

2 **2SHB 1524** - S AMD
3 By Senators Rasmussen and Morton

4 ADOPTED AS ADOPTED 4/23/95

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

7 "NEW SECTION. **Sec. 1.** (1) Except as provided in subsection (4) of
8 this section for the initial registration of an instrument or device,
9 no weighing or measuring instrument or device may be used for
10 commercial purposes in the state unless its commercial use is
11 registered annually. If its commercial use is within a city that has
12 a city sealer and a weights and measures program as provided by RCW
13 19.94.280, the commercial use of the instrument or device shall be
14 registered with the city if the city has adopted fees pursuant to
15 subsection (2) of this section. If its commercial use is outside of
16 such a city, the commercial use of the instrument or device shall be
17 registered with the department.

18 (2) A city with such a sealer and program may establish an annual
19 fee for registering the commercial use of such a weighing or measuring
20 instrument or device with the city. The annual fee shall not exceed
21 the fee established in RCW 19.94.175 for registering the use of a
22 similar instrument or device with the department. Fees upon weighing
23 or measuring instruments or devices within the jurisdiction of the city
24 that are collected under this subsection by city sealers shall be
25 deposited into the general fund, or other account, of the city as
26 directed by the governing body of the city.

27 (3) Registrations with the department are accomplished as part of
28 the master license system under chapter 19.02 RCW. Payment of the
29 registration fee for a weighing or measuring instrument or device under
30 the master license system constitutes the registration required by this
31 section.

32 (4) The fees established by or under RCW 19.94.175 for registering
33 a weighing or measuring instrument or device shall be paid to the
34 department of licensing concurrently with an application for a master
35 license or with the annual renewal of a master license under chapter
36 19.02 RCW. A weighing or measuring instrument or device shall be

1 initially registered with the state at the time the owner applies for
2 a master license for a new business or at the first renewal of the
3 license that occurs after the instrument or device is first placed into
4 commercial use. However, the use of an instrument or device that is in
5 commercial use on the effective date of this act shall be initially
6 registered at the time the first renewal of the master license of the
7 owner of the instrument or device is due following the effective date
8 of this act. The department of licensing shall remit to the department
9 of agriculture all fees collected under this provision less reasonable
10 collection expenses.

11 (5) Each city charging registration fees under this section shall
12 notify the department of agriculture at the time such fees are adopted
13 and whenever changes in the fees are adopted.

14 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (3) of
15 this section and RCW 19.94.190(1)(d), the department shall test and
16 inspect each biennium a sufficient number of weighing and measuring
17 instruments and devices to ensure that the provisions of this chapter
18 are enforced.

19 (2) The department may issue an official seal of approval for each
20 weighing or measuring instrument or device that has been tested and
21 inspected and found to be correct.

22 (3) Except as provided in RCW 19.94.216, this section does not
23 apply to weighing or measuring instruments or devices located in an
24 area of the state that is within a city that has a city sealer and a
25 weights and measures program pursuant to RCW 19.94.280 unless the city
26 sealer does not possess the equipment necessary to test and inspect the
27 weighing or measuring instrument or device.

28 **Sec. 3.** RCW 19.94.005 and 1992 c 237 s 1 are each amended to read
29 as follows:

30 The legislature finds:

31 (1) The accuracy of weighing and measuring instruments and devices
32 used in commerce in the state of Washington affects every consumer
33 throughout the state and is of vital importance to the public interest.

34 (2) Fair weights and measures are equally important to business and
35 the consumer.

36 (3) ~~((A continuing study of this state's weights and measures
37 program is necessary to ensure that the program provides proper~~

1 ~~enforcement and oversight to safeguard consumers, business, and~~
2 ~~interstate commerce.~~

3 (4)) This chapter safeguards the consuming public and ensures that
4 businesses receive proper compensation for the commodities they
5 deliver.

6 **Sec. 4.** RCW 19.94.010 and 1992 c 237 s 3 are each amended to read
7 as follows:

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

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

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

17 (c) "Commodity in package form" means a commodity put up or
18 packaged in any manner in advance of sale in units suitable for either
19 wholesale or retail sale, exclusive, however, of an auxiliary shipping
20 container enclosing packages that individually conform to the
21 requirements of this chapter. An individual item or lot of any
22 commodity not in packaged form, but on which there is marked a selling
23 price based on established price per unit of weight or of measure,
24 shall be construed to be a commodity in package form.

25 (d) "Consumer package" or "package of consumer commodity" means a
26 commodity in package form that is customarily produced or distributed
27 for sale through retail sales agencies or instrumentalities for
28 consumption by persons, or used by persons for the purpose of personal
29 care or in the performance of services ordinarily rendered in or about
30 a household or in connection with personal possessions.

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

34 (f) "Department" means the department of agriculture of the state
35 of Washington.

36 (g) "Director" means the director of the department or duly
37 authorized representative acting under the instructions and at the
38 direction of the director.

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

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

10 (j) "Nonconsumer package" or "package of nonconsumer commodity"
11 means a commodity in package form other than a consumer package and
12 particularly a package designed solely for industrial or institutional
13 use or for wholesale distribution only.

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

18 (l) "Official seal of approval" means the ((uniform)) seal or
19 certificate issued by the director or city sealer which indicates that
20 a secondary weights and measures standard or a weighing or measuring
21 instrument or device conforms with the specifications, tolerances, and
22 other technical requirements adopted in RCW 19.94.195.

23 (m) "Person" means any individual, receiver, administrator,
24 executor, assignee, trustee in bankruptcy, trust, estate, firm,
25 copartnership, joint venture, club, company, business trust,
26 corporation, association, society, or any group of individuals acting
27 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
28 otherwise.

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

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

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

36 (q) "Weighing or measuring instrument or device" means any
37 equipment or apparatus used commercially to establish the size,
38 quantity, capacity, count, extent, area, heaviness, or measurement of
39 quantities, things, produce, or articles for distribution or

1 consumption, that are purchased, offered or submitted for sale, hire,
2 or award on the basis of weight, measure or count, including any
3 accessory attached to or used in connection with a weighing or
4 measuring instrument or device when such accessory is so designed or
5 installed that its operation affects, or may effect, the accuracy or
6 indication of the device. This definition shall be strictly limited to
7 those weighing or measuring instruments or devices governed by Handbook
8 44 as adopted under RCW 19.94.195.

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

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

13 (t) "Secondary weights and measures standard" means ~~((any object))~~
14 the physical standards that are traceable to the primary standards
15 through comparisons, used by the director, a city sealer, or a service
16 agent that under specified conditions defines or represents a
17 recognized weight or measure during the inspection, adjustment,
18 testing, or systematic standardization of the graduations of any
19 weighing or measuring instrument or device.

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

22 **Sec. 5.** RCW 19.94.160 and 1992 c 237 s 5 are each amended to read
23 as follows:

24 Weights and measures standards that are in conformity with the
25 standards of the United States as have been supplied to the state by
26 the federal government or otherwise obtained by the state for use as
27 state weights and measures standards, shall, when the same shall have
28 been certified as such by the national institute of standards and
29 technology or any successor organization, be the ~~((state))~~ primary
30 standards of weight and measure. The state weights and measures
31 standards shall be kept in a place designated by the director and shall
32 ~~((not be removed from such designated place except for repairs or for~~
33 ~~certification. These state weights and measures standards shall be~~
34 ~~submitted at least once every ten years to))~~ be maintained in such
35 calibration as prescribed by the national institute of standards and
36 technology or any successor organization ~~((for certification)).~~

1 **Sec. 6.** RCW 19.94.165 and 1992 c 237 s 6 are each amended to read
2 as follows:

3 (~~((1) Unless otherwise provided by the department,~~) All weighing
4 or measuring instruments or devices used for commercial purposes within
5 this state shall be ((inspected and tested for accuracy by the director
6 or city sealer at least once every two years and, if found to be))
7 correct((, the director or city sealer shall issue an official seal of
8 approval for each such instrument or device.

9 ~~(2) Beginning fiscal year 1993, the schedule of inspection and~~
10 ~~testing shall be staggered so as one half of the weighing or measuring~~
11 ~~instruments or devices under the jurisdiction of the inspecting and~~
12 ~~testing authority are approved in odd fiscal years and the remaining~~
13 ~~one half are inspected and tested in even fiscal years.~~

14 ~~(3) The department may provide, as needed, uniform, official seals~~
15 ~~of approval to city sealers for the purposes expressed in this~~
16 ~~section)).~~

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

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

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

1 reasonably and customarily charged in the private sector for similar
2 services.

3 (3) The fees authorized under this chapter may be billed only after
4 the director or a city sealer has issued an official seal of approval
5 for a weighing or measuring instrument or device or a weight or measure
6 standard.

7 (4) All fees shall become due and payable thirty days after billing
8 by the department or a city sealer. A late penalty of one and one half
9 percent per month may be assessed on the unpaid balance more than
10 thirty days in arrears.)) (1) Pursuant to section 1 of this act, the
11 following annual registration fees shall be charged for each weighing
12 or measuring instrument or device used for commercial purposes in this
13 state:

- 14 (a) Weighing devices:
- 15 (i) Small scales "zero to four hundred pounds
16 capacity" \$ 5.00
- 17 (ii) Intermediate scales "four hundred one pounds to
18 five thousand pounds capacity" \$ 20.00
- 19 (iii) Large scales "over five thousand pounds
20 capacity" \$ 52.00
- 21 (iv) Large scales with supplemental devices \$ 52.00
- 22 (v) Railroad track scales \$800.00
- 23 (b) Liquid fuel metering devices:
- 24 (i) Motor fuel meters with flows of less than twenty
25 gallons per minute \$ 5.00
- 26 (ii) Motor fuel meters with flows of more than twenty
27 but not more than one hundred fifty gallons per
28 minute \$ 16.00
- 29 (iii) Motor fuel meters with flows over one hundred
30 fifty gallons per minute \$ 25.00
- 31 (c) Liquid petroleum gas meters:
- 32 (i) With one inch diameter or smaller dispensers . . . \$ 10.00
- 33 (ii) With greater than one inch diameter dispensers . . \$ 30.00
- 34 (d) Fabric meters \$ 5.00
- 35 (e) Cordage meters \$ 5.00
- 36 (f) Mass flow meters \$ 14.00
- 37 (g) Taxi meters \$ 5.00

38 ((5) Fees upon weighing or measuring instruments or devices within
39 the jurisdiction of the city that are collected under this section by

1 ~~city sealers shall be deposited into the general fund, or other~~
2 ~~account, of the city as directed by the governing body of the city. On~~
3 ~~the thirtieth day of each month, city sealers shall, pursuant to~~
4 ~~procedures established and upon forms provided by the director, remit~~
5 ~~to the department for administrative costs ten percent of the total~~
6 ~~fees collected.~~

7 ~~(6))~~ (2) With the exception of subsection ~~((7))~~ (3) of this
8 section, no person shall be required to pay more than the established
9 ~~((inspection and testing))~~ fee adopted under this section for any
10 weighing or measuring instrument or device in any ~~((two-year period~~
11 ~~when the same has been found to be correct))~~ one year.

12 ~~((7) Whenever a special request is made by the owner for the~~
13 ~~inspection and testing of a weighing or measuring instrument or device,~~
14 ~~the fee prescribed by the director for such a weighing or measuring~~
15 ~~instrument or device shall be paid by the owner.))~~

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

24 **Sec. 8.** RCW 19.94.185 and 1992 c 237 s 8 are each amended to read
25 as follows:

26 (1) Except as provided in subsection (2) of this section, all
27 moneys collected under this chapter shall be payable to the director
28 and placed in the weights and measures account hereby established in
29 the ((state treasury)) agricultural local fund. Moneys deposited in
30 this account ((may be spent only following appropriation by law and))
31 shall be used solely for the purposes of ((weighing or measuring
32 instrument or device inspection and testing)) implementing or enforcing
33 this chapter. No appropriation is required for the disbursement of
34 moneys from the weights and measures account by the director.

35 (2) Civil penalties collected by the department under RCW 19.94.510
36 and sections 22 and 23 of this act shall be deposited in the state
37 general fund.

1 (3) By January 1st of each odd-numbered year, the department shall
2 provide a written report on the amount of revenues by major category
3 received under this chapter, including the metrology laboratory, for
4 the administration of the weights and measures program by the
5 department. The report shall include the amount of revenue generated
6 for the two previous biennia, an estimate of the amount of funds to be
7 received during the current biennium, and an estimate of the amount of
8 funds to be generated during the next ensuing biennium. The report
9 shall be submitted to the office of financial management and to each
10 committee in the legislature with jurisdiction over programs
11 administered by the department in the house and the senate.

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

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

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

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

24 (c) The establishment of technical test procedures, reporting
25 procedures, and any necessary record and reporting forms to be used by
26 service agents when testing and inspecting instruments or devices under
27 RCW 19.94.255(3) or when otherwise installing, repairing, inspecting,
28 or standardizing the graduations of any weighing or measuring
29 instruments or devices;

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

34 ~~(e))~~ The establishment of exemptions from the ~~((sealing or))~~
35 ~~marking ((inspection and testing))~~ or tagging requirements of RCW
36 19.94.250 with respect to weighing or measuring instruments or devices
37 of such character or size that such ~~((sealing or))~~ marking or tagging

1 would be inappropriate, impracticable, or damaging to the apparatus in
2 question;

3 ~~((f))~~ (e) The establishment of exemptions from the inspection and
4 testing requirements of ~~((RCW 19.94.165))~~ section 2 of this act with
5 respect to classes of weighing or measuring instruments or devices
6 found to be of such character that periodic inspection and testing is
7 unnecessary to ensure continued accuracy; ~~((and~~

8 ~~(g))~~ (f) The establishment of inspection and approval techniques,
9 if any, to be used with respect to classes of weighing or measuring
10 instruments or devices that are designed specifically to be used
11 commercially only once and then discarded, or are uniformly
12 mass-produced by means of a mold or die and are not individually
13 adjustable; and

14 (g) The establishment of inspection and testing procedures to be
15 used for classes of weighing or measuring instruments or devices found
16 to be few in number, highly complex, and of such character that
17 differential or special inspection and testing is necessary, including
18 railroad track scales. The department's procedures shall include
19 requirements for the provision, maintenance, and transport of any
20 weight or measure necessary for the inspection and testing at no
21 expense to the state.

22 (2) These rules shall also include specifications and tolerances
23 for the acceptable range of accuracy required of weighing or measuring
24 instruments or devices and shall be designed to eliminate from use,
25 without prejudice to weighing or measuring instruments or devices that
26 conform as closely as practicable to official specifications and
27 tolerances, those (a) that are of such construction that they are
28 faulty, that is, that are not reasonably permanent in their adjustment
29 or will not repeat their indications correctly, or (b) that facilitate
30 the perpetration of fraud.

31 **Sec. 10.** RCW 19.94.216 and 1992 c 237 s 12 are each amended to
32 read as follows:

33 The department shall:

34 (1) Biennially inspect and test the secondary weights and measures
35 standards of any city for which the appointment of a city sealer is
36 provided by this chapter and shall issue an official seal of approval
37 for same when found to be correct. The department shall, by rule,
38 establish a reasonable fee for ~~((such))~~ this and any other inspection

1 and testing services performed by the department's metrology
2 laboratory. Each such fee shall recover at least seventy-five percent
3 of the laboratory's costs incurred in performing the service governed
4 by the fee on or before June 30, 1998. The fees established under this
5 subsection may be increased in excess of the fiscal growth factor as
6 provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and
7 1998. For fiscal year 1999 and thereafter, the fees established under
8 this subsection may not be increased by an amount greater than the
9 fiscal growth factor as provided in RCW 43.135.055.

10 (2) Biennially inspect(~~(,)~~) and test(~~(, and, if found to be~~
11 ~~correct, issue an official seal of approval for)~~) any weighing or
12 measuring instrument or device used in an agency or institution to
13 which moneys are appropriated by the legislature or of the federal
14 government and shall report any findings in writing to the executive
15 officer of the agency or institution concerned. The department shall
16 collect a reasonable fee, to be set by rule, for testing any such
17 weighing or measuring instrument or device.

18 (~~(3) Inspect, test, and, if found to be correct, issue a seal of~~
19 ~~approval for classes of weighing or measuring instruments or devices~~
20 ~~found to be few in number, highly complex, and of such character that~~
21 ~~differential inspection and testing frequency is necessary including,~~
22 ~~but not limited to, railroad track scales and grain elevator scales.~~
23 ~~The department shall develop rules regarding the inspection and testing~~
24 ~~procedures to be used for such weighing or measuring instruments or~~
25 ~~devices which shall include requirements for the provision,~~
26 ~~maintenance, and transport of any weight or measure standard necessary~~
27 ~~for inspection and testing at no expense to the state. The department~~
28 ~~may collect a reasonable fee, to be set by rule, for inspecting and~~
29 ~~testing any such weighing and measuring instruments or devices. This~~
30 ~~fee shall not be unduly burdensome and shall cover, to the extent~~
31 ~~possible, the direct costs of performing such service.))~~

32 **Sec. 11.** RCW 19.94.250 and 1992 c 237 s 16 are each amended to
33 read as follows:

34 (1) (~~The director or a city sealer shall, from time to time,~~
35 ~~inspect any weighing or measuring instrument or device, except those~~
36 ~~weighing or measuring instruments or devices exempted under the~~
37 ~~authority of RCW 19.94.190, to determine if it is correct.)) If the
38 director or a city sealer discovers upon inspection that a weighing or~~

1 measuring instrument or device is "incorrect," but in his or her best
2 judgment is susceptible of satisfactory repair, he or she shall reject
3 and mark or tag as rejected any such weighing or measuring instrument
4 or device.

5 (2) The director or a city sealer may reject or seize any weighing
6 or measuring instrument or device found to be incorrect that, in his or
7 her best judgment, is not susceptible of satisfactory repair.

8 (3) Weighing or measuring instruments or devices that have been
9 rejected under subsection (1) of this section may be confiscated and
10 may be destroyed by the director or a city sealer if not corrected as
11 required by RCW 19.94.255 or if used or disposed of contrary to the
12 requirements of that section.

13 (4) The director or a city sealer shall permit the use of an
14 incorrect weighing or measuring instrument or device, pending repairs,
15 if the device is incorrect to the economic benefit of the consumer and
16 the consumer is not the seller. However, if the director or city
17 sealer finds such an error, the director or city sealer shall notify
18 the owner of the instrument or device, or the owner's representative at
19 the business location, regarding the error.

20 **Sec. 12.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to
21 read as follows:

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

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

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

1 department, city sealer, or a service agent registered with the
2 department.

3 (4) If a weighing or measuring instrument or device marked or
4 tagged as rejected is placed back into commercial service by a service
5 agent registered with the department, the agent shall provide a signed
6 certification to the owner or operator of the instrument or device so
7 indicating and shall report to the rejecting authority as provided by
8 rule under RCW 19.94.190(1)(c).

9 **Sec. 13.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to
10 read as follows:

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

14 (2) Each city electing to have a city sealer shall adopt rules for
15 the appointment and removal of the city sealer and any deputies
16 required by local ordinance. The rules for appointment of a city
17 sealer and any deputies must include provisions for the advice and
18 consent of the local governing body of such city and, as necessary, any
19 provisions for local civil service laws and regulations.

20 ~~(3) ((A city sealer shall adopt the fee amounts established by the~~
21 ~~director pursuant to RCW 19.94.165. No city shall adopt or charge an~~
22 ~~inspection, testing, or licensing fee or any other fee upon a weighing~~
23 ~~or measuring instrument or device that is in excess of the fee amount~~
24 ~~adopted under RCW 19.94.165.~~

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

29 (4) The city sealer shall test and inspect a sufficient number of
30 weighing and measuring instruments and devices to ensure that the
31 provisions of this chapter are enforced in the city. This subsection
32 does not apply to weighing or measuring instruments or devices for
33 which the sealer does not have the necessary testing or inspection
34 equipment or to instruments or devices that are to be inspected by the
35 department under RCW 19.94.216(2).

36 (5) A city sealer may issue an official seal of approval for each
37 weighing or measuring instrument or device that has been inspected and
38 tested and found to be correct.

1 **Sec. 14.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to
2 read as follows:

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

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

13 NEW SECTION. **Sec. 15.** (1) Except as authorized by the department,
14 a service agent who intends to provide the examination that permits a
15 weighing or measuring instrument or device to be placed back into
16 commercial service under RCW 19.94.255(3) shall receive an official
17 registration certificate from the director prior to performing such a
18 service. This registration requirement does not apply to the
19 department or a city sealer.

20 (2) Except as provided in section 17 of this act, a registration
21 certificate is valid for one year. It may be renewed by submitting a
22 request for renewal to the department.

23 NEW SECTION. **Sec. 16.** (1) Each request for an official
24 registration certificate shall be in writing, under oath, and on a form
25 prescribed by the department and shall contain any relevant information
26 as the director may require, including but not limited to the
27 following:

28 (a) The name and address of the person, corporation, partnership,
29 or sole proprietorship requesting registration;

30 (b) The names and addresses of all individuals requesting an
31 official registration certificate from the department; and

32 (c) The tax registration number as required under RCW 82.32.030 or
33 uniform business identifier provided on a master license issued under
34 RCW 19.02.070.

35 (2) Each individual when submitting a request for an official
36 registration certificate or a renewal of such a certificate shall pay
37 a fee to the department in the amount of eighty dollars per individual.

1 (3) The department shall issue a decision on a request for an
2 official registration certificate within twenty days of receipt of the
3 request. If an individual is denied their request for an official
4 registration certificate, the department must notify that individual in
5 writing stating the reasons for the denial and shall refund any
6 payments made by that individual in connection with the request.

7 NEW SECTION. **Sec. 17.** (1) The department shall have the power to
8 revoke, suspend, or refuse to renew the official registration
9 certificate of any service agent for any of the following reasons:

10 (a) Fraud or deceit in obtaining an official registration
11 certificate under this chapter;

12 (b) A finding by the department of a pattern of intentional
13 fraudulent or negligent activities in the installation, inspection,
14 testing, checking, adjusting, or systematically standardizing and
15 approving the graduations of any weighing or measuring instrument or
16 device;

17 (c) Knowingly placing back into commercial service any weighing or
18 measuring instrument or device that is incorrect;

19 (d) A violation of any provision of this chapter; or

20 (e) Conviction of a crime or an act constituting a crime under the
21 laws of this state, the laws of another state, or federal law.

22 (2) Upon the department's revocation of, suspension of, or refusal
23 to renew an official registration certificate, an individual shall
24 have the right to appeal this decision in accordance with the
25 administrative procedure act, chapter 34.05 RCW.

26 **Sec. 18.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read
27 as follows:

28 In addition to the declarations required by RCW 19.94.350, any
29 commodity in package form, the package being one of a lot containing
30 random weights, measures or counts of the same commodity (~~and bearing~~
31 ~~the total selling price of the package~~) at the time it is exposed for
32 sale at retail, shall bear on the outside of the package a plain and
33 conspicuous declaration of the price per single unit of weight,
34 measure, or count and the total selling price of the package.

35 **Sec. 19.** RCW 19.94.410 and 1988 c 63 s 1 are each amended to read
36 as follows:

1 (~~(1) Except as provided in subsection (2) of this section,~~)
2 Butter, oleomargarine and margarine shall be offered and exposed for
3 sale and sold by weight ((and only in units of one quarter pound, one
4 half pound, one pound or multiples of one pound, avoirdupois weight.

5 ~~(2) The director of agriculture may allow the sale of butter~~
6 ~~specialty products in nonstandard units of weight if the purpose~~
7 ~~achieved by using such nonstandard units is decorative in nature and~~
8 ~~the products are clearly labeled as to weight and price per pound)).~~

9 **Sec. 20.** RCW 19.94.390 and 1969 c 67 s 39 are each amended to read
10 as follows:

11 (1) Whenever any commodity or service is sold, or is offered,
12 exposed, or advertised for sale, by weight, measure, or count, the
13 price shall not be misrepresented, nor shall the price be represented
14 in any manner calculated or tending to mislead or deceive an actual or
15 prospective purchaser. Whenever an advertised, poster or labeled price
16 per unit of weight, measure, or count includes a fraction of a cent,
17 all elements of the fraction shall be prominently displayed and the
18 numeral or numerals expressing the fraction shall be immediately
19 adjacent to, of the same general design and style as, and at least one-
20 half the height and one-half the width of the numerals representing the
21 whole cents.

22 (2) The examination procedure recommended for price verification by
23 the price verification working group of the laws and regulations
24 committee of the national conference on weights and measures (as
25 reflected in the fourth draft, dated November 1, 1994) for devices such
26 as electronic scanners shall govern such examinations conducted under
27 this chapter. The procedure shall be deemed to be adopted under this
28 chapter. However, the department may revise the procedure as follows:
29 The department shall provide notice of and conduct a public hearing
30 pursuant to chapter 34.05 RCW to determine whether any revisions to
31 this procedure made by the national institute of standards and
32 technology or its successor organization for incorporating the
33 examination procedure into an official handbook of the institute or its
34 successor, or any subsequent revisions of the handbook regarding such
35 procedures shall also be adopted under this chapter. If the department
36 determines that the procedure should be so revised, it may adopt the
37 revisions. Violations of this section regarding the use of devices

1 such as electronic scanners may be found only as provided by the
2 examination procedures adopted by or under this subsection.

3 (3) Electronic scanner screens installed after January 1, 1996, and
4 used in retail establishments must be visible to the consumer at the
5 checkout line.

6 **Sec. 21.** RCW 19.94.510 and 1992 c 237 s 35 are each amended to
7 read as follows:

8 (1) Any person who, by himself or herself, by his or her agent or
9 employee, or as the agent or employee of another person, performs any
10 one of the acts enumerated in (a) through ~~((k+))~~ (l) of this
11 subsection is subject to a civil penalty of no more than one thousand
12 dollars:

13 (a) Use or have in possession for the purpose of using for any
14 commercial purpose a weighing or measuring instrument or device that is
15 intentionally calculated to falsify any weight, measure, or count of
16 any commodity, or to sell, offer, expose for sale or hire or have in
17 possession for the purpose of selling or hiring an incorrect weighing
18 or measuring instrument or device or any weighing or measuring
19 instrument or device calculated to falsify any weight or measure.

20 (b) Knowingly use or have in possession for current use in the
21 buying or selling of any commodity or thing, for hire or award, or in
22 the computation of any basic charge or payment for services rendered on
23 the basis of weight, measurement, or count, or in the determination of
24 weight, measurement or count, when a charge is made for such
25 determination, any incorrect weighing or measuring instrument or
26 device.

27 (c) Dispose of any rejected weighing or measuring instrument or
28 device in a manner contrary to law or rule.

29 (d) Remove from any weighing or measuring instrument or device,
30 contrary to law or rule, any tag, seal, stamp or mark placed thereon by
31 the director or a city sealer.

32 (e) Sell, offer or expose for sale less than the quantity he or she
33 represents of any commodity, thing or service.

34 (f) Take more than the quantity he or she represents of any
35 commodity, thing, or service when, as buyer, he or she furnishes the
36 weight, measure, or count by means of which the amount of the
37 commodity, thing or service is determined.

1 (g) Keep for the purpose of sale, advertise, offer or expose for
2 sale or sell any commodity, thing or service known to be in a condition
3 or manner contrary to law or rule.

4 (h) Use in retail trade, except in the preparation of packages put
5 up in advance of sale and of medical prescriptions, a weighing or
6 measuring instrument or device that is not so positioned that its
7 indications may be accurately read and the weighing or measuring
8 operation observable from some position which may reasonably be assumed
9 by a customer.

10 (i) Knowingly approve or issue an official seal of approval for any
11 weighing or measuring instrument or device known to be incorrect.

12 (j) Find a weighing or measuring instrument or device to be correct
13 under RCW 19.94.255 when the person knows the instrument or device is
14 incorrect.

15 (k) Fails to disclose to the department or a city sealer any
16 knowledge of information relating to, or observation of, any device or
17 instrument added to or modifying any weighing or measuring instrument
18 or device for the purpose of selling, offering, or exposing for sale,
19 less than the quantity represented of a commodity or calculated to
20 falsify weight or measure, if the person is a service agent.

21 (~~(k)~~) (l) Violate any other provision of this chapter or of the
22 rules adopted under the provisions of this chapter for which a specific
23 penalty has not been prescribed.

24 (2) Any person who, by himself or herself, by his or her agent or
25 employee, or as the agent or employee of another person, violates RCW
26 19.94.390 as determined by the examination procedure adopted by or
27 under RCW 19.94.390(2) is subject to a civil penalty of not more than
28 one thousand dollars.

29 (3) Any person who, by himself or herself, by his or her agent or
30 employee, or as the agent or employee of another person, performs any
31 of the following acts is subject to a civil penalty of no more than
32 five thousand dollars:

33 (a) Knowingly adds to or modifies any weighing or measuring
34 instrument or device by the addition of a device or instrument that
35 would allow the sale, or the offering or exposure for sale, of less
36 than the quantity represented of a commodity or falsification of weight
37 or measure.

38 (b) Commits as a fourth or subsequent infraction any of the acts
39 listed in subsection (1) or (2) of this section.

1 NEW SECTION. **Sec. 22.** A person who owns a weighing or measuring
2 instrument or device and uses or permits the use of the instrument for
3 commercial purposes in violation of section 1 of this act is subject to
4 a civil penalty of fifty dollars for each such instrument or device
5 used or permitted to be used in violation of section 1 of this act.

6 NEW SECTION. **Sec. 23.** (1) Whenever the department or a city
7 sealer tests or inspects a weighing or measuring instrument or device
8 and finds the instrument or device to be incorrect to the economic
9 benefit of the owner/operator of the weighing or measuring instrument
10 or device and to the economic detriment of the customer, the owner of
11 the weighing or measuring instrument or device may be subject to the
12 following civil penalties:

13 Device deviations outside the tolerances stated in Handbook 44.

	<u>Penalty</u>
Small weighing or measuring instruments or devices:	
First violation	\$ 50.00
Second or subsequent violation within one year of first violation	\$150.00
Medium weighing or measuring instruments or devices:	
First violation	\$100.00
Second or subsequent violation within one year of first violation	\$300.00
Large weighing or measuring instruments or devices:	
First violation	\$200.00
Second or subsequent violation within one year of first violation	\$500.00

27 (2) For the purposes of this section:

28 (a) The following are small weighing or measuring instruments or
29 devices: Scales of zero to four hundred pounds capacity, liquid fuel
30 metering devices with flows of not more than twenty gallons per minute,
31 liquid petroleum gas meters with one inch in diameter or smaller
32 dispensers, fabric meters, cordage meters, and taxi meters.

33 (b) The following are medium weighing or measuring instruments or
34 devices: Scales of four hundred one to five thousand pounds capacity,
35 liquid fuel metering devices with flows of more than twenty but not
36 more than one hundred fifty gallons per minute, and mass flow meters.

1 (c) The following are large weighing or measuring instruments or
2 devices: Liquid petroleum gas meters with greater than one inch
3 diameter dispensers, liquid fuel metering devices with flows over one
4 hundred fifty gallons per minute, and scales of more than five thousand
5 pounds capacity and scales of more than five thousand pounds capacity
6 with supplemental devices.

7 (3) The director or a city sealer shall issue the appropriate civil
8 penalty concurrently with the conclusion of the test or inspection.

9 (4) The weighing or measuring instrument or device owner shall have
10 the right to appeal the civil penalty in accordance with the
11 administrative procedure act, chapter 34.05 RCW.

12 NEW SECTION. **Sec. 24.** (1) The legislature finds that:

13 (a) Civil and criminal penalties relating to violations of weights
14 and measures provisions and the disclosure of these violations to the
15 media have recently come under public scrutiny, resulting in the
16 appropriate nature of such actions being called into question;

17 (b) It is vital to the public interest that the state ensure the
18 uniform application of weights and measures procedures and penalties
19 throughout the state; and

20 (c) It is necessary to review the application of civil and criminal
21 penalties for violations of weights and measures provisions and the
22 disclosure of these violations to the media.

23 (2) The legislature hereby establishes the weights and measures
24 enforcement task force. The task force shall be composed of a
25 representative of the department of agriculture and a representative of
26 each of the following: City sealers, city prosecuting attorneys,
27 attorneys general's offices, service stations, grocery stores,
28 retailers, food processors/dealers, the agriculture community, oil and
29 heat dealers, liquid propane dealers, the media, and consumer groups.

30 (3) The intent of this section is to require a study to:

31 (a) Analyze the current civil and criminal provisions of state and
32 local weights and measures programs and the disclosure of violations of
33 these provisions to the media.

34 (b) Consider whether the current level of civil and criminal
35 provisions of state and local weights and measures programs and the
36 disclosure of violations of these provisions to the media are
37 appropriate.

1 (c) Identify the effects upon both sellers and consumers in the
2 marketplace of civil and criminal provisions of state and local weights
3 and measures programs and the disclosure of violations of these
4 provisions to the media.

5 (d) Recommend to the legislature possible alternative enforcement
6 mechanisms based on the findings of the study.

7 (4) The weights and measures enforcement task force shall present
8 its final findings and any recommended legislation to the committees of
9 the legislature that deal with law and justice matters no later than
10 November 30, 1995.

11 (5) This section shall expire on December 31, 1995.

12 NEW SECTION. Sec. 25. A new section is added to chapter 15.80 RCW
13 to read as follows:

14 All moneys collected under this chapter shall be placed in the
15 weights and measures account created in RCW 19.94.185.

16 NEW SECTION. Sec. 26. Sections 1, 2, 15 through 17, 22, and 23 of
17 this act are each added to chapter 19.94 RCW.

18 NEW SECTION. Sec. 27. This act applies prospectively only and not
19 retroactively. It applies only to causes of action that arise or that
20 are commenced on or after the effective date of this act. This act
21 does not affect any liability or obligation arising prior to the
22 effective date of this act.

23 NEW SECTION. Sec. 28. (1) Sections 2 through 6 and 8 through 25
24 of this act are necessary for the immediate preservation of the public
25 peace, health, or safety, or support of the state government and its
26 existing public institutions, and shall take effect July 1, 1995.

27 (2) Sections 1 and 7 of this act shall take effect January 1,
28 1996."

29 **2SHB 1524** - S AMD
30 By Senators Rasmusen and Morton

31 ADOPTED 4/23/95

32 On page 1, line 1 of the title, after "measures;" strike the
33 remainder of the title and insert "amending RCW 19.94.005, 19.94.010,

1 19.94.160, 19.94.165, 19.94.175, 19.94.185, 19.94.190, 19.94.216,
2 19.94.250, 19.94.255, 19.94.280, 19.94.320, 19.94.360, 19.94.410,
3 19.94.390, and 19.94.510; adding new sections to chapter 19.94 RCW;
4 adding a new section to chapter 15.80 RCW; creating new sections;
5 prescribing penalties; providing effective dates; and declaring an
6 emergency."

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