CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES
§§ 12001-13800

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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2018 Revision Index

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BPC Division 5 – Technical Clean-up			
Consistent use of the term “secretary” (instead of “director”) when referencing the Secretary of CDFA	12003, 12014, 12022, 12103.5, 12204, 12206, 12310, 12500(c), 12501.1, 12511, 12603, 12707, 12716, 12717, 12734, 12737(c)(1), 13432, 13433, 13434.		SB-800
Corrects the name National Bureau of Standards (NBS) of the National Institute of Standards and Technology (NIST), which changed its name in 1988.	12303, 12304, 12310.5, 12313, 12511.		
Editorial	12500.7.	Renumbered to § 12314. In 1982.	
Chapter 2	12241	Includes language that clarifies that Administrative Fees include costs related to state standards, and services provided.	SB-547
Chapter 3	12305	“ . . . standards of the state” changed to “department”.	
	12310	Adds reference to §12241.	
Chapter 5	12500	Adds exception for animal and human health providers.	
	12500.8	Corrects name from NIST to the National Conference on Weights and Measures (NCWM).	SB-800
Chapter 6	12602 (a)	Reference to repealed Chapter 6.6 Removed.	
Chapter 7	12722.(b)	Change reference from California Administrative Code to California Code of Regulations.	
	12701.(n)	Exemption for medical waste is reinstated.	
	12701.(o)	2018 effective date added.	

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(Rev 1/18)

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CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
Division of Measurement Standards
Business and Professions Code (BPC) Division 5

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NOTE 2. Most Chapters include a Table of Contents that with hyperlinks to the desired page.

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
Division of Measurement Standards
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CALIFORNIA BUSINESS AND PROFESSIONS CODE
DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 1. General Provisions
§§ 12001-12027

JANUARY 2018

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 1. General Provisions

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§ 12001. DEFINITIONS: APPLICATION

The definitions in this chapter apply to this division only and do not affect the provisions of any other division.

Added Stats. 1939 ch 43 § 1.

§ 12002. "DEPARTMENT"

"Department" means the Department of Food and Agriculture.

Added Stats. 939 ch 43 § 1; Amended Stats. 1989 ch 246 § 1.

§ 12003. "SECRETARY"

"Secretary" means the Secretary of Food and Agriculture.

Added Stats. 1939 ch 43 §1 Amended Stats. 1989 ch 246 § 2; Amended Stats. 1994 ch 591 § 1, Amended Stats. 2017 ch 573 § 44.

§ 12004. "STATE SEALER"

"State Sealer" means the chief of the division of the department charged with the enforcement of the provisions of this division.

Added Stats. 1939 ch 43 § 1.

§ 12005. "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY"

Whenever any provision of this division makes reference to the National Bureau of Standards, that reference shall be construed to include the National Institute of Standards and Technology.

Added Stats. 1989 ch 1047 § 1.

§ 12006. "COUNTY SEALER"

"County Sealer" means any sealer appointed by a county. A county may in its discretion refer to its sealer as the county director of weights and measures.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 254 § 1.

§ 12007. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 1.] Note - Repealed section defined "City Sealer".

(Rev. 1/18)

§ 12008. "SEALER"

"Sealer", when used without qualification, includes the State Sealer, county sealers and their deputies and inspectors.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 1; Stats. 1967 ch 286 § 2.

§ 12009. "SELL"

"Sell," in any of its variant forms, includes barter, exchange, trade, rent, lease, keep for sale, offer for sale, or expose for sale, in any of their variant forms.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1995 ch 156 § 1.

§ 12009.5. "DISTRIBUTE"

"Distribute", in any of its variant forms, includes keep for distribution, offer for distribution, or expose for distribution, in any of their variant forms.

Added Stats. 1979 ch 527 § 1.

§ 12010. "USE"

"Use", in any of its variant forms, includes keep for use in any of its variant forms.

Added Stats. 1939 ch 43 § 1.

§ 12011. "PERSON"

"Person" includes person, firm, corporation or association.

Added Stats. 1939 ch 43 § 1. Prior Law: Stats. 1913 ch 597 § 39 p 1096.

§ 12011.5. "COPIES", "STANDARDS", "COPIES OF STANDARD WEIGHTS AND MEASURES"

Wherever in this division the terms "copies" or "standards" or "copies of the standard weights and measures" are used, such terms shall refer to the original standards in the possession of the department or to true and accurate copies derived therefrom.

Added Stats. 1939 ch 992 § 2.

§ 12011.6. "CONTAINER"

"Container" means any receptacle or carton, whether lidded or unlidded, into which a commodity is packed or placed, or any wrappings with or into which any commodity is wrapped or put for sale.

Added Stats. 1949 ch 1384 § 1.

§ 12011.7. "PALLET"

"Pallet" means any portable platform upon which containers or material is placed to facilitate handling.

Added Stats. 1961 ch 344 § 1; effective May 13, 1961.

§ 12012. EXERCISE OF SECRETARY'S POWERS THROUGH STATE SEALER OR OTHERWISE

The secretary may exercise any power conferred upon the department or upon the State Sealer by this division through the State Sealer or otherwise.

Added Stats. 1939 ch 43 § 1; Amended Stats. 2012 ch 661 § 18.

§ 12012.1. ACTION BY SECRETARY OR COUNTY SEALER TO ENJOIN VIOLATIONS OR THREATENED VIOLATIONS OF PROVISIONS OR REGULATIONS

The secretary may bring an action to enjoin the violation, or the threatened violation, of any provision of this division, or of any regulation adopted pursuant thereto, in the superior court in the county in which such violation occurs or is about to occur. There may be joined in one proceeding any number of defendants alleged to be violating the same provisions or regulations, although their properties, interests, residence, or place of business, may be in several counties and the violations separate and distinct. Any proceeding which is brought pursuant to this section shall be governed in all other respects by the provisions of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure. The county sealer of any county acting through the district attorney or county counsel of that county may bring an action to enjoin the violation in such county or the threatened violation in such county of any provision of this division or of any regulation adopted pursuant thereto in the same manner as may the secretary, and if the secretary joins as a party plaintiff, such actions shall not be limited to violations occurring within the county.

Added Stats. 1973 ch 977 § 1; Amended Stats. 2012 ch 661 § 19.

§ 12013. SEALERS AS HAVING POWERS OF PUBLIC OFFICER TO ARREST: PROCEDURE TO BE FOLLOWED: LIABILITY: SERVICE OF PROCESSES AND NOTICES

(a) Any sealer shall have the authority, as a public officer, to arrest, without a warrant, any person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this division, the violation of which is declared to be a public offense.

In any case in which an arrest is made pursuant to this authority for an offense declared to be a misdemeanor or an infraction, the arresting officer may, instead of taking the

person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code, unless the arrested person demands to be taken before a magistrate. The provisions of such chapter shall thereafter apply with respect to any proceeding based upon the issuance of a citation pursuant to this authority.

This subdivision shall not be interpreted to prevent further restriction by the board of supervisors of a county of the authority of a county sealer or his deputies to make arrests.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) Any sealer may serve all processes and notices throughout the state; provided that county sealers and their deputies are authorized to serve processes and notices only within the boundaries of the county which employs them.

Added Stats. 1968 ch 1222 § 29; Amended Stats. 1979 ch 527 § 2.

§ 12014. SEALING OR CONDEMNING BEFORE TESTING AS MISDEMEANOR: EXCEPTION FOR PLANNED PROGRAM OF PROBABILITY SAMPLING

(a) Except as provided in subdivision (b), any sealer who seals any weight, measure, balance or weighing or measuring instrument or apparatus before first testing and making it conform with the standards of the state, or who condemns any weight, measure, balance or weighing or measuring instrument or apparatus without first testing it is guilty of a misdemeanor.

(b) A sealer may engage in a planned program of probability sampling of devices, using methods approved by the secretary. The sealing of a device by a sealer pursuant to such sampling and testing program is exempt from the provisions of subdivision (a).

Added Stats. 1939 ch 43 § 1; Amended Stats. 1979 ch 527 § 3, Amended Stats. 2017 ch 573 § 45.

§ 12015. SEALER TO CAUSE PROSECUTION OF VIOLATOR

Any sealer having knowledge of a violation of any of the provisions of any law relating to weights and measures shall cause the violator to be prosecuted.

Added Stats. 1939 ch 43 § 1.

(Rev. 1/18)

§ 12015.3. CIVIL PENALTY FOR VIOLATION OF PROVISIONS OF DIVISION

(a) The sealer may levy a civil penalty against a person violating any provision of thisdivision or a regulation adopted pursuant to any of these provisions, of not more than one thousand dollars ($1,000) for each violation. It is a complete defense to a criminal prosecution for a violation of any provision of this division or a regulation adopted pursuant to any provision of this division that the defendant has been assessed and has paid a civil penalty under this section for the same act or acts constituting the violation. Any civil penalty under this section shall be cumulative to civil remedies or penalties imposed under any other law.

(b) Before a civil penalty is levied, the person charged with the violation shall be given a written notice of the proposed action including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing. The request shall be made within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the sealer's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the sealer may take the action proposed without a hearing.

(c) If the person upon whom the sealer levied a civil penalty requested and appeared at a hearing, the person may appeal the sealer's decision to the secretary within 30 days of the date of receiving a copy of the sealer's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, states the grounds for the appeal, and includes a copy of the sealer's decision. The appellant shall file a copy of the appeal with the sealer at the same time it is filed with the secretary.

(2) The appellant and the sealer may, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the secretary, present the record of the hearing including written evidence that was submitted at the hearing and a written argument to the secretary stating grounds for affirming, modifying, or reversing the sealer's decision.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the sealer, and the secretary.

(5) The secretary shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or

she has received. If the secretary finds substantial evidence in the record to support the sealer's decision, the secretary shall affirm the decision.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practicable.

(7) On an appeal pursuant to this section, the secretary may affirm the sealer's decision, modify the sealer's decision by reducing or increasing the amount of the penalty levied so that it is within the secretary's guidelines for imposing civil penalties, or reverse the sealer's decision. Any civil penalty increased by the secretary shall not be higher than that proposed in the sealer's notice of proposed action given pursuant to subdivision (b). A copy of the secretary's decision shall be delivered or mailed to the appellant and the sealer.

(8) Any person who does not request a hearing pursuant to subdivision (b) may not file an appeal pursuant to this subdivision.

(9) Review of a decision of the secretary may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the appeal and review procedures provided in this section, the sealer, or his or her representative, may file a certified copy of a final decision of the sealer that directs the payment of a civil penalty and, if applicable, a copy of any decision of the secretary or his or her authorized representative rendered on an appeal from the sealer's decision and a copy of any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

(e) If the civil penalty is levied by the State Sealer, the revenues derived therefrom shall be deposited in the Department of Food and Agriculture Fund and, upon appropriation, shall be used by the State Sealer to carry out his or her responsibilities under this division. If the civil penalty is levied by the county sealer, the revenues shall be deposited in the general fund of the county and, upon appropriation by the board of supervisors, shall be used by the county sealer to carry out his or her responsibilities under this division.

(f) This section does not apply to violations involving utility meters, or to violations involving the testing and inspection of utility meters, in mobilehome parks, recreational vehicle parks, or apartment complexes, where the owner of the park or complex owns and is responsible for the utility meters.

(g) Upon the written request of the Attorney General of California, any district attorney, or any city prosecutor or city attorney described in subdivision (a) of Section 17206, the State Sealer or the county sealer within their respective jurisdictions, shall provide all reports and records regarding any actions that occurred within the four months prior to the date of the written request in which civil penalties were levied pursuant to this section or liability for costs incurred are determined pursuant to Section 12015.5.

(h) No investigative costs shall be imposed pursuant to Section 12015.5 for violations for which civil penalties are imposed pursuant to this section.

Added Stats. 1994 ch 592 § 2; Amended Stats. 1997 ch 476 § 1; Amended Stats. 2000, ch 512 § 1; Amended Stats. 2005, ch 529 § 1.

§ 12015.5. LIABILITY FOR INVESTIGATIVE COSTS

Any person convicted of violating any of the provisions of this division, or, except as provided in Section 12015.3, any person who is determined to be civilly liable for violating any of the provisions of this division, shall be liable for reasonable costs incurred in investigating the action.

Added Stats. 1994 ch 592 § 3; Amended Stats. 2005 ch 529 § 2.

§ 12016. HINDERING OR OBSTRUCTING SEALER OR DEPUTY: MISDEMEANOR

Any person who hinders or obstructs in any way any sealer, in the performance of his official duties, is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1965 ch 83 § 2.

§ 12017. COMPLIANCE BY CORPORATE OFFICERS, DIRECTORS AND MANAGERS: MISDEMEANOR

All officers, directors and managers of corporations, whose respective corporations use or sell any weights, measures, or weighing or measuring instruments which are subject to inspection shall comply with the provisions of this division on behalf of their respective corporations; and all officers, directors and managers of corporations, whose respective corporations sell any commodity which is subject to inspection shall comply with the provisions of this division on behalf of their respective corporations.

In case any corporation violates any of the provisions of this division, the corporation and the officers thereof directly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12018. NEGLECT OR REFUSAL TO EXHIBIT WEIGHT, ETC., TO SEALER: MISDEMEANOR

Any person neglecting or refusing to exhibit any weight, measure, weighing or measuring instrument, or appliances and accessories connected therewith in his possession or under his control, to any sealer for inspection and examination is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12019. FALSE WEIGHT OR MEASURE: DEFINITION

A false weight or measure is one which does not conform to the standard established or recognized by this division.

Added Stats. 1939 ch 43 § 1.

§ 12020. USE OF INCORRECT WEIGHT OR MEASURE OR INSTRUMENT: MISDEMEANOR

It shall be unlawful for any person, by himself or through or for another, to use for commercial purposes any weight or measure or weighing, measuring or counting instrument, knowing it to be "incorrect" as this term is defined in subdivision (d) of Section 12500. Every person who violates this section is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1947 ch 465 § 1; Stats. 1973 ch 977 § 2.

§ 12021. MARKING OR STAMPING FALSE OR SHORT WEIGHT OR MEASURE ON CONTAINER: TAKING FALSE TARE: SALE: MISDEMEANOR

Every person who knowingly marks or stamps false or short weight or measure, or knowingly takes false tare, on any container, or knowingly sells any container so marked, is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 306 § 1.

§ 12022. ADDING SUBSTANCE TO INCREASE WEIGHT: PUNISHMENT

Every person who, in putting up in any container, goods usually sold by weight, puts in or conceals therein any other substance including moisture, except such moisture as may be included or absorbed by the goods or commodity contained therein during preparation for market or processing in accordance with ordinary commercial practice, for the purpose of increasing the weight of such container with intent thereby to sell the goods therein or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars ($25) for each offense. The amount of added moisture contained in poultry meat as defined in Section 380.20 of the Agricultural Code shall not exceed 4 percent by weight or any greater amount established by regulation of the secretary.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 306 § 2; Stats. 1959 ch 2009 § 2, Amended Stats. 2017 ch 573 § 45.

§ 12022.5. FRESH MEATS OR ROASTS: ADVERTISING OR SELLING ON BASIS OF NET WEIGHT NOT INCLUDING ADDED FAT: EFFECT OF LABEL CONTAINING TERM "FAT ADDED"

Fresh meat or roasts of any kind or cut shall be exposed, advertised, offered for sale or sold on the basis of net weight of the fresh meat or roast only, and any added fat of any

kind whatsoever either wrapped within or injected with a larding needle or otherwise inserted in such fresh meat or roast shall be considered as tare weight only.

Notwithstanding the above provision, added fat shall not be considered tare weight if the meat package containing such added fat is clearly and prominently labeled in eight-point type or larger with the term “fat added.”

Added Stats. 1976 ch 1077.

(Rev. 1/18)

§ 12023. SELLING ACCORDING TO GROSS WEIGHT OR MEASURE: MISDEMEANOR

Except as provided elsewhere in this code any person who by himself or his employee or agent, or as the employee or agent of another, sells any commodity according to gross weight or measure is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1967 ch 272 § 1.

§ 12023.5. SALE OF JUTE CORDAGE, ETC., ON GROSS WEIGHT BASIS: WHEN PROVISIONS NOT APPLICABLE

Notwithstanding any other provision of this code or any other law, jute cordage, hard fiber cordage, and hard fiber twine (whether covered or uncovered) may be marked and sold on a gross weight basis. The provisions of the foregoing sentence shall not apply to sales in retail stores for consumer use of any such product which has been removed from the wrapper or container in which it was received by the retailer.

Added Stats. 1955 ch 1076 § 1; Amended Stats. 1965 ch 190 § 1.

§ 12024. SELLING IN LESS QUANTITY THAN REPRESENTED: PENALTY

Every person, who by himself or herself, or through or for another, sells any commodity in less quantity than he or she represents it to be, is guilty of a misdemeanor, except as provided in Section 12024.3.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1982 ch 1380 § 1.

§ 12024.1. MISREPRESENTING CHARGE FOR SERVICE RENDERED: MISDEMEANOR

Every person, by himself, or through or for another, who willfully misrepresents a charge for service rendered on the basis of weight, time, measure, or count is guilty of a misdemeanor.

Added Stats. 1969 ch 731 § 1.

§ 12024.2. UNLAWFUL COMPUTATION OF VALUE: MISDEMEANOR: INFRACTION UNDER DESIGNATED CIRCUMSTANCES

(a) It is unlawful for any person, at the time of sale of a commodity, to do any of the following:

(1) Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.

(2) Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

(b) A violation of this section is a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the overcharge is more than one dollar ($1).

(c) A violation of this section is an infraction, punishable by a fine of not more than one hundred dollars ($100), when the overcharge is one dollar ($1) or less.

(d) As used in subdivisions (b) and (c), “overcharge” means the amount by which the charge for a commodity exceeds a price that is advertised, posted, marked, displayed, or quoted to that consumer for that commodity at the time of sale.

(e) Except as provided in subdivision (f), for purposes of this section, when more than one price for the same commodity is advertised, posted, marked, displayed, or quoted, the person offering the commodity for sale shall charge the lowest of those prices.

(f) Pricing may be subject to a condition of sale, such as membership in a retailer-sponsored club, the purchase of a minimum quantity, or the purchase of multiples of the same item, provided that the condition is conspicuously posted in the same location as the price.

Amended *Stats. 1977 ch 778; Amended Stats. 1982 ch 1380 § 2; Amended Stats. 1983 ch 1245 § 1; Amended Stats. 1988 ch 922 §1; Amended Stats. 2004 ch 752, § 2.*

§ 12024.3. SELLING PREPACKAGED COMMODITIES IN LESS QUANTITY THAN REPRESENTED: MISDEMEANOR: INFRACTION

(a) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if any of the following occurs:

(1) The violation is willful.

(2) The total monetary value of the shortage, calculated on the basis of the average error of an individual lot, exceeds two dollars ($2), as determined pursuant to regulations adopted pursuant to Section 12211.

(3) The total monetary value of shortages, calculated on the basis of the average error of each individual lot, as determined from a sample of packages selected pursuant to regulations adopted pursuant to Section 12211, within all lots found to be in violation of Section 12024 at a single location, exceeds ten dollars ($10).

(b) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is an infraction, punishable by a fine of not more than one hundred dollars ($100), if the violation is of less monetary value than that specified in subdivision (a) and it is not willful.

Added Stats. 1982 ch 1380 § 3; Amended Stats. 1983 ch 1245 § 2.

§ 12024.5. SALE OF FOWL, MEAT OR FISH OTHER THAN BY WEIGHT: READY-TO-EAT ITEMS

It is unlawful for any person to sell or advertise for sale any dressed poultry or any other fowl or rabbit in dressed form, either cooked or uncooked, or smoked, fresh, frozen, cooked, dried, or pickled meats or fish other than by weight determined at the time of sale on a scale properly sealed in accordance with this division. Any commodity specified in this section, however, need not be weighed at the time of sale if at that time it is packed in a package or container upon which appears the net weight of the commodity therein. Except as provided below, any person, including, but not limited to, a manufacturer, processor, packer, wholesaler, or jobber that packs any commodity specified in this section in any package which is intended for retail sale, shall mark the net weight of the commodity therein upon the package. Packages of these products intended for retail sale need not be marked by the packer with the net weight of the commodity if they are to be marked with the net weight of the commodity by the retailer who purchases or receives the packages from the packer. This section does not apply to any of the following ready-to-eat food items:

(a) Items sold for consumption on the premises.

(b) Items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold.

(c) Ready-to-eat meat, poultry, or seafood cooked or heated on the premises but not packaged in advance of sale.

(d) Sandwiches when offered or exposed for sale on the premises where packed or produced and not intended for resale.

Added Stats. 1939 ch 1028 § 1; Amended Stats. 1941 ch 861 § 1; Stats. 1949 ch 1384 § 2; Stats. 1955 ch 394 § 1; Stats. 1957 ch 566 § 1; Stats. 1965 ch 713 § 1; Stats. 1967 ch 176 § 1; Stats. 1969 ch 411 § 1; Amended Stats. 1986 ch 1516 § 1.

§ 12024.55. DOOR-TO-DOOR SALESPERSONS: PRICE STATEMENT ON PACKAGES

Packages of meat, fish or poultry offered for sale by door-to-door salespersons shall display the price per pound for each type and cut in the package. The price per pound shall be separately and accurately stated and shall be preceded by the words “price per pound” on each principal display panel of the package, as the term “principal display panel” is defined by regulations of the director adopted pursuant to Section 12610. All numbers and letters of the price per pound shall be of uniform size, at least one-quarter inch (6.35 millimeters) in height, and shall be generally parallel to the net quantity statement.

There shall in addition be an area surrounding the statement of price at least equal in width to the height of the letters and numbers in the statement of price which shall be free of any printed material.

Added Stats. 1979 ch 527 § 4; Repealed Stats. 1982 ch 532 § 1; Added Stats. 1982 ch 532 § 2.

§ 12024.6. PROHIBITION OF ADVERTISING INTENDED TO ENTICE CUSTOMER INTO TRANSACTION OTHER THAN REPRESENTED

No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a customer into a transaction different from that originally represented.

Added Stats. 1975 ch 907 § 1.

§ 12024.7. STATEMENT OF WEIGHT AND TYPE OF CUTS OF MEAT SOLD: ITEMIZED STATEMENT SHOWING QUANTITY OF FRUITS, VEGETABLES AND OTHER FOOD PRODUCTS DELIVERED IN CONNECTION WITH MEAT SALE

Any person who sells meat directly to the consumer on the basis of primal cuts or carcass weight shall supply the buyer with an accurate statement of weight at time of sale of the carcass or primal cut purchased, and shall supply a complete and accurate statement which shall contain the weight of the meat delivered to the buyer and the number and type of cuts. When any fruits, vegetables, or other food products are sold as part of a combination sale with meat sold directly to the consumer on the basis of primal cuts or carcass weight, the seller shall supply an itemized statement showing the net quantity of any fruits, vegetables, and other food products delivered to the buyer. This section shall also apply to any person who custom cuts any meat animal carcass or part of such carcass for the owner, except the carcass of any game mammal taken as authorized by the Fish and Game Code.

Added Stats. 1967 ch 1449 § 1.

§ 12024.8. INAPPLICABILITY OF PROVISIONS TO FISH NOT USED FOR HUMAN CONSUMPTION

The provisions of Section 12024.5 shall not apply to fish not used for human consumption.

Added Stats. 1968 ch 141 § 1.

§ 12024.9. STATEMENT OF WEIGHTS SUPPLIED TO CONSUMER UPON DIRECT SALE OF MEAT ON BASIS OF PRIMAL CUTS OR CARCASS WEIGHT

(a) All terms contained in this section which are defined by the United States Department of Agriculture shall have the same meaning as defined by such department.

(b) "Retail cuts" as used in this section shall mean a cut of meat from a primal cut for direct sale to the consumer.

(c) "Freezer meat" as used in this section means any uncooked meat which is sold directly to the consumer on the basis of primal cuts, carcass weight or any specified portion of a carcass, other than retail cuts.

(d) "Variety pack" as used in this section means freezer meat cut or packaged, or both, into retail cuts or other frozen food products, or both, sold for a stipulated total price.

(e) "Consumer" as used in this section means any purchaser of freezer meat or variety pack meat.

(f) Whenever any retail cuts of meat are sold in a variety pack the retailer shall furnish, at the time of sale, an itemization of the total net weight of each of the various retail cuts sold and the total net weight of the entire meat purchase, and a separate itemization shall be furnished for frozen food products other than meat indicating price and weight of each product.

(g) Whenever freezer meat is sold directly to the consumer, the consumer shall be supplied at the time of sale with the weight of the carcass or primal cuts before cutting and a complete and accurate inventory which shall contain the net weight of meat delivered. The consumer shall also be supplied with complete cutting instructions for each cut of meat process and an exact inventory of each such cut. The consumer shall also be furnished with the total weight of ground meat from carcass or primal cuts.

(h) A half of beef shall consist of a forequarter and a hindquarter from the same animal. When beef is sold as a half of beef, the consumer shall be furnished an invoice listing the weight of each such quarter. Not more than 8 percent tolerance differential shall be allowed.

(i) Whenever the consumer buys freezer meats or variety packs, the entire order shall be delivered to the consumer or held and maintained in storage and available for such consumer.

Added Stats. 1975 ch 454 § 1.

§ 12024.10. RETENTION OF DOCUMENT STATING WEIGHT AND CUT OF MEAT SOLD

A true and legible copy of each document issued pursuant to Section 12024.7 or 12024.9 shall be retained by the person, company, or corporation issuing the document for a period of one year and shall be made available for inspection by a sealer upon request. This section shall not apply to primal cuts of meat which are smaller than one quarter of a carcass.

Added Stats. 1981 ch 758 § 1.

§ 12024.11. REGULATION OF THE SALE OR ADVERTISEMENT OF WOOD FUEL

The secretary shall adopt necessary rules and regulations pertaining to the sale or advertisement of wood for fuel purposes in order to standardize quantities of measurement and to protect against deceptive marketing practices.

Added Stats. 1982 ch 758 § 1; Amended Stats. 2012 ch 661 § 20.

§ 12024.12. MAINTAINING RECORDS FOR KOSHER MEAT PURCHASES

Added Stats. 1985 ch 452 § 1; Amended Stats. 1986 ch 1193 § 1; Amended Stats. 1988 ch 990 § 1; Amended Stats. 1992 ch 63 § 1; Expired by own terms January 1, 1994.

§ 12024.13. WEIGHTS AND MEASURES: BEVERAGE CONTAINERS: REDEMPTION VALUE

(a) A dealer of a beverage in a container subject to Division 12.1 (commencing with Section 14500) of the Public Resources Code shall not charge an amount for a redemption payment for a beverage container that is greater than the amount set forth in Section 14560 of the Public Resources Code.

(b) For purposes of this section, “dealer” has the same meaning as in Section 14510 of the Public Resources Code.

(c) A violation of this section is an infraction punishable by a fine of not more than one hundred dollars ($100) when the overcharge is ($1) or less.

(d) In the written report required pursuant to Section 12209, a sealer shall separately report any action taken to enforce this section that results in a penalty being levied for a violation of this section.

(e) Nothing in this section is intended to limit or alter the authority of the Department of Resources Recycling and Recovery under the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500) of the public Resources Code).

Added Stats. 2014, Ch. 605, Sec. 1. Effective January 1, 2015.

§ 12025. REFUSAL TO EXHIBIT COMMODITY BEING SOLD AT GIVEN WEIGHT OR QUANTITY: MISDEMEANOR

Any person, who by himself, or his employee or agent, or as proprietor or manager, refuses to exhibit any commodity being sold at a given weight or quantity, or ordinarily so sold, to a sealer for the purpose of allowing the same to be proved as to the quantity thereof is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1.

§ 12025.5. IDENTIFICATION OF COMMODITY OR CONTAINER ORDERED OFF SALE UNDER §§ 12211 OR 12607

Whenever any commodity or any container is ordered off sale under the provisions of Section 12211 or Section 12607 of this division, the sealer shall cause the commodity or container affected by such off-sale order to be identified by a tag or other suitable device with the words “off sale”. It shall be unlawful to remove or obliterate any such tag or device placed upon such commodity or container or in any way dispose of or commingle such commodity or container or prepare, pack, place, deliver for shipment, deliver for sale, sell, or cause to be loaded, shipped, or transported, any such commodity or container before it has been released by the sealer.

Added Stats. 1959 ch 1792 § 1; Amended Stats. 1967 ch 272 § 2; Stats. 1969 ch 1309 § 1.

§ 12026. VIOLATION OF PROVISIONS: MISDEMEANOR

(a) Except as otherwise specifically provided, any person violating any of the provisions of this division is guilty of a misdemeanor.

(b) It is unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards adopted under the provisions of this division.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1989 ch 818 § 1.

§ 12026.5. REMEDIES AND PENALTIES PROVIDED AS NONEXCLUSIVE

Except as otherwise specifically provided, the remedies or penalties provided by this division are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Added Stats. 1979 ch 527 § 5.

§ 12027. RULES AND REGULATIONS AUTHORIZED

The secretary may make such rules and regulations as are reasonably necessary for the purpose of carrying out the provisions of this division.

Amended Stats. 1957 ch 1749 § 28; Amended Stats. 2012 ch 661 § 21.

§ 12028. ADOPTION OF REGULATIONS [Repealed]

Added Stats. 1994 ch 592 § 4; Amended Stats. 2004 ch 676 § 8; Repealed Stats. 2005 ch 529 § 3.

§ 12029. LEGISLATIVE ANALYST STUDY OF CIVIL PENALTIES [Expired]

The Legislative Analyst shall conduct a study of the civil penalties imposed pursuant to Section 12015.3 and report its findings to the Legislature and the Governor by January 1, 2000. The report shall include all of the following:

(a) An analysis of whether civil penalties are effective as an alternative enforcement mechanism for violations of weights and measures laws and regulations.

(b) A review of how the department and the counties use the revenue brought in from the civil penalties.

(c) A recommendation on whether civil penalties are a feasible alternative to criminal prosecution and criminal penalties.

Added Stats. 1997 ch 476 § 2.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE
DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 2. Administration
§§ 12100-12246

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.
Governor

DISCLAIMER

This document represents the Division of Measurement Standards extracts from the Business and Professions Code and is intended to serve as a field resource for weights and measures officials for enforcing the laws pertaining to weights and measures in California. It is not to be considered as official state law.

To find the latest official version of Division 5 of the Business and Professions Code, visit the California Legislative Information website by selecting any of the following links:

DIVISION 5. WEIGHTS AND MEASURES 12001-13800

CHAPTER 1. General Provisions 12001-12027

CHAPTER 2. Administration 12100-12246

CHAPTER 3. Standards of Weights and Measures 12300-12314

CHAPTER 5. Weighing and Measuring Devices 12500-12519

CHAPTER 5.5. Service Agencies for Weighing and Measuring Devices 12531-12544

CHAPTER 6. Fair Packaging and Labeling Act 12601-12615.5

CHAPTER 6.5. Unit Pricing 12655-12656

CHAPTER 7. Weighmasters 12700-12737

CHAPTER 9. Special Provisions Relating to Farm Products 12925-12930

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For information concerning the contents of this document, please contact the Division of Measurement Standards by e-mail at dms@cdfa.ca.gov

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ARTICLE 1. - STATE ADMINISTRATION §§ 12100-12108

§ 12100. GENERAL SUPERVISION BY DEPARTMENT OF FOOD AND AGRICULTURE

Where not otherwise provided by law, the Department of Food and Agriculture has general supervision of the weights and measures and weighing and measuring devices sold or used in the State.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1989 ch 246 § 3.

§ 12101. INVESTIGATIONS

The department shall investigate conditions in the various counties and cities in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers.

Added Stats. 1939 ch 43 § 1.

§ 12102. ANNUAL AND BIENNIAL REPORTS AND RECOMMENDATIONS

The department shall annually report to the Governor, and shall prior to each regular session report to the Legislature the work under this division, and shall make such recommendations as may be proper and necessary.

Added Stats. 1939 ch 43 § 1.

§ 12103. RECORDS: KEEPING: OPEN TO PUBLIC

The department shall keep a complete record of all of its acts, a record of prosecutions, and the reports of the various sealers. These records and reports shall be open to the public.

Added Stats. 1939 ch 43 § 1.

§ 12103.5. WHO TO ENFORCE DIVISION

The duty of enforcing this division and carrying out its provisions and requirements is vested in the director and in each sealer acting under the supervision and direction of the secretary.

Added Stats. 1945 ch 1163 § 1; Amended Stats. 2017 ch 573 § 47.

(Rev. 1/18)

§ 12104. INSTRUCTIONS AND RECOMMENDATIONS TO COUNTY SEALERS: LOCAL ADMINISTRATION COST ANALYSIS

(a) The department shall issue instructions and make recommendations to the county sealers, and the instructions and recommendations shall govern the procedure to be followed by these officers in the discharge of their duties.

(b) Instructions and recommendations which are made to ensure statewide weights and measures protection shall include a local administration cost analysis utilizing data provided by the county sealer. The cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate county administration and enforcement have not been provided. The secretary shall develop, jointly with the county sealers, county priorities for the enforcement programs and activities of the secretary.

(c) The secretary shall, upon request, report to the Legislature his or her findings concerning the cost analysis with specific regard to programs where funds are inadequate for an efficient enforcement program, together with a listing of the priorities jointly established by the secretary and the county sealers that are contained in the formal instructions and recommendations.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 4; Amended Stats. 1980 ch 738 § 1; Amended Stats. 1988 ch 343 § 1; Amended Stats. 2012 ch 661 § 22.

§ 12104.5. FUNDS ALLOCATED FOR LOCAL ADMINISTRATION AND ENFORCEMENT

The secretary may allocate annually to each county an amount determined by the secretary not to exceed one-third of the amount expended by the county pursuant to this division during the previous fiscal year for weights and measures programs. The allocation shall be made from funds appropriated to the secretary for the administration and enforcement of this division at the local level.

Added Stats. 1980 ch 738 § 1; Amended Stats. 2012 ch 661 § 23.

§ 12105. INSPECTIONS OF LOCAL SEALERS AND OF WEIGHING AND MEASURING DEVICES

The department shall, at a frequency determined by the secretary, inspect the work of the local sealers and may inspect the weights, measures, balances or any other weighing or measuring devices of any person.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1979 ch 527 § 6; Amended Stats. 1993 ch 365 § 1; Amended Stats. 2012 ch 661 § 24.

§ 12106. TESTS OF SCALES, WEIGHTS, AND MEASURES IN STATE INSTITUTIONS: REPORTS

The department shall, at least once annually and as often as requested by the Department of General Services or the executive officer of a state institution, test the scales, weights and measures used in checking the receipt and disbursement of supplies in any state

institution, and shall report in writing its findings to the executive officer of the institution concerned.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 554 § 1; Stats. 1965 ch 371 § 14.

§ 12106.5. RECOGNITION OF ANOTHER STATE'S TESTING AND SEALING

The secretary may accept the testing and sealing of weighing and measuring devices by another state upon a finding that the requirements of California for testing and sealing such devices have been met.

Added Stats. 1979 ch 527 § 7; Amended Stats. 2012 ch 661 § 25.

§ 12107. ESTABLISHMENT OF TOLERANCES AND SPECIFICATIONS FOR COMMERCIAL WEIGHING AND MEASURING APPARATUS: PROCEDURE: PROHIBITION AGAINST VIOLATION OF REGULATIONS, ETC.

The secretary shall establish tolerances and specifications and other technical requirements for commercial weighing and measuring. In doing so, the secretary shall adopt, by reference, the latest standards as recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44 "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices," except as specifically modified, amended, or rejected by regulation adopted by the secretary.

The secretary may, by regulation, establish tolerances and specifications for commercial weighing and measuring devices not included in Handbook 44.

Any regulation shall be adopted, amended, or repealed in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

It shall be unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards established under this section.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 304 § 1; Amended Stats. 1945 ch 998 § 1; Amended Stats. 1957 ch 1749 § 29; Amended Stats. 1959 ch 45 § 1; Amended Stats. 1993 ch 621 § 1; Amended Stats. 2012 ch 661§ 26.

§ 12107.1. ESTABLISHMENT OF COMMODITY STANDARDS, WEIGHTS, MEASURES, AND COUNTS: PROCEDURE: UNLAWFUL SALES

The secretary, by regulation, may establish a standard or standards or net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients. These standards, whenever applicable, shall be based upon published, official federal or state specifications and requirements or, in the absence of any published official specifications, upon established and accepted common usage. Any such regulation shall be adopted, amended, or repealed in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Whenever a standard, net weight, net measure, or net count has been established for any commodity, it is unlawful to sell the commodity by, at, or for a quantity greater or less than the standard.

Added Stats. 1965 ch 948 § 2; Amended Stats. 2012 ch 661 § 27.

§ 12107.5. TARES FOR CONTAINERS AND PALLETS: RETENTION OF RECORD OF DEDUCTIONS: MISDEMEANOR FOR UNLAWFUL DEDUCTION

Amended Stats. 1976 ch 562; Repealed Stats. 1984 ch 646.

§ 12107.6. ESTABLISHMENT AND USE OF TARE WEIGHTS FOR TRUCKS OR TRACTORS: FEES: ENFORCEMENT

Repealed Stats. 1976 ch 562.

§ 12108. ARRANGEMENT FOR SERVICES OF SEALER EMPLOYED IN COUNTY: COMPENSATION AND EXPENSES

The secretary may arrange for the services of a sealer employed in a county on a collaborative basis and allow reasonable compensation and expenses for the purpose of performing services not already within his duties and which are subject to administration or enforcement by the department under the provisions of this code or of the Food and Agricultural Code.

Added Stats. 1951 ch 1010 § 1; Amended Stats. 2012 ch 661 § 28

§ 12200. COUNTY SEALER: APPOINTMENT: TERM: EXPENSES: DEPUTIES, INSPECTORS, CLERKS AND EMPLOYEES

There is in each county the office of county sealer of weights and measures. The county sealer shall be appointed by the board of supervisors, except in chartered counties where a different method of appointment is prescribed. The term of office of such sealer is four years from and after his appointment and until his successor is appointed but he may be removed as hereinafter provided.

In addition to his salary each sealer is entitled to his necessary traveling and other expenses incurred in the performance of his duties.

A county sealer may, with the consent of the power appointing him, appoint deputies or inspectors when necessary or expedient to carry out the duties of his office. Such deputies or inspectors shall serve at the pleasure of the county sealer.

The sealer may employ such clerks and employees as may be approved by the appointing power. Any such clerk or employee shall not have authority to enforce the provisions of this chapter.

A county may in its discretion refer to a deputy county sealer as a weights and measures inspector.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 1027 § 1; Stats. 1947 ch 466 § 1; Stats. 1963 ch 1600 § 2; Stats. 1965 ch 83 § 3.

§ 12201. VACANCY: TRANSMITTAL OF LIST OF ELIGIBLE PERSONS: FAILURE TO APPOINT: APPOINTMENT OF DEPUTY STATE SEALER

If from any cause a vacancy occurs in the office of county sealer, the secretary upon learning of the vacancy shall immediately transmit to the board of supervisors or other appointing power a list of persons licensed by him or her for the position. If the appointing power fails to appoint a county sealer within 60 days after the receipt of the list, the secretary shall appoint a county sealer from that list. A person holding the position of Deputy State Sealer shall be appointed the county sealer of weights and measures for, and an employee of, the county to which he or she is assigned. The secretary shall issue to him or her a license which is valid only for the county he or she is serving. He or she shall become subject to this code.

Stats. 1987 ch 734 § 1; Amended Stats. 2012 ch 661 § 29.

§ 12201.1. COMPENSATION AND EXPENSES OF COUNTY SEALER AND EMPLOYEES

The salary and other compensation provided for the county sealer, deputy county sealers and inspectors and clerks shall be paid out of the county treasury in the same manner and at the same time as other county officers are paid. The county sealer, deputy county sealers and inspectors shall each be entitled to receive his traveling and incidental

expenses incurred in the performance of his duties.

Added Stats. 1953 ch 87 § 2; Amended Stats. 1963 ch 1600 § 3.

§ 12201.2. INABILITY TO FILL VACANCY: PERFORMANCE OF DUTIES BY SECRETARY: REIMBURSEMENT FOR EXPENSES

If the position of sealer cannot be filled by the board of supervisors or other appointing power or by the secretary as provided in Section 12201, then it shall be the duty of the secretary to perform the duties of sealer in the same manner, to the same extent, and with the same authority as if he had been the duly appointed sealer therein. The board of supervisors of such county shall reimburse the department for all expenses incurred by the secretary in fulfilling his responsibilities under the provisions of this section.

Added Stats. 1967 ch 286 § 5; Amended Stats. 2012 ch 661 § 30.

§ 12202. EXAMINATION FOR SEALERS, DEPUTIES, AND INSPECTORS: RULES: LICENSES: RENEWAL OF LICENSES: EXAMINATION FEES

(a) The secretary shall cause to be examined persons desiring to become county sealers, deputy county sealers, or inspectors and shall adopt rules and regulations governing these examinations given for the purpose of determining the fitness, experience, and qualifications of candidates for these positions. The secretary may provide for inspectors qualified to be employed in designated categories. Successful candidates shall be given a license which shall be good for five years unless revoked. Licenses of incumbent county sealers, deputy county sealers, or inspectors shall be renewed upon expiration without further examination.

(b) The secretary may charge each candidate a fee to cover the actual cost of providing the license examination.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 4; Amended Stats. 1965 ch 89 § 4; Amended Stats. 1987 ch 734 § 2; Amended Stats. 2012 ch 661 § 31.

§ 12203. LICENSING OF APPOINTEES: TEMPORARY APPOINTMENT

Except as provided in this section, no person shall hereafter be appointed to the office of county sealer, deputy county sealer, or inspector unless he or she has a license issued by the secretary as provided in Section 12202. If there is no person available for the position of county sealer who holds a license, the appointing power may make a temporary appointment of a person recommended in writing by the secretary. If the appointing power does not make a temporary appointment and no person can be appointed from the eligible list by the secretary, then the secretary may make a temporary appointment of a person competent to carry on the duties of the office. Any temporary appointment shall be for a period not exceeding six months or until the next license examination is held. If the position of deputy county sealer or inspector cannot be filled from the lists, a temporary appointment may be made, upon the written recommendation of the secretary for a period not exceeding six months.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 4; Amended Stats. 1965 ch 89 § 4; Amended Stats. 1987 ch 734 § 2; Amended Stats. 1987 ch 734 § 3; Amended Stats. 2012 ch 661 § 32.

§ 12204. ISSUANCE OF LICENSE ON PRESENTATION OF CERTIFICATE SHOWING PASSAGE OF CIVIL SERVICE EXAMINATION: MINIMUM QUALIFICATION

In chartered counties providing for the civil service examination of sealers, deputy sealers, or inspectors the director shall issue a license without further examination upon presentation of a certificate showing the candidate has passed the examination. In these counties the board or commission responsible for the civil service examination may require a license from the secretary as a minimum qualification.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 6; Stats. 1987 ch 734 § 4; Amended Stats. 2017 ch 573 § 48.

§ 12205. ATTENDANCE AT ANNUAL AND OTHER MEETINGS: TRAVELING EXPENSES

For the purpose of receiving advice on the best and most efficacious methods of performing his or her duties and conducting his or her office, every county sealer serving in a county shall attend the annual meeting of the California Agricultural Commissioners and Sealers Association and such other meetings as the department or the board of supervisors requires.

The county sealer shall be allowed all actual and necessary traveling expenses incurred while on any service that requires him or her to go outside the county. Those expenses shall be a charge against the county in which the county sealer is employed.

Stats. 1982 ch 532 § 3; Amended Stats. 2012 ch 661 § 33.

§ 12206. COUNTY-WIDE JURISDICTION OF COUNTY SEALER

The jurisdiction of a county sealer appointed by a county or the secretary extends over the entire territorial limits of the county.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 8; Stats. 1967 ch 286 § 8; Amended Stats. 2017 ch 573 § 48.

§ 12207. IDENTIFICATION CARDS

The department shall furnish an identification card to each sealer. The identification card shall be of a form as prescribed by the department and shall be returned to the department by the sealer upon termination of his duties as a sealer.

Added Stats. 1953 ch 87 § 4.

(Rev. 1.18)

§ 12208. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 10.]

§ 12209. COPIES OF STANDARDS: PRESERVATION AND KEEPING: REPORTS OF WORK DONE, ETC.

Every sealer shall:

(a) Carefully preserve all copies of the standards of weights and measures in his possession;

(b) Keep the copies in a safe and suitable place when not actually in use;

(c) Annually and at such other times as the department requires file with the department a written report of the work done by him, of the weights, measures, weighing and measuring instruments inspected or tested by him, the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this division and of all other matters and things pertaining to his duties or which may be required by the department.

Added Stats. 1939 ch 43 § 1.

§ 12209.5. ILLUSTRATIVE MATERIAL: ISSUANCE AND DISTRIBUTION: PREPARATION OF EXHIBITS

Each sealer may, when so directed by the board of supervisors, issue and cause to be distributed to such persons as he may deem proper illustrative material or statements best adapted to ensure the correct use of weights and measures and weighing and measuring devices and may prepare exhibits designed to inform the public for its protection of the duties performed by weights and measures officials.

Added Stats. 1941 ch 303 § 1.

§ 12209.6. CERTIFICATION OF PARKING METERS

(a) A county sealer may test and certify the accuracy of all parking meters located in the county in which the sealer has jurisdiction, including, but not limited to, parking meters owned or operated by a city, county, or a city and county.

(b) If the county sealer determines that a specific parking meter is inaccurate, the sealer shall notify the owner or operator of the meter, may immediately close the meter, and any person may park a vehicle free of charge in the parking space to which the inaccurate meter corresponds until the owner or operator replaces or repairs the inaccurate parking meter.

(c) For purposes of this section, an “inaccurate parking meter” means a parking meter that provides less time than is paid for by a person using the metered parking space.

Added Stats. 1998 ch 862 § 1; Amended Stats. 2000 ch 511 § 2.

§ 12210. INSPECTION OF WEIGHTS, ETC., SOLD OR USED IN COUNTY: FEES

(a) Each sealer shall, within his or her county inspect, try and test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, sold, or used by any proprietor, agent, lessee or employee for commercial purposes, as defined in subdivision (e) of Section 12500.

(b) Each sealer shall, when so directed by the board of supervisors of his or her county, and only upon the written request of any person, firm or corporation, calibrate, test, weigh, and measure, and certify to the accuracy of, noncommercial weights and measures and weighing and measuring devices, and instruments, tools, and accessories connected therewith. The board of supervisors may authorize the sealer to establish from time to time a schedule of fees to cover the cost of such service and to charge and collect the fees.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 11; Amended Stats. 1961 ch 29 § 1; Amended Stats. 1968 ch 331 § 1; Amended Stats. 1981 ch 178 § 1.

§ 12210.3. WATER SUBMETER REQUEST FOR SERVICE

(a) A county sealer who possesses the appropriate equipment to perform tests on water submeters shall inspect, test, and certify to the accuracy of a water submeter, within his or her county and upon written request of the owner, user, or operator of the water submeter, if any of the following circumstances exist:

(1) The service is requested to be performed in addition to, or according to a schedule different from, any inspection frequency established by regulations adopted pursuant to Section 12212.

(2) The requested service pertains to a water submeter not intended to be placed into service in the county within six months.

(3) The requested service pertains to a water submeter intended to be placed into service in a different county.

(b) Notwithstanding Section 12210.5, the board of supervisors may authorize the sealer to establish, from time to time, a schedule of fees to cover the cost of services provided under subdivision (a) and to charge and collect the fees. The fee schedule shall be limited to the actual cost of performing those services.

Added Stats. 2014 ch 539 § 1. Effective January 1, 2015.

§ 12210.5. COUNTY AUTHORIZED TO COLLECT FEES FOR INSPECTION TESTING OF DEVICE AT REQUEST OF OWNER OR USER

(a) Any county which inspects or tests any weighing or measuring device or instrument used commercially, at the request of the owner or user of that device, when inspection or testing of the device could legally be performed by a registered service agency, as defined in Section 12531, may, if authorized by the county board of supervisors, collect from the requesting owner or user thereof a fee.

(b) That fee shall be based upon a uniform schedule of fees, which shall be prescribed by the secretary for use by the counties. The secretary shall prepare the schedule of fees to be comparable with the rates charged by the industry's registered service agencies. All fees collected shall be credited to the general fund of the county in which collected and used only for the administration and enforcement of laws pertaining to weights and measures.

Added Stats. 1980 ch 583 § 1; Amended Stats. 2012 ch 662 § 1

§ 12210.7. WATER SUBMETER INSTALLATION CONDITIONS

A county sealer shall, within his or her county and upon written request of the owner, user, or operator of the water submeter, authorize the installation of a water submeter that has been inspected, tested, and sealed by the county sealer of another county if all of the following conditions are met:

(a) The meter bears a seal that represents the most recent seal of the county in which the water submeter was inspected, in accordance with the provisions of Section 12505.

(b) The water submeter is installed no later than 12 months after the water submeter was inspected, tested, and sealed.

(c) The county sealer does not have reason to believe the water submeter has been tampered with, damaged, or otherwise rendered inoperable since the inspection, testing, and sealing by the other county sealer.

Added Stats. 2014 ch 539 § 2. Effective January 1, 2015

§ 12211. WEIGHING AND MEASURING PACKAGES, ETC.: RULES AND REGULATIONS OF SECRETARY: PROCEDURE FOR ADOPTION AND PROMULGATION: EFFECT OF FEDERAL STANDARDS: PACKAGES CONTAINING LESS THAN AMOUNT REPRESENTED: SEIZURE AS EVIDENCE

Each sealer shall, from time to time, weigh or measure packages, containers, or amounts of commodities sold, or in the process of delivery, in order to determine whether they contain the quantity or amount represented and whether they are being sold in accordance with law.

The secretary shall adopt necessary regulations governing the procedures to be followed by sealers in connection with the weighing or measuring of amounts of commodities in individual packages, containers, or lots of packages or containers, including the procedures for sampling a lot, and for determining whether any package, container, or a lot of packages or containers complies with this section.

In adopting those regulations, the secretary shall adopt by reference the package checking procedures recommended by the National Conference on Weights and Measures and published in the current edition of the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and any subsequent amendments thereto, except insofar as those requirements are specifically modified, amended, or rejected by a regulation adopted by the secretary.

Any lot, package, or container of any commodity that conforms to this section shall be deemed to be in conformity with this division relating to stated net weights or measures.

Whenever a lot, package, or container of any commodity is found to contain, through the procedures authorized in this section, a less amount than that represented, the sealer shall order, in writing, that lot, package, or container of commodity off sale and require that an accurate statement of quantity be placed on each package or container before it may be released for sale by the sealer in writing. The sealer may seize as evidence any package or container that is found to contain a less amount than that represented.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1949 ch 1384 § 3; Stats. 1957 ch 1658 § 1; Stats. 1963 ch 353 § 1; Stats. 1973 ch 1033 § 1; Amended Stats. 1995 ch 156 § 2.

§ 12212. REGULATIONS GOVERNING INSPECTION FREQUENCY OF COMMERCIALLY USED WEIGHTS, MEASURES, AND WEIGHING AND MEASURING APPARATUS: INSPECTIONS: CONTRACT TO PERFORM TESTS: SCHEDULE OF FEES: DISPOSITION OF FEES COLLECTED

(a) The secretary shall adopt necessary regulations governing the inspection frequency of all commercially used weights, measures, and weighing and measuring apparatus in the state.

(b) The sealer of each county shall perform such inspections as may be required by the secretary. Nothing in this section shall be construed to prohibit the sealer from inspecting a device more frequently than required if he or she deems those tests necessary.

(c) Any regulation shall be adopted by the secretary in conformity with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In counties where the secretary finds that the sealer, because of lack of equipment, is unable or fails to perform the tests as required herein, the secretary may enter into a contract with the board of supervisors of each of those counties to perform the tests. Those contracts shall provide that the county shall pay the cost of those services based upon a uniform schedule of fees developed by the secretary. The fee schedule shall be based on the approximate cost of performing those services. The contracts shall also provide that the secretary shall periodically render a bill to each county so served for the cost of services rendered, and the auditor of the county so billed shall pay the charge in the same manner in which other claims against the county are paid.

(e) All fees collected under the provisions of this section shall be credited to the Department of Food and Agriculture Fund.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 12; Amended Stats. 1959 ch 122 § 1; Amended Stats. 1961 ch 1679 § 1; Amended Stats. 1965 ch 966 § 1; Amended Stats. 2011 ch 133 § 1; Amended Stats. 2012 ch 661 § 35.

§ 12213. ENTRY OF PREMISES OR STOPPING VENDOR, ETC., AND REQUIRING MOVEMENT TO TESTING PLACE

Each sealer may, in the general performance of his duty, without formal warrant, enter or

go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of a coal, ice, delivery, or other wagon or vehicle, containing commodities for sale or delivery and, if necessary, require him to proceed with the commodity to some place which the sealer may specify for the purpose of making the proper tests.

Added Stats. 1939 ch 43 § 1.

§ 12214. NEGLECT, INCOMPETENCE OR MISCONDUCT OF COUNTY SEALER: HEARING: TRIAL BOARD: NOTICE OF HEARING: EVIDENCE AND ORDER: PROCEDURE WHERE ORDER DISQUALIFIES SEALER: REVOCATION OF LICENSE OF DEPUTY SEALER OR INSPECTOR

(a) Upon satisfactory evidence presented to the secretary that the county sealer of any county is guilty of neglect of duty, incompetence, or misconduct in office, the trial board hereinafter provided for shall hold a hearing or hearings at times and places that it shall provide.

(b) The secretary and the president of the voluntary association of the sealers of the state shall select an impartial third person who, with them, shall compose a county sealer's trial board to determine whether the sealer is guilty of the charges presented.

(c) At least 10 days prior to the date of hearing, the secretary shall give notice in writing to the sealer of the time and place of hearing and any information as to the nature of the charges that will enable the sealer to make a defense thereto.

(d) At the hearing or hearings, the trial board shall hear evidence that is offered and thereafter, within 30 days, make an order dismissing the charges or an order disqualifying the sealer.

(e) In case the order disqualifies the sealer, the secretary shall forthwith revoke the sealer's license and declare the office vacant and a copy of the order shall be immediately transmitted by the secretary to the board of supervisors and the auditor of the county in which the sealer held office.

(f) The license of a deputy sealer or inspector may be revoked in the same manner and for the same causes that a license of a sealer may be revoked.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 13; Amended Stats. 1947 ch 466 § 4; Amended Stats. 1963 ch 1600 § 7; Stats. 1987 ch 734 § 5; Amended Stats. 2012 ch 661 § 36.

§ 12215. FRAUDULANT MODIFICATIONS: COORDINATION WITH OTHER LAW ENFORCEMENT AUTHORITIES

A county sealer who receives information or evidence indicating that any weighing or measuring device, parking meter, or other installation under the county sealer's jurisdiction has been altered in such a way as to facilitate any type of fraud shall coordinate with the appropriate law enforcement authorities as needed in investigating and prosecuting the fraudulent activity.

Added Stats. 2017 ch 329 § 1.

§§ 12216-12217. [Repealed]

ARTICLE 2.1. - FEES AND CHARGES. §§ 12240-12246

§ 12240. ANNUAL DEVICE REGISTRATION FEE

(a) Except as otherwise provided in this section, the board of supervisors, by ordinance, may charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.

(b) Except as otherwise provided in this section, the annual registration fee shall not exceed the amount set forth in subdivisions (f) to (r), inclusive.

(c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual registration fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(d) Retail gasoline pump meters, for which the above-fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.

(e) Livestock scales, animal scales and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) For purposes of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, a Department of Food and Agriculture administrative fee, as specified in Section 12241, and a device fee, as specified in subdivisions (g) to (r), inclusive.

The business location fee and device fee shall not exceed one hundred dollars ($100) per business location, plus 100 percent of the maximum applicable device fee listed in subdivisions (g) to (r), inclusive.

(g) (1) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed the following:

(A) For water submeters, two dollars ($2) per device per space or apartment.

(B) For electric submeters, three dollars ($3) per device per space or apartment.

(C) For vapor submeters, four dollars ($4) per device per space or apartment.

(2) Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars ($250) per device; for weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but

less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars ($150) per device.

(i) This section does not apply to farm milk tanks.

(j) A scale or device used in a certified farmers' market, as defined by Section 113742 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(k) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars ($150) per device; for livestock scales with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred dollars ($100) per device.

(l) For liquefied petroleum gas (LPG) meters, truck mounted or stationary, the device fee shall not exceed one hundred eighty-five dollars ($185) per device.

(m) For wholesale and vehicle meters, the device fee shall not exceed seventy-five dollars ($75) per device.

(n) For computing scales, the device fee shall not exceed twenty dollars ($20) per device. For purposes of this subdivision, a computing scale shall be a weighing device with a capacity of less than 100 pounds that indicates the money value of any commodity weighed, at predetermined unit prices, throughout all or part of the weighing range of the scale. For the purposes of this subdivision, the portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars ($1,000) for each business location.

(o) For jewelry and prescription scales, the device fee shall not exceed eighty dollars ($80) per device. For purposes of this subdivision, a jewelry or prescription scale shall be a scale that meets the specifications, tolerances, and sensitivity requirements established or adopted by the secretary applicable to those devices in accordance with Section 12107.

(p) For weighing devices, other than computing, jewelry, and prescription scales as defined in subdivisions (n) and (o), with capacities of at least 100 pounds but less than 2,000 pounds, the device fee shall not exceed fifty dollars ($50) per device.

(q) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions or in computing other charges for service, including, but not limited to, ambulance, towing, or limousine services, the device fee shall not exceed sixty dollars ($60) per device.

(r) This section does not apply to odometers in rental passenger vehicles, as defined in Section 465 of the Vehicle Code, which are subject to Section 1936 of the Civil Code. If a person files a complaint with the county sealer regarding the accuracy of a rental passenger vehicle odometer, the county sealer may charge a fee to the operator of the vehicle rental business sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

(s) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions involving nonpassenger vehicles that are not subject to Section 1936 of the Civil Code, the portion of the annual registration fee consisting of the business location

fee and the device fee authorized pursuant to subdivision (q) shall not exceed the sum of three hundred forty dollars ($340) for each business location.

(t) For all other commercial weighing or measuring devices not listed in subdivisions (g) to (r), inclusive, the device fee shall not exceed twenty dollars ($20) per device. For the purposes of this subdivision, the total portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars ($1,000), for each business location.

(u) For the purposes of this section, a single business location is defined as:

(1) Each business location that uses one or more categories or types of commercial devices as set forth in subdivisions (g) to (p), inclusive, and in subdivision (t), that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.

(2) Each vehicle, except for those vehicles that are employed in vehicle rental transactions, in which one or more commercial devices is installed and used.

(3) (A) For vehicles that are employed in vehicle rental transactions and that are not subject to Section 1936 of the Civil Code, each business location at which vehicles are stored or maintained by a vehicle rental company for the purposes of renting vehicles to customers.

(B) A facility that meets all of the following criteria shall not be considered a business location for the purposes of this paragraph:

(i) The facility is not wholly, or in any part, owned, leased, or operated by the vehicle rental company.

(ii) The facility is not operated or staffed by an employee of the vehicle rental company.

(iii) The facility stores or maintains, on a temporary basis, vehicles at the location for customer convenience.

(C) If a person files a complaint with the county sealer regarding the accuracy of an odometer in a vehicle found or located at a facility described in subparagraph (B), the county sealer may charge a fee to the operator of the vehicle rental company sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 3; Amended Stats. 1987 ch 779 § 1; Amended Stats. 1991 ch 360 § 1; Amended Stats. 1992 ch 1203 § 1; Amended Stats. 1993 ch 1050 § 1; Amended Stats. 1994 ch 592 § 5; Amended Stats. 1998 ch 205 § 1; Amended Stats. 2005 ch 529 § 4; Amended Stats. 2011 ch 133 § 2; Amended Stats. 2012 ch 234 § 1.

§ 12241. DIVISION OF MEASUREMENT STANDARDS AMINISTRATIVE FEE

The secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed pursuant to Sections 12210 and 12211 and to recover reasonable costs

incurred by the department for the safekeeping and certification of the state standards pursuant to Section 12304 and for certification services provided pursuant to Sections 12305 and 12310. This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture Fund.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 4; Repealed Stats. 1987 ch 779 2 § 2; Amended Stats. 2011 ch 133 § 2; Amended Stats. 2017 ch 429 §73.

§ 12242. DISPOSITION OF REVENUE

The revenue from any fee charged pursuant to Section 12240 shall be deposited in the general fund of the county and used solely for the activities required by Sections 12210 and 12211.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 5; Amended Stats. 1993 ch 1050 § 2.

§ 12243. PUBLIC MEETING PRIOR TO ADOPTION OF ORDINANCE: NOTICE: ESTIMATED COST

In addition to providing notice as otherwise required, before adopting an ordinance charging fees pursuant to Section 12240, the board of supervisors shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the board of supervisors. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The board of supervisors may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the board of supervisors shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service, including General Fund revenues. If the fees create revenues in excess of actual cost, those revenues shall be used to reduce the fee creating the excess.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 6.

§ 12244. RECOVERY OF COSTS INCURRED IN CONDUCTING MEETING

Any costs incurred by the board of supervisors in conducting the required meeting may be recovered from fees charged for the services which were the subject of the meeting.

Added Stats. 1982 ch 1380 § 4.

(Rev 1/18)

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§ 12245. REVIEW OF STATEWIDE EFFECTS OF ORDINANCES: REPORT TO LEGISLATURE

Added Stats. 1982 ch 1380 § 4; Repealed Stats. 1987 ch 779 § 3.

§ 12246. REPEAL DATE

This article shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

Amended Stats. 2010 ch 260 § 1; Amended Stats. 2012 ch 234 § 2, Amended Stats. 2015 ch 199 § 1,

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CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 3. Standards of Weights and Measures §§ 12300-12314

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

DISCLAIMER

This document represents the Division of Measurement Standards extracts from the Business and Professions Code and is intended to serve as a field resource for weights and measures officials for enforcing the laws pertaining to weights and measures in California. It is not to be considered as official state law.

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DIVISION 5. WEIGHTS AND MEASURES 12001-13800

CHAPTER 1. General Provisions 12001-12027

CHAPTER 2. Administration 12100-12246

CHAPTER 3. Standards of Weights and Measures 12300-12314

CHAPTER 5. Weighing and Measuring Devices 12500-12519

CHAPTER 5.5. Service Agencies for Weighing and Measuring Devices 12531-12544

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 3. Standards of Weights and Measures

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CHAPTER 3. Standards of Weights and Measures [12300 - 12314]

§ 12300. STANDARDS FOR CONTRACTS MADE WITHIN STATE FOR WORK OR SALE OF GOODS

Contracts made within this State for work to be done or for anything to be sold or delivered by weight or measure shall be construed according to the common standards, or according to the weights and measures of the metric system authorized by Congress, as the contract provides.

Added Stats. 1939 ch 43 § 1.

§ 12301. VALIDITY OF STIPULATION FOR METRIC SYSTEM

No contract or pleading is invalid or subject to objection because the weights and measures expressed or referred to therein are weights or measures of the metric system.

Added Stats. 1939 ch 43 § 1.

§ 12302. STANDARDS ENUMERATED AND DEFINED

Added Stats. 1939 ch 43 § 1; Repealed Stats. 1978 ch 756.

§ 12303. METROLOGICAL STANDARDS CERTIFIED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

The State standards of weights and measures by which all State and county standards of weights and measures shall be tried, proved, and sealed include the following standards, provided the standards have been certified relative to national standards under the direction of the National Institute of Standards and Technology:

(a) Metrological standards provided by the United States.

(b) Metrological standards procured by the State.

(c) Metrological standards in the possession of county sealers.

(d) Metrological standards in the possession of laboratories certified to perform measurement services pursuant to Section 12500.7.

Repealed Stats. 1981 ch 97 § 1; Added Stats. 1981 ch 97 § 2; Amended Stats. 2017 ch 573 § 50.

§ 12304. SAFEKEEPING OF STANDARDS: CERTIFICATION

The department shall keep the standards of the state in a suitable laboratory location or, if transportable, shall maintain the standards under environmental conditions appropriate for maintaining the integrity of the unit of measure represented by the standard. The department shall have the standards directly certified by the National Institute of Standards and Technology or by any measurement assurance procedures approved by the National Institute of Standards and Technology.

Repealed Stats. 1981 ch 97 § 3; Added Stats. 1981 ch 97 § 4; Amended Stats. 2017 ch 429 § 74 and 2017 ch 573 §§ 50 and 51.5.

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§ 12305. USE OF STATE STANDARDS AND COPIES

The department shall use the standards of the state to certify similar standards and any dissimilar standards that are dependent on the values represented by the state standards. Copies of the standards that have been compared and certified against the state standards shall become working standards that shall be used in the certification, calibration, and sealing of county field standards, and in the certification, calibration, and sealing of measurement devices submitted by state and local government agencies or by industry.

Repealed Stats. 1981 ch 97 § 5; Added Stats. 1981 ch 97 § 6; Amended Stats. 2017 ch 429 § 75.

§ 12306. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 17.]

§ 12307. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 17.]

§ 12308. DUTY OF COUNTY LEGISLATIVE BODY TO PROVIDE COPIES OF STANDARDS OF WEIGHTS AND MEASURES: CERTIFICATION

The legislative body of each county shall, upon the appointment of a sealer provide copies of the State's standards of weights and measures at county expense. These copies shall be verified and certified to by the department.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 18.

§ 12309. DUTY OF DEPARTMENT TO FURNISH COPIES OF STANDARD WEIGHTS AND MEASURES UPON REQUEST: TESTING AND APPROVAL OF COPIES UPON REQUEST: CERTIFICATION AND MARKING OF COPIES: MATERIALS OR CONSTRUCTION

The department shall, at the request of the legislative body of any county, furnish copies of the standard weights and measures of the State at the expense of the county requesting them. It shall upon request of the legislative body of any county or upon the request of a sealer of any such county test and approve copies of the State's standards of weights and measures procured by such county to be used by a county sealer.

Copies furnished under the provisions of this section or copies tested and approved shall be true and correct; shall be sealed and certified to; and stamped with the letter "C". Such copies need not be of the same material or construction as the standards of the State and such copies may be furnished in any suitable materials or construction that the county requiring the same may specify, subject to the approval of the department.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 19.

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§ 12310. TIME FOR CERTIFICATION OF COUNTY STANDARDS: COST OF CERTIFICATION

The department, or a laboratory designated by the department that has been certified pursuant to Section 12314, shall certify the standards of the county sealers as often as may be deemed by the secretary to be necessary, based upon a review of statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of statistical data, standards shall be certified at least every two years. Sealers shall, upon the request of the department, deliver for testing those standards in their possession that are used in the discharge of their duties. Direct expenses incurred in the certification process shall be borne by the state or recovered pursuant to Section 12241, while any incidental expense, such as the cost of transportation, shall be borne by the county whose standards have been certified.

Repealed Stats. 1981 ch 97 § 7; Added Stats. 1981 ch 97 § 8; Amended Stats. 2017 ch 429 § 76 and 2017 ch 573 § 52.

§ 12310.5. CERTIFICATION AND VERIFICATION OF STANDARDS IN ACCORDANCE WITH STANDARDS CERTIFIED BY NATIONAL INSTITUTE OF STANDARDS and TECHNOLOGY: FEES

The department shall, upon request, certify and verify the various types of standards of weights and measures used by industry in accordance with the standards certified by the National Institute of Standards and Technology, when such standards are submitted to the department for verification and certification.

The department shall establish a schedule of fees sufficient to cover the cost of furnishing such services. All money received under the provisions of this section shall be paid into the State Treasury and credited to the Department of Agriculture Fund to be expended by the department for the administration of the provisions of this section.

Added Stats. 1968 ch 731 § 1; Amended Stats 2017 ch 573 § 53.

§ 12311. TESTING STANDARDS: ADJUSTMENT: REPLACEMENT

Every sealer having knowledge that a county standard may be incorrect, regardless of the cause, shall notify the department of the condition, and shall, if deemed by the department to be necessary, arrange to have the standard in question retested, adjusted, or replaced.

Repealed Stats. 1981 ch 97 § 9; Added Stats. 1981 ch 97 § 10.

§ 12312. COPIES OF STATE STANDARDS AS EVIDENCE IN PROSECUTIONS

In any prosecution for a violation of any of the provisions of this division any copy of the standards of weights and measures of the State furnished, procured, and certified to under the provisions of this division, shall be admitted in evidence upon the trial as prima facie true and correct.

Added Stats. 1939 ch 43 § 1.

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§ 12313. RECOGNITION IN THIS STATE OF DEFINITIONS OF BASIC UNITS OF WEIGHT AND MEASURE, ETC., PUBLISHED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

The definitions of basic units of weight and measure, and the tables of weight and measure and weights and measures equivalents, as published by the National Institute of Standards and Technology are recognized and shall govern weighing and measuring equipment and transactions in this state.

Added Stats. 1977 ch 872; Amended Stats 2017 ch 573 § 54.

§ 12314. USE AND CERTIFICATION OF MEASURING LABORATORIES

The department, by regulation, may establish criteria and procedures for certification of laboratories to perform measurement services that are determined by the secretary to be beyond the existing equipment capabilities of the department, or when warranted by financial or workload considerations.

The department shall recover actual costs for the certification of any laboratory from that laboratory.

The secretary may revoke or suspend any certification issued pursuant to this section for good cause. The secretary shall establish by regulation criteria to be used when revoking or suspending any certification on the basis of good cause. Any proceeding to revoke or suspend any certification shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the secretary shall have all the powers granted therein.

Measurements performed and standards certified by laboratories is certified under the provisions of this section shall qualify as prima facie evidence.

Amended and Renumbered Stats. 1982 Ch 758 § 1.5; Amended Stats. 2012 ch 661 § 37.

(Rev. 1/18)

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 5. Weighing and Measuring Devices §§ 12500-12519

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 5. Weighing and Measuring Devices

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CHAPTER 5 – Weighing and Measuring Devices

§ 12500. DEFINITIONS

As used in this chapter the following terms mean:

(a) “Weighing instrument” means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) “Measuring instrument” means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) “Correct” means any weight or measure or weighing, measuring, or counting instrument that meet all of the tolerance and specification requirements established by the secretary pursuant to Section 12107.

(d) “Incorrect” means any instrument that fails to meet all of the requirements of Section 12107.

(e) “Commercial purposes” include the determination of the weight, measure, or count of any commodity or thing that is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel scales, shipping scales, and scales used in the payment of agricultural workers.

“Commercial purposes” do not include the determination of the weight, measure, or count of any commodity or thing that is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer charged for the service, or the determination of the weight of any animal or human by a qualified health provider, California-licensed veterinarian, licensed physician and surgeon, or staff members within the business operations of, and under the supervision of, a California-licensed veterinarian or licensed physician and surgeon for the purposes of determining the appropriate dosage of any medication or medical treatment or the volume, duration, or application of any medical procedure.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1949 ch 893 § 1; Stats. 1967 ch 1286 § 1; Stats. 1973 ch 977 § 3; Amended Stats. 1981 ch 178 § 2; Amended Stats. 1982 ch 454 § 11; Amended Stats. 1982 ch 860 § 1; Amended Stats. 1990 ch 338 § 1; Amended Stats. 2017 ch 429 § 77 and 2017 ch 573 § 55.

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§ 12500.5. APPROVAL AND CERTIFICATION OF COMMERCIAL INSTRUMENTS: SALE OR USE FOR COMMERCIAL PURPOSES OF NON-APPROVED INSTRUMENTS

The secretary by rules and regulations shall provide for submission for approval of types or designs of weights, measures, or weighing, measuring, or counting instruments or devices, used for commercial purposes, and shall issue certificates of approval of such types or designs as he or she shall find to meet the requirements of this code and the tolerances and specifications thereunder.

It shall be unlawful to sell or use for commercial purposes any weight or measure, or any weighing, measuring, or counting instrument or device, of a type or design that has not first been so approved by the department; provided, however, that any such weight, measure, instrument, or device in use for commercial purposes prior to the effective date of this act may be continued in use unless and until condemned under the provisions of this code.

Added Stats. 1949 ch 893 § 2; Amended Stats. 2012 ch 661 § 38.

§ 12500.6. PROHIBITION AGAINST SALE OR INSTALLATION: REVOCATION OR MODIFICATION OF APPROVAL

Notwithstanding Section 12500.5, the secretary may prohibit the sale or installation of any previously approved type or design of weight or measure or weighing, measuring, or counting instrument if the secretary determines the weight, measure, or instrument does not fulfill the purpose for which it was approved or that the weight, measure, or instrument is not identical to the approved type or design.

The secretary may initiate proceedings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code to determine whether the approval should be revoked or modified, and to determine the period of time that the owner or user of any accurate device for which type approval has been revoked or modified may continue to use that device for commercial purposes, pending the replacement or modification of the device.

Added Stats. 1983 ch 326 § 1; Amended Stats. 2012 ch 661 § 39.

§ 12500.7. RENUMBERED § 12314. USE AND CERTIFICATION OF MEASURING LABORATORIES.

Added Stats. 1977 ch 872 § 3; Amended and Renumbered § 12314 Stats. 1982 ch 758 § 1.5.

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§ 12500.8. AGREEMENT WITH OTHER JURISDICTIONS FOR RECIPROCAL ACCEPTANCE OF CERTIFICATIONS

The secretary may enter into an agreement with the National Type Evaluation Program, a certification program of the National Conference on Weights and Measures, and other weights and measures jurisdictions, to accept the certifications of each other for prototype examination purposes.

Added Stats. 1979 ch 527 § 8; Amended Stats. 2012 ch 661 § 40; Amended Stats. 2017 ch 573 § 56.

§ 12500.9. FEES AUTHORIZED FOR APPROVAL OF DEVICES

The secretary shall charge and collect an application fee and reasonable deposit from persons submitting devices for approval as required by Section 12500.5. Costs incurred by the department that exceed the deposit shall be charged and collected upon completion of all prototype-approval testing. The fees shall be based upon the following criteria:

(a) The moneys collected are intended to compensate the secretary for the costs of time, mileage, equipment, and administrative services expended in providing prototype-approval service.

(b) The secretary may compensate county sealers of weights and measures, other weights and measures jurisdictions, or private laboratories for furnishing equipment and assisting the department in conducting prototype-approval activities.

(c) The amount of compensation provided for in subdivision (b) shall be based upon actual time, mileage, and equipment costs, as determined by the secretary.

(d) The secretary may charge an annual administrative fee not to exceed reasonable costs incurred for the maintenance of type approval certificates in hard copy and electronic formats.

(e) The secretary may adopt rules and regulations necessary to implement the provisions of this section.

(f) All fees collected under the provisions of this section shall be deposited in the Department of Food and Agriculture Fund.

Added Stats. 1979 ch 527 § 9; Amended Stats. 2011 ch 133 § 4.

§ 12500.10. REMOVAL OF UNAPPROVED INSTRUMENTS

(a) A sealer shall cause to be removed from commercial usage any weighing, measuring, or counting instrument or device sold or used in violation of Section 12500.5. The instrument or device may be either seized or marked with a tag or other suitable device with the words “unapproved device”.

(b) Upon proof of compliance with Section 12500.5, the sealer shall remove the tag or device bearing the words “unapproved device”.

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(c) If the owner or user of any weighing, measuring, or counting instrument or device marked “unapproved device” refused or neglected to have it brought into compliance with Section 12500.5 within 30 days after the instrument or device was so marked, it shall be subject to seizure by the sealer. Any instrument or device which has been seized by the sealer pursuant to this section shall be subject to disposition as ordered by a court of competent jurisdiction upon petition for a disposition order by the owner or by any person claiming an interest in the seized instrument or device. If no disposition order is issued within four years after the date of the seizure, the instrument or device shall be defaced, destroyed, or otherwise disposed of by the sealer. The sealer shall, immediately following the defacing, destruction, or disposal of that instrument or device, notify, in writing, the board of supervisors of the county in which the sealer is serving of that fact together with the name and address of the owner or user of the instrument or device.

Added Stats. 1982 ch 758 § 2; Amended Stats. 1990 ch 77 § 1.

§ 12501. SEALING INSTRUMENTS BEFORE SALE

Except as provided in Section 12502 and, with respect to odometers, as is provided in Section 12501.1, every person who, for commercial purposes, sells weights or measures or weighing instruments or measuring instruments shall, within one year before selling the same, cause such weights or measures or weighing instruments or measuring instruments to be sealed by a sealer.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 21; Stats. 1949 ch 893 § 3; Stats. 1951 ch 1010 § 2; Stats. 1953 ch 1670 § 1; Stats. 1965 ch 966 § 2.

§ 12501.1. USE FOR REMAINDER OF PRESCRIBED PERIOD WHERE SEALED BEFORE SALE

Every person who uses, or intends to use, any weight or measure, or weighing or measuring instrument for commercial purposes shall, before using the same, cause them to be sealed by a sealer, unless they have been sealed before sale, in which case they may be used by the purchaser for the remainder of such period as is authorized in the regulations adopted by the secretary pursuant to Section 12212 or until they become “incorrect”, as defined in subdivision (d) of Section 12500.

Notwithstanding any other provision of law, an odometer which has been tested by the manufacturer may be used commercially without further test during the remainder of the inspection period adopted by the secretary for odometers, but shall not be used commercially thereafter until it has been sealed by a sealer.

Added Stats. 1965 ch 966 § 3; Amended Stats. 1973 ch 977 § 4; Amended Stats. 2017 ch 573 § 57.

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§ 12501.2. INSPECTION, TESTING OR SEALING NOT TO BE REQUIRED WHERE INSTRUMENT NOT RENDERED READILY AVAILABLE AFTER NOTICE

Notwithstanding other provisions of this division, a sealer shall not be required to inspect, test or seal any scales or other weighing or measuring instruments to be sold for use or being used for commercial purposes and so located that the testing standards, in the amount deemed necessary for the proper testing, cannot be brought to the instrument to be tested by customary means, whenever the owner or user thereof has not rendered the instrument in question more readily available for the purpose of permitting an accurate test to be made before the end of six months after notice in writing from the sealer requiring that better means of accessibility be provided for testing such instrument.

Added Stats. 1965 ch 966 § 4.

§ 12501.3. USE OF UNSEALED DEVICE PENDING REPAIRS

Notwithstanding any other requirements or provisions of this division, a sealer may permit the use of an unsealed device pending repairs if the device is in error only to the disadvantage of the user and if the user is always the seller. Such an unsealed device shall be repaired within 30 days.

Added Stats. 1976 ch 402; Amended Stats. 1984 ch 646.

§ 12502. INSTRUMENTS NECESSARILY ASSEMBLED OR SET UP AFTER BEING SOLD AND BEFORE BEING USED

Any weighing or measuring instrument, which, after being sold and before being used for weighing or measuring, it is necessary to assemble or set up, may be sold without first being tested and sealed but shall be tested and sealed before being used.

Added Stats. 1939 ch 43 § 1.

§ 12503. TESTS BY SEALER OF INSTRUMENTS USED IN BUYING AND SELLING: REQUEST BY ANY RESIDENT

Upon a written request of any resident of a county, there appearing reasonable ground therefore, the sealer shall test or cause to be tested, as soon thereafter as is practicable, the weights, measures, or weighing or measuring instruments used for commercial purposes by the person designated in that request.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 22; Amended Stats. 1990 ch 338 § 2.

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§ 12504. TESTS BY SEALER OF INSTRUMENTS ON REQUEST OF USER OR SELLER: USER'S OR SELLER'S RESPONSIBILITY FOR FALSE OR UNSEALED WEIGHTS AND MEASURES PRESERVED

Upon the written request of any person who intends to use or sell for commercial purposes any weight or measure, or weighing or measuring instrument in any county, the sealer for such county shall test or cause to be tested, as soon thereafter as is practicable, the weight or measure, or weighing or measuring instrument referred to in the request.

Such written request shall not relieve the person making it from any violation of the provisions of this division or of the responsibility for using or selling any incorrect or unsealed weight, measure, or weighing or measuring instrument.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 23; Stats. 1947 ch 467 § 1; Stats. 1973 ch 977 § 5.

§ 12505. SEALING AND MARKING EXAMINED INSTRUMENTS AS CORRECT: DATING

Whenever a sealer examines any weight or measure or weighing, measuring or counting instrument used for commercial purposes, and finds it to be correct, he or she shall seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.

Amended Stats. 1977 ch 154; Amended Stats. 1983 ch 758 § 3; Amended Stats. 1990 ch 338 § 3.

§ 12506. PROCEDURE WITH RESPECT TO INCORRECT WEIGHTS, MEASURES, AND INSTRUMENTS

A sealer shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments used for commercial purposes, which in his or her best judgment are not susceptible of repair, but any which the sealer finds susceptible of repair, he or she shall cause to be marked with a tag or other suitable device with the words "out of order".

Added Stats. 1939 ch 43 § 1; Amended Stats. 1990 ch 338 § 4.

§ 12507. REPAIR OF "OUT OF ORDER" INSTRUMENTS: TIME: DISUSE: EFFECT OF REFUSAL OR NEGLECT TO REPAIR: DISPOSITION OF SEIZED INSTRUMENTS

The owners or users of any weights and measures or weighing or measuring instruments which have been marked "out of order", shall have them repaired or corrected within 30 days, but until they have been repaired or corrected and tested the owners or users thereof may neither use nor dispose of them in any way.

In the event that the owner or user of any weights or measures or weighing or measuring instruments marked “out of order”, shall have refused or neglected to have them repaired or corrected within thirty (30) days they shall be subject to seizure by the sealer. Any weights or measures or weighing or measuring instruments which have been seized by the sealer under the provisions of this section shall be subject to such disposition as shall be ordered by a court of competent jurisdiction upon petition for a disposition order by the owner or by any person claiming an interest in such seized equipment. If no such disposition order is issued within four years after the date of seizure, such equipment shall be defaced and destroyed or otherwise disposed of by the sealer. The sealer shall, immediately following the defacing, destruction or disposal of such weights or measures or weighing or measuring instruments, furnish the board of supervisors of the county in which the sealer is serving, with a list of the items so disposed of together with the name and address of the owner or user of each thereof.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 305 § 1; Stats. 1953 ch 953 § 1.

§ 12508. REMOVAL OR OBLITERATION OF SEALER’S TAG OR DEVICE A MISDEMEANOR

Except as provided in Section 12509, any person who removes or obliterates any tag or device placed upon any weight, measure, or weighing or measuring instrument by a sealer is guilty of a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1973 ch 977 § 7.

§ 12509. RESEALING “OUT OF ORDER” INSTRUMENTS WHEN CORRECTED: REMOVAL OF “OUT OF ORDER” TAG OR DEVICE: PLACING INSTRUMENT IN SERVICE PENDING REINSPECTION

(a) When any weight, measure, or weighing or measuring instrument has been repaired and corrected, and has been reinspected and found correct, the sealer shall remove the tag or device with the words “out of order”, and shall seal and mark that weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where, upon inspection, it is found correct.

(b) Upon completion of corrective repairs or adjustments, and with the authorization from the sealer, a registered service agency, as defined in section 12531, may remove an “out of order” tag or device, and the weight, measure, or weighing or measuring instrument may be placed in service pending reinspection by the sealer.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1973 ch 977 § 7.5; Amended Stats. 2012 ch 662 § 2.

§ 12510. MISDEMEANORS DECLARED: PRESUMPTION OF INTENT TO VIOLATE LAW

(a) Any person, who by himself or herself, or through or for another, does any of the following is guilty of a misdemeanor:

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(1) Uses, for commercial purposes, or retains in his or her possession an incorrect weight or measure or weighing or measuring instrument.

(2) Sells any weight or measure used for commercial purposes, or weighing or measuring instrument which has not been sealed within one year, except weighing or measuring instruments required to be assembled prior to use.

(3) Uses any condemned weight or measure or weighing or measuring instrument contrary to law.

(4) Uses, for commercial purposes, or for determining the charge for a service, any weight or measure or weighing or measuring instrument which is not kept at a fixed location, which does not bear a current or previous year's seal, and which, upon test by the sealer, is found to be incorrect, unless a written request for an inspection of the weighing or measuring instrument has been made to the county sealer. However, the use of any weight or measure or weighing or measuring instrument used by a public utility in connection with measuring gas, electricity, water, steam, or communication service subject to the jurisdiction of the Public Utilities Commission is exempt from this chapter.

(5) Sells or uses any device or instrument to be used or calculated to falsify any weight or measure.

(6) So locates or positions a weighing or measuring device used in retail trade, except as used exclusively in preparation of packages put up in advance of sale, which its indications cannot be accurately read by the purchaser under ordinary circumstances.

(7) Uses, for commercial purposes, a weighing or measuring device designed to automatically compute price unless the computed price is a true mathematical computation of the amount times the price per unit.

(8) Willfully and knowingly uses, for commercial purposes, a measuring device designed to automatically compute price unless the indicators of quantity and the total computed price on the device has been returned to zero prior to the beginning of each delivery of that commodity or thing.

(9) Fails to deliver for test to a designated location after receipt of a written notice from a weights and measure official, any device that is ordinarily tested at a central location.

(10) Sells, rents, leases, loans, or knowingly installs an incorrect weighing or measuring instrument for commercial purposes.

(b) The possession of an incorrect weight or measure or weighing or measuring instrument or records thereof is prima facie evidence of intention to violate the law.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 110 § 1; Stats. 1963 ch 1170 § 1; Stats. 1965 ch 72 § 1; Stats. 1967 ch 271 § 1; Stats. 1969 ch 386 § 1; Stats. 1971 ch 370 § 2; Stats. 1973 ch 977 § 8; Amended Stats. 1989 ch 741 § 1; Amended Stats. 1990 ch 338 § 5.

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§ 12510.5. EXEMPTIONS: SALES VOLUME

Added Stats. 1980 ch 302 § 1; Amended Stats. 1982 ch 450 § 1. Repealed Stats. 1990 ch 338 § 6.

§ 12510.6. EXEMPTIONS: GOOD FAITH

Added Stats. 1980 ch 302 § 2. Repealed Stats. 1990 ch 338 § 7.

§ 12511. PERIOD FOR USE OR SALE OF WEIGHING OR MEASURING INSTRUMENT WITHOUT FURTHER TEST: INSPECTION AND TESTING DURING PERIOD

Any weight, measure, or weighing or measuring instrument tested and found correct by any sealer may be used within this state without any further test for such period as is authorized in the regulations adopted by the secretary pursuant to Section 12212. If tested and sealed and certified to as correct by the National Institute of Standards and Technology, any weight, measure, or weighing or measuring instrument may be sold without being first tested and sealed by a sealer. In either case, it shall be subject to inspection and testing notwithstanding that it has been tested and sealed either by a sealer or by the National Institute of Standards and Technology.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1959 ch 122 § 2; Stats. 1965 ch 966 § 5; Amended Stats. 2017 ch 573 § 59.

§ 12511.1. USE OF INSTRUMENT FOUND CORRECT OR CORRECTED BY REGISTERED SERVICE AGENCY AUTHORIZED PENDING REINSPECTION

Notwithstanding any other provisions of this division, any weight or measure, or weighing or measuring instrument, found correct or corrected by a registered service agency, as defined in Section 12531, authorized pursuant to Section 12509, may be used commercially pending reinspection by a sealer.

Added Stats. 1976 ch 239; Amended Stats. 2012 ch 662 § 3.

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§ 12512. PURCHASE OF LESS THAN TRUE QUANTITY AS MISDEMEANOR

When the sale of any commodity is based upon a quantity representation either furnished by the purchaser or obtained through the use of equipment supplied by the purchaser, the purchaser shall in no case buy the commodity according to any quantity which is less than the true quantity of the commodity or compute the purchase price of the commodity according to a price per unit of measure that is less than the highest applicable price per unit of measure that is represented by the purchaser to the seller for the commodity, or, where applicable, less than a price per unit that is established by law, in statute, or by regulation. Violation of this section is a misdemeanor.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1967 ch 271 § 2. Amended Stats. 2012 ch 662 § 4.

§ 12513. SEALING AND TESTING BY ANY DEPARTMENT EMPLOYEE EFFECTIVE AS IF BY SEALER

Any sealing or testing of any weight, measure, weighing or measuring instrument by any employee of the department authorized for the purpose shall have the same force and effect as a sealing or testing by a sealer or his deputy.

Added Stats. 1939 ch 43 § 1.

§ 12514. PERSONAL INTEREST OF SEALERS IN SALE OF INSTRUMENTS: ACCEPTANCE OF FEE, ETC.: PROHIBITIONS

No sealer shall sell or be interested directly or indirectly in the sale of any weighing or measuring instrument, nor shall he accept a fee, compensation, or gratuity of any kind for adjusting or repairing any weighing or measuring instrument.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1957 ch 1615 § 1.

§ 12515. REPAIR, SALE OR INSTALLATION OF INSTRUMENT: FAILURE TO NOTIFY COUNTY SEALER AS MISDEMEANOR: WHEN NOTIFICATION NOT REQUIRED

(a) Any person having made repairs or adjustments to any weighing instrument or to any measuring instrument, or any person having sold, rented, leased, loaned, or installed any such instrument, who within 24 hours after the instrument has been sold, rented, leased, loaned, installed, repaired or adjusted, fails to notify the sealer of the county in which the instrument has been sold, rented, leased, loaned, installed, repaired or adjusted, that the sale, rent, lease, loan, installation, repair, or adjustment has been made, is guilty of a misdemeanor.

(b) This section does not require notification to the sealer for an adjustment to a weighing or measuring instrument only for the purpose of maintaining it in a zero or balance condition.

Amended Stats. 1965 ch 72 § 2; Amended Stats. 1989 ch 742 § 2.

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§ 12516. LOCATION OF SCALE WHEN AUCTIONING LIVESTOCK: ISSUANCE OF STATE CERTIFICATE OF WEIGHTS AND MEASURES

It shall be unlawful for any person to locate or position any scale used in connection with the auctioning of livestock so that its indications are not readily and clearly readable to the buyer and seller, unless a State certificate of weights and measures, made at the time of weighing, attesting to the weight of the livestock, is issued upon request to the buyer and seller.

Added Stats. 1951 ch 1284 § 1; Amended Stats. 1955 ch 117 § 1.

§ 12517. STATEMENT REQUIRED FOR COIN-OPERATED WEIGHER

Every owner of a coin-operated person weigher shall place on such weigher, in a prominent position, in letters at least three-sixteenths inches in height and in bold type, the following statement: "This scale may not have been checked for accuracy".

Added Stats. 1967 ch 1286 § 2.

§ 12518. WATER SUBMETERS FOUND INCORRECT BEFORE INITIAL INSTALLATION

A water submeter submitted to a sealer by an owner, user, or operator for inspection and testing before its initial installation that is found to be incorrect, as defined in subdivision (d) of Section 12500, shall be marked with the words "Out of Order," in accordance with Section 12506, and shall be returned to a service agent only if both of the following conditions are met:

(a) The water submeter has no signs of intentional tampering by which to facilitate fraud.

(b) The water submeter is not placed into service in California.

Added Stats. 2014 ch 539 § 3. Effective January 1, 2015; Amended Stats. 2015 ch 303 § 15.

§ 12519. WATER SUBMETERS FOUND INCORRECT AFTER INSTALLATION

(a) Notwithstanding any other law, an owner, user, or operator of a water submeter that has previously been sealed, installed, and used commercially who submits the water submeter to a sealer for inspection and testing shall not be subject to criminal prosecution or liable for other fines or other penalties for a violation of any provision of this division, if the device is found to be incorrect, if all of the following conditions apply:

(1) The water submeter had, prior to installation and use, been submitted to a county sealer as one of a submeter lot where the lot was sampled and tested for compliance with all applicable laws and all applicable regulations adopted

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by the secretary in accordance with Section 12107.

(2) The specific water submeter had, at no prior time, been directly subjected to a physical test of its performance characteristics or accuracy by a county sealer.

(3) The specific water submeter has been deemed by the county sealer to show no signs of intentional tampering, damage, or alteration in its design or calibration while under the use or control of the owner, user, or operator.

(4) The owner, user, or operator has maintained the water submeter in accordance with applicable provisions of this division, and any regulations adopted under Section 12107.

(b) Notwithstanding subdivision (a), a water submeter that meets all of the conditions set forth in subdivision (a) shall not be permitted to be reinstalled and placed into commercial use unless it is repaired and recalibrated by a service agent, and inspected and sealed by the county sealer.

Added Stats. 2014 ch 539 § 4. Effective January 1, 2015.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 5.5 Service Agencies for Weighing and Measuring Devices §§ 12531-12544

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

DISCLAIMER

This document represents the Division of Measurement Standards extracts from the Business and Professions Code and is intended to serve as a field resource for weights and measures officials for enforcing the laws pertaining to weights and measures in California. It is not to be considered as official state law.

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DIVISION 5. WEIGHTS AND MEASURES 12001-13800

CHAPTER 1. General Provisions 12001-12027

CHAPTER 2. Administration 12100-12246

CHAPTER 3. Standards of Weights and Measures 12300-12314

CHAPTER 5. Weighing and Measuring Devices 12500-12519

CHAPTER 5.5. Service Agencies for Weighing and Measuring Devices 12531-12544

CHAPTER 6. Fair Packaging and Labeling Act 12601-12615.5

CHAPTER 6.5. Unit Pricing 12655-12656

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CHAPTER 9. Special Provisions Relating to Farm Products 12925-12930

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CHAPTER 14. Fuels and Lubricants 13400-13630

CHAPTER 14.5. Service Stations 13650-13660

CHAPTER 15. Automotive Products 13710-13741

CHAPTER 16. Rental Vehicles 13800

For information concerning the contents of this document, please contact the Division of Measurement Standards by e-mail at dms@cdfa.ca.gov

BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 5.5 – Service Agencies for Weighing and Measuring Devices

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ARTICLE 1 – DEFINITIONS § 12531

§ 12531. MEANING AND SCOPE OF TERMS

As used in this chapter, the following definitions are applicable:

(a) "Service agency" means a person, as defined in Section 12011, that for hire, award, commission, or any other payment of any kind, repairs a commercial device.

(b) "Service agent" means a person employed by a service agency to repair a commercial device.

(c) "Device" means a weighing or measuring equipment, contrivance, or instrument used, or designed to be used, for determining weight or measure, and includes any tool, appliance, or accessory used in connection therewith, that is used for commercial purposes, as defined in subdivision (e) of Section 12500.

(d) "Placed in service" means to permit the use of a device that has been tested and found to be correct, as defined in subdivision (c) of Section 12500, and type approved, as provided for in Section 12500.5.

(e) "Correct" means a device that meets all of the tolerance and specification requirements of Section 12107.

(f) "Repair," in any of its variant forms, means to provide maintenance, or to install, adjust, recondition, or service a device.

Added Stats. 1999 ch 364 § 2.; Amended Stats. 2014 ch 539 § 5

ARTICLE 2. - REGISTRATION §§ 12532-12534

§ 12532. RESPONSIBILITIES OF A SERVICE AGENCY

(a) No person shall engage in business as a service agency unless registered by the Secretary of Food and Agriculture pursuant to this chapter and unless the current registration fee and any penalty have been paid.

(b) Applications for registration shall be in writing on a form prescribed by the department, and shall be accompanied by the required fee.

(c) A service agency shall forward to the department the name or names of service agents employed by them, with the appropriate fees required by Section 12535.

(d) A device may only be placed in service by a sealer or a service agency. A device used by a public utility in connection with measuring gas, electricity, water, steam, or communication service subject to the jurisdiction of the Public Utility Commission is exempt from the requirements of this chapter.

(e) Except as provided in subdivision (f), no person who repairs a device is required to be registered if the device is placed into service by a sealer or service agency.

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(f) Vapor measuring devices operating at greater than 11 inches water column shall be installed by a service agency.

(g) In the event of any change in the legal status of a registered service agency, the new legal entity shall obtain a new registration prior to operating as a service agency.

(h) A service agency may employ or designate a licensed service agent to act for the service agency and shall be responsible for all acts of that person.

(i) If a device has been altered in such a way as to facilitate fraud, a service agency or service agent shall report it to the county sealer within 24 hours of discovering that the device has been altered. If the service agency or service agent has possession of the device or any mechanism, component, software, or other device attached to or used in conjunction with the device that serves to facilitate fraud, the service agency or service agent shall surrender the device, mechanism, component, software, or other device to the county sealer or local law enforcement within 24 hours of discovering that the device has been altered.

Added Stats. 1999 ch 364 § 2; Amended Stats. 2016 ch 329 § 2.

§ 12533. STANDARDS AND TESTING EQUIPMENT

Prior to the issuance of its registration or in order to maintain its current registration, a service agency shall do all of the following:

(a) (1) Possess, or have available for use, standards and testing equipment necessary to meet the minimum testing requirements contained in the “Notes” section of the specific device regulation set forth in Division 9 (commencing with Section 4000) of Title 4 of the California Code of Regulations, for each type of device for which the service agency is providing service.

(2) When applicable, the standards and testing equipment shall meet the specifications and tolerances published in the most current National Institute of Standards and Technology 105 Series Handbooks for Field Standard Weights (NIST Class F), Field Standard Measuring Flasks, and Graduated Neck Type Volumetric Field Standards.

(b) Ensure that every service agent in its employ has a current service agent license.

(c) Possess a current copy of Division 9 (commencing with Section 4000) of Title 4 of the California Code of Regulations, Field Reference Manual.

Added Stats. 1999 ch 364 § 2.

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§ 12534. USE AND ACCURACY OF STANDARDS

Commencing January 1, 2001, a service agency shall use suitable and sufficient standards that are permanently and uniquely identified, and have a current certificate of accuracy provided by the department or by a laboratory certified pursuant to Section 12314, in the determination of a correct device.

ARTICLE 3. – FEES §§ 12535-12537

§ 12535. FEES PAID BY SERVICE AGENCIES

(a) An application for service agency registration shall be accompanied by an annual fee of two hundred dollars ($200) for a primary maintenance location, and one hundred dollars ($100) for each additional maintenance location of the applicant, and twenty-five dollars ($25) for every person employed by a service agency as a service agent.

(b) Each registration required by this chapter shall be renewed annually, on or before the first day of the first month of the service agency's registration year, by application to the department, accompanied by the annual registration fee. "Registration year" means the period of time beginning with the first day of the month the service agency is required to be registered in this state, and ending one year from date of issuance of the registration.

Added Stats. 1999 ch 364 § 2.

§ 12536. FEES RECEIVED BY DEPARTMENT

Fees received by the department pursuant to this chapter shall be paid into the State Treasury to the credit of the Food and Agriculture Fund to be used for the administration and enforcement of this chapter.

Added Stats. 1999 ch 364 § 2.

§ 12537. DISTRIBUTION OF FUNDS

Sixty percent of the funds derived pursuant to this chapter shall be allocated by the secretary to counties that employ a sealer or director of weights and measures. The payment to each county shall be in proportion to the funds expended by the county in the enforcement of Division 5 (commencing with Section 12001).

Added Stats. 1999 ch 364 § 2.

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ARTICLE 4 – EXAMINATIONS § 12540

§ 12540. SERVICE AGENT EXAMINATION AND LICENSING

(a) Commencing on January 1, 2001, no person shall be employed by a service agency as a service agent unless he or she possesses a current license.

(b) Commencing on January 1, 2001, applicants for a service agent license shall pass a written examination on the laws and regulations governing weights and measures. A passing score of 70 percent or greater is required to qualify for a license pursuant to this chapter. Examinations developed by the department may be taken by appointment in any county sealer's office or at a location designated by the Division of Measurement Standards.

(c) An application for the examination to obtain a service agent license shall be in a form prescribed by the department and shall be accompanied by a fee established by the secretary to recover costs of examination administration, payable to the county in which the examination is given, or to the Division of Measurement Standards, if the examination is given by the department.

(d) Every service agent shall be reexamined every five years.

(f) To maintain a service agent license, the reexamination shall be taken and passed on or before the date on which the examination was last taken and passed.

Added Stats. 1999 ch 364 § 2.

ARTICLE 5 - ADVISORY COMMITTEE § 12541

§ 12541. ADVISORY COMMITTEE MEMBERS

(a) The department shall establish a seven-member advisory committee consisting of the following members:

(1) Two members representing registered service agencies.

(2) Two members representing county sealers or directors of weights and measures.

(3) One member representing device manufacturers.

(4) One member representing industry clients of service agencies.

(5) One member representing the general public.

(b) Except as provided in subdivision (c), the term of office of the members of the committee is three years. Vacancies shall be filled by the department for any unexpired term.

(c) Initial appointments to the committee shall be made as follows:

(1) One representative of registered service agencies, and one representative of county sealers or directors of weights and measures shall be appointed for one year.

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(2) One representative of device manufacturers, one representative of county sealers or directors of weights and measures, and one representative of industry clients of service agencies shall be appointed for two years.

(3) One representative of registered service agencies, and one representative of the general public shall be appointed for three years.

(d) The committee shall be advisory to the department in all matters concerning the registration of service agencies.

Added Stats. 1999 ch 364 § 2.

ARTICLE 6 - DISCIPLINARY ACTION §§ 12542-12544

§ 12542. REVOCATION, SUSPENSION OR DENIAL OF SERVICE AGENCY'S REGISTRATION

A service agency registration may be suspended for the actions of its service agents in violation of this division.

A service agency's registration may be revoked or suspended, or may be denied by the department, for any violation of this chapter. Proceedings for the denial, revocation, or suspension of a registration shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall have all of the powers that are granted therein.

Added Stats. 1999 ch 364 § 2.

§ 12543. COUNTY SEALER'S SUSPENSION OF SERVICE AGENCY'S AUTHORIZATION TO PLACE DEVICES INTO SERVICE

A service agency's authorization to place devices into service, or to remove out-of-order notices may be suspended by a county sealer, within his or her county, pursuant to the notice and hearing provisions described in Section 12544 for violations of this division.

Added Stats. 1999 ch 364 § 2.

§ 12544. NOTICE OF INTEND TO SUSPEND AUTHORIZATION OF SERVICE AGENCY: CONDITIONS

(a) A county sealer intending to suspend the authorization of a service agency shall notify the service agency in writing of all of the following:

(1) The alleged violations to be used as the basis for suspension.

(2) The proposed duration of the suspension.

(3) The date the suspension is to begin, which may not be sooner than 20 days after a notice is mailed.

(4) The names of service agents to be affected by the suspension.

(5) The fact that the service agency or service agent shall be provided the opportunity for an investigational hearing prior to the suspension.

(6) The fact that the service agency or service agent may be represented by legal counsel.

(7) The fact that the service agency or service agent may appeal to the department prior to imposition of a suspension.

(b) A copy of the proposed action to the service agency shall be immediately forwarded to the department.

(c) The department may, as a result of the investigative hearing, declare the suspension to be effective in additional counties.

Added Stats. 1999 ch 364 § 2.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 6. Fair Packaging and Labeling Act §§ 12601-12615.5

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

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BUSINESS AND PROFESSIONS CODE

DIVISION 5

Weights and Measures

[Division 5 added by Stats. 1939, Ch. 43.]

CHAPTER 6 - Fair Packaging and Labeling Act

[Added by Stats. 1969 ch 1309 § 3]

Former Chapter 6, relating to containers, consisting of §§ 12601-12615, was added by Stats. 1939 ch 43 § 1, amended by Stats. 1939 ch 992 § 24, Stats. 1941 ch 256 §§ 1-3, Stats. 1947 ch 1072 §§ 1-7, Stats. 1953 ch 1718 § 1, Stats. 1957 ch 1658 § 2, Stats. 1959 ch 111 § 4, ch 123 §§ 1, 2, ch 515 § 1, Stats. 1963 ch 584 § 1, ch 903 § 1, ch 980 § 1, Stats. 1965 ch 32 §§ 1, 2, ch 953 § 1, Stats. 1967 ch 437 §§ 1, 2, Stats. 1968 ch 61 § 1; and repealed by Stats. 1969 ch 1309 § 2.

§ 12601. LEGISLATIVE POLICY

This chapter is designed to protect purchasers of any commodity within its provisions against deception or misrepresentation. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons.

It is hereby declared to be the policy of the Legislature to assist in attaining these goals.

Added Stats. 1969 ch 1309 § 3.

§ 12602. UNLAWFUL TO DISTRIBUTE COMMODITY CONTAINED IN NON-CONFORMING PACKAGE OR LABEL: EXCEPTION FOR WHOLESALE OR RETAIL DISTRIBUTORS NOT ENGAGED IN PACKAGING OR LABELING

(a) It is unlawful for any person engaged in the packaging or labeling of any commodity for distribution or sale, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution of any packaged or labeled commodity, to distribute or to cause to be distributed any such commodity if the commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this chapter or the regulations adopted under the authority of this chapter or the provisions of, or the regulations adopted under, Chapter 14 (commencing with Section 13400) or Chapter 15 (commencing with Section 13700).

(b) The prohibition contained in subdivision (a) does not apply to persons engaged in business as wholesale or retail distributors of commodities, except to the extent that those persons (1) are engaged in the packaging or labeling of such commodities, (2)

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prescribe or specify by any means the manner in which such commodities are packaged or labeled, or (3) have knowledge of the violation of any provision of this chapter or of Chapter 6.6 (commencing with Section 12665), Chapter 14 (commencing with Section 13400), or Chapter 15 (commencing with Section 13700).

Amended Stats. 1977 ch 383; Amended Stats. 1981 ch 97 § 12; Amended Stats. 1986 ch 201 § 1; Amended Stats. 2017 ch 573 § 59.

§ 12603. REGULATIONS TO BE ESTABLISHED BY THE SECRETARY: REQUIRED PROVISIONS OF REGULATIONS

No person subject to the prohibition in Section 12602 shall distribute any packaged commodity unless it is in conformity with regulations that shall be established by the secretary that shall provide:

(a) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor.

(b) The net quantity of contents (in terms of weight or mass, measure, numerical count, or time) shall be separately and accurately stated in a uniform location upon the principal display panel of that label, using the most appropriate units of both the customary inch-pound system of measure, and except as provided in subdivisions (c) and (d), the SI (Systeme International d'Unites) metric system.

(c) On a random package labeled in terms of pounds and decimal fractions of the pound, the statement may be carried out to not more than three decimal places and is not required to, but may include a statement in terms of the SI metric system carried out to not more than three decimal places.

(d) The requirements of subdivision (b) concerning labeling using the metric system do not apply to nonconsumer packages, foods that are packaged at the retail store level, or to the sale or distribution of products whose labels have been printed prior to February 14, 1994.

(e) This section shall become operative on February 14, 1994.

Added Stats. 1969 ch 1309 § 3; Amended Stats. 1988 ch 341 § 1; Amended Stats. 1993, ch 621 § 3; Amended Stats. 2017 ch 573 § 60.

§ 12604. SEPARATE LABEL STATEMENT OF NET QUANTITY OF CONTENTS TO BE IN CONFORMITY WITH REGULATIONS: REQUIRED PROVISIONS OF REGULATIONS (INOPERATIVE ON FEBRUARY 14, 1994 AND IS REPEALED ON JANUARY 1, 1995)

Added Stats. 1969 ch 1309 § 3; Amended Stats. 1988 ch 341 § 2; Amended Stats. 1993 ch 621 § 4. (INOPERATIVE ON FEBRUARY 14, 1994 AND IS REPEALED ON JANUARY 1, 1995)

(Rev.1/18)

§ 12604.5. STORES USING AUTOMATIC CHECKOUT SYSTEM REQUIRED TO HAVE READABLE PRICE ON EACH PACKAGE: EXCEPTIONS

Repealed Stats. 1977 ch 763.

§ 12605. PROHIBITION OF DISTRIBUTION OF PACKAGED COMMODITY CONTAINING QUALIFYING WORDS IN SEPARATE STATEMENT OF NET QUANTITY OF CONTENTS: SUPPLEMENTAL STATEMENTS: PROHIBITED QUALIFICATIONS

No person subject to the prohibition contained in Section 12602 shall distribute or cause to be distributed in commerce any packaged commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by Section 12603(b), but nothing in this chapter shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: provided, that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

In no case shall any declaration of quantity be qualified by the addition of the words “minimum”, or “when packed”, or words of similar import; nor shall any unit of weight, measure or count be qualified by any term (such as jumbo, giant, full, or the like) that tends to exaggerate the amount of the commodity in the package.

Added Stats. 1969 ch 1309 § 3.

§ 12606. FALSE BOTTOM, ETC., PROHIBITED: CONTAINERS NOT TO BE NONFUNCTIONALLY SLACK FILLED: SEIZURE OF CONTAINER: CONDEMNATION OF CONTAINER: RETURN OF CONTENTS OF CONDEMNED CONTAINER

(a) No container wherein commodities are packed shall have a false bottom, false sidewalls, false lid or covering, or be otherwise constructed or filled, wholly or partially, as to facilitate the perception of deception or fraud.

(b) No container shall be made, formed, or filled as to be misleading. A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty space in a package that is filled to substantially less than its capacity for reasons other than any one or more of the following:

(1) Protection of the contents of the package.

(2) The requirements of machines used for enclosing the contents of the package.

(3) Unavoidable product settling during shipping and handling.

(4) The need to utilize a larger than required package or container to provide adequate space for the legible presentation of mandatory and necessary labeling information, such as those based on the regulations adopted by the United States Food and Drug Administration or state or federal agencies under federal or state law, laws or regulations adopted by foreign governments, or under an industry wide voluntary labeling program.

(5) The fact that the product consists of a commodity that is packaged in a decorative or representational container where the container is part of the presentation of the product and has value that is both significant in proportion to the value of the product and independent of its function to hold the product, such as a gift combined with a container that is intended for further use after the product is consumed, or durable commemorative or promotional packages.

(6) An inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary to accommodate required labeling, discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

(7) The product container bears a reasonable relationship to the actual amount of product contained inside, and the dimensions of the actual product container, the product, or the amount of product therein is visible to the consumer at the point of sale, or where obvious secondary use packaging is involved.

(8) The dimensions of the product or immediate product container are visible through the exterior packaging, or where the actual size of the product or immediate product container is clearly and conspicuously depicted on any side of the exterior packaging excluding the bottom, accompanied by a clear and conspicuous disclosure that the representation is the “actual size” of the product or the immediate product container.

(9) The presence of any headspace within an immediate product container necessary to facilitate the mixing, adding, shaking, or dispensing of liquids or powders by consumers prior to use.

(10) The exterior packaging contains a product delivery or dosing device if the device is visible, or a clear and conspicuous depiction of the device appears on the exterior packaging, or it is readily apparent from the conspicuous exterior disclosures or the nature and name of the product that a delivery or dosing device is contained in the package.

(11) The exterior packaging or immediate product container is a kit that consists of a system, or multiple components, designed to produce a particular result that is not dependent upon the quantity of the contents, if the purpose of the kit is clearly and conspicuously disclosed on the exterior packaging.

(12) The exterior packaging of the product is routinely displayed using tester units or demonstrations to consumers in retail stores, so that customers can see the actual, immediate container of the product being sold, or a depiction of the actual size thereof prior to purchase.

(13) The exterior packaging consists of single or multiunit presentation boxes of holiday or gift packages if the purchaser can adequately determine the quantity and sizes of the immediate product container at the point of sale.

(14) The exterior packaging is for a combination of one purchased product, together with a free sample or gift, wherein the exterior packaging is necessarily larger it would otherwise be due to the inclusion of the sample or gift, if the presence of both products and the quantity of each product are clearly and conspicuously disclosed on the exterior packaging.

(15) The exterior packaging or immediate product container encloses computer hardware or software designed to serve a particular computer function, if the particular computer function to be performed by the computer hardware or software is clearly and conspicuously disclosed on the exterior packaging.

(c) Slack fill in a package shall not be used as grounds to allege a violation of this section based solely on its presence unless it is nonfunctional slack fill.

(d) Any sealer may seize a container that facilitates the perpetration of deception or fraud and the contents of the container. By order of the superior court of the county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon conditions the court may impose to insure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if the owner furnishes proper facilities for the return. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

Repealed and Added Stats. 1997 ch 711 §§ 1 and 2; Amended Stats. 2013 ch 518, § 1.

§ 12606.2. MISLEADING FOOD CONTAINERS, PROHIBITED

(a) This section applies to food containers subject to Section 403 (d) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 343 (d)), and Section 100.100 of Title 21 of the Code of Federal Regulations. Section 12606 does not apply to food containers subject to this section.

(b) No food containers shall be made, formed, or filled as to be misleading.

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(c) A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty space in a package that is filled to substantially less than its capacity for reasons other than any one or more of the following:

(1) Protection of the contents of the package.

(2) The requirements of the machines used for enclosing the contents in the package.

(3) Unavoidable product settling during shipping and handling.

(4) The need for the package to perform a specific function, such as where packaging plays a role in the preparation or consumption of a food, if that function is inherent to the nature of the food and is clearly communicated to consumers.

(5) The fact that the product consists of a food packaged in a reusable container where the container is part of the presentation of the food and has value that is both significant in proportion to the value of the product and independent of its function to hold the food, such as a gift product consisting of a food or foods combined with a container that is intended for further use after the food is consumed or durable commemorative or promotional packages.

(6) Inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary to accommodate required food labeling exclusive of any vignettes or other nonmandatory designs or label information, discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

(d) Slack fill in a package shall not be used as grounds to allege a violation of this section based solely on its presence unless it is nonfunctional slack fill.

(e) This section shall be interpreted consistent with the comments by the United States Food and Drug Administration on the regulations contained in Section 100.100 of Title 21 of the Code of Federal Regulations, interpreting Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(d)), as those comments are reported on pages 64123 to 64137, inclusive, of Volume 58 of the Federal Register.

(f) If the requirements of this section do not impose the same requirements as are imposed by Section 403(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(d)), or any regulation promulgated pursuant thereto, then this section is not operative to the extent that it is not identical to the federal requirements, and for this purpose those federal requirements are incorporated into this section and shall apply as if they were set forth in this section.

(g) Any sealer may seize any container that is in violation of this section and the contents of the container. By order of the superior court of the county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon any conditions that the court may impose to ensure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner thereof if the owner furnishes proper facilities for the return. A proceeding under this section is a limited civil case if the value of the property in controversy is less than or equal to the maximum amount in controversy for a limited civil case under Section 85 of the Code of Civil Procedure.

Added Stats. 1995 ch 849 § 1; Amended by Stats. 2007, Ch. 43, § 3; Amended Stats. 2013 ch 518, § 2.

§ 12607. OFFER FOR SALE, ETC., OF COMMODITY WITHOUT STATEMENT OF NET QUANTITY: ORDER OF COMMODITY OFF SALE: CORRECT STATEMENT OF NET QUANTITY REQUIRED FOR RELEASE

Whenever a packaged commodity is offered for sale, exposed for sale or sold without a statement of net quantity appearing thereon as required by this chapter, the sealer shall in writing order the commodity off sale and require that a correct statement of net quantity be placed on the commodity before the same may be released by the sealer.

Amended Stats. 1976 ch 239.

§ 12608. TERMS OF STATEMENTS OF QUANTITY: TESTING OF FLUID PRODUCTS (INOPERATIVE ON FEBRUARY 14, 1994 AND IS REPEALED AS OF JANUARY 1, 1995)

Added Stats. 1969 ch 1309 § 3; Amended Stats. 1988 ch 341 § 3; Amended Stats. 1993 ch 621 § 5. (INOPERATIVE ON FEBRUARY 14, 1994 AND IS REPEALED AS OF JANUARY 1, 1995)

§ 12609. SECRETARY TO ESTABLISH RULES AND REGULATIONS: EXEMPTIONS

The secretary shall adopt necessary regulations to carry out the purpose of this division and for the testing of packages to verify the net quantity statements. In adopting these regulations, the secretary shall adopt by reference the packaging and labeling requirements recommended by the National Conference on Weights and Measures and published in the current edition of the National Institute of Standards and Technology Handbook 130, Uniform Packaging and Labeling Regulation, except insofar as those requirements are specifically modified, amended, or rejected by regulation by the secretary. The regulations shall include exemptions from full compliance with this chapter for good and sufficient reasons. Any exemptions affecting consumer commodities shall be in conformance with exemptions permitted

by federal regulations. Any regulation, or amendment thereof, shall be adopted by the secretary in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Amended Stats. 1993 ch 621 § 7; Amended Stats. 2012 ch 661 § 41.

§ 12610. SECRETARY MAY PROMULGATE REGULATIONS SIMILAR TO THOSE PROMULGATED BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE OR FEDERAL TRADE COMMISSION: CONTENTS OF REGULATIONS

The secretary may promulgate regulations similar to those promulgated by the United States Secretary of Health and Human Services or the Federal Trade Commission pursuant to the Federal Fair Packaging and Labeling Act (Public Law 89-755; 80 Stats. 1296; 15 U.S.C. Secs. 1451-1461) effective to do the following:

(a) Establish and define standards for characterization of the size of a package enclosing any commodity, that may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this subdivision shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity.

(b) Require that the label on each package of a commodity (other than one that is a food within the meaning of Section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear the common or usual name of the consumer commodity, if any.

Added Stats. 1969 ch 1309 § 3; Amended Stats. 2012 ch 661 § 42.

§ 12611. UNLAWFUL ACTS: SELLING, ETC., COMMODITY IN NONCONFORMING CONTAINER OR WITH NONCONFORMING LABEL: REQUIRED INFORMATION NOT PROMINENTLY DISPLAYED

It is unlawful to pack, ship, or sell any commodity in a container which does not conform to all the specifications of this chapter, or which is not conspicuously marked, branded, or otherwise labeled as required by this chapter; or on which any word, statement or other information required by this chapter is not prominently placed, in such terms and with such conspicuousness, as compared with other words, statements, designs or devices on the label or container, as to render it likely to be read and understood by ordinary persons under customary conditions of purchase and use.

Added Stats. 1969 ch 1309 § 3.

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§ 12612. SALE OF COMMODITY PACKAGED IN COMPLIANCE WITH ACT OF CONGRESS OR RULES OR REGULATIONS PROMULGATED THEREUNDER NOT VIOLATION: SALE OF MALT BEVERAGES COMPLYING WITH RULE, ETC., OF UNITED STATES TREASURY DEPARTMENT, ETC., NOT VIOLATION

The sale of any commodity packaged in a container, wherein both the container and the contents thereof comply with any Act of Congress or rules or regulations promulgated thereunder, pertaining to weight, measure or count, does not violate the provisions of this chapter; nor does the sale of malt beverages in containers complying with a rule, regulation or an approval of the United States Treasury Department, Internal Revenue Service or Bureau of Alcohol, Tobacco and Firearms, or of the State Department of Public Health and pertaining to weight, measure or count, constitute a violation of the provisions of this chapter.

Added Stats. 1969 ch 1309 § 3; Amended Stats. 1973 ch 1033 § 2.

§ 12613. PROVISION OF CHAPTER LESS STRINGENT, ETC., THAN REQUIREMENT OF "FAIR PACKAGING AND LABELING ACT" OR REGULATIONS PROMULGATED PURSUANT THERETO INOPERATIVE

If any provision of this chapter is less stringent or requires information different from any requirement of Section 4 of the Act of Congress entitled "Fair Packaging and Labeling Act" (P.L. 89-755; 80 Stat. 1296; 15 U.S.C. 1451-1461) or of any regulation promulgated pursuant to that act, the provision is inoperative to the extent that it is less stringent or requires information different from the federal requirement, in which event the federal requirement is a part of this chapter.

Added Stats. 1969 ch 1309 § 3; Amended Stats. 1981 ch 714 § 35.

§ 12614. "CONSUMER COMMODITY": "PACKAGE": "PACKAGED COMMODITY": "CONSUMER PACKAGE": "NONCONSUMER PACKAGE": "RANDOM PACKAGE": "LABEL"

Amended Stats. 1976 ch 239 § 3; Repealed Stats. 1993 ch 621 § 8.

§ 12615. [Repealed by Stats. 1977 ch 763 § 1.]

§ 12615.5. VIOLATION AS MISDEMEANOR: EXCEPTION

The violation of any provision of this chapter, except the provisions of Section 12604.5, is a misdemeanor punishable by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment.

Added Stats. 1977 ch 1185 § 1.

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CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 6.5. Unit Pricing
§§ 12655-12656

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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CHAPTER 2. Administration 12100-12246

CHAPTER 3. Standards of Weights and Measures 12300-12314

CHAPTER 5. Weighing and Measuring Devices 12500-12519

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CHAPTER 15. Automotive Products 13710-13741

CHAPTER 16. Rental Vehicles 13800

For information concerning the contents of this document, please contact the Division of Measurement Standards by e-mail at dms@cdfa.ca.gov

(Rev 1/18)

BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Division 5 added by Stats. 1939, Ch. 43.]

CHAPTER 6.5 – Unit Pricing

[Chapter 6.5 added by Stats. 1977, Ch. 380.]

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§ 12655. LEGISLATIVE INTENT TO ENCOURAGE UNIT PRICING FOR CANNED, BOTTLED, AND PACKAGED COMMODITIES

It is the intent of the Legislature to encourage the unit pricing of all canned, bottled, and packaged foods, packaged produce, and bakery goods; paper, plastic, wood, and metal products packaged in counts greater than 10; rolled paper, plastic, and metal products; canned, bottled, and packaged domestic, laundry and household cleansing, finishing, waxing, and polishing products; drug and first aid products canned, packaged, or bottled in counts greater than 10; and frozen fruits and vegetables, offered by merchants in their places of business for sale at retail to the public. The Legislature finds that unit pricing, the price per ounce, per pound, per gallon, or the metric equivalent thereof, or per 100 square feet, or per 100 count, for which those items are offered for sale at retail, effectively informs the consumer of the comparative prices and values of commodities, and is thus useful for the formulation of intelligent consumer choices. Reconstituted fluid ounce is the preferred unit of measure for unit pricing of powdered and concentrated infant formula.

Added Stats. 1977 ch 380; Amended Stats. 1994 ch 1157 § 1.

§ 12656. ADOPTION OF STANDARDIZED FORMAT

The department, in cooperation with the retail food industry, shall adopt a standardized format for unit pricing that shall be available to a retailer upon request. The format shall include, but not be limited to, an identification of the item, including the brand name, the total price of the item, the volume, weight, or number of units of which the item is composed, and the price per unit. For infant formula, unit price information may be expressed based on the reconstituted volume.

Added Stats. 1977 ch 380; Amended Stats. 1994 ch 1157 § 2.

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CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

Chapter 7. Weighmasters
§§ 12700-12737

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Division 5 added by Stats. 1939, Ch. 43.]

CHAPTER 7 – Weighmasters

[Added by Stats. 1984 Ch 646] Formerly Chapters 7, 7.3, 7.7 of Division 5 [Repealed by Stats. 1984 Ch 646].

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BUSINESS AND PROFESSIONS CODE

DIVISION 5

Weights and Measures

CHAPTER 7 – Weighmasters

(Added by Stats. 1984 Ch 646) Formerly Chapters 7, 7.3, 7.7 of Division 5 (Repealed by Stats. 1984 Ch 646).

§ 12700. DEFINITION

A weighmaster is any person who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service.

Added Stats. 1984 ch 646.

§ 12700.5. PUBLIC WEIGHING SERVICES: WEIGHING FOR HIRE

(a) A weighmaster is not required to provide weighing services to the general public.

(b) Weighing for hire is at the discretion of the weighmaster.

Added Stats. 1984 ch 646.

§ 12701. PERSONS WHO ARE NOT WEIGHMASTERS (Effective January 1, 2017)

The following persons are not weighmasters:

(a) Retailers weighing, measuring, or counting commodities for sale by them in retail stores in the presence of, and directly to, consumers.

(b) Except for persons subject to Section 12730, producers of agricultural commodities or livestock, who weigh commodities produced or purchased by them or by their producer neighbors, when no charge is made for the weighing, or when no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based.

(c) Common carriers issuing bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Milk samplers and weighers licensed pursuant to Article 8 (commencing with Section 35161) of Chapter 12 of Part 1 of Division 15 of the Food and Agricultural Code, when performing the duties for which they are licensed.

(e) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(f) Newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(g) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of those establishments.

(h) County sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, garbage and refuse disposal districts operating pursuant to Chapter 2 (commencing with Section 49100) of Part 8 of Division 30 of the Public Resources Code, and solid waste facilities, as defined in Section 40194 of the Public Resources Code.

(i) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program, or recycling centers certified pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code that purchase empty beverage containers from the public for recycling.

(j) Pest control operators licensed pursuant to Chapter 4 (commencing with Section 11701) of Division 6 of the Food and Agricultural Code.

(k) Retailers, or recycling centers established solely for the redemption of empty beverage containers, as that phrase is defined in Section 14512 of the Public Resources Code, who are weighing, measuring, or counting salvage or returnable materials for purchase or redemption by them in retail stores, or, in the case of recycling centers, on the retail store premises or on a parking lot immediately adjacent to a retail store which is used for the purpose of parking by the store customers, directly from and in the presence of the seller. “Retailer” means an entity which derives 90 percent or more of its income from the sale of small quantities of food or nonfood items, or both, directly to consumers. “Salvage materials” means used paper products and used containers made of aluminum, tin, glass, or plastic.

(l) Any log scaler who performs log scaling functions, except weighing, as defined in the United States Forest Service Handbook, Supplement No. 4 of March 1987.

(m) Pawnbrokers licensed pursuant to Chapter 3 (commencing with Section 21300) of Division 8 of the Financial Code, and secondhand dealers licensed pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8, when the pawnbroker or secondhand dealer weighs property that it acquires and reports the acquisition of the property pursuant to Section 21208 of the Financial Code or Article 4 (commencing with Section 21625) of Chapter 9 of Division 8, respectively.

(n) Facilities that handle medical waste and that report net weights, and not estimates, to the generator of the medical waste and the State Department of Public Health in accordance with the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code).

(o) This section shall become operative on January 1, 2018.

Amended Stats. 1999 ch 815 § 1; Amended Stats. 2012 ch 693 § 1 and Amended Stats. 2015 ch 103 § 3; Amended Stats. 2017 ch 573 § 61.

§ 12702. "WEIGHMASTER" AS INCLUDING DEPUTY WEIGHMASTER

"Weighmaster", when used without qualification, includes a deputy weighmaster.

Added Stats. 1984 ch 646.

§ 12703. LICENSE, FEE, AND/OR PENALTY REQUIRED

Except as provided in Section 12701, no person shall perform any acts described in Section 12700, unless licensed as a weighmaster pursuant to this chapter and unless the current license fee and any penalty has been paid. The weighmaster shall forward to the department the name or names of deputy weighmasters with the appropriate fees required by Section 12704.

Added Stats. 1984 ch 1686; Repealed Stats. 1985 ch 162 § 1; Added Stats. 1984 ch 646 § 4; Amended Stats. 1992 ch 297 § 2.

§ 12703.1. JUNK DEALERS AND RECYCLERS

(a) In addition to any other requirements for issuance of a license pursuant to this chapter, if the applicant is a recycler or junk dealer as defined in Section 21601, the department shall require the applicant to furnish all of the following information accurately on any application for a new license or the renewal of a license issued pursuant to this chapter:

(1) A copy of the applicant's current business license.

(2) A statement indicating that the applicant has either filed an application for a stormwater permit or is not required to obtain a stormwater permit.

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(3) A statement indicating that the applicant has the equipment necessary to comply with the photographic and thumbprinting requirements for the purchase and sale of nonferrous materials pursuant to Section 21608.5 or a statement indicating that the applicant will not be purchasing or selling nonferrous materials and is not required to comply with Section 21608.5.

(4) A statement indicating that the applicant has requested to receive theft alert notifications pursuant to subdivision (a) of Section 21608.7, unless that requirement does not apply pursuant to subdivision (b) of that section.

(5) The name or names of any deputy weighmasters.

(b) The department shall issue a license to a junk dealer or recycler upon receipt of an application for a new license or renewal of a license that contains the information required by subdivision (a) and that is accompanied by the appropriate fee.

(c) (1) On or before December 31, 2014, upon issuance of a license to a junk dealer or recycler, or renewal of such a license, the department shall make a thorough investigation of all of the information contained in the application within 90 days. If the license is issued or renewed on or after January 1, 2015, the department shall make a thorough investigation of all the information contained in the application within 90 days for a new license, and within one calendar year for a renewal of a license.

(2) Notwithstanding Section 12708, if the department determines that the information submitted pursuant to subdivision (a) is materially inaccurate, the department shall revoke the license issued to a junk dealer or recycler unless the junk dealer or recycler complies with the requirements of subdivision (a) within 14 days of notice from the department of a proposed revocation pursuant to this subdivision.

(3) A junk dealer or recycler whose license has been revoked pursuant to this subdivision is entitled to a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The secretary may enter into a cooperative agreement with any county sealer to carry out the provisions of this section.

(e) This section shall not apply to a pawnbroker licensed pursuant to Chapter 3 (commencing with Section 21300) of Division 8 of the Financial Code and a secondhand dealer licensed pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8.

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

Added Stats. 2013 ch 518, § 2; Amended Stats. 2014 ch 608 § 2; and Amended Stats. 2015 ch 103 § 4.

§ 12704. LICENSE FEE (Effective January 1, 2014 to December 31, 2018)

(a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:

(1) Seventy-five dollars ($75) if the weighmaster is operating at a fixed location.

(2) Thirty dollars ($30) for each additional fixed location at which the weighmaster is operating.

(3) Two hundred dollars ($200) if the weighmaster is operating at other than a fixed location.

(4) Twenty dollars ($20) for each deputy weighmaster.

(b) In addition to the license fees set forth in subdivision (a), a weighmaster who is a recycler or a junk dealer as defined in Section 21601 or is performing services on behalf of a recycler or junk dealer shall also pay to the department the following license fee for each license year as applicable to the operation:

(1) Five hundred dollars ($500) if the weighmaster is operating at a fixed location.

(2) Five hundred dollars ($500) for each additional fixed location at which the weighmaster is operating.

(3) Five hundred dollars ($500) if the weighmaster is operating at other than a fixed location.

(c) “License year” means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(d) “Location” means a premise on which weighing, measuring, or counting devices are used.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

Added Stats. 1984 ch 646; Amended Stats. 1987 ch 495 § 1; Amended Stats. 2013 ch 518 § 3.

§ 12704. LICENSE FEE (Effective January 1, 2019)

(a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:

(1) Seventy-five dollars ($75) if the weighmaster is operating at a fixed location.

(2) Thirty dollars ($30) for each additional fixed location at which the weighmaster is operating.

(3) Two hundred dollars ($200) if the weighmaster is operating at other than a fixed location.

(4) Twenty dollars ($20) for each deputy weighmaster.

(b) “License year” means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(c) “Location” means a premise on which weighing, measuring, or counting devices are used.

(d) This section shall become operative on January 1, 2019.

Added Stats. 2013 ch 518, § 4.

§ 12705. CHANGE IN LEGAL ENTITY OF LICENSEE

Any change in the legal entity of a licensed weighmaster requires the new legal entity to obtain a weighmaster license before operating as a weighmaster.

Added Stats. 1984 ch 646 § 4.

§ 12706. LICENSE EXPIRATION DATES: PRO RATA DECREASE IN LICENSE FEE

(a) The secretary may assign or reassign dates for the expiration of licenses for any weighmaster.

(b) The secretary may establish a license year for any weighmaster consisting of any period from one month to 11 months, inclusive, with subsequent renewals being required at yearly intervals thereafter.

(c) Whenever the license year is less than 12 months by reason of the assignment or reassignment of the expiration date by the secretary, the license fee as designated in Section 12704 shall be decreased by one twelfth of the annual fee for each month of the period less than 12 months.

Added Stats. 1984 ch 646 § 4: Amended Stats. 2012 ch 661 § 43.

§ 12707. LICENSE RENEWAL: PENALTY FOR FAILURE TO PAY FEE WHEN DUE

Each license required by this chapter shall be renewed annually, on or before the first day of the first month of the licensee's license year, by application to the secretary, accompanied by the annual license fee. An application and annual license fee sent by mail is not overdue if postmarked no later than the fifth day of the month in which it is issued. To any fee not paid when due, there shall be added a penalty equal to 30 percent of the amount of the license fee, if it is paid within 30 days of becoming due. The penalty for a renewal fee more than 30 days after becoming due shall be 100 percent of the amount of the license fee. However, no penalty shall be applicable to the renewal of deputy weighmaster licenses.

Added Stats. 1984 ch 646 § 4: Amended Stats. 1989 ch 818 § 2; Amended Stats. 2017 ch 573 § 62.

§ 12708. REFUSAL TO GRANT OR RENEW LICENSE: REVOCATION OR SUSPENSION OF LICENSE

The secretary may refuse to grant any license provided for by this chapter, or may refuse to renew any license, and may revoke or suspend any license when, after a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the secretary is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster or has otherwise been found guilty of a misdemeanor as provided in this chapter.

Added Stats. 1984 ch 646, § 4; Amended Stats. 2012 ch 661 § 44.

§ 12709. DISPOSITION OF LICENSE FEES (Effective January 1, 2014 to December 31, 2018)

(a) All license fees collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter, except as provided in subdivision (b).

(b) License fees collected pursuant to subdivision (b) of Section 12704 shall be deposited in a special account in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of Section 12703.1.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

Added Stats. 1984 ch 646, § 4; Amended Stats. 2013 ch 518, § 5.

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§ 12709. DISPOSITION OF LICENSE FEES (Effective January 1, 2019)

(a) All license fees collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter.

(b) This section shall become operative on January 1, 2019.

Added Stats. 2013 ch 518 § 6

§ 12710. DEPUTY WEIGHMASTERS

A weighmaster may employ or designate any person to act for the weighmaster as a deputy weighmaster and shall be responsible for all acts performed by that person.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1987 ch 495 § 2; Amended Stats. 1989 ch 818 § 3; Amended Stats. 1992 ch 247 § 3.

§ 12710.5. FAILURE TO SUBMIT DEPUTY NAMES

(a) At any time during the license year, any weighmaster may replace deputies without payment of additional fees by forwarding to the department the name of any replacement deputy and replaced deputy.

(b) Any weighmaster who does not furnish to the department a deputy name as required by this section is guilty of an infraction, and, upon conviction, may be punished by a fine of not more than one hundred dollars ($100).

(c) A weighmaster may increase the original number of deputies by submitting a new application accompanied by appropriate fees, for the additional number of deputy licenses requested, which shall expire on the date stated on the weighmaster license.

Added Stats. 1989 ch 818 § 4.

§ 12711. WHEN WEIGHMASTER CERTIFICATE TO BE ISSUED

A weighmaster shall issue a weighmaster certificate whenever payment for the commodity or service represented is dependent on a written or printed weight, measure, or count.

Added Stats. 1984 ch 646, § 4.

§ 12712. ISSUANCE OF CERTIFICATE BY ONE OTHER THAN WEIGHMASTER MAKING DETERMINATION: TRANSFER OF WEIGHT OR MEASURE TO OTHER CERTIFICATE

(a) A weighmaster certificate may be signed and issued by a weighmaster other than the weighmaster actually determining the weight, measure, or count of any commodity, if both of the following conditions are met:

(1) The weighmaster issuing the certificate does so based on information received from the weighmaster who actually determined the weight, measure, or count and both are on the same principal license.

(2) The records and worksheets, signed by the weighmaster who actually weighed, measured, or counted the commodity, are maintained as a part of the weighmaster's records in a manner so as to ensure their identity with the certificate issued.

(b) A weighmaster may transfer a weight, measure, or count appearing on a weighmaster certificate to another weighmaster certificate, if the original certificate number and name of the issuing weighmaster appear on the second certificate.

Added Stats. 1984 ch 646, § 4.

§ 12713. RESPONSIBILITY FOR COMPLETENESS OF CERTIFICATE: RECEIPT SHOWING WEIGHT, MEASURE, OR COUNT OF FISH, MOLLUSKS, OR CRUSTACEANS AS WEIGHMASTER CERTIFICATE

(a) A weighmaster is responsible for ensuring that the weighmaster certificates issued by him or her, or a deputy acting for him or her, are complete and contain all the information required by Sections 12714, 12714.5, and 12715 that is applicable to each transaction.

(b) It is unlawful to issue, or cause to be issued, a weighmaster certificate if the certificate does not contain all the information required by Sections 12714, 12714.5, and 12715 for the commodity weighed, measured, or counted. The issuance of a receipt showing the weight, measure, or count of fish, mollusks, or crustaceans pursuant to Article 6 (commencing with Section 8010) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code constitutes the issuance of a weighmaster certificate under this chapter when issued by a person who is a weighmaster pursuant to Section 12700.

Added Stats. 1984 ch 646; Amended Stats. 1986 ch 405 § 1.

§ 12714. LEGEND AND WEIGHMASTER'S NAME TO APPEAR ON CERTIFICATE

(a) There shall appear in an appropriate and conspicuous place on each certificate, and all copies thereof, the following legend:

> WEIGHMASTER CERTIFICATE
>
> THIS IS TO CERTIFY that the following described commodity was weighed, measured, or counted by a weighmaster, whose signature is on this certificate, who is a recognized authority of accuracy, as prescribed by Chapter 7 (commencing with Section 12700) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the California Department of Food and Agriculture.

(b) There shall also appear on each certificate, and all copies thereof, the printed name of the principal weighmaster as it appears on the license.

Added Stats. 1984 ch 646, § 4.

§ 12714.5. INFORMATION ON CERTIFICATE TO BE LEGIBLE: CONSECUTIVE NUMBERING

All information contained on the certificate shall be clear and legible. Each certificate shall be numbered consecutively.

Added Stats. 1984 ch 646, § 4.

§ 12715. CONTENTS OF CERTIFICATE

Each certificate shall provide for the following information as applicable to the transaction:

(a) The date on which the weight, measure, or count was determined.

(b) The street address or location description and the city or township where the weighing, measuring, or counting occurred.

(c) The complete signature of the weighmaster who determined each weight, measure, or count. The name of a weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature, if the electronically imprinted name is that of the weighmaster who weighed, measured, or counted the commodity or that of another weighmaster pursuant to Section 12712.

(d) The kind of commodity and any other information that may be necessary to identify the product or distinguish it from a similar commodity.

(e) The number of units of the commodity. If not personally determined by a weighmaster, the certificate shall contain the words "driver's count" or "loader's count," as appropriate, after the number of commodity units. The abbreviation "D.C." or "L.C." may be used in lieu of the complete words.

(f) The name of the owner, or his or her agent, and the consignee. If the transaction involves hay or hay products, the name and address of the grower, and his or her agent, as provided by the driver of the vehicle.

(g) At least one of the following:

(1) The gross weight of the commodity and the vehicle or container, if only the gross weight was determined.

(2) The tare weight of the unladen vehicle or container, if only the tare weight was determined.

(3) The gross, tare, and net weights when a gross and tare are used in determining the net weight.

(4) The true net weight, measure, or count when no gross and tare weights are involved in determining the net quantity of the product.

(h) The tare weights, and the code identification or description of boxes, bins, pallets, or other containers.

(i) The correct identification of the vehicle, combination of vehicles, or other means by which the commodity was delivered. If an equipment number is used to identify a vehicle or combination of vehicles, there shall be traceability to the registered vehicle license numbers through the weighmaster's records.

(j) The unit of measure, such as pounds, tons, gallons, kilograms, or cubic yards, used to identify the quantity.

Added Stats. 1984 ch 646, §4; Amended Stats. 1986 ch 405 § 2; Amended Stats. 1992 ch 203 § 1.

§ 12715.5. CERTIFICATES IN USE ON DECEMBER 31, 1984

Added Stats. 1984 ch 646, § 4; Repealed Stats. 1989 ch 818 § 5.

§ 12716. RECORDKEEPING: INSPECTION

All weighmasters shall keep and preserve, as records, for a period of four years, all copies of voided certificates, records, and worksheets required by this chapter and true copies of all weighmaster certificates issued. These records shall, at all times, be open for inspection by the secretary.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1986 ch 405 § 3; Amended Stats. 2017 ch 573 § 63.

(Rev. 1/18)

§ 12716.5. CORRECTION OF ERRORS

A certificate on which a weight, measure, or count error is discovered after issuance shall be corrected by issuing a correction certificate to all parties who were issued the original certificate.

The word “INCORRECT” shall be written across the face of the original certificate. The original certificate number and reason for the correction shall be recorded on the correction certificate.

Added Stats. 1984 ch 646, § 4.

§ 12717. APPROVAL, TESTING, AND SEALING OF WEIGHING OR MEASURING DEVICE

Any weighing, measuring, or counting instrument or device, as defined in Section 12500, which is used by a weighmaster and for which specifications and tolerances have been adopted by the secretary, shall be approved, tested, and sealed in accordance with this division.

Added Stats. 1984 ch 646, § 4; Amended Stats. 2017 ch 573 § 64.

§ 12718. ACTS CONSTITUTING MISDEMEANORS

Any person who does any of the following acts is guilty of a misdemeanor:

(a) Requests any person to weigh, measure, or count any commodity falsely or incorrectly.

(b) Requests a false or incorrect weighmaster certificate.

(c) Furnishes or gives false information to a weighmaster for use in the completion of a weighmaster certificate.

(d) Knowingly presents for payment a false weighmaster certificate.

(e) Knowingly issues a weighmaster certificate giving thereon a false weight, measure, or count.

(f) Alters a weighmaster certificate resulting in giving thereon a false weight, measure, or count.

(g) Possesses unfilled or unused weighmaster certificate forms, if he or she is not a weighmaster.

(h) Issues a weighmaster certificate that contains alterations or omissions of gross or tare weights, net only weights, or measurements.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1989 ch 818 § 6; Amended Stats. 1992 ch 297 § 4.

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§ 12718.5. LAWFUL POSSESSION OF UNFILLED OR UNUSED WEIGHMASTER CERTIFICATE FORMS BY PERSONS OTHER THAN WEIGHMASTERS

Subdivision (g) of Section 12718 does not apply to any of the following:

(a) Persons engaged in the business of printing, distributing, or selling weighmaster certificate forms.

(b) Persons possessing or transporting combination grade and weight certificates to be used by employees of marketing order boards or grading inspection services of either the department or the United States Department of Agriculture.

Added Stats. 1984 ch 646, § 4.

§ 12719. CHANGE OF NET CONTENTS AFTER RECORDATION OF WEIGHT

When the weight or measure of a vehicle, container, or pallet and its net contents has been recorded on a weighmaster certificate, it is unlawful for any person to remove a part of, or add to, the net contents, before the contents are delivered to the buyer or consignee, unless a correct weighmaster certificate is obtained.

Added Stats. 1984 ch 646, § 4.

§ 12720. ALTERATION OF TARE WEIGHT OF VEHICLE PRIOR TO DETERMINING NET WEIGHT OF COMMODITY

When the tare weight of a vehicle or the weight of the vehicle and its contents have been recorded on a weighmaster certificate, it is unlawful for any person to alter the tare weight of the vehicle prior to the time that the net weight of the commodity has been determined and recorded on the certificate.

Added Stats. 1984 ch 646, § 4.

§ 12721. TIME FOR WEIGHING, MEASURING, OR COUNTING VEHICLE, CONTAINER, OR PALLET

Except as otherwise provided in this chapter, the vehicle, container, pallet, or commodity for which the weight, measure, or count is being certified shall actually be weighed, measured, or counted at the time of, and for the purpose of, each certification.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1986 ch 405 § 4.

§ 12722. USE OF PREDETERMINED TARE WEIGHT: EXEMPTION FOR SPECIFIED ROCK PRODUCTS

(a) In accordance with this chapter and regulations adopted by the secretary, any weighmaster may use a tare weight for a vehicle, container, or pallet that has been previously determined by a weighmaster. It is the responsibility of the party for whom the

tare weight was established to maintain the tare weight within the variations prescribed by the secretary.

(b) Any weighmaster weighing any vehicle moving earth, stone, rock, sand, gravel, or asphalt paving material may use a predetermined tare weight. The issuance of predetermined tare weights are exempt from the provisions of Division 9 (commencing with Section 4000) of Title 4 of the California Code of Regulations. It is the responsibility of the party for whom the tare weight was established to maintain the actual weight so that the actual tare weight of the vehicle shall at no time exceed the recorded tare weight.

Amended Stats. 1986 ch 405 § 5; Amended Stats. 2012 ch 661 § 45; Amended Stats. 2017 ch 573 § 65.

§ 12723. REGULATIONS FOR ESTABLISHMENT OF TARES

The secretary shall adopt regulations for the establishment of vehicle, container, and pallet tares, including, but not limited to, the adoption of conditions of use, certificate requirements, sample size, allowable variations, and procedure to be used to verify common tares.

Amended Stats. 1986 ch 405 § 6; Amended Stats. 2012 ch 661 § 46.

§ 12724. DETERMINATION OF GROSS AND TARE WEIGHTS: REQUIREMENT THAT ALL PERSONS BE OFF SCALE AND VEHICLE: EXCEPTIONS

(a) Except as provided in this section, a weighmaster weighing a vehicle for certification shall determine both gross and tare weights with all persons off the scale and vehicle, unless both the gross and tare weights are determined without leaving the weighing location.

(b) Predetermined tares for vehicles moving earth, stone, rock, sand, gravel, and asphalt paving material may be determined with the driver in the vehicle, if the gross weight is determined in the same manner and the weighmaster indicates on the weighmaster certificate that the driver was on the vehicle for both gross and tare weight.

Added Stats. 1984 ch 646 § 4.

§ 12725. CONDITIONS UNDER WHICH GROSS WEIGHT NOT TO BE CERTIFIED

A weighmaster shall not certify to the gross weight of a vehicle whenever all of the following conditions prevail:

(a) The scale is located on the site where the vehicle is loaded.

(b) The vehicle is weighed before entering a highway.

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(c) The vehicle's gross weight exceeds 80,000 pounds, unless a special permit authorizing a greater gross weight for the vehicle has been issued pursuant to Section 35780 of the Vehicle Code.

Added Stats. 1984 ch 646 § 4.

§ 12726. REWEIGHING UPON COMPLAINT

(a) If doubt or differences arise as to the accuracy of the weight, measure, or count of any amount or part of any commodity, unladen vehicle, or container for which a weighmaster certificate has been issued, a person having a financial interest may, upon complaint to the department, have the amount, or part thereof, verified by the department or a weighmaster designated by it, upon depositing a sufficient sum of money with the department to defray the actual cost of the verification.

(b) If, when verified, a difference from the original certified weight, measure, or count is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of the verification shall be borne by the weighmaster responsible for the issuance of the erroneous certificate.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1992 ch 297 § 5.

§ 12727. WEIGHT VERIFICATION

The secretary may, at any time, require a vehicle to proceed to the nearest vehicle scale for the purpose of weight verification.

Added Stats. 1984 ch 646, § 4; Amended Stats. 2012 ch 661 § 47.

§ 12728. REQUIREMENT THAT ENTIRE VEHICLE REST ON SCALE: EXEMPTION FOR SEED COTTON

(a) No weighmaster shall weigh a vehicle, or combination of vehicles, for certification, when part of the vehicle, or connected combination, is not resting on the scale.

(b) When weighing a combination of vehicles that will not rest on the scale platform at one time, the combination shall be disconnected and weighed separately. The weights so taken may be combined for the purpose of issuing a single certificate.

(c) This section does not prohibit weighing of vehicles to determine compliance with the Vehicle Code.

(d) This section does not apply to any of the following:

(1) The weighing of seed cotton for purposes of ginning when the weights are obtained by weighing trailers not equipped with braking systems and are not used for the sale of the seed cotton.

(2) Multiple draft or in-motion weighing operations that comply with the regulations adopted pursuant to Section 12107.

(3) A combination of multiple railcars that contain grain or grain products if the consignor and the consignee to the transaction agree in writing to a multiple draft weighing operation.

Added Stats. 1984 ch 646, §4; Amended Stats. 1992 ch 522 § 1; Amended Stats. 1997 ch 233 § 1.

§ 12729. MISDEMEANORS: INFRACTIONS: FINES

(a) Except as otherwise provided in this section, any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) Violations of Sections 12714, 12714.5, and 12715 are infractions, except as otherwise provided in Section 12718. Every person convicted of an infraction pursuant to this subdivision shall be punished as follows:

(1) For the first conviction, a fine not exceeding one hundred dollars ($100).

(2) For a second conviction within a period of one year, a fine not exceeding two hundred dollars ($200).

(3) For a third or subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500).

(c) A violation of Section 12722 by a vehicle hauling bulk tomatoes is an infraction. Every person convicted of an infraction pursuant to this subdivision shall be punished as follows:

(1) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by less than 50 percent, a fine not exceeding two hundred dollars ($200).

(2) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by 50 to 100 percent, inclusive, a fine not exceeding four hundred dollars ($400).

(3) For a vehicle that exceeds the tolerance provided by regulations adopted pursuant to Section 12723 by more than 100 percent, a fine not exceeding eight hundred dollars ($800).

Added Stats. 1984 ch 646, § 4; Amended Stats. 1989 ch 818 § 7; Amended Stats. 1990 ch 529 § 1; Amended Stats. 1993 ch 87 § 1.

§ 12729.5. STATISTICAL COMPARISON OF WEIGHT VIOLATIONS BY VEHICLES HAULING BULK TOMATOES

Added Stats. 1990 ch 529 § 3; Repealed Stats. 1993 ch 87 § 3.

§ 12730. FARM PRODUCTS

(a) Except as provided in subdivision (a) or (b) of Section 12701 or this section, farm products sold by bulk weight or delivered to a processing or conditioning establishment for processing, conditioning, or sale, shall be weighed by a weighmaster, and a

weighmaster certificate of the weight shall be issued to the producer with a duplicate copy issued to the buyer, conditioner, or processor.

(b) When the processing or conditioning charges or purchase is based on the bulk weight of the finished product, the finished product shall also be weighed by a weighmaster, and a second weighmaster certificate shall be issued to the producer with a duplicate copy issued to the buyer, conditioner, or processor.

(c) A producer whose product is delivered, but is not sold, to a processor or conditioner for processing or conditioning, may waive, in writing, his or her right to have the product weighed when the processing or conditioning establishment is operated by a producer of farm products and the processing or conditioning is incidental to the production of farm products. As used in this subdivision, “incidental” means that the income derived from the processing or conditioning operation represents not more than 25 percent of the total income of the producer operating the processing or conditioning establishment.

(d) This section does not apply to any nonprofit cooperative association that is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities that involves the handling or dealing in any farm product of any nonmember of the nonprofit cooperative association.

(e) Subdivision (a), as it applies to tree nuts delivered for processing or conditioning, does not apply to tree nut hullers and shellers, if there is a written contract which waives the producer’s right to have the unprocessed or unconditioned product weighed. Notwithstanding the waiver, the finished product shall be weighed by a weighmaster and a weighmaster certificate shall be issued to the grower, with a duplicate copy issued to the buyer, conditioner, or processor.

(f) The term “farm products” includes all agricultural, horticultural, viticultural, and vegetable products of the soil, flaxseed, and cottonseed, but does not include timber, timber products, milk, and milk products.

Added Stats. 1984 ch 646, § 4; Amended Stats. 1985 ch 162 § 2; Amended Stats. 1994 ch 273 § 1.

§ 12731. LIVESTOCK

(a) Notwithstanding any other provisions of this code, where livestock is sold on the basis of weight at a public sales yard, or by or at any livestock market, market agency, or dealer which is subject to the Packers and Stockyards Act of 1921 (7 U.S.C. Sec. 181 et seq.),

the livestock shall be weighed by a weighmaster, and a weighmaster certificate shall be issued to the buyer and seller.

(b) The term “livestock” includes cattle, sheep, swine, horses, mules, and goats.

Added Stats. 1984 ch 646 § 4.

§ 12732. ADJUSTMENTS TO LOAD: COMMODITY WEIGHTS DETERMINED AT OTHER THAN SITE WHERE VEHICLE WAS LOADED

In addition to the certificate requirements of Sections 12714, 12714.5, and 12715, all of the following information shall appear on weighmaster certificates issued when adjustments are made to the load and the weights are determined at other than the site where the vehicle was loaded.

(a) The gross weight of the commodity and the vehicle at the time of the initial weighing.

(b) The gross weight of the commodity and the vehicle after the adjustment.

(c) The name and address of the seller and of either the purchaser or broker of the commodity as provided by the driver of the vehicle.

Added Stats. 1984 ch 646 § 4; Amended Stats. 1986 ch 405 § 7.

§ 12733. SCRAP METAL AND SALVAGE MATERIALS

In all cases where scrap metal and salvage materials are purchased or sold by dealers, brokers, or commission merchants on the basis of weight or measure, the quantity of the scrap metal and salvage material shall be determined by a weighmaster, and a weighmaster certificate shall be issued to the seller and buyer. Settlement for the materials shall be made on the quantity shown thereon. If the quantity indications are readily accessible and clearly readable to both the buyer and seller, at the time of determination, a weighmaster certificate is required to be issued only when requested by the buyer or seller.

Added Stats. 1984 ch 646 § 4; Amended Stats. 1989 ch 818 § 8.

§ 12734. SQUID OR ANCHOVY

Notwithstanding any other provision of this division, the weight of squid, Pacific whiting, or anchovy, certified pursuant to this chapter, may be determined by computation based upon volumetric measurement of containers as prescribed by regulations adopted by the secretary. This section does not apply to squid, Pacific whiting, or anchovy delivered for the purpose of retorting or reducing.

Added Stats. 1984 ch 646 § 4; Amended Stats. 1985 ch 162 § 3; Amended Stats. 2017 ch 573 § 66.

§ 12735. RULES AND REGULATIONS

The secretary may adopt any rules and regulations that are reasonably necessary for the purpose of carrying out this chapter. Adoption of these rules and regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Added Stats. 1984 ch 646 § 4; Amended Stats. 2012 ch 661 § 48.

§ 12736. RULES AND REGULATIONS FOR "SCANNERS"

Added Stats. 1988 ch 922 § 4. Amended and Renumbered to §13303 Stats. 2012 ch 661 § 48.

§ 12737. UNATTENDED WEIGHING SYSTEMS USED FOR CONSTRUCTION MATERIALS (Effective January 1, 2013 to December 31, 2019)

(a) Any weighmaster weighing any vehicle moving construction materials, including, but not limited to, earth, stone, rock, sand, gravel, limestone, ready mixed concrete, cementitious materials, recycled construction materials, or asphalt paving materials may use an unattended weighing system to weigh the vehicle and to issue a weighmaster certificate to buyers who opt to utilize the unattended system, provided that the system and the operation of the system comply with regulations or policies issued by the secretary. The name of the principal weighmaster and the unique system identification number of the unattended weighing system utilized shall be imprinted on the weighmaster certificate and this shall satisfy the requirements of subdivision (c) of Section 12715. Nothing in this section impacts existing weighing and ticketing systems.

(b) (1) A weighmaster described in subdivision (a) shall pay the department the following license fee for each license year as applicable to the operation, and the fees set forth in Section 12704 shall not apply:

(A) Two hundred dollars ($200) if the weighmaster is operating at a fixed location.

(B) Seventy-five dollars ($75) for each additional fixed location at which the weighmaster is operating.

(C) Three hundred dollars ($300) if the weighmaster is operating at other than a fixed location.

(D) Fifty dollars ($50) for each deputy weighmaster.

(2) Any fee imposed pursuant to this section shall not exceed the reasonable regulatory costs to the department of enforcing this section.

(c) For purposes of this section:

(1) "License year" means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date

designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(2) “Location” means a premise on which weighing, measuring, or counting devices are used.

(3) “Principal weighmaster” means the person or entity identified on the weighmaster certificate, as described in subdivision (b) of Section 12714, which may employ or designate any person to act for the weighmaster as a deputy weighmaster pursuant to Section 12710.

(4) “Unattended weighing system” means an automated system not directly under the supervision of a weighmaster that meets the approval, testing, and sealing requirements of Section 12717.

(d) A weighmaster described in subdivision (a) shall keep the same number of deputy weighmaster licensees as were licensed in the average of the last two years preceding the use of an unattended weighing system.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Amended Stats. 2017 ch 573 § 67.

§ 12737. UNATTENDED WEIGHING SYSTEMS USED FOR CONSTRUCTION MATERIALS (Effective January 1, 2020)

(a) Any weighmaster weighing any vehicle moving construction materials, including, but not limited to, earth, stone, rock, sand, gravel, limestone, ready mixed concrete, cementitious materials, recycled construction materials, or asphalt paving materials may use an unattended weighing system to weigh the vehicle and to issue a weighmaster certificate to buyers who opt to utilize the unattended system, provided that the system and the operation of the system comply with regulations or policies issued by the secretary. The name of the principal weighmaster and the unique system identification number of the unattended weighing system utilized shall be imprinted on the weighmaster certificate and this shall satisfy the requirements of subdivision (c) of Section 12715. Nothing in this section impacts existing weighing and ticketing systems.

(b) (1) A weighmaster shall pay the department the following license fee for each license year as applicable to the operation:

(A) Seventy-five dollars ($75) if the weighmaster is operating at a fixed location.

(B) Thirty dollars ($30) for each additional fixed location at which the weighmaster is operating.

(C) Two hundred dollars ($200) if the weighmaster is operating at other than a fixed location.

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(D) Twenty dollars ($20) for each deputy weighmaster.

(2) Any fee imposed pursuant to this section shall not exceed the reasonable regulatory costs to the department of enforcing this section.

(c) For purposes of this section:

(1) “License year” means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(2) “Location” means a premise on which weighing, measuring, or counting devices are used.

(3) “Principal weighmaster” means the person or entity identified on the weighmaster certificate, as described in subdivision (b) of Section 12714 that may employ or designate any person to act for the weighmaster as a deputy weighmaster pursuant to Section 12710.

(4) “Unattended weighing system” means an automated system not directly under the supervision of a weighmaster that meets the approval, testing, and sealing requirements of Section 12717.

(d) This section shall become operative on January 1, 2020.

Added Stats. 1988 ch 922 § 4. Amended Stats. 2012 ch 344 § 1 and § 2; Amended Stats. 2017 ch 573 § 67.

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CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE
DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 9. Special Provisions Relating to Farm Products §§ 12925-12930

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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[Added by Stats. 1939 ch 43 § 1.]

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ARTICLE 1. - PRODUCTS IN BURLAP BAGS §§ 12900. – 12903. [REPEALED]

§ 12900. PAYMENT 0F SALVAGE VALUE 0F BAGS CONTAINING FRUIT, PEAS OR WOOL

Added Stats. 1939 ch 43 § 1; Repealed Stats. 1980 ch 636 § 2.

§ 12901. DEDUCTION OF TARE ON PURCHASE OF GRAIN: PRICE FOR GRAIN AND CONTAINER: GRAIN DEFINED

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 196 § 1; Repealed Stats. 1980 ch 636 § 2.

§ 12902. OTHER PROVISIONS SUPERSEDED

Added Stats. 1939 ch 43 § 1; Repealed Stats. 1980 ch 636 § 2.

§ 12903. VIOLATION A MISDEMEANOR

Added Stats. 1939 ch 43 § 1; Repealed Stats. 1980 ch 636 § 2.

ARTICLE 2 – TARE ON BALED HOPS § 12910. [REPEALED]

§ 12910. ALLOWABLE RATE FOR TARE

Added by Stats. 1939 ch 43 § 1; Repealed Stats. 1979 ch 527 § 10.

ARTICLE 3 –BALING HAY §§ 12915. – 12921. [REPEALED]

§ 12915. DEFINITIONS

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

§ 12916. EMPLOYMENT OF TESTED AND SEALED SCALES

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

§ 12917. RECORD OF TRUE NET WEIGHT

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

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§ 12918. PUTTING OR CONCEALING MATERIAL IN BALE TO INCREASE WEIGHT

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

§ 12919. SALE OF HAY BY WEIGHT

Added Stats. 1943 ch 131 § 1; Amended Stats. 1969 ch 164 § 1; Repealed Stats. 1979 ch 527 § 11.

§ 12920. BALES BR0KEN IN SHIPMENT: INCLUSION OF APPROXIMATE WEIGHT

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

§ 12921. VIOLATI0N A MISDEMEANOR: PUNISHMENT

Added Stats. 1943 ch 131 § 1; Repealed Stats. 1979 ch 527 § 11.

ARTICLE 4 – WOOL PRODUCTS § 12925.

[Added by Stats. 1943 ch 130 § 1.]

§ 12925. DEDUCTION FOR TAGS, FRIBS, CRUTCHINGS OR OTHER OFF-WOOLS

No person purchasing wool from a producer shall make a specific deduction for tags, fribs, crutchings or other off-wools, either on a basis of the percentage of the weight or percentage of the value of the wool. Any provision in a contract to purchase wool from a producer, providing for such a deduction is invalid.

Violation of this section is a misdemeanor.

Added Stats. 1943 ch 130 § 1.

ARTICLE 5 – COTTON § 12930.

[Added by Stats. 1953 ch 1718 § 2.]

§ 12930. “COTTON”: PERMITTED SALE BY GROSS WEIGHT: TARE WEIGHT FOR BALED COTTON

As used in this article “cotton” includes raw cotton, cotton linters, and cotton batting. Notwithstanding any other provision of this code or any other law, cotton may be sold by gross weight so that the purchaser pays a like price for the cotton and the burlap, paper,

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or other material with which it is wrapped and the string, wire, or other material with which the wrapping is secured. When sold by gross weight, cotton shall be wrapped and the wrapping secured in accordance with the usual customs of the trade or in accordance with the agreement of purchaser and seller.

A weighmaster may use a tare weight for baled cotton specified by regulations of the United States Department of Agriculture for determining the net weight of cotton.

The tare shall not exceed five percent (5%) of such gross weight.

The provisions of this section shall not be construed to apply to the sale of cotton or cotton goods in any form packaged for distribution or sale at retail to the general public.

Added Stats. 1953 ch 1718 § 2; Amended Stats. 1979 ch 370 § 4.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 13. Automatic Checkout Systems §§13300-13357

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 13 – Automatic Checkout Systems

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ARTICLE 1 – Point-of-Sale Displays

§ 13300. CUSTOMER DISPLAY AND INDICATOR REQUIREMENTS

(a) The operator of a business establishment that uses a point-of-sale system to sell goods or services to consumers shall ensure that the price of each good or service to be paid by the consumer is conspicuously displayed to the consumer at the time that the price is interpreted by the system. In any instance in which the business advertises a price reduction or discount regarding an item offered for sale, the checkout system customer indicator shall display either the discounted price for that item, or alternatively, the regular price and a credit or reduction of the advertised savings. Any surcharges and the total value to be charged for the overall transaction also shall be displayed for the consumer at least once before the consumer is required to pay for the goods or services. The checkout system customer indicator shall be so positioned, and the prices and amounts displayed shall be of a size and form, as to be easily viewable from a typical and reasonable customer position at each checkout location.

(b) For the purposes of this section, "point-of-sale system" means any computer or electronic system used by a retail establishment such as, but not limited to, Universal Product Code scanners, price lookup codes, or an electronic price lookup system as a means for determining the price of the item being purchased by a consumer.

(c) All point-of-sale systems used by a business establishment on and after January 1, 2007, shall comply with the requirement of subdivision (a).

Added Stats. 1977 ch 763; Expired by own terms January 1, 1980. Added Stats. 2002 ch 818. Amended Stats. 2006 ch 566 § 1.

§ 13301. WHO TO ENFORCE

Notwithstanding any other provision of this division, the Attorney General, the district attorney, or city attorney may enforce the provisions of this chapter in accordance with the provisions of Division 5 (commencing with Section 12001) or any other applicable provisions of law.

Added Stats. 1977 ch 763; Expired by own terms January 1, 1980. Added Stats. 2002 ch 818.

§ 13302. CIVIL PENALTY FOR VIOLATION OF THIS CHAPTER

Repealed

Added Stats. 2002 ch 818. Amended Stats. 2012 ch 661 § 50.

§ 13303. "SCANNERS"

The secretary may adopt necessary rules and regulations regarding the accuracy of automated systems for retail commodity price charging referred to as "scanners."

Amended and Renumbered from 12736 Stats. 2012 ch 661 § 49.

§ 13304. Expired

Added Stats. 1977 ch 763; Expired by own terms January 1, 1980.

ARTICLE 2 - POINT-OF-SALE SYSTEM ACCURACY VERIFICATION

§ 13350. INITIAL STANDARD INSPECTION PROCEDURE: INSPECTION FEES

(a) The board of supervisors of any county or city and county that has adopted or that adopts an ordinance for the purposes of determining the pricing accuracy of a retail establishment using a point-of-sale (POS) system, shall base the initial standard inspection of the POS system on the following criteria:

(1) The initial standard inspection shall be performed by collecting a random sample of items that shall include a maximum of 50 percent sale items from either:

(i) One department of a retail store.

(ii) Multiple areas of a retail store.

(iii) The entire store.

(2) The initial standard inspection shall be performed by testing a minimum random sample of 10 items for a retail establishment with three or fewer POS checkout registers.

(3) The initial standard inspection shall be performed by testing a minimum random sample of 25 items for a retail establishment with 4 to 9 POS checkout registers.

(4) The initial standard inspection shall be performed by testing a minimum random sample of 50 items for retail establishments with 10 or more POS checkout registers.

(5) The sealer shall verify that the lowest advertised, posted, marked, displayed, or quoted price is the same as the price displayed or computed by the point-of-sale equipment or printed receipt. Only items computed at a higher price than the lowest advertised, posted, marked, displayed, or quoted price shall be considered not in compliance.

(6) The minimum random sample size shall not apply to inspections of any establishment at which fewer items than the number specified as the minimum sample size are marked or displayed with a posted or advertised item price.

(7) The maximum percentage of sale item restriction in paragraph (1) shall not apply to inspections of any establishment at which a marketing or promotional practice does not enable the sampling of the minimum required percentage of nonsale items, such as "Everything In Store 50 percent Off" or the like.

(8) The compliance rate percentage of a retail establishment shall be determined by dividing the number of items in compliance by the sample size multiplied by 100.

(b) Enforcement action may be taken for any item not in compliance.

(c) The sealer may reinspect any retail facility that has a compliance rate of less than 98 percent.

(d) The board of supervisors, by ordinance, may charge a point-of-sale system inspection fee or an annual registration fee, not to exceed the county's total cost of inspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

(e) The board of supervisors, by ordinance, may charge a reinspection fee for reinspections of a retail establishment that fails the prior inspection, not to exceed the county's total cost of reinspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

Added Stats. 2005 ch 529 § 6; Amended Stats. 2008 ch 434.

§ 13351. “RANDOM SAMPLE”

For purposes of this chapter, "random sample" of items means that the selection process shall be modeled after the National Institute of Standards and Technology Handbook 130, 2005 Edition (HB 130) - Examination Procedures for Price Verification, randomized sample collection; stratified sample collection.

Added Stats. 2005 ch 529 § 6.

§ 13352. “POINT-OF-SALE SYSTEM”

For purposes of this chapter, "point-of-sale" system means any computer or electronic system used by a retail establishment such as, but not limited to, Universal Product Code scanners, price lookup codes, or an electronic price lookup system as a means for determining the price of the item being purchased by a consumer.

Added Stats. 2005 ch 529 § 6; Amended Stats. 2006 ch 566 § 5.

§ 13353. “SALE ITEMS”

For the purposes of this chapter, "sale items" include any item that is represented or advertised to be lower in price from that which the item is normally offered for sale. A "sale item" includes but is not limited to, an item that is represented as "promotional," "limited time offer," a "manager special," "discount taken at register," or displayed with any other advertisements that offers or suggests a reduced price.

Added Stats. 2005 ch 529 § 6.

§ 13354. “AREA”

For purposes of this chapter, "area" means an "entire store," a "department," "grouping of shelves or displays." or other "section" of a store as defined by the sealer from which samples are selected for verification. "Nonpublic" areas of a store, such as the area in a pharmacy in which controlled drugs are kept or product storage rooms, shall not be included.

Added Stats. 2005 ch 529 § 6.

§ 13355. “INITIAL STANDARD INSPECTION”

For the purposes of this chapter, "initial standard inspection" means an inspection made at the customary time interval used by an enforcement agency.

Added Stats. 2005 ch 529 § 6.

§ 13356. “SPECIAL INSPECTIONS”

All other inspections of the point-of-sale system are considered "special inspections," including, but not limited to, inspections pertaining to investigations, consumer complaints, complaints from competing businesses or a reinspection of a retail establishment at which one or more price accuracy violations have occurred within the previous six months.

Added Stats. 2005 ch 529 § 6; Amended Stats. 2008 ch 434.

§ 13357. REPEAL DATE

Added Stats. 2005 ch 529 § 6; Amended Stats. 2008 ch 434; Repealed Stats. 2013 ch 166.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

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In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 14. Fuels and Lubricants
§§ 13400 – 13630

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

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CHAPTER 14. Fuels and Lubricants [13400 - 13620]

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BUSINESS AND PROFESSIONS CODE

DIVISION 5 - Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 14. - Fuels and Lubricants

(Added by Stats. 1980 ch 636 § 5.)
Formerly Chapter 7 of Division 8
(Repealed Stats. 1980 ch 636.)
(Added by Stats. 1963 ch 2005 § 2.)
(Amended Stats. 2005 ch 91 § 1.)

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CHAPTER 14 - Fuels and Lubricants

(Added by Stats. 1980 ch 636 § 5.)
Formerly Chapter 7 of Division 8
(Repealed Stats. 1980 ch 636.)
(Added by Stats. 1963 ch 2005 § 2.)
(Amended Stats. 2005 ch 91 § 1.)

ARTICLE 1. – GENERAL PROVISIONS §§ 13400. – 13405.

§ 13400. DEFINITIONS OF TERMS

For purposes of this chapter, the following terms mean the following:

(a) "Advertising medium" includes banner, sign, placard, poster, streamer, and card.

(b) "Alternative fuels" means:

(1) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meets the requirements of the ASTM International Standard Specification D6751 "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels."

(2) "Biodiesel blend," a fuel comprised of biodiesel mixed with diesel fuel that meets the requirements of ASTM International Standard Specification D7467.

(3) "Dimethyl ether," an organic compound meant for combustion in compression-ignition engines that meets the requirements of dimethyl ether prescribed in this chapter.

(4) "Electricity," electrical energy transferred to or stored onboard an electric vehicle primarily for the purpose of propulsion.

(5) "Ethanol," denatured motor fuel ethanol meeting the requirements of ASTM International Standard Specification D4806.

(6) "Ethanol fuel blend," a motor vehicle fuel consisting primarily of ethanol mixed with gasoline meeting the standards prescribed for ethanol fuel blends by this chapter.

(7) "Hydrogen," a fuel consisting of high purity hydrogen intended for consumption in a motor vehicle with an internal combustion engine or fuel cell that meets the standards for hydrogen prescribed by this chapter.

(8) "Methanol fuel blend," a motor vehicle fuel consisting primarily of methanol mixed with gasoline meeting the standards prescribed by this chapter.

(9) "Natural gas," a gaseous mixture of hydrocarbon compounds consisting of primarily methane in the form of a compressed gas or a cryogenic liquid intended for use as a motor vehicle fuel.

(10) "Propane," a liquefied petroleum gas intended for use as a motor vehicle fuel and meeting the standards prescribed by this chapter.

(11) Any other fuel intended for use as a motor vehicle fuel that the secretary

determines is an alternative fuel that has a standard specification from a standards development organization accredited by the American National Standards Institute (ANSI), or an interim standard specification pursuant to Section 13446.

(c) "Automotive spark-ignition engine fuel" means a product used for the generation of power in a spark-ignition internal combustion engine.

(d) "Compression-ignition engine fuel" means a product used for the generation of power in a compression-ignition internal combustion engine.

(e) "Developmental engine fuel" means an engine fuel that does not meet standards established by this chapter but has characteristics that may lead to an improved fuel standard or the development of an alternative fuel standard.

(f) "Diesel fuel" means any hydrocarbon oil meant for combustion in compression-ignition engines offered for sale that meets the standards for diesel fuel prescribed by this chapter.

(g) "Engine fuel" means any gasoline, diesel, or alternative fuel used for the generation of power in an internal combustion engine or fuel cell in a motor vehicle, or electrical power delivered conductively or inductively to an electric motor in electric or plug-in hybrid vehicles. "Motor vehicle fuel" means "engine fuel" when that term is used in this chapter.

(h) "Fuel oil" means any product offered for sale that is burned in a furnace or boiler for the generation of heat and meets the standards prescribed for fuel oil by this chapter.

(i) "Gasoline" means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.

(j) "Gasoline-oxygenate blend" means a fuel consisting primarily of gasoline along with a substantial amount of one or more oxygenates that meets ASTM International Standard D4814.

(k) "Kerosene" means a fuel offered for sale that meets the standards for kerosene prescribed in this chapter.

(l) "Lubricant" means a lubricating oil or other substance that reduces friction and wear between moving parts within an engine and other motor vehicle components.

(m) "Lubricating oil" means motor oil, engine lubricant, engine oil, lubricating axle oil, gear oil, or manual transmission fluid.

(n) "Manufacturer" means manufacturer, refiner, producer, or importer.

(o) "Motor oil" means an oil that reduces friction and wear between the moving parts within an internal combustion engine and also serves as a coolant. For purposes of this chapter, motor oil also means engine oil.

(p) "Motor vehicle fuel" means an engine fuel intended for consumption in, including, but not limited to, an internal combustion engine, fuel cell, or electric motor to produce power to self-propel a vehicle designed for transporting persons or property on a public street or highway.

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(q) "Octane number" or "antiknock index number," when used in this chapter, means that number assigned to a spark-ignition engine fuel that designates the antiknock quality. The "octane number" or "antiknock index number" shall be determined according to the ASTM International method or methods designated in the latest ASTM International Standard Specification D4814.

(r) "Oxygenate" means an oxygen-containing ashless organic compound, such as an alcohol or ether, that can be used as a fuel or fuel supplement.

(s) "Renewable diesel fuel" means a diesel fuel derived from nonpetroleum renewable resources. Renewable diesel fuel does not include biodiesel, as defined in paragraph (1) of subdivision (b).

(t) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

(u) "Standard test" means a test conducted in accordance with the latest published standard adopted by ASTM International.

Added Stats. 2016 ch 591 § 3.

§§ 13401. – 13404. [REPEALED].

Repealed Stats. 2015 ch 591

§ 13404. "SALE OF NATURAL GAS AS A MOTOR VEHICLE FUEL"

(a) The sale of compressed natural gas by persons who sell compressed natural gas at retail to the public for use only as a motor vehicle fuel, and who are exempted from public utility status by subdivision (f) of Section 216 of the Public Utilities Code, is a sale of a motor fuel for the purposes of this chapter.

(b) Compressed natural gas sold at retail to the public for use as a motor vehicle fuel shall be sold in a gasoline gallon equivalent that shall be equal to 126.67 cubic feet, or 5.66 pounds, of compressed natural gas, measured at the standard pressure and temperature, described in Section 8615 of the Revenue and Taxation Code.

(c) Liquefied natural gas sold at retail to the public for use as a motor vehicle fuel shall be sold in a diesel gallon equivalent that shall be equal to 6.06 pounds of liquefied natural gas.

Added Stats. 1991 ch 514 § 1; Amended Stats. 2014 ch 805 § 1.

§ 13404.5. ESTABLISHMENT OF THE METHOD-OF-SALE OF MOTOR VEHICLE FUELS AND LUBRICANTS

The secretary shall establish the method of sale of motor vehicle fuels and lubricants sold at retail to the public. In doing so, the secretary shall adopt, by reference, the latest method of sale for motor vehicle fuels and lubricants adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and

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Technology Handbook 130 “Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality,” except as specifically provided by the Legislature or modified, amended, or rejected by regulations adopted by the secretary. In the absence of national standards, the secretary may adopt interim standards of method of sale until the time when the standards are adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology.
Added Stats. 2015 ch 591 § 7.

§ 13405. DEVELOPMENTAL ENGINE FUELS

(a) The department may grant a variance from the specifications of this chapter for developmental engine fuels if all of the following conditions apply:

(1) Variances may only be granted to provide for the development of information under controlled test conditions to assist in the creation of chemical and performance standards for engine fuels.

(2) Developmental engine fuel shall only be distributed or sold to fleet-type centrally fueled vehicle and equipment users.

(3) The applicant shall warn all parties in writing of any potential risk associated with the use of the developmental engine fuel.

(4) The applicant shall report information when and as the department may prescribe in order for the department to monitor the progress of the developmental engine fuel technology evaluation.

(b) The applicant for a variance shall comply with all other requirements, terms, and conditions contained in this division and regulations adopted by the department to further the purposes and administration of this section.

(c) (1) In granting a variance, the department expresses no opinion as to whether an applicant’s developmental engine fuel will perform as represented by the applicant nor any opinion to the extent, if at all, that the developmental engine fuel may be safely and effectively used as a substitute for other spark-ignition or compression-ignition engine fuels without incident.

(2) Damages caused by the sale, delivery, storage, handling, and usage of the developmental engine fuel shall be addressed in accordance with contractual provisions negotiated and agreed upon by the applicant and the user.

(d) The department may withdraw a variance if the applicant does not adhere to the conditions required to obtain the variance or if the department recognizes a high probability of equipment harm with the continued use of the developmental engine fuel or to protect public safety.

Added Stats. 2001 ch 596 § 2; Amended Stats. 2015 ch 591 § 8.

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ARTICLE 2. - SALE OF MOTOR VEHICLE FUELS AND LUBRICANTS. §§ 13410. - 13413.

[Added by Stats. 1974 ch 1475 § 1.]
Renumbered Stats. 1980 ch 636

§ 13410. PURCHASES BY GOVERNMENTAL ENTITIES

(a) No person engaged in the business of extracting oil or gas from lands within the state, or of producing motor vehicle fuels for sale within the state, may refuse to sell to any city or county sufficient quantities of his or her motor vehicle fuels or lubricants, or both, sold during the normal course of business for the essential services provided by the city or county.

(b) The board of supervisors of a county or its designated county agency, upon application for the purchase motor vehicle fuels or lubricants, or both, to perform essential services by a city within that county, by any agency of such city or county that performs an essential service, or by any transit district created pursuant to law, may arrange for the purchase and shall apportion the purchase among all persons specified in subdivision (a) who engage in the sale of motor vehicle fuels or lubricants, or both, within that county. The board of supervisors or its designated county agency shall, to the extent possible, apportion the total purchase of the motor vehicle fuels or lubricants, or both, on the basis of the persons' sales of that motor vehicle fuels or lubricants, or both, in the county during the most recent 90-day period for which information is available.

(c) For purposes of this section, "essential services" means police, fire, health, and transportation services provided by public agencies.

Added Stats. 1974 ch 1475 § 1; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. ch 2015 ch 591 § 10.

§ 13411. SALE OF MOTOR VEHICLE FUELS AND LUBRICANTS CONTINGENT UPON ADDITIONAL PURCHASE

It is unlawful for any person to sell or offer to sell motor vehicle fuel for use in any vehicle, as the term vehicle is defined by the Vehicle Code, on the condition that the purchaser also must purchase or pay for any other products, merchandise, or services. This section does not apply to parking time charges at locations also selling electricity as a motor vehicle fuel.

Added Stats. 1974 ch 1167 § 1; Renumbered Stats. 1980 ch 636; Amended Stats. 1980 ch 1344 § 1; Amended Stats. ch 2015 ch 591 § 11.

§ 13412. REFUELING SERVICES TO DISABLED DRIVERS: EXEMPT FACILITIES [REPEALED]

Repealed Stats. 1997 ch 836 § 2.

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§ 13413. DECEPTIVE, FALSE, OR MISLEADING STATEMENTS: UNFAIR TRADE PRACTICES

(a) It is unlawful for any person or other legal entity to make any deceptive, false, or misleading statement by any means whatever regarding quality, quantity, performance, price, discount, or saving used in the sale or selling of any commodity regulated pursuant to this chapter.

(b) The following misleading, unfair, or deceptive acts or practices committed or permitted by any person offering for sale any product that is regulated by this chapter are also a violation of this section:

(1) Misrepresenting the brand, grade, quality, or price of a motor vehicle fuel or lubricant.

(2) Using false or deceptive representations or designations in connection with the sale of motor vehicle fuels or lubricants.

(3) Advertising motor vehicle fuels or lubricants or services and not selling them as advertised.

(4) Advertising motor vehicle fuels or lubricants of a designated brand, grade, trademark, or trade name not actually sold or available for sale.

(5) Making false, deceptive, or misleading statements concerning conditions of sale or price reductions.

(6) Representing that the consumer will receive a rebate, discount, or other economic benefit and then failing to give that rebate, discount, or other economic benefit.

(7) Except as otherwise permitted, selling a grade of motor vehicle fuel at more than one price and advertising only the lower price without advertising each of the higher prices in equal size numerals on the same advertising medium.

(8) Placing letters, words, figures, or numerals on any advertising medium offering for sale any goods or merchandise, other than motor vehicle fuel, if the advertising medium may be construed by any reasonable person as advertising a price of motor vehicle fuel.

(9) Forging or falsifying any records or documents required by this chapter or knowingly keeping, using, or displaying the false or forged records or documents.

Added Stats. 1984 ch 698; Amended Stats. 1986 ch 201 § 2: ; Amended Stats. 2015 ch 591 § 12.

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ARTICLE 3. – HOURS OF BUSINESS. §§ 13420. – 13422.

[Added by Stats. 1974 ch 1238 § 1.]
Renumbered Stats. 1980 ch 636

§ 13420. OPERATORS OF MOTOR VEHICLE FUEL DEALERSHIPS REQUIRED TO MAKE MONTHLY UPDATE OF ADVERTISING MEDIUM INDICATING HOURS OF SALE

Every person, firm, partnership, association, trustee, or corporation that owns, leases, or rents and operates a facility that offers any motor vehicle fuel for sale to the public from a fueling facility abutting or adjacent to a street or highway shall accurately update all signs, banners, or other advertising media that indicate hours of the sale. Advertising media indicating hours of sale shall be updated on a monthly basis.

Added Stats. 1974 ch 1238 § 1; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 591 § 13.

§ 13421. OPERATORS OF MOTOR VEHICLE FUEL DEALERSHIPS REQUIRED TO TURN OFF OUTDOOR LIGHTED ADVERTISING MEDIUM WHEN NOT OPEN FOR BUSINESS

Every person, firm, partnership, association, trustee, or corporation that owns, leases, or rents and operates a facility that offers any motor vehicle fuel for sale to the public from the facility abutting or adjacent to a street or highway shall turn off all outdoor lighted advertising media at their place of business when they are not open for business. This section shall only apply to the fueling facility and not the retail business

in a situation where the fueling facility is a part of and adjacent to a retail business provided the retail sale of gasoline or other motor vehicle fuel is not the primary purpose of that business.

Added Stats. 1974 ch 1238 § 1; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 591 § 14.

§ 13422. PUNISHMENT FOR VIOLATIONS

A violation of this article is an infraction punishable by a fine not to exceed one hundred dollars ($100).

Added Stats. 1974 ch 1238 § 1; Renumbered Stats. 1980 ch 636; Amended Stats. 1983 ch 1092 § 46.

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ARTICLE 4. - MOTOR OIL FEE - §§ 13430. – 13434.

[Added by Stats. 1979 ch 1016 § 2.]
Renumbered Stats. 1980 ch 636

§ 13430. "MOTOR OIL DEALER"

As used in this article, "motor oil dealer" means any person, firm, or corporation engaged in the business of producing, packaging or otherwise preparing motor oil for market, or selling or distributing motor oil.

Notwithstanding any other provision of this division, and for the purpose of this article, "motor oil" means any product used to lubricate the moving parts of an internal combustion engine.

Added Stats. 1979 ch 1016 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13431. AMOUNT: PERSONS LIABLE

The following persons shall pay to the secretary a maximum fee of five cents ($0.05) for each gallon of motor oil sold or purchased on or after January 1, 2010, as hereinafter provided:

(a) The first person who produced the motor oil shall pay the fee when the motor oil is sold to any retail establishment or motor oil dealer including any sold to the federal government, or its agencies.

(b) A retailer shall pay the fee for motor oil received when he or she transports or causes to be transported motor oil into this state from out of state.

(c) On any other sale of motor oil the dealer shall pay the fee except that this subdivision shall not apply to any person selling motor oil at retail.

(d) The assessment provided for in this section shall only be paid once on any particular motor oil. The secretary may apply a fee of three cents ($0.03) for each gallon of motor oil sold or purchased, as provided in subdivisions (a) to (d), inclusive, prior to the adoption of regulations. The provisions of this section shall not apply to motor oil exported for sale outside this state.

Added Stats. 1979 ch 1016 § 2; Renumbered Stats. 1980 ch 636; Amended Stats. 1980 ch 280; Amended Stats. 2009, Ch. 573, Sec. 1.

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§ 13432. ADJUSTMENTS TO MAXIMUM FEE

The fees provided in Section 13431 are maximum fees and may be established at a lower rate by the secretary at any time the funds derived from such assessment are more than reasonably necessary to cover the cost of administration and enforcement of this chapter, including the maintenance of a reasonable reserve fund for such purposes.

Added Stats. 1979 ch 1016 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2017 ch 573 § 69.

§ 13433. REGULATIONS PRESCRIBING FREQUENCY OF PAYMENTS, PROCEDURES FOR PAYMENT OR REFUNDS, AND PENALTIES

The secretary may, by regulation, prescribe the frequency of payments of such assessments, the procedures for such payment, the procedures for refunds of payment, and penalties for late payment.

Added Stats. 1979 ch 1016 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2017 ch 573 § 70.

§ 13434. DEPOSIT OF MONEYS IN DEPARTMENT OF FOOD AND AGRICULTURE FUND

The moneys which are received by the secretary pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be used only for the administration and enforcement of this chapter and Chapter 15 (commencing with Section 13700).

Added Stats. 1979 ch 1016 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1985 ch 345 § 1; Amended Stats. 2017 ch 573 § 71.

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ARTICLE 5. - STANDARDS FOR SPARK-IGNITION FUELS §§ 13440. – 13443.

[Amended Stats. 2015 ch 591 § 15]

§ 13440. SPECIFICATIONS: RULES AND REGULATIONS: STANDARDS APPLICABLE IN ADOPTION THEREOF

(a) The department shall establish specifications for automotive spark-ignition engine fuels. The department shall adopt by reference the latest standards established by a recognized consensus organization or standards writing organization such as ASTM International or SAE International, for automotive spark-ignition engine fuel, except that no specification shall be less stringent than required by any California state law.

(b) Any gasoline-oxygenate blend containing methanol shall also contain an alcohol cosolvent (butanol or higher molecular weight alcohol) in an amount equal to or greater than the volume percentage of methanol except those blends previously granted a waiver by the United States Environmental Protection Agency.

(c) The antiknock index as defined in Section 13400 for gasoline and gasoline-oxygenate blends shall not be less than 87.

(d) Gasoline and gasoline-oxygenate blends shall meet the latest specifications set forth in ASTM International Standard Specification D4814.

(e) Notwithstanding any other provision of this section, gasoline sold for use in Inyo or Mono County, or the portion of Kern County lying east of the Los Angeles County Aqueduct, shall comply with the latest specification set forth in ASTM International Specification D4814 relating to volatility class standards for the season during which the gasoline is sold for either the interior region or the southeast region of California.

(f) Ethanol fuel blends shall meet the latest specifications set forth in ASTM International Standard Specification D5798.

(g) Methanol fuel blends shall meet the latest specifications set forth in ASTM International Standard Specification D5797.

(h) Liquefied petroleum gas for use as a motor vehicle fuel shall meet the latest specifications set forth in ASTM International Standard Specification D1835.

(i) Natural gas for use as a motor vehicle fuel shall meet the latest specification set forth by the ASTM International or SAE International.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636; Amended Stats. 1983 ch 1012 § 1; Amended Stats. 1985 ch 167 § 2; Amended Stats. 1989 ch 1047 § 3; Amended Stats. 1993 ch 740 § 2.5; Amended Stats. 1994 ch 521 § 2; Amended Stats. 1996 ch 489 § 1. Amended Stats. 2012 ch 661 § 52; Amended Stats. 2015 ch 591 § 16.

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§ 13440.5. DETERMINING ETHANOL PERCENTAGE

For purposes of determining the percentage of ethanol in a gasoline-oxygenate blend for use as a fuel, the volume of ethanol includes the volume of any denaturant (including gasoline) that is added to the extent that these denaturants do not exceed the maximum volume percent specified in the latest standard established by ASTM International, except that no standard shall be less stringent than required by any California state law.

Added Stats. 1983 ch 1012 § 2; Amended Stats. 2015 ch 591 § 17.

§ 13441. SALE OR DELIVERY OF NONSTANDARD PRODUCT

It is unlawful for any person to sell any product as, or purporting to be, gasoline or automotive spark-ignition engine fuel, unless the product conforms to the specifications of this article.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636; Amended Stats. 1985 ch 167 § 2.5.

§ 13442. SALE OR DELIVERY OF NONSTANDARD PRODUCT AS MOTOR VEHICLE FUEL FOR INTERNAL COMBUSTION ENGINES: DISPLAY OF SIGN OR LABEL: INAPPLICABILITY OF PROVISIONS OF ARTICLE AS TO WORDS “NOT GASOLINE” REGARDING SIGNS OR LABELS USED IN CONNECTION WITH CERTAIN PRODUCTS

(a) It is unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or offer for delivery, any product used as a motor vehicle fuel for internal combustion engines at any place where motor vehicle fuels are kept or stored for sale, which does not conform to the requirements of this article, unless and until there shall be firmly attached to or painted upon each container, receptacle, pump, and inlet end of the fill pipe of each underground storage tank, or other equipment used for storage of motor vehicle fuel, from which or into which the motor vehicle fuel is drawn or poured for sale or delivery, a sign or label, plainly visible, comprising the brand, trademark, or trade name of such fuel, or the words “no brand,” that words shall be in letters of gothic type with a stroke of not less than one-eighth inch in width and not less than one inch in height, and also the words “not gasoline” in red letters of gothic type with a stroke of not less than one-half inch in width and not less than three inches in height, on a white background and not less than twice the size of any other letters or words appearing on or near the label or sign.

(b) The provisions of this article, as to the words “not gasoline,” shall not apply to signs or labels used in connection with the sale or delivery of kerosene, jet or turbine fuel, diesel fuel, liquefied petroleum gas, natural gas, or motor fuel comprised of a mixture of gasoline and lubricating oil properly labeled in accordance with the provisions of Article 9 (commencing with Section 13480).

(c) This section does not apply to electricity sold as a motor vehicle fuel.

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Added Stats. 1963 ch 2005 § 2; Amended Stats. 1967 ch 68 § 4; Stats. 1970 ch 140 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1989 ch 1047 § 3; Amended Stats. 2015 ch 591 § 17.

§ 13443. SPECIFICATIONS OF SIGN OR LABEL

The sign or label required by this article to be attached to the inlet end of the fill pipe of an underground storage tank shall consist of a tag or plate firmly attached or affixed and plainly visible while the tank is being filled. The letters on such sign or label may be of any convenient size.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

ARTICLE 5.5. - STANDARDS FOR ALTERNATIVE FUELS - § 13446.

[Added by Stats. 2005 ch 91 § 3.]

[Repealed by Stats. 2015 ch 591 § 20.]

[Added by Stats. 2015 ch 591 § 21.]

§13446. STANDARDS ADOPTION

The department may establish interim specifications for alternative fuel for use in motor vehicles until a standards development organization accredited by the American National Standards Institute (ANSI) formally adopts a standard for the fuel for use in motor vehicles. The department shall then adopt, by reference, the latest standard established by the ANSI-accredited standards development organization for alternative fuel, except that no specification shall be less stringent than required by any California state law.

Added Stats. 2015 ch 591 § 21.

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ARTICLE 6. - STANDARDS FOR COMPRESSION-IGNITION ENGINE FUELS, KEROSENE AND FUEL OILS §§ 13450. – 13450.

[Added by Stats. 1974 ch 862 § 4.]
Renumbered Stats. 1980 ch 636.
[Amended Stats. 2015 ch 591 § 22]

§ 13450. COMPRESSION-IGNITION ENGINE FUELS, KEROSENE AND FUEL OILS

The department shall establish specifications for compression-ignition engine fuel, kerosene, and fuel oil. The department shall adopt by reference the latest standards established by a recognized consensus organization or standards writing organization such as the ASTM International or the SAE International, for compression-ignition engine fuels, kerosene, and fuel oil, except that no specification shall be less stringent than required by any California state law.

(a) Diesel fuel oil and renewable diesel fuel oil shall meet the specifications set forth in ASTM International Standard Specification D975.

(b) Kerosene shall meet the specifications set forth in ASTM International Standard Specification D3699.

(c) Fuel oil shall meet the specifications set forth in ASTM International Standard Specification D396.

(d) Biodiesel blends shall meet the latest specifications set forth in ASTM International Standard Specification D7467.

(e) Dimethyl ether used as a motor vehicle fuel shall meet the latest specifications set forth in ASTM International Standard Specification D7901.

(f) Renewable diesel fuel shall meet the specifications set forth in ASTM International Standard Specification D975.

Added Stats. 1974 ch 862 § 4; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1982 ch 454 § 12; Repealed and added Stats. 1985 ch 167 §§ 3 and 4; Amended Stats. 1993 ch 740 § 3. Amended Stats. 2012 ch 661 § 53; Amended Stats. 2015 ch 591 § 23.

§ 13451. SALE OR DELIVERY OF NONSTANDARD COMPRESSION-IGNITION ENGINE FUEL, DIESEL FUEL, KEROSENE OR FUEL OIL

It is unlawful for any person to sell or deliver to any premises for the purpose of sale, any product as or purported to be “compression-ignition engine fuel,” “diesel fuel,” “kerosene,” or “fuel oil,” unless the product conforms to the specifications of this article.

Added Stats. 1974 ch 862 § 4; Renumbered Stats. 1980 ch 636 § 5; Repealed and added Stats. 1985 ch 167 §§ 5 and 6; Amended Stats. 1993 ch 740 § 4; Amended Stats. 1994 ch 521 § 3.

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ARTICLE 7. - STANDARDS FOR LUBRICATING OILS AND OILS USED TO LUBRICATE TRANSMISSIONS, GEARS OR AXLES - §§ 13460. – 13462.

[The heading of Article 4 was amended to read as above by Stats. 1968 ch 1072 § 2.] Renumbered Stats. 1980 ch 636.

§ 13460. SPECIFICATIONS: PRODUCTS FOR USE IN INTERNAL COMBUSTION ENGINE

Engine oil shall not be sold or distributed for use in an internal combustion engine unless the product conforms to the following specifications:

(a) It shall meet the engine oil requirements established by a minimum of one current API classification pursuant to the latest revision of the SAE International Standard SAE J183 for engine oil performance and engine service classification, or a minimum of one current sequence of the European Automobile Manufacturers Association (ACEA) “European Oil Specification.”

(b) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test ASTM D-2273.

(c) Any engine oil that is represented to meet SAE International SAE J183 engine oil performance and engine service classification SA must have either an acid number or base number of 0.20 mg of KOH/g as measured by ASTM International Standard Test Method D974 or equivalent.

(d) Any engine oil represented as “resource conserving” shall meet the requirements established by the latest revision of the SAE International Recommended Practice SAE J-1423.

Repealed and added Stats. 1989 ch 1047 §§ 4 and 5; Amended tats. 2012 ch 661 § 54; Amended Stats. 2015 ch 591 § 24.

§ 13461. PRODUCTS FOR USE IN LUBRICATING TRANSMISSIONS, GEARS OR AXLES

Lubricating oil shall not be sold or distributed for use in lubricating manual transmissions, gears, or axles unless the product conforms to the following specifications:

(a) It meets the service requirements contained in the latest revision of the SAE Information Report on axle and manual transmission lubricants SAE J308.

(b) The viscosity grade classification number shall be the same as the latest published SAE International Standard SAE J306 when tested in accordance with the latest method published by the ASTM International.

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(c) It shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test ASTM D-2273.

Repealed and added Stats. 1989 ch 1047 §§ 6 and 7; Amended Stats. 2012 ch 661 § 55.

§ 13462. DOCUMENTATION OF CLAIMS MADE UPON PRODUCTS' LABEL

Any manufacturer or packager of any product subject to this article and sold in this State shall provide, upon request to duly authorized representatives of the department, documentation of any claim made upon their products' label.

Amended Stats. 1977 ch 1226; Renumbered Stats. 1980 ch 636; Repealed and added Stats. 1989 ch 1047 §§ 8 and 9.

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ARTICLE 8. - PRICE INDICATIONS ON MOTOR VEHICLE FUEL DISPENSING APPARATUS - §§ 13470. – 13477.

Renumbered Stats. 1980 ch 636.
[Amended Stats. 2015 ch 591 § 25]

§ 13470. DISPLAY OF PRICE SIGN ON DISPENSING APPARATUS: CONTENTS OF SIGN

(a) A person shall not sell at retail to the general public, any motor vehicle fuel from any place of business in this state unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign or price indicator showing the total price per gallon, liter, or other unit of measurement adopted pursuant to Section 12107, 13404, or 13404.5 of all motor vehicle fuel sold therefrom. The total price per gallon, liter, or other unit of measurement shall include applicable fuel taxes and all sales taxes.

(b) (1) A person shall not sell at retail to the general public, any compressed natural gas for use as a motor vehicle fuel from any place of business in this state unless there is displayed and labeled on the dispensing apparatus in a conspicuous place “Gasoline gallon equivalent.”

(2) A person shall not sell at retail to the general public, any liquefied natural gas for use as a motor vehicle fuel from any place of business in this state unless there is displayed and labeled on the dispensing apparatus in a conspicuous place “Diesel gallon equivalent.”

(c) When a discount is offered from a dispenser computing only at a higher price, at least one sign or label shall be conspicuously displayed on the dispenser indicating that the dispenser is computing at the higher price and indicating the amount of the discount per unit of measurement in letters and numerals not less than one-half inch high.

(d) If motor vehicle fuel is sold by unit of measurement other than gallon, that unit shall be conspicuously displayed on the side of the dispensing apparatus from which service can be made.

Amended Stats. 1976 ch 535; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1985 ch 345 § 2; Amended Stats. 2014 ch 805 § 2; Amended Stats. 2015 ch 591 § 26.

§ 13470.1. MAXIMUM LAWFUL SELLING PRICE

(a) No person shall sell at retail to the general public any motor vehicle fuel from any place of business in this state unless such person shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted on each pump used to dispense gasoline at retail outlets in numbers not less than one-half inch high facing each direction from which the pumps are generally viewed by customers. The posting of the actual selling price is not

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considered to be the posting of the maximum lawful selling price as required by this paragraph. When-ever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(b) For the purposes of this section, “maximum lawful selling price” means the maximum lawful selling price as defined under the Emergency Petroleum Allocation Act, 15 USC 751 et. seq., and any regulations promulgated pursuant thereto.

(c) Enforcement by the Division of Measurement Standards and each county sealer of weights and measures may consist of referring complaints and information regarding possible violations to the appropriate federal agency.

Added Stats. 1980 ch 984 § 1.

§ 13470.5. GALLON-TO-LITER CONVERSION TABLE

Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor vehicle fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

Added Stats. 1976 ch 535 § 1.5; Amended Stats. 1979 ch 527 § 13; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1984 ch 532; Amended Stats. 1985 ch 167 § 7; Amended Stats. 2015 ch 591 § 27.

§ 13471. PLACEMENT OF SIGNS

Each sign required by this article shall be placed in a conspicuous place on the dispensing apparatus and if service of motor vehicle fuel may be made from more than one side of such dispensing apparatus the sign shall be so placed as to be visible from at least two sides of the dispensing apparatus.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1985 ch 167; Amended Stats. 2015 ch 591 § 28.

§ 13472. DUAL PRICING

When a sign is used in addition to a price indicator, as defined in Section 13470, and if the same grade of motor vehicle fuel is sold at a different price from any other dispenser on the same premises, it shall be unlawful to display the sign on a dispenser unless a sign with price numerals of equal size is displayed upon each dispenser from which the same grade of motor vehicle fuel is dispensed at higher prices.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 591 § 29.

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§ 13473. SIZE OF LETTERS AND FIGURES

Unless otherwise provided, all letters, figures, or numerals on each sign required by this article, however affixed, marked, imprinted, placed, or embossed, shall be at least three-fourths of an inch in height and all lines or marks used in the making or forming of all the letters, figures, or numerals which are a part of the sign shall be at least one-eighth of an inch in width.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1985 ch 345 § 3.

§ 13474. LEGIBILITY OF SIGNS

All letters, figures or numerals which are part of any sign or price indicator required by this article shall be plainly legible. The color or tint shall contrast with the background and other parts of the sign.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5.

§ 13475. FRACTIONS AS NUMERALS

For the purpose of this article a fraction is considered one numeral.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13476. DISSEMINATION OF FALSE, DECEPTIVE OR MISLEADING INFORMATION AS TO PRICE PROHIBITED [REPEALED]

Repealed Stats. 1984 ch 698.

§ 13477. INAPPLICABILITY TO SALE FOR AIRCRAFT

The provisions of this article shall not apply to the sale of motor vehicle fuel for aircraft through or from any portable dispensing device.

Added Stats. 1970 ch 140 § 3; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 591 § 30.

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ARTICLE 9. – LABELING - §§ 13480. – 13490.

Renumbered Stats. 1980 ch 636.

§ 13480. SALE, ETC., OF MOTOR VEHICLE FUELS OR LUBRICANTS FROM UNLABELED CONTAINERS, ETC., UNLAWFUL: VISCOSITY RATING: CONTAINERS WITH NET CONTENT OF GALLON OR LESS

(a) It is unlawful for any person to sell any motor vehicle fuel or lubricant referred to in this chapter at any place where motor vehicle fuels or lubricants are kept or stored for sale, unless there is affixed to each container, receptacle, pump, dispenser, and inlet end of the fill pipe of each underground storage tank, from which or into which that product is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of the product, the brand, trademark, or trade name of the product, and, in the case of motor vehicle fuel and kerosene, the grade or brand name designation.

(b) When the product is a lubricant, as defined by Section 13400, each sign or label shall also have in letters or numerals, plainly visible, the viscosity grade classification as determined in accordance with the SAE International latest standard for engine oil viscosity classification SAE J300 or manual transmission and axle lubricants viscosity classification SAE J306, as applicable, and shall be preceded by the letters “SAE.”

(c) When the product is automotive spark-ignition engine fuel the secretary shall make rules and regulations as are reasonably necessary to define and enforce the octane number, antiknock index labeling requirements, or other labeling requirements of the product sold.

(d) When the product is a motor vehicle fuel consisting of a mixture or premixture of gasoline and oil or gasoline-oxygenate blend and motor oil, there shall be conspicuously displayed on the dispensing device at least one sign or label stating the ratio of gasoline to motor oil or gasoline-oxygenate blend to motor oil.

(e) All signs or labels required by this section for retail motor vehicle fuel dispensers and containers of more than one gallon capacity shall be in letters and numerals not less than one-half inch (12.70 mm) in height. On containers of one gallon or less, the signs or labels shall be in letters and numerals not less than one-fourth inch (6.35 mm) in height and one-sixteenth inch (1.59 mm) in width.

(f) The provisions of this section pertaining to octane numbers or antiknock index and motor oil SAE International viscosity number grade shall not apply to products sold for aviation purposes.

(g) This section does not apply to electricity sold as a motor vehicle fuel.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1968 ch 1072 § 4; Stats. 1970 ch 140 § 4; Stats. 1974 ch 862 § 5; Stats. 1975 ch 547 § 7; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1982 ch 758 § 34; Amended Stats. 1983 ch 1012 § 3; Amended Stats. 1985 ch 167 § 9; Amended Stats. 1989 ch 1047 § 10; Amended Stats. 1994 ch 521 § 4;Amended Stats. 1998 ch 459 § 1. Amended Stats. 2012 ch 661 § 56; Amended Stats. 2015 ch 591 § 31.

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§ 13481. MOTOR VEHICLE FUEL OR LUBRICANT WITHOUT BRAND, TRADEMARK, ETC.:REQUISITES OF LABEL

(a) If any motor vehicle fuel or lubricant is offered for sale, but not under any brand, trademark, or trade name, the words “no brand” shall be used as the brand, trademark, or trade name designation. The words “no brand” shall be in letters of gothic type with a stroke of not less than one-half inch in width, not less than three inches in height, and shall consist of red letters on a white background.

(b) This section does not apply to electricity sold as a motor vehicle fuel.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Repealed and Added Stats. 1988 ch 590 §§ 1 and 2; Amended Stats. 2015 ch 591 § 32.

§ 13482. SAE/API SERVICE CLASSIFICATION: LABEL REQUIREMENTS

(a) It is unlawful for any person to sell or distribute engine oil or lubricant unless both of the following are met:

(1) The product conforms to a minimum of one active API classification pursuant to the latest revision of SAE J183 “Engine Oil Performance and Engine Service Classification,” a minimum of one active sequence of the European Automobile Manufacturers’ Association (ACEA) “European Oil Sequences specification,” or a minimum of one active OEM specification.

(2) The API classification or ACEA sequence or OEM specification and SAE J300 viscosity grade is conspicuously marked on each container or, if provided in bulk, properly described in product transfer documents.

(b) It is unlawful for any person to sell or distribute axle and manual transmission lubricant unless it conforms to an SAE J306 viscosity grade.

Added Stats. 1989 ch 1047 § 11; Amended Stats. 2015 ch 591 § 33.

§ 13483. APPLICATION OF RULES RESPECTING LETTERING TO SIGNS, ETC., AT INLET END OF STORAGE TANKS

The provisions of this article as to size of letters shall not apply to signs or labels at the inlet end of any underground storage tank, which letters may be of any convenient size but such letters shall be plainly visible while such underground storage tank is being filled.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13484. PLACEMENT OF SIGNS ON PUMPS, ETC.

Whenever any pump, receptacle or other container is maintained or used to serve more than one driveway, the signs or labels required by this chapter shall be placed upon both

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sides of such pump, receptacle or other container so that one set of signs or labels shall be clearly visible from each such driveway.

Wherever any pump, receptacle or other container is maintained or used to serve only one driveway, the signs or labels required by this chapter shall be upon the side of such pump, receptacle or other container adjacent to such driveway.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13485. REQUIREMENTS GOVERNING HAND MEASURES

Small hand measures used for delivery of motor vehicle fuels or lubricants, and filled in the presence of the customer, need not be labeled in accordance with this chapter if the receptacle, container, or pump from which motor vehicle fuels or lubricants are drawn or poured into the hand measures is properly labeled as required by this chapter.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 591 § 34.

§ 13486. FILLING OF TANKS, PUMPS, CONTAINERS, ETC., WITH, OR DELIVERY OF, PRODUCT OTHER THAN INDICATED BY BRAND, TRADEMARK, ETC.

(a) It is unlawful, at any place of business where motor vehicle fuels or lubricants are sold, for any person to do either of the following:

(1) Deliver into a storage tank or container any motor vehicle fuel or lubricant other than the product identified on the label attached to the storage tank or container.

(2) Sell by means of, or through, a pump or other device, any motor vehicle fuel or lubricant other than the product identified on the required label, tag, or sign attached to the pump or other device.

(b) This section does not prohibit the delivery of motor vehicle fuel into a storage tank labeled with the authorized rebrand as provided in Article 14 (commencing with Section 13560).

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1970 ch 140 § 5; Stats. 1975 ch 547 § 9; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Repealed and Added Stats. 1988 ch 590 §§ 4 and 5; Amended Stats. 2015 ch 591 § 35.

§ 13487. CONNECTION OF PUMP, ETC., BEARING PARTICULAR LABEL WITH RECEPTACLE CONTAINING ANOTHER PRODUCT

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1988 ch 590 § 6.

§ 13488. DELIVERY OF PRODUCT OTHER THAN THAT INDICATED BY LABEL ON PUMP, ETC.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1988 ch 590 § 7.

§ 13489. AUTHORIZATION OF USE OF PUMPS OR OTHER DEVICES CAPABLE OF WITHDRAWING GASOLINE FROM EACH OF TWO TANKS CONTAINING DIFFERENT QUALITIES OF SAME PRODUCT AND DISPENSING THEM AS SINGLE COMBINED PRODUCT

The use of pumps or other devices which are capable of withdrawing gasoline from each of two tanks containing different qualities of the same petroleum product and dispensing them as a single combined product shall be authorized when the department determines that all of the following conditions exist:

(a) The device mechanism accurately measures the quantities of the gasoline being simultaneously withdrawn from each of the two tanks and the quantity dispensed.

(b) The device mechanism accurately and visibly records and displays the resulting combined quality, the total quantity, the price per gallon or liter for the particular quality combination being dispensed, and the total price of the quantity of gasoline dispensed at the particular sale.

(c) The device has a locking selector mechanism which prevents the changing of the proportion of the two qualities being combined during the dispensing of the desired quantity.

The provisions of this section shall not supersede any other provisions in this chapter, except that they shall supersede the provisions of Sections 13442, 13443, 13480, 13483, 13486, 13487, and 13488 to the extent necessary to authorize the operation of a blending type of pump connected to two tanks containing two different products, or two different grades of the same product, which, when blended together in different proportions will produce gasoline of different octane rating, each blend of which shall meet the specifications for gasoline as required by this chapter.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1989 ch 1047 § 12.

§ 13490. AUTHORIZATION OF USE OF PUMPS OR OTHER DEVICES CAPABLE OF WITHDRAWING GASOLINE FROM ONE TANK AND MOTOR OIL FROM ANOTHER TANK AND DISPENSING THEM AS A SINGLE COMBINED PRODUCT, OR WITHDRAWING GASOLINE ALONE

The use of pumps or other devices which are capable of withdrawing gasoline from one tank and motor oil, or a premixture of gasoline and motor oil in a known ratio, from another tank, and dispensing them as a single combined product, or of withdrawing gasoline alone from the tank containing gasoline and of withdrawing a premixture of gasoline and motor

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oil alone from the tank containing a premixture of gasoline and motor oil shall be authorized when the department determines that all the following conditions exist:

(a) The device mechanism accurately measures the quantities being simultaneously withdrawn for dispensing as a combined product from each of the two tanks when the combined product is dispensed, the quantity being dispensed from the gasoline tank when gasoline alone is dispensed, or the quantity being dispensed from the tank containing a premixture of gasoline and motor oil when the premixture alone is dispensed.

(b) The device mechanism accurately and visibly records and displays: (1) the ratio of gasoline to motor oil or premixture, the quantity of each ingredient being dispensed, the price per gallon or liter for the gasoline being dispensed, and the price per quart or liter for any motor oil or premixture being dispensed or (2) the ratio of gasoline to motor oil or premixture and the price per gallon or liter for the product being dispensed.

(c) The device mechanism prevents the changing of the ratio of gasoline to motor oil or premixture during dispensing.

The provisions of this section shall supersede Sections 13442, 13443, 13480, 13483, 13486, 13487, and 13488 to the extent necessary to authorize the operation of the above-described blending type of pump connected to two tanks, one containing motor oil, or a premixture of motor oil and gasoline in a known ratio, and the other gasoline, provided that the motor oil shall in its separate state meet the specifications for motor oil as required by Section 13460 and that the gasoline shall in its separate state meet the specifications for gasoline as required by Section 13440.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1965 ch 1392 § 1; Stats. 1974 ch 862 § 6; Stats. 1975 ch 547 § 10; Amended Stats. 1978 ch 753; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1985 ch 345 § 4; Amended Stats. 1989, ch 1047 § 13.

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ARTICLE 10. – TANK VEHICLES - §§ 13490. – 13503.

[Repealed Stats. 1984 ch 698 § 3.]
[New Article Added Stats. 1984 ch 698 § 4.]

§ 13500. LABELING

It is unlawful for any person to transport in any tank vehicle, for the purpose of sale or for delivery to any place where motor vehicle fuels or lubricants are stored for sale, any product referred to in this chapter unless there is firmly affixed at each outlet or valve of the tank vehicle, a metal tag, plate, or label. The tag, plate or label shall display, in letters not less than one-half inch in height, the name and grade of the product in the tank compartment of the tank vehicle. In the case of motor oil, the SAE International viscosity number shall also be displayed on the tag, plate, or label.

Added Stats. 1984 ch 698 § 4; Amended Stats. 2015 ch 591 § 36.

§ 13501. COMMINGLING OF PRODUCTS

It is unlawful for any person, when delivering for the purpose of sale, or delivering to any place where products referred to in this chapter are kept for sale, to commingle any product with another product or to commingle grades of a product, if as a result of the commingling the product delivered does not meet the specifications adopted or established by the department.

Added Stats. 1984 ch 698 § 4; Amended Stats. 2015 ch 591 § 37.

§ 13502. DELIVERIES INTO STORAGE TANKS

It is unlawful for any person to deliver into a storage tank or container at any place where products referred to in this chapter are stored for sale, any product other than the product identified on the label attached to the storage tank or container.

Added Stats. 1984 ch 698 § 4; Amended Stats. 2015 ch 591 § 38.

§ 13503. DELIVERIES TO AIRCRAFT

It is unlawful to deliver aviation gasoline to the fuel tank of any aircraft through the same meter used for deliveries of gasoline not specifically refined or manufactured for aviation use.

Added Stats. 1984 ch 698 § 4.

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ARTICLE 11. – BASIS OF SETTLEMENT - § 13520.

[Added by Stats. 1975 ch 972 § 1.]
Renumbered Stats. 1980 ch 636.

§ 13520. TEMPERATURE-CORRECTED GALLONAGE

It is unlawful for any distributor or for any broker to sell any product to a retailer or to any person, when the quantity distributed in any single delivery to a single location is 5,000 or more gallons, as, or purporting to be, gasoline or diesel fuel, unless, the distributor or broker, as the case may be, offers to invoice the purchaser for such gasoline or diesel fuel on the basis of temperature-corrected gallonage to 60 degrees Fahrenheit for all such deliveries to the purchaser over a period of twelve (12) consecutive months and settles his accounts with the purchaser on the same basis.

Added Stats. 1975 ch 972 § 1; Amended Stats. 1979 ch 233 § 1; Renumbered Stats. 1980 ch 636 § 5.

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ARTICLE 12. - PRICE SIGN ADVERTISING - §§ 13530. – 13540.

[Repealed Stats. 1984 ch 698 § 5.]
[New Article Added Stats. 1984 ch 698 § 6.]

§ 13530. APPLICATION OF ARTICLE: DISPLAY OF PRICE PER GALLON, LITER, OR OTHER UNIT OF MEASUREMENT

(a) Nothing in this article applies to price indicators and signs referred to in Article 8 (commencing with Section 13470). However, any numerals designating the total price per gallon, liter, or other unit of measurement adopted pursuant to Section 12107, 13404, or 13404.5 for a particular brand and grade of motor vehicle fuel permitted or required under Article 8 (commencing with Section 13470) shall, unless otherwise stated, be identical in numerical value with the price per gallon, liter, or other unit of measurement for the same brand and grade of motor vehicle fuel permitted or required under this article.

(b) Nothing in this chapter requires that the cash or merchandise value of trading stamps be stated on any advertising media that either advertises the stamps or advertises the price of motor vehicle fuel.

(c) Unless otherwise prohibited, any person selling motor vehicle fuel by the liter shall be authorized to advertise its price by displaying on the advertising medium either the price per liter or the price per gallon.

Added Stats. 1984 ch 698 § 6; Amended Stats. 2015 ch 591 § 39.

§ 13531. DISPLAY REQUIREMENTS: EXEMPTION OF SPECIFIED GEOGRAPHIC AREAS: VIOLATIONS: ENFORCEMENT

(a) (1) Every person offering for sale or selling any motor vehicle fuel to the public from any place of business shall display on the premises an advertising medium that complies with the requirements of this article and that advertises the total prices of the three major grades of motor vehicle fuel offered for sale.

(2) The advertising medium shall be clearly visible from the street or highway adjacent to the premises. When the place of business is situated at an intersection, the advertising medium shall be clearly visible from each street of the intersection.

(3) For purposes of this subdivision, motor vehicle fuel does not include propane.

(4) For purposes of this subdivision, electricity and natural gas sold as a motor vehicle fuel shall meet only the requirements adopted pursuant to Sections 13404 and 13404.5.

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(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both.

(d) Notwithstanding Section 13590, the district attorney of each county, or pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer, shall, upon complaint or upon his or her own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with Section 13611.

Added Stats. 1984 ch 698 § 6; Amended Stats. 2015 ch 591 § 40.

§ 13532. MOTOR VEHICLE FUEL: CONTENTS OF DISPLAY

(a) It is unlawful for any person to display any advertising medium that indicates the price of motor vehicle fuel unless the advertising medium displays all of the following:

(1) The total price per gallon, liter, or other unit of measurement adopted pursuant to Section 12107, 13404, or 13404.5, including all taxes, in numerals, and fractions when applicable, not less than six inches in height and of uniform size and color. For purposes of this article, fractions are considered one numeral. For purposes of this section, electricity sold as a motor vehicle fuel shall meet only the requirements adopted pursuant to Section 13404.5.

(2) The trademark or brand of the motor vehicle fuel in letters, figures, or numerals not less than one-third the size of the numerals designating the price.

(3) The word “gasoline” or the name of other motor vehicle fuel in letters not less than one-third the size of the numerals designating the price, but these words need not be more than four inches in height.

(4) The grade designation of the motor vehicle fuel in letters or numerals not less than one-sixth the size of the numerals designating the price, but this designation need not be more than four inches in height.

(Rev. 1/18)

(5) If motor vehicle fuel prices are advertised by the unit of measurement other than gallon, the unit shall be displayed on the advertising medium in letters not less than one-third the size of the numerals designating the price.

(b) (1) It is unlawful for any person to display an advertising medium that advertises a discount or price reduction for motor vehicle fuel, unless the advertising medium contains all the following:

(A) The total price per gallon, liter, or other unit of measurement adopted pursuant to Section 12107, 13404, or 13404.5 from which the discount or price reduction is to be taken.

(B) The amount of the discount or price reduction in cents per gallon, liter, or other unit of measurement using numerals that do not exceed the height of the numerals in the advertised price.

(C) The conditions of the discount or price reduction using words whose letters are not less than one-third the size of the price numerals.

(2) Any limitations under which the discount or price reduction is offered shall be explained in words whose letters are not less than one-third the size of the numerals indicating the prices.

(3) There shall be available for each customer's reference, a chart showing the amount of discount for each type of unit being sold or fraction thereof in one cent ($0.01) increments, or the retail dispensers used to dispense motor vehicle fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

(4) For purposes of this subdivision, the motor vehicle fuel shall be sold in the same unit of measure in which the discount and the price from which the discount is taken are advertised.

(c) In the event that the same grade of motor vehicle fuel is sold at different prices from any single place of business, it is unlawful for any person to display any advertising medium that advertises a price of a grade of motor vehicle fuel unless the advertising medium advertises in numerals of equal size each of the higher prices, including all taxes for which the grade is sold or offered for sale, and unless the advertising medium explains the conditions, and any limitations, under which that grade is sold or offered for sale at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices. The different prices at which the same grade of motor vehicle fuel is sold or offered for sale shall be advertised in the same unit of measure as permitted or required by law.

(d) Nothing in this section prohibits any person who has posted or displayed a sign or advertising medium in compliance with this chapter from displaying additional signs or advertising media that state either (1) the amount of discount in cents per gallon, liter, or other unit of measurement adopted pursuant to Section 12107, 13404, or 13404.5, or (2)

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the total price of one or more brands or grades of motor vehicle fuel sold or offered for sale, provided the conditions and any limitations of the discount or price of the brand or grade of motor vehicle fuel are included in the additional advertising media in letters not less than one-third the size of the numerals indicating the discount or price.

Added Stats. 1984 ch 698; Amended Stats. 1985 ch 345 § 5; Amended Stats. 1988 ch 590 § 8; Amended Stats. 2015 ch 591 § 41; Amended Stats. 2016 ch 208 § 1.

§ 13533. MOTOR OIL: CONTENTS OF DISPLAY

It shall be unlawful for any person to display on or near the premises of any place of business in this state any advertising medium which advertises the price of motor oil offered for sale without conspicuously showing on the same advertising medium the brand of the motor oil and the name of the product. The letters, figures and numerals used to designate the brand and the name of the product shall not be less than one-half the size of the numerals designating the price.

Added Stats. 1984 ch 698 § 6.

§ 13534. ADDITIONAL ADVERTISING MATTER

(a) Except as provided by subdivision (b), and subdivisions (b), (c), and (d) of Section 13532, it is unlawful for any person to place any additional advertising matter on any advertising medium referred to in this article except:

(1) A description of the products offered for sale in letters or numerals not larger than the price numerals.

(2) Methods of sale, such as self-serve or full-serve, in letters not less than one-third the size of the price numerals.

(3) Words describing the type of services offered at the place of business, such as food market, car wash, tune-up, and the registered trademark or trade name of the service, but not the price of the service.

(b) Subdivision (a) does not apply to electronic changeable message centers when the advertising content includes both the product offered for sale and its price in a single advertising message, or when the product and price components of the advertising message clearly relate to one another and the price neither starts nor ends the message.

Added Stats. 1984 ch 698; Amended Stats. 1985 ch 345 § 6; Repealed and Added Stats. 1988 ch 590 §§ 9 and 10; Amended Stats. 2004 ch 72 § 1.

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§ 13535. MOTOR VEHICLE FUEL OR LUBRICANT WITH NO BRAND DESIGNATION

If any motor vehicle fuel or lubricant is advertised for sale, but not under any brand designation, the words “no brand” shall be used on the advertising medium as a brand designation.

Added Stats. 1984 ch 698 § 6; Amended Stats. 2015 ch 591 § 42.

(Rev. 1/17)

§ 13536. LEGIBILITY

All letters, words, figures, or numerals which are part of the advertising media referred to in this article shall have a heavy type face or stroke, shall be clearly visible, and of a color or tint that will contrast the letters, words, figures, or numerals with the background of the advertising media. The height of the letters, figures, and numerals, except the letter “1” and numeral one, shall not be more than twice the width.

Added Stats. 1984 ch 698 § 7.

§ 13537. PLACEMENT OF ADVERTISING MEDIA [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1986 ch 201.

§ 13538. ADVERTISING OF OTHER GOODS [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1986 ch 201.

§ 13539. ADVERTISING OF PRODUCT NOT SOLD ON PREMISES [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1986 ch 201.

§ 13540. LOCAL REGULATION

Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of the ordinances dealing with matters specifically covered in this article are identical to this article.

Added Stats. 1984 ch 636 § 6.

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ARTICLE 13. - INDUCEMENTS FOR THE SALE OF MOTOR VEHICLE FUEL - § 13550.

[Added by Stats. 1974 ch 519 § 1.]

Renumbered Stats. 1980 ch 636.

[Amended Stats. 2015 ch 519 §43]

§ 13550. PARTICIPATION IN GIVEAWAY PROGRAMS BY MOTOR VEHICLE FUEL PRODUCERS NOT TO BE MADE COMPULSORY

No motor vehicle fuel producer or distributor shall compel or unduly or unreasonably influence any retail dealer to participate in the giveaway or offer to give away free of charge any item of value, including trading stamps or any kind of merchandise or goods, whether or not the giveaway is conditional upon the purchase of motor vehicle fuels or lubricants. The decision to participate in those giveaways shall be solely that of the retail dealer. Nothing in this section shall prohibit a retail dealer from entering into an agreement to participate in any giveaway program.

Added Stats. 1974 ch 519 § 1; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 519 § 44.

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ARTICLE 14. - PASSING OFF - §§ 13560. – 13571.

Renumbered Stats. 1980 ch 636.

§ 13560. FALSE REPRESENTATION AS TO MANUFACTURER, REFINER, PRODUCER, IMPORTER, BRAND OR TRADE NAME, OR SAE NUMBER CLASSIFICATION OF PRODUCT [REPEALED]

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1975 ch 547 § 21; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13561. RIGHT TO SELL PRODUCT OF MANUFACTURER UNDER SELLER'S OWN TRADEMARKS, ETC., OR WORDS "NO BRAND", ON AUTHORIZATION THEREFORE

This article does not prohibit any person from selling under his own trademarks, trade names, brands, or the words "no brand", the product of any manufacturer if such person has first obtained the written authorization of the true manufacturer so to sell such product.

Added Stats. 1965 ch 1394 § 1; Renumbered Stats. 1980 ch 636 § 5.

§ 13562. CHANGE OF DESIGNATION UNDER WHICH PRODUCT PURCHASED: AUTHORIZATION

No person other than the true manufacturer who purchases any petroleum product shall change the designation under which the product is purchased by him, without a written authorization.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13563. WRITTEN AUTHORIZATIONS: WHEN REQUIRED [REPEALED]

Added Stats. 1965 ch 1394 § 2; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13564. WRITTEN AUTHORIZATIONS: CONTENTS [REPEALED]

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1965 ch 1394 § 3; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13565. FORM OF AUTHORIZATIONS: ADDITIONAL INFORMATION THEREIN [REPEALED]

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Added Stats. 1965 ch 1394 § 4; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13566. WRITTEN AUTHORIZATIONS: PLACE OF KEEPING [REPEALED]

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13567. WRITTEN AUTHORIZATIONS: AVAILABILITY FOR INSPECTION [REPEALED]

Added Stats. 1965 ch 1394 § 5; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13568. WRITTEN AUTHORIZATIONS: FURNISHING COPIES

Copies of the written authorizations required by this article shall be furnished the department upon request.

Added Stats. 1965 ch 1394 § 6; Renumbered Stats. 1980 ch 636 § 5.

§ 13569. FORGERY OR FALSIFICATION [REPEALED]

Added Stats. 1965 ch 1394 § 7; Renumbered Stats. 1980 ch 636 § 5; Repealed Stats. 1986 ch 201.

§ 13570. PERCENTAGE OF ALCOHOL TO BE STATED ON NORMAL BUSINESS RECORDS

(a) A manufacturer, blender, agent, jobber, consignment agent, or distributor who distributes motor vehicle fuel that contain at least 1 percent alcohol by volume, shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed.

(b) If a motor vehicle fuel product contains less than 10% percent ethanol, a statement in the documentation that the product “contains up to 10% ethanol” meets the requirement of subdivision (a) that it state the percentage of ethanol.

(c) This section, as it relates to certification of the minimum antiknock index number, applies to all motor vehicle gasoline distributed.

Added Stats. 1983 ch 1012 § 4; Amended Stats. 1984 ch 698; Amended Stats. 1985 ch 167 § 10; Amended Stats. 2003 ch 63 § 1; Amended Stats. 2015 ch 519 § 45; Amended Stats. 2016 ch 208 § 2.

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§ 13571. INSPECTION OF DOCUMENTATION

Copies of the documentation specified in Section 13570 shall be available for inspection during business hours by duly authorized representatives of the department.

Added Stats. 1983 ch 1012 § 5.

(Rev. 1/17)

ARTICLE 15. – ADULTERATION [REPEALED]

Renumbered Stats. 1980 ch 636
[Repealed Stats. 1986 ch 201]

ARTICLE 16 – ENFORCEMENT - §§ 13590. – 13600.

Renumbered Stats. 1980 ch 636

§ 13590. DEPARTMENT'S DUTY: APPOINTMENT OF INSPECTORS

It is the duty of the department acting through the Division of Measurement Standards to enforce the provisions of this chapter, and to appoint and employ inspectors as may necessary.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 519 § 46.

§ 13591. AUTHORITY OF DEPARTMENT, ETC., TO INSPECT

(a) The department, its inspectors, and each sealer, are hereby authorized and empowered to inspect the motor vehicle fuels or lubricants referred to in this chapter and to enter, for the purpose of the inspection, any place where motor vehicle fuels or lubricants are kept or stored for sale.

(b) All those officers shall enforce the provisions of this chapter.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 519 § 47.

§ 13592. SAMPLING OF PRODUCTS AUTHORIZED

The department, each sealer, and any person now or hereafter authorized or empowered by law to inspect the motor vehicle fuels or lubricants referred to in this chapter, may take such sample or samples as may be necessary of any motor vehicle fuel or lubricant kept or stored for the purpose of sale.

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Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 519 §48.

§ 13593. REFUSAL TO PERMIT SAMPLING

It is unlawful for any person, or any member, officer, agent or employee of a firm, association or corporation, to refuse to permit any person authorized by this article to take such sample or samples permitted by this chapter, or to prevent or to attempt to prevent the taking of such sample or samples.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13594. PAYMENT FOR SAMPLES

If the owner or person in possession of the product of which a sample is taken under this article shall at the time of the taking, demand payment for the commodity taken, then the person taking the sample shall pay therefore the reasonable market price.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13595. SEALING UNLABELED OR MISLABELED RECEPTACLES, ETC.: POSTING NOTICE

(a) It is unlawful for any person to sell or deliver any motor vehicle fuel or lubricant referred to in this chapter that fails to meet the specifications required by this chapter.

(b) It is unlawful for any person to sell or deliver any motor vehicle fuel or lubricant referred to in this chapter into, from, or through an unlabeled or mislabeled container or device.

(c) (1) The department, each county sealer, deputy county sealer, and inspector may close and seal outlets and inlets of any receptacles, containers, pumps, dispensers, or storage tanks connected to the outlets and inlets, containing any motor vehicle fuel or lubricant referred to in this chapter that fails to meet the requirements of this chapter.

(2) The person so sealing shall post in a conspicuous place on the premises, where a receptacle, container, pump, dispenser, or storage tank connected to the outlets and inlets has been sealed, a notice stating that the action of sealing has been taken in accordance with this chapter, and giving warning that it is unlawful to break, mutilate, or destroy the seal or seals of the outlets and inlets, to move the container, or to remove the contents from the container, under the penalty provided in this division.

(d) If a container or lot of containers of any commodity subject to this chapter is found to contain a commodity not in conformity with this chapter, the secretary or sealer representing the secretary may take a sample or samples reasonably necessary for enforcement purposes and may, in writing, order the containers off sale. Any lot or container ordered off sale pursuant to this section shall be subject to a disposal order by

the enforcing officer and shall not be sold, offered for sale, or transported, except in accordance with that disposal order.

Any action pursuant to this section shall not affect any rights of a retailer under a warranty of merchantability or warranty of fitness.

Added Stats. 1963 ch 2005 § 2; Amended Stats. 1971 ch 468 § 5; Repealed and added Stats. 1985 ch 167 §§ 11 and 12; Amended Stats. 2015 ch 519 § 49.

§ 13596. BREAKING SEAL FOR PURPOSE OF PERMITTING REMOVAL OF CONTENTS OR PROPER LABELING OF CONTAINER, ETC.

Upon at least 24 hours' written notice from the owner, manager or operator of the container, receptacle, pump or storage tank which has been sealed, to the department or to the sealer of the county in which the premises are situated stating that the contents of such container, receptacle, pump or storage tank will be removed or that such container, receptacle, pump, or storage tank or inlet end of the fill pipe thereof will be properly labeled as in this chapter provided, at a specified time, between the hours of 9 a.m. and 4 p.m. of a day specified in the notice, other than a holiday, such officer shall, at the time specified, break the seal or seals for the purpose of permitting the removal by such manager, owner or operator, of the contents of such container, receptacle, pump or storage tank connected thereto, or the use thereof after proper labeling.

The removal of contents or proper labeling of the container, receptacle, pump, storage tank or inlet end of the fill pipe thereof, as the case may be, shall be made at the time specified and in the presence of the officer removing the seal.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13597. RESEALING ON FAILURE TO MAKE CORRECTION

If for any reason at the time specified in the written notice the contents are not removed, or the container, receptacle, pump, storage tank or inlet end of the fill pipe thereof, is not properly labeled, then the container, receptacle, pump or storage tank connected thereto and the inlet end of the fill pipe of such storage tank, shall be again sealed as hereinbefore provided in this article and the contents may not thereafter be removed or the container, receptacle, pump or storage tank connected thereto or inlet end of the fill pipe thereof be again used, except upon the giving of a new notice and proper labeling.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13598. REMOVAL OF NOTICE AND RESTORATION TO LAWFUL USE

Upon removal of the contents or proper labeling as provided in this article, the notice previously posted shall be removed and the container, receptacle, pump or storage tank may be restored to lawful use.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

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§ 13599. PREREQUISITES TO RELABELING

No container, receptacle, pump or storage tank connected thereto, or the inlet end of the fill pipe of such storage tank, shall, however, be relabeled by the owner, manager or operator, whether under the provisions of this article or otherwise, without first removing from such container, receptacle, pump or storage tank connected thereto, or the inlet end of the fill pipe thereof, all distinctive colors, brands, trademarks or trade names thereon of any manufacturer, refiner, producer, distributor or marketer, indicative of any product not actually contained therein and sold therefrom.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

§ 13600. UNAUTHORIZED BREAKING, ETC., OF SEALS

It is unlawful for any person, or any member, officer, agent, or employee of a firm, association, or corporation, other than the department or any of the officers mentioned in this article, to break, mutilate, or destroy any seal or seals placed upon a container, receptacle, pump, or storage tank connected thereto, or any other storage tank containing a motor vehicle fuel or lubricant, when placed thereon as provided by this article, or to move a container so sealed, or remove the contents therefrom, or to cover, deface, or remove the notice of sealing required by this article.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 2015 ch 519 § 50.

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ARTICLE 17. – PENALTIES - §§ 13610. – 13611.

§ 13610. SEPARATE OFFENSES

Each person is guilty of a separate offense for each day during any portion of which any violation of this division is committed, continued, or permitted by the person, and the person shall be punishable therefore as provided in this division.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1988 ch 590 § 11.

§ 13611. INJUNCTION PROCEEDINGS: VENUE

The department or any sealer may bring an action to enjoin the violation or the threatened violation of any provision of this chapter or of any regulation made pertaining to the provisions of said chapter. Said action may be brought in the county in which such violation occurs or is about to occur. There may be enjoined in one proceeding any number of defendants alleged to be violating the same provisions or regulations, although their properties, interests, residences or places of business may be in several counties and the violations separate and distinct. Any proceeding brought hereunder shall be governed in all other respects by the provisions of Chapter 3, Title 7 of Part 2 of the Code of Civil Procedure [commencing with *§* 525].

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5.

ARTICLE 18. - DISPOSITION AND USE OF MONEYS - § 13620.

§ 13620. EXPENDITURE OF REVENUE

Any moneys in the Department of Food and Agriculture Fund derived under Chapters 14 (commencing with Section 13400) and 15 (commencing with Section 13700) may be expended for the administration and enforcement of any or all of the provisions of those chapters, notwithstanding any other provision of law limiting the expenditure of any of those moneys to the specific purposes or to the administration or enforcement of each of the chapters separately.

Added Stats. 1963 ch 2005 § 2; Renumbered Stats. 1980 ch 636 § 5; Amended Stats. 1984 ch 698 § 8.

ARTICLE 19 - FUEL DELIVERY TEMPERATURE STUDY [REPEALED]

Added Stats. 2007 Ch 398 § 1.
[Repealed Stats. 2016 Ch 208 § 3.]

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 14.5. Service Stations §§13650-13660

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.
Governor

DISCLAIMER

This document represents the Division of Measurement Standards extracts from the Business and Professions Code and is intended to serve as a field resource for weights and measures officials for enforcing the laws pertaining to weights and measures in California. It is not to be considered as official state law.

To find the latest official version of Division 5 of the Business and Professions Code, visit the California Legislative Information website by selecting any of the following links:

DIVISION 5. WEIGHTS AND MEASURES 12001-13800

CHAPTER 1. General Provisions 12001-12027

CHAPTER 2. Administration 12100-12246

CHAPTER 3. Standards of Weights and Measures 12300-12314

CHAPTER 5. Weighing and Measuring Devices 12500-12519

CHAPTER 5.5. Service Agencies for Weighing and Measuring Devices 12531-12544

CHAPTER 6. Fair Packaging and Labeling Act 12601-12615.5

CHAPTER 6.5. Unit Pricing 12655-12656

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CHAPTER 13. Automatic Checkout Systems 13300-13357

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For information concerning the contents of this document, please contact the Division of Measurement Standards by e-mail at dms@cdfa.ca.gov

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BUSINESS AND PROFESSIONS CODE

DIVISION 5

Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 14.5. – Service Stations
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§ 13650. "SERVICE STATION"

"Service station", as used in this chapter, means any establishment which offers for sale or sells gasoline or other motor vehicle fuel to the public.

Added Stats. 1984 ch 1561 § 1.

§ 13651. PROVISION OF AIR, WATER, AND PRESSURE GAUGE

(a) (1) On and after January 1, 2000, every service station in this state shall provide, during operating hours, and make available at no cost to customers who purchase motor vehicle fuel, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6,000 pounds or less.

(2) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus, at least one clearly visible sign which shall read as follows:

> "CALIFORNIA LAW REQUIRES THIS STATION TO PROVIDE FREE AIR AND WATER FOR AUTOMOTIVE PURPOSES TO ITS CUSTOMERS WHO PURCHASE MOTOR VEHICLE FUEL. IF YOU HAVE A COMPLAINT NOTIFY THE STATION ATTENDANT AND/OR CALL THIS TOLL-FREE TELEPHONE NUMBER:
>
> 1 (800)_____."

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This sign shall meet the requirements of Sections 13473 and 13474 with regard to letter size and contrast. As used in this paragraph, automotive purposes does not include the washing of vehicles.

(b) (1) On and after January 1, 1990, every service station in this state located within 660 feet of an accessible right-of-way of an interstate or primary highway, as defined in Sections 5215 and 5220, shall provide, during business hours, public restrooms for use by its customers. Service stations shall not charge customers separately for the use of restroom facilities.

(2) The public restroom shall not be temporary or portable but shall be permanent and shall include separate facilities for men and women, each with toilets and sinks suitable for use by disabled persons in accordance with Section 19955.5 of the Health and Safety Code and Title 24 of the California Code of Regulations. However, a service station not located along an interstate highway and in a rural area, as defined by Section 101 of Title 23 of the United States Code, and where the annualized average daily traffic count is 2,500 vehicles or less, is only required to provide a single restroom to be used by both men and women unless the local legislative body or, upon designation by the local legislative body, the local building official determines and finds, based upon traffic studies and local or seasonal tourist patterns, that a single restroom would be inadequate to serve the public. In that event, the single restroom exemption shall not apply. The single restroom shall contain a toilet, urinal, and sink suitable for use by disabled persons as required by the Americans With Disabilities Act and Title 24 of the California Code of Regulations. The single restroom shall be equipped with a locking mechanism to be operated by the user of the restroom and the restroom shall be maintained in a clean and sanitary manner.

(3) This subdivision does not apply to service stations that are operational prior to January 1, 1990, and that would be obligated to construct permanent restroom facilities to comply with this subdivision.

(4) For the purposes of this subdivision, “customer” means a person who purchases any product available for sale on the premises of the service station, including items not related to the repairing or servicing of a motor vehicle.

(c) Every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus or at or near the point of sale, at least one clearly visible sign showing a list of applicable state and federal fuel taxes per gallon of motor vehicle fuel sold from the dispensing apparatus. The sign may display the federal excise tax rate as “up to $.184”.

(d) (1) The Division of Measurement Standards of the Department of Food and Agriculture shall, no later than January 1, 2001, establish a toll-free customer complaint telephone number. The toll-free telephone number thereby established shall be printed on the sign required pursuant to paragraph (2) of subdivision (a).

(2) Notwithstanding any other provision of law, employees of the Division of Measurement Standards, upon inspection, or upon notice of a complaint forwarded pursuant to this section, are empowered to investigate a complaint against a service station for lack of free air and water and issue a citation to the station, and to collect a fine of two hundred fifty dollars ($250) per valid complaint, unless the citation is challenged in court. No citation shall be issued if the air and water equipment is in good working order upon initial inspection, or if they are repaired to the satisfaction of the inspecting entity within 10 working days of the initial inspection. In addition, no citation based on nonfunctional air and water equipment shall be issued if the service station can establish that the equipment has been the target of repeated vandalism, substantiated by three or more police reports within six months detailing the vandalism.

Added Stats. 1984 ch 1561; Amended Stats. 1988 ch 1498 § 1; Amended Stats. 1989 ch 491 § 1; Amended Stats. 1990 ch 555 § 1; Amended Stats. 1996 ch 489 § 2; Amended Stats. 1999 ch 583 § 2; Amended Stats. 2003 ch 63 § 2.

§ 13652. PUNISHMENT FOR INTENTIONAL VIOLATIONS: COMPLIANCE AFTER RECEIVING NOTICE

(a) Any person who intentionally violates any provision of this chapter or any regulation promulgated pursuant thereto is guilty of an infraction, and, upon conviction, shall be punished by a fine not to exceed fifty dollars ($50) for each day that the person violates the provision or regulation.

(b) The failure of an owner or manager of a service station to have adequate water and air facilities available for use by the public, or to provide permanent public restrooms for use by its customers, as required by subdivision (b) of Section 13651, for five consecutive working days, constitutes a rebuttable presumption affecting the burden of proof that the owner or manager has intentionally violated this chapter. This subdivision does not apply to restrooms rendered inoperable as a result of vandalism or plumbing problems that may not be readily repaired.

(c) Notwithstanding any other provision of this chapter, no person shall be guilty of the infraction specified in subdivision (a) if that person, within seven days after receiving notification from the city attorney, district attorney, or Attorney General of any violation of this chapter, makes whatever changes are necessary to comply with the requirements of this chapter.

Added Stats. 1984 ch 1561; Amended Stats. 1989 ch 491 § 2.

§ 13653. ENFORCEMENT

Notwithstanding any other provision of law, this chapter may be enforced by the city attorney, district attorney, or Attorney General.

Added Stats. 1984 ch 1561 § 1.

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§ 13660. REFUELING SERVICES TO DISABLED DRIVERS

(a) Every person, firm, partnership, association, trustee, or corporation that operates a service station shall provide, upon request, refueling service to a disabled driver of a vehicle that displays a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles. The price charged for the motor vehicle fuel shall be no greater than that which the station otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) Any person or entity specified in subdivision (a) that operates a service station shall be exempt from this section during hours when:

(1) Only one employee is on duty.

(2) Only two employees are on duty, one of whom is assigned exclusively to the preparation of food.

As used in this subdivision, the term "employee" does not include a person employed by an unrelated business that is not owned or operated by the entity offering motor vehicle fuel for sale to the general public.

(c) (1) Every person, firm, partnership, association, trustee, or corporation required to provide refueling service for persons with disabilities pursuant to this section shall post the following notice, or a notice with substantially similar language, in a manner and single location that is conspicuous to a driver seeking refueling service:

> "Service to Disabled Persons
>
> Disabled individuals properly displaying a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles, are entitled to request and receive refueling service at this service station for which they may not be charged more than the self-service price."

(2) If refueling service is limited to certain hours pursuant to an exemption set forth in subdivision (b), the notice required by paragraph (1) shall also specify the hours during which refueling service for persons with disabilities is available.

(3) Every person, firm, partnership, association, trustee, or corporation that, consistent with subdivision (b), does not provide refueling service for persons with disabilities during any hours of operation shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

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> "No Service for Disabled Persons
>
> This service station does not provide refueling service for disabled individuals."

(4) The signs required by paragraphs (1) and (3) shall also include a statement indicating that drivers seeking information about enforcement of laws related to refueling services for persons with disabilities may call one or more toll free telephone numbers specified and maintained by the Department of Rehabilitation. By January 31, 1999, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the toll free telephone number or numbers to be included on the signs required by this subdivision. At least one of these toll free telephone numbers shall be accessible to persons using telephone devices for the deaf. The State Board of Equalization shall publish information regarding the toll free telephone numbers as part of its annual notification required by subdivision (i). In the event that the toll-free telephone number or numbers change, the Director of the Department of Rehabilitation shall notify the State Board of Equalization of the new toll-free telephone number or numbers to be used.

(d) During the county sealer's normal petroleum product inspection of a service station, the sealer shall verify that a sign has been posted in accordance with subdivision (c). If a sign has not been posted, the sealer shall issue a notice of violation to the owner or agent. The sealer shall be reimbursed, as prescribed by the department, from funds provided under Chapter 14. If substantial, repeated violations of subdivision (c) are noted at the same service station, the sealer shall refer the matter to the appropriate local law enforcement agency.

(e) The local law enforcement agency shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the local law enforcement agency determines that there has been a denial of service in violation of this section, or a substantial or repeated failure to comply with subdivision (c), the agency shall levy the fine prescribed in subdivision (f).

(f) Any person who, as a responsible managing individual setting service policy of a service station, or as an employee acting independently against the set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of one hundred dollars ($100) for the first offense, two hundred dollars ($200) for the second offense, and five hundred dollars ($500) for each subsequent offense.

(g) In addition to those matters referred pursuant to subdivision (e), the city attorney, the district attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section. Any person or public agency may also file a verified complaint alleging violation of this section with the city attorney, district attorney, or Attorney General.

(h) Enforcement of this section may be initiated by any intended beneficiary of the provisions of this section, his or her representatives, or any public agency that exercises

oversight over the service station, and the action shall be governed by Section 1021.5 of the Code of Civil Procedure.

(i) An annual notice setting forth the provisions of this section shall be provided by the Board of Equalization to every person, firm, partnership, association, trustee, or corporation that operates a service station.

(j) A notice setting forth the provisions of this section shall be printed on each disabled person's placard issued by the Department of Motor Vehicles on and after January 1, 1999. A notice setting forth the provisions of this section shall be provided to each person issued a disabled person's or disabled veteran's plate on and after January 1, 1998.

(k) For the purposes of this action "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

Added Stats. 1997 Ch 836 § 3; Amended Stats. 1998, ch 879 § 26.4.

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

Extracts from the

CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 15. Automotive Products §§13710-13741

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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DIVISION 5

Weights and Measures

[Added by Stats. 1939 ch 43 § 1.]

CHAPTER 15. – Automotive Products
[Formerly Chapter 15. Antifreeze, Added by Stats. 1949, ch 1430 § 1, effective January 1, 1950.Repealed by Stats. 1984 ch 698 § 9.]

Chapter 15. Automotive Products, Added Stats. 1984, ch 698 § 14.

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ARTICLE 1 - GENERAL PROVISIONS. §§ 13700. – 13702.

§ 13700. DEFINITIONS

For purposes of this chapter, the following terms mean the following:

(a) “Automotive product” means engine coolant or antifreeze, prediluted engine coolant or prediluted antifreeze, brake fluid, transmission fluid, and diesel exhaust fluid.

(b) “Transmission fluid” means a product intended for use in a motor vehicle as either a lubricant, coolant, or liquid medium in any type of transmission, or any other type of unit through which, or by which, force, energy, or power is transferred from a motor vehicle engine by hydraulic means to the driving assembly. Transmission fluid does not include manual transmission lubricant, as described in the latest revision of the SAE Information Report on axle and manual transmission lubricants, SAE International J308.

(c) “Brake fluid” means the fluid intended for use as the liquid medium through which force is transmitted in the hydraulic brake system of a vehicle operated upon the highways.

(d) “Carton” means the package or wrapping in which a number of containers are shipped or stored.

(e) “Container” means any receptacle in which a commodity is immediately contained when sold, but does not mean a carton or wrapping in which a number of receptacles are shipped or stored, or a tank car or truck.

(f) “Diesel exhaust fluid” or “DEF” means an aqueous urea solution used in selective catalytic reduction to lower oxides of nitrogen concentration in the exhaust emissions of diesel engines that meets the last version of International Organization for Standardization (ISO) specification for DEF.

(g) “Engine coolant” or “antifreeze” means any substance or preparation, regardless of its origin, intended to be diluted before use as the cooling medium in the cooling system of an internal combustion engine to provide protection against freezing, overheating, and corrosion of the cooling system, or any product intended to be diluted before use that is labeled to indicate or imply that it will prevent freezing or overheating of the cooling system of an internal combustion engine.

(h) “Label” means all written, printed, or graphic representations, in any form whatsoever, imprinted upon or affixed to any container referred to in this chapter.

(i) “Prediluted engine coolant” or “prediluted antifreeze” means any substance or preparation, regardless of its origin, intended or labeled for use at full strength as the cooling medium or as a top off in the cooling system of an internal combustion engine to provide or supplement protection against freezing, overheating, or corrosion of the cooling system.

(j) “Principal display panel” means that part of the label that is designed to most likely be displayed, presented, shown, or examined under normal and customary conditions of display and purchase.

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 1; Added Stats. 1992 ch 322 § 2; Amended Stats. 1999 ch 494 § 1; Amended Stats.2015 ch 591. § 51.

§ 13701. ADDITIVE TO AUTOMATIC TRANSMISSION FLUIDS

Any material offered for sale or sold as an additive to automatic transmission fluids shall be compatible with the automatic transmission fluid to which it is added, and the resulting mixture shall not fall below the minimum specifications for automatic transmission fluids, as established by the department.

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 8; Added Stats. 1992 ch 322 § 9.

§ 13702. LEGIBILITY OF REQUIRED LABELING

Any words and letters required to be displayed on a container by this chapter shall be in legible type.

Added Stats. 1984 ch 698; Added Stats. 1992 ch 322 § 9.

§ 13701. “CONTAINER” [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 4.

§ 13702. “ANTIFREEZE” [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 4.

§ 13703. “COOLANT” [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 5.

§ 13704. “BRAKE FLUID” [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 6.

§ 13705. “AUTOMATIC TRANSMISSION FLUID” [REPEALED]

Added Stats. 1984 ch 698; Repealed Stats. 1992 ch 322 § 7.

§ 13706. ADULTERATED PRODUCTS [REPEALED]

Added Stats. 1984 ch 698; Amended and Renumbered Stats. 1992 ch 322 § 8.

§ 13707. ADDITIVES TO AUTOMATIC TRANSMISSION FLUIDS [REPEALED]

Added Stats 1984 ch 698; Amended and Renumbered Stats 1992 ch 322 § 9.

§ 13708. LEGIBILITY OF REQUIRED LABELING [REPEALED]

Added Stats 1984 ch 698; Amended and Renumbered Stats 1992 ch 322 § 10.

ARTICLE 2 - SPECIFICATIONS AND LABELING. §§ 13710. – 13713.

§ 13710. MINIMUM SPECIFICATIONS

(a) (1) The department shall establish specifications for engine coolants, antifreeze, prediluted engine coolants, and prediluted antifreeze that promote the public safety in the operation of motor vehicles.

(2) The chemical, physical, and performance specifications for engine coolants and antifreeze and prediluted engine coolants and prediluted antifreeze under paragraph (1) shall not fall below the minimum specifications, if any, established by ASTM International. Engine coolant and antifreeze shall not contain, after dilution with 30 percent water and subsequent mixing, visually identifiable suspended matter or sediment. Prediluted engine coolant and prediluted antifreeze shall not contain, after mixing, visually identifiable suspended matter or sediment.

(3) For purposes of this subdivision, the department shall adopt the ASTM International testing procedures. Methanol- and ethanol-based coolants and antifreeze are not suitable for use in automotive engines and shall not be sold or distributed for automotive use.

(b) Transmission fluid shall meet the latest automotive manufacturers' recommended requirements for all transmissions disclosed on the label of its container. No transmission fluid shall be sold without clearly disclosing, on the label of its container, the type of transmission for which it is intended.

(c) The department shall establish specifications for brake fluid that promote the public safety in the operation of automotive vehicles. The specifications for brake fluid shall not fall below the minimum specifications established by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(d) Any manufacturer or packager of any product regulated by this chapter and sold in the state shall provide, upon request to duly authorized representatives of the department, documentation of any claim made upon their products' label.

Amended Stats. 1999 ch 494 § 2. Amended Stats. 2012 ch 661 § 57; Amended Stats. ch 591 § 52.

§ 13710.5. VARIANCE FROM ENGINE/ANTIFREEZE STANDARDS FOR RECYCLED PRODUCTS [Expired]

Added Stats. 1997 ch 634 § 1; Amended Stats. 1999 ch 494 § 3; Expired by own terms January 1, 2003.

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§ 13711. MISLABELING

(a) An engine coolant or antifreeze is mislabeled if any of the following occurs:

(1) The container does not bear a label on which is printed the brand name, principal ingredient, intended application of the coolant or antifreeze, name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure.

(2) The container does not bear a chart on the label showing appropriate amounts of engine coolant or antifreeze and water in terms of liquid measure to be used to provide protection from freezing at temperatures to at least 30 degrees below zero Fahrenheit.

(3) The container does not bear a statement on the label showing the boiling point of a 50 percent by volume mixture of engine coolant or antifreeze and water in degrees Fahrenheit.

(4) The container is one quart or less and does not bear a label on which is printed the words “engine coolant” or “antifreeze” in letters at least 1/8 inch high on the principal display panel. The container is greater than one quart and does not bear a label on which is printed the words “engine coolant” or “antifreeze” in letters at least 1/4 inch high on the principal display panel.

(5) The principal ingredient is propylene glycol or glycerin and the container does not bear a statement on the label not to use an ethylene glycol hydrometer concentration tester for propylene glycol or glycerin coolants.

(6) The container and carton do not bear a lot or batch number on the label identifying the container lot and date of packaging.

(b) A prediluted engine coolant or prediluted antifreeze is mislabeled if any of the following occurs:

(1) The container does not bear a label on which is printed the brand name, principal ingredient, intended application of the coolant or antifreeze, name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents in terms of liquid measure.

(2) The container does not bear a statement on the label showing the protection from freezing in degrees Fahrenheit.

(3) The container does not bear a statement on the label showing the boiling point in degrees Fahrenheit.

(4) The container is one quart or less and does not bear a label on which is printed the words “prediluted engine coolant” or “prediluted antifreeze” in letters at least 1/8 inch high on the principal display panel. The container is greater than one quart and does not bear a label on which is printed the words “prediluted engine coolant” or “prediluted antifreeze” in letters at least 1/4 inch high on the

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principal display panel.

(5) The container is one quart or less and does not bear a label on which is printed the words “DO NOT ADD WATER” in letters at least 1/8 inch high. The container is greater than one quart and does not bear a label on which is printed the words “DO NOT ADD WATER” in letters at least 1/4 inch high.

(6) The principal ingredient is propylene glycol or glycerin and the container does not bear a statement on the label not to use an ethylene glycol hydrometer concentration tester for propylene glycol or glycerin coolants.

(7) The container and carton do not bear a lot or batch number on the label identifying the container lot and date of packaging.

(c) Transmission fluid shall be deemed to be mislabeled if any of the following occurs:

(1) The container does not bear a label on which is printed the brand name, the name and place of business of the manufacturer, packer, seller, or distributor, the words “Transmission Fluid”, and the duty type classification.

(2) The container does not bear a label on which is printed an accurate statement of the quantity of the contents in terms of liquid measure.

(3) The labeling on the container is false or misleading.

(4) The container and carton do not bear information that identifies the container lot or batch.

(d) Brake fluid is mislabeled if any of the following occurs:

(1) The container does not bear a label that conforms to the requirements of the National Highway Traffic Safety Administration, United States Department of Transportation, and upon which is printed the brand name.

(2) The container does not bear an accurate statement on the label of the quantity of the contents in terms of liquid measure.

(3) The labeling on the container is false or misleading.

(e) The secretary shall establish the method of sale of diesel exhaust fluid sold at retail to the public. In doing so, the secretary shall adopt, by reference, the latest method of sale for diesel exhaust fluid adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 130 “Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality,” except as specifically modified, amended, or rejected by regulation adopted by the secretary.

((f) If a container or lot of containers of any commodity subject to this chapter is found to contain a commodity not in conformity with this chapter, the sealer may take one or more samples reasonably necessary for enforcement purposes and may, in writing, order the containers off sale. Any lot or container ordered off sale pursuant to this section shall be subject to a disposal order by the enforcing officer and shall not be sold, offered for sale, or transported, except in accordance with that disposal order. Any action pursuant to this

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section shall not affect any rights of a retailer under a warranty of merchantability or warranty of fitness.

Added Stats. 1984 ch 698; Amended Stats. 1992 ch 322 § 12; Amended Stats. ch 591 § 53.

§ 13712. BRAKE FLUID RECEPTACLES EXEMPT FROM CONTAINER LABELING REQUIREMENTS

A brake fluid receptacle or dispensing device, including “bleeders”, pressurized containers, or any container used to fill a brake system or to expel air from the system after servicing, are exempt from the container labeling requirements in this chapter except for designation of the contents as “DOT _____ Motor Vehicle Brake Fluid” with the appropriate identification number filled in. The smallest letter and numeral shall not be less than one eighth inch in height.

Added Stats. 1984 ch 698 § 10.

§ 13713. ADULTERATED PRODUCTS

Any product referred to in this chapter is adulterated if its characteristics fall below the specifications for that product established by the department as minimum standards.

Added Stats. 1992 ch 322 § 8.

ARTICLE 3. - CONTAINER REQUIREMENTS - § 13720.

§ 13720. BRAKE FLUID CONTAINERS

Each brake fluid container with a capacity of six fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

Added Stats. 1984 ch 698 § 10.

ARTICLE 4. - ENFORCEMENT OF THE CHAPTER §§ 13730. – 13731.

§ 13730. INSPECTION AND TESTING OF PRODUCTS: ACCESS TO PREMISES AND VEHICLES

The department and each county sealer shall enforce the provisions of this chapter, and may sample, inspect, analyze, and test any product referred to in this chapter manufactured, packed, stored, sold, or distributed within this state. The department,

through its agents, has free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of, and may, by legal means, open any box, carton, parcel, or container of, any product referred to in this chapter and take therefrom samples for analysis or for evidence.

Added Stats. 1984 ch 698 § 10.

§ 13731. OFF-SALE AUTHORITY

The department and each county sealer is authorized to order off-sale any product referred to in this chapter which is adulterated or mislabeled. The off-sale order shall be given in writing to the retail seller and the distributor or manufacturer of the product.

Added Stats. 1984 ch 698 § 10.

ARTICLE 5. - UNLAWFUL ACTS - §§ 13740. – 13741.

§ 13740. SALE OR DISTRIBUTION OF ADULTERATED OR MISLABELED PRODUCT

It is unlawful to sell or distribute any product referred to in this chapter which is adulterated or mislabeled.

Added Stats. 1984 ch 698 § 10.

§ 13741. DECEPTIVE, FALSE OR MISLEADING STATEMENTS ARE UNLAWFUL

(a) It is unlawful for any person or other legal entity to make any deceptive, false, or misleading statement by any means whatever regarding quality, quantity, performance, price, discount, or saving in the sale or selling of any commodity regulated pursuant to this chapter.

(b) Any manufacturer or packager of any product subject to this chapter and sold in this state shall provide, upon request, to a duly authorized representative of the department documentation of any claim made on his or her product’s label.

Added Stats. 1992 ch 322 § 13; Amended Stats. ch 591 § 54.

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CALIFORNIA BUSINESS AND PROFESSIONS CODE

DIVISION 5 - WEIGHTS AND MEASURES

In the Areas of Weights and Measures, and Fuels, Lubricants and Automotive Products

CHAPTER 16. Rental Vehicles
§ 13800

JANUARY 2018

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.

Governor

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CHAPTER 16 - Rental Vehicles

§ 13800. RENTAL VEHICLES

(a) Notwithstanding any other provision of this division, a rental vehicle's fuel gauge installed by the vehicle's manufacturer may be used in a rental transaction by a rental company to calculate an optional charge for fueling when any of the following occurs:

(1) The customer could have avoided incurring the charge by returning the rental vehicle with the same amount of fuel as was in the fuel tank at the commencement of the rental.

(2) The customer chose to purchase the amount of fuel inside the fuel tank at the commencement of the rental.

(b) Nothing in this section shall be interpreted to preclude a rental company from offering additional fueling options to customers besides those described in subdivision (a).

Added Stats. 2007 ch 667 § 1.

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