

**Division of Measurement Standards
Business and Professions Code
Revision Index**

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Extracts from the
BUSINESS AND PROFESSIONS CODE
of California

PERTAINING TO
WEIGHTS AND MEASURES
AND PETROLEUM PRODUCTS

JANUARY 2012



CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Jerry Brown, Governor

BUSINESS AND PROFESSIONS CODE

DIVISION 5

Weights and Measures

[Added by Stats 1939 ch 43 § 1.]

Chapter

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WEIGHTS AND MEASURES

ARTICLE 2

Local Administration

- § 12200. County sealer: Appointment: Term: Expenses: Deputies, inspectors, clerks and employees
- § 12201. Vacancy: Transmittal of list of eligible persons: Failure to appoint: Appointment of Deputy State Sealer
- § 12201.1. Compensation and expenses of county sealer and employees
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- § 12202. Examination for sealers, deputies, and inspectors: Rules: Licenses: Renewal of licenses: Examination fees
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- § 12206. County-wide jurisdiction of county sealer
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- § 12208. [Repealed]
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- § 12209.5. Illustrative material: Issuance and distribution: Preparation of exhibits
- § 12209.6. Certification of parking meters
- § 12210. Inspection of weights, etc., sold or used in county: Fees
- § 12210.5. County authorized to collect fees for inspection testing of device at request of owner or user
- § 12211. Weighing and measuring packages, etc.: Rules and regulations of director: Procedure for adoption and promulgation: Effect of federal standards: Packages containing less than amount represented: Seizure as evidence
- § 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
- § 12213. Entry of premises or stopping vendor, etc., and requiring movement to testing place
- § 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
- §§ 12215-12217. [Repealed]

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ADMINISTRATION

§ 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

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

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 deems such test necessary.

Any such regulation shall be adopted by the director 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.

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

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; Stats 1959 ch 122 § 1; Stats 1961 ch 1679 § 1; Stats 1965 ch 966 § 1. Amended Stats 2011 ch 133 § 1.

§ 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.

(Rev. 1/12)

ADMINISTRATION

ARTICLE 2.1

Fees and Charges

(Operative until January 1, 2011)

- § 12240. Annual device registration fee
- § 12241. [Repealed]
- § 12242. Disposition of revenue
- § 12243. Public meeting prior to adoption of ordinance: Notice: Estimated cost
- § 12244. Recovery of costs incurred in conducting meeting
- § 12245. [Repealed]
- § 12246. Repeal date

§ 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 (n), 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 2 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 (n), inclusive. The business location fee and device fee shall not exceed the following:

- (1) Beginning January 1, 2006, sixty dollars (\$60) per business location, plus 60 percent of the maximum applicable device fee listed in subdivisions (h) to (n), inclusive.

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

- (1) Each vehicle containing one or more commercial devices.
- (2) Each business location that uses different categories or types of commercial devices that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.

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 States 2011 ch 133 § 2.

§ 12241. DIVISION OF MEASUREMENT STANDARDS AMINISTRATIVE FEE

On or before January 1, 2012, 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. 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 beginning January 1, 2012, and annually thereafter.

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.

§ 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

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DEVICES

CHAPTER 5

Weighing and Measuring Devices

- § 12500. Definitions
- § 12500.5. Approval and certification of commercial instruments: Sale or use for commercial purposes of non-approved instruments
- § 12500.6. Prohibition against sale or installation: Revocation or modification of approval
- § 12500.7. Renumbered and amended (See § 12314)
- § 12500.8. Agreement with other jurisdictions for reciprocal acceptance of certifications
- § 12500.9. Fees authorized for approval of devices
- § 12500.10. Removal of unapproved instruments
- § 12501. Sealing instruments before sale
- § 12501.1. Use for remainder of prescribed period where sealed before sale
- § 12501.2. Inspection, testing or sealing not to be required where instrument not rendered readily available after notice
- § 12501.3. Use of unsealed device pending repairs
- § 12502. Instruments necessarily assembled or set up after being sold and before being used
- § 12503. Tests by sealer of instruments used in buying and selling: Request by any resident
- § 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
- § 12505. Sealing and marking examined instruments as correct: Dating
- § 12506. Procedure with respect to incorrect weights, measures, and instruments
- § 12507. Repair of "out of order" instruments: Time: Disuse: Effect of refusal or neglect to repair: Disposition of seized instruments
- § 12508. Removal or obliteration of sealer's tag or device a misdemeanor
- § 12509. Resealing "out of order" instruments when corrected: Removal of "out of order" tag or device: Placing instrument in service pending reinspection
- § 12510. Misdemeanors declared: Presumption of intent to violate law
- § 12510.5. Repealed
- § 12510.6. Repealed
- § 12511. Period for use or sale of weighing or measuring instrument without further test: Inspection and testing during period

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The director 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.

§ 12500.7.

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

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

The director may enter into an agreement with the Office of Weights and Measures of the National Bureau of Standards of the Department of Commerce, and other weights and measures jurisdictions, to accept the certifications of each other for prototype examination purposes.

Added Stats 1979 ch 527 § 8.

§ 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.

DEVICES

(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”.

(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.

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