



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

November 16, 2020

DMS NOTICE
D – 20 – 06
Discard: Retain

TO: WEIGHTS AND MEASURES OFFICIALS

Subject: Weights and Measures Regulatory Authority Over Weighing and Measuring Devices Owned by a City, Municipality, or Public Entity

CDFA Division of Measurement Standards (DMS) is providing further clarification to DMS Notice DMS-9 (1978).

California county and state weights and measures officials do not have regulatory authority over commercially used weighing and measuring devices owned by a city, municipality, or a public entity. This is described in the 1977 Attorney General (AG) Opinion No. SO 77-13 and is referenced in DMS Notice DMS-9 (1978).

This matter was again recently brought to the forefront due to cities, municipalities, or public entities (e.g., a school district or higher-level educational system) owning alternative motor fuel measuring devices (e.g., for hydrogen and electricity) and using them for commercial purposes.

One area of jurisdictional concern regarded a city who contracted with a vendor or service provider to operate electric vehicle supply equipment (EVSE) and conduct billing services on behalf of the city. In some of these contracts or agreements, the service provider is compensated based upon a percentage of the energy measured through an EVSE.

CDFA Legal Office reviewed both the AG Opinion No. SO 77-13 and DMS Notice DMS-9, and determined that the vendor, contractor, or service provider is not the seller of the commodity (e.g., electricity) but is, instead, deriving revenue from their contractual agreement with the city, municipality, or public entity. It is the city, municipality, or public entity that is the owner of the device and seller of the commodity; therefore, such devices are exempted from weights and measures regulatory authority pursuant to AG Opinion No. SO 77-13.

If you have questions or need a copy of the AG Opinion or old DMS Notice, please contact the Device Enforcement Program at dms@cdfa.ca.gov.

Sincerely,

Kristin Macey
Director

cc: Hyrum Eastman, County/State Liaison

