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SENATE BILL 6099

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State of Washington

53rd Legislature

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By Senators M. Rasmussen, Newhouse and Snyder; by request of Department of Agriculture

Read first time 01/12/94. Referred to Committee on Agriculture.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,  
2 19.94.160, 19.94.175, 19.94.190, 19.94.255, 19.94.280, 19.94.320, and  
3 19.94.360; and adding a new section to chapter 15.80 RCW.

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

5 **Sec. 1.** RCW 19.94.010 and 1992 c 237 s 3 are each amended to read  
6 as follows:

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

10 (a) "City" means a first class city with a population of over fifty  
11 thousand persons.

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

16 (c) "Commodity in package form" means a commodity put up or  
17 packaged in any manner in advance of sale in units suitable for either  
18 wholesale or retail sale, exclusive, however, of an auxiliary shipping  
19 container enclosing packages that individually conform to the

1 requirements of this chapter. An individual item or lot of any  
2 commodity not in packaged form, but on which there is marked a selling  
3 price based on established price per unit of weight or of measure,  
4 shall be construed to be a commodity in package form.

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

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

14 (f) "Department" means the department of agriculture of the state  
15 of Washington.

16 (g) "Director" means the director of the department or duly  
17 authorized representative acting under the instructions and at the  
18 direction of the director.

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

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

28 (j) "Nonconsumer package" or "package of nonconsumer commodity"  
29 means a commodity in package form other than a consumer package and  
30 particularly a package designed solely for industrial or institutional  
31 use or for wholesale distribution only.

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

36 (l) "Official seal of approval" means the uniform seal or  
37 certificate issued by the director or city sealer which indicates that  
38 a weights and measures standard or a weighing or measuring instrument

1 or device conforms with the specifications, tolerances, and other  
2 technical requirements adopted in RCW 19.94.195.

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

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

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

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

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

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

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

32 (t) "Secondary weights and measures standard" means (~~any object~~)  
33 the physical standards that are traceable to the primary standards  
34 through comparisons, used by the director, a city sealer, or a service  
35 agent that under specified conditions defines or represents a  
36 recognized weight or measure during the inspection, adjustment,  
37 testing, or systematic standardization of the graduations of any  
38 weighing or measuring instrument or device.

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

3 **Sec. 2.** RCW 19.94.160 and 1992 c 237 s 5 are each amended to read  
4 as follows:

5 Weights and measures standards that are in conformity with the  
6 standards of the United States as have been supplied to the state by  
7 the federal government or otherwise obtained by the state for use as  
8 state weights and measures standards, shall, when the same shall have  
9 been certified as such by the national institute of standards and  
10 technology or any successor organization, be the ((state)) primary  
11 standards of weight and measure. The state weights and measures  
12 standards shall be kept in a place designated by the director and shall  
13 not be removed from such designated place except for repairs or for  
14 certification. These state weights and measures standards shall be  
15 submitted at least once every ten years to the national institute of  
16 standards and technology or any successor organization for  
17 certification.

18 **Sec. 3.** RCW 19.94.175 and 1992 c 237 s 7 are each amended to read  
19 as follows:

20 (1) The department shall establish reasonable, biennial inspection  
21 and testing fees for each type or class of weighing or measuring  
22 instrument or device required to be inspected and tested under this  
23 chapter. These inspection and testing fees shall be equitably prorated  
24 within each such type or class and shall be limited to those amounts  
25 necessary for the department to cover, to the extent possible, the  
26 direct costs associated with the inspection and testing of each type or  
27 class of weighing or measuring instrument or device.

28 (2) Prior to the establishment and each amendment of the fees  
29 authorized under this chapter, a weights and measures fee task force  
30 shall be convened under the direction of the department. The task  
31 force shall be composed of a representative from the department who  
32 shall serve as chair and one representative from each of the following:  
33 City sealers, service agents, service stations, grocery stores,  
34 retailers, food processors/dealers, oil heat dealers, the agricultural  
35 community, and liquid propane dealers. The task force shall recommend  
36 the appropriate level of fees to be assessed by the department pursuant  
37 to subsection (1) of this section, based upon the level necessary to

1 cover the direct costs of administering and enforcing the provisions of  
2 this chapter and to the extent possible be consistent with fees  
3 reasonably and customarily charged in the private sector for similar  
4 services.

5 (3) The fees authorized under (~~this chapter~~) subsection (1) of  
6 this section may be billed only after the director or a city sealer has  
7 (~~issued an official seal of approval for~~) officially inspected and  
8 tested a weighing or measuring instrument or device or a weight or  
9 measure standard.

10 (4) All fees shall become due and payable thirty days after billing  
11 by the department or a city sealer. A late penalty of one and one-half  
12 percent per month may be assessed on the unpaid balance more than  
13 thirty days in arrears.

14 (5) Fees upon weighing or measuring instruments or devices within  
15 the jurisdiction of the city that are collected under this section by  
16 city sealers shall be deposited into the general fund, or other  
17 account, of the city as directed by the governing body of the city.  
18 (~~On the thirtieth day of each month, city sealers shall, pursuant to~~  
19 ~~procedures established and upon forms provided by the director, remit~~  
20 ~~to the department for administrative costs ten percent of the total~~  
21 ~~fees collected.~~)

22 (6) With the exception of subsection (~~(7)~~) (8) of this section,  
23 no person shall be required to pay more than the established inspection  
24 and testing fee adopted under this section for any weighing or  
25 measuring instrument or device in any two-year period when the same has  
26 been found to be correct.

27 (7) (~~Whenever a special request is made by the owner for the~~  
28 ~~inspection and testing of a weighing or measuring instrument or device,~~  
29 ~~the fee prescribed by the director for such a weighing or measuring~~  
30 ~~instrument or device shall be paid by the owner.~~) The department or a  
31 city sealer may establish reasonable reinspection and testing fees for  
32 each type or class of weighing or measuring instrument or device  
33 required to be inspected and tested under this chapter when such a  
34 device has been found to be incorrect. These reinspection and testing  
35 fees shall be limited to those amounts necessary for the department or  
36 a city sealer to cover, to the extent possible, the direct costs  
37 associated with the reinspection and testing of each type or class of  
38 weighing or measuring instrument or device. Investigations for cause  
39 shall not be construed as reinspections under this subsection.

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

9       **Sec. 4.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read  
10 as follows:

11       (1) The director and duly appointed city sealers shall enforce the  
12 provisions of this chapter. The director shall adopt rules for  
13 enforcing and carrying out the purposes of this chapter including but  
14 not limited to the following:

15       (a) Establishing state standards of weight, measure, or count, and  
16 reasonable standards of fill for any commodity in package form;

17       (b) The establishment of technical and reporting procedures to be  
18 followed, any necessary report and record forms, and marks of rejection  
19 to be used by the director and city sealers in the discharge of their  
20 official duties as required by this chapter;

21       (c) The establishment of technical test procedures, reporting  
22 procedures, and any necessary record and reporting forms to be used by  
23 service agents when installing, repairing, inspecting, or standardizing  
24 the graduations of any weighing or measuring instruments or devices;

25       ~~(d) ((The establishment of fee payment and reporting procedures and~~  
26 ~~any necessary report and record forms to be used by city sealers when~~  
27 ~~remitting the percentage of total fees collected as required under this~~  
28 ~~chapter;~~

29       ~~(e))~~ The establishment of exemptions from the sealing or marking  
30 inspection and testing requirements of RCW 19.94.250 with respect to  
31 weighing or measuring instruments or devices of such character or size  
32 that such sealing or marking would be inappropriate, impracticable, or  
33 damaging to the apparatus in question;

34       ~~((f))~~ (e) The establishment of exemptions from the inspection and  
35 testing requirements of RCW 19.94.165 with respect to classes of  
36 weighing or measuring instruments or devices found to be of such  
37 character that periodic inspection and testing is unnecessary to ensure  
38 continued accuracy; and

1       (~~(g)~~) (f) The establishment of inspection and approval  
2 techniques, if any, to be used with respect to classes of weighing or  
3 measuring instruments or devices that are designed specifically to be  
4 used commercially only once and then discarded, or are uniformly  
5 mass-produced by means of a mold or die and are not individually  
6 adjustable.

7       (2) These rules shall also include specifications and tolerances  
8 for the acceptable range of accuracy required of weighing or measuring  
9 instruments or devices and shall be designed to eliminate from use,  
10 without prejudice to weighing or measuring instruments or devices that  
11 conform as closely as practicable to official specifications and  
12 tolerances, those (a) that are of such construction that they are  
13 faulty, that is, that are not reasonably permanent in their adjustment  
14 or will not repeat their indications correctly, or (b) that facilitate  
15 the perpetration of fraud.

16       **Sec. 5.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to read  
17 as follows:

18       (1) Weighing or measuring instruments or devices that have been  
19 rejected under the authority of the director or a city sealer shall  
20 remain subject to the control of the rejecting authority until such  
21 time as suitable repair or disposition thereof has been made as  
22 required by this section.

23       (2) The owner of any weighing or measuring instrument or device  
24 that has been marked or tagged as rejected by the director or a city  
25 sealer shall cause the same to be made correct within thirty days or  
26 such longer period as may be authorized by the rejecting authority. In  
27 lieu of correction, the owner of such weighing and measuring instrument  
28 or device may dispose of the same, but only in the manner specifically  
29 authorized by the rejecting authority.

30       (~~(3) Weighing and measuring instruments or devices that have been~~  
31 ~~rejected shall not again be used commercially until they have been~~  
32 ~~officially reexamined and, if found to be correct, had an official seal~~  
33 ~~of approval placed upon or issued for such weighing or measuring~~  
34 ~~instrument or device by the rejecting authority.))~~

35       **Sec. 6.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to read  
36 as follows:

1 (1) There may be a city sealer in every city and such deputies as  
2 may be required by ordinance of each such city to administer and  
3 enforce the provisions of this chapter.

4 (2) Each city electing to have a city sealer shall adopt rules for  
5 the appointment and removal of the city sealer and any deputies  
6 required by local ordinance. The rules for appointment of a city  
7 sealer and any deputies must include provisions for the advice and  
8 consent of the local governing body of such city and, as necessary, any  
9 provisions for local civil service laws and regulations.

10 (3) A city sealer (~~shall~~) may adopt the fee amounts established  
11 by the director pursuant to RCW (~~19.94.165~~) 19.94.175. No city shall  
12 adopt or charge an inspection, testing, or licensing fee or any other  
13 fee upon a weighing or measuring instrument or device that is in excess  
14 of the fee amount adopted under RCW (~~19.94.165~~) 19.94.175.

15 (4) A city sealer shall keep a complete and accurate record of all  
16 official acts performed under the authority of this chapter and shall  
17 submit an annual report to the governing body of his or her city and  
18 shall make any reports as may be required by the director.

19 **Sec. 7.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to read  
20 as follows:

21 (1) In cities for which city sealers have been appointed as  
22 provided for in this chapter, the director shall have general  
23 (~~supervisory powers over such~~) oversight of city (~~sealers~~) weights  
24 and measures programs and may, when he or she deems it reasonably  
25 necessary, exercise concurrent authority to carry out the provisions of  
26 this chapter.

27 (2) When the director elects to exercise concurrent authority  
28 within a city with a duly appointed city sealer, the director's powers  
29 and duties relative to this chapter shall be in addition to the powers  
30 granted in any such city by law or charter.

31 **Sec. 8.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read  
32 as follows:

33 In addition to the declarations required by RCW 19.94.350, any  
34 commodity in package form, the package being one of a lot containing  
35 random weights, measures or counts of the same commodity (~~and bearing~~  
36 ~~the total selling price of the package~~) at the time it is exposed for  
37 sale at retail, shall bear on the outside of the package a plain and



1 conspicuous declaration of the price per single unit of weight,  
2 measure, or count and the total selling price of the package.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 15.80 RCW  
4 to read as follows:

5 All moneys collected under this chapter shall be placed in the  
6 weights and measures account in the state treasury created in RCW  
7 19.94.185.

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