

Chapter 5.52 - WEIGHING AND MEASURING DEVICE REGISTRATION*

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5.52.010 - Purpose of provisions—Statutory authority.

The purpose of this chapter is to establish a system for registering weighing and measuring devices and to recover the costs of inspecting and testing such devices pursuant to Sections 12210 and 12240 of the Business and Professions Code. The authority for this chapter is Division 5, Chapter 2, Article 2.1 (commencing with Section 12240) of the Business and Professions Code.

(Ord. 1291 § 1 (part), 2007)

5.52.020 - Definitions.

The following definitions shall apply for the purpose of this chapter unless the context otherwise requires:

"Certified farmers market" shall have the meaning assigned to it by Health and Safety Code Section 113740.

"Certified producer" shall have the meaning assigned to it by Title 3 California Code of Regulations Section 1392.2(e).

"Commercial purposes" shall have the meaning assigned to it by Business and Professions Code Section 12500.

"Location" or "business location" means the room, enclosure, building, space or area where one or more weighing or measuring devices are located or operated. Each house or mobilehome shall be considered to be one location, except in a mobilehome park or an apartment complex, where the park or complex shall be considered as one location.

"Person" shall have the meaning assigned to it by Business and Professions Code Section 12011.

"Point-of-sale system" or "POS system" means any computer or electronic system used by a retail establishment such as, but not limited to, Universal Product Code scanners, price lookup codes, or an electronic price lookup system as a means for determining the price of the item being purchased by a consumer.

"Sealer" means the agricultural commissioner-sealer of the county, or the sealer's designees.

"Sell," in any of its variant forms, means and includes barter, exchange, trade, keep for sale, offer for

sale or expose for sale, in any of their variant forms.

"Weighing and measuring devices" means "weighing devices" and "measuring devices" as defined in Business and Professions Code Section 12500, excepting any retail scale used primarily for the purpose of weighing feed and seed.

(Ord. 1291 § 1 (part), 2007)

5.52.030 - Registration of devices required.

No person shall use any weighing or measuring device, or POS system, for commercial purposes without having registered it with the sealer. The duty to register shall be in addition to any other duty which may be required by any other public entity.

(Ord. 1291 § 1 (part), 2007)

5.52.040 - Annual registration fee.

A. Annual Registration Fees. The annual registration fees due hereunder are adopted pursuant to and under the authority of Business and Professions Code Sections 12240 and 13350. Annual fee amounts established on January 1, 2008, pursuant to Business and Professions Code Section 12240 shall remain in effect until superseded by a change in Business and Professions Code Section 12240. Fee amounts established pursuant to Business and Professions Code Section 13350 shall remain in effect until superseded by a change in Business and Professions Code Section 13350. Annual registration fees are set by business location and the number of commercial devices and/or point-of-sale registers at each business location under common ownership or management, as follows:

Table A

(Business Location Fees)

	Fee Authority	Fee on Effective Date of Enacting Ordinance	Fee Effective 1/1/2008
Business location fee	Business and Professions Code ("B&P") Section 12240(f) and (o)	\$80.00 per business location	\$100.00 per business location

Table B

(Device Fees)

Device	Fee Authority	Fee on Effective Date of Enacting Ordinance	Fee Effective 1/1/2008
Electric, vapor (gas)	B&P Section 12240(g)	\$ 2.00	\$ 2.00

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and water sub-meters			
Vehicle mounted and wholesale fuel meters	B&P Section 12240(m)	20.00	25.00
Liquefied petroleum gas meters, truck mounted or stationary	B&P Section 12240(l)	140.00	175.00
Livestock scales, ≥ 2,000 lb and <10,000 lb	B&P Section 12240(k)	80.00	100.00
Livestock scales, ≥ 10,000 lb	B&P Section 12240(k)	120.00	150.00
Weighing devices, other than livestock scales, ≥ 2,000 lb and <10,000 lb	B&P Section 12240(h)	120.00	150.00
Weighing devices, other than livestock scales, ≥ 10,000 lb	B&P Section 12240(h)	200.00	250.00
All other commercial weighing or measuring devices	B&P Section 12240(n)	16.00	20.00

Table C
(Point-of-Sale Systems)

Device	Fee Authority		Fee
Point-of-sale systems with 1—3 point-of-sale registers	B&P Section 13350(d)		153.00
Point-of-sale systems with 4—9 point-of-sale registers	B&P Section 13350(d)		197.00
Point-of-sale systems with 10 or more point-of-sale registers	B&P Section 13350(d)		240.00

B. Point-of-Sale Systems Fees. The point-of-sale system device fees are based on the number of point-of-sale registers at a single business location as set forth in Table C.

C. Exemptions: Business location fees will be waived for a county certified producer who uses weighing and measuring devices solely in conjunction with sales at a county certified farmer's market.

(Ord. No. 1338, § 1, 5-4-2010; Ord. 1291 § 1 (part), 2007)

5.52.050 - Duration and transferability of registrations.

- A. Registrations are valid for one year.
- B. Registrations are not transferable between persons or locations.

(Ord. 1291 § 1 (part), 2007)

5.52.060 - Testing and re-inspection fees.

A. Re-inspection. After any commercial weighing or measuring device, or POS system, has been tested and found to be outside the tolerances and specifications set by the California Department of Food and Agriculture, the sealer may re-inspect, retest and recertify such device in order to determine if it is within those tolerances and specifications. The fee for such inspection and testing shall be at the sealer's hourly rate as established by the board.

B. Commercial Instruments. At the request of the owner or user of a weighing or measuring device, or POS system used for commercial purposes, the sealer may inspect and test the device. The fee for such inspection and testing shall be at the sealer's hourly rate as established by the board.

C. Upon the written request of any person, the sealer may calibrate, test, weigh, or measure and certify to the accuracy of, noncommercial weights and measures and weighing and measuring devices, and instruments, tools, and accessories connected therewith. The fee for such inspection and testing shall be at the sealer's hourly rate as established by the board.

(Ord. 1291 § 1 (part), 2007)

5.52.070 - Late registration and inspection penalty fees.

Any registration, inspection, or re-inspection fee not paid within sixty calendar days of the date due shall be liable for a late fee in an amount equal to twice the original amount owing.

(Ord. 1291 § 1 (part), 2007)

5.52.080 - Point of sale system price accuracy verification methodologies.

- A. The initial standard inspection of a POS system shall be based on the following criteria:
 - 1. The initial standard inspection shall be performed by collecting a random sample of items that shall include a maximum of fifty percent sale items from either:
 - a. One department of a retail store.
 - b. Multiple areas of a retail store.
 - c. The entire store.
 - 2. The initial standard inspection shall be performed by testing a minimum random sample of twenty-five items for a retail establishment with three or fewer POS checkout registers.
 - 3. The initial standard inspection shall be performed by testing a minimum random sample of

fifty items for all other retail establishments.

4. The sealer shall verify that the lowest advertised, posted, marked, displayed, or quoted price is the same as the price displayed or computed by the point-of-sale equipment or printed receipt. Only items computed at a higher price than the lowest advertised, posted, marked, displayed, or quoted price shall be considered not in compliance.

5. The compliance rate percentage of a retail establishment shall be determined by dividing the number of items in compliance by the sample size multiplied by one hundred.

B. The sealer may re-inspect any retail facility that has a compliance rate of less than ninety-eight percent.

C. This section shall become inoperative on January 1, 2009, and as of January 1, 2009, is repealed, unless the state Legislature, on or before January 1, 2009, extends the operative date of Business and Professions Code Section 13350 beyond January 1, 2009.

(Ord. 1291 § 1 (part), 2007)

5.52.090 - Violations—Penalties.

A. It shall be unlawful for any person, or any registrant, employee, or agent thereof to violate the provisions of this chapter, and specifically it shall be unlawful to use unregistered weighing and measuring devices or unregistered POS systems.

B. Unless otherwise provided for, any person failing to comply with the registration provisions of this chapter shall be guilty of an infraction or misdemeanor as hereinafter specified:

1. A first offense shall be charged as an infraction. If convicted, the offense shall be punishable by a fine not exceeding one hundred dollars. Notwithstanding the foregoing, if the violation appears to be unknowing and the offender corrects the violation promptly upon notification, the sealer may, in lieu of recommending criminal prosecution, accept payment of the original fee and late fee charge, and the additional payment of a one hundred dollar processing fee. A subsequent violation will be treated as a second offense, punishable as set forth in subsection (2) below.

2. Any subsequent offense shall be charged as a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars and not less than five hundred dollars, or any other penalty imposed by a court, or both.

3. Payment of any fine or other penalty imposed by a court shall not relieve a person from the responsibility of registering a weighing or measuring device or a POS system and paying the applicable registration fee, as required by this chapter.

4. In addition to all other remedies provided by this chapter or state law, the sealer may seek injunctive relief to restrain continuing violations of the provisions of this chapter. Nothing in this chapter shall preclude the sealer from seeking civil penalties pursuant to Business and Professions Code Section 12015.3 or 12024.2, or pursuing any other remedy available to the sealer under Division 5 of the Business and Professions Code.

(Ord. 1291 § 1 (part), 2007)