
HOUSE BILL 1773

State of Washington

65th Legislature

2017 Regular Session

By Representatives Pettigrew, Robinson, and Blake; by request of Department of Agriculture

Read first time 01/30/17. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to device registration, civil penalties, and
2 service agent registration for the weights and measures program;
3 amending RCW 19.94.010, 19.94.160, 19.94.175, 19.94.175, 19.94.195,
4 19.94.205, 19.94.216, 19.94.258, 19.94.2582, 19.94.2584, 19.94.325,
5 19.94.340, 19.94.350, 19.94.410, 19.94.430, 19.94.490, 19.94.500,
6 19.94.510, 19.94.515, and 19.94.517; repealing RCW 19.94.165;
7 prescribing penalties; providing effective dates; providing an
8 expiration date; and declaring an emergency.

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

10 **Sec. 1.** RCW 19.94.010 and 1995 c 355 s 4 are each amended to
11 read as follows:

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

15 (a) "City" means a first-class city or a code city as defined in
16 RCW 35A.01.035, with a population of over fifty thousand persons.

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

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

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

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

18 (f) "Department" means the department of agriculture of the state
19 of Washington.

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

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

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

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

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

1 (l) "Official seal of approval" means the seal or certificate
2 issued by the director or city sealer which indicates that a
3 secondary weights and measures standard or a weighing or measuring
4 instrument or device conforms with the specifications, tolerances,
5 and other technical requirements adopted in RCW 19.94.195.

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

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

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

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

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

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

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

37 (t) "Secondary weights and measures standard" means the physical
38 standards that are traceable to the primary standards through
39 comparisons, used by the director, a city sealer, or a service agent
40 that under specified conditions defines or represents a recognized

1 weight or measure during the inspection, adjustment, testing, or
2 systematic standardization of the graduations of any weighing or
3 measuring instrument or device.

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

6 **Sec. 2.** RCW 19.94.160 and 1995 c 355 s 5 are each amended to
7 read as follows:

8 Physical weights and measures standards that are in conformity
9 with the standards of the United States as have been supplied to the
10 state by the federal government or otherwise obtained by the state
11 for use as state weights and measures standards, shall, when the same
12 shall have been certified as such by the national institute of
13 standards and technology or any successor organization, be the
14 primary standards of weight and measure. The state weights and
15 measures standards shall be kept in a place designated by the
16 director and shall be maintained in such calibration as prescribed by
17 the national institute of standards and technology or any successor
18 organization.

19 **Sec. 3.** RCW 19.94.175 and 2006 c 358 s 2 are each amended to
20 read as follows:

21 (1) Pursuant to RCW 19.94.015, the following annual registration
22 fees shall be charged for each weighing or measuring instrument or
23 device used for commercial purposes in this state:

24	(a) Weighing devices:	
25	(i) Small scales "zero to four	((10.00))
26	hundred pounds capacity" ...	\$ <u>14.20</u>
27	(ii) Intermediate scales "four	
28	hundred one pounds to five	((40.00))
29	thousand pounds capacity" ..	\$ <u>54.00</u>
30	(iii) Large scales "over five	((75.00))
31	thousand pounds capacity" ..	\$ <u>106.50</u>
32	(iv) Railroad track scales	((800.00))
33		\$ <u>1,080.00</u>
34	(b) Liquid fuel metering devices:	

1	(i)	Motor fuel meters with flows	
2		of twenty gallons or less per	((10.00))
3		minute	\$ <u>14.20</u>
4	(ii)	Motor fuel meters with flows	
5		of more than twenty but not	
6		more than one hundred fifty	((32.00))
7		gallons per minute	\$ <u>44.60</u>
8	(iii)	Motor fuel meters with flows	
9		over one hundred fifty gallons	((50.00))
10		per minute	\$ <u>67.50</u>
11	(c)	Liquid petroleum gas meters:	
12	(i)	With one inch diameter or	((25.00))
13		smaller dispensers	\$ <u>35.50</u>
14	(ii)	With greater than one inch	((50.00))
15		diameter dispensers	\$ <u>71.00</u>
16	(d)	Fabric meters	((10.00))
17			\$ <u>13.50</u>
18	(e)	Cordage meters	((10.00))
19			\$ <u>13.50</u>
20	(f)	Mass flow meters	((200.00))
21			\$ <u>270.00</u>
22	(g)	Taxi meters	((25.00))
23			\$ <u>35.50</u>

24 (2) With the exception of subsection (3) of this section, no
25 person shall be required to pay more than the annual registration fee
26 for any weighing or measuring instrument or device in any one year.

27 (3) The department or a city sealer may establish reasonable
28 inspection and testing fees for each type or class of weighing or
29 measuring instrument or device specially requested to be inspected or
30 tested by the device owner. These inspection and testing fees shall
31 be limited to those amounts necessary for the department or city
32 sealer to cover the direct costs associated with such inspection and
33 testing. The fees shall not be set so as to compete with service
34 agents normally engaged in such services.

35 **Sec. 4.** RCW 19.94.175 and 2006 c 358 s 2 are each amended to
36 read as follows:

1 (1) Pursuant to RCW 19.94.015, the following annual registration
2 fees shall be charged for each weighing or measuring instrument or
3 device used for commercial purposes in this state:

4	(a) Weighing devices:	
5	(i) Small scales "zero to four	((10.00))
6	hundred pounds capacity" ...	\$ <u>16.00</u>
7	(ii) Intermediate scales "four	
8	hundred one pounds to five	((40.00))
9	thousand pounds capacity" ..	\$ <u>60.00</u>
10	(iii) Large scales "over five	((75.00))
11	thousand pounds capacity" ..	\$ <u>120.00</u>
12	(iv) Railroad track scales	((800.00))
13		\$ <u>1,200.00</u>
14	(b) Liquid fuel metering devices:	
15	(i) Motor fuel meters with flows	
16	of twenty gallons or less per	((10.00))
17	minute	\$ <u>16.00</u>
18	(ii) Motor fuel meters with flows	
19	of more than twenty but not	
20	more than one hundred fifty	((32.00))
21	gallons per minute	\$ <u>50.00</u>
22	(iii) Motor fuel meters with flows	
23	over one hundred fifty gallons	((50.00))
24	per minute	\$ <u>75.00</u>
25	(c) Liquid petroleum gas meters:	
26	(i) With one inch diameter or	((25.00))
27	smaller dispensers	\$ <u>40.00</u>
28	(ii) With greater than one inch	((50.00))
29	diameter dispensers	\$ <u>80.00</u>
30	(d) Fabric meters	((10.00))
31		\$ <u>15.00</u>
32	(e) Cordage meters	((10.00))
33		\$ <u>15.00</u>
34	(f) Mass flow meters	((200.00))
35		\$ <u>300.00</u>
36	(g) Taxi meters	((25.00))
37		\$ <u>40.00</u>

1 (2) With the exception of subsection (3) of this section, no
2 person shall be required to pay more than the annual registration fee
3 for any weighing or measuring instrument or device in any one year.

4 (3) The department or a city sealer may establish reasonable
5 inspection and testing fees for each type or class of weighing or
6 measuring instrument or device specially requested to be inspected or
7 tested by the device owner. These inspection and testing fees shall
8 be limited to those amounts necessary for the department or city
9 sealer to cover the direct costs associated with such inspection and
10 testing. The fees shall not be set so as to compete with service
11 agents normally engaged in such services.

12 (4) The weights and measures advisory group within the department
13 must review the fees in subsection (1) of this section and report to
14 stakeholders on the financial status of the program supported by the
15 fees by September 1, 2024, and September 1st every five years
16 thereafter.

17 **Sec. 5.** RCW 19.94.195 and 1992 c 237 s 10 are each amended to
18 read as follows:

19 (1) The department shall adopt by rule the specifications,
20 tolerances, and other technical requirements for commercial weighing
21 or measuring instruments or devices, (~~together with amendments~~
22 ~~thereto, as recommended by~~) the most recent edition of the national
23 institute of standards and technology (NIST) Handbook 44 (~~published~~
24 ~~by the national institute of standards and technology or any~~
25 ~~successor organization~~) as the specifications, tolerances, and other
26 technical requirements for commercial weighing or measuring
27 instruments or devices commercially used in this state.

28 ~~(2)((a) To promote uniformity, any supplements or amendments to~~
29 ~~Handbook 44 or any similar subsequent publication of the national~~
30 ~~institute of standards and technology or any successor organization~~
31 ~~shall be deemed to have been adopted under this section.~~

32 ~~(b) The director may, however, within thirty days of the~~
33 ~~publication or effective date of Handbook 44 or any supplements,~~
34 ~~amendments, or similar publications give public notice that a hearing~~
35 ~~will be held to determine if such publications should not be~~
36 ~~applicable under this section. Any such hearing shall be conducted~~
37 ~~under chapter 34.05 RCW.)) When adopting by rule the most recent
38 national institute of standards and technology (NIST) Handbook 44~~

1 under subsection (1) of this section, the director may include
2 modifications to the standards in Handbook 44 for the purposes of
3 achieving the objectives of the state.

4 **Sec. 6.** RCW 19.94.205 and 1992 c 237 s 11 are each amended to
5 read as follows:

6 All weighing or measuring instruments or devices used for
7 commercial purposes within this state must be correct. For the
8 purposes of this chapter, weighing or measuring instruments or
9 devices and weights and measures standards shall be deemed to be
10 "correct" when they conform to all applicable requirements of this
11 chapter ((~~or~~)) and the requirements of any rule adopted by the
12 department under the authority granted in this chapter; all other
13 weighing or measuring instruments or devices and weights and measures
14 standards shall be deemed to be "incorrect."

15 **Sec. 7.** RCW 19.94.216 and 1995 c 355 s 10 are each amended to
16 read as follows:

17 The department shall((~~+~~
18 (~~1~~)) biennially inspect and test the secondary weights and
19 measures standards of any city for which the appointment of a city
20 sealer is provided by this chapter and shall issue an official seal
21 of approval for same when found to be correct. The department shall,
22 by rule, establish a reasonable fee for this and any other inspection
23 and testing services performed by the department's metrology
24 laboratory. ((Each such fee shall recover at least seventy five
25 percent of the laboratory's costs incurred in performing the service
26 governed by the fee on or before June 30, 1998. The fees established
27 under this subsection may be increased in excess of the fiscal growth
28 factor as provided in RCW 43.135.055 for the fiscal year ending 1996,
29 1997, and 1998. For fiscal year 1999 and thereafter, the fees
30 established under this subsection may not be increased by an amount
31 greater than the fiscal growth factor as provided in RCW 43.135.055.

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

1 **Sec. 8.** RCW 19.94.258 and 2000 c 171 s 61 are each amended to
2 read as follows:

3 (1) Except as authorized by the department, a service agent who
4 intends to provide the examination that permits a weighing or
5 measuring instrument or device to be placed (~~back~~) into commercial
6 service under RCW 19.94.255(3) shall (~~receive an official~~
7 ~~registration certificate from~~) be registered with the director prior
8 to performing such a service. This registration requirement does not
9 apply to the department or a city sealer.

10 (2) Except as provided in RCW 19.94.2584, a service agent
11 registration certificate is valid for one year or for a longer period
12 if specified in rule adopted by the department. It may be renewed by
13 submitting a request for renewal to the department.

14 **Sec. 9.** RCW 19.94.2582 and 2013 c 144 s 35 are each amended to
15 read as follows:

16 (1) Each request for an official registration certificate must be
17 in writing(~~, under oath,~~) and on a form prescribed by the
18 department and must contain any relevant information as the director
19 may require, including but not limited to the following:

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

22 (b) The names and addresses of all (~~individuals~~) persons
23 requesting an official registration certificate from the department;
24 and

25 (c) The tax registration number as required under RCW 82.32.030
26 or unified business identifier provided on a business license issued
27 under RCW 19.02.070.

28 (2) The department may require persons registering as service
29 agents to attain a satisfactory score on competency examinations
30 administered or approved for use by the department. The director may
31 adopt rules for administering and conducting the examination,
32 including adoption of any fees necessary to cover costs for the
33 examination which shall be a charge in addition to the application
34 fee under subsection (3) of this section.

35 (3) Each (~~individual~~) person when submitting a request for an
36 official registration certificate or a renewal of such a certificate
37 must pay a fee to the department in the amount of one hundred
38 (~~sixty~~) eighty dollars per (~~individual~~) person per year for the
39 duration of the certificate.

1 ~~((3))~~ (4) If an application for renewal of an official
2 registration certificate is not filed before the expiration date, the
3 applicant must be assessed and have added to the renewal fee a
4 penalty of twenty percent of the renewal fee, which must be paid by
5 the applicant before any renewal license may be issued. The penalty
6 shall not apply if the applicant submits a declaration or affidavit
7 that he or she has not acted as a service agent following the
8 expiration of his or her registration.

9 (5) Persons submitting a request for an official registration
10 certificate or renewal of a certificate must have available
11 sufficient equipment to adequately test devices and a means of
12 identifying his or her work on weighing and measuring devices. The
13 director may adopt rules for these requirements.

14 (6) The department must issue a decision on a request for an
15 official registration certificate within twenty days of receipt of
16 the request. If ~~((an individual))~~ a person is denied their request
17 for an official registration certificate, the department must notify
18 that ~~((individual))~~ person in writing stating the reasons for the
19 denial ~~((and must refund any payments made by that individual in~~
20 ~~connection with the request))~~.

21 **Sec. 10.** RCW 19.94.2584 and 2000 c 171 s 62 are each amended to
22 read as follows:

23 (1) The department shall have the power to revoke, suspend, or
24 refuse to renew the official registration certificate of any service
25 agent for any of the following reasons:

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

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

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

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

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

38 (2) Upon the department's revocation of, suspension of, or
39 refusal to renew an official registration certificate, ~~((an~~

1 ~~individual))~~ the service agent shall have the right to appeal this
2 decision in accordance with the administrative procedure act, chapter
3 34.05 RCW.

4 **Sec. 11.** RCW 19.94.325 and 1992 c 237 s 23 are each amended to
5 read as follows:

6 (1) Except as otherwise provided for in this chapter or in any
7 rule adopted under the authority of this chapter, any person who
8 engages in business within this state as a service agent shall
9 biennially submit to the department for inspection and testing all
10 weights and measures standards used by the service agent, or any
11 agent or employee of the service agent. If the department finds such
12 weights and measures standards to be correct, the director shall
13 issue an official seal of approval for each such standard.

14 (2) The department may by rule adopt reasonable fees for the
15 inspection and testing services performed by the weights and measures
16 laboratory pursuant to this section.

17 (3) A service agent shall not use in the installation,
18 inspection, adjustment, repair, or reconditioning of any weighing or
19 measuring instrument or device any weight or measure standard that
20 does not have a valid, official seal of approval from the director.
21 Any service agent who violates this section is subject to a civil
22 penalty ~~((of no more than five hundred))~~ to be assessed by the
23 director ranging from one hundred to one thousand dollars per
24 occurrence, giving due consideration to the appropriateness of the
25 penalty amount with respect to the gravity of the violation and
26 history of any previous violations.

27 **Sec. 12.** RCW 19.94.340 and 1992 c 237 s 24 are each amended to
28 read as follows:

29 (1) The department shall adopt by rule the uniform regulations
30 for the packaging, labeling, and method of sale of commodities,
31 regulations for national type evaluation and regulations for engine
32 fuels and automotive lubricants and other requirements in the most
33 recent edition of national institute of standards and technology
34 (NIST) Handbook 130 as the requirements for legal metrology and fuel
35 quality.

36 (2) When adopting by rule the most recent version of national
37 institute of standards and technology (NIST) Handbook 130 under

1 subsection (1) of this section, the director may include
2 modifications and additions to the standards in Handbook 130.

3 (3) Except as provided in subsection (2) of this section,
4 commodities in liquid form shall be sold only by liquid measure or by
5 weight, and, except as otherwise provided in this chapter,
6 commodities not in liquid form shall be sold only by weight, by
7 measure of length or area, or by count.

8 ~~((+2))~~ (4) Liquid commodities may be sold by weight and
9 commodities not in liquid form may be sold by count only if such
10 methods provide accurate information as to the quantity of commodity
11 sold.

12 ~~((+3))~~ (5) The provisions of this section shall not apply to:

13 (a) Commodities that are sold for immediate consumption on the
14 premises where sold;

15 (b) Vegetables when sold by the head or bunch;

16 (c) Commodities in containers standardized by a law of this state
17 or by federal law;

18 (d) Commodities in package form when there exists a general
19 consumer usage to express the quantity in some other manner;

20 (e) Concrete aggregates, concrete mixtures, and loose solid
21 materials such as earth, soil, gravel, crushed stone, and the like,
22 when sold by cubic measure; or

23 (f) Unprocessed vegetable and animal fertilizer when sold by
24 cubic measure.

25 ~~((+4))~~ (6) The director may issue such ~~((reasonable))~~ rules as
26 are necessary to assure that amounts of commodity sold are determined
27 in accordance with good commercial practice and are so determined and
28 represented to be accurate and informative to all interested parties.

29 **Sec. 13.** RCW 19.94.350 and 1992 c 237 s 25 are each amended to
30 read as follows:

31 (1) Except as otherwise provided in this chapter, any commodity
32 in package form introduced or delivered for introduction into or
33 received in intrastate commerce, kept for the purpose of sale,
34 offered or exposed for sale or sold in intrastate commerce, shall
35 bear on the outside of the package such definite, plain, and
36 conspicuous declaration of:

37 (a) The identity of the commodity contained within the package
38 unless the same can easily be identified through the package;

1 (b) The net quantity of the contents in terms of weight, measure
2 or count; and

3 (c) In the case of any package not sold on the premises where
4 packed, the name and place of business of the manufacturer, packer,
5 or distributor, as may be prescribed by rule issued by the director.

6 (2) In connection with the declaration required under subsection
7 (1)(b) of this section, neither the qualifying term "when packed" or
8 any words of similar import, nor any term qualifying a unit of
9 weight, measure, or count (for example, "jumbo", "giant", "full", "or
10 over", and the like) that tends to exaggerate the amount of commodity
11 in a package, shall be used.

12 (3) With respect to the declaration required under subsection
13 (1)(b) of this section the director (~~shall~~) may by rule establish:
14 (a) Reasonable variations to be allowed, (b) exemptions as to small
15 packages, (~~and~~) (c) exemptions as to commodities put up in variable
16 weights or sizes for sale to the consumer intact and either
17 customarily not sold as individual units or customarily weighed or
18 measured at time of sale to the consumer, and (d) methods for
19 checking the net contents of packaged goods.

20 **Sec. 14.** RCW 19.94.410 and 1995 c 355 s 19 are each amended to
21 read as follows:

22 Butter, oleomargarine, and margarine (~~shall be~~) offered (~~and~~
23 ~~exposed~~) for sale (~~and~~) shall be sold by weight.

24 **Sec. 15.** RCW 19.94.430 and 1969 c 67 s 43 are each amended to
25 read as follows:

26 When in package form and when packed, kept, offered, exposed for
27 sale or sold, flour such as, but not limited to, wheat flour, whole
28 wheat flour, graham flour, self-rising wheat flour, phosphated wheat
29 flour, bromated flour, enriched flour, enriched self-rising flour,
30 enriched bromated flour, corn flour, corn meal, and hominy grits
31 shall be (~~packaged only in units of five, ten, twenty five, fifty~~
32 ~~and one hundred pounds avoirdupois weight: PROVIDED, That packages in~~
33 ~~units of less than five pounds or more than one hundred pounds shall~~
34 ~~be permitted~~) sold by weight.

35 **Sec. 16.** RCW 19.94.490 and 1992 c 237 s 32 are each amended to
36 read as follows:

1 Any person who shall hinder or obstruct in any way the director
2 or a city sealer in the performance of his or her official duties
3 under this chapter is subject to a civil penalty ((~~of~~)) ranging from
4 three hundred to no more than five ((~~hundred~~)) thousand dollars per
5 occurrence, giving due consideration to the appropriateness of the
6 penalty amount with respect to the gravity of the violation and
7 history of any previous violations.

8 **Sec. 17.** RCW 19.94.500 and 1992 c 237 s 33 are each amended to
9 read as follows:

10 Any person who shall impersonate in any way the director or a
11 city sealer, by using an official seal of approval without specific
12 authorization to do so or by using a counterfeit seal of approval, or
13 in any other manner, is subject to a civil penalty ((~~of~~)) ranging
14 from three hundred to no more than ((~~one~~)) five thousand dollars per
15 occurrence, giving due consideration to the appropriateness of the
16 penalty amount with respect to the gravity of the violation and
17 history of any previous violations.

18 **Sec. 18.** RCW 19.94.510 and 1995 c 355 s 21 are each amended to
19 read as follows:

20 (1) The acts or omissions under this section are violations of
21 this chapter.

22 (2) Any person who, by himself or herself, by his or her agent or
23 employee, or as the agent or employee of another person, performs any
24 one of the acts enumerated in (a) through (1) of this subsection is
25 subject to a civil penalty ((~~of~~)) ranging from three hundred to no
26 more than ((~~one~~)) five thousand dollars per violation per occurrence,
27 giving due consideration to the appropriateness of the penalty amount
28 with respect to the gravity of the violation and history of any
29 previous violations:

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

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

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

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

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

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

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

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

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

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

33 (k) Fails to disclose to the department or a city sealer any
34 knowledge of information relating to, or observation of, any device
35 or instrument added to or modifying any weighing or measuring
36 instrument or device for the purpose of selling, offering, or
37 exposing for sale, less than the quantity represented of a commodity
38 or calculated to falsify weight or measure, if the person is a
39 service agent.

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

4 ~~((+2))~~ (3) Any person who, by himself or herself, by his or her
5 agent or employee, or as the agent or employee of another person,
6 violates RCW 19.94.390 as determined by the examination procedure
7 adopted by or under RCW 19.94.390(2) is subject to a civil penalty
8 ~~((of))~~ ranging from one hundred dollars to not more than ~~((one))~~ two
9 thousand dollars per violation per occurrence, giving due
10 consideration to the appropriateness of the penalty amount with
11 respect to the gravity of the violation and history of any previous
12 violations.

13 ~~((+3))~~ (4) Any person who, by himself or herself, by his or her
14 agent or employee, or as the agent or employee of another person,
15 performs any of the following acts is subject to a civil penalty
16 ~~((of))~~ ranging from one hundred dollars to no more than ~~((five))~~ ten
17 thousand dollars per violation per occurrence, giving due
18 consideration to the appropriateness of the penalty amount with
19 respect to the gravity of the violation and history of any previous
20 violations:

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
25 weight or measure.

26 (b) Commits as a fourth or subsequent ~~((infraction))~~ violation
27 any of the acts listed in subsection ~~((+1) or)~~ (2) or (3) of this
28 section.

29 **Sec. 19.** RCW 19.94.515 and 1995 c 355 s 22 are each amended to
30 read as follows:

31 A person who owns or uses a weighing or measuring instrument or
32 device and uses or permits the use of the instrument for commercial
33 purposes in violation of RCW 19.94.015 is subject to a civil penalty
34 of ~~((fifty))~~ one hundred dollars for each such instrument or device
35 used or permitted to be used in violation of RCW 19.94.015.

36 **Sec. 20.** RCW 19.94.517 and 1995 c 355 s 23 are each amended to
37 read as follows:

1 (1) Whenever the department or a city sealer tests or inspects a
2 weighing or measuring instrument or device and finds the instrument
3 or device to be incorrect to the economic benefit of the owner/
4 operator of the weighing or measuring instrument or device and to the
5 economic detriment of the customer, the owner of the weighing or
6 measuring instrument or device (~~may be~~) is subject to the following
7 civil penalties:

8 Device deviations outside the tolerances stated in
9 Handbook 44.

10 Penalty

11 Small weighing or measuring instruments or devices:

12 First violation	((50.00))
13	\$ <u>200.00</u>
14 Second or subsequent violation within	((150.00))
15 one year of first violation	\$ <u>500.00</u>
16 Medium weighing or measuring instruments or devices:	
17 First violation	((100.00))
18	\$ <u>400.00</u>
19 Second or subsequent violation within	((300.00))
20 one year of first violation	\$ <u>1,000.00</u>
21 Large weighing or measuring instruments or devices:	
22 First violation	((200.00))
23	\$ <u>500.00</u>
24 Second or subsequent violation within	((500.00))
25 one year of first violation	\$ <u>2,000.00</u>

26 (2) For the purposes of this section:

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

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

36 (c) The following are large weighing or measuring instruments or
37 devices: Liquid petroleum gas meters with greater than one inch
38 diameter dispensers, liquid fuel metering devices with flows over one

1 hundred fifty gallons per minute, and scales of more than five
2 thousand pounds capacity and scales of more than five thousand pounds
3 capacity with supplemental devices.

4 ~~(3) ((The director or a city sealer shall issue the appropriate~~
5 ~~civil penalty concurrently with the conclusion of the test or~~
6 ~~inspection.~~

7 (+4)) The weighing or measuring instrument or device owner shall
8 have the right to appeal the civil penalty in accordance with the
9 administrative procedure act, chapter 34.05 RCW or an equivalent
10 procedure when the civil penalty is appealed to the city.

11 NEW SECTION. Sec. 21. RCW 19.94.165 (Commercial instruments or
12 devices to be correct) and 1995 c 355 s 6 & 1992 c 237 s 6 are each
13 repealed.

14 NEW SECTION. Sec. 22. Section 3 of this act expires July 1,
15 2019.

16 NEW SECTION. Sec. 23. Section 1 of this act is necessary for
17 the immediate preservation of the public peace, health, or safety, or
18 support of the state government and its existing public institutions,
19 and takes effect July 1, 2017.

20 NEW SECTION. Sec. 24. Section 4 of this act takes effect July
21 1, 2019.

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