

CERTIFICATION OF ENROLLMENT

SENATE BILL 5437

65th Legislature
2017 Regular Session

Passed by the Senate April 18, 2017
Yeas 46 Nays 2

President of the Senate

Passed by the House April 11, 2017
Yeas 96 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5437** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5437

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By Senators Chase and Honeyford; by request of Department of Agriculture

Read first time 01/24/17. Referred to Committee on Agriculture, Water, Trade & Economic Development.

1 AN ACT Relating to the weighmaster program; amending RCW
2 15.80.300, 15.80.410, 15.80.440, 15.80.450, 15.80.470, 15.80.490,
3 15.80.510, 15.80.520, 15.80.530, 15.80.540, 15.80.560, 15.80.590,
4 15.80.640, 15.80.650, and 15.80.660; repealing RCW 15.80.310,
5 15.80.320, 15.80.330, 15.80.340, 15.80.350, 15.80.360, 15.80.370,
6 15.80.380, 15.80.390, 15.80.400, 15.80.480, and 15.80.600; and
7 prescribing penalties.

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

9 **Sec. 1.** RCW 15.80.300 and 1969 ex.s. c 100 s 1 are each amended
10 to read as follows:

11 (~~Terms used in this chapter shall have the meaning given to them~~
12 ~~in RCW 15.80.310 through 15.80.400 unless the context where used~~
13 ~~shall clearly indicate to the contrary.)) The definitions in this
14 section apply throughout this chapter unless the context clearly
15 require otherwise.~~

16 (1) "Certified weight" means any signed certified statement or
17 memorandum of weight, measure, or count, issued by a weighmaster or
18 weigher in accordance with the provisions of this chapter or any rule
19 adopted under it.

20 (2) "Commodity" means anything that may be weighed, measured, or
21 counted in a commercial transaction.

1 (3) "Department" means the department of agriculture of the state
2 of Washington.

3 (4) "Director" means the director of the department or the
4 director's duly appointed representative.

5 (5) "Licensed public weighmaster," also referred to as
6 "weighmaster," means any person, licensed under the provisions of
7 this chapter, who weighs, measures, or counts any commodity or thing
8 and issues therefor a signed certified statement, ticket, or
9 memorandum of weight, measure, or count accepted as the accurate
10 weight, or count upon which the purchase or sale of any commodity or
11 upon which the basic charge or payment for services rendered is
12 based.

13 (6) "Person" means a natural person, individual, or firm,
14 partnership, corporation, company, society, or association. This term
15 shall import either the singular or plural, as the case may be.

16 (7) "Retail merchant" means and includes any person operating
17 from a bona fide fixed or permanent location at which place all of
18 the retail business of the merchant is transacted, and whose business
19 is exclusively retail except for the occasional wholesaling of small
20 quantities of surplus commodities that have been taken in exchange
21 for merchandise from the producers thereof at the bona fide fixed or
22 permanent location.

23 (8) "Thing" means anything used to move, handle, transport, or
24 contain any commodity for which a certified weight, measure, or count
25 is issued when such thing is used to handle, transport, or contain a
26 commodity.

27 (9) "Vehicle" means any device, other than a railroad car, in,
28 upon, or by which any commodity is or may be transported or drawn.

29 (10) "Weigher" means any person who is licensed under the
30 provisions of this chapter and who is an agent or employee of a
31 weighmaster and authorized by the weighmaster to issue certified
32 statements of weight, measure, or count.

33 **Sec. 2.** RCW 15.80.410 and 1969 ex.s. c 100 s 12 are each amended
34 to read as follows:

35 The director shall enforce and carry out the provisions of this
36 chapter and may adopt the necessary rules to carry out its purposes.
37 The adoption of rules shall be subject to the provisions of chapter
38 34.05 RCW (administrative procedure act), as enacted or hereafter
39 amended, concerning the adoption of rules.

1 **Sec. 3.** RCW 15.80.440 and 1969 ex.s. c 100 s 15 are each amended
2 to read as follows:

3 The director or any peace officer may order the driver of any
4 vehicle previously weighed by a licensed public weighmaster (~~may be~~
5 ~~required~~) to reweigh the vehicle and load at the nearest scale.

6 The director or any peace officer may order the driver of any
7 vehicle operated by or for a retail merchant which vehicle contains
8 hay, straw, or grain (~~may be required~~) to weigh the vehicle and
9 load at the nearest scale(~~, and~~). If the weight is found to be less
10 than the amount appearing on the invoice, a copy of which is required
11 to be carried on the vehicle, the director or peace officer shall
12 report the finding to the consignee and may (~~cause~~) prosecute such
13 retail merchant (~~to be prosecuted~~) in accordance with the
14 provisions of this chapter.

15 **Sec. 4.** RCW 15.80.450 and 2006 c 358 s 3 are each amended to
16 read as follows:

17 (1) Any person may apply to the director for a weighmaster's
18 license. Such application shall be on a form prescribed by the
19 director and shall include:

20 (~~(1)~~) (a) The full name of the person applying for such license
21 and, if the applicant is a partnership, association, or corporation,
22 the full name of each member of the partnership or the names of the
23 officers of the association or corporation;

24 (~~(2)~~) (b) The principal business address of the applicant in
25 this state and elsewhere;

26 (~~(3)~~) (c) The names and addresses of the persons authorized to
27 receive and accept service of summons and legal notice of all kinds
28 for the applicant;

29 (~~(4)~~) (d) The location of (~~any~~) each scale (~~or scales~~)
30 subject to the applicant's control and from which certified weights
31 will be issued; (~~and~~

32 ~~(5)~~) (e) The state unified business identifier number for the
33 operator of the scale; and

34 (f) Such other information as the director (~~feels~~) identifies
35 as necessary to carry out the purposes of this chapter and adopts by
36 rule.

37 (2) Such annual application shall be accompanied by a license fee
38 of (~~fifty~~) eighty dollars for each scale from which certified

1 weights will be issued (~~and a bond as provided for in RCW~~
2 ~~15.80.480~~)).

3 **Sec. 5.** RCW 15.80.470 and 2010 c 8 s 6103 are each amended to
4 read as follows:

5 If an application for the annual renewal of any license provided
6 for in this chapter is not filed prior to the current license
7 expiration date, there shall be assessed and added to the renewal fee
8 as a penalty therefor fifty percent of said renewal fee which shall
9 be paid by the applicant before any renewal license shall be issued.
10 The penalty shall not apply if the applicant furnishes (~~an~~
11 ~~affidavit~~) a declaration that he or she has not acted as a
12 weighmaster or weigher subsequent to the expiration of his or her
13 prior license.

14 **Sec. 6.** RCW 15.80.490 and 2010 c 8 s 6105 are each amended to
15 read as follows:

16 (1) Any weighmaster (~~may~~) must file an application with the
17 director for a license for any employee or agent to operate and issue
18 certified weight tickets from (~~(a)~~) each scale which such weighmaster
19 is licensed to operate under the provisions of this chapter. Such
20 application shall be submitted on a form prescribed by the director
21 and shall contain the following:

22 ~~((1))~~ (a) The name of the weighmaster;
23 ~~((2))~~ (b) The full name of the employee or agent (~~and his or~~
24 ~~her resident address~~); and
25 ~~((3) The position held by such person with the weighmaster;~~
26 ~~(4))~~ (c) The scale (~~or scales~~) from which such employee or
27 agent will issue certified weights(~~;-and~~
28 ~~(5) Signature of the weigher and the weighmaster~~)).

29 (2) Such annual application shall be accompanied by a license fee
30 of (~~ten~~) twenty dollars.

31 **Sec. 7.** RCW 15.80.510 and 2010 c 8 s 6107 are each amended to
32 read as follows:

33 A licensed public weighmaster shall: (1) Keep the scale or scales
34 upon which he or she weighs any commodity or thing, in conformity
35 with the standards of weights and measures; (2) carefully and
36 correctly weigh and certify the gross, tare, and net weights of any
37 load of any commodity or thing required to be weighed; and (3)

1 without charge, weigh any commodity or thing brought to his or her
2 scale (~~by an inspector authorized~~) by the director or peace
3 officer, and issue a certificate of the weights thereof.

4 **Sec. 8.** RCW 15.80.520 and 1983 c 95 s 6 are each amended to read
5 as follows:

6 (1) Certification of weights (~~shall be made by~~) must be in
7 accordance with subsection (2)(a) or (b) of this section.

8 (2)(a) The certification must appear in an appropriate and
9 conspicuous place on each certificate and copies thereof. In addition
10 the weight ticket must bear the name of the weighmaster, the full
11 name of the weigher issuing the ticket, and a seal number assigned to
12 the scale by the department. The seal number must be used only at the
13 scale to which it is assigned.

WEIGHMASTER CERTIFICATE
THIS IS TO CERTIFY that the following described
commodity was weighed, measured, or counted by a
weighmaster, whose signature is on this certificate, who
is a recognized authority of accuracy, as prescribed by
chapter 15.80 RCW administered by the Washington
state department of agriculture.

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21 (b) Certification must be made by means of an impression seal,
22 the impress of which shall be placed by the weighmaster or weigher
23 making the weight determination upon the weights shown on the weight
24 tickets. The impression seal (~~shall~~) may be procured from the
25 director upon the payment of a fee of (~~five~~) sixty dollars or the
26 current cost of the seal to the department, whichever is less, and
27 such fee shall accompany the applicant's application for a
28 weighmaster's license. (~~The seal shall be retained by the~~
29 weighmaster upon payment of an annual renewal fee of five dollars,
30 and the fee shall accompany the annual renewal application for a
31 weighmaster's license.) Any replacement seal needed (~~shall~~) may be
32 procured from the director upon payment to the department of the
33 current cost to the department for such replacement. An impression
34 seal (~~shall~~) must be used only at the scale to which it is
35 assigned, and remains the property of the state and shall be returned
36 (~~forthwith~~) to the director upon the termination, suspension, or
37 revocation of the weighmaster's license.

1 **Sec. 9.** RCW 15.80.530 and 1969 ex.s. c 100 s 24 are each amended
2 to read as follows:

3 The certified weight ticket shall be of a form approved by the
4 director and shall contain the following information:

5 (1) The date of issuance;

6 (2) The kind of commodity weighed, measured, or counted;

7 (3) The name of the owner, agent, or consignee of the commodity
8 weighed;

9 (4) The name of the seller, agent, or consignor;

10 (5) The accurate weight, measure, or count of the commodity
11 weighed, measured, or counted; including the entry of the gross,
12 tare, and/or net weight, where applicable;

13 (6) The identifying numerals or symbols, if any, of each
14 container separately weighed and the ~~((motor vehicle))~~ license plate
15 number of each vehicle separately weighed;

16 (7) The means by which the commodity was being transported at the
17 time it was weighed, measured, or counted;

18 (8) The name of the city or town where such commodity was
19 weighed;

20 (9) The complete signature of the weighmaster or weigher who
21 weighed, measured, or counted the commodity; and

22 (10) Such other available information as may be necessary to
23 distinguish or identify the commodity.

24 Such weight certificates when so made and properly ~~((signed and))~~
25 certified or sealed shall be prima facie evidence of the accuracy of
26 the weights, measures, or count shown, as a certified weight,
27 measure, or count.

28 **Sec. 10.** RCW 15.80.540 and 1969 ex.s. c 100 s 25 are each
29 amended to read as follows:

30 (1) Certified weight tickets shall be ~~((made in triplicate, one~~
31 ~~copy to be))~~ delivered to the person receiving the weighed commodity
32 at the time of delivery~~((, which copy shall))~~. The weight ticket must
33 accompany the vehicle that transports such commodity~~((, one copy to~~
34 ~~be forwarded))~~.

35 (2) A copy must be provided to the seller by the carrier of the
36 weighed commodity~~((, and one copy to be retained by))~~.

37 (3) ~~The weighmaster that ((weighed the vehicle transporting such~~
38 ~~commodity. The copy retained by the weighmaster shall be kept at~~

1 ~~least~~) provided the certified weight ticket must retain a copy for a
2 period of one year~~((, and such copies and))~~.

3 (4) The weighmaster must retain such other records as the
4 director shall determine necessary to carry out the purposes of this
5 chapter.

6 (5) These records shall be made available at all reasonable
7 business hours for inspection by the director.

8 **Sec. 11.** RCW 15.80.560 and 1969 ex.s. c 100 s 27 are each
9 amended to read as follows:

10 A licensed public weighmaster shall, in making a weight
11 determination as provided for in this chapter, use a weighing device
12 that conforms to current state legal requirements for commercial
13 devices and is suitable for the weighing of the type and amount of
14 commodity being weighed. The director shall cause to be tested for
15 proper state standards of weight all weighing or measuring devices
16 utilized by any licensed public weighmaster. Certified weights shall
17 not be issued over a device that has been rejected or condemned for
18 ~~((repair or))~~ use by the director until such device has been repaired
19 and tested as conforming to the intended use requirements.

20 **Sec. 12.** RCW 15.80.590 and 2010 c 8 s 6109 are each amended to
21 read as follows:

22 The director is hereby authorized to deny, suspend, or revoke a
23 license ~~((subsequent to a hearing, if a hearing is requested,))~~ in
24 any case in which he or she finds that there has been a failure to
25 comply with the requirements of this chapter or rules adopted
26 hereunder. For hearings for revocations, suspension, or denial of a
27 license, the director shall give the licensee or applicant such
28 notice as is required under the provisions of chapter 34.05 RCW. Such
29 hearings shall be subject to chapter 34.05 RCW (administrative
30 procedure act) concerning adjudicative proceedings.

31 **Sec. 13.** RCW 15.80.640 and 2011 c 96 s 16 are each amended to
32 read as follows:

33 Any person who shall mark, stamp, or write any false weight
34 ticket, scale ticket, or weight certificate, knowing it to be false,
35 and any person who influences, or attempts to wrongfully influence,
36 any licensed public weighmaster or weigher in the performance of his
37 or her official duties shall be guilty of a gross misdemeanor and

1 upon conviction thereof shall be punished by a fine of not less than
2 ((~~one~~)) five hundred dollars nor more than ((~~one~~)) five thousand
3 dollars, or by imprisonment of not less than thirty days nor more
4 than three hundred sixty-four days in the county jail, or by both
5 such fine and imprisonment.

6 **Sec. 14.** RCW 15.80.650 and 2003 c 53 s 109 are each amended to
7 read as follows:

8 (1) Except as provided in RCW 15.80.640 or subsection (2) of this
9 section, any person violating any provision of this chapter or rules
10 adopted hereunder is guilty of a misdemeanor.

11 (2) A second or subsequent same or similar violation is a gross
12 misdemeanor. Any offense committed more than five years after a
13 previous conviction shall be considered a first offense.

14 (3) The director may assess a civil penalty ranging from one
15 hundred dollars to one thousand dollars per occurrence against any
16 person who knowingly violates any provision under this chapter or
17 rules adopted thereunder. In determining the amount of any civil
18 penalty, the director shall give due consideration to the
19 appropriateness of the penalty with respect to the gravity of the
20 violation, and the history of any previous violations. The respondent
21 issued a notice of intent to assess a civil penalty must be provided
22 the opportunity to request a hearing as provided under chapter 34.05
23 RCW to contest the alleged violation and the penalty amount.

24 **Sec. 15.** RCW 15.80.660 and 1995 c 355 s 25 are each amended to
25 read as follows:

26 (1) All moneys collected under this chapter shall be placed in
27 the weights and measures account created in RCW 19.94.185.

28 (2) Civil penalties collected under RCW 15.80.650 must be
29 deposited into the state general fund.

30 NEW SECTION. **Sec. 16.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 15.80.310 ("Department") and 1969 ex.s. c 100 s 2;

33 (2) RCW 15.80.320 ("Director") and 2010 c 8 s 6101 & 1969 ex.s. c
34 100 s 3;

35 (3) RCW 15.80.330 ("Person") and 1969 ex.s. c 100 s 4;

36 (4) RCW 15.80.340 ("Licensed public weighmaster") and 1969 ex.s.
37 c 100 s 5;

1 (5) RCW 15.80.350 ("Weigher") and 1969 ex.s. c 100 s 6;
2 (6) RCW 15.80.360 ("Vehicle") and 1969 ex.s. c 100 s 7;
3 (7) RCW 15.80.370 ("Certified weight") and 1969 ex.s. c 100 s 8;
4 (8) RCW 15.80.380 ("Commodity") and 1969 ex.s. c 100 s 9;
5 (9) RCW 15.80.390 ("Thing") and 1969 ex.s. c 100 s 10;
6 (10) RCW 15.80.400 ("Retail merchant") and 1969 ex.s. c 100 s 11;
7 (11) RCW 15.80.480 (Surety bond) and 2010 c 8 s 6104 & 1969 ex.s.
8 c 100 s 19; and
9 (12) RCW 15.80.600 (Hearings for denial, suspension or revocation
10 of licenses—Notice—Location) and 1969 ex.s. c 100 s 31.

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