

**2009 DRAFTING REQUEST**

**Bill**

Received: **09/30/2008**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**  
**scott.thornton@wisconsin.gov**

**Pre Topic:**

DOA:.....Miner, BB0140 -

**Topic:**

Weights and measures program changes

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 10/16/2008	bkraft 10/24/2008		_____			
/P1	csundber 12/18/2008	bkraft 12/22/2008	rschluet 10/24/2008	_____	cduerst 10/24/2008		
/P2	csundber 01/23/2009	bkraft 01/23/2009	rschluet 12/22/2008	_____	cduerst 12/22/2008		

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/1			phenry 01/24/2009	_____	chanaman 01/25/2009		

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**Topic:**

Weights and measures program changes

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**Instructions:**

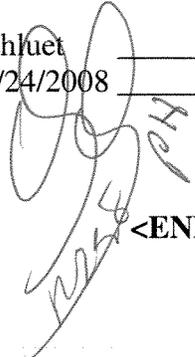
See attached

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/?	csundber 10/16/2008	bkraft 10/24/2008		_____			
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<END>

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By/Representing: Miner

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Drafter: csundber

May Contact:

Addl. Drafters:

Subject: Trade Regulation - other

Extra Copies:

Submit via email: YES

Requester's email:

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scott.thornton@wisconsin.gov

Pre Topic:

DOA:.....Miner, BB0140 -

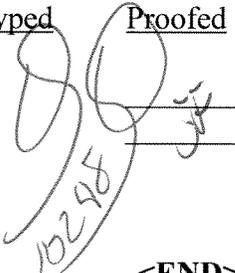
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/?	csundber	/Pl bjk 10/24					

FE Sent For:

<END>

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Weight and Measures Program Changes
- Tracking Code: ~~BB0140~~ BB0140
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner AM
  - Phone: 266-1103
  - Email: andrew.miner@wisconsin.gov
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): Medium

Intent: Make the following changes to the Weights and Measures Program with regards to vehicle scales, vehicle tank meters, liquefied petroleum gas meters and establishing a weights and measures reinspection fee. See attached sheets for language suggestions.

# 1. Weights and Measures Program

## **Explanation:**

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers Wisconsin's weights and measures program, which ensures the accuracy of commercial weights and measures. According to the National Conference on Weights and Measures, the average U.S. family spends over half of its household budget on commodities that are sold by weight or measure. Consumers are generally unable to verify the accuracy of weights and measures on their own. Furthermore, even small inaccuracies can add up to millions of dollars of unwarranted revenue for retailers.

DATCP inspects scales, measuring devices, price scanners and packaged commodities to ensure that businesses and consumers get what they pay for. For several of the devices regulated by the program, DATCP is not authorized to charge a fee for inspection work. This unfairly shifts the cost of those inspections to businesses that do pay fees.

Furthermore, because of limited revenues, devices for which no fee is charged cannot be inspected as often as necessary. Retail motor fuel pumps, which are subject to a fee, have an accuracy rate of over 96 percent. By contrast, liquefied petroleum gas meters have an accuracy rate of under 89 percent and vehicle oil tank meters have an accuracy rate of under 85 percent. The latter two meters are not subject to a license fee.

The weights and measures inspection program is funded by a combination of general program revenue (GPR) and program revenue (PR) derived from license fees. PR revenues currently fund over half of the weights and measures program. Most of the fees related to specific weights and measures devices have been unchanged since 1997. That, combined with inflationary pressures, means that the program's expenditures now exceed revenues. If nothing is done to address the revenue shortfall, DATCP projects that the weights and measures PR account will have a negative cash balance by the end of FY 2012.

DATCP proposes budget legislation to license additional weights and measures devices and to authorize certain fee adjustments by rule, as described below. The proposed licenses would apply to vehicle scales (commercial scales designed to weigh loaded or unloaded highway, farm or industrial vehicles), vehicle tank meters (which measure fuel oil deliveries to homes and businesses), liquefied petroleum gas meters, and reinspections following violations of weights and measures laws.

### *Vehicle Scales*

Under current law:

- No person may operate a vehicle scale without an annual license from DATCP (s. 98.16, Stats.).
  - An operator must hold a separate license for each scale.

- DATCP is currently authorized to adjust the license fee amount by rule, and has set the fee at \$100 (ATCP 92.31(3)).
- DATCP may also impose a license surcharge of \$200 if the operator operated without a required license during the preceding year. DATCP is *not* currently authorized to adjust the surcharge fee amount by rule.
- No person may construct or relocate a vehicle scale without a permit from DATCP (s. ATCP 92.30). DATCP is *not* currently authorized to charge a permit fee.
- Vehicle scales must meet construction standards specified by DATCP, unless DATCP grants a written variance (ATCP 92.30). DATCP is *not* currently authorized to charge a variance fee.
- Vehicle scales with a capacity of 5,000 lbs. or more must be tested annually by an independent testing company (98.25, Stats.). The testing company must be licensed by DATCP (98.18, Stats.)

DATCP proposes budget legislation to modify current regulation of vehicle scales. The legislation will do all of the following:

- ✓ • Authorize DATCP to adjust the current license fee surcharge by rule.
- ✓ • Authorize DATCP to charge a fee for vehicle scale construction permits, and set the fee by rule.
- ✓ • Authorize DATCP to charge a fee for vehicle scale construction variances, and set the fee by rule.
- Consolidate and redraft current statutes related to vehicle scales, without changing the substance of those statutes.

### ***Vehicle Tank Meters***

DATCP proposes budget legislation to do all of the following:

- ✓ • License vehicle tank meter operators.
  - DATCP may charge an annual license fee that DATCP sets by rule. ✓
  - DATCP may also impose a license surcharge, set by rule, if the operator operated without a required license during the preceding year. ✓
- Require a meter operator to have each meter tested at least annually by an independent meter testing company (DATCP currently licenses meter testing companies under s. 98.18, Stats.). DATCP may impose a license surcharge, set by rule, if the operator fails to file a test report. ✓
- Authorize DATCP to establish, by rule, standards for the construction, operation, maintenance and testing of vehicle tank meters. ✓

### ***Liquefied Petroleum (LP) Gas Meters***

Under current law:

- An operator must register an LP gas meter with DATCP and pay a one-time registration fee of \$25 (98.245(7), Stats.).

- Meter operators are not licensed.
- Meter operators must have meters tested each year.

DATCP proposes budget legislation to do all of the following:

- License LP gas meter operators. DATCP may charge an annual license fee that DATCP sets by rule. DATCP may also impose a surcharge, set by rule, if the operator operated without a required license during the preceding year.
- Continue current requirement for annual testing of LP gas meters. Continue current surcharge of \$100 if operator fails to comply, but allow DATCP to adjust surcharge by rule.
- Authorize DATCP to establish, by rule, standards for the construction, operation, maintenance and testing of LP gas meters.

### **Weights and Measures Reinspection Fee**

When DATCP finds that a weighing or measuring device is inaccurate, DATCP may need to perform a reinspection to ensure that the violation has been corrected. DATCP incurs added costs for reinspections. DATCP proposes budget legislation that would authorize DATCP to charge a reinspection fee to the licensed operator of the device. This is similar to reinspection fees charged by municipal weights and measures programs, and under other DATCP inspection programs.

The proposed legislation would authorize DATCP to set reinspection fees by rule. Reinspection fees must be reasonably related to reinspection costs. DATCP may bill the reinspection fee to the licensed operator as part of the operator's annual license renewal.

### **Statutory Language:**

SECTION \_\_. 20.115(1)(j) of the statutes is amended to read:

20.115(1)(j) *Weights and measures inspection.* The amounts in the schedule for weights and measures inspection, testing and enforcement under ch. 98. All moneys received under ss. 93.06(1p), 94.64(4)(a)6., 94.72(6)(a)3., 97.30(3)(am), 98.04(2), 98.05(5), 98.16, 98.18, and 98.224, 98.245, 98.245(7) and 98.255 shall be credited to this appropriation.

SECTION \_\_. 98.16 of the statutes is repealed and recreated to read:

**98.16 Vehicle scales. (1) DEFINITIONS.** In this section:

(a) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(b) "Vehicle scale" means a commercial scale that is designed to weigh loaded or unloaded highway, farm or industrial vehicles, except that it does not include a scale that is operated exclusively by this state.

**(2) OPERATOR LICENSED.** (a) Except as provided in par. (e), no person may operate a vehicle scale without an annual license from the department. An annual license expires on March 31. A separate license is required for each vehicle scale. A license is not transferable between persons or vehicle scales.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle scale.
2. The nature and location of the vehicle scale.
3. The fees and surcharges required under par. (c).
4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include all of the following fees and surcharges:

1. A license fee of \$100, unless the department specifies a different license fee amount by rule.
2. A surcharge if the department determines that, within one year prior to submitting the application, the applicant operated the vehicle scale without a license required under par. (a). The surcharge amount is \$200 unless the department establishes a different surcharge amount by rule.
3. Surcharges, if any, required under sub. (4).
4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c)2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.

(e) Par. (a) does not apply to an individual who operates a vehicle scale only as an employee of a person who is required to hold a license under par. (a) to operate that scale.

**(3) SCALE INSTALLATION PERMIT.** (a) No person may install or relocate a vehicle scale without a permit from the department. The department may by rule establish standards and procedures for granting permits under this paragraph, including standards and procedures for granting construction variances under par. (b).

(b) A vehicle scale shall comply with construction, operation, and maintenance standards specified by the department by rule. The department may grant a variance from a construction standard if the department determines that the variance is justified by special circumstances. The department may impose conditions on the variance, including alternative construction standards, which it deems necessary.

(c) A person applying for a permit under par. (a) shall pay all of the following fees, except that the department may specify different fee amounts by rule:

1. A nonrefundable permit application fee established by the department by rule.
2. A nonrefundable variance application fee established by the department by rule, if the applicant seeks a construction variance under par. (b).

**(4) SCALE OPERATIONS AND TESTING.** The department may promulgate rules to regulate the operation of vehicle scales, including scale testing, test reporting and recordkeeping requirements. The department may, by rule, establish a license surcharge for operators who fail to file required test reports.

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SECTION \_\_\_. 98.224 of the statutes is created to read:

**98.224 Vehicle tank meters. (1) DEFINITIONS.** In this section:

(a) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(b) "Vehicle tank meter" means a commercial meter used to measure liquids, the sale and delivery of which is subject to 98.225. ✓

**(2) OPERATOR LICENSED.** (a) Except as provided in par. (e), no person may operate a vehicle tank meter without an annual license from the department. An annual license expires on October 31. A separate license is required for each vehicle tank meter. A license is not transferable between persons or vehicle tank meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle tank meter.
2. A description of the vehicle tank meter, including identification of the meter and the vehicle on which the meter is mounted.
3. The fees and surcharges required under par. (c).
4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include all of the following fees and surcharges:

1. A license fee established by department rule.
2. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant operated the vehicle tank meter without a license required under par. (a).
3. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with the test reporting requirement under sub. (3).
4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c)2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.

(e) Par. (a) does not apply to an individual who operates a vehicle tank meter only as an employee of a person who is required to hold a license under par. (a) to operate that vehicle tank meter.

**(3) TESTING AND REPORTING.** The operator of a vehicle tank meter shall have the meter tested for accuracy, at least annually, by a person who is licensed under s. 98.18 to do that testing. The operator, or the tester on behalf of the operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain, for at least 3 years, a record of each test.

**(4) RULES.** The department may, by rule, do all of the following:

- (a) Establish license fee and surcharge amounts under sub. (2)(c).
- (b) Establish standards for the construction, operation and maintenance of vehicle tank meters.

(c) Establish standards for the testing, reporting and recordkeeping required under sub. (3).

**SECTION \_\_\_\_.** 98.245(7) of the statutes is repealed and recreated to read:

**98.245(7) METER OPERATORS LICENSED.** (a) No person may operate a meter to determine the amount of liquefied petroleum gas sold or delivered subject to sub. (4)(a) unless that person holds an annual license from the department under this subsection. An annual license expires on November 30. A separate license is required for each liquefied petroleum gas meter. A license is not transferable between persons or meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the liquefied petroleum gas meter.
2. A description of the liquefied petroleum gas meter, including identification of the meter, and if applicable, the vehicle on which the meter is mounted.
3. The fees and surcharges required under par. (c).
4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include the following fees and surcharges:

1. A license fee established by department rule.
2. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant operated the liquefied petroleum gas meter without a license required under par. (a).
3. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with a test reporting requirement under sub. (8).
4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c)2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.

(e) Par. (a) does not apply to an individual who operates a liquefied petroleum gas meter only as an employee of a person who is required to hold a license under par. (a) to operate that meter.

**SECTION \_\_\_\_.** 98.245(8) and (9) of the statutes are created to read:

**98.245(8) TESTING AND REPORTING.** A person that is required to hold a license under sub. (7) to operate a liquefied petroleum gas meter shall have the meter tested for accuracy, at least annually, by a person who is licensed under s. 98.18 to do that testing. The meter operator, or the tester on behalf of the meter operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain, for at least 3 years, a record of each test.

**(9) RULES.** The department may, by rule, do all of the following:

- (a) Establish license fee and surcharge amounts under sub. (7)(c).

(b) Establish standards for the construction, operation and maintenance of liquefied petroleum gas meters.

(c) Establish standards for the testing, reporting and recordkeeping required under sub. (8).

**SECTION \_\_\_\_.** 98.255 of the statutes is created to read:

**98.255 Reinspection; fee.** (a) If the department reinspects a weight or measure because the department has found that the device violates this chapter or a rule promulgated under this chapter, the department shall charge the operator a reinspection fee.

(b) The department shall establish the amount of the reinspection fee under par. (a) by rule. The reinspection fee amount may not exceed the department's average cost to reinspect that type of weight or measure. The department may establish different reinspection fees for different types of weights and measures.

(c) A reinspection fee under par. (a) is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues an annual license application form to the operator of the weighing or measuring device.

#### **NONSTATUTORY PROVISION:**

The department of agriculture, trade and consumer protection may establish the initial amount of a fee or surcharge required under s. 98.16(3)(c)1. and 2., 98.16(4), 98.224(2)(c), 98.245(7)(c), or 98.255 by emergency rule under s. 227.24, Stats., without a finding of emergency under s. 227.24(1), Stats.

- Meter operators are not licensed.
- Meter operators must have meters tested each year.

DATCP proposes budget legislation to do all of the following:

- License LP gas meter operators. DATCP may charge an annual license fee that DATCP sets by rule. DATCP may also impose a surcharge, set by rule, if the operator operated without a required license during the preceding year.
- Continue current requirement for annual testing of LP gas meters. Continue current surcharge of \$100 if operator fails to comply, but allow DATCP to adjust surcharge by rule.
- Authorize DATCP to establish, by rule, standards for the construction, operation, maintenance and testing of LP gas meters.

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The proposed legislation would authorize DATCP to set reinspection fees by rule. Reinspection fees must be reasonably related to reinspection costs. DATCP may bill the reinspection fee to the licensed operator as part of the operator's annual license renewal.

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**SECTION \_\_.** 98.16 of the statutes is repealed and recreated to read:

**98.16 Vehicle scales. (1) DEFINITIONS.** In this section:

(a) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(b) "Vehicle scale" means a commercial scale that is designed to weigh loaded or unloaded highway, farm or industrial vehicles, except that it does not include a scale that is operated exclusively by this state.

**(2) OPERATOR LICENSED.** (a) Except as provided in par. (e), no person may operate a vehicle scale without an annual license from the department. An annual license expires on March 31. A separate license is required for each vehicle scale. A license is not transferable between persons or vehicle scales.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle scale.
2. The nature and location of the vehicle scale.
3. The fees and surcharges required under par. (c).
4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include all of the following fees and surcharges:

1. A license fee of \$100, unless the department specifies a different license fee amount by rule.
2. A surcharge if the department determines that, within one year prior to submitting the application, the applicant operated the vehicle scale without a license required under par. (a). The surcharge amount is \$200 unless the department establishes a different surcharge amount by rule.
3. Surcharges, if any, required under sub. (5).
4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c)2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.

(e) Par. (a) does not apply to an individual who operates a vehicle scale only as an employee of a person who is required to hold a license under par. (a) to operate that scale.

**(3) SCALE INSTALLATION PERMIT.** (a) No person may install or relocate a vehicle scale without a permit from the department. The department may by rule establish standards and procedures for granting permits under this paragraph, including standards and procedures for granting construction variances under par. (b).

(b) A vehicle scale shall comply with construction, operation, and maintenance standards specified by the department by rule. The department may grant a variance from a construction standard if the department determines that the variance is justified by special circumstances. The department may impose conditions on the variance, including alternative construction standards, which it deems necessary.

(c) A person applying for a permit under par. (a) shall pay all of the following fees, except that the department may specify different fee amounts by rule:

1. A nonrefundable permit application fee established by the department by rule.
2. A nonrefundable variance application fee established by the department by rule, if the applicant seeks a construction variance under par. (b).

**(4) ANNUAL TESTING.** (a) The operator of a vehicle scale with a weighing capacity of at least 5,000 pounds shall at least annually have the scale tested for accuracy by a person licensed under s. 98.18(1).

(b) A person that tests a vehicle scale under par. (a) shall do all of the following:

1. Conduct the test, and prepare a test report, according to rules promulgated by the department.

2. Give a copy of the test report to the operator of the vehicle scale, and to other persons or entities if required by department rules.

(c) The operator of a vehicle scale shall file with the department a copy of each test report under par. (b) within 15 days after the operator receives that test report.

(d) If a test under this subsection shows that a vehicle scale is inaccurate, the scale may not be used until the inaccuracy is corrected and the scale is found to be accurate in a subsequent test under this subsection.

(e) No person may falsify a test, test result, or test report under this subsection.

(f) This subsection does not apply to a railway scale used exclusively for the weighing of commodities on railroad track vehicles.

***[DRAFTER'S NOTE: Subsection (4) recreates, in slightly modified form, the provisions currently contained in s. 98.25, Stats., repealed by this bill (see below). DATCP has already adopted rules governing scale tests conducted by persons licensed under s. 98.18, Stats. (see subch. III of ch. ATCP 92, Wis. Adm. Code). Those rules apply to all scale tests conducted by those licensees, including but not limited to vehicle scale tests.]***

**(5) SCALE OPERATIONS, TESTING AND REPORTS; RULES.** The department may promulgate rules to regulate the operation of vehicle scales, including scale testing, test reporting and recordkeeping requirements. The department may, by rule, establish a license surcharge for operators who fail to file required test reports.

**SECTION \_\_\_\_.** 98.224 of the statutes is created to read:

**98.224 Vehicle tank meters. (1) DEFINITIONS.** In this section:

(a) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(b) "Vehicle tank meter" means a commercial meter used to measure liquids, the sale and delivery of which is subject to 98.225.

**(2) OPERATOR LICENSED.** (a) Except as provided in par. (e), no person may operate a vehicle tank meter without an annual license from the department. An annual license expires on October 31. A separate license is required for each vehicle tank meter. A license is not transferable between persons or vehicle tank meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the vehicle tank meter.

2. A description of the vehicle tank meter, including identification of the meter and the vehicle on which the meter is mounted.

3. The fees and surcharges required under par. (c).

4. Other relevant information reasonably required by the department for licensing purposes.

(c) An application under par. (b) shall include all of the following fees and surcharges:

1. A license fee established by department rule.
  2. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant operated the vehicle tank meter without a license required under par. (a).
  3. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with the test reporting requirement under sub. (3).
  4. Reinspection fees, if any, required under s. 98.255.
- (d) Payment of a surcharge under par. (c)2, or 3, does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.
- (e) Par. (a) does not apply to an individual who operates a vehicle tank meter only as an employee of a person who is required to hold a license under par. (a) to operate that vehicle tank meter.

**(3) TESTING AND REPORTING.** The operator of a vehicle tank meter shall have the meter tested for accuracy, at least annually, by a person who is licensed under s. 98.18 to do that testing. The operator, or the tester on behalf of the operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain, for at least 3 years, a record of each test.

- (4) RULES.** The department may, by rule, do all of the following:
- (a) Establish license fee and surcharge amounts under sub. (2)(c).
  - (b) Establish standards for the construction, operation and maintenance of vehicle tank meters.
  - (c) Establish standards for the testing, reporting and recordkeeping required under sub. (3).

**SECTION \_\_\_\_.** 98.245(7) of the statutes is repealed and recreated to read:

**98.245(7) METER OPERATORS LICENSED.** (a) No person may operate a meter to determine the amount of liquefied petroleum gas sold or delivered subject to sub. (4)(a) unless that person holds an annual license from the department under this subsection. An annual license expires on November 30. A separate license is required for each liquefied petroleum gas meter. A license is not transferable between persons or meters.

(b) To obtain a license under par. (a), a person shall submit an application on a form provided by the department. The application shall include all of the following:

1. The applicant's correct legal name and business address, and any trade name under which the applicant proposes to operate the liquefied petroleum gas meter.
  2. A description of the liquefied petroleum gas meter, including identification of the meter, and if applicable, the vehicle on which the meter is mounted.
  3. The fees and surcharges required under par. (c).
  4. Other relevant information reasonably required by the department for licensing purposes.
- (c) An application under par. (b) shall include the following fees and surcharges:
1. A license fee established by department rule.

98.25(3) → 98.16 (3m) (c)

2. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant operated the liquefied petroleum gas meter without a license required under par. (a).

3. A surcharge established by department rule if the department determines that, within one year prior to submitting the application, the applicant failed to comply with a test reporting requirement under sub. (8).

4. Reinspection fees, if any, required under s. 98.255.

(d) Payment of a surcharge under par. (c)2. or 3. does not relieve the applicant of any other civil or criminal liability for a law violation, but does not constitute evidence of a law violation.

(e) Par. (a) does not apply to an individual who operates a liquefied petroleum gas meter only as an employee of a person who is required to hold a license under par. (a) to operate that meter.

SECTION \_\_\_\_. 98.245(8) and (9) of the statutes are created to read:

**98.245(8) TESTING AND REPORTING.** A person that is required to hold a license under sub. (7) to operate a liquefied petroleum gas meter shall have the meter tested for accuracy, at least annually, by a person who is licensed under s. 98.18 to do that testing. The meter operator, or the tester on behalf of the meter operator, shall report the results of each test to the department within 30 days after the testing is completed. The operator shall retain, for at least 3 years, a record of each test.

**(9) RULES.** The department may, by rule, do all of the following:

(a) Establish license fee and surcharge amounts under sub. (7)(c).

(b) Establish standards for the construction, operation and maintenance of liquefied petroleum gas meters.

(c) Establish standards for the testing, reporting and recordkeeping required under sub. (8).

SECTION \_\_\_\_. 98.25 of the statutes is repealed.

SECTION \_\_\_\_. 98.255 of the statutes is created to read:

**98.255 Reinspection; fee.** (a) If the department reinspects a weight or measure because the department has found that the device violates this chapter or a rule promulgated under this chapter, the department shall charge the operator a reinspection fee.

(b) The department shall establish the amount of the reinspection fee under par. (a) by rule. The reinspection fee amount may not exceed the department's average cost to reinspect that type of weight or measure. The department may establish different reinspection fees for different types of weights and measures.

(c) A reinspection fee under par. (a) is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues an annual license application form to the operator of the weighing or measuring device.

**NONSTATUTORY PROVISION:**

The department of agriculture, trade and consumer protection may establish the initial amount of a fee or surcharge required under s. 98.16(3)(c)1. and 2., 98.16(4), 98.224(2)(c), 98.245(7)(c), or 98.255 by emergency rule under s. 227.24, Stats., without a finding of emergency under s. 227.24(1), Stats.

## Sundberg, Christopher

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**From:** Matson, James K - DATCP [James.Matson@Wisconsin.gov]  
**Sent:** Friday, October 10, 2008 4:24 PM  
**To:** Sundberg, Christopher  
**Cc:** Daniels, Cheryl F - DATCP; Walker, William D - DATCP; Cardin, Judy L - DATCP  
**Subject:** RE: weights and measures draft

**Attachments:** WEIGHTS AND MEASURES-CORRECTED DRAFT (10-10-08).doc

Christopher -

Here is a corrected draft that incorporates current s. 98.25 into the newly redrafted s. 98.16 (the correction discussed in an e-mail exchange earlier this week). I asked our weights and measures folks to take one more look at this draft, and they may suggest a few small "tweaks." But this should get you started.

-- Jim



WEIGHTS AND  
SURES-CORRECT

---

**From:** Sundberg, Christopher [mailto:Christopher.Sundberg@legis.wisconsin.gov]  
**Sent:** Friday, October 10, 2008 11:53 AM  
**To:** Matson, James K - DATCP  
**Subject:** weights and measures draft

I'm working on this budget draft. Can you send me an electronic version (.doc or .pdf) of the 7-page drafting instructions?

Christopher Sundberg  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-9739  
christopher.sundberg@legis.state.wi.us



lv: 10/14/08

State of Wisconsin  
2009 - 2010 LEGISLATURE

PI  
LRB-044610  
KMR  
CTS:.....  
Lbjk

> DOA:.....Miner, BB0140 - Weights and measures program changes  
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Inserts

d-note

SA ✓  
X-refV

do not gen.

1 AN ACT ...; relating to: the budget. ✓

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version. ✓

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

2 SECTION 1. 20.115 (1) (j) of the statutes is amended to read: ✓

3 ✓ 20.115 (1) (j) *Weights and measures inspection*. The amounts in the schedule  
4 for weights and measures inspection, testing and enforcement under ch. 98. All  
5 moneys received under ss. 93.06 (1p), 94.64 (4) (a) 6., 94.72 (6) (a) 3., 97.30 (3) (am),  
6 98.04 (2), 98.05 (5), 98.16, 98.18 and ~~98.245 (7)~~ 98.245 (7m) shall be credited to this  
7 appropriation.

**History:** 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138, 153, 313; 1987 a. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 79, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25; 2007 a. 20, 125, 223.

8 SECTION 2. 98.16 (title) of the statutes is amended to read:

1 98.16 (title) ~~Licensing of vehicle~~ Vehicle scale operators; scale  
2 installation and testing.

3 History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ~~X~~  
SECTION 3. 98.16 (2) (title) of the statutes is amended to read:

4 98.16 (2) (title) LICENSE FOR OPERATOR.

5 History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ~~X~~  
SECTION 4. 98.16 (2) (a) 1. of the statutes is renumbered 98.16 (2) (am) and  
6 amended to read:

7 98.16 (2) (am) Except as provided in subd. 2., a par. (dm), no person may not  
8 operate a vehicle scale without <sup>stricken spaces</sup> a an annual license from the department. A separate  
9 license is required for each scale. A license is not transferable between persons or  
10 scales. A license expires on March 31 annually.

11 (bm) The department shall provide a license application form for persons  
12 applying for a license. The form ~~may~~ shall require all of the following.

13 3. Other information reasonably required by the department for licensing  
14 purposes.

15 (cm) A license application shall be accompanied by applicable fees under pars.  
16 (b) and (c). all of the following fees and surcharges.

17 SECTION 5. 98.16 (2) (a) 2. of the statutes is renumbered 98.16 (2) (dm) and  
18 amended to read:

19 98.16 (2) (dm) ~~Subdivision 1. Paragraph~~ (am) does not apply to a person who  
20 operates a vehicle scale only as an employee of a person who is required to hold a  
21 license to operate the scale under this paragraph. <sup>stroke</sup> subsection ← score

22 History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ~~X~~  
SECTION 6. 98.16 (2) (b) of the statutes is renumbered 98.16 (2) (cm) 1. and  
23 amended to read:

1           ✓ 98.16 (2) (cm) 1. A license fee. The fee for a license under ~~par. (a)~~ this subsection  
2           is \$60 \$100, except that the department may establish a different fee by rule  
3           promulgated under sub. (4). ✓

4           History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ✓

**SECTION 7.** 98.16 (2) (bm) 1. of the statutes is created to read: ✓

5           ✓ 98.16 (2) (bm) 1. The applicant's correct legal name and business address and  
6           any trade name under which the applicant proposes to operate the vehicle scale. ✓

7           **SECTION 8.** 98.16 (2) (bm) 2. of the statutes is created to read: ✓

8           ✓ 98.16 (2) (bm) 2. A description of the nature and location of the vehicle scale. ✓

9           History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ✓

**SECTION 9.** 98.16 (2) (c) of the statutes is renumbered 98.16 (2) (cm) 2. and

10          amended to read:

11          98.16 (2) (cm) 2. ~~An applicant for a license under par. (a) shall pay a~~ <sup>★</sup> A license  
12          fee surcharge of \$200 ~~in addition to the license fee~~, if the department determines that  
13          within one year prior to submitting the license application the applicant operated a  
14          vehicle scale without a license as required by par. ~~(a)~~ <sup>strike</sup> The license fee surcharge is  
15          \$200, except that the department may establish a different surcharge by rule  
16          promulgated under sub. (4). <sup>plain period</sup> Payment of the license fee surcharge does not relieve  
17          the applicant of any other civil or criminal liability for the operation of a vehicle scale  
18          without a license but shall not constitute evidence of violation of a law.

19          History: 1993 a. 16; 1997 a. 27; 1999 a. 9. ✓

**SECTION 10.** 98.16 (2) (cm) 3. of the statutes is created to read: ✓

20          ✓ 98.16 (2) (cm) 3. A testing surcharge, if it applies. ✓ <sup>under sub (4)</sup>

          \*\*\*\*NOTE: This draft creates a testing surcharge for failure to file required reports. ✓  
          As indicated in the drafting instructions, this surcharge is payable at the time of issuance  
          of a license. If DATCP would prefer to create more immediate consequences for such a  
          failure, an alternative would be to authorize DATCP to impose a penalty that would be  
          immediately due and payable, and to prohibit DATCP from issuing a license to a person  
          who owes such a penalty. The draft could further authorize DATCP to revoke a license  
          held by a person who fails to pay such a penalty within a certain amount of time. ✓

1 SECTION 11. 98.16 (2) (d) of the statutes is repealed. ✓

2 SECTION 12. 98.16 (2m) of the statutes is created to read:

3 98.16 (2m) PERMIT FOR SCALE INSTALLATION OR CONSTRUCTION; VARIANCE. (a) No  
4 person may install or relocate a vehicle scale without a permit from the department.

5 The department shall provide a permit application form for a person applying for a  
6 permit under this paragraph. An application for a permit under this paragraph shall  
7 be accompanied by a nonrefundable permit application fee in an amount established  
8 by the department by rule promulgated under sub. (4). ✓

9 (b) A person who installs or relocates a vehicle scale shall comply with  
10 construction, operation, and maintenance standards and procedures established by  
11 the department by rule under sub. (4), except that the department may grant a  
12 variance from a construction standard if the department determines that the  
13 variance is justified by special circumstances. The department may impose  
14 conditions on the variance, including alternative construction standards, if the  
15 department determines the conditions are necessary. The department shall provide  
16 a variance application form for a person applying for a variance under this  
17 paragraph. An application for a variance under this paragraph shall be accompanied  
18 by a nonrefundable variance application fee in an amount established by the  
19 department by rule promulgated under sub. (4). ✓

20 SECTION 13. 98.16 (3) (intro.) of the statutes is renumbered 98.16 (4) and  
21 amended to read:

22 98.16 (4) RULES. The department may ~~may~~ shall promulgate rules to establish  
23 license fees under sub. (2) (b) and to regulate the construction, operation, testing, and  
24 maintenance of vehicle scales. ~~The rules may include all of the following:~~ The  
25 department may promulgate rules to adjust fees and surcharges under subs. (2) (cm)

testing

1

1. and 2. and (2m) (a) and (b) and to impose a surcharge upon a vehicle scale operator if the operator fails to file a vehicle scale test report as required by a rule promulgated by the department under this subsection.

History: 1993 a. 16; 1997 a. 27; 1999 a. 9.

4

SECTION 14. 98.16 (3) (a) of the statutes is repealed.

5

SECTION 15. 98.16 (3) (b) of the statutes is repealed.

6

SECTION 16. 98.16 (3) (c) of the statutes is repealed.

7

SECTION 17. 98.16 (3m) (b) 1. of the statutes is created to read:

8

98.16 (3m) (b) 1. Conduct the test and prepare a test report, according to rules promulgated by the department under sub. (4).

10

SECTION 18. 98.16 (3m) (b) 2. of the statutes is created to read:

11

98.16 (3m) (b) 2. Provide a copy of the test report to the operator of the vehicle scale and, if required by rules promulgated by the department under sub. (4), to other persons.

14

SECTION 19. 98.16 (3m) (c) of the statutes is created to read:

15

98.16 (3m) (c) An operator of a vehicle scale shall file with the department a copy of each test report prepared regarding the vehicle scale not more than 15 days after the operator receives the test report.

18

SECTION 20. 98.16 (3m) (f) of the statutes is created to read:

19

98.16 (3m) (f) This subsection does not apply to a railway scale used exclusively for the weighing of commodities on railroad track vehicles.

21

SECTION 21. 98.224 of the statutes is created to read:

22

98.224 Vehicle tank meters. (1) DEFINITION. In this section, "vehicle tank meter" means a commercial meter used to measure liquid fuel, as defined in s. 78.39

23  
24

(1). 98.225

1           (2) OPERATOR LICENSED. (a) Except as provided in par. (e), no person may  
2 operate a vehicle tank meter without an annual license from the department. An  
3 annual license expires on October 31. A separate license is required for each vehicle  
4 tank meter. A license is not transferable between persons or vehicle tank meters.

5           (b) To obtain a license under par. (a), a person shall submit an application on  
6 a form provided by the department. The application shall include all of the following:

7           1. The applicant's correct legal name and business address, and any trade name  
8 under which the applicant proposes to operate the vehicle tank meter.

9           2. A description of the vehicle tank meter, including identification of the meter  
10 and the vehicle on which the meter is mounted.

11           3. The fees and surcharges required under par. (c).

12           4. Other relevant information reasonably required by the department for  
13 licensing purposes.

14           (c) An application under par. (b) shall include all of the following fees and  
15 surcharges:

16           1. A license fee established by the department by rule.

17           2. A surcharge established by the department by rule, if the department  
18 determines that within one year prior to submitting the application, the applicant  
19 operated the vehicle tank meter without a license required under par. (a).

20           3. A surcharge established by department rule if the department determines  
21 that, within one year prior to submitting the application, the applicant failed to  
22 comply with the reporting requirement under sub. (3).

23           4. Reinspection fees, if any, required under s. 98.255.

1 (d) Payment of a surcharge under par. (c) 2. or 3. does not relieve the applicant  
2 of any other civil or criminal liability for a law violation, but is not evidence of a  
3 violation of this section.

4 (e) Paragraph (a) does not apply to an individual who operates a vehicle tank  
5 meter only as an employee of a person who is required to hold a license under par.  
6 (a) to operate that vehicle tank meter.

7 (3) TESTING AND REPORTING. The operator of a vehicle tank meter shall have the  
8 meter tested for accuracy at least annually by a person who is licensed under s. 98.18  
9 to perform the testing. The operator, or the tester on behalf of the operator, shall  
10 report the results of each test to the department within 30 days after the testing is  
11 completed. The operator shall retain a test report for at least 3 years.

12 (4) RULES. The department may promulgate rules that do all of the following:  
13 (a) Establish license fee and surcharge amounts under sub. (2) (c).  
14 (b) Establish standards for the construction, operation, and maintenance of  
15 vehicle tank meters.  
16 (c) Establish standards for the testing, reporting, and recordkeeping required  
17 under sub. (3).

18 SECTION 22. 98.245 (4) (a) of the statutes is amended to read:

19 98.245 (4) (a) When liquefied petroleum gas is sold or delivered to a consumer  
20 as a liquid and by liquid measurement the volume of liquid so sold and delivered shall  
21 be corrected to a temperature of 60 degrees Fahrenheit through use of an approved  
22 volume correction factor table, or through use of a meter that is equipped with a  
23 sealed automatic compensating mechanism and that is in compliance with sub. (7)  
24 has been tested as required under sub. (8). All sale tickets shall show the delivered

INS  
7-17

1 gallons, the temperature at the time of delivery and the corrected gallonage, or shall  
2 state that temperature correction was automatically made.

3 History: 1975 c. 308; 1977 c. 393; 1993 a. 234; 1995 a. 183; 1997 a. 27.

**SECTION 23.** 98.245 (4) (b) of the statutes is amended to read:

4 98.245 (4) (b) When liquefied petroleum gas is sold or delivered to a consumer  
5 in vapor form by vapor measurement, the volume of vapor so sold and delivered shall  
6 be corrected to a temperature of 60 degrees Fahrenheit through the use of a meter  
7 that is equipped with a sealed automatic temperature compensating mechanism.  
8 This paragraph shall apply to all meters installed for use in the vapor measurement  
9 of liquefied petroleum gas in vapor form after May 24, 1978. This paragraph does  
10 not prohibit the continued use of meters previously installed without a self-sealing  
11 automatic temperature compensating mechanism, but no such meter may be  
12 continued in use after January 1, 1986, unless brought into compliance with this  
13 paragraph. Subsection (7) (8) does not apply to meters used to sell or deliver liquefied  
14 petroleum gas that are subject to this paragraph.

15 History: 1975 c. 308; 1977 c. 393; 1993 a. 234; 1995 a. 183; 1997 a. 27.

**SECTION 24.** 98.245 (6) (a) (intro.) of the statutes is amended to read:

16 98.245 (6) (a) (intro.) No person may sell liquefied petroleum gas and deliver  
17 it by a vehicle equipped with a pump and meter unless the meter is equipped with  
18 a delivery ticket printer and ~~is in compliance with sub. (7)~~ has been tested as required  
19 under sub. (8). Except as provided in par. (b), the seller shall, at the time of delivery,  
20 either provide a copy of the delivery ticket printed by the delivery ticket printer to  
21 the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain  
22 all of the following information:

23 History: 1975 c. 308; 1977 c. 393; 1993 a. 234; 1995 a. 183; 1997 a. 27.

**SECTION 25.** 98.245 (7) of the statutes is repealed.

24 **SECTION 26.** 98.245 (7m) of the statutes is created to read:

1       ✓ 98.245 (7m) METER OPERATORS LICENSED. (a) No person may operate a meter  
2 to determine the amount of liquefied petroleum gas sold or delivered under sub. (4)  
3 (a) unless the person holds an annual license from the department under this  
4 subsection. An annual license expires on November 30. A separate license is  
5 required for each liquefied petroleum gas meter. A license is not transferable  
6 between persons or meters. ✓

7       (b) To obtain a license under par. (a), a person shall submit an application on  
8 a form provided by the department. The application shall include all of the following: ✓

9       1. The applicant's correct legal name and business address, and any trade name  
10 under which the applicant proposes to operate the liquefied petroleum gas meter. ✓

11       2. A description of the liquefied petroleum gas meter, including identification  
12 of the meter, and if applicable, the vehicle on which the meter is mounted. ✓

      \*\*\*\*NOTE: What sort of identification is contemplated by the above language? If the  
identification is something like a serial number, perhaps the language could be changed  
to read, "including the serial number or other identifying marks that appear on the  
liquefied petroleum gas meter." ✓

13       3. The fees and surcharges required under par. (c). ✓

14       4. Other relevant information reasonably required by the department for  
15 licensing purposes. ✓

16       (c) An application under par. (b) shall include the following fees and surcharges: ✓

17       1. A license fee established by department rule. ✓

18       2. A surcharge established by department rule, if the department determines  
19 that, within one year prior to submitting the application, the applicant operated the  
20 liquefied petroleum gas meter without a license required under par. (a). ✓

21       3. A surcharge established by the department by rule if the department  
22 determines that, within one year prior to submitting the application, the applicant  
23 failed to comply with a test reporting requirement under sub. (8). ✓

1 4. Reinspection fees, if any, required under s. 98.255.

2 (d) Payment of a surcharge under par. (c) 2. or 3. does not relieve the applicant  
3 of any other civil or criminal liability for a law violation, but is not evidence of a  
4 violation of this section.

5 (e) Paragraph (a) does not apply to an individual who operates a liquefied  
6 petroleum gas meter only as an employee of a person who is required to hold a license  
7 under par. (a) to operate that meter.

8 SECTION 27. 98.245 (8) of the statutes is created to read:

9 98.245 (8) TESTING AND REPORTING. A person that is required to hold a license  
10 under sub. (7m) to operate a liquefied petroleum gas meter shall have the meter  
11 tested for accuracy, at least annually, by a person who is licensed under s. 98.18 to  
12 perform the test. The meter operator, or the tester on behalf of the meter operator,  
13 shall report the results of each test to the department not more than 30 days after  
14 the testing is completed. The operator shall retain, for at least 3 years, a record of  
15 each test. (11) within Stat.

16 SECTION 28. 98.245 (9) of the statutes is created to read:

17 98.245 (9) RULES. The department may promulgate a rule doing any of the  
18 following:

19 (a) Establishing license fee and surcharge amounts under sub. (7m)(c).

20 (b) Establishing standards for the construction, operation, and maintenance  
21 of liquefied petroleum gas meters.

22 (c) Establishing standards for the testing, reporting, and recordkeeping  
23 required under sub. (8).

24 SECTION 29. 98.25 (title) of the statutes is renumbered 98.16 (3m) (title) and  
25 amended to read:

INS 10-23

1           ✓ 98.16 (3m) (title) ~~VEHICLE SCALES: ANNUAL~~ ANNUAL TESTING.

2           History: 1981 c. 20; 1989 a. 165.

2           ~~SECTION 30.~~ 98.25 (1) of the statutes is renumbered 98.16 (3m) (a) and amended  
3           to read:

4           ✓ 98.16 (3m) (a) The owner or operator of a scale with a weighing capacity of  
5           5,000 pounds or more used for the commercial weighing of commodities shall cause  
6           the scales to be tested and inspected at least annually for accuracy by an independent  
7           ~~scale testing or service company in accordance with specifications, tolerances,~~  
8           ~~standards and procedures established by the national institute of standards and~~  
9           ~~technology and the department for the testing and examination of scales, using test~~  
10          ~~weights approved by the department. The annual tests and inspections shall be at~~  
11          ~~the expense of the owner or operator~~ a person licensed under s. 98.18 (1). ✓

12          History: 1981 c. 20; 1989 a. 165.

12          ~~SECTION 31.~~ 98.25 (2) of the statutes is renumbered 98.16 (3m) (b) (intro.) and  
13          amended to read:

14          ✓ 98.16 (3m) (b) (intro.) A scale testing or service company person conducting a  
15          test under sub. (1) par. (a) shall, at the time of testing and inspection, promptly  
16          furnish to the owner or operator of the scale a report showing the results of the test  
17          and inspection with an additional copy for the department. The owner and operator  
18          of a scale which is found to be inaccurate at the time of testing shall immediately  
19          withdraw the scale from further use until necessary corrections, adjustments or  
20          repairs are made ~~and~~ do all of the following: ✓

21          ~~(d)~~ If a test under this subsection shows that a vehicle scale is inaccurate, the  
22          scale may not be used until the inaccuracy is corrected and the scale is determined  
23          to be accurate by the scale testing or service company a subsequent test under this

24          subsection. A copy of the report prepared by the scale testing or service company

← strike

✓ scored spaces

← stricken period

1 shall be filed with the department by the owner or operator of the scale within 15  
2 days after the test and inspection has been completed. The department shall  
3 maintain a list open for public inspection of all scales tested and found to be accurate  
4 on the annual test. *plain period* *a subsequent test under this subsection*

History: 1981 c. 20; 1989 a. 165.

5 SECTION 32. 98.25 (3) of the statutes is renumbered 98.16 (3m) (e) and amended  
6 to read:

7 ✓ 98.16 (3m) (e) No person may falsify a test or determination of the accuracy of  
8 a vehicle scale tested under sub. (1) or file with the department a false report of a test  
9 of a vehicle scale under sub. (1) ✓, test result, ✓ or test report under this section.

History: 1981 c. 20; 1989 a. 165.

10 SECTION 33. 98.25 (4) of the statutes is renumbered 98.16 (3m) (f). ✓

11

(END)

INS  
12-10

D-note

sub

lbjk

**Insert 7-17:**

(4) RULES. (a) The department shall promulgate rules that establish all of the following:

1. License fee and surcharge amounts under sub. (2) (c).
2. Standards for the testing, reporting, and record keeping required under sub. (3).

(b) The department may promulgate rules that establish standards for the construction, operation, and maintenance of vehicle tank meters.

**Insert 10-23:**

98.245 (9) RULES. (a) The department shall promulgate rules that establish all of the following:

1. License fee and surcharge amounts under sub. (7m) (c).
2. Standards for the testing, reporting, and record keeping required under sub. (8).

(b) The department may promulgate rules that establish standards for the construction, operation, and maintenance of liquefied petroleum gas meters.

**Insert 12-10**

SECTION 1. 98.255 of the statutes is created to read:

**98.255 Reinspection; fee.** (1) If the department reinspects a weight or measure because the department has found that the device violates this chapter or a rule promulgated under this chapter, the department shall charge the operator of the weight or measure a reinspection fee.

(2) The department shall establish the amount of the reinspection fee under sub. (1) by rule and may establish different reinspection fees for different types of weights and measures. The amount of a reinspection fee for a weight or measure may not exceed the department's average cost to reinspect that type of weight or measure.

(3) A reinspection fee under sub. (1) is payable after the reinspection is completed and is due upon written demand from the department. The department may issue a demand for payment when it issues an annual license application form to the operator of the weighing or measuring device.

**SECTION 9103. Nonstatutory provisions; Agriculture, Trade and Consumer Protection.**

(1) EMERGENCY RULES; WEIGHTS AND MEASURES. The department of agriculture, trade and consumer protection may promulgate rules to establish the initial amount of a fee or surcharge under section 98.16 (3) (intro.) of the statutes, as affected by this act, or sections 98.16 (2m) (a) or (b), 98.224 (2) (c) 1., 2., or 3., 98.245 (7m) (c) 1., 2., or 3., or 98.255 (2) of the statutes, as created by this act, as emergency rules under section 227.24 of the statutes. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until January 1, 2011, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0446/P1dn

CTS:.....

l b j k

Date

✓  
Andrew Miner:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note the following: ✓

✓  
1. You will notice that this draft does not repeal and recreate large portions of statutory text, as was proposed in the drafting instructions. Generally, LRB drafting rules require preserving the portions of existing law that are not altered by a proposal. This helps to preserve legislative history information. Please contact me if you have questions. ✓

✓  
2. Current s. 93.135 (1) (q) cross-references the current provisions for licensure of vehicle scale operators as requiring disclosure of an applicant Social Security number for purposes of ensuring that DATCP does not issue or renew a license for an individual who has failed to pay child support. In this draft, the cross-reference will be preserved. Should the draft be modified to insert cross-references into current s. 93.135 (1) to the vehicle tank meter operator license and LP gas meter operator license created in the draft? ✓  
g applicants

✓  
3. The draft should probably contain a delayed effective date to allow those affected by the new licensure requirements to adjust to the new requirements without an interruption in their services. ✓

✓  
4. I have not included the definition for "person" included in the drafting instructions, because it appears that the definition under s. 990.01 (26) will suffice. Okay? ✓

Christopher T. Sundberg  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0446/P1dn  
CTS:bjk:rs

October 24, 2008

Andrew Miner:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note the following:

1. You will notice that this draft does not repeal and recreate large portions of statutory text, as was proposed in the drafting instructions. Generally, LRB drafting rules require preserving the portions of existing law that are not altered by a proposal. This helps to preserve legislative history information. Please contact me if you have questions.
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3. The draft should probably contain a delayed effective date to allow those affected by the new licensure requirements to adjust to the new requirements without an interruption in their services.
4. I have not included the definition for "person" included in the drafting instructions, because it appears that the definition under s. 990.01 (26) will suffice. Okay?

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## Sundberg, Christopher

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**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Tuesday, December 16, 2008 10:32 AM  
**To:** Sundberg, Christopher  
**Subject:** weights and measures draft 0446

Hi Chris,

Please make the following changes to the weights and measures inspection draft.

- ✓ 1. Section 10 on p. 3. Please incorporate both of the suggestions in the note to that section.
- ✓ 2. Section 26, Note on p. 9 regarding vehicle identification. We agree it would be better to specify serial number or other identifying marks as suggested in the note.
- ✓ 3. The change in #2 above should also be made in Section 21 in proposed s. 98.224(2)(b)2. (on page 6 lines 3-4).
4. Section 34 on p.12. In proposed s. 98.255(1) we would like to see two changes:
  - ✓ First, change "shall" to "may." Reason: There may be situations where a reinspection makes no practical or policy sense, particularly for future devices that may be inspected through remote continuous sensing.
  - ✓ Second, replace the word "device" with a more general reference to "a violation of this chapter." Reason: "device" is a term of art that could be construed to exclude scanners and packages.

FYI – concerning items 2, 3 and 4 on your drafter's note:

- ✓ 2. The draft does not need to insert additional cross references into current 93.135(1).
- ✓ 3. DATCP prefers that the draft does not have a delayed effective date, stating that the rulemaking process will be a delay itself and will provide time to address industry concerns.
- ✓ 4. The way you drafted is fine.

Please let me know if you have any other questions or concerns. Thanks,  
Andrew

*Andrew Miner*  
*Agriculture, Environment and Justice*  
*Wisconsin State Budget Office*  
*(608) 266-1103*