

Extracts from the
BUSINESS AND PROFESSIONS CODE
of California

PERTAINING TO
WEIGHTS AND MEASURES
AND PETROLEUM PRODUCTS

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CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MEASUREMENT STANDARDS

Edmund G. Brown, Jr.
Governor

(Rev. 1/15)

WEIGHTS AND MEASURES

DISCLAIMER

This document represents the Division of Measurement Standard extracts from the Business and Professions Code and is intended to serve as a field resource for weights and measures officials for enforcing the laws pertaining to weights and measures in California. It is not to be considered as official state law.

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For information concerning the contents of this document, please contact the Division of Measurement Standards by e-mail at dms@cdfa.ca.gov.

Weights and Measures

CHAPTER 2

Administration

Article

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§ 12100. GENERAL SUPERVISION BY DEPARTMENT OF FOOD AND AGRICULTURE

Where not otherwise provided by law, the Department of Food and Agriculture has general supervision of the weights and measures and weighing and measuring devices sold or used in the State.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1989 ch 246 § 3.

§ 12101. INVESTIGATIONS

The department shall investigate conditions in the various counties and cities in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers.

Added Stats. 1939 ch 43 § 1.

§ 12102. ANNUAL AND BIENNIAL REPORTS AND RECOMMENDATIONS

The department shall annually report to the Governor, and shall prior to each regular session report to the Legislature the work under this division, and shall make such recommendations as may be proper and necessary.

Added Stats. 1939 ch 43 § 1.

§ 12103. RECORDS: KEEPING: OPEN TO PUBLIC

The department shall keep a complete record of all of its acts, a record of prosecutions, and the reports of the various sealers. These records and reports shall be open to the public.

Added Stats. 1939 ch 43 § 1.

§ 12103.5. WHO TO ENFORCE DIVISION

The duty of enforcing this division and carrying out its provisions and requirements is vested in the director and in each sealer acting under the supervision and direction of the director.

Added Stats. 1945 ch 1163 § 1.

§ 12104. INSTRUCTIONS AND RECOMMENDATIONS TO COUNTY SEALERS: LOCAL ADMINISTRATION COST ANALYSIS

(a) The department shall issue instructions and make recommendations to the county sealers, and the instructions and recommendations shall govern the procedure to be followed by these officers in the discharge of their duties.

(b) Instructions and recommendations which are made to ensure statewide weights and measures protection shall include a local administration cost analysis utilizing data provided by the county sealer. The cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate county administration and enforcement have not been provided. The secretary shall develop, jointly with the county sealers, county priorities for the enforcement programs and activities of the secretary.

(c) The secretary shall, upon request, report to the Legislature his or her findings concerning the cost analysis with specific regard to programs where funds are inadequate for an efficient enforcement program, together with a listing of the priorities jointly established by the secretary and the county sealers that are contained in the formal instructions and recommendations.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 4; Amended Stats. 1980 ch 738 § 1; Amended Stats. 1988 ch 343 § 1; Amended Stats. 2012 ch 661 § 22.

§ 12104.5. FUNDS ALLOCATED FOR LOCAL ADMINISTRATION AND ENFORCEMENT

The secretary may allocate annually to each county an amount determined by the secretary not to exceed one-third of the amount expended by the county pursuant to this division during the previous fiscal year for weights and measures programs. The allocation shall be made from funds appropriated to the secretary for the administration and enforcement of this division at the local level.

Added Stats. 1980 ch 738 § 1; Amended Stats. 2012 ch 661 § 23.

§ 12105. INSPECTIONS OF LOCAL SEALERS AND OF WEIGHING AND MEASURING DEVICES

The department shall, at a frequency determined by the secretary, inspect the work of the local sealers and may inspect the weights, measures, balances or any other weighing or measuring devices of any person.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1979 ch 527 § 6; Amended Stats. 1993 ch 365 § 1; Amended Stats. 2012 ch 661 § 24.

§ 12106. TESTS OF SCALES, WEIGHTS, AND MEASURES IN STATE INSTITUTIONS: REPORTS

The department shall, at least once annually and as often as requested by the Department of General Services or the executive officer of a state institution, test the scales, weights and measures used in checking the receipt and disbursement of supplies in any state institution, and shall report in writing its findings to the executive officer of the institution concerned.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 554 § 1; Stats. 1965 ch 371 § 14.

§ 12106.5. RECOGNITION OF ANOTHER STATE'S TESTING AND SEALING

The secretary may accept the testing and sealing of weighing and measuring devices by another state upon a finding that the requirements of California for testing and sealing such devices have been met.

Added Stats. 1979 ch 527 § 7; Amended Stats. 2012 ch 661 § 25.

§ 12107. ESTABLISHMENT OF TOLERANCES AND SPECIFICATIONS FOR COMMERCIAL WEIGHING AND MEASURING APPARATUS: PROCEDURE: PROHIBITION AGAINST VIOLATION OF REGULATIONS, ETC.

The secretary shall establish tolerances and specifications and other technical requirements for commercial weighing and measuring. In doing so, the secretary shall adopt, by reference, the latest standards as recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44 "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices," except as specifically modified, amended, or rejected by regulation adopted by the secretary.

The secretary may, by regulation, establish tolerances and specifications for commercial weighing and measuring devices not included in Handbook 44.

Any regulation shall be adopted, amended, or repealed in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

It shall be unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards established under this section.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 304 § 1; Amended Stats. 1945 ch 998 § 1; Amended Stats. 1957 ch 1749 § 29; Amended Stats. 1959 ch 45 § 1; Amended Stats. 1993 ch 621 § 1; Amended Stats. 2012 ch 661 § 26.

§ 12107.1. ESTABLISHMENT OF COMMODITY STANDARDS, WEIGHTS, MEASURES, AND COUNTS: PROCEDURE: UNLAWFUL SALES

The secretary, by regulation, may establish a standard or standards or net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients. These standards, whenever applicable, shall be based upon published, official federal or state specifications and requirements or, in the absence of any published official specifications, upon established and accepted common usage. Any such regulation shall be adopted, amended, or repealed in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Whenever a standard, net weight, net measure, or net count has been established for any commodity, it is unlawful to sell the commodity by, at, or for a quantity greater or less than the standard.

Added Stats. 1965 ch 948 § 2; Amended Stats. 2012 ch 661 § 27.

§ 12107.5. TARES FOR CONTAINERS AND PALLETS: RETENTION OF RECORD OF DEDUCTIONS: MISDEMEANOR FOR UNLAWFUL DEDUCTION

Amended Stats. 1976 ch 562; Repealed Stats. 1984 ch 646.

§ 12107.6. ESTABLISHMENT AND USE OF TARE WEIGHTS FOR TRUCKS OR TRACTORS: FEES: ENFORCEMENT

Repealed Stats. 1976 ch 562.

§ 12108. ARRANGEMENT FOR SERVICES OF SEALER EMPLOYED IN COUNTY: COMPENSATION AND EXPENSES

The secretary may arrange for the services of a sealer employed in a county on a collaborative basis and allow reasonable compensation and expenses for the purpose of performing services not already within his duties and which are subject to administration or enforcement by the department under the provisions of this code or of the Food and Agricultural Code.

Added Stats. 1951 ch 1010 § 1; Amended Stats. 2012 ch 661 § 28.

ARTICLE 2

Local Administration

- § 12200. County sealer: Appointment: Term: Expenses: Deputies, inspectors, clerks and employees
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§§ 12215-12217. [Repealed]

§ 12200. COUNTY SEALER: APPOINTMENT: TERM: EXPENSES: DEPUTIES, INSPECTORS, CLERKS AND EMPLOYEES

There is in each county the office of county sealer of weights and measures. The county sealer shall be appointed by the board of supervisors, except in chartered counties where a different method of appointment is prescribed. The term of office of such sealer is four years from and after his appointment and until his successor is appointed but he may be removed as hereinafter provided.

In addition to his salary each sealer is entitled to his necessary traveling and other expenses incurred in the performance of his duties.

A county sealer may, with the consent of the power appointing him, appoint deputies or inspectors when necessary or expedient to carry out the duties of his office. Such deputies or inspectors shall serve at the pleasure of the county sealer.

The sealer may employ such clerks and employees as may be approved by the appointing power. Any such clerk or employee shall not have authority to enforce the provisions of this chapter.

A county may in its discretion refer to a deputy county sealer as a weights and measures inspector.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1941 ch 1027 § 1; Stats. 1947 ch 466 § 1; Stats. 1963 ch 1600 § 2; Stats. 1965 ch 83 § 3.

§ 12201. VACANCY: TRANSMITTAL OF LIST OF ELIGIBLE PERSONS: FAILURE TO APPOINT: APPOINTMENT OF DEPUTY STATE SEALER

If from any cause a vacancy occurs in the office of county sealer, the secretary upon learning of the vacancy shall immediately transmit to the board of supervisors or other appointing power a list of persons licensed by him or her for the position. If the appointing power fails to appoint a county sealer within 60 days after the receipt of the list, the secretary shall appoint a county sealer from that list. A person holding the position of Deputy State Sealer shall be appointed the county sealer of weights and measures for, and an employee of, the county to which he or she is assigned. The secretary shall issue to him or her a license which is valid only for the county he or she is serving. He or she shall become subject to this code.

Stats. 1987 ch 734 § 1; Amended Stats. 2012 ch 661 § 29.

§ 12201.1. COMPENSATION AND EXPENSES OF COUNTY SEALER AND EMPLOYEES

The salary and other compensation provided for the county sealer, deputy county sealers and inspectors and clerks shall be paid out of the county treasury in the same manner and at the same time as other county officers are paid. The county sealer, deputy county sealers and inspectors shall each be entitled to receive his traveling and incidental expenses incurred in the performance of his duties.

Added Stats. 1953 ch 87 § 2; Amended Stats. 1963 ch 1600 § 3.

§ 12201.2. INABILITY TO FILL VACANCY: PERFORMANCE OF DUTIES BY SECRETARY: REIMBURSEMENT FOR EXPENSES

If the position of sealer cannot be filled by the board of supervisors or other appointing power or by the secretary as provided in Section 12201, then it shall be the duty of the secretary to perform the duties of sealer in the same manner, to the same extent, and with the same authority as if he had been the duly appointed sealer therein. The board of supervisors of such county shall reimburse the department for all expenses incurred by the secretary in fulfilling his responsibilities under the provisions of this section.

Added Stats. 1967 ch 286 § 5; Amended Stats. 2012 ch 661 § 30.

§ 12202. EXAMINATION FOR SEALERS, DEPUTIES, AND INSPECTORS: RULES: LICENSES: RENEWAL OF LICENSES: EXAMINATION FEES

- (a) The secretary shall cause to be examined persons desiring to become county sealers, deputy county sealers, or inspectors and shall adopt rules and regulations governing these examinations given for the purpose of determining the fitness, experience, and qualifications of candidates for these positions. The secretary may provide for inspectors qualified to be employed in designated categories. Successful candidates shall be given a license which shall be good for five years unless revoked. Licenses of incumbent county sealers, deputy county sealers, or inspectors shall be renewed upon expiration without further examination.
- (b) The secretary may charge each candidate a fee to cover the actual cost of providing the license examination.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 4; Amended Stats. 1965 ch 89 § 4; Amended Stats. 1987 ch 734 § 2; Amended Stats. 2012 ch 661 § 31.

§ 12203. LICENSING OF APPOINTEES: TEMPORARY APPOINTMENT

Except as provided in this section, no person shall hereafter be appointed to the office of county sealer, deputy county sealer, or inspector unless he or she has a license issued by the secretary as provided in Section 12202. If there is no person available for the position of county sealer who holds a license, the appointing power may make a temporary appointment of a person recommended in writing by the secretary. If the appointing power does not make a temporary appointment and no person can be appointed from the eligible list by the secretary, then the secretary may make a temporary appointment of a person competent to carry on the duties of the office. Any temporary appointment shall be for a period not exceeding six months or until the next license examination is held. If the position of deputy county sealer or inspector cannot be filled from the lists, a temporary appointment may be made, upon the written recommendation of the secretary for a period not exceeding six months.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 4; Amended Stats. 1965 ch 89 § 4; Amended Stats. 1987 ch 734 § 2; Amended Stats. 1987 ch 734 § 3; Amended Stats. 2012 ch 661 § 32.

§ 12204. ISSUANCE OF LICENSE ON PRESENTATION OF CERTIFICATE SHOWING PASSAGE OF CIVIL SERVICE EXAMINATION: MINIMUM QUALIFICATION

In chartered counties providing for the civil service examination of sealers, deputy sealers, or inspectors the director shall issue a license without further examination upon presentation of a certificate showing the candidate has passed the examination. In these counties the board or commission responsible for the civil service examination may require a license from the director as a minimum qualification.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1963 ch 1600 § 6; Stats. 1987 ch 734 § 4.

§ 12205. ATTENDANCE AT ANNUAL AND OTHER MEETINGS: TRAVELING EXPENSES

For the purpose of receiving advice on the best and most efficacious methods of performing his or her duties and conducting his or her office, every county sealer serving in a county shall attend the annual meeting of the California Agricultural Commissioners and Sealers Association and such other meetings as the department or the board of supervisors requires.

The county sealer shall be allowed all actual and necessary traveling expenses incurred while on any service that requires him or her to go outside the county. Those expenses shall be a charge against the county in which the county sealer is employed.

Stats. 1982 ch 532 § 3; Amended Stats. 2012 ch 661 § 33.

§ 12206. COUNTY-WIDE JURISDICTION OF COUNTY SEALER

The jurisdiction of a county sealer appointed by a county or the director extends over the entire territorial limits of the county.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 8; Stats. 1967 ch 286 § 8.

§ 12207. IDENTIFICATION CARDS

The department shall furnish an identification card to each sealer. The identification card shall be of a form as prescribed by the department and shall be returned to the department by the sealer upon termination of his duties as a sealer.

Added Stats. 1953 ch 87 § 4.

§ 12208. [Added by Stats. 1939 ch 43 § 1 and repealed by Stats. 1939 ch 992 § 10.]

§ 12209. COPIES OF STANDARDS: PRESERVATION AND KEEPING: REPORTS OF WORK DONE, ETC.

Every sealer shall:

- (a) Carefully preserve all copies of the standards of weights and measures in his possession;
- (b) Keep the copies in a safe and suitable place when not actually in use;
- (c) Annually and at such other times as the department requires file with the department a written report of the work done by him, of the weights, measures, weighing and measuring instruments inspected or tested by him, the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this division and of all other matters and things pertaining to his duties or which may be required by the department.

Added Stats. 1939 ch 43 § 1.

§ 12209.5. ILLUSTRATIVE MATERIAL: ISSUANCE AND DISTRIBUTION: PREPARATION OF EXHIBITS

Each sealer may, when so directed by the board of supervisors, issue and cause to be distributed to such persons as he may deem proper illustrative material or statements best adapted to ensure the correct use of weights and measures and weighing and measuring devices and may prepare exhibits designed to inform the public for its protection of the duties performed by weights and measures officials.

Added Stats. 1941 ch 303 § 1.

§ 12209.6. CERTIFICATION OF PARKING METERS

- (a) A county sealer may test and certify the accuracy of all parking meters located in the county in which the sealer has jurisdiction, including, but not limited to, parking meters owned or operated by a city, county, or a city and county.
- (b) If the county sealer determines that a specific parking meter is inaccurate, the sealer shall notify the owner or operator of the meter, may immediately close the meter, and any person may park a vehicle free of charge in the parking space to which the inaccurate meter corresponds until the owner or operator replaces or repairs the inaccurate parking meter.
- (c) For purposes of this section, an “inaccurate parking meter” means a parking meter that provides less time than is paid for by a person using the metered parking space.

Added Stats. 1998 ch 862 § 1; Amended Stats. 2000 ch 511 § 2.

§ 12210. INSPECTION OF WEIGHTS, ETC., SOLD OR USED IN COUNTY: FEES

- (a) Each sealer shall, within his or her county inspect, try and test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, sold, or used by any proprietor, agent, lessee or employee for commercial purposes, as defined in subdivision (e) of Section 12500.
- (b) Each sealer shall, when so directed by the board of supervisors of his or her county, and only upon the written request of any person, firm or corporation, calibrate, test, weigh, and measure, and certify to the accuracy of, noncommercial weights and measures and weighing and measuring devices, and instruments, tools, and accessories connected therewith. The board of supervisors may authorize the sealer to establish from time to time a schedule of fees to cover the cost of such service and to charge and collect the fees.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 11; Amended Stats. 1961 ch 29 § 1; Amended Stats. 1968 ch 331 § 1; Amended Stats. 1981 ch 178 § 1.

§ 12210.3. WATER SUBMETER REQUEST FOR SERVICE

- (a) A county sealer who possesses the appropriate equipment to perform tests on water submeters shall inspect, test, and certify to the accuracy of a water submeter, within his or her county and upon written request of the owner, user, or operator of the water submeter, if any of the following circumstances exist:

- (1) The service is requested to be performed in addition to, or according to a schedule different from, any inspection frequency established by regulations adopted pursuant to Section 12212.

(2) The requested service pertains to a water submeter not intended to be placed into service in the county within six months.

(3) The requested service pertains to a water submeter intended to be placed into service in a different county.

(b) Notwithstanding Section 12210.5, the board of supervisors may authorize the sealer to establish, from time to time, a schedule of fees to cover the cost of services provided under subdivision (a) and to charge and collect the fees. The fee schedule shall be limited to the actual cost of performing those services.

Added Stats. 2014 ch 539 § 1. Effective January 1, 2015

§ 12210.5. COUNTY AUTHORIZED TO COLLECT FEES FOR INSPECTION TESTING OF DEVICE AT REQUEST OF OWNER OR USER

(a) Any county which inspects or tests any weighing or measuring device or instrument used commercially, at the request of the owner or user of that device, when inspection or testing of the device could legally be performed by a registered service agency, as defined in Section 12531, may, if authorized by the county board of supervisors, collect from the requesting owner or user thereof a fee.

(b) That fee shall be based upon a uniform schedule of fees, which shall be prescribed by the secretary for use by the counties. The secretary shall prepare the schedule of fees to be comparable with the rates charged by the industry's registered service agencies. All fees collected shall be credited to the general fund of the county in which collected and used only for the administration and enforcement of laws pertaining to weights and measures.

Added Stats. 1980 ch 583 § 1; Amended Stats. 2012 ch 662 § 1

§ 12210.7. WATER SUBMETER INSTALLATION CONDITIONS

A county sealer shall, within his or her county and upon written request of the owner, user, or operator of the water submeter, authorize the installation of a water submeter that has been inspected, tested, and sealed by the county sealer of another county if all of the following conditions are met:

(a) The meter bears a seal that represents the most recent seal of the county in which the water submeter was inspected, in accordance with the provisions of Section 12505.

(b) The water submeter is installed no later than 12 months after the water submeter was inspected, tested, and sealed.

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(c) The county sealer does not have reason to believe the water submeter has been tampered with, damaged, or otherwise rendered inoperable since the inspection, testing, and sealing by the other county sealer.

Added Stats. 2014 ch 539 § 2. Effective January 1, 2015

§ 12211. WEIGHING AND MEASURING PACKAGES, ETC.: RULES AND REGULATIONS OF SECRETARY: PROCEDURE FOR ADOPTION AND PROMULGATION: EFFECT OF FEDERAL STANDARDS: PACKAGES CONTAINING LESS THAN AMOUNT REPRESENTED: SEIZURE AS EVIDENCE

Each sealer shall, from time to time, weigh or measure packages, containers, or amounts of commodities sold, or in the process of delivery, in order to determine whether they contain the quantity or amount represented and whether they are being sold in accordance with law.

The secretary shall adopt necessary regulations governing the procedures to be followed by sealers in connection with the weighing or measuring of amounts of commodities in individual packages, containers, or lots of packages or containers, including the procedures for sampling a lot, and for determining whether any package, container, or a lot of packages or containers complies with this section.

In adopting those regulations, the secretary shall adopt by reference the package checking procedures recommended by the National Conference on Weights and Measures and published in the current edition of the National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods," and any subsequent amendments thereto, except insofar as those requirements are specifically modified, amended, or rejected by a regulation adopted by the secretary.

Any lot, package, or container of any commodity that conforms to this section shall be deemed to be in conformity with this division relating to stated net weights or measures.

Whenever a lot, package, or container of any commodity is found to contain, through the procedures authorized in this section, a less amount than that represented, the sealer shall order, in writing, that lot, package, or container of commodity off sale and require that an accurate statement of quantity be placed on each package or container before it may be released for sale by the sealer in writing. The sealer may seize as evidence any package or container that is found to contain a less amount than that represented.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1949 ch 1384 § 3; Stats. 1957 ch 1658 § 1; Stats. 1963 ch 353 § 1; Stats. 1973 ch 1033 § 1; Amended Stats. 1995 ch 156 § 2.

**§ 12212. REGULATIONS GOVERNING INSPECTION FREQUENCY OF
COMMERCIALLY USED WEIGHTS, MEASURES, AND WEIGHING AND MEASURING
APPARATUS: INSPECTIONS: CONTRACT TO PERFORM TESTS: SCHEDULE OF
FEES: DISPOSITION OF FEES COLLECTED**

- (a) The secretary shall adopt necessary regulations governing the inspection frequency of all commercially used weights, measures, and weighing and measuring apparatus in the state.
- (b) The sealer of each county shall perform such inspections as may be required by the secretary. Nothing in this section shall be construed to prohibit the sealer from inspecting a device more frequently than required if he or she deems those tests necessary.
- (c) Any regulation shall be adopted by the secretary in conformity with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) In counties where the secretary finds that the sealer, because of lack of equipment, is unable or fails to perform the tests as required herein, the secretary may enter into a contract with the board of supervisors of each of those counties to perform the tests. Those contracts shall provide that the county shall pay the cost of those services based upon a uniform schedule of fees developed by the secretary. The fee schedule shall be based on the approximate cost of performing those services. The contracts shall also provide that the secretary shall periodically render a bill to each county so served for the cost of services rendered, and the auditor of the county so billed shall pay the charge in the same manner in which other claims against the county are paid.
- (e) All fees collected under the provisions of this section shall be credited to the Department of Food and Agriculture Fund.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 12; Amended Stats. 1959 ch 122 § 1; Amended Stats. 1961 ch 1679 § 1; Amended Stats. 1965 ch 966 § 1; Amended Stats. 2011 ch 133 § 1; Amended Stats. 2012 ch 661 § 35.

**§ 12213. ENTRY OF PREMISES OR STOPPING VENDOR, ETC., AND REQUIRING
MOVEMENT TO TESTING PLACE**

Each sealer may, in the general performance of his duty, without formal warrant, enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of a coal, ice, delivery, or other wagon or vehicle, containing commodities for sale or delivery and, if necessary, require him to proceed with the commodity to some place which the sealer may specify for the purpose of making the proper tests.

Added Stats. 1939 ch 43 § 1.

**§ 12214. NEGLIGENCE, INCOMPETENCE OR MISCONDUCT OF COUNTY SEALER:
HEARING: TRIAL BOARD: NOTICE OF HEARING: EVIDENCE AND ORDER:
PROCEDURE WHERE ORDER DISQUALIFIES SEALER: REVOCATION OF LICENSE
OF DEPUTY SEALER OR INSPECTOR**

(a) Upon satisfactory evidence presented to the secretary that the county sealer of any county is guilty of neglect of duty, incompetence, or misconduct in office, the trial board hereinafter provided for shall hold a hearing or hearings at times and places that it shall provide.

(b) The secretary and the president of the voluntary association of the sealers of the state shall select an impartial third person who, with them, shall compose a county sealer's trial board to determine whether the sealer is guilty of the charges presented.

(c) At least 10 days prior to the date of hearing, the secretary shall give notice in writing to the sealer of the time and place of hearing and any information as to the nature of the charges that will enable the sealer to make a defense thereto.

(d) At the hearing or hearings, the trial board shall hear evidence that is offered and thereafter, within 30 days, make an order dismissing the charges or an order disqualifying the sealer.

(e) In case the order disqualifies the sealer, the secretary shall forthwith revoke the sealer's license and declare the office vacant and a copy of the order shall be immediately transmitted by the secretary to the board of supervisors and the auditor of the county in which the sealer held office.

(f) The license of a deputy sealer or inspector may be revoked in the same manner and for the same causes that a license of a sealer may be revoked.

Added Stats. 1939 ch 43 § 1; Amended Stats. 1939 ch 992 § 13; Amended Stats. 1947 ch 466 § 4; Amended Stats. 1963 ch 1600 § 7; Stats. 1987 ch 734 § 5; Amended Stats. 2012 ch 661 § 36.

§§ 12215-12217. [Repealed]

ARTICLE 2.1

Fees and Charges

(Operative until January 1, 2011)

- § 12240. Annual device registration fee
- § 12241. Division of Measurement Standards Administrative Fee
- § 12242. Disposition of revenue
- § 12243. Public meeting prior to adoption of ordinance: Notice: Estimated cost
- § 12244. Recovery of costs incurred in conducting meeting
- § 12245. [Repealed]
- § 12246. Repeal date

§ 12240. ANNUAL DEVICE REGISTRATION FEE

- (a) Except as otherwise provided in this section, the board of supervisors, by ordinance, may charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.
- (b) Except as otherwise provided in this section, the annual registration fee shall not exceed the amount set forth in subdivisions (f) to (r), inclusive.
- (c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual registration fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.
- (d) Retail gasoline pump meters, for which the above-fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.
- (e) Livestock scales, animal scales and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.
- (f) For purposes of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, a Department of Food and Agriculture administrative fee, as specified in Section 12241, and a device fee, as specified in subdivisions (g) to (r), inclusive. The business location fee and device fee shall not exceed one hundred dollars (\$100) per business location, plus 100 percent of the maximum applicable device fee listed in subdivisions (g) to (r), inclusive.

Weights and Measures

- (g) (1) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed the following:
- (A) For water submeters, two dollars (\$2) per device per space or apartment.
 - (B) For electric submeters, three dollars (\$3) per device per space or apartment.
 - (C) For vapor submeters, four dollars (\$4) per device per space or apartment.
- (2) Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.
- (h) For weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars (\$250) per device; for weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars (\$150) per device.
- (i) This section does not apply to farm milk tanks.
- (j) A scale or device used in a certified farmers' market, as defined by Section 113742 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.
- (k) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars (\$150) per device; for livestock scales with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred dollars (\$100) per device.
- (l) For liquefied petroleum gas (LPG) meters, truck mounted or stationary, the device fee shall not exceed one hundred eighty-five dollars (\$185) per device.
- (m) For wholesale and vehicle meters, the device fee shall not exceed seventy-five dollars (\$75) per device.
- (n) For computing scales, the device fee shall not exceed twenty dollars (\$20) per device. For purposes of this subdivision, a computing scale shall be a weighing device with a capacity of less than 100 pounds that indicates the money value of any commodity weighed, at predetermined unit prices, throughout all or part of the weighing range of the scale. For the purposes of this subdivision, the portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars (\$1,000) for each business location.

Administration

- (o) For jewelry and prescription scales, the device fee shall not exceed eighty dollars (\$80) per device. For purposes of this subdivision, a jewelry or prescription scale shall be a scale that meets the specifications, tolerances, and sensitivity requirements established or adopted by the secretary applicable to those devices in accordance with Section 12107.
- (p) For weighing devices, other than computing, jewelry, and prescription scales as defined in subdivisions (n) and (o), with capacities of at least 100 pounds but less than 2,000 pounds, the device fee shall not exceed fifty dollars (\$50) per device.
- (q) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions or in computing other charges for service, including, but not limited to, ambulance, towing, or limousine services, the device fee shall not exceed sixty dollars (\$60) per device.
- (r) This section does not apply to odometers in rental passenger vehicles, as defined in Section 465 of the Vehicle Code, which are subject to Section 1936 of the Civil Code. If a person files a complaint with the county sealer regarding the accuracy of a rental passenger vehicle odometer, the county sealer may charge a fee to the operator of the vehicle rental business sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.
- (s) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions involving nonpassenger vehicles that are not subject to Section 1936 of the Civil Code, the portion of the annual registration fee consisting of the business location fee and the device fee authorized pursuant to subdivision (q) shall not exceed the sum of three hundred forty dollars (\$340) for each business location.
- (t) For all other commercial weighing or measuring devices not listed in subdivisions (g) to (r), inclusive, the device fee shall not exceed twenty dollars (\$20) per device. For the purposes of this subdivision, the total portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars (\$1,000), for each business location.
- (u) For the purposes of this section, a single business location is defined as:
 - (1) Each business location that uses one or more categories or types of commercial devices as set forth in subdivisions (g) to (p), inclusive, and in subdivision (t), that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.
 - (2) Each vehicle, except for those vehicles that are employed in vehicle rental transactions, in which one or more commercial devices is installed and used.
 - (3) (A) For vehicles that are employed in vehicle rental transactions and that are not subject to Section 1936 of the Civil Code, each business location at which vehicles are stored or maintained by a vehicle rental company for the purposes of renting vehicles to customers.

Weights and Measures

(B) A facility that meets all of the following criteria shall not be considered a business location for the purposes of this paragraph:

- (i) The facility is not wholly, or in any part, owned, leased, or operated by the vehicle rental company.
- (ii) The facility is not operated or staffed by an employee of the vehicle rental company.
- (iii) The facility stores or maintains, on a temporary basis, vehicles at the location for customer convenience.

(C) If a person files a complaint with the county sealer regarding the accuracy of an odometer in a vehicle found or located at a facility described in subparagraph (B), the county sealer may charge a fee to the operator of the vehicle rental company sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 3; Amended Stats. 1987 ch 779 § 1; Amended Stats. 1991 ch 360 § 1; Amended Stats. 1992 ch 1203 § 1; Amended Stats. 1993 ch 1050 § 1; Amended Stats. 1994 ch 592 § 5; Amended Stats. 1998 ch 205 § 1; Amended Stats. 2005 ch 529 § 4; Amended Stats. 2011 ch 133 § 2; Amended Stats. 2012 ch 234 § 1.

§ 12241. DIVISION OF MEASUREMENT STANDARDS AMINISTRATIVE FEE

On or before January 1, 2012, the secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed pursuant to Sections 12210 and 12211. This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture Fund beginning January 1, 2012, and annually thereafter.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 4; Repealed Stats. 1987 ch 779 2 § 2; Amended Stats. 2011 ch 133 § 2.

§ 12242. DISPOSITION OF REVENUE

The revenue from any fee charged pursuant to Section 12240 shall be deposited in the general fund of the county and used solely for the activities required by Sections 12210 and 12211.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 5; Amended Stats. 1993 ch 1050 § 2.

§ 12243. PUBLIC MEETING PRIOR TO ADOPTION OF ORDINANCE: NOTICE: ESTIMATED COST

In addition to providing notice as otherwise required, before adopting an ordinance charging fees pursuant to Section 12240, the board of supervisors shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the board of supervisors. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The board of supervisors may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the board of supervisors shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service, including General Fund revenues. If the fees create revenues in excess of actual cost, those revenues shall be used to reduce the fee creating the excess.

Added Stats. 1982 ch 1380 § 4; Amended Stats. 1983 ch 1245 § 6.

§ 12244. RECOVERY OF COSTS INCURRED IN CONDUCTING MEETING

Any costs incurred by the board of supervisors in conducting the required meeting may be recovered from fees charged for the services which were the subject of the meeting.

Added Stats. 1982 ch 1380 § 4.

§ 12245. REVIEW OF STATEWIDE EFFECTS OF ORDINANCES: REPORT TO LEGISLATURE

Added Stats. 1982 ch 1380 § 4; Repealed Stats. 1987 ch 779 § 3.

§ 12246. REPEAL DATE

This article shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2016, deletes or extends that date.

Amended Stats. 2010 ch 260 § 1; Amended Stats. 2012 ch 234 § 2.