

SENATE BILL REPORT

SB 6483

AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 5, 1992

Brief Description: Modifying provisions relating to weights and measures.

SPONSORS: Senators Matson, Murray and Bluechel

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; Bluechel, McDonald, Moore, and Murray.

Staff: Forrest Bathurst (786-7429)

Hearing Dates: February 6, 1992; February 7, 1992

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6483 be substituted therefor, and the substitute bill do pass.

Signed by Senators McDonald, Chairman; Amondson, Bailey, Bluechel, Cantu, Hayner, M. Kreidler, Matson, Murray, Newhouse, Rinehart, and West.

Minority Report: Do not pass.

Signed by Senators Metcalf, Owen, and Williams.

Staff: Terry Wilson (786-7715)

Hearing Dates: March 5, 1992

BACKGROUND:

The Director of the Department of Agriculture is responsible for testing and certifying the accuracy of all weights and measures devices used in commerce in Washington State.

First class cities over 50,000 in population are required to appoint a "city sealer" who tests and certifies weights and measures within each of their respective jurisdictions. City sealers are authorized to work under the supervision of the director. Funding for city weights and measures testing and inspection programs are provided by the city.

The standards by which the director and city sealers may test weights and measures are established by the National Bureau of Standards. These standards detail both the schedule for inspection and the testing procedures for weighing and measuring devices.

The state weights and measures program is primarily supported by the state's general fund. However, funds to support the testing of track scales, used in the weighing and measuring of rail cargo, are collected from track scale owners. The department may prescribe and collect fees to cover all costs for the inspection and testing of track scales.

SUMMARY:

A private calibrator license program is created and administered by the Department of Agriculture. The license enables private calibrators to standardize the graduations of weights and measures devices in Washington State.

No person may act as a calibrator without first obtaining a license. Violations are a misdemeanor and subject to a fine of not more than \$1,000 and/or one year imprisonment in the county jail.

An applicant for a calibrator license must pay a fee based on the number of his or her employees assigned specifically to the calibrator function. Applicants must pay a testing fee for each weight or measure standard submitted to the department for approval and certification.

A calibrator's license is renewed every two years.

The department may revoke, suspend, or refuse a calibrator's license for a number of specified causes. Any effort by the department to refuse a license or discipline a licensee is subject to the requirements of the Administrative Procedures Act.

The director establishes license fees by rule. Fees are set at an amount sufficient to defray the direct costs traced to or caused by the calibrator program. Indirect costs for administering the program are not considered for fee setting purposes.

Calibrators are required to present their field weight and measure standards to the department every four years for inspection, approval and certification.

All weighing or measuring devices used for commercial purposes in Washington must be tested for accuracy once every two years, and if correct, have an official seal placed on the device. Testing and approval of all weight and measuring devices may be performed by the Department of Agriculture, a city sealer, or a licensed calibrator.

The director and city sealers are permitted to charge a fee for testing and approving the weight and measuring devices used within the state. Fees may only be charged by the department when an individual requests the test.

The fee schedule charged by the department for inspecting and approving weighing or measuring devices must be reviewed, prior to adoption, by a representative group from affected

industries. The group is directed to advise the department on the compatibility of the fee schedule with that charged by the private sector for similar services.

The department must adopt the guidelines and specifications detailed in the National Institute of Standards and Technology's Handbook #44.

The department and city sealers are empowered to perform spot checks to guarantee that devices are calibrated correctly and that products for sale meet the weights and standards advertised to the public.

The director or city sealer may mark or tag goods that are found not to comply with the amounts represented and order such items off sale until such package or commodity is brought into full compliance with the appropriate weight or measure standard.

The director or city sealer may confiscate and destroy any weight or measuring device if it is determined to be out of compliance and not repairable. If the device is repairable, the director or city sealer is directed to tag the device as being rejected. The rejected device cannot be used again commercially until approved by the department, a city sealer, or a licensed calibrator.

Obstructing the director or a city sealer in their official duties is a misdemeanor and subject to a fine of not more than \$500 and/or not more than three months in the county jail.

Impersonating the director, a city sealer, or a licensed calibrator, or using an official seal without official authorization, or using a counterfeit seal of approval is a misdemeanor and punishable by a fine of not more than \$1,000 and/or not more than one year imprisonment.

SUMMARY OF PROPOSED COMMERCE & LABOR AMENDMENT:

City is redefined as any first class city with a population greater than 50,000.

EFFECT OF PROPOSED WAYS & MEANS SUBSTITUTE:

All weighing and measuring instruments and devices are to be inspected and tested for accuracy at least once every two years by the Department of Agriculture or the city sealer.

The department is to establish biennial inspection and testing fees for each type or class of weighing or measuring instrument or device. The fees are to be set to cover the direct costs associated with the inspection or testing of the type or class. Before setting or changing fees, the department is to convene a task force to recommend the appropriate level of fees. The task force is to be composed of a representative of the department, city sealers, service agents, service stations, grocery stores, retailers, food processors/dealers, oil heat dealers, the agricultural

community, and liquid propane dealers. Devices found to be correct are subject only to one fee every two years unless the owner requests an inspection.

Fees are due 30 days after billing and are deposited into the weights and measures account established in the state treasury. Ten percent of the fees collected by city sealers are transmitted to the department for deposit in the account.

First class cities no longer are required to have a city sealer. City sealers are required to adopt the state fee schedule.

City field weights and measures standards and service agents weights and measures standards must be inspected and tested biennially.

Civil penalties are imposed for violations, and criminal penalties are eliminated.

The Office of Financial Management is to review the state's weights and measures program and report its findings to the Legislature by June 30, 1993. The office is to form a special task force with representation from government and industry to help with the review.

All appropriations are removed.

Appropriation: none

Revenue: yes

Fiscal Note: requested February 5, 1992

TESTIMONY FOR (Commerce & Labor):

A private licensing program for calibrators is self supporting and more cost effective than the current state program.

TESTIMONY AGAINST (Commerce & Labor):

A private sector calibration program will not be viewed by merchants, consumers, or other states as being trustworthy and objective. Only a state-managed program can guarantee that weights and measures standards are not being manipulated by private interests.

TESTIFIED (Commerce & Labor): Carolyn Logue, NFIB (pro); Jonathan F. Schlueter, Pacific Northwest Grain and Feed Association (con); Mark Brown, Washington Federation of State Employees (con); Ian MacGowan, West Coast Grocery Company (pro); Jim Boldt, Washington Federation of Dealers (pro)

TESTIMONY FOR (Ways & Means):

This is an appropriate program to move to a fee for service. It is a compromise that will continue the program and protect

the consumer. Washington's program is the most anemic in the country.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): PRO: Representative John Wynne; Mike Schwisow, Department of Agriculture; Tom Dooley, AWB; Jan Gee, Washington Retailers