

CHAPTER 291.

[Sub. S. B. 330.]

WEIGHTS AND MEASURES.

AN ACT relating to weights and measures; providing penalties; repealing sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23 and 24, chapter 194, Laws of 1927 and RCW 19.92.005, 19.92.010, 19.92.015, 19.92.020, 19.92.030, 19.92.060, 19.92.070, 19.92.130, 19.92.140, 19.92.150, 19.92.160, 19.92.180, 19.92.190, 19.92.200, 19.92.220, 19.92.230, 19.92.250, 19.92.260, 19.92.270, and 19.92.280; repealing section 22, chapter 194, Laws of 1927, as amended by section 2, chapter 104, Laws of 1945 and RCW 19.92.080; repealing section 12, chapter 194, Laws of 1927, as amended by section 1, chapter 167, Laws of 1937 and RCW 19.92.090; repealing sections 1 and 2, chapter 138, Laws of 1945 and RCW 19.92.170 and 19.92.171; repealing section 11, chapter 194, Laws of 1927, as amended by section 1, chapter 104, Laws of 1945 and RCW 19.92.210.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. For the purpose of this act:

Definitions.

(1) "Department" means the department of agriculture of the state of Washington. "Department."

(2) "Director" means the director of the department or his duly appointed representative. "Director."

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. "Person."

(4) "Weights and measures" means weights and measures of every kind, instruments and devices for weighing and measuring, and every appliance and accessory associated with any or all such instruments and devices. "Weights and measures."

(5) "City" means a city of the first class with a population of over fifty thousand persons. "City."

(6) "City sealer" means the sealer of weights and measures of a city. "City sealer."

(7) "Cord" means the measurement of wood intended for fuel or pulp purposes that is contained "Cord."

in a space of one hundred and twenty-eight cubic feet, when the wood is ranked and well stowed.

"Ton."

(8) "Ton" means a unit of two thousand pounds avoirdupois weight.

"Intrastate commerce."

(9) "Intrastate commerce" means any and all commerce that is begun, carried on, and completed wholly within the state and subject to the jurisdiction thereof, and shall include the operation of any business or service establishment.

Systems recognized.

SEC. 2. The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and one or the other of these systems shall be used for all commercial purposes in the state. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents, as published by the national bureau of standards, are recognized and shall govern weighing and measuring equipment and transactions in the state.

Standards adopted by state.

SEC. 3. Weights and measures in conformity with the standards of the United States as have been supplied to the state by the federal government or otherwise obtained by the state for use as state standards, shall, when the same shall have been certified as such by the national bureau of standards, be the state standards of weight and measure. The state standards shall be kept in a place designated by the director and shall not be removed from the said place except for repairs or for certification: *Provided*, That they shall be submitted at least once in ten years to the national bureau of standards for certification. The state standards shall be used only in verifying the office standards and for scientific purposes.

SEC. 4. The director shall acquire by purchase at least one complete set of copies of the state stand-

ards provided for in section 3 of this act, to be kept in a place designated by the director and to be known as office standards, and also such field standards and other equipment as may be found necessary to carry out the provisions of this act. The office standards and field standards shall be verified upon their initial receipt and at least once each year thereafter, the office standards by direct comparison with the state standards and the field standards by comparison with the office standards.

Office and
field stand-
ards.

SEC. 5. The director shall be the state sealer of weights and measures and he shall have the custody of the state standards of weights and measures and of the other standards and equipment provided for in this act. The director shall have general supervision over city sealers of weights and measures and over the weights and measures offered for sale, sold, or in use in the state.

Director,
state sealer
and custodian
of standards.

SEC. 6. The director shall enforce the provisions of this act and shall issue from time to time reasonable rules and regulations for enforcing and carrying out the purposes of this act. Such rules and regulations shall have the effect of law and may include (1) standards of net weight, measure, or count, and reasonable standards of fill, for any commodity in package form, (2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used by the director and city sealers in the discharge of their official duties, (3) exemptions from the sealing or marking requirements of section 12 of this act with respect to weights and measures of such character or size that such sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question, and (4) exemptions from the requirements of sections 7 and 8 of this act for annual testing, and schedules fixing the frequency of required re-

Enforcement
—Rules, reg-
ulations.

tests for classes of devices so exempted, with respect to classes of weights and measures found to be of such character that annual re-testing is unnecessary to continued accuracy. These regulations shall include specifications, tolerances, and regulations for weights and measures of the character of those specified in section 8 of this act, designed to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official standards, those (a) that are not accurate, (b) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or (c) that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the national bureau of standards Handbook 44, second edition as published at the time of the enactment of this act shall be the specifications, tolerances and regulations for commercial weighing and/or measuring devices of the state. The director may at his discretion adopt, by regulation, any supplement to the national bureau of standards Handbook 44 second edition or any subsequent similar publication by such bureau. For the purposes of this act, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section; all other apparatus shall be deemed to be "incorrect."

Specifications, tolerances and regulations designated.

"Correct" apparatus.

Inspection, test of standards, when.

SEC. 7. The director shall test the standards of weight and measure procured by any city for which the appointment of a sealer of weights and measures is provided by this act, at least once every five years, and shall approve the same when found to be correct, and he shall inspect such standards at least once every two years. He shall at least once annually test all weights and measures used in

checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report his findings, in writing, to the executive officer of the institution concerned.

SEC. 8. If not otherwise provided by law, the director shall have the power to inspect and test to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. It shall be the duty of the director, except in cities for which city sealers of weights and measures have been appointed as provided for in this act, at least annually, and as often as he may deem necessary, to inspect and test to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight or of measure, (2) in computing the basic charge or payment for services rendered on the basis of weight or of measure, or (3) in determining weight or measurement when a charge is made for such determination: *Provided*, That with respect to single-service devices, that is, devices designed to be used commercially only once and to be then discarded, and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing of each individual device shall not be required and the inspecting and testing requirements of this section will be satisfied when inspections and tests are made on representative sample lots of such devices; and the larger lots of which such sample lots are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such sample lots.

Inspection,
test of weights
and measures,
when.

SEC. 9. The director shall investigate complaints made to him concerning violations of the provisions

Investigations
by director.

of this act, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

Inspections
determining
conformity
with law—
Tagging—
Off sale
orders.

SEC. 10. The director shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, exposed for sale, sold or in the process of delivery to determine whether the same contain the amounts represented and whether they be kept, offered, exposed for sale or sold in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the director may order them off sale and may mark, tag or stamp them in a manner prescribed by him. No person shall (1) sell, keep, offer or expose for sale any package or amount of commodity that has been ordered off sale as provided in this section unless and until such package or amount of commodity has been brought into full compliance with legal requirements or (2) dispose of any package or amount of commodity that has been ordered off sale and that has not been brought into compliance with legal requirements in any manner except with the specific approval of the director.

Stop-use,
stop-removal
and removal
orders.

SEC. 11. The director shall have the power to issue stop-use orders, stop-removal orders and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts of commodities kept, offered, exposed for sale, sold or in process of delivery, whenever in the course of his enforce-

ment of the provisions of this act and/or rules and regulations adopted hereunder he deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified or fail to remove from the premises specified any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order or removal order issued under the authority of this section.

SEC. 12. The director shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be "correct" as defined in section 6 of this act and shall reject and mark or tag as "rejected" such weights and measures as he finds upon inspection or test to be "incorrect" as defined in section 6 of this act, but which in his best judgment are susceptible of satisfactory repair: *Provided*, That such sealing or marking shall not be required with respect to such weights and measures as may be exempted therefrom by a regulation of the director issued under the authority of section 6 of this act. The director may reject or seize any weights and measures found to be incorrect that, in his best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the director if not corrected as required by section 20 of this act or if used or disposed of contrary to the requirements of section 20 of this act.

Approval,
rejection,
weights and
measures—
Tagging—
Destruction.

SEC. 13. (1) With respect to the enforcement of this act and any other acts dealing with weights and measures that he is, or may be empowered to enforce, the director is authorized to arrest any violator of the said act, and to seize for use as evidence incorrect or unsealed weights and measures or amounts or packages of commodities to be used,

Inspection,
arrest and
seizure
authorized.

retained, offered, exposed for sale or sold in violation of the law.

(2) In the performance of his official duties the director is authorized at reasonable times during the normal business hours of the person using the weights and measures to enter into or upon any structure or premises where weights and measures are used or kept for commercial purposes. Should the director be denied access to any premises or establishment where such access was sought for the purposes set forth in this section, he may apply to any court of competent jurisdiction for a search warrant authorizing access to such premises or establishment for said purposes. The court may, upon such application, issue the search warrant for the purposes requested.

Powers,
duties may
be delegated.

SEC. 14. The powers and duties given to and imposed upon the director by the provisions in sections 7, 8, 9, 10, 11, 12, 13 and 22 of this act may be performed by any of his duly authorized representatives acting under the instructions and at the direction of the director.

City sealers
and deputies.

SEC. 15. There shall be a sealer of weights and measures and such deputies as may be required by ordinance of each city governed by this act. Such sealer and such deputies shall in any such city be appointed by, and they shall hold office subject to applicable local civil service laws and regulations; otherwise they shall be appointed by the mayor, or other chief executive officer of such city, by and with the advice and consent of the governing body of such city, and they may be removed for cause in the same manner.

—Bonds.

SEC. 16. A bond with sureties, to be approved by the appointing power, and conditioned upon the faithful performance of his duties and the safekeeping of any standards or equipment entrusted to his

care, shall forthwith, upon his appointment, be given by each city sealer and deputy sealer in the penal sum of one thousand dollars; the premium on such bond shall be paid by the city for which the officer in question is appointed.

SEC. 17. The city sealer and his deputy sealers when acting under his instructions and at his direction shall have the same powers and shall perform the same duties within the city for which appointed as are granted to and imposed upon the director by sections 8, 9, 10, 11, 12, and 13 of this act.

—Powers,
duties.

SEC. 18. The council or other governing body of each city for which a city sealer has been appointed as provided for by section 15 of this act shall (1) procure at the expense of the city such standards of weight and measure and such additional equipment, to be used for the enforcement of the provisions of this act in such city, as may be prescribed by the director; (2) provide a suitable office for the city sealer; and (3) make provision for the necessary clerical services, supplies, transportation and for defraying contingent expenses incidental to the official activities of the city sealer in carrying out the provisions of this act. When the standards of weight and measure required by this section to be provided by a city shall have been examined and approved by the director, they shall be the official standards for such city. It shall be the duty of the city sealer to make, or to arrange to have made, at least as frequently as once a year, comparisons between his field standards and appropriate standards of a higher order belonging to his city or to the state, in order to maintain such field standards in accurate condition.

—Duties
of governing
body—Stand-
ards, com-
parisons to be
made.

SEC. 19. In cities for which city sealers of weights and measures have been appointed as provided for

—Concur-
rent authority.

in this act, the director shall have concurrent authority to carry out the provisions of this act. The powers and duties relative to weights and measures contained in this act shall be in addition to the powers granted to any such city by law or charter.

Correction
of rejected
weights and
measures.

SEC. 20. Weights and measures that have been rejected under the authority of the director or a city sealer shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within thirty days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially re-examined and found to be correct or until specific written permission for such use is issued by the rejecting authority.

Regulations
on sale of
commodities.

SEC. 21. Commodities in liquid form shall be sold only by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by cubic measure, by measure of length, area or by count: *Provided*, That liquid commodities may be sold by weight and dry commodities may be sold by count only if such methods give accurate information as to the quantity of commodity sold: *Provided, further*, That the provisions of this section shall not apply (1) to commodities when sold for immediate consumption on the premises where sold; (2) to vegetables when sold by the head or bunch; (3) to commodities when in package form or in containers standardized by a law of this state or by federal law; (4) to concrete aggregates, concrete mixtures and loose solid materials such as earth,

soil, gravel, crushed stone and the like when sold by cubic measure; or (5) to unprocessed vegetable and animal fertilizer when sold by cubic measure. The director shall issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented to be accurate and informative to all interested parties.

SEC. 22. Except as otherwise provided in this act, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, offered or exposed for sale or sold in intrastate commerce, shall bear on the outside of the package a definite, plain, and conspicuous declaration of (1) the net quantity of the contents in terms of weight, measure or count; and (2) in the case of any package not sold on the premises where packed, the name and place of business of the manufacturer, packer or distributor: *Provided*, That the qualifying term "when packed" or words of similar import shall not be used in connection with the declaration required under clause (1): *And provided, further*, That under clause (1) the director shall by regulation establish (a) reasonable variations to be allowed, (b) exemptions as to small packages and (c) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer.

SEC. 23. In addition to the declarations required by section 22 of this act, any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package

—Packaged commodities in intrastate commerce.

—Declaration of price, packaged commodities.

a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

—Misleading packaged commodities unlawful.

SEC. 24. No commodity in package form shall be so wrapped, nor shall it be in a container so made, formed or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standards of fill as may have been prescribed for the commodity in question by the director.

“In package form” defined.

SEC. 25. The term “in package form” as used in this act shall mean commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

“Weight” defined.

SEC. 26. The word “weight” as used in this act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

Price not to be misleading.

SEC. 27. Whenever any commodity or service is sold, offered, exposed or advertised for sale, by weight, measure or count, the price shall not be misrepresented nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser.

Meat, poultry, fish, sold by weight.

SEC. 28. Except for immediate consumption on the premises where sold or as one of several elements comprising a meal sold as a unit, for consumption elsewhere than on the premises where

sold, all meat, meat products, fish and poultry offered or exposed for sale or sold as food shall be offered or exposed for sale and sold by weight.

SEC. 29. Butter, oleomargine and margarine shall be offered and exposed for sale and sold by weight and only in units of one-quarter pound, one-half pound, one pound or multiples of one pound, avoirdupois weight.

Spreads sold by unit weight.

SEC. 30. All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream and buttermilk, shall be packaged for retail sale only in units of one gill, one-half liquid pint, one liquid pint, one liquid quart, one-half gallon, one gallon or multiples of one gallon: *Provided*, That the director may by regulation provide for other sizes under one quart.

Fluid dairy products sold by liquid measure.

SEC. 31. When in package form and when packed, kept, offered, exposed for sale or sold, flour such as, but not limited to, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal and hominy grits shall be packaged only in units of five, ten, twenty-five, fifty and one hundred pounds avoirdupois weight: *Provided*, That packages in units of less than five pounds or more than one hundred pounds shall be permitted.

Packaged flour sold by unit weight.

SEC. 32. All solid fuels such as, but not limited to, coal, coke, charcoal, broiler chips, pressed fuels and briquets shall be sold by weight: *Provided*, That solid fuels such as hogged fuel, sawdust and similar industrial fuels may be sold or purchased by cubic measure. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke or charcoal to an individual purchaser shall be accompanied by duplicate delivery tickets on which, in ink or other indelible substance, there shall be

Solid fuels sold by weight, cubic measure—Delivery tickets.

clearly stated (1) the name and address of the vendor; (2) the name and address of the purchaser; and (3) the net weight of the delivery and the gross and tare weights from which the net weight is computed, each expressed in pounds. One of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered, on demand, to the director or his deputy or inspector or a city sealer or deputy sealer who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser: *Provided*, That if the purchaser carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him.

Textile goods
marked with
net measure,
net weight—
Exceptions.

SEC. 33. It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject, however, to the following limitations and requirements:

(1) Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting or embroidery thread or yarn except nylon hand knitting yarn that is not composed in whole or in part of

wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of a textile product, sold only for household use, consisting of a package containing two or more similar individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but such proviso shall not apply where the individual units are separately marked. Any unit of yarn composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of such yarn except that any such unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed fifty yards, may be marked to show its linear measure only.

(2) The marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer, or distributor of the product, or a trademark, symbol, brand or other mark that positively identifies such manufacturer, packer or distributor.

(3) Reasonable tolerances shall be permitted and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the director.

(4) The provisions of this section shall not apply to the following textile products when sold at wholesale in bulk by net weight: Cordage, agricultural bag sewing threads, twines, yarns that are to be processed and yarns that are to be industrially converted into end use products.

SEC. 34. Berries and small fruit shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of

Small fruit,
berries, sold
by weight,
unit measure.

one-half dry pint, one dry pint or one dry quart: *Provided*, That the marking provisions of section 22 of this act shall not apply to such containers.

Fractional units, fractional value.

SEC. 35. Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in sections 1 and 2 of this act, and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.

Obstruction of duties, misdemeanor—Penalty.

SEC. 36. Any person who shall hinder or obstruct in any way the director, a city sealer or a deputy sealer, in the performance of his official duties, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars or more than two hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment.

Impersonation, misdemeanor—Penalty.

SEC. 37. Any person who shall impersonate in any way the director, or a city sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Unlawful practices, misdemeanor or gross misdemeanor.

SEC. 38. Any person who, by himself, by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subparagraphs (1) through (9) of this section, shall be guilty of a misdemeanor and upon a second or subsequent conviction thereof he shall be guilty of a gross misdemeanor.

(1) Use or have in possession for the purpose of using for any commercial purpose specified in section 8 of this act, sell, offer, expose for sale or

hire or have in possession for the purpose of selling or hiring an incorrect weight or measure or any device or instrument used or calculated to falsify any weight or measure.

Unlawful
practices,
misdemeanor
or gross
misdemeanor.

(2) Use or have in possession for current use in the buying or selling of any commodity or thing, for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight or measurement, or in the determination of weight or measurement when a charge is made for such determination, any weight or measure that has not been sealed by the director, a city sealer or deputy sealer within one year, unless written notice has been given to the director or to the city sealer in whose territory the weight or measure is located to the effect that such weight or measure is available for examination or is due for reexamination, as the case may be, or unless specific written permission to use such weight or measure has been received from the office of the director or from the city sealer in whose territory the weight or measure is located.

(3) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(4) Remove from any weight or measure, contrary to law or regulation, any tag, seal, stamp or mark placed thereon by the director, or a city sealer or deputy sealer.

(5) Sell, offer or expose for sale less than the quantity he represents of any commodity, thing or service.

(6) Take more than the quantity he represents of any commodity, thing, or service when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

(7) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service in a condition or manner contrary to law or regulation.

(8) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(9) Violate any provision of this act or of the rules and/or regulations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

Severability.

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.

Repeal.

SEC. 40. The following acts or parts of acts are hereby repealed:

(1) Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23 and 24, chapter 194, Laws of 1927 and RCW 19.92.005, 19.92.010, 19.92.015, 19.92-.020, 19.92.030, 19.92.060, 19.92.070, 19.92.130, 19.92-.140, 19.92.150, 19.92.160, 19.92.180, 19.92.190, 19.92-.200, 19.92.220, 19.92.230, 19.92.250, 19.92.260, 19.92-.270, and 19.92.280;

(2) Section 22, chapter 194, Laws of 1927, as amended by section 2, chapter 104, Laws of 1945 and RCW 19.92.080;

(3) Section 12, chapter 194, Laws of 1927, as amended by section 1, chapter 167, Laws of 1937 and RCW 19.92.090;

(4) Sections 1 and 2, chapter 138, Laws of 1945 and RCW 19.92.170 and 19.92.171;

(5) Section 11, chapter 194, Laws of 1927, as amended by section 1, chapter 104, Laws of 1945 and RCW 19.92.210.

Passed the Senate February 26, 1959.

Passed the House March 9, 1959.

Approved by the Governor March 24, 1959.

CHAPTER 292.

[Sub. S. B. 363.]

NACHES PASS TUNNEL.

AN ACT relating to public highways; authorizing a Naches Pass tunnel and authorizing studies, surveys, planning, location, design, financing and construction thereof; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The Washington state highway commission and the Washington toll bridge authority are hereby authorized and directed, acting jointly with the joint fact-finding committee on highways, streets and bridges, to retain an independent engineering firm to prepare traffic, engineering and financial studies, and surveys to determine the feasibility of undertaking the construction of a Naches cut-off and tunnel on primary state highway No. 5 through the Cascade Mountains, together with the necessary approaches connecting to existing highways in whole or in part as an improvement on the state highway system, or as a toll tunnel project, in either case making use of federal agency funds as appropriate and available and funds contributed or advanced by any political subdivisions which it is determined will be economically benefited by construction of the project, said cut-off shall start on state highway No. 5 near the junction of the White

Feasibility
study of
tunnel
directed.