

1 1856-S AMH WANG H3030.1

2 SHB 1856 - H AMD 652 ADOPTED 4-28-91

3 By Representative Wang

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds:

8 (1) Accurate weights and measures are essential for the efficient
9 operation of commerce in Washington, and weights and measures are
10 important to both consumers and businesses.

11 (2) Legislation to expand the weights and measures program and fund
12 the program with license fees on weights and measures devices has been
13 considered.

14 (3) Additional information is necessary before further action can
15 be taken."

16 "NEW SECTION. **Sec. 2.** It is the intent of the legislature to
17 fund the current weights and measures program only through the first
18 year of the 1991-93 fiscal biennium, and to base funding of the program
19 for the second year of the biennium and ensuing biennia upon the
20 recommendations of the study performed under section 3 of this act."

21 "NEW SECTION. **Sec. 3.** The department of agriculture shall
22 conduct a study of a weights and measures program necessary to protect
23 both consumers and business. In the conduct of this study the
24 department shall consult with those affected by the weights and
25 measures program. The department may create an advisory committee made

1 up of consumers and members of the business community affected by the
2 weights and measures program.

3 (2) The study shall include:

4 (a) Determination of the appropriate level and form for a weights
5 and measures program sufficient for the efficient operation of commerce
6 in Washington.

7 (b) Recommendations for an appropriate funding mechanism for the
8 weights and measures program.

9 (3) In conducting the study the department shall:

10 (a) Identify the benefits of the weights and measures program,
11 taking into account the element of service provided the device owners
12 and the element of consumer protection provided the general public.

13 (b) Survey other states about their methods of funding weights and
14 measures programs, frequency of inspection, and number of inspection
15 personnel.

16 (c) Investigate the potential for error for different types of
17 devices and determine the appropriate frequency of inspection for
18 different types of weights and measures devices.

19 (d) Determine an appropriate license fee schedule for different
20 types of devices taking into account the cost of equipment and
21 personnel to the department of agriculture.

22 (e) Determine the appropriate level of license fee revenue sharing
23 with those first class cities operating a weights and measures program.

24 (f) Examine the need to license and inspect electronic scanning
25 devices and other new weighing and measuring technology.

26 (g) Examine the level of complaints relating to firewood
27 deliveries.

28 (h) Study any other issues relevant to the weights and measures
29 program."

1 **"Sec. 4.** RCW 19.94.150 and 1969 c 67 s 15 are each amended to read
2 as follows:

3 The system of weights and measures in customary use in the United
4 States and the metric system of weights and measures are jointly
5 recognized, and either one or both of these systems shall be used for
6 all commercial purposes in this state. The definitions of basic units
7 of weight and measure and weights and measures equivalents, as
8 published by the national ((bureau of standards)) institute of
9 standards and technology, are recognized and shall govern weighing and
10 measuring equipment and transactions in the state."

11 **"Sec. 5.** RCW 19.94.160 and 1969 c 67 s 16 are each amended to read
12 as follows:

13 Weights and measures in conformity with the standards of the United
14 States as have been supplied to the state by the federal government or
15 otherwise obtained by the state for use as state standards, shall, when
16 the same shall have been certified as such by the national ((bureau of
17 standards)) institute of standards and technology, be the state
18 standards of weight and measure. The state standards shall be kept in
19 a place designated by the director and shall not be removed from the
20 said place except for repairs or for certification: PROVIDED, That
21 they shall be submitted at least once in ten years to the national
22 ((bureau of standards)) institute of standards and technology for
23 certification."

24 **"Sec. 6.** RCW 19.94.190 and 1989 c 354 s 36 are each amended to
25 read as follows:

26 The director shall enforce the provisions of this chapter and shall
27 ((issue from time to time reasonable)) adopt rules for enforcing and
28 carrying out the purposes of this chapter. Such rules shall have the

1 effect of law and may include (1) standards of net weight, measure, or
2 count, and reasonable standards of fill for any commodity in package
3 form, (2) ~~((rules))~~ the governing ~~((the))~~ technical and reporting
4 procedures to be followed, and the report and record forms and marks of
5 rejection to be used by the director and city sealers in the discharge
6 of their official duties, (3) ~~((rules))~~ the governing technical test
7 procedures, reporting procedures, record and reporting forms to be used
8 by commercial firms when installing, repairing or testing commercial
9 weights or measures, (4) ~~((rules providing))~~ the criteria that all
10 weights and measures used by commercial firms in repairing or servicing
11 commercial weighing and measuring devices shall be calibrated by the
12 department and be directly traceable to state standards and shall be
13 submitted to the department for calibration and certification as
14 necessary and/or at such reasonable intervals as may be established or
15 required by the director, (5) exemptions from the sealing or marking
16 requirements of RCW 19.94.250 with respect to weights and measures of
17 such character or size that such sealing or marking would be
18 inappropriate, impracticable, or damaging to the apparatus in question,
19 (6) ~~((rules))~~ provisions that allow the director to establish fees for
20 weighing, measuring, and providing calibration services performed by
21 the weights and measures laboratory, with all money collected under
22 this subsection paid to the director and deposited in an account within
23 the agricultural local fund to be used for the repair and maintenance
24 of weights and measures devices and other related functions, (7)
25 exemptions from the requirements of RCW 19.94.200 and 19.94.210 for
26 testing, with respect to classes of weights and measures found to be of
27 such character that periodic retesting is unnecessary to continued
28 accuracy. These ~~((regulations))~~ rules shall include specifications,
29 tolerances, and ~~((regulations))~~ rules for weights and measures of the
30 character of those specified in RCW 19.94.210, designed to eliminate

1 from use, without prejudice to apparatus that conforms as closely as
2 practicable to the official standards, those (a) that are not accurate,
3 (b) that are of such construction that they are faulty, that is, that
4 are not reasonably permanent in their adjustment or will not repeat
5 their indications correctly, or (c) that facilitate the perpetration of
6 fraud. The specifications, tolerances, and ~~((regulations))~~ rules for
7 commercial weighing and measuring devices, together with amendments
8 thereto, as recommended by the most recent edition of Handbook 44
9 published by the national ~~((bureau of standards Handbook 44, third~~
10 ~~edition as published at the time of the enactment of this chapter))~~
11 institute of standards and technology shall be the specifications,
12 tolerances, and regulations for commercial weighing and/or measuring
13 devices of the state. To promote uniformity, any supplements or
14 amendments to Handbook 44 or any similar subsequent publication of the
15 national ~~((bureau of standards))~~ institute of standards and technology
16 shall be deemed to have been adopted under this section. The director
17 may, however, within thirty days of the publication or effective date
18 of Handbook 44 or any supplements, amendments, or similar publications
19 give public notice that a hearing will be held to determine if such
20 publications should not be applicable under this section. The hearing
21 shall be conducted under chapter 34.05 RCW. For the purpose of this
22 chapter, apparatus shall be deemed to be "correct" when it conforms to
23 all applicable requirements promulgated as specified in this section;
24 all other apparatus shall be deemed to be "incorrect".

25 **"Sec. 7.** RCW 19.94.200 and 1969 c 67 s 20 are each amended to read
26 as follows:

27 The director shall test the standards of weight and measure
28 procured by any city for which the appointment of a sealer of weights
29 and measures is provided by this chapter, at least once every five

1 years, and shall approve the same when found to be correct, and ((he))
2 the director shall inspect such standards at least once every two
3 years. ((He)) The director shall test all weights and measures used in
4 checking the receipt or disbursement of supplies in every institution
5 for the maintenance of which moneys are appropriated by the
6 legislature, and ((he)) the director shall report ((his)) the findings,
7 in writing, to the executive officer of the institution concerned."

8 "Sec. 8. RCW 19.94.220 and 1969 c 67 s 22 are each amended to read
9 as follows:

10 The director shall investigate complaints made ((to—him))
11 concerning violations of the provisions of this chapter, and shall,
12 upon his or her own initiative, conduct such investigations as ((he
13 deems)) deemed appropriate and advisable to develop information on
14 prevailing procedures in commercial quantity determination and on
15 possible violations of the provisions of this chapter and to promote
16 the general objective of accuracy in the determination and
17 representation of quantity in commercial transactions."

18 "Sec. 9. RCW 19.94.240 and 1969 c 67 s 24 are each amended to read
19 as follows:

20 The director shall have the power to issue stop-use orders,
21 stop-removal orders and removal orders with respect to weights and
22 measures being, or susceptible of being, commercially used, and to
23 issue stop-removal orders and removal orders with respect to packages
24 or amounts of commodities kept, offered, exposed for sale, sold or in
25 process of delivery, whenever in the course of his or her enforcement
26 of the provisions of this chapter ((and/or)) or rules ((and
27 regulations)) adopted hereunder he or she deems it necessary or
28 expedient to issue such orders. No person shall use, remove from the

1 premises specified or fail to remove from any premises specified any
2 weight, measure, or package or amount of commodity contrary to the
3 terms of a stop-use order, stop-removal order or removal order issued
4 under the authority of this section."

5 "Sec. 10. RCW 19.94.250 and 1969 c 67 s 25 are each amended to
6 read as follows:

7 The director shall reject and mark or tag as "rejected" such
8 weights and measures as he or she finds upon inspection or test to be
9 "incorrect" as defined in RCW 19.94.190, but which in his or her best
10 judgment are susceptible of satisfactory repair: PROVIDED, That such
11 sealing or marking shall not be required with respect to such weights
12 and measures as may be exempted therefrom by (~~a regulation~~) rule of
13 the director issued under the authority of RCW 19.94.190. The director
14 may reject or seize any weights and measures found to be incorrect
15 that, in his or her best judgment, are not susceptible of satisfactory
16 repair. Weights and measures that have been rejected may be
17 confiscated and may be destroyed by the director if not corrected as
18 required by RCW 19.94.330 or if used or disposed of contrary to the
19 requirements of said section."

20 "Sec. 11. RCW 19.94.260 and 1969 c 67 s 26 are each amended to
21 read as follows:

22 (1) With respect to the enforcement of this chapter and any other
23 acts dealing with weights and measures that he or she is, or may be
24 empowered to enforce, the director is authorized (~~to arrest any~~
25 ~~violation of the said chapter, and~~) to seize for use as evidence
26 incorrect or unsealed weights and measures or amounts or packages of
27 commodities to be used, retained, offered, exposed for sale or sold in
28 violation of the law.

1 (2) In the performance of his or her official duties the director
2 is authorized at reasonable times during the normal business hours of
3 the person using the weights and measures to enter into or upon any
4 structure or premises where weights and measures are used or kept for
5 commercial purposes. Should the director be denied access to any
6 premises or establishment where such access was sought for the purposes
7 set forth in this section, ((he)) the director may apply to any court
8 of competent jurisdiction for a search warrant authorizing access to
9 such premises or establishment for said purposes. The court may, upon
10 such application, issue the search warrant for the purposes requested."

11 **"Sec. 12.** RCW 19.94.290 and 1969 c 67 s 29 are each amended to
12 read as follows:

13 A bond with sureties, to be approved by the appointing power, and
14 conditioned upon the faithful performance of ((his)) duties and the
15 safekeeping of any standards or equipment entrusted to ((his)) the city
16 sealer's care, shall forthwith, upon his or her appointment, be given
17 by each city sealer and deputy sealer in the penal sum of one thousand
18 dollars; the premium on such bond shall be paid by the city for which
19 the officer in question is appointed."

20 **"Sec. 13.** RCW 19.94.300 and 1969 c 67 s 30 are each amended to
21 read as follows:

22 The city sealer and his or her deputy sealers when acting under his
23 or her instructions and at his or her direction shall have the same
24 powers and shall perform the same duties within the city for which
25 appointed as are granted to and imposed upon the director by RCW
26 19.94.210, 19.94.220, 19.94.230, 19.94.240, and 19.94.250."

1 **"Sec. 14.** RCW 19.94.330 and 1969 c 67 s 33 are each amended to
2 read as follows:

3 Weights and measures that have been rejected under the authority of
4 the director or a city sealer shall remain subject to the control of
5 the rejecting authority until such time as suitable repair or
6 disposition thereof has been made as required by this section. The
7 owners of such rejected weights and measures shall cause the same to be
8 made correct within thirty days or such longer period as may be
9 authorized by the rejecting authority; or, in lieu of this, may dispose
10 of the same, but only in such a manner as is specifically authorized by
11 the rejecting authority. Weights and measures that have been rejected
12 shall not again be used commercially until they have been officially
13 reexamined ~~((and found to be correct or until specific written~~
14 ~~permission for such use is issued by the rejecting authority))~~ or until
15 standardized corrective measures have been instituted as prescribed by
16 rule as adopted by the department."

17 **"Sec. 15.** RCW 19.94.340 and 1969 c 67 s 34 are each amended to
18 read as follows:

19 Commodities in liquid form shall be sold only by liquid measure or
20 by weight, and, except as otherwise provided in this chapter,
21 commodities not in liquid form shall be sold only by weight, by measure
22 of length or area, or by count: PROVIDED, That liquid commodities may
23 be sold by weight and commodities not in liquid form may be sold by
24 count only if such methods give accurate information as to the quantity
25 of commodity sold: AND PROVIDED FURTHER, That the provisions of this
26 section shall not apply (1) to commodities when sold for immediate
27 consumption on the premises where sold, (2) to vegetables when sold by
28 the head or bunch, (3) to commodities in containers standardized by a
29 law of this state or by federal law, (4) to commodities in package form

1 when there exists a general consumer usage to express the quantity in
2 some other manner, (5) to concrete aggregates, concrete mixtures, and
3 loose solid materials such as earth, soil, gravel, crushed stone, and
4 the like, when sold by cubic measure, or (6) to unprocessed vegetable
5 and animal fertilizer when sold by cubic measure. The director may
6 issue such reasonable (~~regulations~~) rules as are necessary to assure
7 that amounts of commodity sold are determined in accordance with good
8 commercial practice and are so determined and represented to be
9 accurate and informative to all interested parties."

10 "Sec. 16. RCW 19.94.350 and 1969 c 67 s 35 are each amended to
11 read as follows:

12 Except as otherwise provided in this chapter, any commodity in
13 package form introduced or delivered for introduction into or received
14 in intrastate commerce, kept for the purpose of sale, offered or
15 exposed for sale or sold in intrastate commerce, shall bear on the
16 outside of the package such definite, plain, and conspicuous
17 declaration of (1) the identity of the commodity in the package unless
18 the same can easily be identified through the wrapper or
19 container(~~(7)~~); (2) the net quantity of the contents in terms of
20 weight, measure or count; and (3) in the case of any package not sold
21 on the premises where packed, the name and place of business of the
22 manufacturer, packer, or distributor, as may be prescribed by
23 (~~regulation~~) rule issued by the director: PROVIDED, That in
24 connection with the declaration required under (~~subdivision~~)
25 subsection (2) of this section, neither the qualifying term "when
26 packed" or any words of similar import, nor any term qualifying a unit
27 of weight, measure, or count (for example, "jumbo", "giant", "full",
28 "or over", and the like) that tends to exaggerate the amount of
29 commodity in a package, shall be used: AND PROVIDED FURTHER, That

1 under ~~((clause))~~ subsection (2) of this section the director shall by
2 ~~((regulation))~~ rule establish (a) reasonable variations to be allowed,
3 (b) exemptions as to small packages and (c) exemptions as to
4 commodities put up in variable weights or sizes for sale to the
5 consumer intact and either customarily not sold as individual units or
6 customarily weighed or measured at time of sale to the consumer."

7 **"Sec. 17.** RCW 19.94.420 and 1975 1st ex.s. c 51 s 1 are each
8 amended to read as follows:

9 All fluid dairy products, including but not limited to whole milk,
10 skimmed milk, cultured milk, sweet cream, sour cream and buttermilk and
11 all fluid imitation and fluid substitute dairy products shall be
12 packaged for retail sale only in units as provided by the director of
13 the department of agriculture by ~~((regulation))~~ rule pursuant to the
14 provisions of chapter 34.05 RCW."

15 **"Sec. 18.** RCW 19.94.440 and 1969 c 67 s 44 are each amended to
16 read as follows:

17 When a vehicle delivers to an individual purchaser a commodity in
18 bulk, and the commodity is sold in terms of weight units, the delivery
19 shall be accompanied by a duplicate delivery ticket with the following
20 information clearly stated, in ink or other indelible marking equipment
21 and, in clarity, equal to type or printing: (1) the name and address
22 of the vendor, (2) the name and address of the purchaser, and (3) the
23 net weight of the delivery expressed in pounds, and, if the net weight
24 is derived from determinations of gross and tare weights, such gross
25 and tare weights also shall be stated in terms of pounds. One of these
26 tickets shall be retained by the vendor, and the other shall be
27 delivered to the purchaser at the time of delivery of the commodity, or
28 shall be surrendered on demand to the director or the deputy director

1 or the inspector, or the sealer or deputy sealer, who, if he or she
2 desires to retain it as evidence, shall issue a weight slip in lieu
3 thereof for delivery to the purchaser: PROVIDED, That if the purchaser
4 himself or herself carries away ((his)) the purchase, the vendor shall
5 be required only to give the purchaser at the time of sale a delivery
6 ticket stating the number of pounds of commodity delivered to ((him))
7 the purchaser."

8 "Sec. 19. RCW 19.94.450 and 1969 c 67 s 45 are each amended to
9 read as follows:

10 All solid fuels such as, but not limited to, coal, coke, charcoal,
11 broiler chips, pressed fuels and briquets shall be sold by weight:
12 PROVIDED, That solid fuels such as hogged fuel, sawdust and similar
13 industrial fuels may be sold or purchased by cubic measure. Unless the
14 fuel is delivered to the purchaser in package form, each delivery of
15 coal, coke, or charcoal to an individual purchaser shall be accompanied
16 by duplicate delivery tickets on which, in ink or other indelible
17 substance, there shall be clearly stated (1) the name and address of
18 the vendor; (2) the name and address of the purchaser; and (3) the net
19 weight of the delivery and the gross and tare weights from which the
20 net weight is computed, each expressed in pounds. One of these tickets
21 shall be retained by the vendor and the other shall be delivered to the
22 purchaser at the time of delivery of the fuel, or shall be surrendered,
23 on demand, to the director or his or her deputy or inspector or a city
24 sealer or deputy sealer who, if he or she desires to retain it as
25 evidence, shall issue a weight slip in lieu thereof for delivery to the
26 purchaser: PROVIDED, That if the purchaser carries away ((his)) the
27 purchase, the vendor shall be required only to give to the purchaser at
28 the time of sale a delivery ticket stating the number of pounds of fuel
29 delivered to ((him)) the purchaser."

1 **SHB 1856** - H AMD
2 By Representative Wang

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4 On page 1, line 1 of the title, after "measures;" strike the
5 remainder of the title and insert "amending RCW 19.94.150, 19.94.160,
6 19.94.190, 19.94.200, 19.94.220, 19.94.240, 19.94.250, 19.94.260,
7 19.94.290, 19.94.300, 19.94.330, 19.94.340, 19.94.350, 19.94.420,
8 19.94.440, and 19.94.450; and creating new sections."