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HOUSE BILL 1856

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Wang and Holland; by request of Department of Agriculture and Office of Financial Management.

Read first time February 12, 1991. Referred to Committee on Revenue.

1            AN ACT Relating to weights and measures; amending RCW 19.94.010,  
2 19.94.150, 19.94.160, 19.94.180, 19.94.190, 19.94.200, 19.94.215,  
3 19.94.220, 19.94.240, 19.94.250, 19.94.260, 19.94.280, 19.94.290,  
4 19.94.300, 19.94.330, 19.94.340, 19.94.350, 19.94.420, 19.94.440,  
5 19.94.450, 19.94.480, 19.94.490, 19.94.500, 19.94.505, and 19.94.510;  
6 adding new sections to chapter 19.94 RCW; adding a new section to  
7 chapter 15.80 RCW; creating new sections; repealing RCW 19.94.020,  
8 19.94.030, 19.94.040, 19.94.050, 19.94.060, 19.94.070, 19.94.080,  
9 19.94.090, 19.94.100, 19.94.110, 19.94.120, 19.94.130, 19.94.140, and  
10 19.94.270; prescribing penalties; providing an effective date; and  
11 declaring an emergency.

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

13            NEW SECTION.    **Sec. 1.**            The accuracy of devices used for  
14 weighing and measuring in commerce in the state of Washington is  
15 important and affects every citizen and is hereby declared to be a

1 business affected with the public interest. Fair weights and measures  
2 are equally important to the business person and the consumer. The  
3 provisions of this chapter are enacted to safeguard the consuming  
4 public and to ensure that merchants receive proper compensation for the  
5 goods they deliver.

6 **Sec. 2.** RCW 19.94.010 and 1969 c 67 s 1 are each amended to read  
7 as follows:

8 ~~((Terms used in this chapter shall have the meaning given to them  
9 in RCW 19.94.020 through 19.94.130 unless where used the context shall  
10 clearly indicate to the contrary.))~~ (1) Unless the context clearly  
11 requires otherwise, the definitions in this section apply throughout  
12 this chapter.

13 (a) "Department" means the department of agriculture of the state  
14 of Washington.

15 (b) "Director" means the director of the department or his or her  
16 duly appointed representative.

17 (c) "Person" means a natural person, individual, firm, partnership,  
18 corporation, company, society, and association, and every officer,  
19 agent, or employee thereof.

20 (d) "Weights and measures" means weights and measures of every  
21 kind, instruments and devices for weighing and measuring, and every  
22 appliance and accessory associated with any or all such instruments and  
23 devices.

24 (e) "City" means a city with a population of over fifty thousand  
25 persons.

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

1       (g) "City sealer" means the sealer of weights and measures of a  
2 city.

3       (h) "Ton" means a unit of two thousand pounds avoirdupois weight.

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

13       (j) "Meat" means and includes all animal flesh, carcasses, or parts  
14 of animals, and shall include fish, shellfish, game, poultry, and meat  
15 food products of every kind and character, whether fresh, frozen,  
16 cooked, cured, or processed.

17       (k) "Poultry" means all fowl, domestic or wild, that is prepared,  
18 processed, sold, or intended or offered for sale.

19       (l) "Fish" means a water-breathing animal, including shellfish such  
20 as, but not limited to, lobster, clam, crab, or other mollusca that is  
21 prepared, processed, sold, or intended or offered for sale.

22       (2) In rules adopted pursuant to this chapter, the following  
23 definitions shall apply:

24       (a) A "nonconsumer package" or "package of nonconsumer commodity"  
25 shall be construed to mean a commodity in package form other than a  
26 consumer package, and particularly a package designed solely for  
27 industrial or institutional use or for wholesale distribution only.

28       (b) A "consumer package" or "package of consumer commodity" shall  
29 be construed to mean a commodity in package form that is customarily  
30 produced or distributed for sale through retail sales agencies or

1 instrumentalities for consumption by individuals, or use by individuals  
2 for the purposes of personal care or in the performance of services  
3 ordinarily rendered in or about the household or in connection with  
4 personal possessions.

5 (c) "Net weight" means the weight of a commodity excluding any  
6 materials, substances, or items not considered to be part of the  
7 commodity. Materials, substances, or items not considered to be part  
8 of the commodity include, but are not limited to, containers,  
9 conveyances, bags, wrappers, packaging materials, labels, individual  
10 piece coverings, decorative accompaniments, and coupons.

11 (d) "Firewood seller" means a person who commercially sells  
12 firewood of any description to the ultimate user or potential user of  
13 the firewood being offered for sale.

14 (3) The director shall prescribe by rule other definitions as  
15 required.

16 **Sec. 3.** RCW 19.94.150 and 1969 c 67 s 15 are each amended to read  
17 as follows:

18 The system of weights and measures in customary use in the United  
19 States and the metric system of weights and measures are jointly  
20 recognized, and either one or both of these systems shall be used for  
21 all commercial purposes in this state. The definitions of basic units  
22 of weight and measure and weights and measures equivalents, as  
23 published by the national ~~((bureau of standards))~~ institute of  
24 standards and technology, are recognized and shall govern weighing and  
25 measuring equipment and transactions in the state.

26 **Sec. 4.** RCW 19.94.160 and 1969 c 67 s 16 are each amended to read  
27 as follows:

1           Weights and measures in conformity with the standards of the United  
2 States as have been supplied to the state by the federal government or  
3 otherwise obtained by the state for use as state standards, shall, when  
4 the same shall have been certified as such by the national (~~bureau of~~  
5 ~~standards~~) institute of standards and technology, be the state  
6 standards of weight and measure. The state standards shall be kept in  
7 a place designated by the director and shall not be removed from the  
8 said place except for repairs or for certification: PROVIDED, That  
9 they shall be submitted at least once in ten years to the national  
10 (~~bureau of standards~~) institute of standards and technology for  
11 certification.

12           **Sec. 5.** RCW 19.94.180 and 1969 c 67 s 18 are each amended to read  
13 as follows:

14           The director shall be the state sealer of weights and measures(~~(,~~  
15 ~~which shall include all towns and all cities with a population of less~~  
16 ~~than fifty thousand persons,~~) and ((he)) shall have the custody of the  
17 state standards of weights and measures and of the other standards and  
18 equipment provided for in this chapter. The director shall have  
19 general supervision over city sealers of weights and measures and over  
20 the weights and measures offered for sale, sold, or in use in the  
21 state.

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

24           The director shall enforce the provisions of this chapter and shall  
25 (~~issue from time to time reasonable~~) adopt rules for enforcing and  
26 carrying out the purposes of this chapter. Such rules shall have the  
27 effect of law and may include (1) standards of net weight, measure, or  
28 count, and reasonable standards of fill for any commodity in package

1 form, (2) ~~((rules))~~ the governing ~~((the))~~ technical and reporting  
2 procedures to be followed, and the report and record forms and marks of  
3 rejection to be used by the director and city sealers in the discharge  
4 of their official duties, (3) ~~((rules))~~ the governing technical test  
5 procedures, reporting procedures, record and reporting forms to be used  
6 by commercial firms when installing, repairing or testing commercial  
7 weights or measures, (4) ~~((rules providing))~~ the criteria that all  
8 weights and measures used by commercial firms in repairing or servicing  
9 commercial weighing and measuring devices shall be calibrated by the  
10 department and be directly traceable to state standards and shall be  
11 submitted to the department for calibration and certification as  
12 necessary and/or at such reasonable intervals as may be established or  
13 required by the director, (5) exemptions from the sealing or marking  
14 requirements of RCW 19.94.250 with respect to weights and measures of  
15 such character or size that such sealing or marking would be  
16 inappropriate, impracticable, or damaging to the apparatus in question,  
17 (6) ~~((rules))~~ provisions that allow the director to establish fees for  
18 weighing, measuring, and providing calibration services performed by  
19 the weights and measures laboratory, with all money collected under  
20 this subsection paid to the director and deposited in an account within  
21 the agricultural local fund to be used for the repair and maintenance  
22 of weights and measures devices and other related functions, (7)  
23 exemptions from the requirements of RCW 19.94.200 and 19.94.210 for  
24 testing, with respect to classes of weights and measures found to be of  
25 such character that periodic retesting is unnecessary to continued  
26 accuracy. These ~~((regulations))~~ rules shall include specifications,  
27 tolerances, and ~~((regulations))~~ rules for weights and measures of the  
28 character of those specified in RCW 19.94.210, designed to eliminate  
29 from use, without prejudice to apparatus that conforms as closely as  
30 practicable to the official standards, those (a) that are not accurate,

1 (b) that are of such construction that they are faulty, that is, that  
2 are not reasonably permanent in their adjustment or will not repeat  
3 their indications correctly, or (c) that facilitate the perpetration of  
4 fraud. The specifications, tolerances, and ~~((regulations))~~ rules for  
5 commercial weighing and measuring devices, together with amendments  
6 thereto, as recommended by the most recent edition of Handbook 44  
7 published by the national ~~((bureau of standards Handbook 44, third~~  
8 ~~edition as published at the time of the enactment of this chapter))~~  
9 institute of standards and technology shall be the specifications,  
10 tolerances, and regulations for commercial weighing and/or measuring  
11 devices of the state. To promote uniformity, any supplements or  
12 amendments to Handbook 44 or any similar subsequent publication of the  
13 national ~~((bureau of standards))~~ institute of standards and technology  
14 shall be deemed to have been adopted under this section. The director  
15 may, however, within thirty days of the publication or effective date  
16 of Handbook 44 or any supplements, amendments, or similar publications  
17 give public notice that a hearing will be held to determine if such  
18 publications should not be applicable under this section. The hearing  
19 shall be conducted under chapter 34.05 RCW. For the purpose of this  
20 chapter, apparatus shall be deemed to be "correct" when it conforms to  
21 all applicable requirements promulgated as specified in this section;  
22 all other apparatus shall be deemed to be "incorrect".

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

25 The director shall test the standards of weight and measure  
26 procured by any city for which the appointment of a sealer of weights  
27 and measures is provided by this chapter, at least once every five  
28 years, and shall approve the same when found to be correct, and ~~((he))~~  
29 the director shall inspect such standards at least once every two

1 years. ((He)) The director shall test all weights and measures used in  
2 checking the receipt or disbursement of supplies in every institution  
3 for the maintenance of which moneys are appropriated by the  
4 legislature, and ((he)) the director shall report ((his)) the findings,  
5 in writing, to the executive officer of the institution concerned.

6 **Sec. 8.** RCW 19.94.215 and 1990 c 27 s 1 are each amended to read  
7 as follows:

8 All railroad track scale owners in this state shall provide  
9 suitable facilities for testing track scales. The department is  
10 authorized, after a hearing, upon its own motion, and after notice to  
11 track scale owners, to order the track scale owners in this state to  
12 provide a suitable car or other device or facility to be used in  
13 testing track scales. The cost of providing the car, device, or  
14 facility shall be equitably and reasonably apportioned by the  
15 department among all track scale owners benefiting from the car,  
16 device, or facility. The car, device, or facility shall be used by the  
17 department to test the accuracy of all track scales, and the railroad  
18 companies shall without charge, move the car, device, or facility to  
19 locations designated by the department, under such rules as the  
20 department may prescribe. The car, device, or facility may be used in  
21 adjoining states to test railroad track scales and for that purpose may  
22 be taken beyond the limits of the state under such rules for its due  
23 care and return as the department may prescribe. The car, device, or  
24 facility may also be used for the testing of scales other than railroad  
25 track scales as determined to be appropriate by the department. The  
26 department is authorized to ~~((prescribe and collect a reasonable fee to  
27 cover all costs for the inspection and testing of track scales))~~ adopt  
28 rules to establish a license fee to cover the costs to carry out the



1 provisions of this section. The moneys collected by the department  
2 shall be placed in an account in the agriculture local fund.

3 **Sec. 9.** RCW 19.94.220 and 1969 c 67 s 22 are each amended to read  
4 as follows:

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

13 **Sec. 10.** RCW 19.94.240 and 1969 c 67 s 24 are each amended to read  
14 as follows:

15 The director shall have the power to issue stop-use orders,  
16 stop-removal orders and removal orders with respect to weights and  
17 measures being, or susceptible of being, commercially used, and to  
18 issue stop-removal orders and removal orders with respect to packages  
19 or amounts of commodities kept, offered, exposed for sale, sold or in  
20 process of delivery, whenever in the course of his or her enforcement  
21 of the provisions of this chapter ~~((and/or))~~ or rules ~~((and~~  
22 ~~regulations))~~ adopted hereunder he or she deems it necessary or  
23 expedient to issue such orders. No person shall use, remove from the  
24 premises specified or fail to remove from any premises specified any  
25 weight, measure, or package or amount of commodity contrary to the  
26 terms of a stop-use order, stop-removal order or removal order issued  
27 under the authority of this section.

1       **Sec. 11.** RCW 19.94.250 and 1969 c 67 s 25 are each amended to read  
2 as follows:

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

16       **Sec. 12.** RCW 19.94.260 and 1969 c 67 s 26 are each amended to read  
17 as follows:

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

25       (2) In the performance of his or her official duties the director  
26 is authorized at reasonable times during the normal business hours of  
27 the person using the weights and measures to enter into or upon any  
28 structure or premises where weights and measures are used or kept for  
29 commercial purposes.     Should the director be denied access to any

1 premises or establishment where such access was sought for the purposes  
2 set forth in this section, ((he)) the director may apply to any court  
3 of competent jurisdiction for a search warrant authorizing access to  
4 such premises or establishment for said purposes. The court may, upon  
5 such application, issue the search warrant for the purposes requested.

6 **Sec. 13.** RCW 19.94.280 and 1969 c 67 s 28 are each amended to read  
7 as follows:

8 There shall be a sealer of weights and measures in every city and  
9 such deputies as may be required by ordinance of each such city  
10 governed by this chapter. Such sealer and such deputies shall in any  
11 such city be appointed by, and they shall hold office subject to  
12 applicable local civil service laws and regulations; otherwise they  
13 shall be appointed by the mayor, or other chief executive officer of  
14 such city, by and with the advice and consent of the governing body of  
15 such city, and they may be removed for cause in the same manner.

16 **Sec. 14.** RCW 19.94.290 and 1969 c 67 s 29 are each amended to read  
17 as follows:

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

25 **Sec. 15.** RCW 19.94.300 and 1969 c 67 s 30 are each amended to read  
26 as follows:

1       The city sealer and his or her deputy sealers when acting under his  
2 or her instructions and at his or her direction shall have the same  
3 powers and shall perform the same duties within the city for which  
4 appointed as are granted to and imposed upon the director by RCW  
5 19.94.210, 19.94.220, 19.94.230, 19.94.240, and 19.94.250.

6       **Sec. 16.** RCW 19.94.330 and 1969 c 67 s 33 are each amended to read  
7 as follows:

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

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

24       Commodities in liquid form shall be sold only by liquid measure or  
25 by weight, and, except as otherwise provided in this chapter,  
26 commodities not in liquid form shall be sold only by weight, by measure  
27 of length or area, or by count: PROVIDED, That liquid commodities may  
28 be sold by weight and commodities not in liquid form may be sold by

1 count only if such methods give accurate information as to the quantity  
2 of commodity sold: AND PROVIDED FURTHER, That the provisions of this  
3 section shall not apply (1) to commodities when sold for immediate  
4 consumption on the premises where sold, (2) to vegetables when sold by  
5 the head or bunch, (3) to commodities in containers standardized by a  
6 law of this state or by federal law, (4) to commodities in package form  
7 when there exists a general consumer usage to express the quantity in  
8 some other manner, (5) to concrete aggregates, concrete mixtures, and  
9 loose solid materials such as earth, soil, gravel, crushed stone, and  
10 the like, when sold by cubic measure, or (6) to unprocessed vegetable  
11 and animal fertilizer when sold by cubic measure. The director may  
12 issue such reasonable (~~regulations~~) rules as are necessary to assure  
13 that amounts of commodity sold are determined in accordance with good  
14 commercial practice and are so determined and represented to be  
15 accurate and informative to all interested parties.

16 **Sec. 18.** RCW 19.94.350 and 1969 c 67 s 35 are each amended to read  
17 as follows:

18 Except as otherwise provided in this chapter, any commodity in  
19 package form introduced or delivered for introduction into or received  
20 in intrastate commerce, kept for the purpose of sale, offered or  
21 exposed for sale or sold in intrastate commerce, shall bear on the  
22 outside of the package such definite, plain, and conspicuous  
23 declaration of (1) the identity of the commodity in the package unless  
24 the same can easily be identified through the wrapper or  
25 container(~~(7)~~); (2) the net quantity of the contents in terms of  
26 weight, measure or count; and (3) in the case of any package not sold  
27 on the premises where packed, the name and place of business of the  
28 manufacturer, packer, or distributor, as may be prescribed by  
29 (~~regulation~~) rule issued by the director: PROVIDED, That in

1 connection with the declaration required under (~~subdivision~~)  
2 subsection (2) of this section, neither the qualifying term "when  
3 packed" or any words of similar import, nor any term qualifying a unit  
4 of weight, measure, or count (for example, "jumbo", "giant", "full",  
5 "or over", and the like) that tends to exaggerate the amount of  
6 commodity in a package, shall be used: AND PROVIDED FURTHER, That  
7 under (~~clause~~) subsection (2) of this section the director shall by  
8 (~~regulation~~) rule establish (a) reasonable variations to be allowed,  
9 (b) exemptions as to small packages and (c) exemptions as to  
10 commodities put up in variable weights or sizes for sale to the  
11 consumer intact and either customarily not sold as individual units or  
12 customarily weighed or measured at time of sale to the consumer.

13 **Sec. 19.** RCW 19.94.420 and 1975 1st ex.s. c 51 s 1 are each  
14 amended to read as follows:

15 All fluid dairy products, including but not limited to whole milk,  
16 skimmed milk, cultured milk, sweet cream, sour cream and buttermilk and  
17 all fluid imitation and fluid substitute dairy products shall be  
18 packaged for retail sale only in units as provided by the director of  
19 the department of agriculture by (~~regulation~~) rule pursuant to the  
20 provisions of chapter 34.05 RCW.

21 **Sec. 20.** RCW 19.94.440 and 1969 c 67 s 44 are each amended to read  
22 as follows:

23 When a vehicle delivers to an individual purchaser a commodity in  
24 bulk, and the commodity is sold in terms of weight units, the delivery  
25 shall be accompanied by a duplicate delivery ticket with the following  
26 information clearly stated, in ink or other indelible marking equipment  
27 and, in clarity, equal to type or printing: (1) the name and address  
28 of the vendor, (2) the name and address of the purchaser, and (3) the

1 net weight of the delivery expressed in pounds, and, if the net weight  
2 is derived from determinations of gross and tare weights, such gross  
3 and tare weights also shall be stated in terms of pounds. One of these  
4 tickets shall be retained by the vendor, and the other shall be  
5 delivered to the purchaser at the time of delivery of the commodity, or  
6 shall be surrendered on demand to the director or the deputy director  
7 or the inspector, or the sealer or deputy sealer, who, if he or she  
8 desires to retain it as evidence, shall issue a weight slip in lieu  
9 thereof for delivery to the purchaser: PROVIDED, That if the purchaser  
10 himself or herself carries away (~~his~~) the purchase, the vendor shall  
11 be required only to give the purchaser at the time of sale a delivery  
12 ticket stating the number of pounds of commodity delivered to (~~him~~)  
13 the purchaser.

14 **Sec. 21.** RCW 19.94.450 and 1969 c 67 s 45 are each amended to read  
15 as follows:

16 All solid fuels such as, but not limited to, coal, coke, charcoal,  
17 broiler chips, pressed fuels and briquets shall be sold by weight:  
18 PROVIDED, That solid fuels such as hogged fuel, sawdust and similar  
19 industrial fuels may be sold or purchased by cubic measure. Unless the  
20 fuel is delivered to the purchaser in package form, each delivery of  
21 coal, coke, or charcoal to an individual purchaser shall be accompanied  
22 by duplicate delivery tickets on which, in ink or other indelible  
23 substance, there shall be clearly stated (1) the name and address of  
24 the vendor; (2) the name and address of the purchaser; and (3) the net  
25 weight of the delivery and the gross and tare weights from which the  
26 net weight is computed, each expressed in pounds. One of these tickets  
27 shall be retained by the vendor and the other shall be delivered to the  
28 purchaser at the time of delivery of the fuel, or shall be surrendered,  
29 on demand, to the director or his or her deputy or inspector or a city

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

7 **Sec. 22.** RCW 19.94.480 and 1969 c 67 s 48 are each amended to read  
8 as follows:

9 Fractional parts of any unit of weight or measure shall mean like  
10 fractional parts of the value of such unit as prescribed or defined in  
11 RCW ~~((19.94.070, 19.94.090 and 19.94.150))~~ 19.94.010, and all contracts  
12 concerning the sale of commodities and services shall be construed in  
13 accordance with this requirement.

14 **Sec. 23.** RCW 19.94.490 and 1969 c 67 s 49 are each amended to read  
15 as follows:

16 It shall be unlawful for any person ~~((who shall))~~ to hinder or  
17 obstruct in any way the director, a city sealer or deputy sealer, in  
18 the performance of his or her official duties~~((, shall be guilty of a~~  
19 ~~misdemeanor, and upon conviction thereof shall be punished by a fine of~~  
20 ~~not less than twenty dollars or more than two hundred dollars, or by~~  
21 ~~imprisonment in the county jail for not more than three months, or by~~  
22 ~~both such fine and imprisonment))~~. A person who violates this section  
23 is subject to a civil penalty.

24 **Sec. 24.** RCW 19.94.500 and 1969 c 67 s 50 are each amended to read  
25 as follows:

26 Any person who shall impersonate in any way the director, or a city  
27 sealer or a deputy sealer, by the use of his or her seal or a



1 counterfeit of his or her seal, or in any other manner, shall be  
2 (~~guilty of a misdemeanor, and upon conviction thereof shall be~~  
3 ~~punished by a fine of not less than one hundred dollars or more than~~  
4 ~~five hundred dollars or by imprisonment in the county jail for not more~~  
5 ~~than one year, or by both such fine and imprisonment~~) subject to a  
6 civil penalty.

7       **Sec. 25.** RCW 19.94.505 and 1984 c 61 s 1 are each amended to read  
8 as follows:

9       It is unlawful for any dealer or service station, as both are  
10 defined in RCW 82.36.010, to sell ethanol and/or methanol at one  
11 percent, by volume, or greater in gasoline for use as motor vehicle  
12 fuel unless the dispensing device has a label stating the type and  
13 maximum percentage of alcohol contained in the motor vehicle fuel.

14       (~~Violation of~~) Persons who violate this section (~~is a~~  
15 ~~misdemeanor~~) are subject to a civil penalty.

16       **Sec. 26.** RCW 19.94.510 and 1969 c 67 s 51 are each amended to read  
17 as follows:

18       Any person who, by himself or herself, by his or her servant or  
19 agent, or as the servant or agent of another person, performs any one  
20 of the acts enumerated in subsections (1) through (9) (~~below~~) of this  
21 section, shall be (~~guilty of a misdemeanor and upon a second or~~  
22 ~~subsequent conviction thereof he shall be guilty of a gross~~  
23 ~~misdemeanor~~) subject to a civil penalty.

24       (1) Use or have in possession for the purpose of using for any  
25 commercial purpose specified in RCW 19.94.210, sell, offer, expose for  
26 sale or hire or have in possession for the purpose of selling or hiring  
27 an incorrect weight or measure or any device or instrument used or  
28 calculated to falsify any weight or measure.

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

7 (3) Dispose of any rejected or condemned weight or measure in a  
8 manner contrary to law or regulation.

9 (4) Remove from any weight or measure, contrary to law or  
10 regulation, any tag, seal, stamp or mark placed thereon by the  
11 director, or a city sealer or deputy sealer.

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

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

18 (7) Keep for the purpose of sale, advertise, offer or expose for  
19 sale or sell any commodity, thing or service in a condition or manner  
20 contrary to law or regulation.

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

26 (9) Violate any provision of this chapter or of the rules ((~~and/or~~  
27 ~~regulations promulgated~~)) adopted under the provisions of this chapter  
28 for which a specific penalty has not been prescribed.

1        NEW SECTION.    **Sec. 27.**        No person may operate or use for  
2 commercial purposes within the state any weighing or measuring  
3 instrument or device as defined in RCW 19.94.010 that is not licensed  
4 in accordance with rules established by the director. A license issued  
5 under this chapter applies only to the instrument or device specified  
6 in the license. However, the department may permit such license to be  
7 applicable to a replacement for the original instrument or device.

8        NEW SECTION.    **Sec. 28.**        Commercial weighing or measuring  
9 instruments or devices specified in RCW 19.94.010 are exempt from the  
10 licensing requirements in section 27 of this act if the following  
11 applies: Ownership and use of the instrument or device is limited to  
12 federal, state, or local government agencies in performance of official  
13 functions.

14        NEW SECTION.    **Sec. 29.**        (1) The license required by section 27  
15 of this act is in addition to any other licenses required by law.

16        (2) If section 27 of this act is in conflict with any other  
17 statutes, ordinances, or regulations, the provisions of section 27 of  
18 this act take precedence.

19        NEW SECTION.    **Sec. 30.**        (1) License fees for each type or class  
20 of commercial weighing or measuring instrument or device shall be  
21 established by the department by rule. The fees shall be established  
22 in the amounts necessary for the department to carry out and enforce  
23 the provisions of this chapter.

24        (2) The license fee schedule shall be adopted by rule by the  
25 director.

26        (3) All moneys received by the department under this chapter shall  
27 be paid into the agricultural local fund as defined in RCW 43.23.230.

1 (4) The application shall be accompanied by the fee established by  
2 the director by rule.

3 (5) The director shall establish by rule an additional fee for any  
4 weighing or measuring device specified in this section that is equipped  
5 or associated with a remote readout. The additional fee shall apply  
6 individually to each remote readout associated with each device.

7 NEW SECTION. Sec. 31. (1) All weighing and measuring  
8 instruments or device licenses issued under this chapter are subject to  
9 renewal on an annual basis as prescribed by rule developed by the  
10 director.

11 (2) A license issued under this chapter may be suspended or revoked  
12 by the department if the instrument or device is operated or used in  
13 violation of this chapter or rules adopted pursuant thereto.

14 NEW SECTION. Sec. 32. The owner or person in possession of  
15 weighing or measuring instruments or devices for which the license fees  
16 have not been paid shall not use such weighing or measuring instruments  
17 or devices for commercial purposes.

18 NEW SECTION. Sec. 33. (1) The department shall prescribe such  
19 forms, certificates, and identification tags as it considers necessary  
20 to carry out the licensing provisions of this chapter.

21 (2) The department shall provide a certificate or other evidence of  
22 device license compliance to each person fulfilling the weighing or  
23 measuring device licensing requirements of this chapter.

24 (3) Application for a weights and measures license shall be made  
25 upon a form prescribed and furnished by the department and shall  
26 contain such information as the department may require.

1        NEW SECTION.    **Sec. 34.**        (1) Every person who fails to comply  
2 with this chapter, or any rule adopted under it, may be subjected to a  
3 civil penalty, as determined by the director, in an amount of not more  
4 than five hundred dollars for every such violation. Each and every  
5 such violation shall be a separate and distinct offense. Every person,  
6 who, through an act of commission or omission, procures, aids, or abets  
7 in the violation shall be considered to have violated this chapter and  
8 may be subject to the penalty provided for in this section.

9        (2) In addition, the department may employ and attach to the  
10 instruments or devices such forms, notices, or security seals as it  
11 considers necessary to prevent the continued unauthorized use of the  
12 instruments or devices until such owner or operator thereof is in  
13 compliance with this chapter.

14        NEW SECTION.    **Sec. 35.**        All license fees, inspection fees, and  
15 calibration fees under this chapter shall become due and payable upon  
16 billing by the department. A late fee of one and one-half percent per  
17 month shall be assessed on the unpaid balance against persons more than  
18 thirty days in arrears. In addition to any other penalties, the  
19 director may refuse to perform any inspection, certification, and/or  
20 calibration service for any person in arrears unless the person makes  
21 payment in full prior to such inspection, certification and/or  
22 calibration.

23        NEW SECTION.    **Sec. 36.**        The department shall provide the city  
24 sealer of a first class city the license fees less an administrative  
25 cost, at a maximum of ten percent, for the types of devices inspected  
26 by the city sealer within that jurisdiction.

1        NEW SECTION.    **Sec. 37.**        No person may act as a firewood seller  
2 without a license. Any person applying for such a license shall file  
3 an application with the director on or before a date to be established  
4 by the director by rule. The application shall be accompanied by a  
5 license fee as prescribed by the director by rule. Licenses to operate  
6 as firewood sellers shall require annual renewal and the director shall  
7 prescribe a penalty for late renewal by rule.

8        NEW SECTION.    **Sec. 38.**        The director is authorized to deny,  
9 suspend, or revoke a license for any firewood seller or to issue  
10 conditional or probationary orders in any case in which the director  
11 finds that there has been a failure or refusal to comply with the  
12 requirements of this chapter or the rules adopted hereunder.

13        NEW SECTION.    **Sec. 39.**        A new section is added to chapter 15.80 RCW  
14 to read as follows:

15        All fees and other moneys received by the department under the  
16 provisions of this chapter shall be paid into the agricultural local  
17 fund as defined in RCW 43.23.230 and shall be used solely for the  
18 purpose of carrying out the provisions of this chapter and the rules  
19 adopted hereunder.

20        NEW SECTION.    **Sec. 40.**        The following acts or parts of acts are  
21 each repealed:

22        (1) RCW 19.94.020 and 1969 c 67 s 2;

23        (2) RCW 19.94.030 and 1969 c 67 s 3;

24        (3) RCW 19.94.040 and 1969 c 67 s 4;

25        (4) RCW 19.94.050 and 1969 c 67 s 5;

26        (5) RCW 19.94.060 and 1969 c 67 s 6;

27        (6) RCW 19.94.070 and 1969 c 67 s 7;

- 1 (7) RCW 19.94.080 and 1969 c 67 s 8;  
2 (8) RCW 19.94.090 and 1969 c 67 s 9;  
3 (9) RCW 19.94.100 and 1969 c 67 s 10;  
4 (10) RCW 19.94.110 and 1969 c 67 s 11;  
5 (11) RCW 19.94.120 and 1969 c 67 s 12;  
6 (12) RCW 19.94.130 and 1969 c 67 s 13;  
7 (13) RCW 19.94.140 and 1969 c 67 s 14; and  
8 (14) RCW 19.94.270 and 1969 c 67 s 27.

9 NEW SECTION. **Sec. 41.** Sections 27 through 38 of this act are  
10 each added to chapter 19.94 RCW.

11 NEW SECTION. **Sec. 42.** The department is authorized to adopt  
12 rules as necessary to provide for the efficient and speedy  
13 implementation of this act.

14 NEW SECTION. **Sec. 43.** (1) Sections 1 through 40 of this act  
15 are necessary for the immediate preservation of the public peace,  
16 health, or safety, or support of the state government and its existing  
17 public institutions, and shall take effect July 1, 1991.

18 (2) Section 42 of this act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect immediately.