

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1298

Chapter 96, Laws of 2019

66th Legislature
2019 Regular Session

WEIGHTS AND MEASURES PROGRAM--VARIOUS PROVISIONS

EFFECTIVE DATE: July 1, 2019

Passed by the House March 5, 2019
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2019
Yeas 46 Nays 0

KAREN KEISER

President of the Senate

Approved April 23, 2019 3:44 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1298** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 24, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1298

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Rural Development, Agriculture, & Natural Resources
(originally sponsored by Representatives Pettigrew, Chandler, Blake,
Kretz, and Springer; by request of Department of Agriculture)

READ FIRST TIME 02/05/19.

1 AN ACT Relating to device registration, civil penalties, and
2 service agent registration for the weights and measures program;
3 amending RCW 19.94.010, 19.94.160, 19.94.175, 19.94.190, 19.94.205,
4 19.94.216, 19.94.258, 19.94.2582, 19.94.2584, 19.94.325, 19.94.340,
5 19.94.350, 19.94.410, 19.94.430, 19.94.490, 19.94.500, 19.94.510,
6 19.94.515, and 19.94.517; repealing RCW 19.94.165 and 19.94.195;
7 prescribing penalties; providing an effective date; and declaring an
8 emergency.

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

10 **Sec. 1.** RCW 19.94.010 and 1995 c 355 s 4 are each amended to
11 read as follows:

12 (1) ~~((Unless the context clearly requires otherwise,))~~ The
13 definitions in this section apply throughout this chapter and to any
14 rules adopted pursuant to this chapter unless the context clearly
15 requires otherwise.

16 (a) "City" means a first-class city or a code city, as defined in
17 RCW 35A.01.035, with a population of over fifty thousand persons.

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

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

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

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

18 (f) "Department" means the department of agriculture of the state
19 of Washington.

20 (g) "Director" means the director of the department or duly
21 authorized representative acting under the instructions and at the
22 direction of the director.

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

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

32 (j) "Nonconsumer package" or "package of nonconsumer commodity"
33 means a commodity in package form other than a consumer package and
34 particularly a package designed solely for industrial or
35 institutional use or for wholesale distribution only.

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

1 (l) "Official seal of approval" means the seal or certificate
2 issued by the director or city sealer which indicates that a
3 secondary weights and measures standard or a weighing or measuring
4 instrument or device conforms with the specifications, tolerances,
5 and other technical requirements adopted in RCW (~~(19.94.195)~~)
6 19.94.190.

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

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

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

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

21 (q) "Weighing or measuring instrument or device" means any
22 equipment or apparatus used commercially to establish the size,
23 quantity, capacity, count, extent, area, heaviness, or measurement of
24 quantities, things, produce, or articles for distribution or
25 consumption, that are purchased, offered or submitted for sale, hire,
26 or award on the basis of weight, measure or count, including any
27 accessory attached to or used in connection with a weighing or
28 measuring instrument or device when such accessory is so designed or
29 installed that its operation affects, or may effect, the accuracy or
30 indication of the device. This definition shall be strictly limited
31 to those weighing or measuring instruments or devices governed by
32 Handbook 44 as adopted under RCW (~~(19.94.195)~~) 19.94.190.

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

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

38 (t) "Secondary weights and measures standard" means the physical
39 standards that are traceable to the primary standards through
40 comparisons, used by the director, a city sealer, or a service agent

1 that under specified conditions defines or represents a recognized
2 weight or measure during the inspection, adjustment, testing, or
3 systematic standardization of the graduations of any weighing or
4 measuring instrument or device.

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

7 **Sec. 2.** RCW 19.94.160 and 1995 c 355 s 5 are each amended to
8 read as follows:

9 Physical weights and measures standards that ((are in conformity
10 with)) conform to the standards of the United States ((as have been
11 supplied to the state by the federal government or otherwise))
12 obtained by the state for use as state weights and measures
13 standards((, shall)) are the primary standards for weight and
14 measure, when ((the same shall have been)) certified as such by the
15 national institute of standards and technology or any successor
16 organization((, be the primary standards of weight and measure)). The
17 state weights and measures standards shall be kept in a place
18 designated by the director and shall be maintained in such
19 calibration as prescribed by the national institute of standards and
20 technology or any successor organization.

21 **Sec. 3.** RCW 19.94.175 and 2006 c 358 s 2 are each amended to
22 read as follows:

23 (1) Pursuant to RCW 19.94.015, the following annual registration
24 fees shall be charged for each weighing or measuring instrument or
25 device used for commercial purposes in this state:

- 26 (a) Weighing devices:
- 27 (i) Small scales "zero to four ((40.00))
28 hundred pounds capacity" ... \$ 16.00
- 29 (ii) Intermediate scales "four
30 hundred one pounds to five ((40.00))
31 thousand pounds capacity" .. \$ 60.00
- 32 (iii) Large scales "over five ((75.00))
33 thousand pounds capacity" .. \$ 120.00
- 34 (iv) Railroad track scales ((800.00))
35 \$ 1,200.00
- 36 (b) Liquid fuel metering devices:

1	(i)	Motor fuel meters with flows	
2		of twenty gallons or less per	((10.00))
3		minute	\$ <u>16.00</u>
4	(ii)	Motor fuel meters with flows	
5		of more than twenty but not	
6		more than one hundred fifty	((32.00))
7		gallons per minute	\$ <u>50.00</u>
8	(iii)	Motor fuel meters with flows	
9		over one hundred fifty gallons	((50.00))
10		per minute	\$ <u>75.00</u>
11	(c)	Liquid petroleum gas meters:	
12	(i)	With one inch diameter or	((25.00))
13		smaller dispensers	\$ <u>40.00</u>
14	(ii)	With greater than one inch	((50.00))
15		diameter dispensers	\$ <u>80.00</u>
16	(d)	Fabric meters	((10.00))
17			\$ <u>15.00</u>
18	(e)	Cordage meters	((10.00))
19			\$ <u>15.00</u>
20	(f)	Mass flow meters	((200.00))
21			\$ <u>300.00</u>
22	(g)	Taxi meters	((25.00))
23			\$ <u>40.00</u>

24 (2) With the exception of subsection (3) of this section, no
25 person shall be required to pay more than the annual registration fee
26 for any weighing or measuring instrument or device in any one year.

27 (3) The department or a city sealer may establish reasonable
28 inspection and testing fees for each type or class of weighing or
29 measuring instrument or device specially requested to be inspected or
30 tested by the device owner. These inspection and testing fees shall
31 be limited to those amounts necessary for the department or city
32 sealer to cover the direct costs associated with such inspection and
33 testing. The fees shall not be set so as to compete with service
34 agents normally engaged in such services.

35 (4) The weights and measures advisory group within the department
36 must review the fees in subsection (1) of this section and report to
37 stakeholders on the financial status of the program supported by the

1 fees by September 1, 2024, and September 1st every five years
2 thereafter.

3 **Sec. 4.** RCW 19.94.190 and 1995 c 355 s 9 are each amended to
4 read as follows:

5 (1) The director and duly appointed city sealers (~~shall~~) must
6 enforce the provisions of this chapter.

7 (2) The department's enforcement proceedings under this chapter
8 are subject to the requirement to provide technical assistance in
9 chapter 43.05 RCW and the administrative procedure act, chapter 34.05
10 RCW. City sealers undertaking enforcement actions must provide
11 equivalent procedures.

12 (3) In assessing the amount of a civil penalty, the department or
13 city must give due consideration to the gravity of the violation and
14 history of previous violations.

15 (4) The director (~~shall~~) must adopt rules for enforcing and
16 carrying out the purposes of this chapter including but not limited
17 to the following:

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

20 (b) The establishment of technical (~~and reporting~~) test
21 procedures to be followed, any necessary report and record forms, and
22 marks of rejection to be used by the director and city sealers in the
23 discharge of their 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
26 by service agents when testing and inspecting instruments or devices
27 under RCW 19.94.255(3) or when otherwise installing, repairing,
28 inspecting, or standardizing the graduations of any weighing or
29 measuring instruments or devices;

30 (d) The establishment of exemptions from the marking or tagging
31 requirements of RCW 19.94.250 with respect to weighing or measuring
32 instruments or devices of such a character or size that (~~such~~) the
33 marking or tagging would be inappropriate, impracticable, or damaging
34 to the apparatus in question;

35 (e) The establishment of exemptions from the inspection and
36 testing requirements of RCW 19.94.163 with respect to classes of
37 weighing or measuring instruments or devices found to be of such a
38 character that periodic inspection and testing is unnecessary to
39 ensure continued accuracy;

1 (f) The establishment of inspection and approval techniques, if
2 any, to be used with respect to classes of weighing or measuring
3 instruments or devices that are designed specifically to be used
4 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; ~~((and))~~

7 (g) The establishment of inspection and testing procedures to be
8 used for classes of weighing or measuring instruments or devices
9 found to be few in number, highly complex, and of such character that
10 differential or special inspection and testing is necessary,
11 including railroad track scales. The department's procedures shall
12 include requirements for the provision, maintenance, and transport of
13 any weight or measure necessary for the inspection and testing at no
14 expense to the state;

15 (h) Specifications, tolerances, and other technical requirements
16 for commercial weighing and measuring instruments or devices that
17 must be consistent with the most recent edition of the national
18 institute of standards and technology handbook 44 except where
19 modified to achieve state objectives; and

20 (i) Packaging, labeling, and method of sale of commodities that
21 must be consistent with the most recent edition of the national
22 institute of standards and technology handbook 44 and 130 (for legal
23 metrology and engine fuel quality) except where modified to achieve
24 state objectives.

25 ~~((2) These))~~ (5) Rules ~~((shall))~~ adopted under this section must
26 also include specifications and tolerances for the acceptable range
27 of accuracy required of weighing or measuring instruments or devices
28 and ~~((shall))~~ must be designed to eliminate from use, without
29 prejudice to weighing or measuring instruments or devices that
30 conform as closely as practicable to official specifications and
31 tolerances, those that: (a) ~~((that))~~ Are of such construction that
32 they are faulty, that is, that are not reasonably permanent in their
33 adjustment or will not repeat their indications correctly~~((r))~~; or
34 (b) ~~((that))~~ facilitate the perpetration of fraud.

35 **Sec. 5.** RCW 19.94.205 and 1992 c 237 s 11 are each amended to
36 read as follows:

37 All weighing or measuring instruments or devices used for
38 commercial purposes within this state must be correct. For the
39 purposes of this chapter, weighing or measuring instruments or

1 devices and weights and measures standards (~~(shall be)~~) are deemed to
2 be "correct" when they conform to all applicable requirements of this
3 chapter (~~(or)~~) and the requirements of any rule adopted by the
4 department under (~~(the authority granted in)~~) this chapter; all other
5 weighing or measuring instruments or devices and weights and measures
6 standards (~~(shall be)~~) are deemed to be "incorrect."

7 **Sec. 6.** RCW 19.94.216 and 1995 c 355 s 10 are each amended to
8 read as follows:

9 The department (~~(shall:~~
10 ~~(1))~~) must biennially inspect and test the secondary weights and
11 measures standards of any city (~~(for which the appointment of)~~)
12 having a city sealer (~~(is provided by)~~) appointed under this chapter
13 and (~~(shall)~~) must issue an official seal of approval for the same
14 when found to be correct. The department (~~(shall)~~) must, by rule,
15 establish a reasonable fee for this and any other inspection and
16 testing services performed by the department's metrology laboratory.
17 (~~(Each such fee shall recover at least seventy-five percent of the~~
18 ~~laboratory's costs incurred in performing the service governed by the~~
19 ~~fee on or before June 30, 1998. The fees established under this~~
20 ~~subsection may be increased in excess of the fiscal growth factor as~~
21 ~~provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and~~
22 ~~1998. For fiscal year 1999 and thereafter, the fees established under~~
23 ~~this subsection may not be increased by an amount greater than the~~
24 ~~fiscal growth factor as provided in RCW 43.135.055.~~

25 ~~(2) Biennially inspect and test any weighing or measuring~~
26 ~~instrument or device used in an agency or institution to which moneys~~
27 ~~are appropriated by the legislature or of the federal government and~~
28 ~~shall report any findings in writing to the executive officer of the~~
29 ~~agency or institution concerned. The department shall collect a~~
30 ~~reasonable fee, to be set by rule, for testing any such weighing or~~
31 ~~measuring instrument or device.))~~

32 **Sec. 7.** RCW 19.94.258 and 2000 c 171 s 61 are each amended to
33 read as follows:

34 (1) Except as authorized by the department, a service agent (~~(who~~
35 ~~intends to provide the examination that permits)~~) must be certified
36 by the department before providing services to place a weighing or
37 measuring instrument or device to be placed (~~(back)~~) into commercial
38 (~~(service)~~) use under RCW 19.94.255(3) (~~(shall receive an official~~

1 ~~registration certificate from the director prior to performing such a~~
2 ~~service)).~~ This registration requirement does not apply to the
3 department or a city sealer.

4 (2) Except as provided in RCW 19.94.2584, a service agent
5 registration certificate is valid for one year unless the department
6 specifies a longer period by rule. (~~(It)~~) The certificate may be
7 renewed by submitting a (~~(request for)~~) renewal application to the
8 department.

9 **Sec. 8.** RCW 19.94.2582 and 2013 c 144 s 35 are each amended to
10 read as follows:

11 (1) Each request for (~~(a)~~) a renewal or new official
12 registration certificate must be in writing(~~(, under oath,)~~) and on a
13 form prescribed by the department and must contain any relevant
14 information as the director may require, including but not limited to
15 the following:

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

18 (b) The names and addresses of all (~~(individuals)~~) persons
19 requesting an official registration certificate from the department;
20 and

21 (c) The tax registration number as required under RCW 82.32.030
22 or unified business identifier provided on a business license issued
23 under RCW 19.02.070.

24 (2) The department may require persons registering as service
25 agents to attain a satisfactory score on competency examinations
26 administered or approved for use by the department. The director may
27 adopt rules for administering and conducting the examination,
28 including adoption of any examination fees necessary to cover the
29 costs for preparing for and administering the examination.
30 Examination fees are in addition to the application fee under
31 subsection (3) of this section.

32 (3) Each (~~(individual when)~~) person submitting a (~~(request)~~) new
33 or renewal application for an official registration certificate (~~(or~~
34 ~~a renewal of such a certificate)~~) must pay a fee to the department in
35 the amount of one hundred (~~(sixty)~~) eighty dollars per (~~(individual)~~)
36 person per year for the duration of the certificate.

37 (~~(3)~~) (4) Renewal applicants filing after a certification
38 expiration date must pay an additional fee equal to twenty percent of
39 the renewal fee unless the applicant submits a declaration or

1 affidavit stating that the applicant has not acted as a service agent
2 following the expiration of the certification.

3 (5) Persons submitting new or renewal applications for an
4 official registration certificate must have sufficient equipment
5 available to adequately test devices and a means of identifying work
6 the applicant has performed on weighing and measuring devices. The
7 director may adopt rules for these requirements.

8 (6) The department must issue a decision ((~~on a request for an~~
9 ~~official registration certificate~~)) within twenty days of receipt of
10 ((~~the request~~)) a new or renewal application. If ((~~an individual is~~
11 ~~denied their request for an official registration certificate, the~~
12 ~~department must notify that individual in writing stating~~)) denying
13 an application, the department must state the reasons for the denial
14 ((~~and must refund any payments made by that individual in connection~~
15 ~~with the request~~)) in a written notice to the applicant.

16 **Sec. 9.** RCW 19.94.2584 and 2000 c 171 s 62 are each amended to
17 read as follows:

18 (1) The department ((~~shall have the power to~~)) may revoke,
19 suspend, or refuse to renew the official registration certificate of
20 any service agent for any of the following reasons:

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

23 (b) A finding by the department of a pattern of intentional
24 fraudulent or negligent activities in the installation, inspection,
25 testing, checking, adjusting, or systematically standardizing and
26 approving the graduations of any weighing or measuring instrument or
27 device;

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

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

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

33 (2) ((~~Upon the department's revocation of, suspension of, or~~
34 ~~refusal to renew an official registration certificate, an individual~~
35 ~~shall have the right to appeal this decision in accordance with the~~
36 ~~administrative procedure act, chapter 34.05 RCW~~)) A service agent may
37 appeal the department's decision to revoke, suspend, or refuse to
38 renew the service agent's registration.

1 **Sec. 10.** RCW 19.94.325 and 1992 c 237 s 23 are each amended to
2 read as follows:

3 (1) Except as otherwise provided for in this chapter or in any
4 rule adopted under the authority of this chapter, any person who
5 engages in business within this state as a service agent shall
6 biennially submit to the department for inspection and testing all
7 weights and measures standards used by the service agent, or any
8 agent or employee of the service agent. If the department finds such
9 weights and measures standards to be correct, the director shall
10 issue an official seal of approval for each such standard.

11 (2) The department may by rule adopt reasonable fees for the
12 inspection and testing services performed by the weights and measures
13 laboratory pursuant to this section.

14 (3) A service agent shall not use (~~in the installation,~~
15 ~~inspection, adjustment, repair, or reconditioning of any weighing or~~
16 ~~measuring instrument or device~~) any weight or measure standard that
17 does not have a valid, official seal of approval from the director to
18 install, inspect, adjust, repair, or recondition any weighing or
19 measuring instrument or device. Any service agent who violates this
20 section is subject to a civil penalty (~~of no more than five hundred~~
21 ~~dollars~~) to be assessed by the director ranging up to one thousand
22 dollars per occurrence.

23 **Sec. 11.** RCW 19.94.340 and 1992 c 237 s 24 are each amended to
24 read as follows:

25 (1) Except as provided in subsection (2) of this section,
26 commodities in liquid form (~~shall~~) must be sold only by liquid
27 measure or by weight, and, except as otherwise provided in this
28 chapter, commodities not in liquid form shall be sold only by weight,
29 by measure of length or area, or by count.

30 (2) Liquid commodities may be sold by weight and commodities not
31 in liquid form may be sold by count only if such methods provide
32 accurate information as to the quantity of commodity sold.

33 (3) The provisions of this section (~~shall~~) do not apply to:

34 (a) Commodities (~~that are~~) sold for immediate consumption on
35 the premises where sold;

36 (b) Vegetables when sold by the head or bunch;

37 (c) Commodities in containers standardized by a law of this state
38 or by federal law;

1 (d) Commodities in package form when there exists a general
2 consumer usage to express the quantity in some other manner;

3 (e) Concrete aggregates, concrete mixtures, and loose solid
4 materials such as earth, soil, gravel, crushed stone, and the like,
5 when sold by cubic measure; or

6 (f) Unprocessed vegetable and animal fertilizer when sold by
7 cubic measure.

8 (4) When adopting rules under RCW 19.94.190, the director may
9 issue such ~~((reasonable))~~ rules as ~~((are))~~ necessary to assure that
10 amounts of commodity sold are ~~((determined))~~ in accordance with good
11 commercial practice and ~~((are so determined and represented to be))~~
12 provide accurate ((and informative)) information to all interested
13 parties.

14 **Sec. 12.** RCW 19.94.350 and 1992 c 237 s 25 are each amended to
15 read as follows:

16 (1) Except as otherwise provided in this chapter, any commodity
17 in package form introduced or delivered for introduction into or
18 received in intrastate commerce, kept for the purpose of sale,
19 offered or exposed for sale or sold in intrastate commerce, ~~((shall))~~
20 must bear on the outside of the package such definite, plain, and
21 conspicuous declaration of:

22 (a) The identity of the commodity contained within the package
23 unless the same can easily be identified through the package;

24 (b) The net quantity of the contents in terms of weight, measure
25 or count; and

26 (c) In the case of any package not sold on the premises where
27 packed, the name and place of business of the manufacturer, packer,
28 or distributor, as may be prescribed by rule issued by the director.

29 (2) ~~((In connection with the declaration))~~ The declaration of
30 weight, measure, or count required under subsection (1)(b) of this
31 section, ~~((neither))~~ must not include or be associated with the
32 qualifying term "when packed," ~~((or))~~ any words of similar import,
33 ~~((or))~~ or any term qualifying a unit of weight, measure, or count
34 (for example, "jumbo", "giant", "full", "or over", and the like) that
35 tends to exaggerate the amount of commodity in a package ~~((, shall be~~
36 ~~used))~~.

37 (3) With respect to the declaration of weight, measure, or count
38 required under subsection (1)(b) of this section, the director
39 ~~((shall))~~ may by rule establish: (a) Reasonable variations to be

1 allowed(~~(r)~~); (b) exemptions as to small packages(~~(r—and)~~); (c)
2 exemptions as to commodities put up in variable weights or sizes for
3 sale to the consumer intact and either customarily not sold as
4 individual units or customarily weighed or measured at time of sale
5 to the consumer; and (d) methods for checking the net contents of
6 packaged goods.

7 **Sec. 13.** RCW 19.94.410 and 1995 c 355 s 19 are each amended to
8 read as follows:

9 Butter, oleomargarine, and margarine (~~(shall be)~~) offered (~~and~~
10 ~~exposed~~) for sale (~~and~~) must be sold by weight.

11 **Sec. 14.** RCW 19.94.430 and 1969 c 67 s 43 are each amended to
12 read as follows:

13 When in package form and when packed, kept, offered, exposed for
14 sale or sold, flour such as, but not limited to, wheat flour, whole
15 wheat flour, graham flour, self-rising wheat flour, phosphated wheat
16 flour, bromated flour, enriched flour, enriched self-rising flour,
17 enriched bromated flour, corn flour, corn meal, and hominy grits
18 (~~(shall be packaged only in units of five, ten, twenty-five, fifty~~
19 ~~and one hundred pounds avoirdupois weight: PROVIDED, That packages in~~
20 ~~units of less than five pounds or more than one hundred pounds shall~~
21 ~~be permitted~~) must be sold by weight.

22 **Sec. 15.** RCW 19.94.490 and 1992 c 237 s 32 are each amended to
23 read as follows:

24 Any person who (~~(shall)~~) hinders or obstructs in any way the
25 director or a city sealer in the performance of (~~(his or her)~~)
26 official duties under this chapter is subject to a civil penalty (~~(of~~
27 ~~no more than)~~) up to five (~~(hundred)~~) thousand dollars.

28 **Sec. 16.** RCW 19.94.500 and 1992 c 237 s 33 are each amended to
29 read as follows:

30 Any person who (~~(shall)~~) impersonates in any way the director or
31 a city sealer, by using an official seal of approval without specific
32 authorization to do so or by using a counterfeit seal of approval, or
33 in any other manner, is subject to a civil penalty of no more than
34 (~~(one)~~) five thousand dollars per occurrence.

1 **Sec. 17.** RCW 19.94.510 and 1995 c 355 s 21 are each amended to
2 read as follows:

3 (1) The acts or omissions under this section are violations of
4 this chapter.

5 (2) Any person who, by himself or herself, by his or her agent or
6 employee, or as the agent or employee of another person, performs any
7 one of the acts enumerated in (a) through (l) of this subsection is
8 subject to a civil penalty of no more than (~~one~~) five thousand
9 dollars per violation per occurrence:

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

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

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

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

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

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

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

39 (h) Use in retail trade, except in the preparation of packages
40 put up in advance of sale and of medical prescriptions, a weighing or

1 measuring instrument or device that is not so positioned that its
2 indications may be accurately read and the weighing or measuring
3 operation observable from some position which may reasonably be
4 assumed by a customer.

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

7 (j) Find a weighing or measuring instrument or device to be
8 correct under RCW 19.94.255 when the person knows the instrument or
9 device is incorrect.

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

17 (l) Violate any other provision of this chapter or of the rules
18 adopted under the provisions of this chapter for which a specific
19 penalty has not been prescribed.

20 ~~((2))~~ (3) Any person who, by himself or herself, by his or her
21 agent or employee, or as the agent or employee of another person,
22 violates RCW 19.94.390 as determined by the examination procedure
23 adopted by or under RCW 19.94.390(2) is subject to a civil penalty of
24 ~~((not))~~ no more than ~~((one))~~ two thousand dollars per violation per
25 occurrence.

26 ~~((3))~~ (4) Any person who, by himself or herself, by his or her
27 agent or employee, or as the agent or employee of another person,
28 performs any of the following acts is subject to a civil penalty of
29 no more than ~~((five))~~ ten thousand dollars per violation per
30 occurrence:

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

36 (b) Commits as a fourth or subsequent ~~((infraction))~~ violation
37 any of the acts listed in subsection ~~((1) or (2))~~ (2) or (3) of this
38 section.

1 metering devices with flows of not more than twenty gallons per
2 minute, liquid petroleum gas meters with one inch in diameter or
3 smaller dispensers, fabric meters, cordage meters, and taxi meters.

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

8 (c) The following are large weighing or measuring instruments or
9 devices: Liquid petroleum gas meters with greater than one inch
10 diameter dispensers, liquid fuel metering devices with flows over one
11 hundred fifty gallons per minute, and scales of more than five
12 thousand pounds capacity and scales of more than five thousand pounds
13 capacity with supplemental devices.

14 (3) (~~The director or a city sealer shall issue the appropriate~~
15 ~~civil penalty concurrently with the conclusion of the test or~~
16 ~~inspection.~~

17 ~~(4))~~) The weighing or measuring instrument or device owner
18 (~~shall have the right to~~) may appeal the civil penalty (~~in~~
19 ~~accordance with the administrative procedure act, chapter 34.05~~
20 ~~RCW~~)).

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

23 (1) RCW 19.94.165 (Commercial instruments or devices to be
24 correct) and 1995 c 355 s 6 & 1992 c 237 s 6; and

25 (2) RCW 19.94.195 (Specifications, tolerances, technical
26 requirements—Adoption—Hearing—Notice) and 1992 c 237 s 10.

27 NEW SECTION. **Sec. 21.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of
29 the state government and its existing public institutions, and takes
30 effect July 1, 2019.

Passed by the House March 5, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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