

HOUSE BILL REPORT

SHB 1298

As Passed House:
March 5, 2019

Title: An act relating to device registration, civil penalties, and service agent registration for the weights and measures program.

Brief Description: Concerning device registration, civil penalties, and service agent registration for the weights and measures program.

Sponsors: House Committee on Rural Development, Agriculture, & Natural Resources (originally sponsored by Representatives Pettigrew, Chandler, Blake, Kretz and Springer; by request of Department of Agriculture).

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 1/25/19, 2/1/19 [DPS];
Appropriations: 2/20/19, 2/25/19 [DPS(RDAN)].

Floor Activity:

Passed House: 3/5/19, 98-0.

Brief Summary of Substitute Bill

- Modifies the schedule of fees charged and civil penalties assessed under the Weights and Measures statute.
- Directs the Weights and Measures Advisory Group within the Department of Agriculture (WSDA) to review costs and fees associated with the WSDA's Weights and Measures program, and to report to stakeholders every five years on the financial status of the Weights and Measures program, beginning in 2024.
- Authorizes the WSDA to require persons registering as service agents to pass a competency examination.
- Expands the scope of cities authorized to operate a Weights and Measures program from first-class cities with a population greater than 50,000 to include code cities with a population greater than 50,000.
- Makes additional modifications to the WSDA's Weights and Measures program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Orcutt, Pettigrew, Ramos, Schmick, Springer and Walsh.

Staff: Robert Hatfield (786-7117).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Rural Development, Agriculture, & Natural Resources be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger, Volz and Ybarra.

Staff: Dan Jones (786-7118).

Background:

Weights and Measures—Introduction.

Every weighing and measuring instrument used for commercial purposes in the state must be registered annually. Examples of such instruments include grocery scales, gas pumps, vehicle scales, and taxi meters. The devices may be registered with the Department of Agriculture's (WSDA's) Weights and Measures program, or they may be registered with a city, if the devices are used within a city that operates its own Weights and Measures program. First-class cities with populations greater than 50,000 are authorized to operate a Weights and Measures program. Annual weights and measures registration fees are set in statute. Cities that operate their own Weights and Measures programs may establish their own annual fees as long as they do not exceed the statutory fee schedule. Weights and Measures penalties are also set in statute.

In addition, weighing or measuring instruments or devices used for commercial purposes in the state must be inspected and tested for accuracy at least once every two years by the WSDA or, in cities that operate their own Weights and Measures program, by the city.

Service Agents.

Service agents are persons who, for payment, perform specified services related to weighing or measuring instruments or devices, including: testing, installing, inspecting, and repairing. Service agents are required to obtain a registration certificate from the WSDA each year before performing such a service. Service agents who use weights or measures standards in

the course of their work that have not been approved by the WSDA are subject to a civil penalty of no more than \$500.

National Institute of Standards and Technology.

The National Institute of Standards and Technology (NIST) is a measurement standards laboratory within the United States Department of Commerce. As part of its mission, the NIST supplies various standard reference manuals. These include the NIST Handbook 44 (Specifications, Tolerances, and Other Technical Requirement for Weighing and Measuring Devices), and Handbook 130 (Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality).

Summary of Substitute Bill:

Weights and Measures—Fees.

The annual registration fees, for a variety of specified weighing and measuring instruments used for commercial purposes, are changed, from a current range of \$10 to \$800, to a range of \$16 to \$1,200.

The Weights and Measures Advisory Group within the Department of Agriculture (WSDA) must review the annual registration and report to stakeholders on the financial status of the program supported by the fees by September 1, 2024, and every five years thereafter.

Weights and Measures Program—Cities.

Code cities with a population greater than 50,000 are added to the types of cities authorized to operate their own Weights and Measures program.

Service Agents.

The WSDA is authorized to require persons registering as service agents to pass a competency examination, and the WSDA is authorized to adopt rules for administering the examination.

The annual fee for a service agent's registration certificate is increased from \$160 to \$180. If a service agent fails to file his or her application for renewal before the expiration date, the WSDA must assess a late fee equal to 20 percent of the renewal fee, unless the service agent submits a declaration stating that the agent has not acted as a service agent following the expiration of the certification.

Service agents must possess adequate equipment to accurately test devices and a means of identifying the work that the service agent has performed on weighing and measuring devices. A service agent who uses a weight or measure standard that has not been approved by the WSDA is subject to a penalty of up to \$1,000 per occurrence.

Weights and Measures—Rulemaking Authority.

The WSDA is directed to adopt rules concerning multiple aspects of the Weights and Measures program, including:

- methods for checking the net contents of packaged goods;
- the establishment of technical testing procedures to be followed by the WSDA, cities with their own Weights and Measures programs, and service agents;

- the establishment of inspection and testing procedures, and exemptions from inspection and testing requirements, for certain weighing or measuring instruments;
- technical requirements for commercial weighing and measuring instruments that must, with certain exceptions, be consistent with the National Institute of Standards and Technology (NIST) Handbook 44;
- requirements related to the sale of commodities that must, with certain exceptions, be consistent with NIST Handbook 44 and NIST Handbook 130; and
- specification and tolerances for the acceptable range of accuracy required of weighing and measuring instruments.

Weights and Measures—Penalties.

The civil penalties assessed for various violations of the Weights and Measures statute are changed, from a current range of \$50 to \$5,000, to a range of \$100 to \$10,000.

Weights and Measures—Miscellaneous.

Flour, as well as corn meal and grits, are required to simply be sold by weight, rather than by certain specified prescribed weights.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2019.

Staff Summary of Public Testimony (Rural Development, Agriculture, & Natural Resources):

(In support) Updates to the Weights and Measures fees are overdue. Producers count on the Weights and Measures program to bring a level of fairness to commerce, and it is important that the Department of Agriculture (WSDA) be equipped to do that going forward. The penalties will increase substantially, the WSDA has always emphasized correction over punishment, and there is an expectation that that approach will continue.

The Weights and Measures program helps ensure fair competition and consumer protection. The fees have not been increased since 2007. The Weights and Measures program is no longer financially stable. Significant reductions in staff would be required if the bill is not passed.

The financial status of the WSDA is now impacting its ability to ensure compliance with the Weights and Measures program. Scales have modernized, and it would be good for the WSDA's procedures to also modernize.

The Weights and Measures program is a very well-run operation. This is essentially a consumer protection bill; without accurate measuring devices, you don't know if you're actually getting a gallon of gas. The WSDA has asked for this increase for the past few years.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) The bill sets registration fees at a level that supports the costs of regulation. Fees were last increased in 2007. This fee-based program is no longer viable at current rates. The Department of Agriculture should not have waited 11 years to request a fee increase. The fee increases in the bill represent a 60 percent increase. This bill will require the fee structure to be reassessed every five years.

(Opposed) None.

Persons Testifying (Rural Development, Agriculture, & Natural Resources): Representative Pettigrew, prime sponsor; Dan Coyne, Food Northwest; Hannah Street, Washington State Department of Agriculture; Carolyn Logue, Washington Food Industry Association; and Charlie Brown, Fred Meyer Stores.

Persons Testifying (Appropriations): Hannah Street, Washington State Department of Agriculture; and Jan Gee, Washington Food Industry Association.

Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture, & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.