

Chapter 10

WEIGHTS AND MEASURES*

* Chapter 9, as added by Ordinance No. 1065, effective December 24, 1987, renumbered to Chapter 10 by codifier because Chapter 9 is in use: Article 3 added by Ordinance No. 1300, effective June 12, 2003.

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Article 1.

Definitions

Sec. 3-10.101. Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

(a) "Weighing and measuring instrument" and "weighing and measuring device" are used interchangeably, and shall have the same meaning, and shall mean "weighing instruments" and "measuring instruments" as defined by Section 12500 of the Business and Professions Code of the State, excepting any retail scale used primarily for the purposes of weighing feed and seed.

(b) "Commercial purpose" shall have the meaning assigned to it by Section 12500 of the Business and Professions Code of the State.

(c) "Sealer" shall mean the Agricultural Commissioner/Sealer of the County. (§ 1, Ord. 1065, eff. December 24, 1987)

Article 2.

Commercial Weighing and Measuring Devices

Sec. 3-10.201. Authority: Date of enforcement.

This article is enacted pursuant to Section 12240 of the Business and Professions Code of the State to establish a system for registering commercial weighing and measuring devices and to recover the costs of inspecting and testing such instruments pursuant to Section 12210 of said Business and Professions Code.

The provisions of this article shall be enforced on and after January 1, 1988. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.202. Registration certificates: Required.

No person shall use any weighing or measuring instrument for commercial purposes without having a current registration certificate for such instrument issued pursuant to this article. Such certificate shall be in addition to any other certificate, license, permit, or other entitlement which may be required by the State, County, or any other public entity. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.203. Registration certificates: Applications.

An application for a registration certificate shall be submitted to the Sealer in the form prescribed by the Sealer. The Sealer shall issue the registration certificate upon the receipt of a properly completed application and the payment of the applicable fee as set forth in Section 3-10.205 of this article. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.204. Registration certificates: Term.

A registration certificate shall expire on January 31 next following the date of its issuance and may thereafter be renewed on an annual basis upon the payment of the applicable fees and the submission of a properly completed and current application. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.205. Fees.

(a) An annual registration fee shall be charged for the calendar year, or any part thereof, for all weighing and measuring instruments requiring a registration certificate as provided for in California Business and Professions Code Section 12240. The annual registration fee shall be set at the amount necessary to recover the costs incurred in inspecting or testing the devices. The fee amounts shall not exceed the County's total cost of actually inspecting or testing the devices as required by law, up to the maximum amounts set in California Business and Professions Code Section 12240 as may be amended from time to time.

(b) Any person failing to obtain a registration certificate before using any weighing or measuring instrument for commercial purposes, or to renew a certificate on or before March 31 of each year, shall be required to pay, in addition to the registration fee, fifty dollars (\$50.00) to reimburse the Department for its costs to obtain payment of the required registration fee. If the Department is required to refer collection of the delinquent fee to the County Office of Revenue and Reimbursement, then a twenty-five dollar (\$25.00) administrative fee shall also be paid by the person failing to timely pay the required annual device registration fee in order to reimburse the Department for its costs incurred for this referral. (§ 1, Ord. 1065, eff. December 24, 1987, as amended by § 2, Ord. 1277, eff. February 7, 2002, as amended by § 2, Ord. 1341, eff. February 9, 2006, as amended by § 2, Ord. 1440, eff. May 29, 2014)

Sec. 3-10.206. Registration certificates: Corporations: Fictitious names.

A registration certificate may be issued to a corporation duly authorized to transact business in the State or to any person operating under a fictitious name who has complied with the provisions of Chapter 5 of Part 3 of Division 7 of the Business and Professions Code of the State. A certificate issued to a corporation shall designate such corporation by the exact name which appears on the Articles of Incorporation of such corporation. Except as otherwise provided in this section, all registration certificates shall be issued in the true name of the applicant. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.207. Registration certificates: Transferability.

Registration certificates shall not be transferable from one person to valid only for another. A registration certificate shall be the particular instruments specified therein and, if the instruments are to be used at a fixed location, for the specific location for which the registration certificate is issued. (§ 1, Ord. 1065, eff. December 24, 1987)

Sec. 3-10.208. Registration certificates: Replacement.

If a current registration certificate has been lost, mutilated, or destroyed, the person to whom it was issued may obtain a replacement from the Sealer upon the payment of a replacement fee of Two and no/100ths (\$2.00) Dollars. (§ 1, Ord. 1065, eff. December 24, 1987)

Article 3: Automated Point of Sale Inspection Program

Sec. 3-10.301. Definitions.

For the purpose of this Article, the following words and phrases are defined and shall be construed as having the following meaning:

- (a) "Advertise" means a notice to attract public attention.
- (b) "Commercial purpose" includes the selling of any commodity by a person to a consumer.
- (c) "Commodity" means one or more products, merchandise, goods, articles of commerce, wares, materials, or any consumer items that are bought or sold.
- (d) "Consumer" means a customer, purchaser, or buyer.
- (e) "Department" means the Yolo County Department of Agriculture/Sealer of Weights and Measures.
- (f) "Location" means a premise on which a single business operates one or more point of sale stations.
- (g) "Person" means any person, firm, corporation, business or association.
- (h) "Point of sale station" mean individual and separate equipment that is capable of recovering electrically stored price information that is used to charge consumers for the purchase of commodities. "Point of sale stations" shall include, but is not limited to, equipment that uses Universal Product Code scanners, price look-up codes, or any other system that relies on the retrieval of electronically stored information to complete a transaction of commerce between a retailer and consumer.
- (i) "Scanner" means an automated system for retail commodity price charging.
- (j) "Sell" includes barter, exchange, trade, keep for sale, offer for sale or expose for sale in any of their variant forms. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.302. Inspection Requirement.

Any location that utilizes a scanner in Yolo County, at a point of sale station, is subject to annual inspection and cost recovery as authorized by this Article. Nothing in this Article shall require an annual inspection if the Department does not have the resources necessary to complete such annual inspections. Nothing in this Article shall prohibit more frequent inspections and follow-up inspections if the Department deems such additional inspections to be necessary. Other than annual or follow up inspections for which the Board of Supervisors has set a fee, the Department, consistent with guidelines established by Board Resolution, may waive any additional inspection fees. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.303. Follow-up Inspection.

For the purposes of defraying additional inspection costs incurred by the Department when a point of sale station used by a person fails an inspection, the Department may charge a follow-up inspection fee to the person upon return to verify that corrective actions have been taken and no additional violations are occurring. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.304. Fees.

The inspection fee and follow-up inspection fee for any person utilizing a scanner shall be established, from time to time, by the Board of Supervisors by resolution, in accordance with the applicable law. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.305. Failure to Pay Inspection Fees and Follow-up Inspection Fees.

Any inspection fee or follow-up inspection fee is due and payable upon receipt and if not paid within 60 days of receipt, there shall be added a late fee as follows:

- (a) For any inspection fee or follow-up inspection fee paid within 30 days following the due date, there shall be added a penalty fee of \$50.
- (b) For any inspection or follow-up inspection fee paid more than 30 days after the due date, but within 90 days following the due date, there shall be added a penalty fee in the amount of the sum equal to 50% of the inspection fee or \$100, whichever is greater.
- (c) For any inspection fee or follow-up inspection fee paid more than 90 days following the due date, there shall be added a penalty fee in the amount of the sum equal to the inspection fee or \$200, whichever is greater. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.306. Violations.

- (a) It shall be unlawful to charge, at the time of sale, a price that is more than the price that is advertised or posted.
- (b) It shall be unlawful for any person, employee or agent thereof to:
 - (1) Fail to post the telephone number as specified in Section 3-10.308.
 - (2) Fail to submit to any reasonable inspection as required by Sections 3-10.302 and 3-10.303.
 - (3) Fail to pay any fee as required by Section 3-10.305. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.307. Penalties.

- (a) Notwithstanding the provisions of Section 1-2.01 of the Yolo County Code or any other section of this Code, and with the exception of the fourth and subsequent violations of this Article within one year as provided in subsection (c) of this Section, the violation of any of the provisions of this Article is an infraction subject to the procedures set forth in Penal Code sections 19.6 and 19.7.
- (b) Every violation of any provision of this Chapter constituting an infraction is punishable as follows:
 - (i) A fine not exceeding one hundred dollars (\$100) and not less than fifty dollars (\$50) for a first offense;
 - (ii) A fine not exceeding two hundred dollars (\$200) and not less than one hundred dollars (\$100) for a second offense;
 - (iii) A fine not exceeding five hundred dollars (\$500) for a third violation of this Chapter within one year.
- (c) The fourth and each subsequent violation of this Chapter within one year shall constitute a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1000) and not less than five hundred dollars (\$500) or any other penalty imposed by a court, or both.
- (d) Payment of any fine or other penalty imposed by a court shall not relieve a person from the responsibility of paying the inspection fee or follow-up inspection fee for a point of sale station audit.
- (e) In addition to all other remedies provided by this Article or State law, in the event of continuing violation of the provisions of this Article, the Department may seek civil injunctive relief to restrain further violations.

(f) In lieu of the other remedies provided by this Article, the Department may pursue civil penalties pursuant to Section 12015.3 of the California Business and Professions Code or criminal prosecution pursuant to Section 12024.2 of the California Business and Professions Code, as those sections may be amended from time to time. (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.308. Notice to Consumer.

In addition to the inspection fee requirements of this Article, every person who uses a point of sale station for commercial purposes shall post, at a location clearly visible to the general public, a notice which will be provided by the Department and which will contain at least the following information:

“Attention Consumer: You are entitled to the lowest advertised or posted price offered at this location. For information or complaints, you may call the Yolo County Agricultural Commissioner/Sealer of Weights and Measures at 530-666-8140.” (§ 2, Ord. 1300, eff. June 12, 2003)

Sec. 3-10.309. Posting of Price Accuracy Compliance: Public Notification.

Upon the completion of an inspection as provided for in this Article, the inspected location involved may request the Department to provide a notice of compliance that will be in a format suitable for posting and which will indicate that the location is in compliance with the provisions of this Article. Presentation of a notice of compliance by the Department is not intended to be, and shall not be construed as, an endorsement or recommendation of the location by the Department or the County. (§ 2, Ord. 1300, eff. June 12, 2003)