

Division of Measurement Standards
8500 Fruitridge Road
Sacramento, CA 95826

DMS NOTICE
W - 3 - 02

June 26, 2002

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TO WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Weighmaster Certificate Format

The question of what constitutes a weighmaster certificate and when a document becomes a weighmaster certificate has been raised. The attached questions were posed to the Legal Counsel of the Department of Food and Agriculture.

They provided us their opinion that: a weighmaster's certificate form is whatever the Department determines is a reasonable means of ensuring that all of the information required by the Business and Professions Code, related to the issuance of weighmaster's certificates, is included. Additionally, they indicated that Government Code Section 11340.9 provides that the Department may prescribe the use of a form and provide instructions related to its use, without having to go through the rulemaking process.

Accordingly, based on this opinion from the Department's Legal Office, the Division has determined the following is a reasonable means for enforcing weighmaster certificate format.

Preprinted forms, whether intended for completion by computer or completion by hand, must contain all the information required by Business and Professions Code, Chapter 7, Sections 12714, 12714.5, and 12715. Specifically, the certificate must include the weighmaster legend, the printed principal weighmaster name as it appears on the license, a consecutive number, and identifiable spaces for the other necessary information as applicable to the type(s) of transactions being conducted by the business. Additionally, any form that contains information such that it could be mistaken for a weighmaster certificate by a reasonable person, is a weighmaster's certificate.

Questions regarding weighmaster certificate format should be directed to David Lazier, Branch Chief, at (916) 229-3044.

Sincerely,

Mike Cleary
Director
(916) 229-3000

Attachment

The following questions were posed to the Legal Counsel's Office of the Department of Food and Agriculture on May 23, 2002.

Background

California Business and Professions Code, Division 5, Chapter 7, Sections 12714, 12714.5, and 12715 specify the content of a weighmaster certificate. Section 12729(b) specifies that it is an infraction to violate Sections 12714, 12714.5, or 12715 except as otherwise provided in Section 12718. With the interfacing of scales and computers, we are finding that many licensees no longer have weighmaster certificates that are preprinted with all the information required.

Some licensees start with blank paper and the computer generates the information as the certificate is printed – no problem as long as everything required is printed on the completed certificate.

Other licensees preprint a portion of the certificate, the legend, spaces for date, the address and weighmaster's name, spaces for signatures, commodity description, vehicles license numbers, owner, agent or consignee, gross, tare, and net weights, but do not number these preprinted forms with a printed consecutive number. The computer affixes the number as it completes the certificate. Historically, the Program has interpreted the law and applied it to require the consecutive number to be printed on these types of preprinted forms at the time the legend is preprinted. Our reasoning being that, (1) in order for the licensee to control their forms and determine if any are missing, misplaced, or have been stolen, they need the preprinted numbers to make that assessment; (2) once the legend is printed on the paper, the form becomes a weighmaster certificate and the information is required by Section 12714.5; (3) if these types of forms are misplaced or stolen, they can be passed off by unscrupulous people to buy or sell commodities to unsuspecting victims who do not know they are not legitimate.

The Program has recently received a challenge to our policy from a county office of weights and measures.

There is no dispute with Section 12713(b) which makes it unlawful to issue a certificate that does not contain all the information required by Sections 12714, 12714.5, and 12715. The question is with the partially preprinted forms.

Questions

- What constitutes a weighmaster certificate form and at what point does it become one?
- Does the inclusion of a part of what is required by Sections 12714, 12714.5, and 12715 make it a weighmaster certificate form, i.e., the legend, or does it require all the components to be there first?

The Legal Counsel's opinion, received on June 7, 2002, was as follows:

In regard to your two questions:

- (1) A weighmaster's certificate form is whatever the Department determines is a reasonable means of ensuring the provision of all of the information required by the B and P Code provisions related to the issuance of weighmaster's certificates.
- (2) GC 11340.9 provides that the Department may prescribe the use of a form and provide instructions related to its use, without having to go through the rulemaking process. Accordingly, the Department may require that a multi-page certificate have all pages numbered consecutively. The Department could, if it so wished, require that certificates be one page, or require a legend with the numbers for multi-page certificates.