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**SUBSTITUTE SENATE BILL 5314**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Agriculture & Agricultural Trade & Development  
(originally sponsored by Senators Rasmussen, Morton, Loveland, Newhouse  
and Fraser; by request of Department of Agriculture)

Read first time 02/23/95.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,  
2 19.94.160, 19.94.165, 19.94.175, 19.94.185, 19.94.190, 19.94.216,  
3 19.94.255, 19.94.280, 19.94.320, 19.94.360, 19.94.390, 19.94.410, and  
4 19.94.510; adding new sections to chapter 19.94 RCW; adding a new  
5 section to chapter 15.80 RCW; providing effective dates; and declaring  
6 an emergency.

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

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

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

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

15 (b) "City sealer" means the person duly authorized by a city to  
16 enforce and administer the weights and measures program within such  
17 city and any duly appointed deputy sealer acting under the instructions  
18 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 either  
3 wholesale or retail sale, exclusive, however, of an auxiliary shipping  
4 container enclosing packages that individually conform to the  
5 requirements of this chapter. An individual item or lot of any  
6 commodity not in packaged form, but on which there is marked a selling  
7 price based on established price per unit of weight or of measure,  
8 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 personal  
13 care or in the performance of services ordinarily rendered in or about  
14 a household or in connection with personal possessions.

15 (e) "Cord" means the measurement of wood intended for fuel or pulp  
16 purposes that is contained in a space of one hundred twenty-eight cubic  
17 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 institutional  
35 use or for wholesale distribution only.

36 (k) "Meat" means and shall include all animal flesh, carcasses, or  
37 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 uniform seal or  
2 certificate issued by the director or city sealer which indicates that  
3 a weights and measures standard or a weighing or measuring instrument  
4 or device conforms with the specifications, tolerances, and other  
5 technical requirements adopted in RCW 19.94.195.

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

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

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

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

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

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

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

35 (t) "Secondary weights and measures standard" means (~~(any object)~~)  
36 the physical standards that are traceable to the primary standards  
37 through comparisons, used by the director, a city sealer, or a service  
38 agent that under specified conditions defines or represents a  
39 recognized weight or measure during the inspection, adjustment,

1 testing, or systematic standardization of the graduations of any  
2 weighing or measuring instrument or device.

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

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

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

22 **Sec. 3.** RCW 19.94.165 and 1992 c 237 s 6 are each amended to read  
23 as follows:

24 (1) Unless otherwise provided by ((the department, all weighing or  
25 measuring instruments or devices used for commercial purposes within  
26 this state shall be inspected and tested for accuracy by the director  
27 or city sealer at least once every two years)) law, the director or  
28 city sealer, shall have the power to inspect and test all weighing or  
29 measuring instruments or devices to ascertain if they are correct. It  
30 shall be the duty of the director or city sealer, as often as they deem  
31 necessary, to inspect and test for accuracy all weighing or measuring  
32 instruments or devices used for commercial purposes within this state  
33 and, if found to be correct, the director or city sealer shall issue an  
34 official seal of approval for each such instrument or device.

35 (2) ((Beginning fiscal year 1993, the schedule of inspection and  
36 testing shall be staggered so as one half of the weighing or measuring  
37 instruments or devices under the jurisdiction of the inspecting and

1 ~~testing authority are approved in odd fiscal years and the remaining~~  
2 ~~one half are inspected and tested in even fiscal years.~~

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

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.94 RCW  
7 to read as follows:

8 (1) No person shall operate a weighing or measuring instrument or  
9 device for commercial purposes within this state without annually  
10 registering the instrument or device with the department unless the  
11 instrument or device is within a city that has a city sealer and a  
12 program for testing and inspecting weighing and measuring instruments  
13 and devices. If the commercial use is within a city having a city  
14 sealer and a program for testing and inspecting weighing or measuring  
15 instruments and devices, the instrument or device may be registered  
16 with the city.

17 (2) A city with such a sealer and program may establish an annual  
18 fee for registering the commercial use of such an instrument or device  
19 with the city. The annual fee shall not exceed the fee established in  
20 RCW 19.94.175 for registering the use of a similar instrument or device  
21 with the department.

22 (3) Any person applying with the department for registration of an  
23 instrument or device used commercially shall make such application  
24 through the master licensing system. The application shall be  
25 accompanied by the fees established in RCW 19.94.175. A separate  
26 application must be submitted for each business location. Application  
27 for weighing or measuring device registration shall be made upon a form  
28 prescribed by the department and shall contain such information as the  
29 department may require. The fees required by RCW 19.94.175 are in  
30 addition to any other fee or license required by law.

31 (4) The registration fee that must accompany an application for a  
32 new license or annual renewal shall be based upon the number and type  
33 of weighing or measuring devices at each business location.

34 (5) Device registrations shall expire on the master license  
35 expiration date unless the registration is revoked or suspended prior  
36 to that date. The master license shall be displayed in a conspicuous  
37 place in the location for which it was issued.

1 (6) The department may, during normal business hours, compare the  
2 number of devices listed on the master license with the number of  
3 devices at the business location to determine that appropriate  
4 registration fees have been paid.

5 **Sec. 5.** RCW 19.94.175 and 1992 c 237 s 7 are each amended to read  
6 as follows:

7 ~~((1) The department shall establish reasonable, biennial  
8 inspection and testing fees for each type or class of weighing or  
9 measuring instrument or device required to be inspected and tested  
10 under this chapter. These inspection and testing fees shall be  
11 equitably prorated within each such type or class and shall be limited  
12 to those amounts necessary for the department to cover, to the extent  
13 possible, the direct costs associated with the inspection and testing  
14 of each type or class of weighing or measuring instrument or device.~~

15 ~~(2) Prior to the establishment and each amendment of the fees  
16 authorized under this chapter, a weights and measures fee task force  
17 shall be convened under the direction of the department. The task  
18 force shall be composed of a representative from the department who  
19 shall serve as chair and one representative from each of the following:  
20 City sealers, service agents, service stations, grocery stores,  
21 retailers, food processors/dealers, oil heat dealers, the agricultural  
22 community, and liquid propane dealers. The task force shall recommend  
23 the appropriate level of fees to be assessed by the department pursuant  
24 to subsection (1) of this section, based upon the level necessary to  
25 cover the direct costs of administering and enforcing the provisions of  
26 this chapter and to the extent possible be consistent with fees  
27 reasonably and customarily charged in the private sector for similar  
28 services.~~

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

33 ~~(4) All fees shall become due and payable thirty days after billing  
34 by the department or a city sealer. A late penalty of one and one half  
35 percent per month may be assessed on the unpaid balance more than  
36 thirty days in arrears.)~~ (1) The following annual registration fees  
37 shall be charged for weighing or measuring instruments or devices  
38 required to be inspected and tested under this chapter:

1	(a)	<u>Weighing devices:</u>	
2	(i)	<u>Small scales "zero to four hundred pounds</u>	
3		<u>capacity" . . . . .</u>	<u>\$ 6.00</u>
4	(ii)	<u>Intermediate scales "four hundred one pounds to</u>	
5		<u>five thousand pounds capacity" . . . . .</u>	<u>\$ 25.00</u>
6	(iii)	<u>Large scales "over five thousand pounds</u>	
7		<u>capacity" . . . . .</u>	<u>\$ 52.50</u>
8	(iv)	<u>Large scales with supplemental devices . . . . .</u>	<u>\$ 62.50</u>
9	(v)	<u>Railroad track scales . . . . .</u>	<u>\$800.00</u>
10	(b)	<u>Liquid fuel metering devices:</u>	
11	(i)	<u>Motor fuel meters with flows of less than twenty</u>	
12		<u>gallons per minute . . . . .</u>	<u>\$ 6.00</u>
13	(ii)	<u>Motor fuel meters with flows of more than twenty</u>	
14		<u>but not more than one hundred fifty gallons per</u>	
15		<u>minute . . . . .</u>	<u>\$ 20.00</u>
16	(iii)	<u>Motor fuel meters with flows over one hundred</u>	
17		<u>fifty gallons per minute . . . . .</u>	<u>\$ 25.00</u>
18	(c)	<u>Liquid petroleum gas meters:</u>	
19	(i)	<u>With one inch diameter or smaller dispensers . . .</u>	<u>\$ 25.00</u>
20	(ii)	<u>With greater than one inch diameter dispensers . .</u>	<u>\$ 37.50</u>
21	(d)	<u>Fabric meters . . . . .</u>	<u>\$ 6.00</u>
22	(e)	<u>Cordage meters . . . . .</u>	<u>\$ 6.00</u>
23	(f)	<u>Mass flow meters . . . . .</u>	<u>\$ 17.50</u>
24	(g)	<u>Taxi meters . . . . .</u>	<u>\$ 6.00</u>

25     ~~((+5))~~ (2) Fees upon weighing or measuring instruments or devices  
26 within the jurisdiction of the city that are collected under this  
27 section by city sealers shall be deposited into the general fund, or  
28 other account, of the city as directed by the governing body of the  
29 city. ~~((On the thirtieth day of each month, city sealers shall,~~  
30 ~~pursuant to procedures established and upon forms provided by the~~  
31 ~~director, remit to the department for administrative costs ten percent~~  
32 ~~of the total fees collected.~~

33     ~~(+6))~~ (3) With the exception of subsection ~~((+7))~~ (4) of this  
34 section and section 6 of this act, no person shall be required to pay  
35 more than the established ~~((inspection and testing))~~ annual  
36 registration fee adopted under this section for any weighing or  
37 measuring instrument or device ~~((in any two year period))~~ when the same  
38 has been found to be correct.

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

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

13       **NEW SECTION. Sec. 6.** A new section is added to chapter 19.94 RCW  
14 to read as follows:

15       (1) The department or a city sealer may charge the reinspection and  
16 testing fees listed in subsection (2) of this section for each type or  
17 class of weighing or measuring instrument or device required to be  
18 inspected and tested under this chapter when such a device has been  
19 found to be incorrect. Investigations for cause shall not be construed  
20 as reinspections under this section.

- 21       (2)(a) Weighing devices:
- 22       (i) Small scales "zero to four hundred pounds  
23           capacity" . . . . . \$ 12.00
  - 24       (ii) Intermediate scales "four hundred one pounds to  
25           five thousand pounds capacity" . . . . . \$ 50.00
  - 26       (iii) Large scales "over five thousand pounds  
27           capacity" . . . . . \$105.00
  - 28       (iv) Large scales with supplemental devices . . . . . \$125.00
  - 29       (v) Railroad track scales . . . . . \$800.00
- 30       (b) Liquid fuel metering devices:
- 31       (i) Motor fuel meters with flows of less than twenty  
32           gallons per minute . . . . . \$ 12.00
  - 33       (ii) Motor fuel meters with flows of more than twenty  
34           but not more than one hundred fifty gallons per  
35           minute . . . . . \$ 40.00
  - 36       (iii) Motor fuel meters with flows over one hundred  
37           fifty gallons per minute . . . . . \$ 50.00

- 1 (c) Liquid petroleum gas meters:
- 2 (i) With one inch diameter or smaller dispensers . . . \$ 50.00
- 3 (ii) With greater than one inch diameter
- 4 dispensers . . . . . \$ 75.00
- 5 (d) Fabric meters . . . . . \$ 12.00
- 6 (e) Cordage meters . . . . . \$ 12.00
- 7 (f) Mass flow meters . . . . . \$ 35.00
- 8 (g) Taxi meters . . . . . \$ 12.00

9 (3) Any fees assessed under this section and RCW 19.94.175(4) shall  
 10 become due and payable thirty days after billing by the department or  
 11 a city sealer. A late penalty of one and one-half percent per month  
 12 may be assessed on the unpaid balance more than thirty days in arrears.

13 **Sec. 7.** RCW 19.94.185 and 1992 c 237 s 8 are each amended to read  
 14 as follows:

15 All moneys collected under this chapter shall be paid to the  
 16 director and placed in the weights and measures account hereby  
 17 established in the (~~state treasury~~) agricultural local fund. Moneys  
 18 deposited in this account (~~may be spent only following appropriation~~  
 19 ~~by law and~~) shall be used solely for the purposes (~~of weighing or~~  
 20 ~~measuring instrument or device inspection and testing~~) relating to the  
 21 enforcement or implementation of this chapter. No appropriation is  
 22 required for the disbursement of moneys from the account by the  
 23 director.

24 **Sec. 8.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read  
 25 as follows:

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

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

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

36 (c) The establishment of technical test procedures, reporting  
 37 procedures, and any necessary record and reporting forms to be used by

1 service agents when installing, repairing, inspecting, or standardizing  
2 the graduations of any weighing or measuring instruments or devices;

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

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

12 ~~((f))~~ (e) The establishment of exemptions from the inspection and  
13 testing requirements of RCW 19.94.165 with respect to classes of  
14 weighing or measuring instruments or devices found to be of such  
15 character that periodic inspection and testing is unnecessary to ensure  
16 continued accuracy; and

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

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

32 **Sec. 9.** RCW 19.94.216 and 1992 c 237 s 12 are each amended to read  
33 as follows:

34 The department shall:

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

1 establish a reasonable fee for ((such)) this and any other inspection  
2 and testing services performed by the department's metrology  
3 laboratory.

4 (2) ((Biennially)) Inspect, test, and, if found to be correct,  
5 issue an official seal of approval for any weighing or measuring  
6 instrument or device used in an agency or institution to which moneys  
7 are appropriated by the legislature or of the federal government and  
8 shall report any findings in writing to the executive officer of the  
9 agency or institution concerned. The department shall collect a  
10 reasonable fee, to be set by rule, for testing any such weighing or  
11 measuring instrument or device.

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

26 **Sec. 10.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to  
27 read as follows:

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

33 (2) The owner of any weighing or measuring instrument or device  
34 that has been marked or tagged as rejected by the director or a city  
35 sealer shall cause the same to be made correct within thirty days or  
36 such longer period as may be authorized by the rejecting authority. In  
37 lieu of correction, the owner of such weighing and measuring instrument

1 or device may dispose of the same, but only in the manner specifically  
2 authorized by the rejecting authority.

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

8 **Sec. 11.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to  
9 read as follows:

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

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

19 (3) A city sealer ~~((shall))~~ may adopt the fee amounts established  
20 ~~((by the director pursuant to RCW 19.94.165))~~ under section 6 of this  
21 act. However, no city shall adopt or charge an inspection, testing,  
22 reinspection, retesting, or licensing fee or any other fee upon a  
23 weighing or measuring instrument or device that is in excess of the fee  
24 amounts ((adopted under RCW 19.94.165)) established by the department  
25 under the provisions of this chapter for substantially similar  
26 services.

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

31 **Sec. 12.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to  
32 read as follows:

33 (1) In cities for which city sealers have been appointed as  
34 provided for in this chapter, the director shall have general  
35 ~~((supervisory powers over such))~~ oversight of city ((sealers)) weights  
36 and measures programs and may, when he or she deems it reasonably

1 necessary, exercise concurrent authority to carry out the provisions of  
2 this chapter.

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

7 **Sec. 13.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read  
8 as follows:

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

16 **Sec. 14.** RCW 19.94.390 and 1969 c 67 s 39 are each amended to read  
17 as follows:

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

29 (2) The examination procedure recommended for price verification by  
30 the price verification working group of the laws and regulations  
31 committee of the national conference on weights and measures (as  
32 reflected in the fourth draft, dated November 1, 1994) for devices such  
33 as electronic scanners shall govern such examinations conducted under  
34 this chapter. The procedure shall be deemed to be adopted under this  
35 chapter. However, the department may revise the procedure as follows:  
36 The department shall provide notice of and conduct a public hearing  
37 pursuant to chapter 34.05 RCW to determine whether any revisions to

1 this procedure made by the national institute of standards and  
2 technology or its successor organization for incorporating the  
3 examination procedure into an official handbook of the institute or its  
4 successor, or any subsequent revisions of the handbook regarding such  
5 procedures shall also be adopted under this chapter. If the department  
6 determines that the procedure should be so revised, it may adopt the  
7 revisions. Violations of this section regarding the use of devices  
8 such as electronic scanners may be found only as provided by the  
9 examination procedures adopted by or under this subsection.

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

13 **Sec. 15.** RCW 19.94.410 and 1988 c 63 s 1 are each amended to read  
14 as follows:

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

19 ~~(2) The director of agriculture may allow the sale of butter~~  
20 ~~speciality products in nonstandard units of weight if the purpose~~  
21 ~~achieved by using such nonstandard units is decorative in nature and~~  
22 ~~the products are clearly labeled as to weight and price per pound)).~~

23 **Sec. 16.** RCW 19.94.510 and 1992 c 237 s 35 are each amended to  
24 read as follows:

25 (1) Any person who, by himself or herself, by his or her agent or  
26 employee, or as the agent or employee of another person, knowingly  
27 performs any one of the acts enumerated in (a) through (k) of this  
28 subsection is subject to a civil penalty of no more than one thousand  
29 dollars:

30 (a) Use or have in possession for the purpose of using for any  
31 commercial purpose a weighing or measuring instrument or device that is  
32 intentionally calculated to falsify any weight, measure, or count of  
33 any commodity, or to sell, offer, expose for sale or hire or have in  
34 possession for the purpose of selling or hiring an incorrect weighing  
35 or measuring instrument or device or any weighing or measuring  
36 instrument or device calculated to falsify any weight or measure.

1 (b) Knowingly use or have in possession for current use in the  
2 buying or selling of any commodity or thing, for hire or award, or in  
3 the computation of any basic charge or payment for services rendered on  
4 the basis of weight, measurement, or count, or in the determination of  
5 weight, measurement or count, when a charge is made for such  
6 determination, any incorrect weighing or measuring instrument or  
7 device.

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

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

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

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

19 (g) Keep for the purpose of sale, advertise, offer or expose for  
20 sale or sell any commodity, thing or service in a condition or manner  
21 contrary to law or rule.

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

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

30 (j) Fails to disclose to the department or a city sealer any  
31 knowledge of information relating to, or observation of, any device or  
32 instrument added to or modifying any weighing or measuring instrument  
33 or device for the purpose of selling, offering, or exposing for sale,  
34 less than the quantity represented of a commodity or calculated to  
35 falsify weight or measure, if the person is a service agent.

36 (k) Violate any other provision of this chapter or of the rules  
37 adopted under the provisions of this chapter for which a specific  
38 penalty has not been prescribed.

1       (2) Any person who, by himself or herself, by his or her agent or  
2 employee, or as the agent or employee of another person, violates RCW  
3 19.94.390 as determined by the examination procedure adopted by or  
4 under RCW 19.94.390(2) is subject to a civil penalty of not more than  
5 one thousand dollars. The results of an examination conducted pursuant  
6 to RCW 19.94.390(2) shall not be disclosed to the public for a period  
7 of ten days following the completion of the examination.

8       (3) 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 of the following acts is subject to a civil penalty of no more than  
11 five thousand dollars:

12       (a) Knowingly adds to or modifies any weighing or measuring  
13 instrument or device by the addition of a device or instrument that  
14 would allow the sale, or the offering or exposure for sale, of less  
15 than the quantity represented of a commodity or falsification of weight  
16 or measure.

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

19       NEW SECTION. Sec. 17. A new section is added to chapter 15.80 RCW  
20 to read as follows:

21       All moneys collected under this chapter shall be placed in the  
22 weights and measures account in the agricultural local fund created in  
23 RCW 19.94.185.

24       NEW SECTION. Sec. 18. A new section is added to chapter 19.94 RCW  
25 to read as follows:

26       The department shall develop a written report on the implementation  
27 of chapter . . . , Laws of 1995 (this act) that provides information  
28 including but not limited to the number of inspections conducted, the  
29 results of the inspections, the number of warnings issued, and the  
30 number of enforcement actions taken. The report shall be submitted to  
31 the secretary of the senate and chief clerk of the house of  
32 representatives, on December 15th of each even-numbered year. This  
33 section shall expire January 1, 2000.

34       NEW SECTION. Sec. 19. (1) Sections 1 through 3 and 6 through 17  
35 of this act are necessary for the immediate preservation of the public

1 peace, health, or safety, or support of the state government and its  
2 existing public institutions, and shall take effect June 1, 1995.  
3 (2) Sections 4 and 5 of this act shall take effect January 1, 1996.

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