

in violation of this section shall be void.

Passed the Senate March 21, 1969
Passed the House April 9, 1969
Approved by the Governor April 17, 1969
Filed in office of Secretary of State April 17, 1969

CHAPTER 100
[Engrossed House Bill No. 99]
AGRICULTURAL COMMODITIES--
WEIGHMASTERS AND WEIGHERS--
CERTIFIED WEIGHTS

AN ACT Relating to certified weights; repealing sections 15.80.010 through 15.80.260, chapter 11, Laws of 1961 and RCW 15.80.010 through 15.80.260; providing penalties; and making an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. Terms used in this act shall have the meaning given to them in sections 2 through 11 of this act unless the context where used shall clearly indicate to the contrary.

NEW SECTION. Sec. 2. "Department" means the department of agriculture of the state of Washington.

NEW SECTION. Sec. 3. "Director" means the director of the department or his duly appointed representative.

NEW SECTION. Sec. 4. "Person" means a natural person, individual, or firm, partnership, corporation, company, society, or association. This term shall import either the singular or plural, as the case may be.

NEW SECTION. Sec. 5. "Licensed public weighmaster" also referred to as weighmaster, means any person, licensed under the provisions of this act, who weighs, measures or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure or count accepted as the accurate weight, or count upon which the purchase or sale of any commodity or upon which the basic charge or payment for services rendered is based.

NEW SECTION. Sec. 6. "Weigher" means any person who is licensed under the provisions of this act and who is an agent or employee of a weighmaster and authorized by the weighmaster to issue

certified statements of weight, measure or count.

NEW SECTION. Sec. 7. "Vehicle" means any device, other than a railroad car, in, upon, or by which any commodity, is or may be transported or drawn.

NEW SECTION. Sec. 8. "Certified weight" means any signed certified statement or memorandum of weight, measure or count issued by a weighmaster or weigher in accordance with the provisions of this act or any regulation adopted thereunder.

NEW SECTION. Sec. 9. "Commodity" means anything that may be weighed, measured or counted in a commercial transaction.

NEW SECTION. Sec. 10. "Thing" means anything used to move, handle, transport or contain any commodity for which a certified weight, measure or count is issued when such thing is used to handle, transport, or contain a commodity.

NEW SECTION. Sec. 11. "Retail merchant" means and includes any person operating from a bona fide fixed or permanent location at which place all of the retail business of said merchant is transacted, and whose business is exclusively retail except for the occasional wholesaling of small quantities of surplus commodities which have been taken in exchange for merchandise from the producers thereof at the bona fide fixed or permanent location.

NEW SECTION. Sec. 12. The director shall enforce and carry out the provisions of this act and may adopt the necessary rules to carry out its purpose. The adoption of rules shall be subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act), as enacted or hereafter amended, concerning the adoption of rules.

NEW SECTION. Sec. 13. It shall be a violation of this act to transport by highway any hay, straw or grain which has been purchased by weight or will be purchased by weight, unless it is weighed and a certified weight ticket is issued thereon, by the first licensed public weighmaster which would be encountered on the ordinary route to the destination where the hay, straw or grain is to be unloaded: PROVIDED, HOWEVER, That this section shall not apply to the following:

(1) The transportation of, or sale of, hay, straw or grain by the primary producer thereof;

(2) The transportation of hay, straw or grain by an agriculturalist for use in his own growing, or animal or poultry husbandry endeavors;

(3) The transportation of grain by a party who is either a warehouseman or grain dealer and who is licensed under the grain warehouse laws and who makes such shipment in the course of the business for which he is so licensed;

(4) The transportation of hay, straw or grain by retail merchants, except for the provisions of sections 14 and 15 of this act;

(5) The transportation of grain from a warehouse licensed under the grain warehouse laws when the transported grain is consigned directly to a public terminal warehouse.

NEW SECTION. Sec. 14. Certificates of weight issued by licensed public weighmasters and invoices for sales by a retail merchant, if the commodity is being hauled by or for such retail merchant, shall be carried with all loads of hay, straw or grain when in transit.

NEW SECTION. Sec. 15. The driver of any vehicle previously weighed by a licensed public weighmaster may be required to reweigh the vehicle and load at the nearest scale.

The driver of any vehicle operated by or for a retail merchant which vehicle contains hay, straw, or grain may be required to weigh the vehicle and load at the nearest scale, and if the weight is found to be less than the amount appearing on the invoice, a copy of which is required to be carried on the vehicle, the director shall report the finding to the consignee and may cause such retail merchant to be prosecuted in accordance with the provisions of this act.

NEW SECTION. Sec. 16. Any person may apply to the director for a weighmaster's license. Such application shall be on a form prescribed by the director and shall include:

(1) The full name of the person applying for such license and

if the applicant is a partnership, association or corporation, the full name of each member of the partnership or the names of the officers of the association or corporation;

(2) The principal business address of the applicant in this state and elsewhere;

(3) The names of the persons authorized to receive and accept service of summons and legal notice of all kinds for the applicant;

(4) The location of any scale or scales subject to the applicant's control and from which certified weights will be issued; and

(5) Such other information as the director feels necessary to carry out the purposes of this act.

Such annual application shall be accompanied by a license fee of twenty dollars for each scale from which certified weights will be issued and a bond as provided for in section 19 of this act.

NEW SECTION. Sec. 17. The director shall issue a license to an applicant upon his satisfaction that the applicant has satisfied the requirements of this act and the rules adopted hereunder and that such applicant is of good moral character, not less than twenty-one years of age, and has the ability to weigh accurately and make correct certified weight tickets. Any license issued under this act shall expire on June 30th following the date of issuance.

NEW SECTION. Sec. 18. If an application for renewal of any license provided for in this act is not filed prior to July 1st of any one year, there shall be assessed and added to the renewal fee as a penalty therefor fifty percent of said renewal fee which shall be paid by the applicant before any renewal license shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit that he has not acted as a weighmaster or weigher subsequent to the expiration of his prior license.

NEW SECTION. Sec. 19. Any applicant for a weighmaster's license shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Such bond shall

be in the sum of one thousand dollars. The bond shall be of standard form and approved by the director as to terms and conditions. Said bond shall be conditioned that the principal will not commit any fraudulent act and will comply with the provisions of this act and the rules adopted hereunder. Said bond shall be to the state for the benefit of every person availing himself of the services and certifications issued by a weighmaster, or weigher subject to his control. The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face value of such bond. Every bond filed with and approved by the director shall, without the necessity of periodic renewal, remain in force and effect until such time as the license of the licensee is revoked for cause or otherwise canceled. All such sureties on a bond, as provided herein, shall only be released and discharged from all liability to the state accruing on such bond upon compliance with the provisions of RCW 19.72.110, as enacted or hereafter amended, concerning notice and proof of service, but this shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for in RCW 19.72.110, as enacted or hereafter amended, concerning notice and proof of service, and unless the principal shall before the expiration of such period, file a new bond, the director shall forthwith cancel the principal's license.

NEW SECTION. Sec. 20. Any weighmaster may file an application with the director for a license for any employee or agent to operate and issue certified weight tickets from a scale which such weighmaster is licensed to operate under the provisions of this act. Such application shall be submitted on a form prescribed by the director and shall contain the following:

- (1) Name of the weighmaster;
- (2) The full name of the employee or agent and his resident address;
- (3) The position held by such person with the weighmaster;

(4) The scale or scales from which such employee or agent will issue certified weights; and

(5) Signature of the weigher and the weighmaster.

Such annual application shall be accompanied by a license fee of five dollars.

NEW SECTION. Sec. 21. Upon the director's satisfaction that the applicant is of good moral character, has the ability to weigh accurately and make correct certified weight tickets and that he is an employee or agent of the weighmaster, the director shall issue a weigher's license which will expire on June 30th following the date of issuance.

NEW SECTION. Sec. 22. A licensed public weighmaster shall:

(1) Keep the scale or scales upon which he weighs any commodity or thing, in conformity with the standards of weights and measures; (2) carefully and correctly weigh and certify the gross, tare and net weights of any load of any commodity or thing required to be weighed; and (3) without charge, weigh any commodity or thing brought to his scale by an inspector authorized by the director, and issue a certificate of the weights thereof.

NEW SECTION. Sec. 23. Certification of weights shall be made by means of an impression seal, the impress of which shall be placed by the weighmaster or weigher making the weight determination upon the weights shown on the weight tickets. The impression seal shall be procured from the director upon the payment of an annual fee of five dollars and such fee shall accompany the applicant's application for a weighmaster's license. Such impression seal shall be used only at the scale to which it is assigned and shall remain the property of the state and shall be returned forthwith to the director upon the termination, suspension or revocation of the weighmaster's license.

NEW SECTION. Sec. 24. The certified weight ticket shall be of a form approved by the director and shall contain the following information:

(1) The date of issuance;

- (2) The kind of commodity weighed, measured, or counted;
- (3) The name of owner, agent, or consignee of the commodity weighed;
- (4) The name of seller, agent or consignor;
- (5) The accurate weight, measure or count of the commodity weighed, measured or counted; including the entry of the gross, tare and/or net weight, where applicable;
- (6) The identifying numerals or symbols, if any, of each container separately weighed and the motor vehicle license number of each vehicle separately weighed;
- (7) The means by which the commodity was being transported at the time it was weighed, measured or counted;
- (8) The name of the city or town where such commodity was weighed;
- (9) The complete signature of weighmaster or weigher who weighed, measured or counted the commodity; and
- (10) Such other available information as may be necessary to distinguish or identify the commodity.

Such weight certificates when so made and properly signed and sealed shall be prima facie evidence of the accuracy of the weights, measures or count shown, as a certified weight, measure or count.

NEW SECTION. Sec. 25. Certified weight tickets shall be made in triplicate, one copy to be delivered to the person receiving the weighed commodity at the time of delivery, which copy shall accompany the vehicle that transports such commodity, one copy to be forwarded to the seller by the carrier of the weighed commodity, and one copy to be retained by the weighmaster that weighed the vehicle transporting such commodity. The copy retained by the weighmaster shall be kept at least for a period of one year, and such copies and such other records as the director shall determine necessary to carry out the purposes of this act shall be made available at all reasonable business hours for inspection by the director.

NEW SECTION. Sec. 26. No weighmaster or weigher shall enter

a weight value on a certified weight ticket that he has not determined and he shall not make a weight entry on a weight ticket issued at any other location: PROVIDED, HOWEVER, That if the director determines that an automatic weighing or measuring device can accurately and safely issue weights in conformance with the purpose of this act, he may adopt a regulation to provide for the use of such a device for the issuance of certified weight tickets. The certified weight ticket shall be so prepared that it will show the weight or weights actually determined by the weighmaster. In any case in which only the gross, the tare or the net weight is determined by the weighmaster he shall strike through or otherwise cancel the printed entries for the weights not determined or computed by him.

NEW SECTION. Sec. 27. A licensed public weighmaster shall, in making a weight determination as provided for in this act, use a weighing device that is suitable for the weighing of the type and amount of commodity being weighed. The director shall cause to be tested for proper state standards of weight all weighing or measuring devices utilized by any licensed public weighmaster. Certified weights shall not be issued over a device that has been rejected or condemned for repair or use by the director until such device has been repaired.

NEW SECTION. Sec. 28. A weighmaster shall not use a weighing device to determine the weight of a load when the weight of such load exceeds the manufacturer's maximum rated capacity for such weighing device. If upon inspection the director declares that the maximum rated capacity of any weighing device is less than the manufacturer's maximum rated capacity, the weighmaster shall not weigh a load that exceeds the director's declared maximum rated capacity for such weighing device.

NEW SECTION. Sec. 29. No weighmaster shall weigh a vehicle or combination of vehicles to determine the weight of such vehicle or combination of vehicles unless the weighing device has a platform of sufficient size to accommodate such vehicle or combination of

vehicles fully and completely as one entire unit. When a combination of vehicles must be broken up into separate units in order to be weighed as prescribed, each separate unit shall be entirely disconnected before weighing and a separate certified weight ticket shall be issued for each separate unit.

NEW SECTION. Sec. 30. The director is hereby authorized to deny, suspend, or revoke a license subsequent to a hearing, if a hearing is requested, in any case in which he finds that there has been a failure to comply with the requirements of this act or rules adopted hereunder. Such hearings shall be subject to chapter 34.04 RCW (Administrative Procedure Act), as enacted or hereafter amended, concerning contested cases.

NEW SECTION. Sec. 31. For hearings for revocations, suspension, or denial of a license, the director shall give the licensee or applicant such notice as is required under the provisions of chapter 34.04 RCW, as enacted or hereafter amended. Such hearings shall be held in the county where the licensee resides.

NEW SECTION. Sec. 32. The director, for the purposes of this act, may issue subpoenas to compel the attendance of witnesses, and/or the production of books and/or documents anywhere in the state. The party shall have opportunity to make his defense, and may have such subpoenas issued as he desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the director.

NEW SECTION. Sec. 33. It shall be unlawful for any person not licensed pursuant to the provisions of this act to:

(1) Hold himself out, in any manner, as a weighmaster or weigher; or

(2) Issue any ticket as a certified weight ticket.

NEW SECTION. Sec. 34. It shall be unlawful for a weighmaster or weigher to falsify a certified weight ticket, or to cause an incorrect weight, measure or count to be determined, or delegate his authority to any person not licensed as a weigher, or to pre seal a

weight ticket with his official seal before performing the act of weighing.

NEW SECTION. Sec. 35. Any person who shall mark, stamp or write any false weight ticket, scale ticket, or weight certificate, knowing it to be false, and any person who influences, or attempts to wrongfully influence any licensed public weighmaster or weigher in the performance of his official duties shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment of not less than thirty days nor more than one year in the county jail, or by both such fine and imprisonment.

NEW SECTION. Sec. 36. Any person violating any provision of this act, except as provided in section 35 of this act, or rules adopted hereunder, is guilty of a misdemeanor and upon a second or subsequent offense, shall be guilty of a gross misdemeanor: PROVIDED, That any offense committed more than five years after a previous conviction shall be considered a first offense.

NEW SECTION. Sec. 37. The provisions of this act shall be cumulative and nonexclusive and shall not affect any other remedy available at law.

NEW SECTION. Sec. 38. This act shall take effect on July 1, 1969.

NEW SECTION. Sec. 39. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or any section, provision or part thereof, not adjudged invalid or unconstitutional.

NEW SECTION. Sec. 40. Sections 15.80.010 through 15.80.260, chapter 11, Laws of 1961 and RCW 15.80.010 through 15.80.260 are each hereby repealed.

Passed the House March 24, 1969
Passed the Senate April 8, 1969
Approved by the Governor April 17, 1969
Filed in office of Secretary of State April 17, 1969