

HOUSE BILL REPORT

2SHB 1524

As Passed Legislature

Title: An act relating to weights and measures.

Brief Description: Changing weights and measures regulations.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Chandler, Mastin and McMorris).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/8/95, 2/15/95 [DPS];
Appropriations: 3/4/95 [DP2S(w/o sub AG)].

Floor Activity:

Passed House: 3/9/95, 77-20.
Senate Amended.
House Refused to Concur.
Senate Amended.
House Concurred.
Passed Legislature.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 5 members: Representatives R. Fisher; Kremen; Poulsen; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 21 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; Foreman; Grant; Hargrove; Hickel; Lambert; Lisk; McMorris; Reams; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 6 members: Representatives Valle, Assistant Ranking Minority Member; G. Fisher; Jacobsen; Poulsen; Thibaudeau and Wolfe.

Staff: Nancy Stevenson (786-7137).

Background: In general, all weighing or measuring instruments or devices used for commercial purposes in this state must be inspected and tested for accuracy by the Department of Agriculture or by a city sealer. They must be inspected and tested at least once every two years. Instruments and devices that conform to the applicable standards and requirements are considered to be "correct." Those that do not are considered to be "incorrect."

An instrument or device found to be incorrect may not be used again commercially until it has been officially re-examined and found to be correct. It may be repaired or adjusted by a private service agent. However, such a service agent does not have the authority to provide the official inspection necessary to return a previously rejected instrument or device to commercial use.

An inspection fee may be charged only for an instrument or device approved as correct. Before an inspection fee or amended fee is set, the director must consult a Weights and Measures Fee Task Force.

The weights and measures statutes are nonexclusive and do not affect any other remedy available at law.

Summary of Bill:

Annual Registration Fee Rather Than Inspection Fee. A weighing or measuring instrument or device used for commercial purposes outside of a city with a weights and measures program must be registered with the state annually. If its use is in a city with a weights and measures program, the instrument or device must be registered with the city if the city establishes a registration fee. The fee for registering most small instruments or devices with the state is \$5. The registration fees for other devices, except railroad track scales, range from \$10 to \$52. The registration fee for railroad track scales is \$800. A city with a city sealer may charge a registration fee that is no greater than the comparable fee for registering the use of

the instrument or device with the state. Registration with the state is accomplished and registration fees are paid through the Department of Licensing's master license system.

In general, the authority of the department or a city sealer to charge inspection fees is repealed. The department and city sealers are granted the authority to charge fees for conducting inspections that are specifically requested by the owner of an instrument of device, on a fee-for-service basis.

Biennial Inspections No Longer Required. State law no longer requires instruments and devices in the private sector to be inspected and tested biennially. Instead, the department and city sealers test and inspect instruments and devices to ensure that the weights and measures laws are enforced.

Correct Instruments. An instrument or device is not to be rejected (i.e., officially required to be removed from commercial service) if it is incorrect to the economic benefit of the customer. A rejected instrument or device may be returned to commercial service following an inspection by a registered service agent, not just the department or a city sealer, as under current law.

Registration of Service Agents. To have the authority to return a rejected instrument or device to commercial use, a private service agent must be registered annually with the department. Information required to be submitted for a registration certificate is specified; the director may require additional information. The registration fee is \$80. The circumstances under which the department may refuse to issue a certificate or suspend or revoke a certificate are specified.

An examination procedure for price verification is established for devices such as scanners. Certain recommendations made at the national level for examining these devices are adopted by reference. If these are modified when examining procedures are adopted by the National Institute of Standards and Technology or if they are subsequently modified by the institute, the department may adopt the revisions. Scanner screens installed in retail establishments after January 1, 1996, must be visible to customers in the check-out line.

Penalties. An owner's failure to register an instrument or device used for commercial purposes subjects the owner to a civil penalty of \$50 for each such unregistered device. A schedule of civil penalties is established for instruments and devices found to be incorrect to the detriment of the customer. Civil penalties collected under the weights and measures law are deposited in the general fund. It is a violation knowingly to place back into commercial service a rejected weighing or measuring instrument or device that is incorrect.

Other. The department is directed to establish fees to recover at least 75 percent of the costs of services performed by its metrology lab. Monies collected under the weighmaster laws are deposited in the Weights and Measures Account. This account is placed within the Agricultural Local Fund and is not subject to appropriation. The account may be used for enforcing and implementing the weights and measures law, not just for inspections and testing. Biennial reports are required regarding revenues generated under these laws. A task force is to be established to examine the issue of civil and criminal penalties for weights and measures violations and the disclosure of these penalties to the media. The task force is to submit recommendations to the law and justice committees of the Legislature by November 30, 1995. This bill is prospective in nature only.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Bill: The bill contains an emergency clause and takes effect on July 1, 1995. However, registration fees and a section discontinuing biennial inspection requirements take effect on January 1, 1996.

Testimony For: (Agriculture & Ecology) (1) The state's weights and measures program should be more enforcement oriented, not more inspection oriented. (2) There is no relationship between the size of a state's program and the accuracy of the weighing and measuring devices used in the state; Oregon has twice as many inspectors, but the same accuracy rate as the devices used in this state. (3) The procedures being recommended nationally by the retail industry and by inspection agencies should be used in this state for testing the pricing accuracy of scanner systems. (4) General fund monies were used in the past for consumer protection activities within the state's program. These monies are now being used in general support of the inspection program; they should be re-dedicated to consumer protection. (5) The state's program currently focuses on the quickest, most easily performed inspections as a source of fee-driven revenue. An efficient program would focus on the larger volume sales. (6) Small operations cannot afford the current fees for changed for checking propane dispensing equipment. The bill reduces the fees to a reasonable level. (7) The terminal meters used by the oil companies to supply dealers are not now inspected. As a result of this lack of inspection and errors at retail pumps, there can be a large volume of environmentally sensitive material unaccounted for. The bill will provide inspections for all parts of the industry and focuses the program on problem areas. (8) The use of service agents to do the inspections that bring devices back into service will reduce the demand on state personnel.

(Appropriations) There is broad based support for this bill. Fees are reduced. Consumer protection is maintained.

Testimony Against: (Agriculture & Ecology) (1) If a device is found to be incorrect for the benefit of the consumer and is to be left in commercial service, the operator (not just the owner) of the device should be notified. (2) If the metrology lab is to recover the full cost of all of its services, some fees will have to be raised up to 300 percent. (3) The Master License System, not the Department of Revenue (as in the original bill), should collect the registration fees. (4) A \$250 registration fee (in the original bill) for service agents is too high. (5) A gas pump violation that would result in the owner's receiving a \$25 fine (as in the original bill) could also provide the owner a huge profit. The fine is much too small. (6) The fee levels set in the bill will not raise enough revenues to operate the program. The department will have to reduce its field staff from the current level of nine people to six. This state already has the smallest program in the nation.

(Appropriations) None.

Testified: (Agriculture & Ecology) Tom Dooley, Association of Washington Business (pro); Jan Gee, Washington Retail Association (pro); Lisa Thatcher, Washington State Food Dealers (pro); Ray Shindler, Washington Association of Wheat Growers and Northwest Propane Gas Association (pro); Dave Gerdt, Northwest Propane Gas Association (pro); Tim Hamilton, Automotive United Trade Organization (pro); T.K. Bentler, Washington State Association of Neighborhood Stores (commented); Mary Beth Lang, Department of Agriculture (commented); and Phil Chapple, Northwest Scale Systems (commented).

(Appropriations) Jan Gee, Washington Retail Association (pro).