

1                                   **WEIGHTS AND MEASURES AMENDMENTS**

2                                   2005 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Sponsor: David Ure**

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**LONG TITLE**

6 **General Description:**

7                   This bill amends provisions relating to the inspection and testing of weights and  
8 measures used by commercial establishments.

9 **Highlighted Provisions:**

10                   This bill:

11                   ▶ allows weights and measures to be inspected and tested by inspectors approved by  
12 the Department of Agriculture and Food;

13                   ▶ provides for a reduced registration fee if approved weights and measures inspectors  
14 are used; and

15                   ▶ provides definitions.

16 **Monies Appropriated in this Bill:**

17                   None

18 **Other Special Clauses:**

19                   This bill takes effect on January 1, 2006.

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22                   **4-9-1**, as last amended by Chapter 358, Laws of Utah 2004

23                   **4-9-15**, as enacted by Chapter 358, Laws of Utah 2004

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*Be it enacted by the Legislature of the state of Utah:*

25                   Section 1. Section **4-9-1** is amended to read:



28 **4-9-1. Definitions.**

29 As used in this chapter:

30 (1) "Approved weights and measures inspector" means a person who:

31 (a) provides weights and measures inspection and testing services to a weights and  
32 measures user; and

33 (b) has been approved by the department.

34 [~~1~~] (2) "Correct", when used in connection with weights and measures, means  
35 conformance to applicable requirements of this chapter.

36 (3) "Inspection and testing report" means a report, prepared by an approved weights  
37 and measures inspector, determining whether weights and measures are correct.

38 [~~2~~] (4) "Package" means a commodity put up or packaged before sale in either  
39 wholesale or retail sale units.

40 [~~3~~] (5) "Primary standards" mean the physical standards of the state, described in  
41 Section 4-9-4, which are the legal reference from which all other standards and weights and  
42 measures are derived.

43 [~~4~~] (6) "Sale from bulk" means the sale of commodities, when the quantity is  
44 determined at the time of sale.

45 [~~5~~] (7) "Secondary standards" means a physical standard which is traceable to  
46 primary standards through comparisons, using acceptable laboratory procedures.

47 [~~6~~] (8) "Weighing and measuring" means the use of weights and measures.

48 [~~7~~] (9) "Weight" means net weight, unless the label declares that the product is sold  
49 by drained weight, in which case, "weight" means net drained weight.

50 [~~8~~] (10) "Weights and measures" means weights and measures, and instruments or  
51 devices used for weighing or measuring, including an appliance or accessory associated with  
52 the instrument or device.

53 [~~9~~] (11) "Weights and measures registration" means the issuance of a certificate by  
54 the commissioner to a weights and measures user.

55 [~~10~~] (12) "Weights and measures user" means a person who uses weights and  
56 measures in trade or commerce.

57 Section 2. Section **4-9-15** is amended to read:

58 **4-9-15. Registration of commercial establishments using weights and measures --**

59 **Approved weights and measures inspectors -- Application -- Fee -- Expiration -- Renewal.**

60 (1) (a) Pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
61 department shall establish rules providing for the registration of weights and measures users  
62 and issuance of certification of weights and measures devices to ensure the use of correct  
63 weights and measures in commerce or trade.

64 (b) The division shall:

65 (i) determine whether weights and measures are correct through:

66 (A) inspection and testing by department employees; or

67 (B) acceptance of an inspection and testing report prepared by an approved weights and  
68 measures inspector;

69 (ii) establish standards and qualifications for approved weights and measures  
70 inspectors; and

71 (iii) determine the form and content of an inspection and testing report.

72 [~~(b)~~] (c) A weights and measures user shall register with the department.

73 [~~(c)~~] (d) Prior to granting a registration to a weights and measures user, the department  
74 shall determine whether the weights and measures user complies with the rules established  
75 under Subsection (1)(a).

76 [~~(d)~~] (e) An applicant shall register with the department, in writing, using forms  
77 required by the department.

78 [~~(e)~~] (f) The department shall issue a registration to an applicant, if the department  
79 determines that the applicant meets the qualifications of registration established under  
80 Subsection (1)(a).

81 [~~(f)~~] (g) If the applicant does not meet the qualifications of registration, the department  
82 shall notify the applicant, in writing, that the applicant's registration is denied.

83 [~~(g)~~] (h) (i) If an applicant submits an incomplete application, a written notice of  
84 conditional denial of registration shall be provided to an applicant.

85 (ii) The applicant must correct the deficiencies within the time period specified in the  
86 notice to receive a registration.

87 [~~(h)~~] (i) (i) The department may, as provided under Subsection 4-2-2(2), charge the  
88 weights and measures user a registration fee.

89 (ii) If a weights and measures user has contracted with an approved weights and

90 measures inspector for inspection and testing services, the fee shall be reduced by the greater  
91 of:

92 (A) the savings to the department resulting from the weights and measures user  
93 contracting with an approved weights and measures inspector; or

94 (B) 50%.

95 ~~[(ii)]~~ (iii) The department shall retain the fees as dedicated credits and shall use the fees  
96 to administer the registration of weights and measures users.

97 (2) (a) A registration, issued under this section, shall be valid from the date the  
98 department issues the registration, to December 31 of the year the registration is issued.

99 (b) A registration may be renewed for the following year by applying for renewal by  
100 December 31 of the year the registration expires.

101 (3) A registration, issued under this section, shall specify:

102 (a) the name and address of the weights and measures user;

103 (b) the registration issuance and expiration date; and

104 (c) the number and type of weights and measures devices to be certified.

105 (4) (a) The department may immediately suspend a registration, issued under this  
106 section, if any of the requirements of Section 4-9-12 are violated.

107 (b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the  
108 reinstatement of a registration.

109 (ii) If the department determines that all requirements under Section 4-9-12 are being  
110 met, the department shall reinstate the registration.

111 (5) (a) A weights and measures user, registered under this section, shall allow the  
112 department access to the weights and measures user's place of business to determine if the  
113 weights and measures user is complying with the registration requirements.

114 (b) If a weights and measures user denies access for an inspection required under  
115 Subsection (5)(a), the department may suspend the weights and measures user's registration  
116 until the department is allowed access to the weights and measures user's place of business.

117 **Section 3. Effective date.**

118 This bill takes effect on January 1, 2006.

**Legislative Review Note**

as of 1-18-05 4:06 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

If this bill is implemented the revenue to the Department of Agriculture is estimated to decline by \$150,000 in FY 2006 and \$250,000 in FY 2007. There will most likely be a small reduction of workload for the weights and measures division. However, the Department of Agriculture will need to hire new staff, provide additional office space, training, software, and equipment for monitoring the private service inspectors.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$195,400	\$195,400	\$0	\$0
Dedicated Credits	\$0	\$0	(\$150,000)	(\$250,000)
<b>TOTAL</b>	<b>\$195,400</b>	<b>\$195,400</b>	<b>(\$150,000)</b>	<b>(\$250,000)</b>

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**Individual and Business Impact**

This bill will allow weights and measures to be inspected and tested by inspectors from the private industry, who will be approved by the Department of Agriculture, and thus provide commercial establishments that use weights and measures with more choices. The bill also reduces the current registration fee.

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