

SENATE BILL REPORT

2SHB 1524

As Reported By Senate Committee On:
Agriculture & Agricultural Trade & Development, March 29, 1995
Ways & Means, April 4, 1995

Title: An act relating to weights and measures.

Brief Description: Changing weights and measures regulations.

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

Brief History:

Committee Activity: Agriculture & Agricultural Trade & Development: 3/28/95, 3/29/95 [DPA].

Ways & Means: 4/4/95 [DPA, DNP].

SENATE COMMITTEE ON AGRICULTURE & AGRICULTURAL TRADE & DEVELOPMENT

Majority Report: Do pass as amended.

Signed by Senators Rasmussen, Chair; Loveland, Vice Chair; A. Anderson, Morton and Newhouse.

Staff: Bob Lee (786-7404)

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

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

An inspection fee may be charged only for an instrument or device approved as correct. There is no fee collected when an instrument or device is inspected and found incorrect. The fee schedule is established by regulations adopted by the department.

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

A civil fine of up to \$1000 may be assessed for violations of the Weights and Measures Act. For several repeat violations, a civil fine of up to \$5000 may be assessed.

Summary of Amended Bill: The requirement that the weighing and measuring devices be inspected annually is deleted from existing law. The mechanism for funding the weights and measures program is changed from a fee collected at the time a device is inspected and approved, to a registration fee collected upon renewal of a master business license.

The current authority for fees to be set in rules is changed to the fees being set in statute and collected whether or not the device is inspected. The fees established in statute are lower than the current fees set by rule.

Devices that fail to meet inspection standards are to be reinspected. A new reinspection fee is established, generally at twice the amount of the device registration fee, as an incentive to maintain devices within allowable tolerances.

Activated city weights and measures programs may continue to be funded from the city general fund or, if the city council so chooses, fees may be collected on devices through the state master business license program. If fees are established by cities, as in existing law, they cannot exceed the fees that are assessed to fund the state program.

The procedures contained in the National Conference on Weights and Measures manual are to be used when examinations are conducted of electronic scanner and similar point of sale systems. Electronic scanner screens installed after January 1, 1996 must be visible to the consumer at the checkout line. Three days after the completion of an examination of an electronic scanner system, the department is to release the results of the examination to the public.

Amended Bill Compared to Substitute Bill: In the amended bill, fees for the registration of devices are reduced by 20 percent compared to those currently established by agency rule, but are higher than the House substitute version. This schedule generates some increased revenue as compared to the current fees on device inspections. The reinspection fee for failed devices is included.

Deleted from the substitute bill were changes to a number of the penalty provisions. The requirement that "knowingly" be a precondition to all violations in order that a civil fine be imposed was deleted. Thus, the current law is retained which has selected provisions subject to the "knowingly" or "intentionally" condition. Also deleted were new restrictions on the use of city authority regarding the application of criminal penalties contained in locally adopted ordinances.

The prohibition that results of electronic scanner examinations not be released to the public for ten days was reduced to three days from the date the examination was conducted. Current law requires public agencies to release information within five days.

Appropriation: None.

Fiscal Note: Requested on March 30, 1995.

Effective Date: The bill contains an emergency clause and takes effect on June 1, 1995. However, the implementation of the registration requirements established by sections 4 and 5 of this bill take effect on January 1, 1996.

Testimony For: There is a general consensus that collecting fees as part of a master business license program is preferred over the present method of collecting fees at the time a device is inspected and approved. Because fees are collected whether the device is inspected or not, this method allows the department to focus its resources to those areas of greatest need and generates an equivalent or greater amount of revenue.

Testimony Against: The fees in the House version cut staff in the Department of Agriculture's weights and measures program. An adjustment is needed to provide for adequate staffing.

The cities objected to the state restricting the use of criminal penalties.

The ten day withholding of information from the press and the public is too long and cannot be justified.

The "knowingly" provision creates too great of obstacle to enforcement of the weights and measures program since this program relies on voluntary compliance and civil fines are used only for serious or repeat violations.

Testified: Lisa Thatcher, Washington State Food Dealers (pro); Tom Dorley, AWB (pro); Jan Gee, WRA (pro); Herbert Pember, AARP (con); Ted Inkley, Seattle City Attorney's Office (con); Mel McDonald, City of Seattle Department of Finance (con); Todd Mackie, Phillips Scale (con); Janet Ray, AAA of Washington (con); David Gerdts, NW Propane Gas Association (pro); Ray Shindler, Washington Association of Wheat Growers (pro); Kristie Anderson, City of Everett (con); Mary Beth Lang, Jim Jesernig, Department of Agriculture; Rowland Thompson, Allied Daily Newspapers.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Drew, Fraser, Gaspard, Hargrove, Quigley, Sheldon, Snyder, Spanel, Sutherland and Wojahn.

Minority Report: Do not pass.

Signed by Senators Hochstatter, McDonald and West.

Staff: Susan Lucas (786-7711)

Summary of Ways & Means Amended Bill: Fees for the inspection of weights and measures devices are collected annually based on a registration, rather than an inspection fee. Fees are collected upon renewal of a master business license. Devices do not have to be inspected annually as is the case in current law. If devices fail the inspection, they are reinspected and subject to a reinspection fee that is twice the registration fee amount.

Cities may continue to operate weights and measures programs funded from the city general fund or through the collection of fees. Fees are collected through the master business license program and may not exceed the state fee levels.

Examinations of electronic scanners and other point of sale devices must be conducted according to the procedures contained in the National Conference on Weights and Measures manual. Electronic scanner screens installed after January 1, 1996 must be visible to the consumer at the checkout line.

Ways & Means Amended Bill Compared to Substitute Bill: The amended bill contains fees for registration of weights and measures devices which are higher than the fees contained in the substitute bill as passed the House. Fees in the amended bill are equivalent to fees currently charged by the department. The reinspection fee for failed devices is included in the amended bill.

Several changes in the penalty provisions of the substitute bill were deleted in the amended bill. The requirement that all violations must "knowingly" occur to be subject to a civil fine is deleted. Restrictions on the use of city authority regarding the application of criminal penalties contained in locally adopted ordinances were deleted.

Testimony For: None.

Testimony Against: None.

Testified: No one.

Bill As Originally Passed Senate: The fees to fund the metrology laboratory are increased but the proposed reinspection fee on failed devices is deleted. Private service agents who want authority to place failed devices back into service are required to pay an annual registration fee and meet other requirements of the chapter.

Instead of a fee to be collected after a device is inspected as under existing law, a registration fee on devices will be collected as part of the master business license program.

Current law is maintained regarding the disclosure of results of examinations conducted by the Department of Agriculture.

There are no changes to the penalty section of the current law.