

Extracts from the
BUSINESS AND PROFESSIONS CODE
of California

PERTAINING TO
WEIGHTS AND MEASURES
AND PETROLEUM PRODUCTS

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CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

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Governor

(Rev. 1/15)

WEIGHTS AND MEASURES

DISCLAIMER

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

CHAPTER 5

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§ 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 which meet all of the tolerance and specification requirements established by the director pursuant to Section 12107.
- (d) “Incorrect” means any instrument which 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 which 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 which 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

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than 150 pounds, except when that determination is made in the presence of the customer charged for the service.

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.

§ 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.

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

The secretary may enter into an agreement with the Office of Weights and Measures of the National Institute of Standards and Technology 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; Amended Stats. 2012 ch 661 § 40.

§ 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

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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.

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 director 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 director 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.

§ 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.

§ 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:
 - (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.

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- (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.

§ 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 director pursuant to Section 12212. If tested and sealed and certified to as correct by the National Bureau of Standards, 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 Bureau of Standards.

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

§ 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.

§ 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

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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.

§ 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 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 shall not be placed into service in California.

Added Stats. 2014 ch 539 § 3. Effective January 1, 2015.

§ 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:

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(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 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.

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