

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 1524**

Chapter 355, Laws of 1995

54th Legislature  
1995 Regular Session

WEIGHTS AND MEASURES

EFFECTIVE DATE: 7/23/95 - Except Sections 1 and 7 which become effective 1/1/96; and Sections 2 through 6, and 8 through 25 which become effective 7/1/95

Passed by the House April 23, 1995  
Yeas 94 Nays 0

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CLYDE BALLARD

**Speaker of the  
House of Representatives**

Passed by the Senate April 23, 1995  
Yeas 46 Nays 0

\_\_\_\_\_  
JOEL PRITCHARD

**President of the Senate**

Approved May 16, 1995

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MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1524** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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TIMOTHY A. MARTIN

**Chief Clerk**

FILED

May 16, 1995 - 11:05 a.m.

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE HOUSE BILL 1524

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AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington                      54th Legislature                      1995 Regular Session

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

Read first time 03/06/95.

1            AN ACT Relating to weights and measures; amending RCW 19.94.005,  
2 19.94.010, 19.94.160, 19.94.165, 19.94.175, 19.94.185, 19.94.190,  
3 19.94.216, 19.94.250, 19.94.255, 19.94.280, 19.94.320, 19.94.360,  
4 19.94.410, 19.94.390, and 19.94.510; adding new sections to chapter  
5 19.94 RCW; adding a new section to chapter 15.80 RCW; creating new  
6 sections; prescribing penalties; providing effective dates; and  
7 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 the city has adopted fees pursuant to  
17 subsection (2) of this section. If its commercial use is outside of  
18 such a city, the commercial use of the instrument or device shall be  
19 registered with the department.

1 (2) A city with such a sealer and program may establish an annual  
2 fee 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 RCW 19.94.175 for registering the use of a  
5 similar instrument or device with the department. Fees upon weighing  
6 or measuring instruments or devices within the jurisdiction of the city  
7 that are collected under this subsection by city sealers shall be  
8 deposited into the general fund, or other account, of the city as  
9 directed by the governing body of the city.

10 (3) Registrations with the department are accomplished as part of  
11 the master license system under chapter 19.02 RCW. Payment of the  
12 registration fee for a weighing or measuring instrument or device under  
13 the master license system constitutes the registration required by this  
14 section.

15 (4) The fees established by or under RCW 19.94.175 for registering  
16 a weighing or measuring instrument or device shall be paid to the  
17 department of licensing concurrently with an application for a master  
18 license or with the annual renewal of a master license under chapter  
19 19.02 RCW. A weighing or measuring instrument or device shall be  
20 initially registered with the state at the time the owner applies for  
21 a master license for a new business or at the first renewal of the  
22 license that occurs after the instrument or device is first placed into  
23 commercial use. However, the use of an instrument or device that is in  
24 commercial use on the effective date of this act shall be initially  
25 registered at the time the first renewal of the master license of the  
26 owner of the instrument or device is due following the effective date  
27 of this act. The department of licensing shall remit to the department  
28 of agriculture all fees collected under this provision less reasonable  
29 collection expenses.

30 (5) Each city charging registration fees under this section shall  
31 notify the department of agriculture at the time such fees are adopted  
32 and whenever changes in the fees are adopted.

33 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (3) of  
34 this section and RCW 19.94.190(1)(d), the department shall test and  
35 inspect each biennium a sufficient number of weighing and measuring  
36 instruments and devices to ensure that the provisions of this chapter  
37 are enforced.

1 (2) The department may issue an official seal of approval for each  
2 weighing or measuring instrument or device that has been tested and  
3 inspected and found to be correct.

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

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

12 The legislature finds:

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

16 (2) Fair weights and measures are equally important to business and  
17 the consumer.

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

22 ~~(4))~~ This chapter safeguards the consuming public and ensures that  
23 businesses receive proper compensation for the commodities they  
24 deliver.

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

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

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

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

36 (c) "Commodity in package form" means a commodity put up or  
37 packaged in any manner in advance of sale in units suitable for either

1 wholesale or retail sale, exclusive, however, of an auxiliary shipping  
2 container enclosing packages that individually conform to the  
3 requirements of this chapter. An individual item or lot of any  
4 commodity not in packaged form, but on which there is marked a selling  
5 price based on established price per unit of weight or of measure,  
6 shall be construed to be a commodity in package form.

7 (d) "Consumer package" or "package of consumer commodity" means a  
8 commodity in package form that is customarily produced or distributed  
9 for sale through retail sales agencies or instrumentalities for  
10 consumption by persons, or used by persons for the purpose of personal  
11 care or in the performance of services ordinarily rendered in or about  
12 a household or in connection with personal possessions.

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

16 (f) "Department" means the department of agriculture of the state  
17 of Washington.

18 (g) "Director" means the director of the department or duly  
19 authorized representative acting under the instructions and at the  
20 direction of the director.

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

24 (i) "Net weight" means the weight of a commodity excluding any  
25 materials, substances, or items not considered to be part of such  
26 commodity. Materials, substances, or items not considered to be part  
27 of a commodity shall include, but are not limited to, containers,  
28 conveyances, bags, wrappers, packaging materials, labels, individual  
29 piece coverings, decorative accompaniments, and coupons.

30 (j) "Nonconsumer package" or "package of nonconsumer commodity"  
31 means a commodity in package form other than a consumer package and  
32 particularly a package designed solely for industrial or institutional  
33 use or for wholesale distribution only.

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

38 (l) "Official seal of approval" means the ((uniform)) seal or  
39 certificate issued by the director or city sealer which indicates that

1 a secondary weights and measures standard or a weighing or measuring  
2 instrument or device conforms with the specifications, tolerances, and  
3 other technical requirements adopted in RCW 19.94.195.

4 (m) "Person" means any individual, receiver, administrator,  
5 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
6 copartnership, joint venture, club, company, business trust,  
7 corporation, association, society, or any group of individuals acting  
8 as a unit, whether mutual, cooperative, fraternal, nonprofit, or  
9 otherwise.

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

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

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

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

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

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

33 (t) "Secondary weights and measures standard" means (~~(any object)~~)  
34 the physical standards that are traceable to the primary standards  
35 through comparisons, used by the director, a city sealer, or a service  
36 agent that under specified conditions defines or represents a  
37 recognized weight or measure during the inspection, adjustment,  
38 testing, or systematic standardization of the graduations of any  
39 weighing or measuring instrument or device.

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

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

5 Weights and measures standards that are in conformity with the  
6 standards of the United States as have been supplied to the state by  
7 the federal government or otherwise obtained by the state for use as  
8 state weights and measures standards, shall, when the same shall have  
9 been certified as such by the national institute of standards and  
10 technology or any successor organization, be the ~~((state))~~ primary  
11 standards of weight and measure. The state weights and measures  
12 standards shall be kept in a place designated by the director and shall  
13 ~~((not be removed from such designated place except for repairs or for~~  
14 ~~certification. These state weights and measures standards shall be~~  
15 ~~submitted at least once every ten years to))~~ be maintained in such  
16 calibration as prescribed by the national institute of standards and  
17 technology or any successor organization ~~((for certification)).~~

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

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

26 ~~(2) Beginning fiscal year 1993, the schedule of inspection and~~  
27 ~~testing shall be staggered so as one half of the weighing or measuring~~  
28 ~~instruments or devices under the jurisdiction of the inspecting and~~  
29 ~~testing authority are approved in odd fiscal years and the remaining~~  
30 ~~one half are inspected and tested in even fiscal years.~~

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

34 **Sec. 7.** RCW 19.94.175 and 1992 c 237 s 7 are each amended to read  
35 as follows:

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

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

23       (3) The fees authorized under this chapter may be billed only after  
24 the director or a city sealer has issued an official seal of approval  
25 for a weighing or measuring instrument or device or a weight or measure  
26 standard.

27       (4) All fees shall become due and payable thirty days after billing  
28 by the department or a city sealer. A late penalty of one and one half  
29 percent per month may be assessed on the unpaid balance more than  
30 thirty days in arrears.)) (1) Pursuant to section 1 of this act, the  
31 following annual registration fees shall be charged for each weighing  
32 or measuring instrument or device used for commercial purposes in this  
33 state:

- 34       (a)     Weighing devices:  
35       (i)     Small scales "zero to four hundred pounds  
36               capacity" . . . . . \$ 5.00  
37       (ii)    Intermediate scales "four hundred one pounds to  
38               five thousand pounds capacity" . . . . . \$ 20.00

1	(iii)	<u>Large scales "over five thousand pounds</u>	
2		<u>capacity" . . . . .</u>	<u>\$ 52.00</u>
3	(iv)	<u>Large scales with supplemental devices . . . . .</u>	<u>\$ 52.00</u>
4	(v)	<u>Railroad track scales . . . . .</u>	<u>\$800.00</u>
5	(b)	<u>Liquid fuel metering devices:</u>	
6	(i)	<u>Motor fuel meters with flows of less than twenty</u>	
7		<u>gallons per minute . . . . .</u>	<u>\$ 5.00</u>
8	(ii)	<u>Motor fuel meters with flows of more than twenty</u>	
9		<u>but not more than one hundred fifty gallons per</u>	
10		<u>minute . . . . .</u>	<u>\$ 16.00</u>
11	(iii)	<u>Motor fuel meters with flows over one hundred</u>	
12		<u>fifty gallons per minute . . . . .</u>	<u>\$ 25.00</u>
13	(c)	<u>Liquid petroleum gas meters:</u>	
14	(i)	<u>With one inch diameter or smaller dispensers . . .</u>	<u>\$ 10.00</u>
15	(ii)	<u>With greater than one inch diameter dispensers . .</u>	<u>\$ 30.00</u>
16	(d)	<u>Fabric meters . . . . .</u>	<u>\$ 5.00</u>
17	(e)	<u>Cordage meters . . . . .</u>	<u>\$ 5.00</u>
18	(f)	<u>Mass flow meters . . . . .</u>	<u>\$ 14.00</u>
19	(g)	<u>Taxi meters . . . . .</u>	<u>\$ 5.00</u>

20 ~~((5) Fees upon weighing or measuring instruments or devices within~~  
21 ~~the jurisdiction of the city that are collected under this section by~~  
22 ~~city sealers shall be deposited into the general fund, or other~~  
23 ~~account, of the city as directed by the governing body of the city. On~~  
24 ~~the thirtieth day of each month, city sealers shall, pursuant to~~  
25 ~~procedures established and upon forms provided by the director, remit~~  
26 ~~to the department for administrative costs ten percent of the total~~  
27 ~~fees collected.~~

28 ~~(6)) (2) With the exception of subsection ((7)) (3) of this~~  
29 ~~section, no person shall be required to pay more than the established~~  
30 ~~((inspection and testing)) fee adopted under this section for any~~  
31 ~~weighing or measuring instrument or device in any ((two-year period~~  
32 ~~when the same has been found to be correct)) one year.~~

33 ~~((7) Whenever a special request is made by the owner for the~~  
34 ~~inspection and testing of a weighing or measuring instrument or device,~~  
35 ~~the fee prescribed by the director for such a weighing or measuring~~  
36 ~~instrument or device shall be paid by the owner.))~~

37 (3) The department or a city sealer may establish reasonable  
38 inspection and testing fees for each type or class of weighing or  
39 measuring instrument or device specially requested to be inspected or

1 tested by the device owner. These inspection and testing fees shall be  
2 limited to those amounts necessary for the department or city sealer to  
3 cover the direct costs associated with such inspection and testing.  
4 The fees established under this subsection shall not be set so as to  
5 compete with service agents normally engaged in such services.

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

8 (1) Except as provided in subsection (2) of this section, all  
9 moneys collected under this chapter shall be payable to the director  
10 and placed in the weights and measures account hereby established in  
11 the ((state treasury)) agricultural local fund. Moneys deposited in  
12 this account ((may be spent only following appropriation by law and))  
13 shall be used solely for the purposes of ((weighing or measuring  
14 instrument or device inspection and testing)) implementing or enforcing  
15 this chapter. No appropriation is required for the disbursement of  
16 moneys from the weights and measures account by the director.

17 (2) Civil penalties collected by the department under RCW 19.94.510  
18 and sections 22 and 23 of this act shall be deposited in the state  
19 general fund.

20 (3) By January 1st of each odd-numbered year, the department shall  
21 provide a written report on the amount of revenues by major category  
22 received under this chapter, including the metrology laboratory, for  
23 the administration of the weights and measures program by the  
24 department. The report shall include the amount of revenue generated  
25 for the two previous biennia, an estimate of the amount of funds to be  
26 received during the current biennium, and an estimate of the amount of  
27 funds to be generated during the next ensuing biennium. The report  
28 shall be submitted to the office of financial management and to each  
29 committee in the legislature with jurisdiction over programs  
30 administered by the department in the house and the senate.

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

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

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

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

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

13 ~~((The establishment of fee payment and reporting procedures and~~  
14 ~~any necessary report and record forms to be used by city sealers when~~  
15 ~~remitting the percentage of total fees collected as required under this~~  
16 ~~chapter;~~

17 ~~(e))~~ The establishment of exemptions from the ~~((sealing or))~~  
18 marking ~~((inspection and testing))~~ or tagging requirements of RCW  
19 19.94.250 with respect to weighing or measuring instruments or devices  
20 of such character or size that such ~~((sealing or))~~ marking or tagging  
21 would be inappropriate, impracticable, or damaging to the apparatus in  
22 question;

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

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

34 (g) The establishment of inspection and testing procedures to be  
35 used for classes of weighing or measuring instruments or devices found  
36 to be few in number, highly complex, and of such character that  
37 differential or special inspection and testing is necessary, including  
38 railroad track scales. The department's procedures shall include  
39 requirements for the provision, maintenance, and transport of any

1 weight or measure necessary for the inspection and testing at no  
2 expense to the state.

3 (2) These rules shall also include specifications and tolerances  
4 for the acceptable range of accuracy required of weighing or measuring  
5 instruments or devices and shall be designed to eliminate from use,  
6 without prejudice to weighing or measuring instruments or devices that  
7 conform as closely as practicable to official specifications and  
8 tolerances, those (a) that are of such construction that they are  
9 faulty, that is, that are not reasonably permanent in their adjustment  
10 or will not repeat their indications correctly, or (b) that facilitate  
11 the perpetration of fraud.

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

14 The department shall:

15 (1) Biennially inspect and test the secondary weights and measures  
16 standards of any city for which the appointment of a city sealer is  
17 provided by this chapter and shall issue an official seal of approval  
18 for same when found to be correct. The department shall, by rule,  
19 establish a reasonable fee for ~~((such))~~ this and any other inspection  
20 and testing services performed by the department's metrology  
21 laboratory. Each such fee shall recover at least seventy-five percent  
22 of the laboratory's costs incurred in performing the service governed  
23 by the fee on or before June 30, 1998. The fees established under this  
24 subsection may be increased in excess of the fiscal growth factor as  
25 provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and  
26 1998. For fiscal year 1999 and thereafter, the fees established under  
27 this subsection may not be increased by an amount greater than the  
28 fiscal growth factor as provided in RCW 43.135.055.

29 (2) Biennially inspect~~((7))~~ and test~~((, and, if found to be~~  
30 ~~correct, issue an official seal of approval for))~~ any weighing or  
31 measuring instrument or device used in an agency or institution to  
32 which moneys are appropriated by the legislature or of the federal  
33 government and shall report any findings in writing to the executive  
34 officer of the agency or institution concerned. The department shall  
35 collect a reasonable fee, to be set by rule, for testing any such  
36 weighing or measuring instrument or device.

37 ~~((3) Inspect, test, and, if found to be correct, issue a seal of~~  
38 ~~approval for classes of weighing or measuring instruments or devices~~

1 found to be few in number, highly complex, and of such character that  
2 differential inspection and testing frequency is necessary including,  
3 but not limited to, railroad track scales and grain elevator scales.  
4 The department shall develop rules regarding the inspection and testing  
5 procedures to be used for such weighing or measuring instruments or  
6 devices which shall include requirements for the provision,  
7 maintenance, and transport of any weight or measure standard necessary  
8 for inspection and testing at no expense to the state. The department  
9 may collect a reasonable fee, to be set by rule, for inspecting and  
10 testing any such weighing and measuring instruments or devices. This  
11 fee shall not be unduly burdensome and shall cover, to the extent  
12 possible, the direct costs of performing such service.))

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

15 (1) ((The director or a city sealer shall, from time to time,  
16 inspect any weighing or measuring instrument or device, except those  
17 weighing or measuring instruments or devices exempted under the  
18 authority of RCW 19.94.190, to determine if it is correct.)) If the  
19 director or a city sealer discovers upon inspection that a weighing or  
20 measuring instrument or device is "incorrect," but in his or her best  
21 judgment is susceptible of satisfactory repair, he or she shall reject  
22 and mark or tag as rejected any such weighing or measuring instrument  
23 or device.

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

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

32 (4) The director or a city sealer shall permit the use of an  
33 incorrect weighing or measuring instrument or device, pending repairs,  
34 if the device is incorrect to the economic benefit of the consumer and  
35 the consumer is not the seller. However, if the director or city  
36 sealer finds such an error, the director or city sealer shall notify  
37 the owner of the instrument or device, or the owner's representative at  
38 the business location, regarding the error.

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

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

8       (2) The owner of any weighing or measuring instrument or device  
9 that has been marked or tagged as rejected by the director or a city  
10 sealer shall cause the same to be made correct within thirty days or  
11 such longer period as may be authorized by the rejecting authority. In  
12 lieu of correction, the owner of such weighing and measuring instrument  
13 or device may dispose of the same, but only in the manner specifically  
14 authorized by the rejecting authority.

15       (3) Weighing and measuring instruments or devices that have been  
16 rejected shall not again be used commercially until they have been  
17 ~~((officially)) reexamined and((,if)) found to be correct((,had an~~  
18 ~~official seal of approval placed upon or issued for such weighing or~~  
19 ~~measuring instrument or device by the rejecting authority)) by the~~  
20 department, city sealer, or a service agent registered with the  
21 department.

22       (4) If a weighing or measuring instrument or device marked or  
23 tagged as rejected is placed back into commercial service by a service  
24 agent registered with the department, the agent shall provide a signed  
25 certification to the owner or operator of the instrument or device so  
26 indicating and shall report to the rejecting authority as provided by  
27 rule under RCW 19.94.190(1)(c).

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

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

33       (2) Each city electing to have a city sealer shall adopt rules for  
34 the appointment and removal of the city sealer and any deputies  
35 required by local ordinance. The rules for appointment of a city  
36 sealer and any deputies must include provisions for the advice and  
37 consent of the local governing body of such city and, as necessary, any  
38 provisions for local civil service laws and regulations.

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

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

10 (4) The city sealer shall test and inspect a sufficient number of  
11 weighing and measuring instruments and devices to ensure that the  
12 provisions of this chapter are enforced in the city. This subsection  
13 does not apply to weighing or measuring instruments or devices for  
14 which the sealer does not have the necessary testing or inspection  
15 equipment or to instruments or devices that are to be inspected by the  
16 department under RCW 19.94.216(2).

17 (5) A city sealer may issue an official seal of approval for each  
18 weighing or measuring instrument or device that has been inspected and  
19 tested and found to be correct.

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

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

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

32 NEW SECTION. **Sec. 15.** (1) Except as authorized by the department,  
33 a service agent who intends to provide the examination that permits a  
34 weighing or measuring instrument or device to be placed back into  
35 commercial service under RCW 19.94.255(3) shall receive an official  
36 registration certificate from the director prior to performing such a

1 service. This registration requirement does not apply to the  
2 department or a city sealer.

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

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

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

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

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

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

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

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

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

32 (b) A finding by the department of a pattern of intentional  
33 fraudulent or negligent activities in the installation, inspection,  
34 testing, checking, adjusting, or systematically standardizing and  
35 approving the graduations of any weighing or measuring instrument or  
36 device;

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

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

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

6 (2) Upon the department's revocation of, suspension of, or refusal  
7 to renew an official registration certificate, an individual shall  
8 have the right to appeal this decision in accordance with the  
9 administrative procedure act, chapter 34.05 RCW.

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

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

19 **Sec. 19.** RCW 19.94.410 and 1988 c 63 s 1 are each amended to read  
20 as follows:

21 (~~(1) Except as provided in subsection (2) of this section,~~)  
22 Butter, oleomargarine and margarine shall be offered and exposed for  
23 sale and sold by weight (~~and only in units of one quarter pound, one~~  
24 ~~half pound, one pound or multiples of one pound, avoirdupois weight.~~

25 ~~(2) The director of agriculture may allow the sale of butter~~  
26 ~~specialty products in nonstandard units of weight if the purpose~~  
27 ~~achieved by using such nonstandard units is decorative in nature and~~  
28 ~~the products are clearly labeled as to weight and price per pound)).~~

29 **Sec. 20.** RCW 19.94.390 and 1969 c 67 s 39 are each amended to read  
30 as follows:

31 (1) Whenever any commodity or service is sold, or is offered,  
32 exposed, or advertised for sale, by weight, measure, or count, the  
33 price shall not be misrepresented, nor shall the price be represented  
34 in any manner calculated or tending to mislead or deceive an actual or  
35 prospective purchaser. Whenever an advertised, poster or labeled price  
36 per unit of weight, measure, or count includes a fraction of a cent,

1 all elements of the fraction shall be prominently displayed and the  
2 numeral or numerals expressing the fraction shall be immediately  
3 adjacent to, of the same general design and style as, and at least one-  
4 half the height and one-half the width of the numerals representing the  
5 whole cents.

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

24 (3) Electronic scanner screens installed after January 1, 1996, and  
25 used in retail establishments must be visible to the consumer at the  
26 checkout line.

27 **Sec. 21.** RCW 19.94.510 and 1992 c 237 s 35 are each amended to  
28 read as follows:

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

34 (a) Use or have in possession for the purpose of using for any  
35 commercial purpose a weighing or measuring instrument or device that is  
36 intentionally calculated to falsify any weight, measure, or count of  
37 any commodity, or to sell, offer, expose for sale or hire or have in  
38 possession for the purpose of selling or hiring an incorrect weighing

1 or measuring instrument or device or any weighing or measuring  
2 instrument or device calculated to falsify any weight or measure.

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

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

12 (d) Remove from any weighing or measuring instrument or device,  
13 contrary to law or rule, any tag, seal, stamp or mark placed thereon by  
14 the director or a city sealer.

15 (e) Sell, offer or expose for sale less than the quantity he or she  
16 represents of any commodity, thing or service.

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

21 (g) Keep for the purpose of sale, advertise, offer or expose for  
22 sale or sell any commodity, thing or service known to be in a condition  
23 or manner contrary to law or rule.

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

30 (i) Knowingly approve or issue an official seal of approval for any  
31 weighing or measuring instrument or device known to be incorrect.

32 (j) Find a weighing or measuring instrument or device to be correct  
33 under RCW 19.94.255 when the person knows the instrument or device is  
34 incorrect.

35 (k) Fails to disclose to the department or a city sealer any  
36 knowledge of information relating to, or observation of, any device or  
37 instrument added to or modifying any weighing or measuring instrument  
38 or device for the purpose of selling, offering, or exposing for sale,

1 less than the quantity represented of a commodity or calculated to  
2 falsify weight or measure, if the person is a service agent.

3 ~~((k))~~ (1) Violate any other provision of this chapter or of the  
4 rules adopted under the provisions of this chapter for which a specific  
5 penalty has not been prescribed.

6 (2) Any person who, by himself or herself, by his or her agent or  
7 employee, or as the agent or employee of another person, violates RCW  
8 19.94.390 as determined by the examination procedure adopted by or  
9 under RCW 19.94.390(2) is subject to a civil penalty of not more than  
10 one thousand dollars.

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

15 (a) Knowingly adds to or modifies any weighing or measuring  
16 instrument or device by the addition of a device or instrument that  
17 would allow the sale, or the offering or exposure for sale, of less  
18 than the quantity represented of a commodity or falsification of weight  
19 or measure.

20 (b) Commits as a fourth or subsequent infraction any of the acts  
21 listed in subsection (1) or (2) of this section.

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

27 NEW SECTION. Sec. 23. (1) Whenever the department or a city  
28 sealer tests or inspects a weighing or measuring instrument or device  
29 and finds the instrument or device to be incorrect to the economic  
30 benefit of the owner/operator of the weighing or measuring instrument  
31 or device and to the economic detriment of the customer, the owner of  
32 the weighing or measuring instrument or device may be subject to the  
33 following civil penalties:

34 Device deviations outside the tolerances stated in Handbook 44.

	<u>Penalty</u>
35	
36 Small weighing or measuring instruments or devices:	
37 First violation . . . . .	\$ 50.00

1	Second or subsequent violation within one year of first	
2	violation . . . . .	\$150.00
3	Medium weighing or measuring instruments or devices:	
4	First violation . . . . .	\$100.00
5	Second or subsequent violation within one year of first	
6	violation . . . . .	\$300.00
7	Large weighing or measuring instruments or devices:	
8	First violation . . . . .	\$200.00
9	Second or subsequent violation within one year of first	
10	violation . . . . .	\$500.00

11 (2) For the purposes of this section:

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

17 (b) The following are medium weighing or measuring instruments or  
18 devices: Scales of four hundred one to five thousand pounds capacity,  
19 liquid fuel metering devices with flows of more than twenty but not  
20 more than one hundred fifty gallons per minute, and mass flow meters.

21 (c) The following are large weighing or measuring instruments or  
22 devices: Liquid petroleum gas meters with greater than one inch  
23 diameter dispensers, liquid fuel metering devices with flows over one  
24 hundred fifty gallons per minute, and scales of more than five thousand  
25 pounds capacity and scales of more than five thousand pounds capacity  
26 with supplemental devices.

27 (3) The director or a city sealer shall issue the appropriate civil  
28 penalty concurrently with the conclusion of the test or inspection.

29 (4) The weighing or measuring instrument or device owner shall have  
30 the right to appeal the civil penalty in accordance with the  
31 administrative procedure act, chapter 34.05 RCW.

32 NEW SECTION. **Sec. 24.** (1) The legislature finds that:

33 (a) Civil and criminal penalties relating to violations of weights  
34 and measures provisions and the disclosure of these violations to the  
35 media have recently come under public scrutiny, resulting in the  
36 appropriate nature of such actions being called into question;

1 (b) It is vital to the public interest that the state ensure the  
2 uniform application of weights and measures procedures and penalties  
3 throughout the state; and

4 (c) It is necessary to review the application of civil and criminal  
5 penalties for violations of weights and measures provisions and the  
6 disclosure of these violations to the media.

7 (2) The legislature hereby establishes the weights and measures  
8 enforcement task force. The task force shall be composed of a  
9 representative of the department of agriculture and a representative of  
10 each of the following: City sealers, city prosecuting attorneys,  
11 attorneys general's offices, service stations, grocery stores,  
12 retailers, food processors/dealers, the agriculture community, oil and  
13 heat dealers, liquid propane dealers, the media, and consumer groups.

14 (3) The intent of this section is to require a study to:

15 (a) Analyze the current civil and criminal provisions of state and  
16 local weights and measures programs and the disclosure of violations of  
17 these provisions to the media.

18 (b) Consider whether the current level of civil and criminal  
19 provisions of state and local weights and measures programs and the  
20 disclosure of violations of these provisions to the media are  
21 appropriate.

22 (c) Identify the effects upon both sellers and consumers in the  
23 marketplace of civil and criminal provisions of state and local weights  
24 and measures programs and the disclosure of violations of these  
25 provisions to the media.

26 (d) Recommend to the legislature possible alternative enforcement  
27 mechanisms based on the findings of the study.

28 (4) The weights and measures enforcement task force shall present  
29 its final findings and any recommended legislation to the committees of  
30 the legislature that deal with law and justice matters no later than  
31 November 30, 1995.

32 (5) This section shall expire on December 31, 1995.

33 NEW SECTION. **Sec. 25.** A new section is added to chapter 15.80 RCW  
34 to read as follows:

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

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

3        NEW SECTION.    **Sec. 27.**    This act applies prospectively only and not  
4 retroactively.    It applies only to causes of action that arise or that  
5 are commenced on or after the effective date of this act.    This act  
6 does not affect any liability or obligation arising prior to the  
7 effective date of this act.

8        NEW SECTION.    **Sec. 28.**    (1) Sections 2 through 6 and 8 through 25  
9 of this act are necessary for the immediate preservation of the public  
10 peace, health, or safety, or support of the state government and its  
11 existing public institutions, and shall take effect July 1, 1995.

12        (2) Sections 1 and 7 of this act shall take effect January 1, 1996.

Passed the House April 23, 1995.

Passed the Senate April 23, 1995.

Approved by the Governor May 16, 1995.

Filed in Office of Secretary of State May 16, 1995.