

## SEALER OF WEIGHTS AND MEASURES

### LEGAL MANDATES

#### California Business and Professions Code

12004. "State Sealer" means the chief of the division of the department charged with the enforcement of the provisions of this division.

12006. "County Sealer" means any sealer appointed by a county. A county may in its discretion refer to its sealer as the county director of weights and measures.

12008. "Sealer," when used without qualification, includes the State Sealer, county sealers and their deputies and inspectors.

12200. **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.

12205. For the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office, every county **sealer** serving in a county **shall** attend the annual meeting of the California Association of Weights and Measures Officials 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 to go outside the county. Those expenses shall be a charge against the county in which the county sealer is employed.

12209. 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.

12210. (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.

12211. 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.

12212. The director shall adopt necessary regulations governing the inspection frequency of all commercially used weights, measures and weighing and measuring apparatus in the state.

The **sealer** of each county **shall** perform such inspections as may be required by the director. Nothing in this section shall be construed to prohibit the sealer from inspecting a device more frequently than required if he deems such tests necessary.

Any such regulation shall be adopted by the director 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.

In counties where the director finds that the sealer, because of lack of equipment, is unable or fails to perform such tests as required herein, the director may enter into a contract with the board of supervisors of each of such counties to perform such tests. Such contracts shall provide that the county shall pay the cost of such services based upon a uniform schedule of fees developed by the director. Such fee schedule shall be based on the approximate cost of performing such services. Such contracts shall also provide that the director 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 such charge in the same manner in which other claims against the county are paid.

All fees collected under the provisions of this section shall be credited to the General Fund.

12308. The legislative body of each **county shall**, upon the appointment of a sealer provide copies of the State's standards of weights and measures at county expense. These copies shall be verified and certified to by the department.

12311. Every **sealer** having knowledge that a county standard may be incorrect, regardless of the cause, shall notify the department of the condition, and **shall**, if deemed by the department to be necessary, arrange to have the standard in question retested, adjusted, or replaced.

12500.10. (a) A **sealer shall** cause to be removed from commercial usage any weighing, measuring, or counting instrument or device sold or used in violation of Section 12500.5. The instrument or device may be either seized or marked with a tag or other suitable device with the words "unapproved device".

(b) Upon proof of compliance with Section 12500.5, the sealer shall remove the tag or device bearing the words "unapproved device".

(c) If the owner or user of any weighing, measuring, or counting instrument or device marked "unapproved device" refused or neglected to have it brought into compliance with Section 12500.5 within 30 days after the instrument or device was so marked, it shall be subject to seizure by the sealer. Any instrument or device which has been seized by the sealer pursuant to this section shall be subject to disposition as ordered by a court of competent jurisdiction upon petition for a disposition order by the owner or by any person claiming an interest in the seized instrument or device. If no disposition order is issued within four years after the date of the seizure, that instrument or device shall be defaced, destroyed, or otherwise disposed of by the sealer. The sealer shall, immediately following the defacing, destruction, or disposal of that instrument or device, notify, in writing, the board of supervisors of the county in which the sealer is serving of that fact together with the name and address of the owner or user of the instrument or device.

12503. Upon a written request of any resident of a county, there appearing reasonable ground therefor, the **sealer shall** test or cause to be tested, as soon thereafter as is practicable, the weights, measures, or weighing or measuring instruments used for commercial purposes by the person designated in that request.

12504. Upon the written request of any person who intends to use or sell for commercial purposes any weight or measure, or weighing or measuring instrument in any county, the **sealer** for such county **shall** test or cause to be tested, as soon thereafter as is practicable, the weight or measure, or weighing or measuring instrument referred to in the request.

Such written request shall not relieve the person making it from any violation of the provisions of this division or of the responsibility for using or selling any incorrect or unsealed weight, measure, or weighing or measuring instrument.

12505. Whenever a **sealer** examines any weight or measure or weighing, measuring, or counting instrument used for commercial purposes, and finds it to be correct, he or she **shall** seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.

12506. A **sealer shall** condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments used for commercial purposes, which in his or her best judgment are not susceptible of repair, but any which the sealer finds susceptible of repair, he or she shall cause to be marked with a tag or other suitable device with the words "Out of order."

12514. No **sealer shall** sell or be interested directly or indirectly in the sale of any weighing or measuring instrument, nor shall he accept a fee, compensation, or gratuity of any kind for adjusting or repairing any weighing or measuring instrument.

12607. Whenever a packaged commodity is offered for sale, exposed for sale or sold without a statement of net quantity appearing thereon as required by this chapter, the **sealer shall** in writing order the commodity off sale and require that a correct statement of net quantity be placed on the commodity before the same may be released by the sealer.

13591. The department, its inspectors, and each **sealer**, are hereby authorized and empowered to inspect the petroleum products referred to in this chapter and to enter, for the purpose of such inspection, any place where petroleum products are kept or stored for sale.

All such **officers shall** enforce the provisions of this chapter.

13730. The department and each county **sealer shall** enforce the provisions of this chapter, and may sample, inspect, analyze, and test any product referred to in this chapter manufactured, packed, stored, sold, or distributed within this state. The

department, through its agents, has free access by all legal means during business hours to all premises, buildings, vehicles, cars, and vessels used in the manufacture, packing, storage, sale, or transportation of, and may, by legal means, open any box, carton, parcel, or container of, any product referred to in this chapter and take therefrom samples for analysis or for evidence.