

HOUSE BILL REPORT

SB 5437

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to the weighmaster program.

Brief Description: Concerning the weighmaster program.

Sponsors: Senators Chase and Honeyford; by request of Department of Agriculture.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/14/17, 3/21/17 [DPA].

Brief Summary of Bill
(As Amended by Committee)

- Requires weighmaster license applications to include certain additional information, increases the application fee to \$80 per scale from which certified weights will be issued, and deletes the bonding requirement.
- Removes certain information currently required on an application for an employee of a weighmaster and increases the application fee to \$20.
- Requires the weight ticket to contain certain information and certification to be placed in an appropriate and conspicuous place on the ticket.
- Establishes a civil penalty for violations of the weighmaster statutes or rules, and increases monetary penalties for falsely altering or writing a weight document.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 15 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Kretz, Lytton, Orcutt, Pettigrew, Robinson, Schmick, Springer, Stanford and J. Walsh.

Staff: Rebecca Lewis (786-7339).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Washington State Department of Agriculture (Department) regulates commercial weighing, measuring, and counting devices used in the state. These include gas pumps, grocery store scales, truck scales, home heating oil truck meters, liquid gas meters, and taximeters. The weighmaster program consists of device inspections, fuel quality monitoring, price verification inspections, package inspection, and investigation of complaints. Weighmasters are licensed and bonded to issue certified weight tickets.

Applications for Weighmasters and Weighmaster Employees.

Any person may apply to the Director of the Department (Director) to be a licensed weighmaster. The person must complete an application with:

- the full name of the person applying for the license and, if the applicant is a partnership, association, or corporation, the full name of each member of the partnership or officers of the association or corporation;
- the principal business address of the applicant both in Washington and elsewhere;
- the names of persons authorized to receive and accept summons and legal notice for the applicant;
- the location of any scale under the applicant's control that will be used to issue certified weights; and
- any other information deemed necessary by the Director.

The application fee is \$50 per scale from which certified weights will be issued, and a surety bond of \$1,000 must accompany a weighmaster license application.

Any weighmaster may file an application for a license for any employee or agent to operate and issue certified weight tickets from a scale the weighmaster is licensed to operate. The application fee is \$10, and the application must include:

- the name of the weighmaster;
- the full name of the employee or agent and his or her resident address;
- the position held by the employee or agent with the weighmaster;
- the scale or scales from which the employee or agent will issue certified weights; and
- the signature of the weighmaster.

Certification.

Certification of weights must be made by impression seal and must be placed on the weight ticket by the weighmaster or weigher making the determination. Impression seals must be procured from the Director for a \$5 fee. The fee must accompany the weighmaster's application. To retain the seal, the weighmaster must pay an annual renewal fee of \$5 with the annual license renewal application. Replacement seals must be procured from the Director as necessary for a fee equal to the cost of replacement. An impression seal may be used only at the scale to which it is assigned and must be returned to the Director upon termination, suspension, or revocation of the weighmaster's license.

Weight tickets must be made in triplicate, and one copy distributed to: (1) the person receiving the weighed commodity; (2) the seller of the weighed commodity; and (3) the

weighmaster who weighed the vehicle transporting the commodity. The weighmaster must keep the copy of the weight ticket, and any other copies or other records the Director deems necessary, for one year.

Enforcement, Hearings, and Civil Penalties.

The Director may deny, suspend, or revoke a license subsequent to a hearing, if a hearing is requested, in any case in which they find that there has been a failure to comply with the requirements to operate as a weighmaster.

Falsely marking, stamping, or writing any weight ticket, scale ticket, or weight certificate, or influencing or attempting to influence any licensed public weighmaster are gross misdemeanors and punishable by either: a fine of not less than \$100 nor more than \$1,000; imprisonment of not less than 30 days nor more than 364 days; or both. Any other violation of weighmaster laws or rules is a misdemeanor.

Summary of Amended Bill:

Applications for Weighmasters and Weighmaster Employees.

In addition to information already required, weighmaster applications must include:

- the address of persons authorized to receive and accept service of summons and legal notice for the applicant;
- the state unified business identifier number for the operator of the scale; and
- any other information the Director deems necessary and adopts by rule.

A weighmaster must file an application for a license for any agent or employee to issue certified weight tickets from each scale under which the weighmaster is licensed to operate. Applications are not required to include the resident address of the employee or agent, the position held by the employee or agent with the weighmaster, or the signature of the weigher and the weighmaster.

The application fee for the weighmaster's license is raised from \$50 to \$80. The surety bond requirement is deleted, and the section creating the bond is repealed. The application fee for a weighmaster employee license is raised from \$10 to \$20.

Applications must be renewed annually. Renewals not filed prior to the expiration date of the current license are subject to a renewal penalty of 50 percent of the renewal fee. The penalty does not apply if the applicant furnishes a declaration that he or she has not acted as either a weigher or weighmaster after the expiration of the prior license.

Certification.

Certification of weights must be displayed in an appropriate and conspicuous place on each certificate and on each copy of a certificate. Weight tickets must contain the name of the weighmaster, the full name of the issuing weigher, and the seal number assigned to the scale.

The seal number may be used only at the scale to which it is assigned. An impression seal may be procured from the Department, and the fee is changed from \$5 to the lesser of either \$60 or the current cost of the seal to the Department. Replacement seals may be procured from the Director at the current cost of the seal to the Department. The annual renewal fee of \$5 is deleted. A licensed public weighmaster must use a weighing device that conforms to current state legal requirements for commercial devices and is suitable for the type and amount of commodity being weighed. A weighing device that has been rejected may not be certified until the device has been repaired and tested as conforming to the intended use requirements.

The requirement that certified weight tickets be made in triplicate is deleted. Copies must accompany the vehicle that transports the weight commodity, be provided to the seller of the weighed commodity by the carrier, and retained for one year by the weighmaster who provided the certified weight ticket. The weighmaster must retain any other records necessary.

Enforcement, Hearings, and Civil Penalties.

Fines for falsely marking, stamping, or writing a weight ticket, scale ticket, or weight certificate, or influencing or attempting to influence any licensed public weighmaster or weigher in the performance of their official duties are increased to not less than \$500 nor more than \$5,000. The Director may assess a civil penalty ranging from \$100 to \$1,000 per occurrence against any person who knowingly violates other weighmaster statutes and rules. The Director must, in determining the amount of any civil penalty, give due consideration to the appropriateness of the penalty in relation to the gravity of the violation and history of any previous violations. Any civil penalties collected must be deposited into the State General Fund.

If the respondent receives a notice of intent to assess a civil penalty, he or she must be provided the opportunity to request a hearing to contest the alleged violation and the penalty amount. The Director must give the licensee or applicant notice of proceedings for hearings for revocation, suspension, or denial of a license. A duplicative section describing the Director's responsibility to provide such notice is repealed.

The Director or a peace officer may require the driver of a vehicle that has been previously weighed by a licensed weighmaster to reweigh the vehicle and load at the nearest scale. The Director or a peace officer may require the driver of a vehicle carrying hay, straw, or grain to weigh the vehicle at the nearest scale. If the weight is found to be less than the amount on the invoice, the Director or peace officer must report the finding to the consignee of the invoice.

Other.

The definitions section is revised to include definitions set forth in the chapter, and sections containing duplicative definitions are repealed.

Amended Bill Compared to Original Bill:

The cost of an impression seal is the lesser of either \$60 or the cost of the seal to the Department. The maximum penalty for falsely marking or writing a weight document is decreased to \$5,000, and the civil penalty for any other violation of weighmaster laws or rules is decreased to no less than \$100 and no more than \$1,000.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a good business bill. The weighmaster program is a voluntary program through which licensed weighmasters provide weighing services and issue certified weight tickets for commodities or services that are sold by weight, measure, or count. Some licensed weighmasters charge a fee for weighing services and others use it as an extra measure to ensure commodity measurements are accurate and correct. Some state and local governments require certain commodities to be weighed. Most licensed weighmasters operate large truck scales or floor scales.

The bill is intended to revise the law, which hasn't been changed since 1969, to accommodate changes in technology and business practices. Some changes were requested by weighmasters and stakeholders. Changes in the bill reduce the handling of documents for the weighmasters, reduce the use of paper, and make it more convenient for truckers by allowing the use of a printed statement in lieu of the raised seal on the weight ticket and removing the requirement for certificates to be made in triplicate. Electronic signatures may be used, and documents may be stored electronically. Though the bill contains fee increases, costs to some licensees would be reduced with the removal of the bond requirement. There have been no claims against the bond to date. Only two other states require a bond.

(Opposed) None.

Persons Testifying: Senator Chase, prime sponsor; and Jerry Buendel, Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.