10% but not more than 15%	\$100
7	More than 15% but not more than 20%	\$150
8	More than 20% but not more than 30%	\$200
9	More than 30% but not more than 40%	\$300
10	More than 40% but not more than 50%	\$400
11	More than 50%	\$500

12 (2) The director shall issue the appropriate civil penalty
13 concurrently with the conclusion of the test or inspection.

14 (3) The weighing or measuring instrument or device owner shall have
15 the right to appeal the civil penalty in accordance with the
16 administrative procedure act, chapter 34.05 RCW.

17 NEW SECTION. Sec. 22. RCW 19.94.175 and 1992 c 237 s 7 are each
18 repealed.

19 NEW SECTION. Sec. 23. Sections 1, 2, 7, 15 through 17, 20, and 21
20 of this act are each added to chapter 19.94 RCW.

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