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**SENATE BILL 5437**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Chase and Honeyford; by request of Department of Agriculture

AN ACT Relating to the weighmaster program; amending RCW 15.80.300, 15.80.410, 15.80.440, 15.80.450, 15.80.470, 15.80.490, 15.80.510, 15.80.520, 15.80.530, 15.80.540, 15.80.560, 15.80.590, 15.80.640, 15.80.650, and 15.80.660; repealing RCW 15.80.310, 15.80.320, 15.80.330, 15.80.340, 15.80.350, 15.80.360, 15.80.370, 15.80.380, 15.80.390, 15.80.400, 15.80.480, and 15.80.600; and prescribing penalties.

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

**Sec.**  RCW 15.80.300 and 1969 ex.s. c 100 s 1 are each amended to read as follows:

((~~Terms used in this chapter shall have the meaning given to them in RCW 15.80.310 through 15.80.400 unless the context where used shall clearly indicate to the contrary.~~)) The definitions in this section apply throughout this chapter unless the context clearly require otherwise.

(1) "Certified weight" means any signed certified statement or memorandum of weight, measure, or count, issued by a weighmaster or weigher in accordance with the provisions of this chapter or any rule adopted under it.

(2) "Commodity" means anything that may be weighed, measured, or counted in a commercial transaction.

(3) "Department" means the department of agriculture of the state of Washington.

(4) "Director" means the director of the department or the director's duly appointed representative.

(5) "Licensed public weighmaster," also referred to as "weighmaster," means any person, licensed under the provisions of this chapter, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count accepted as the accurate weight, or count upon which the purchase or sale of any commodity or upon which the basic charge or payment for services rendered is based.

(6) "Person" means a natural person, individual, or firm, partnership, corporation, company, society, or association. This term shall import either the singular or plural, as the case may be.

(7) "Retail merchant" means and includes any person operating from a bona fide fixed or permanent location at which place all of the retail business of the merchant is transacted, and whose business is exclusively retail except for the occasional wholesaling of small quantities of surplus commodities that have been taken in exchange for merchandise from the producers thereof at the bona fide fixed or permanent location.

(8) "Thing" means anything used to move, handle, transport, or contain any commodity for which a certified weight, measure, or count is issued when such thing is used to handle, transport, or contain a commodity.

(9) "Vehicle" means any device, other than a railroad car, in, upon, or by which any commodity is or may be transported or drawn.

(10) "Weigher" means any person who is licensed under the provisions of this chapter and who is an agent or employee of a weighmaster and authorized by the weighmaster to issue certified statements of weight, measure, or count.

**Sec.**  RCW 15.80.410 and 1969 ex.s. c 100 s 12 are each amended to read as follows:

The director shall enforce and carry out the provisions of this chapter and may adopt the necessary rules to carry out its purposes. The adoption of rules shall be subject to the provisions of chapter 34.05 RCW (administrative procedure act), as enacted or hereafter amended, concerning the adoption of rules.

**Sec.**  RCW 15.80.440 and 1969 ex.s. c 100 s 15 are each amended to read as follows:

The director or any peace officer may order the driver of any vehicle previously weighed by a licensed public weighmaster ((~~may be required~~)) to reweigh the vehicle and load at the nearest scale.

The director or any peace officer may order the driver of any vehicle operated by or for a retail merchant which vehicle contains hay, straw, or grain ((~~may be required~~)) to weigh the vehicle and load at the nearest scale((~~, and~~)). If the weight is found to be less than the amount appearing on the invoice, a copy of which is required to be carried on the vehicle, the director or peace officer shall report the finding to the consignee and may ((~~cause~~)) prosecute such retail merchant ((~~to be prosecuted~~)) in accordance with the provisions of this chapter.

**Sec.**  RCW 15.80.450 and 2006 c 358 s 3 are each amended to read as follows:

(1) Any person may apply to the director for a weighmaster's license. Such application shall be on a form prescribed by the director and shall include:

((~~(1)~~)) (a) The full name of the person applying for such license and, if the applicant is a partnership, association, or corporation, the full name of each member of the partnership or the names of the officers of the association or corporation;

((~~(2)~~)) (b) The principal business address of the applicant in this state and elsewhere;

((~~(3)~~)) (c) The names and addresses of the persons authorized to receive and accept service of summons and legal notice of all kinds for the applicant;

((~~(4)~~)) (d) The location of ((~~any~~)) each scale ((~~or scales~~)) subject to the applicant's control and from which certified weights will be issued; ((~~and~~

~~(5)~~)) (e) The state unified business identifier number for the operator of the scale; and

(f) Such other information as the director ((~~feels~~)) identifies as necessary to carry out the purposes of this chapter and adopts by rule.

(2) Such annual application shall be accompanied by a license fee of ((~~fifty~~)) eighty dollars for each scale from which certified weights will be issued ((~~and a bond as provided for in RCW 15.80.480~~)).

**Sec.**  RCW 15.80.470 and 2010 c 8 s 6103 are each amended to read as follows:

If an application for the annual renewal of any license provided for in this chapter is not filed prior to the current license expiration date, there shall be assessed and added to the renewal fee as a penalty therefor fifty percent of said renewal fee which shall be paid by the applicant before any renewal license shall be issued. The penalty shall not apply if the applicant furnishes ((~~an affidavit~~)) a declaration that he or she has not acted as a weighmaster or weigher subsequent to the expiration of his or her prior license.

**Sec.**  RCW 15.80.490 and 2010 c 8 s 6105 are each amended to read as follows:

(1) Any weighmaster ((~~may~~)) must file an application with the director for a license for any employee or agent to operate and issue certified weight tickets from ((~~a~~)) each scale which such weighmaster is licensed to operate under the provisions of this chapter. Such application shall be submitted on a form prescribed by the director and shall contain the following:

((~~(1)~~)) (a) The name of the weighmaster;

((~~(2)~~)) (b) The full name of the employee or agent ((~~and his or her resident address~~)); and

((~~(3) The position held by such person with the weighmaster;~~

~~(4)~~)) (c) The scale ((~~or scales~~)) from which such employee or agent will issue certified weights((~~; and~~

~~(5) Signature of the weigher and the weighmaster~~)).

(2) Such annual application shall be accompanied by a license fee of ((~~ten~~)) twenty dollars.

**Sec.**  RCW 15.80.510 and 2010 c 8 s 6107 are each amended to read as follows:

A licensed public weighmaster shall: (1) Keep the scale or scales upon which he or she weighs any commodity or thing, in conformity with the standards of weights and measures; (2) carefully and correctly weigh and certify the gross, tare, and net weights of any load of any commodity or thing required to be weighed; and (3) without charge, weigh any commodity or thing brought to his or her scale ((~~by an inspector authorized~~)) by the director or peace officer, and issue a certificate of the weights thereof.

**Sec.**  RCW 15.80.520 and 1983 c 95 s 6 are each amended to read as follows:

(1) Certification of weights ((~~shall be made by~~)) must be in accordance with subsection (2)(a) or (b) of this section.

(2)(a) The certification must appear in an appropriate and conspicuous place on each certificate and copies thereof. In addition the weight ticket must bear the name of the weighmaster, the full name of the weigher issuing the ticket, and a seal number assigned to the scale by the department. The seal number must be used only at the scale to which it is assigned.

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| WEIGHMASTER CERTIFICATE |
| THIS IS TO CERTIFY that the following described commodity was weighed, measured, or counted by a weighmaster, whose signature is on this certificate, who is a recognized authority of accuracy, as prescribed by chapter 15.80 RCW administered by the Washington state department of agriculture. |

(b) Certification must be made by means of an impression seal, the impress of which shall be placed by the weighmaster or weigher making the weight determination upon the weights shown on the weight tickets. The impression seal ((~~shall~~)) may be procured from the director upon the payment of a fee of ((~~five~~)) sixty dollars or the current cost of the seal to the department, and such fee shall accompany the applicant's application for a weighmaster's license. ((~~The seal shall be retained by the weighmaster upon payment of an annual renewal fee of five dollars, and the fee shall accompany the annual renewal application for a weighmaster's license.~~)) Any replacement seal needed ((~~shall~~)) may be procured from the director upon payment to the department of the current cost to the department for such replacement. An impression seal ((~~shall~~)) must be used only at the scale to which it is assigned, and remains the property of the state and shall be returned ((~~forthwith~~)) to the director upon the termination, suspension, or revocation of the weighmaster's license.

**Sec.**  RCW 15.80.530 and 1969 ex.s. c 100 s 24 are each amended to read as follows:

The certified weight ticket shall be of a form approved by the director and shall contain the following information:

(1) The date of issuance;

(2) The kind of commodity weighed, measured, or counted;

(3) The name of the owner, agent, or consignee of the commodity weighed;

(4) The name of the seller, agent, or consignor;

(5) The accurate weight, measure, or count of the commodity weighed, measured, or counted; including the entry of the gross, tare, and/or net weight, where applicable;

(6) The identifying numerals or symbols, if any, of each container separately weighed and the ((~~motor vehicle~~)) license plate number of each vehicle separately weighed;

(7) The means by which the commodity was being transported at the time it was weighed, measured, or counted;

(8) The name of the city or town where such commodity was weighed;

(9) The complete signature of the weighmaster or weigher who weighed, measured, or counted the commodity; and

(10) Such other available information as may be necessary to distinguish or identify the commodity.

Such weight certificates when so made and properly ((~~signed and~~)) certified or sealed shall be prima facie evidence of the accuracy of the weights, measures, or count shown, as a certified weight, measure, or count.

**Sec.**  RCW 15.80.540 and 1969 ex.s. c 100 s 25 are each amended to read as follows:

(1) Certified weight tickets shall be ((~~made in triplicate, one copy to be~~)) delivered to the person receiving the weighed commodity at the time of delivery((~~, which copy shall~~)). The weight ticket must accompany the vehicle that transports such commodity((~~, one copy to be forwarded~~)).

(2) A copy must be provided to the seller by the carrier of the weighed commodity((~~, and one copy to be retained by~~)).

(3) The weighmaster that ((~~weighed the vehicle transporting such commodity. The copy retained by the weighmaster shall be kept at least~~)) provided the certified weight ticket must retain a copy for a period of one year((~~, and such copies and~~)).

(4) The weighmaster must retain such other records as the director shall determine necessary to carry out the purposes of this chapter.

(5) These records shall be made available at all reasonable business hours for inspection by the director.

**Sec.**  RCW 15.80.560 and 1969 ex.s. c 100 s 27 are each amended to read as follows:

A licensed public weighmaster shall, in making a weight determination as provided for in this chapter, use a weighing device that conforms to current state legal requirements for commercial devices and is suitable for the weighing of the type and amount of commodity being weighed. The director shall cause to be tested for proper state standards of weight all weighing or measuring devices utilized by any licensed public weighmaster. Certified weights shall not be issued over a device that has been rejected or condemned for ((~~repair or~~)) use by the director until such device has been repaired and tested as conforming to the intended use requirements.

**Sec.**  RCW 15.80.590 and 2010 c 8 s 6109 are each amended to read as follows:

The director is hereby authorized to deny, suspend, or revoke a license ((~~subsequent to a hearing, if a hearing is requested,~~)) in any case in which he or she finds that there has been a failure to comply with the requirements of this chapter or rules adopted hereunder. For hearings for revocations, suspension, or denial of a license, the director shall give the licensee or applicant such notice as is required under the provisions of chapter 34.05 RCW. Such hearings shall be subject to chapter 34.05 RCW (administrative procedure act) concerning adjudicative proceedings.

**Sec.**  RCW 15.80.640 and 2011 c 96 s 16 are each amended to read as follows:

Any person who shall mark, stamp, or write any false weight ticket, scale ticket, or weight certificate, knowing it to be false, and any person who influences, or attempts to wrongfully influence, any licensed public weighmaster or weigher in the performance of his or her official duties shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than ((~~one~~)) five hundred dollars nor more than ((~~one~~)) ten thousand dollars, or by imprisonment of not less than thirty days nor more than three hundred sixty-four days in the county jail, or by both such fine and imprisonment.

**Sec.**  RCW 15.80.650 and 2003 c 53 s 109 are each amended to read as follows:

(1) Except as provided in RCW 15.80.640 or subsection (2) of this section, any person violating any provision of this chapter or rules adopted hereunder is guilty of a misdemeanor.

(2) A second or subsequent same or similar violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(3) The director may assess a civil penalty ranging from five hundred dollars to ten thousand dollars per occurrence against any person who knowingly violates any provision under this chapter or rules adopted thereunder. In determining the amount of any civil penalty, the director shall give due consideration to the appropriateness of the penalty with respect to the gravity of the violation, and the history of any previous violations. The respondent issued a notice of intent to assess a civil penalty must be provided the opportunity to request a hearing as provided under chapter 34.05 RCW to contest the alleged violation and the penalty amount.

**Sec.**  RCW 15.80.660 and 1995 c 355 s 25 are each amended to read as follows:

(1) All moneys collected under this chapter shall be placed in the weights and measures account created in RCW 19.94.185.

(2) Civil penalties collected under RCW 15.80.650 must be deposited into the state general fund.

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

(1)RCW 15.80.310 ("Department") and 1969 ex.s. c 100 s 2;

(2)RCW 15.80.320 ("Director") and 2010 c 8 s 6101 & 1969 ex.s. c 100 s 3;

(3)RCW 15.80.330 ("Person") and 1969 ex.s. c 100 s 4;

(4)RCW 15.80.340 ("Licensed public weighmaster") and 1969 ex.s. c 100 s 5;

(5)RCW 15.80.350 ("Weigher") and 1969 ex.s. c 100 s 6;

(6)RCW 15.80.360 ("Vehicle") and 1969 ex.s. c 100 s 7;

(7)RCW 15.80.370 ("Certified weight") and 1969 ex.s. c 100 s 8;

(8)RCW 15.80.380 ("Commodity") and 1969 ex.s. c 100 s 9;

(9)RCW 15.80.390 ("Thing") and 1969 ex.s. c 100 s 10;

(10)RCW 15.80.400 ("Retail merchant") and 1969 ex.s. c 100 s 11;

(11)RCW 15.80.480 (Surety bond) and 2010 c 8 s 6104 & 1969 ex.s. c 100 s 19; and

(12)RCW 15.80.600 (Hearings for denial, suspension or revocation of licenses—Notice—Location) and 1969 ex.s. c 100 s 31.

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