

2 SSB 6099 - H COMM AMD  
3 By Committee on Revenue

4

5 Strike everything after the enacting clause and insert the  
6 following:

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

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

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

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

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

26 (d) "Consumer package" or "package of consumer commodity" means a  
27 commodity in package form that is customarily produced or distributed  
28 for sale through retail sales agencies or instrumentalities for  
29 consumption by persons, or used by persons for the purpose of personal  
30 care or in the performance of services ordinarily rendered in or about  
31 a household or in connection with personal possessions.

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

35 (f) "Department" means the department of agriculture of the state  
36 of Washington.

1 (g) "Director" means the director of the department or duly  
2 authorized representative acting under the instructions and at the  
3 direction of the director.

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

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

13 (j) "Nonconsumer package" or "package of nonconsumer commodity"  
14 means a commodity in package form other than a consumer package and  
15 particularly a package designed solely for industrial or institutional  
16 use or for wholesale distribution only.

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

21 (l) "Official seal of approval" means the uniform seal or  
22 certificate issued by the director or city sealer which indicates that  
23 a weights and measures standard or a weighing or measuring instrument  
24 or device conforms with the specifications, tolerances, and other  
25 technical requirements adopted in RCW 19.94.195.

26 (m) "Person" means any individual, receiver, administrator,  
27 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
28 copartnership, joint venture, club, company, business trust,  
29 corporation, association, society, or any group of individuals acting  
30 as a unit, whether mutual, cooperative, fraternal, nonprofit, or  
31 otherwise.

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

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

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

1 (q) "Weighing or measuring instrument or device" means any  
2 equipment or apparatus used commercially to establish the size,  
3 quantity, capacity, count, extent, area, heaviness, or measurement of  
4 quantities, things, produce, or articles for distribution or  
5 consumption, that are purchased, offered or submitted for sale, hire,  
6 or award on the basis of weight, measure or count, including any  
7 accessory attached to or used in connection with a weighing or  
8 measuring instrument or device when such accessory is so designed or  
9 installed that its operation affects, or may effect, the accuracy or  
10 indication of the device. This definition shall be strictly limited to  
11 those weighing or measuring instruments or devices governed by Handbook  
12 44 as adopted under RCW 19.94.195.

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

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

17 (t) "Secondary weights and measures standard" means ~~((any object))~~  
18 the physical standards that are traceable to the primary standards  
19 through comparisons, used by the director, a city sealer, or a service  
20 agent that under specified conditions defines or represents a  
21 recognized weight or measure during the inspection, adjustment,  
22 testing, or systematic standardization of the graduations of any  
23 weighing or measuring instrument or device.

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

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

28 Weights and measures standards that are in conformity with the  
29 standards of the United States as have been supplied to the state by  
30 the federal government or otherwise obtained by the state for use as  
31 state weights and measures standards, shall, when the same shall have  
32 been certified as such by the national institute of standards and  
33 technology or any successor organization, be the ~~((state))~~ primary  
34 standards of weight and measure. The state weights and measures  
35 standards shall be kept in a place designated by the director and shall  
36 ~~((not be removed from such designated place except for repairs or for~~  
37 ~~certification. These state weights and measures standards shall be~~  
38 ~~submitted at least once every ten years to the national institute of~~

1 standards and technology or any successor organization for  
2 certification)) be maintained in such calibration as prescribed by the  
3 national institute of standards and technology or any successor  
4 organization.

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

7 (1) The department shall establish reasonable, biennial inspection  
8 and testing fees for each type or class of weighing or measuring  
9 instrument or device required to be inspected and tested under this  
10 chapter. These inspection and testing fees shall be equitably prorated  
11 within each such type or class and shall be limited to those amounts  
12 necessary for the department to cover, to the extent possible, the  
13 direct costs associated with the inspection and testing of each type or  
14 class of weighing or measuring instrument or device.

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

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

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

37 (5) Fees upon weighing or measuring instruments or devices within  
38 the jurisdiction of the city that are collected under this section by

1 city sealers shall be deposited into the general fund, or other  
2 account, of the city as directed by the governing body of the city.  
3 (~~On the thirtieth day of each month, city sealers shall, pursuant to~~  
4 ~~procedures established and upon forms provided by the director, remit~~  
5 ~~to the department for administrative costs ten percent of the total~~  
6 ~~fees collected.~~)

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

12 (7) (~~Whenever a special request is made by the owner for the~~  
13 ~~inspection and testing of a weighing or measuring instrument or device,~~  
14 ~~the fee prescribed by the director for such a weighing or measuring~~  
15 ~~instrument or device shall be paid by the owner.~~) The department or a  
16 city sealer may establish reasonable inspection and testing fees for  
17 each type or class of weighing or measuring instrument or device  
18 specially requested to be inspected or tested by the device owner.  
19 These inspection and testing fees shall be limited to those amounts  
20 necessary for the department or city sealer to cover the direct costs  
21 associated with such inspection and testing. The fees established  
22 under this subsection shall not be set so as to compete with service  
23 agents normally engaged in such services.

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

26 (1) The department or a city sealer may establish reasonable  
27 reinspection and testing fees for each type or class of weighing or  
28 measuring instrument or device required to be inspected and tested  
29 under this chapter when such a device has been found to be incorrect.  
30 These reinspection and testing fees shall be limited to those amounts  
31 necessary for the department or a city sealer to cover, to the extent  
32 possible, the direct costs associated with the reinspection and testing  
33 of each type or class of weighing or measuring instrument or device.  
34 Investigations for cause shall not be construed as reinspections under  
35 this section.

36 (2) Prior to the establishment and each amendment of the fees  
37 authorized under this section, a weights and measures fee task force  
38 shall be convened under the direction of the department. The task

1 force shall be composed of a representative from the department who  
2 shall serve as chair and one representative appointed by the director  
3 from each of the following: City sealers, service agents, service  
4 stations, grocery stores, retailers, food processors/dealers, oil heat  
5 dealers, the agricultural community, and liquid propane dealers. The  
6 task force shall recommend the appropriate level of fees to be assessed  
7 by the department by rule pursuant to subsection (1) of this section,  
8 based upon the level necessary to cover the direct costs of  
9 administering and enforcing the provisions of this section and to the  
10 extent possible be consistent with fees reasonably and customarily  
11 charged in the private sector for similar services.

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

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

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

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

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

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

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

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

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

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

10       (~~(f))~~ (e) The establishment of exemptions from the inspection and  
11 testing requirements of RCW 19.94.165 with respect to classes of  
12 weighing or measuring instruments or devices found to be of such  
13 character that periodic inspection and testing is unnecessary to ensure  
14 continued accuracy; and

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

21       (2) These rules shall also include specifications and tolerances  
22 for the acceptable range of accuracy required of weighing or measuring  
23 instruments or devices and shall be designed to eliminate from use,  
24 without prejudice to weighing or measuring instruments or devices that  
25 conform as closely as practicable to official specifications and  
26 tolerances, those (a) that are of such construction that they are  
27 faulty, that is, that are not reasonably permanent in their adjustment  
28 or will not repeat their indications correctly, or (b) that facilitate  
29 the perpetration of fraud.

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

32       The department shall:

33       (1) Biennially inspect and test the secondary weights and measures  
34 standards of any city for which the appointment of a city sealer is  
35 provided by this chapter and shall issue an official seal of approval  
36 for same when found to be correct. The department shall, by rule,  
37 establish a reasonable fee for (~~such~~) this and any other inspection

1 and testing services performed by the department's metrology  
2 laboratory.

3 (2) Biennially inspect, test, and, if found to be correct, issue an  
4 official seal of approval for any weighing or measuring instrument or  
5 device used in an agency or institution to which moneys are  
6 appropriated by the legislature or of the federal government and shall  
7 report any findings in writing to the executive officer of the agency  
8 or institution concerned. The department shall collect a reasonable  
9 fee, to be set by rule, for testing any such weighing or measuring  
10 instrument or device.

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

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

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

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



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

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

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

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

17       (3) A city sealer (~~(shall))~~ may adopt the fee amounts established  
18 (~~(by the director pursuant to RCW 19.94.165))~~ under RCW 19.94.175.  
19 However, no city shall adopt or charge an inspection, testing,  
20 reinspection, retesting, or licensing fee or any other fee upon a  
21 weighing or measuring instrument or device that is in excess of the fee  
22 amounts ((adopted under RCW 19.94.165)) established by the department  
23 under the provisions of this chapter for substantially similar  
24 services.

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

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

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

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

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

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

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

16 All moneys collected under this chapter shall be placed in the  
17 weights and measures account in the state treasury created in RCW  
18 19.94.185."

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