
SENATE BILL 5785

State of Washington

52nd Legislature

1991 Regular Session

By Senators McDonald, Craswell and Niemi; by request of Department of Agriculture and Office of Financial Management.

Read first time February 20, 1991. Referred to Committee on Ways & Means.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,
2 19.94.150, 19.94.160, 19.94.180, 19.94.190, 19.94.200, 19.94.215,
3 19.94.220, 19.94.240, 19.94.250, 19.94.260, 19.94.290, 19.94.300,
4 19.94.330, 19.94.340, 19.94.350, 19.94.420, 19.94.440, 19.94.450,
5 19.94.480, 19.94.490, 19.94.500, 19.94.505, and 19.94.510; adding new
6 sections to chapter 19.94 RCW; adding a new section to chapter 15.80
7 RCW; creating new sections; repealing RCW 19.94.020, 19.94.030,
8 19.94.040, 19.94.050, 19.94.060, 19.94.070, 19.94.080, 19.94.090,
9 19.94.100, 19.94.110, 19.94.120, 19.94.130, 19.94.140, and 19.94.270;
10 prescribing penalties; providing an effective date; and declaring an
11 emergency.

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

13 NEW SECTION. **Sec. 1.** The accuracy of devices used for
14 weighing and measuring in commerce in the state of Washington is
15 important and affects every citizen and is hereby declared to be a

1 business affected with the public interest. Fair weights and measures
2 are equally important to the business person and the consumer. The
3 provisions of this chapter are enacted to safeguard the consuming
4 public and to ensure that merchants receive proper compensation for the
5 goods they deliver.

6 **Sec. 2.** RCW 19.94.010 and 1969 c 67 s 1 are each amended to read
7 as follows:

8 ~~((Terms used in this chapter shall have the meaning given to them
9 in RCW 19.94.020 through 19.94.130 unless where used the context shall
10 clearly indicate to the contrary.))~~ (1) Unless the context clearly
11 requires otherwise, the definitions in this section apply throughout
12 this chapter.

13 (a) "Department" means the department of agriculture of the state
14 of Washington.

15 (b) "Director" means the director of the department or his or her
16 duly appointed representative.

17 (c) "Person" means a natural person, individual, firm, partnership,
18 corporation, company, society, and association, and every officer,
19 agent, or employee thereof.

20 (d) "Weights and measures" means weights and measures of every
21 kind, instruments and devices for weighing and measuring, and every
22 appliance and accessory associated with any or all such instruments and
23 devices.

24 (e) "City" means a city with a population of over fifty thousand
25 persons.

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

1 (g) "City sealer" means the sealer of weights and measures of a
2 city.

3 (h) "Ton" means a unit of two thousand pounds avoirdupois weight.

4 (i) "Commodity in package form" shall be construed to mean a
5 commodity put up or packaged in any manner in advance of sale in units
6 suitable for either wholesale or retail sale, exclusive, however, of an
7 auxiliary shipping container enclosing packages that individually
8 conform to the requirements of this chapter. An individual item or lot
9 of any commodity not in package form as defined in this subsection, but
10 on which there is marked a selling price based on an established price
11 per unit of weight or of measure, shall be construed to be a commodity
12 in package form.

13 (j) "Meat" means and includes all animal flesh, carcasses, or parts
14 of animals, and shall include fish, shellfish, game, poultry, and meat
15 food products of every kind and character, whether fresh, frozen,
16 cooked, cured, or processed.

17 (k) "Poultry" means all fowl, domestic or wild, that is prepared,
18 processed, sold, or intended or offered for sale.

19 (l) "Fish" means a water-breathing animal, including shellfish such
20 as, but not limited to, lobster, clam, crab, or other mollusca that is
21 prepared, processed, sold, or intended or offered for sale.

22 (2) In rules adopted pursuant to this chapter, the following
23 definitions shall apply:

24 (a) A "nonconsumer package" or "package of nonconsumer commodity"
25 shall be construed to mean a commodity in package form other than a
26 consumer package, and particularly a package designed solely for
27 industrial or institutional use or for wholesale distribution only.

28 (b) A "consumer package" or "package of consumer commodity" shall
29 be construed to mean a commodity in package form that is customarily
30 produced or distributed for sale through retail sales agencies or

1 instrumentalities for consumption by individuals, or use by individuals
2 for the purposes of personal care or in the performance of services
3 ordinarily rendered in or about the household or in connection with
4 personal possessions.

5 (c) "Net weight" means the weight of a commodity excluding any
6 materials, substances, or items not considered to be part of the
7 commodity. Materials, substances, or items not considered to be part
8 of the commodity include, but are not limited to, containers,
9 conveyances, bags, wrappers, packaging materials, labels, individual
10 piece coverings, decorative accompaniments, and coupons.

11 (3) The director shall prescribe by rule other definitions as
12 required.

13 **Sec. 3.** RCW 19.94.150 and 1969 c 67 s 15 are each amended to read
14 as follows:

15 The system of weights and measures in customary use in the United
16 States and the metric system of weights and measures are jointly
17 recognized, and either one or both of these systems shall be used for
18 all commercial purposes in this state. The definitions of basic units
19 of weight and measure and weights and measures equivalents, as
20 published by the national ~~((bureau of standards))~~ institute of
21 standards and technology, are recognized and shall govern weighing and
22 measuring equipment and transactions in the state.

23 **Sec. 4.** RCW 19.94.160 and 1969 c 67 s 16 are each amended to read
24 as follows:

25 Weights and measures in conformity with the standards of the United
26 States as have been supplied to the state by the federal government or
27 otherwise obtained by the state for use as state standards, shall, when
28 the same shall have been certified as such by the national ~~((bureau of~~

1 ~~standards))~~ institute of standards and technology, be the state
2 standards of weight and measure. The state standards shall be kept in
3 a place designated by the director and shall not be removed from the
4 said place except for repairs or for certification: PROVIDED, That
5 they shall be submitted at least once in ten years to the national
6 ~~((bureau of standards))~~ institute of standards and technology for
7 certification.

8 **Sec. 5.** RCW 19.94.180 and 1969 c 67 s 18 are each amended to read
9 as follows:

10 The director shall be the state sealer of weights and measures(~~(,~~
11 ~~which shall include all towns and all cities with a population of less~~
12 ~~than fifty thousand persons,~~) and ((he)) shall have the custody of the
13 state standards of weights and measures and of the other standards and
14 equipment provided for in this chapter. The director shall have
15 general supervision over city sealers of weights and measures and over
16 the weights and measures offered for sale, sold, or in use in the
17 state.

18 **Sec. 6.** RCW 19.94.190 and 1989 c 354 s 36 are each amended to read
19 as follows:

20 The director shall enforce the provisions of this chapter and shall
21 ~~((issue from time to time reasonable))~~ adopt rules for enforcing and
22 carrying out the purposes of this chapter. Such rules shall have the
23 effect of law and may include (1) standards of net weight, measure, or
24 count, and reasonable standards of fill for any commodity in package
25 form, (2) ~~((rules))~~ the governing ~~((the))~~ technical and reporting
26 procedures to be followed, and the report and record forms and marks of
27 rejection to be used by the director and city sealers in the discharge
28 of their official duties, (3) ~~((rules))~~ the governing technical test

1 procedures, reporting procedures, record and reporting forms to be used
2 by commercial firms when installing, repairing or testing commercial
3 weights or measures, (4) (~~rules providing~~) the criteria that all
4 weights and measures used by commercial firms in repairing or servicing
5 commercial weighing and measuring devices shall be calibrated by the
6 department and be directly traceable to state standards and shall be
7 submitted to the department for calibration and certification as
8 necessary and/or at such reasonable intervals as may be established or
9 required by the director, (5) exemptions from the sealing or marking
10 requirements of RCW 19.94.250 with respect to weights and measures of
11 such character or size that such sealing or marking would be
12 inappropriate, impracticable, or damaging to the apparatus in question,
13 (6) (~~rules~~) provisions that allow the director to establish fees for
14 weighing, measuring, and providing calibration services performed by
15 the weights and measures laboratory, with all money collected under
16 this subsection paid to the director and deposited in an account within
17 the agricultural local fund to be used for the repair and maintenance
18 of weights and measures devices and other related functions, (7)
19 exemptions from the requirements of RCW 19.94.200 and 19.94.210 for
20 testing, with respect to classes of weights and measures found to be of
21 such character that periodic retesting is unnecessary to continued
22 accuracy. These (~~regulations~~) rules shall include specifications,
23 tolerances, and (~~regulations~~) rules for weights and measures of the
24 character of those specified in RCW 19.94.210, designed to eliminate
25 from use, without prejudice to apparatus that conforms as closely as
26 practicable to the official standards, those (a) that are not accurate,
27 (b) that are of such construction that they are faulty, that is, that
28 are not reasonably permanent in their adjustment or will not repeat
29 their indications correctly, or (c) that facilitate the perpetration of
30 fraud. The specifications, tolerances, and (~~regulations~~) rules for

1 commercial weighing and measuring devices, together with amendments
2 thereto, as recommended by the most recent edition of Handbook 44
3 published by the national (~~bureau of standards Handbook 44, third~~
4 ~~edition as published at the time of the enactment of this chapter~~)
5 institute of standards and technology shall be the specifications,
6 tolerances, and regulations for commercial weighing and/or measuring
7 devices of the state. To promote uniformity, any supplements or
8 amendments to Handbook 44 or any similar subsequent publication of the
9 national (~~bureau of standards~~) institute of standards and technology
10 shall be deemed to have been adopted under this section. The director
11 may, however, within thirty days of the publication or effective date
12 of Handbook 44 or any supplements, amendments, or similar publications
13 give public notice that a hearing will be held to determine if such
14 publications should not be applicable under this section. The hearing
15 shall be conducted under chapter 34.05 RCW. For the purpose of this
16 chapter, apparatus shall be deemed to be "correct" when it conforms to
17 all applicable requirements promulgated as specified in this section;
18 all other apparatus shall be deemed to be "incorrect".

19 **Sec. 7.** RCW 19.94.200 and 1969 c 67 s 20 are each amended to read
20 as follows:

21 The director shall test the standards of weight and measure
22 procured by any city for which the appointment of a sealer of weights
23 and measures is provided by this chapter, at least once every five
24 years, and shall approve the same when found to be correct, and ((he))
25 the director shall inspect such standards at least once every two
26 years. ((He)) The director shall test all weights and measures used in
27 checking the receipt or disbursement of supplies in every institution
28 for the maintenance of which moneys are appropriated by the

1 legislature, and ~~((he))~~ the director shall report ~~((his))~~ the findings,
2 in writing, to the executive officer of the institution concerned.

3 **Sec. 8.** RCW 19.94.215 and 1990 c 27 s 1 are each amended to read
4 as follows:

5 All railroad track scale owners in this state shall provide
6 suitable facilities for testing track scales. The department is
7 authorized, after a hearing, upon its own motion, and after notice to
8 track scale owners, to order the track scale owners in this state to
9 provide a suitable car or other device or facility to be used in
10 testing track scales. The cost of providing the car, device, or
11 facility shall be equitably and reasonably apportioned by the
12 department among all track scale owners benefiting from the car,
13 device, or facility. The car, device, or facility shall be used by the
14 department to test the accuracy of all track scales, and the railroad
15 companies shall without charge, move the car, device, or facility to
16 locations designated by the department, under such rules as the
17 department may prescribe. The car, device, or facility may be used in
18 adjoining states to test railroad track scales and for that purpose may
19 be taken beyond the limits of the state under such rules for its due
20 care and return as the department may prescribe. The car, device, or
21 facility may also be used for the testing of scales other than railroad
22 track scales as determined to be appropriate by the department. The
23 department is authorized to ~~((prescribe and collect a reasonable fee to
24 cover all costs for the inspection and testing of track scales))~~ adopt
25 rules to establish a license fee to cover the costs to carry out the
26 provisions of this section. The moneys collected by the department
27 shall be placed in an account in the agriculture local fund.

1 **Sec. 9.** RCW 19.94.220 and 1969 c 67 s 22 are each amended to read
2 as follows:

3 The director shall investigate complaints made ~~((to—him))~~
4 concerning violations of the provisions of this chapter, and shall,
5 upon his or her own initiative, conduct such investigations as ~~((he~~
6 ~~deems))~~ deemed appropriate and advisable to develop information on
7 prevailing procedures in commercial quantity determination and on
8 possible violations of the provisions of this chapter and to promote
9 the general objective of accuracy in the determination and
10 representation of quantity in commercial transactions.

11 **Sec. 10.** RCW 19.94.240 and 1969 c 67 s 24 are each amended to read
12 as follows:

13 The director shall have the power to issue stop-use orders,
14 stop-removal orders and removal orders with respect to weights and
15 measures being, or susceptible of being, commercially used, and to
16 issue stop-removal orders and removal orders with respect to packages
17 or amounts of commodities kept, offered, exposed for sale, sold or in
18 process of delivery, whenever in the course of his or her enforcement
19 of the provisions of this chapter ~~((and/or))~~ or rules ~~((and~~
20 ~~regulations))~~ adopted hereunder he or she deems it necessary or
21 expedient to issue such orders. No person shall use, remove from the
22 premises specified or fail to remove from any premises specified any
23 weight, measure, or package or amount of commodity contrary to the
24 terms of a stop-use order, stop-removal order or removal order issued
25 under the authority of this section.

26 **Sec. 11.** RCW 19.94.250 and 1969 c 67 s 25 are each amended to read
27 as follows:

1 The director shall reject and mark or tag as "rejected" such
2 weights and measures as he or she finds upon inspection or test to be
3 "incorrect" as defined in RCW 19.94.190, but which in his or her best
4 judgment are susceptible of satisfactory repair: PROVIDED, That such
5 sealing or marking shall not be required with respect to such weights
6 and measures as may be exempted therefrom by (~~a regulation~~) rule of
7 the director issued under the authority of RCW 19.94.190. The director
8 may reject or seize any weights and measures found to be incorrect
9 that, in his or her best judgment, are not susceptible of satisfactory
10 repair. Weights and measures that have been rejected may be
11 confiscated and may be destroyed by the director if not corrected as
12 required by RCW 19.94.330 or if used or disposed of contrary to the
13 requirements of said section.

14 **Sec. 12.** RCW 19.94.260 and 1969 c 67 s 26 are each amended to read
15 as follows:

16 (1) With respect to the enforcement of this chapter and any other
17 acts dealing with weights and measures that he or she is, or may be
18 empowered to enforce, the director is authorized (~~to arrest any~~
19 ~~violator of the said chapter, and~~) to seize for use as evidence
20 incorrect or unsealed weights and measures or amounts or packages of
21 commodities to be used, retained, offered, exposed for sale or sold in
22 violation of the law.

23 (2) In the performance of his or her official duties the director
24 is authorized at reasonable times during the normal business hours of
25 the person using the weights and measures to enter into or upon any
26 structure or premises where weights and measures are used or kept for
27 commercial purposes. Should the director be denied access to any
28 premises or establishment where such access was sought for the purposes
29 set forth in this section, (~~he~~) the director may apply to any court

1 of competent jurisdiction for a search warrant authorizing access to
2 such premises or establishment for said purposes. The court may, upon
3 such application, issue the search warrant for the purposes requested.

4 **Sec. 13.** RCW 19.94.290 and 1969 c 67 s 29 are each amended to read
5 as follows:

6 A bond with sureties, to be approved by the appointing power, and
7 conditioned upon the faithful performance of ((his)) duties and the
8 safekeeping of any standards or equipment entrusted to ((his)) the city
9 sealer's care, shall forthwith, upon his or her appointment, be given
10 by each city sealer and deputy sealer in the penal sum of one thousand
11 dollars; the premium on such bond shall be paid by the city for which
12 the officer in question is appointed.

13 **Sec. 14.** RCW 19.94.300 and 1969 c 67 s 30 are each amended to read
14 as follows:

15 The city sealer and his or her deputy sealers when acting under his
16 or her instructions and at his or her direction shall have the same
17 powers and shall perform the same duties within the city for which
18 appointed as are granted to and imposed upon the director by RCW
19 19.94.210, 19.94.220, 19.94.230, 19.94.240, and 19.94.250.

20 **Sec. 15.** RCW 19.94.330 and 1969 c 67 s 33 are each amended to read
21 as follows:

22 Weights and measures that have been rejected under the authority of
23 the director or a city sealer shall remain subject to the control of
24 the rejecting authority until such time as suitable repair or
25 disposition thereof has been made as required by this section. The
26 owners of such rejected weights and measures shall cause the same to be
27 made correct within thirty days or such longer period as may be

1 authorized by the rejecting authority; or, in lieu of this, may dispose
2 of the same, but only in such a manner as is specifically authorized by
3 the rejecting authority. Weights and measures that have been rejected
4 shall not again be used commercially until they have been officially
5 reexamined (~~(and found to be correct or until specific written~~
6 ~~permission for such use is issued by the rejecting authority)) or until
7 standardized corrective measures have been instituted as prescribed by
8 rule as adopted by the department.~~

9 **Sec. 16.** RCW 19.94.340 and 1969 c 67 s 34 are each amended to read
10 as follows:

11 Commodities in liquid form shall be sold only by liquid measure or
12 by weight, and, except as otherwise provided in this chapter,
13 commodities not in liquid form shall be sold only by weight, by measure
14 of length or area, or by count: PROVIDED, That liquid commodities may
15 be sold by weight and commodities not in liquid form may be sold by
16 count only if such methods give accurate information as to the quantity
17 of commodity sold: AND PROVIDED FURTHER, That the provisions of this
18 section shall not apply (1) to commodities when sold for immediate
19 consumption on the premises where sold, (2) to vegetables when sold by
20 the head or bunch, (3) to commodities in containers standardized by a
21 law of this state or by federal law, (4) to commodities in package form
22 when there exists a general consumer usage to express the quantity in
23 some other manner, (5) to concrete aggregates, concrete mixtures, and
24 loose solid materials such as earth, soil, gravel, crushed stone, and
25 the like, when sold by cubic measure, or (6) to unprocessed vegetable
26 and animal fertilizer when sold by cubic measure. The director may
27 issue such reasonable (~~(regulations))~~ rules as are necessary to assure
28 that amounts of commodity sold are determined in accordance with good

1 commercial practice and are so determined and represented to be
2 accurate and informative to all interested parties.

3 **Sec. 17.** RCW 19.94.350 and 1969 c 67 s 35 are each amended to read
4 as follows:

5 Except as otherwise provided in this chapter, any commodity in
6 package form introduced or delivered for introduction into or received
7 in intrastate commerce, kept for the purpose of sale, offered or
8 exposed for sale or sold in intrastate commerce, shall bear on the
9 outside of the package such definite, plain, and conspicuous
10 declaration of (1) the identity of the commodity in the package unless
11 the same can easily be identified through the wrapper or
12 container(~~(7)~~); (2) the net quantity of the contents in terms of
13 weight, measure or count; and (3) in the case of any package not sold
14 on the premises where packed, the name and place of business of the
15 manufacturer, packer, or distributor, as may be prescribed by
16 (~~regulation~~) rule issued by the director: PROVIDED, That in
17 connection with the declaration required under (~~subdivision~~)
18 subsection (2) of this section, neither the qualifying term "when
19 packed" or any words of similar import, nor any term qualifying a unit
20 of weight, measure, or count (for example, "jumbo", "giant", "full",
21 "or over", and the like) that tends to exaggerate the amount of
22 commodity in a package, shall be used: AND PROVIDED FURTHER, That
23 under (~~clause~~) subsection (2) of this section the director shall by
24 (~~regulation~~) rule establish (a) reasonable variations to be allowed,
25 (b) exemptions as to small packages and (c) exemptions as to
26 commodities put up in variable weights or sizes for sale to the
27 consumer intact and either customarily not sold as individual units or
28 customarily weighed or measured at time of sale to the consumer.

1 **Sec. 18.** RCW 19.94.420 and 1975 1st ex.s. c 51 s 1 are each
2 amended to read as follows:

3 All fluid dairy products, including but not limited to whole milk,
4 skimmed milk, cultured milk, sweet cream, sour cream and buttermilk and
5 all fluid imitation and fluid substitute dairy products shall be
6 packaged for retail sale only in units as provided by the director of
7 the department of agriculture by ((regulation)) rule pursuant to the
8 provisions of chapter 34.05 RCW.

9 **Sec. 19.** RCW 19.94.440 and 1969 c 67 s 44 are each amended to read
10 as follows:

11 When a vehicle delivers to an individual purchaser a commodity in
12 bulk, and the commodity is sold in terms of weight units, the delivery
13 shall be accompanied by a duplicate delivery ticket with the following
14 information clearly stated, in ink or other indelible marking equipment
15 and, in clarity, equal to type or printing: (1) the name and address
16 of the vendor, (2) the name and address of the purchaser, and (3) the
17 net weight of the delivery expressed in pounds, and, if the net weight
18 is derived from determinations of gross and tare weights, such gross
19 and tare weights also shall be stated in terms of pounds. One of these
20 tickets shall be retained by the vendor, and the other shall be
21 delivered to the purchaser at the time of delivery of the commodity, or
22 shall be surrendered on demand to the director or the deputy director
23 or the inspector, or the sealer or deputy sealer, who, if he or she
24 desires to retain it as evidence, shall issue a weight slip in lieu
25 thereof for delivery to the purchaser: PROVIDED, That if the purchaser
26 himself or herself carries away ((his)) the purchase, the vendor shall
27 be required only to give the purchaser at the time of sale a delivery
28 ticket stating the number of pounds of commodity delivered to ((him))
29 the purchaser.

1 **Sec. 20.** RCW 19.94.450 and 1969 c 67 s 45 are each amended to read
2 as follows:

3 All solid fuels such as, but not limited to, coal, coke, charcoal,
4 broiler chips, pressed fuels and briquets shall be sold by weight:
5 PROVIDED, That solid fuels such as hogged fuel, sawdust and similar
6 industrial fuels may be sold or purchased by cubic measure. Unless the
7 fuel is delivered to the purchaser in package form, each delivery of
8 coal, coke, or charcoal to an individual purchaser shall be accompanied
9 by duplicate delivery tickets on which, in ink or other indelible
10 substance, there shall be clearly stated (1) the name and address of
11 the vendor; (2) the name and address of the purchaser; and (3) the net
12 weight of the delivery and the gross and tare weights from which the
13 net weight is computed, each expressed in pounds. One of these tickets
14 shall be retained by the vendor and the other shall be delivered to the
15 purchaser at the time of delivery of the fuel, or shall be surrendered,
16 on demand, to the director or his or her deputy or inspector or a city
17 sealer or deputy sealer who, if he or she desires to retain it as
18 evidence, shall issue a weight slip in lieu thereof for delivery to the
19 purchaser: PROVIDED, That if the purchaser carries away ~~((his))~~ the
20 purchase, the vendor shall be required only to give to the purchaser at
21 the time of sale a delivery ticket stating the number of pounds of fuel
22 delivered to ~~((him))~~ the purchaser.

23 **Sec. 21.** RCW 19.94.480 and 1969 c 67 s 48 are each amended to read
24 as follows:

25 Fractional parts of any unit of weight or measure shall mean like
26 fractional parts of the value of such unit as prescribed or defined in
27 RCW ~~((19.94.070, 19.94.090 and 19.94.150))~~ 19.94.010, and all contracts
28 concerning the sale of commodities and services shall be construed in
29 accordance with this requirement.

1 **Sec. 22.** RCW 19.94.490 and 1969 c 67 s 49 are each amended to read
2 as follows:

3 It shall be unlawful for any person ((who shall)) to hinder or
4 obstruct in any way the director, a city sealer or deputy sealer, in
5 the performance of his or her official duties(~~(, shall be guilty of a~~
6 ~~misdemeanor, and upon conviction thereof shall be punished by a fine of~~
7 ~~not less than twenty dollars or more than two hundred dollars, or by~~
8 ~~imprisonment in the county jail for not more than three months, or by~~
9 ~~both such fine and imprisonment))~~. A person who violates this section
10 is subject to a civil penalty.

11 **Sec. 23.** RCW 19.94.500 and 1969 c 67 s 50 are each amended to read
12 as follows:

13 Any person who shall impersonate in any way the director, or a city
14 sealer or a deputy sealer, by the use of his or her seal or a
15 counterfeit of his or her seal, or in any other manner, shall be
16 (~~guilty of a misdemeanor, and upon conviction thereof shall be~~
17 ~~punished by a fine of not less than one hundred dollars or more than~~
18 ~~five hundred dollars or by imprisonment in the county jail for not more~~
19 ~~than one year, or by both such fine and imprisonment)) subject to a
20 civil penalty.~~

21 **Sec. 24.** RCW 19.94.505 and 1984 c 61 s 1 are each amended to read
22 as follows:

23 It is unlawful for any dealer or service station, as both are
24 defined in RCW 82.36.010, to sell ethanol and/or methanol at one
25 percent, by volume, or greater in gasoline for use as motor vehicle
26 fuel unless the dispensing device has a label stating the type and
27 maximum percentage of alcohol contained in the motor vehicle fuel.

1 (~~Violation of~~) Persons who violate this section (~~is a~~
2 ~~misdemeanor~~) are subject to a civil penalty.

3 **Sec. 25.** RCW 19.94.510 and 1969 c 67 s 51 are each amended to read
4 as follows:

5 Any person who, by himself or herself, by his or her servant or
6 agent, or as the servant or agent of another person, performs any one
7 of the acts enumerated in subsections (1) through (9) (~~below~~) of this
8 section, shall be (~~guilty of a misdemeanor and upon a second or~~
9 ~~subsequent conviction thereof he shall be guilty of a gross~~
10 ~~misdemeanor~~) subject to a civil penalty.

11 (1) Use or have in possession for the purpose of using for any
12 commercial purpose specified in RCW 19.94.210, sell, offer, expose for
13 sale or hire or have in possession for the purpose of selling or hiring
14 an incorrect weight or measure or any device or instrument used or
15 calculated to falsify any weight or measure.

16 (2) Use or have in possession for current use in the buying or
17 selling of any commodity or thing, for hire or award, or in the
18 computation of any basic charge or payment for services rendered on the
19 basis of weight or measurement, or in the determination of weight or
20 measurement when a charge is made for such determination, any incorrect
21 weight or measure.

22 (3) Dispose of any rejected or condemned weight or measure in a
23 manner contrary to law or regulation.

24 (4) Remove from any weight or measure, contrary to law or
25 regulation, any tag, seal, stamp or mark placed thereon by the
26 director, or a city sealer or deputy sealer.

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

1 (6) Take more than the quantity he or she represents of any
2 commodity, thing, or service when, as buyer, he or she furnishes the
3 weight or measure by means of which the amount of the commodity, thing
4 or service is determined.

5 (7) Keep for the purpose of sale, advertise, offer or expose for
6 sale or sell any commodity, thing or service in a condition or manner
7 contrary to law or regulation.

8 (8) Use in retail trade, except in the preparation of packages put
9 up in advance of sale and of medical prescriptions, a weight or measure
10 that is not so positioned that its indications may be accurately read
11 and the weighing or measuring operation observed from some position
12 which may reasonably be assumed by a customer.

13 (9) Violate any provision of this chapter or of the rules ((~~and/or~~
14 ~~regulations promulgated~~)) adopted under the provisions of this chapter
15 for which a specific penalty has not been prescribed.

16 NEW SECTION. Sec. 26. No person may operate or use for
17 commercial purposes within the state any weighing or measuring
18 instrument or device as defined in RCW 19.94.010 that is not licensed
19 in accordance with rules established by the director. A license issued
20 under this chapter applies only to the instrument or device specified
21 in the license. However, the department may permit such license to be
22 applicable to a replacement for the original instrument or device.

23 NEW SECTION. Sec. 27. Commercial weighing or measuring
24 instruments or devices specified in RCW 19.94.010 are exempt from the
25 licensing requirements in section 26 of this act if the following
26 applies: Ownership and use of the instrument or device is limited to
27 federal, state, or local government agencies in performance of official
28 functions.

1 NEW SECTION. **Sec. 28.** (1) The license required by section 26
2 of this act is in addition to any other licenses required by law.

3 (2) If section 26 of this act is in conflict with any other
4 statutes, ordinances, or regulations, the provisions of section 26 of
5 this act take precedence.

6 NEW SECTION. **Sec. 29.** (1) License fees for each type or class
7 of commercial weighing or measuring instrument or device shall be
8 established by the department by rule. The fees shall be established
9 in the amounts necessary for the department to carry out and enforce
10 the provisions of this chapter.

11 (2) The license fee schedule shall be adopted by rule by the
12 director.

13 (3) All moneys received by the department under this chapter shall
14 be paid into the agricultural local fund as defined in RCW 43.23.230.

15 (4) The application shall be accompanied by the fee established by
16 the director by rule.

17 (5) The director shall establish by rule an additional fee for any
18 weighing or measuring device specified in this section that is equipped
19 or associated with a remote readout. The additional fee shall apply
20 individually to each remote readout associated with each device.

21 NEW SECTION. **Sec. 30.** (1) All weighing and measuring
22 instruments or device licenses issued under this chapter are subject to
23 renewal on an annual basis as prescribed by rule developed by the
24 director.

25 (2) A license issued under this chapter may be suspended or revoked
26 by the department if the instrument or device is operated or used in
27 violation of this chapter or rules adopted pursuant thereto.

1 NEW SECTION. **Sec. 31.** The owner or person in possession of
2 weighing or measuring instruments or devices for which the license fees
3 have not been paid shall not use such weighing or measuring instruments
4 or devices for commercial purposes.

5 NEW SECTION. **Sec. 32.** (1) The department shall prescribe such
6 forms, certificates, and identification tags as it considers necessary
7 to carry out the licensing provisions of this chapter.

8 (2) The department shall provide a certificate or other evidence of
9 device license compliance to each person fulfilling the weighing or
10 measuring device licensing requirements of this chapter.

11 (3) Application for a weights and measures license shall be made
12 upon a form prescribed and furnished by the department and shall
13 contain such information as the department may require.

14 NEW SECTION. **Sec. 33.** (1) Every person who fails to comply
15 with this chapter, or any rule adopted under it, may be subjected to a
16 civil penalty, as determined by the director, in an amount of not more
17 than five hundred dollars for every such violation. Each and every
18 such violation shall be a separate and distinct offense. Every person,
19 who, through an act of commission or omission, procures, aids, or abets
20 in the violation shall be considered to have violated this chapter and
21 may be subject to the penalty provided for in this section.

22 (2) In addition, the department may employ and attach to the
23 instruments or devices such forms, notices, or security seals as it
24 considers necessary to prevent the continued unauthorized use of the
25 instruments or devices until such owner or operator thereof is in
26 compliance with this chapter.

1 NEW SECTION. **Sec. 34.** All license fees, inspection fees, and
2 calibration fees under this chapter shall become due and payable upon
3 billing by the department. A late fee of one and one-half percent per
4 month shall be assessed on the unpaid balance against persons more than
5 thirty days in arrears. In addition to any other penalties, the
6 director may refuse to perform any inspection, certification, and/or
7 calibration service for any person in arrears unless the person makes
8 payment in full prior to such inspection, certification and/or
9 calibration.

10 NEW SECTION. **Sec. 35.** The department shall provide the city
11 sealer of a first class city the license fees less an administrative
12 cost, at a maximum of ten percent, for the types of devices inspected
13 by the city sealer within that jurisdiction.

14 NEW SECTION. **Sec. 36.** A new section is added to chapter 15.80 RCW
15 to read as follows:

16 All fees and other moneys received by the department under the
17 provisions of this chapter shall be paid into the agricultural local
18 fund as defined in RCW 43.23.230 and shall be used solely for the
19 purpose of carrying out the provisions of this chapter and the rules
20 adopted hereunder.

21 NEW SECTION. **Sec. 37.** The following acts or parts of acts are
22 each repealed:

- 23 (1) RCW 19.94.020 and 1969 c 67 s 2;
24 (2) RCW 19.94.030 and 1969 c 67 s 3;
25 (3) RCW 19.94.040 and 1969 c 67 s 4;
26 (4) RCW 19.94.050 and 1969 c 67 s 5;
27 (5) RCW 19.94.060 and 1969 c 67 s 6;

- 1 (6) RCW 19.94.070 and 1969 c 67 s 7;
- 2 (7) RCW 19.94.080 and 1969 c 67 s 8;
- 3 (8) RCW 19.94.090 and 1969 c 67 s 9;
- 4 (9) RCW 19.94.100 and 1969 c 67 s 10;
- 5 (10) RCW 19.94.110 and 1969 c 67 s 11;
- 6 (11) RCW 19.94.120 and 1969 c 67 s 12;
- 7 (12) RCW 19.94.130 and 1969 c 67 s 13;
- 8 (13) RCW 19.94.140 and 1969 c 67 s 14; and
- 9 (14) RCW 19.94.270 and 1969 c 67 s 27.

10 NEW SECTION. **Sec. 38.** Sections 26 through 35 of this act are
11 each added to chapter 19.94 RCW.

12 NEW SECTION. **Sec. 39.** The department is authorized to adopt
13 rules as necessary to provide for the efficient and speedy
14 implementation of this act.

15 NEW SECTION. **Sec. 40.** (1) Sections 1 through 37 of this act
16 are necessary for the immediate preservation of the public peace,
17 health, or safety, or support of the state government and its existing
18 public institutions, and shall take effect July 1, 1991.

19 (2) Section 39 of this act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect immediately.