

CHAPTER 34

(HB 411)

AN ACT relating to weights and measures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔ Section 1. KRS 363.330 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Commercial weighing and measuring device" ~~means~~~~includes~~ any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basis of weight or measure, and also includes any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device;~~;~~
 - (b) **"Director" means the director of the Division of Regulation and Inspection;**
 - (c) "Registered serviceman" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and who registers with the director; ~~and of the Division of Regulation and Inspection.~~
 - ~~(d)~~~~(e)~~ "Registered service agency" means any agency, firm, company, or corporation which for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which registers with the director ~~of the Division of Regulation and Inspection~~. Under agency registration, identification of individual servicemen shall be required.
- (2) ~~The director shall require the~~~~It shall be the policy of the director of the Division of Regulation and Inspection, referred to as "director" in this section, to accept~~ registration of an individual or agency **and shall require the individual or agency to provide**~~that provides~~ acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, and administrative regulations; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. An employee of government shall not be eligible for registration.~~This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency registered with the director to install, service, repair, or recondition a commercial weighing or measuring device.~~
- (3) The director may enter into an informal reciprocal agreement with any other state that has similar registration policies. Under a reciprocal agreement, registered servicemen and registered service agencies of the states party to the reciprocal agreement shall be granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to the agreement.
- (4) There shall be ~~charged by the director~~ an annual fee of **twenty dollars (\$20)**~~ten dollars (\$10)~~ per registered serviceman and **fifty dollars (\$50)**~~twenty five dollars (\$25)~~ per registered service agency to be applied toward the costs of administering the plan. The fee shall be paid to the director at the time application for registration is made, and annually, during the month of January, thereafter.
- (5) An individual or agency shall apply for registration to service weighing devices or measuring devices on an application form supplied by the director. The form, duly signed and witnessed, shall include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, and administrative regulations. An applicant also shall submit appropriate evidence or references as to qualifications. **The director may require competency testing of service individuals as the director deems necessary.**

- (6) Upon receipt and acceptance of a properly executed application form, *and with proof of competency*, the director shall issue to the applicant a "certificate of registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the director.
- (7) *Only* a bearer of a certificate of registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the director; place in service, until an official examination can be made, a weighing or measuring device that has been officially rejected; ~~or~~ place in service, until an official examination can be made, a new or used weighing or measuring device.
- (8) The director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." This form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four (24) hours after a device is restored to service, or placed in service, the original of the properly executed "Placed in Service Report," together with any official rejection tag removed from the device, shall be mailed to the director at Frankfort, Kentucky. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered serviceman or agency.
- (9) A registered serviceman and a registered service agency shall submit, at least biennially to the director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards of testing equipment that have not been certified by the director.
- (10) The director may, for good cause, after careful investigation and consideration, and after the registrant has been afforded the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B, suspend or revoke a "certificate of registration."
- (11) The director shall publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicemen and registered service agencies.
- (12) *The director may promulgate administrative regulations to carry out the provisions of this section.*

➔Section 2. KRS 363.520 is amended to read as follows:

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized, and either one (1) or both of these systems shall be used for all commercial purposes in the State of Kentucky. The definitions of basic units of weight and measure, the tables of weight and measure, and weights and measures equivalents as published by the National ~~Institute~~~~Bureau~~ of Standards *and Technology* are recognized and shall govern weighing and measuring equipment and transactions in the state.

➔Section 3. KRS 363.590 is amended to read as follows:

- (1) The director shall issue from time to time reasonable regulations for the enforcement of KRS 363.510 to 363.850, which regulations shall have the force and effect of law. These regulations may include:
 - (a) Standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form;~~;~~
 - (b) Rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;~~;~~
 - (c) Exemptions from the sealing or marking requirements of KRS 363.650 with respect to weights and measures of ~~the~~~~such~~ character or size that ~~the~~~~such~~ sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question;~~;~~ and
 - (d) Rules governing the ~~voluntary~~ registration of servicemen and service agencies.
- (2) These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in KRS 363.610, designed to eliminate from use without prejudice to apparatus that conforms as closely as practicable to the official standards, those:

- (a) That are not accurate;~~;~~
 - (b) That are of such construction that they are faulty (that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly);~~;~~ or
 - (c) That facilitate the perpetration of fraud.
- (3) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments *to those requirements*~~thereto~~, as recommended by the National ~~Institute~~~~Bureau~~ of Standards *and Technology* and published in *the most recent editions of the* National ~~Institute~~~~Bureau~~ of Standards *and Technology handbooks*~~Handbook 44~~ and supplements *to the handbooks*~~thereto~~, or in any publication revising or superseding *the handbooks or supplements to the handbooks*~~Handbook 44~~, shall be the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of the State of Kentucky, *unless*~~except insofar as specifically~~ modified, amended, or rejected by a regulation issued by the director. For the purposes of KRS 363.510 to 363.850, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section. Other apparatus shall be deemed to be "incorrect."

Signed by Governor April 9, 2008.