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**SUBSTITUTE HOUSE BILL 1524**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Mastin and McMorris)

Read first time 02/16/95.

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, 19.94.390,  
4 19.94.510, and 19.94.900; adding new sections to chapter 19.94 RCW;  
5 adding a new section to chapter 15.80 RCW; creating a new section;  
6 repealing RCW 19.94.175; prescribing penalties; making an  
7 appropriation; providing an effective date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** (1) Except as provided in subsection (4) of  
10 this section for the initial registration of an instrument or device,  
11 no weighing or measuring instrument or device may be used for  
12 commercial purposes in the state unless its commercial use is  
13 registered annually. If its commercial use is within a city that has  
14 a city sealer and a weights and measures program as provided by RCW  
15 19.94.280, the commercial use of the instrument or device shall be  
16 registered with the city. If its commercial use is outside of such a  
17 city, the commercial use of the instrument or device shall be  
18 registered with the department.

1 A city with such a sealer and program may establish an annual fee  
2 for registering the commercial use of such a weighing or measuring  
3 instrument or device with the city. The annual fee shall not exceed  
4 the fee established in subsection (2) of this section for registering  
5 the use of a similar instrument or device with the department.

6 Registrations with the department or with a city are accomplished  
7 as part of the master license system under chapter 19.02 RCW. Payment  
8 of the registration fee for a weighing or measuring instrument or  
9 device under the master license system constitutes the registration  
10 required by this section. However, for a city that has a city sealer  
11 and program under RCW 19.94.280 but does not charge a registration fee,  
12 identification of the numbers of such instruments and devices owned by  
13 a person as part of the person's master license application or renewal  
14 constitutes registration with the city.

15 (2) The annual fee for registering a weighing or measuring  
16 instrument or device with the department is: For each small instrument  
17 or device, four dollars; for each medium-sized instrument or device,  
18 thirteen dollars; for each large instrument or device, eighteen  
19 dollars; and for each extra large instrument or device, twenty-nine  
20 dollars.

21 (3) For the purposes of this section:

22 (a) The following are small weighing or measuring instruments or  
23 devices: Scales of zero to four hundred pounds capacity, liquid fuel  
24 metering devices with flows of not more than twenty gallons per minute,  
25 liquid petroleum gas meters with one inch in diameter or smaller  
26 dispensers, fabric meters, cordage meters, and taxi meters.

27 (b) The following are medium-sized weighing or measuring  
28 instruments or devices: Scales of four hundred one to five thousand  
29 pounds capacity, liquid fuel metering devices with flows of more than  
30 twenty but not more than one hundred fifty gallons per minute, and mass  
31 flow meters.

32 (c) The following are large weighing or measuring instruments or  
33 devices: Liquid petroleum gas meters with greater than one inch  
34 diameter dispensers, and liquid fuel metering devices with flows over  
35 one hundred fifty gallons per minute.

36 (d) The following are extra large weighing and measuring  
37 instruments or devices: Scales of more than five thousand pounds  
38 capacity and scales of more than five thousand pounds capacity with  
39 supplemental devices.

1 (4) The fees established by or under this section for registering  
2 a weighing or measuring instrument or device shall be paid to the  
3 department of licensing concurrently with an application for a master  
4 license or with the annual renewal of a master license under chapter  
5 19.02 RCW. A weighing or measuring instrument or device shall be  
6 initially registered with the city or state at the time the owner  
7 applies for a master license for a new business or at the first renewal  
8 of the license that occurs after the instrument or device is first  
9 placed into commercial use. However, the use of an instrument or  
10 device that is in commercial use on the effective date of this act  
11 shall be initially registered at the time the first renewal of the  
12 master license of the owner of the instrument or device is due  
13 following the effective date of this act. The department of licensing  
14 shall remit to the department of agriculture all fees collected under  
15 this provision less reasonable collection expenses. The department of  
16 agriculture shall forward the portion of the fees attributable to  
17 registrations with a city to the city involved. The department of  
18 licensing shall send the applicant for the master license or license  
19 renewal a registration sticker for each weighing or measuring  
20 instrument or device for which a fee is paid. The registration  
21 stickers shall be provided by the department of agriculture.

22 (5) The department of agriculture shall design a registration  
23 sticker to be provided to registrants under subsection (4) of this  
24 section. The department shall provide the department of licensing a  
25 sufficient number of the stickers for the registrations accomplished  
26 under this section.

27 (6) The department shall maintain a list of cities that have  
28 appointed city sealers and have weights and measures programs pursuant  
29 to RCW 19.94.280. The department shall provide the list of such cities  
30 and changes in the list to the department of licensing. The list shall  
31 be available to the public upon request. Each city charging  
32 registration fees under section 1 of this act shall notify the  
33 department of licensing of the fees and any changes in the fees.

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

1 instruments and devices in commercial service within the testing and  
2 inspection jurisdiction of the department are correct.

3 (2) Except as provided in RCW 19.94.216, this section does not  
4 apply to weighing or measuring instruments or devices located in an  
5 area of the state that is within a city that has a city sealer and a  
6 weights and measures program pursuant to RCW 19.94.280 unless the city  
7 sealer does not possess the equipment necessary to test and inspect the  
8 weighing or measuring instrument or device.

9 (3) The department shall annually inspect and test railroad track  
10 scales. The department shall develop rules regarding the inspection  
11 and testing procedures to be used for railroad track scales, which  
12 shall include requirements for the provision, maintenance, and  
13 transport of any weight or measure standard necessary for inspection  
14 and testing at no expense to the state. The department may collect a  
15 fee of eight hundred dollars for inspecting and testing such railroad  
16 track scales.

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

19 The legislature finds:

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

23 (2) Fair weights and measures are equally important to business and  
24 the consumer.

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

29 ~~(4))~~) This chapter safeguards the consuming public and ensures that  
30 businesses receive proper compensation for the commodities they  
31 deliver.

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

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

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

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

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

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

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

24 (f) "Department" means the department of agriculture of the state  
25 of Washington.

26 (g) "Director" means the director of the department or duly  
27 authorized representative acting under the instructions and at the  
28 direction of the director.

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

32 (i) "Net weight" means the weight of a commodity excluding any  
33 materials, substances, or items not considered to be part of such  
34 commodity. Materials, substances, or items not considered to be part  
35 of a commodity shall include, but are not limited to, containers,  
36 conveyances, bags, wrappers, packaging materials, labels, individual  
37 piece coverings, decorative accompaniments, and coupons.

38 (j) "Nonconsumer package" or "package of nonconsumer commodity"  
39 means a commodity in package form other than a consumer package and

1 particularly a package designed solely for industrial or institutional  
2 use or for wholesale distribution only.

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

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

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

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

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

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

25 (q) "Weighing or measuring instrument or device" means any  
26 equipment or apparatus used commercially to establish the size,  
27 quantity, capacity, count, extent, area, heaviness, or measurement of  
28 quantities, things, produce, or articles for distribution or  
29 consumption, that are purchased, offered or submitted for sale, hire,  
30 or award on the basis of weight, measure or count, including any  
31 accessory attached to or used in connection with a weighing or  
32 measuring instrument or device when such accessory is so designed or  
33 installed that its operation affects, or may effect, the accuracy or  
34 indication of the device. This definition shall be strictly limited to  
35 those weighing or measuring instruments or devices governed by Handbook  
36 44 as adopted under RCW 19.94.195.

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

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

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

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

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

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

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

30 ~~((1) Unless otherwise provided by the department,)~~ All weighing  
31 or measuring instruments or devices used for commercial purposes within  
32 this state shall be ~~((inspected and tested for accuracy by the director~~  
33 ~~or city sealer at least once every two years and, if found to be))~~  
34 ~~correct(, the director or city sealer shall issue an official seal of~~  
35 ~~approval for each such instrument or device.~~

36 ~~(2) Beginning fiscal year 1993, the schedule of inspection and~~  
37 ~~testing shall be staggered so as one half of the weighing or measuring~~

1 ~~instruments or devices under the jurisdiction of the inspecting and~~  
2 ~~testing authority are approved in odd fiscal years and the remaining~~  
3 ~~one half are inspected and tested in even fiscal years.~~

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

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

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

18 (1) Except as provided in subsection (2) of this section, all  
19 moneys collected under this chapter shall be placed in the weights and  
20 measures account hereby established in the state treasury. Moneys  
21 deposited in this account may be spent only following appropriation by  
22 law and shall be used solely for the purposes of ((weighing or  
23 measuring instrument or device inspection and testing)) implementing or  
24 enforcing this chapter.

25 (2) Fines collected under section 23 of this act shall be deposited  
26 in the general fund.

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

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

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

35 (b) The establishment of technical and reporting procedures to be  
36 followed, any necessary report and record forms, and marks of rejection



1 to be used by the director and city sealers in the discharge of their  
2 (~~official duties as~~) activities required by this chapter;

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

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

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

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

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

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

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

3       The department shall:

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

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

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

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

36       (1) ~~((The director or a city sealer shall, from time to time,~~  
37 ~~inspect any weighing or measuring instrument or device, except those~~  
38 ~~weighing or measuring instruments or devices exempted under the~~

1 authority of RCW 19.94.190, to determine if it is correct.)) If the  
2 director or a city sealer discovers upon inspection that a weighing or  
3 measuring instrument or device is "incorrect," but in his or her best  
4 judgment is susceptible of satisfactory repair, he or she shall reject  
5 and mark or tag as rejected any such weighing or measuring instrument  
6 or device.

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

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

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

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

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

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

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

1 department, city sealer, or a service agent registered with the  
2 department.

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

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

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

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

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

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

29 (4) The city sealer shall test and inspect a sufficient number of  
30 weighing and measuring instruments and devices to ensure that the  
31 provisions of this chapter are enforced in the city and to provide a  
32 statistically significant assessment of whether the instruments and  
33 devices in commercial service within the city are correct. This  
34 subsection does not apply to weighing or measuring instruments or  
35 devices for which the sealer does not have the necessary testing or  
36 inspection equipment or to instruments or devices that are to be  
37 inspected by the department under RCW 19.94.216(2).

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

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

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

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

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

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

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

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

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

35       (2) Each individual when submitting a request for an official  
36 registration certificate or a renewal of such a certificate shall pay  
37 a fee to the department in the amount of eighty dollars per individual.

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

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

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

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

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

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

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

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

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

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

35 **Sec. 19.** RCW 19.94.390 and 1969 c 67 s 39 are each amended to read  
36 as follows:

1       (1) Whenever any commodity or service is sold, or is offered,  
2 exposed, or advertised for sale, by weight, measure, or count, the  
3 price shall not be misrepresented, nor shall the price be represented  
4 in any manner calculated or tending to mislead or deceive an actual or  
5 prospective purchaser. Whenever an advertised, poster or labeled price  
6 per unit of weight, measure, or count includes a fraction of a cent,  
7 all elements of the fraction shall be prominently displayed and the  
8 numeral or numerals expressing the fraction shall be immediately  
9 adjacent to, of the same general design and style as, and at least one-  
10 half the height and one-half the width of the numerals representing the  
11 whole cents.

12       (2) The examination procedure recommended for price verification by  
13 the price verification working group of the laws and regulations  
14 committee of the national conference on weights and measures (as  
15 reflected in the fourth draft, dated November 1, 1994) for devices such  
16 as electronic scanners shall govern such examinations conducted under  
17 this chapter. The procedure shall be deemed to be adopted under this  
18 chapter. However, the department may revise the procedure as follows:  
19 The department shall provide notice of and conduct a public hearing  
20 pursuant to chapter 34.05 RCW to determine whether any revisions to  
21 this procedure made by the national institute of standards and  
22 technology or its successor organization for incorporating the  
23 examination procedure into an official handbook of the institute or its  
24 successor, or any subsequent revisions of the handbook regarding such  
25 procedures shall also be adopted under this chapter. If the department  
26 determines that the procedure should be so revised, it may adopt the  
27 revisions. Violations of this section regarding the use of devices  
28 such as electronic scanners may be found only as provided by the  
29 examination procedures adopted by or under this subsection.

30       **Sec. 20.** RCW 19.94.510 and 1992 c 237 s 35 are each amended to  
31 read as follows:

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

37       (a) Use or have in possession for the purpose of using for any  
38 commercial purpose a weighing or measuring instrument or device that is

1 intentionally calculated to falsify any weight, measure, or count of  
2 any commodity, or to sell, offer, expose for sale or hire or have in  
3 possession for the purpose of selling or hiring an incorrect weighing  
4 or measuring instrument or device or any weighing or measuring  
5 instrument or device calculated to falsify any weight or measure.

6 ~~((b))~~ ~~((Knowingly use or have in possession for current use in the  
7 buying or selling of any commodity or thing, for hire or award, or in  
8 the computation of any basic charge or payment for services rendered on  
9 the basis of weight, measurement, or count, or in the determination of  
10 weight, measurement or count, when a charge is made for such  
11 determination, any incorrect weighing or measuring instrument or  
12 device.~~

13 ~~((c))~~ Dispose of any rejected weighing or measuring instrument or  
14 device in a manner contrary to law or rule.

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

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

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

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

27 ~~((h))~~ (g) Use in retail trade, except in the preparation of  
28 packages put up in advance of sale and of medical prescriptions, a  
29 weighing or measuring instrument or device that is not so positioned  
30 that its indications may be accurately read and the weighing or  
31 measuring operation observable from some position which may reasonably  
32 be assumed by a customer.

33 ~~((i))~~ ~~Knowingly approve or issue an official seal of approval for  
34 any weighing or measuring instrument or device known to be incorrect))~~

35 (h) Find a weighing or measuring instrument or device to be correct  
36 under RCW 19.94.255 when the person knows the instrument or device is  
37 incorrect.

38 ~~((j))~~ (i) Fails to disclose to the department or a city sealer  
39 any knowledge of information relating to, or observation of, any device



1 or instrument added to or modifying any weighing or measuring  
2 instrument or device for the purpose of selling, offering, or exposing  
3 for sale, less than the quantity represented of a commodity or  
4 calculated to falsify weight or measure, if the person is a service  
5 agent.

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

9 (2) Any person who, by himself or herself, by his or her agent or  
10 employee, or as the agent or employee of another person, violates RCW  
11 19.94.390 as determined by the examination procedure adopted by or  
12 under RCW 19.94.390(2) is subject to a civil penalty of not more than  
13 one thousand dollars. The record of such a violation shall not be a  
14 public record nor be disclosed to the public for a period of ten days  
15 following the determination by the department that a violation has  
16 occurred and an order has been issued to the violator.

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

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

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

28 **Sec. 21.** RCW 19.94.900 and 1969 c 67 s 54 are each amended to read  
29 as follows:

30 (1) Except as provided in subsection (2) of this section, the  
31 provisions of this chapter shall be cumulative and nonexclusive and  
32 shall not affect any other remedy available at law.

33 (2) The penalty specified by RCW 19.94.510(2) is exclusive for  
34 violations specified in RCW 19.94.510(2) with regard to any other  
35 penalty or recovery except as may be provided under the consumer  
36 protection act, chapter 19.86 RCW, or as may be provided under other  
37 laws governing private rights of action.

1        NEW SECTION.    **Sec. 22.**    A person who owns a weighing or measuring  
2 instrument or device and uses or permits the use of the instrument for  
3 commercial purposes in violation of section 1 of this act is subject to  
4 a civil penalty of fifty dollars for each such instrument or device  
5 used or permitted to be used in violation of section 1 of this act.

6        NEW SECTION.    **Sec. 23.**    (1) Whenever the department tests or  
7 inspects a weighing or measuring instrument or device and finds the  
8 instrument or device to be incorrect to the economic benefit of the  
9 owner/operator of the weighing or measuring instrument or device and to  
10 the economic detriment of the customer, the owner of the weighing or  
11 measuring instrument or device may be subject to a civil penalty of not  
12 more than five hundred dollars.    The severity of the penalty shall  
13 reflect the size of the monetary losses likely to be experienced by  
14 customers in transactions involving the use of the instrument or device  
15 and the relative value of such losses compared to others likely  
16 experienced by customers as the result of the commercial use of other  
17 incorrect weighing or measuring instruments or devices.

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

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

23        NEW SECTION.    **Sec. 24.**    A new section is added to chapter 15.80 RCW  
24 to read as follows:

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

27        NEW SECTION.    **Sec. 25.**    RCW 19.94.175 and 1992 c 237 s 7 are each  
28 repealed.

29        NEW SECTION.    **Sec. 26.**    Sections 1, 2, 7, 15 through 17, 22, and 23  
30 of this act are each added to chapter 19.94 RCW.

31        NEW SECTION.    **Sec. 27.**    (1) The legislature finds that tracking the  
32 amount of liquid petroleum actually delivered to retail outlets of the  
33 product requires testing the accuracy of the devices used to measure  
34 the product for bulk sales.    Unless the amounts delivered in bulk sales

1 can be determined, determining the amounts for which retail petroleum  
2 outlets should be environmentally accountable is hampered.

3 (2) The sum of seventy-five thousand dollars, or as much thereof as  
4 may be necessary, is appropriated to the department of agriculture from  
5 the state toxics control account for the biennium ending June 30, 1997,  
6 for the purchase of equipment for inspecting and testing, under chapter  
7 19.94 RCW, the instruments or devices used to measure liquid petroleum  
8 for wholesale sales and bulk distribution to retail outlets of the  
9 product.

10 NEW SECTION. **Sec. 28.** This act applies prospectively only and not  
11 retroactively. It applies only to causes of action that arise or that  
12 are commenced on or after the effective date of this act. This act  
13 does not affect any liability or obligation arising prior to the  
14 effective date of this act.

15 NEW SECTION. **Sec. 29.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and shall take  
18 effect July 1, 1995. However, the department of licensing shall take  
19 such actions before the effective date as are necessary to implement  
20 the registration requirements established by section 1 of this act on  
21 the effective date of this act.

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