

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: **05/11/99**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Schug**

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

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Trade Regulation**

Extra Copies:

Pre Topic:

LFB:.....Schug -

Topic:

Weights and measures 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>
/1	gibsom 05/11/99	ygeller 05/11/99	kfollet 05/13/99	_____	lrb_docadmin 05/13/99		
/2	gibsom 05/27/99	ygeller 05/28/99	martykr 05/28/99	_____	lrb_docadmin 05/28/99		
/3	gibsom 06/7/99	ygeller 06/8/99	ismith 06/8/99	_____	lrb_docadmin 06/8/99		

FE Sent For:

<END>

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		13 6/8 jg	IS 6/8/99	IS/KM 6/8/99			

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Am 5/28
JA
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/?	gibsom	1 5/11/99 KJF	5/11/99 KJF	KJF/hmh 5/12			

FE Sent For:

<END>



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 4, 1999

Joint Committee on Finance

Paper #216

Weights and Measures Funding (DATCP)

[LFB 1999-01 Budget Summary: Page 100, #14 and #15]

CURRENT LAW

DATCP's Bureau of Consumer Protection administers a weights and measures program that enforces state laws designed to ensure the accuracy of measuring devices and quantity declarations used in commercial transactions. The program protects consumers and businesses from misrepresentations and fraudulent practices through regular inspections of metering devices and measured commodities. As part of this general authority, the Department periodically inspects the accuracy of items such as retail gas pumps, grocery scales, vehicle scales and liquid petroleum gas meters.

Municipalities having populations over 5,000, according to the latest federal census, are required to enforce weights and measures provisions, unless DATCP chooses to contract to do the enforcing. DATCP is required to charge municipalities a fee to recover inspection costs if DATCP provides the weights and measures enforcement.

GOVERNOR

Transfer 4.5 weights and measures inspector positions and \$237,800 annually from PR to petroleum inspection fund SEG. Additionally, transfer 1.0 weights and measures inspector position and \$48,400 annually from recycling fund SEG to petroleum inspection fund SEG and 1.0 chief of environmental products position and \$143,900 annually from recycling fund SEG to PR. Program revenues are collected from user fees. Petroleum inspection fund revenues come from a 3¢ per gallon fee on all petroleum products entering the state. The state recycling surcharge, which provides revenue for the recycling fund expired in April, 1999.

Establish new fertilizer and feed tonnage fees of 2¢ per ton (with a minimum fee of \$1) that would generate approximately \$86,000 annually. These fees reflect a corresponding

reduction in fertilizer and feed tonnage fees currently deposited to the agrichemical management fund.

Increase the vehicle scale operator annual license fee from \$30 to \$60. The fee change would generate approximately \$57,000 annually. The Department would continue to have authority to establish a different fee by rule. 1997 Act 27 increased the fees from \$30 to \$60 for the 1997-99 biennium only.

Allow municipalities with populations over 5,000 to contract with DATCP to enforce weights and measures provisions. Allow the Department to charge a municipality to cover the cost of the contract. Further, require that population estimates be based on the most recent estimates made by the Department of Administration rather than federal census data.

DISCUSSION POINTS

1. In 1997-98, weights and measures program expenditures were \$1,185,800. Funding was received from fees paid by users (56%), GPR (24%), the petroleum inspection fund (17%) and the recycling fund (3%). The Department has 13 regional weights and measures inspectors. In addition, the Consumer Protection Bureau's weights and measures technical section consists of a supervisor and eight staff who assist weights and measures inspectors in carrying out the Department's responsibilities under Chapter 98 of the statutes. The section is primarily responsible for rulemaking, educational, training and technical support to the Department's weights and measures staff as well as to municipalities and other governmental agencies and private sector service organizations conducting weights and measures regulatory work. In addition, the unit is responsible for maintaining and staffing the state's metrology lab (a lab that deals with the calibration of scales and other measuring devices).

Program Revenue

2. Fees collected for weights and measures activities totaled \$597,100 in 1997-98 and the Department spent \$649,500 (drawing down a \$398,000 opening balance). Approximately one-half of weights and measures revenues collected are paid by municipalities under contract with DATCP to provide services. Other major fees are paid by grocery stores, vehicle scale operators, weights and measures servicing companies, those using the state measurement center laboratory and those requesting and provided other testing services by the Department. If none of the Governor's proposed fee increases were implemented (vehicle scale licenses, fertilizer and feed tonnage fees and LPG meter licenses), the weights and measures inspection fund would have an \$85,000 deficit as of June 30, 2001, based on expenditure authority under the bill. If each of the Governor's increases were approved, the fund would have an estimated \$225,000 balance at the end of the biennium and revenues would approximate expenditure authority on an annual basis.

3. The bill would base population estimates of municipalities on DOA estimates rather than federal census data. Federal census data is updated once every ten years while DOA population estimates are redone every year. According to DOA population estimates, the population of seven

municipalities grew to over 5,000 since 1990. Thus, under the bill, the Department could contract with these municipalities. Fees paid by municipalities currently are based on the number of meters located in the municipality. DATCP has not estimated the number of meters located in these municipalities and therefore has no estimate of the revenue increase from contracting with any of these municipalities.

4. Municipalities that are contracted with pay for the service and generally receive annual inspections. Municipalities under 5,000 are not required to pay for Department weights and measures services or to test their own meters. DATCP estimates testing meters in nonmunicipal locations once every three to five years. Thus, with more contracted municipalities, due to higher population estimates, the workload is likely to increase as meters in newly contracted municipalities are inspected more frequently.

5. Those who sell fertilizer and feed to retailers currently pay fees of \$1 and \$0.25 per ton, respectively. The majority of revenues generated from these fees are deposited for agrichemical management and cleanup programs. The bill would shift 2¢ of the fees currently paid to the agrichemical management fund into the weights and measures program. The agrichemical management fund has a balance sufficient to meet projected costs even with the projected \$86,000 annual revenue reduction. The Department believes that since part of its weights and measures functions is to ensure the accurate measurement of feed and fertilizers scales (such as hopper scales, platform scales and flow meters), collecting tonnage fees for that purpose is justifiable.

Petroleum Inspection Fund

6. The weights and measures program estimates spending 37% of its inspection time on petroleum-related inspections in 1997-98. These include inspections of gas pumps, meters at petroleum loading sites and tanker truck meters. DATCP logged over 4,000 hours inspecting 28,137 gas pumps in 1997-98. The bill would provide 37% of all revenue (\$489,400 annually) from the petroleum inspection fund.

7. The petroleum inspection fund receives revenues from a 3¢ per gallon fee on all petroleum products entering the state. The weights and measures program receives base funding of \$212,100 and one position annually from the petroleum inspection fund. Of the total appropriations from the fund, approximately 94% is used for petroleum inspections, awards and administration of the petroleum environmental cleanup fund award (PECFA) program, which reimburses owners for a portion of the costs of cleaning up discharges of petroleum products from petroleum storage tank systems. As of April 1, 1999, the Department of Commerce had PECFA award applications totaling \$254.5 million that had not been paid. Some may argue that the use of petroleum inspection fund revenues should not be increased for non-PECFA appropriations.

8. It could be argued that since municipalities are already assessed fees based on the number of meters in the municipality (including gas pumps and other petroleum-related meters), providing additional revenues from the petroleum inspection fund for all petroleum-related inspections would be overcharging those devices located in contracting municipalities. The

Department estimates half of field staff time is spent on contract areas. However, contract areas do not pay the total cost of inspections, since those municipalities are not assessed full amounts for travel, paperwork, vacation, meeting and similar administrative costs.

9. If contract areas are assessed for one-half the total cost of petroleum-related inspections, then the Department could recover the other half of petroleum-related inspection costs from the petroleum inspection fund without charging twice for the inspection. Funding all petroleum inspections in non-contract areas and one-half of the inspections in contract areas would require \$367,000 annually from the petroleum inspection fund. This alternative would transfer 2.0 positions and \$115,400 annually from PR to petroleum inspection fund SEG rather than the 4.5 positions and \$237,800 under the bill. While this alternative would be fully supported by available program revenues in 1999-01 (due to an opening balance of \$229,000), expenditures would exceed revenues on an ongoing basis.

10. If current law were maintained, other fee payers would continue to subsidize petroleum-related inspections, particularly in communities below 5,000 in population. Further, if no petroleum inspection revenues beyond the base were provided for the weights and measures program, fees for other weights and measures inspections would need to be raised or inspection activity would have to be reduced.

11. As drafted, the bill would require DATCP to contract with municipalities at the municipality's request. Under current law, the Department enters into contracts with municipalities at DATCP's discretion. Administration officials indicate the Governor did not intend to make this change and request a correction to the bill.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to transfer 4.5 positions and \$237,800 annually from PR to petroleum inspection fund SEG. Additionally, (a) transfer 1.0 position and \$48,400 annually from recycling fund SEG to petroleum inspection fund SEG and 1.0 chief of environmental products position and \$143,900 annually from recycling fund SEG to PR; (b) establish new fertilizer and feed tonnage fees of 2¢ per ton (with a minimum fee of \$1); (c) increase the vehicle scale operator annual license fee from \$30 to \$60; (d) allow municipalities with populations over 5,000 to contract with DATCP to enforce weights and measures provisions(e) allow DATCP to charge a municipality to cover the cost of the contract and (f) require that population estimates be based on the most recent estimates made by the Department of Administration rather than federal census data.

<u>Alternative 1</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$286,000	\$0	\$286,000
[Change to Bill]	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	-\$187,800	\$187,800	\$0
[Change to Bill]	\$0	\$0	\$0]
2000-01 POSITIONS (Change to Base)	- 3.50	3.50	0.00
[Change to Bill]	0	0	0.00]

2. Approve the Governor's recommendation, but transfer only 2.0 positions (rather than 4.5) and \$115,400 annually from PR to petroleum inspection fund SEG.

<u>Alternative 2</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$286,000	\$0	\$286,000
[Change to Bill]	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	\$43,000	-\$43,000	\$0
[Change to Bill]	\$244,800	-\$244,800	\$0]
2000-01 POSITIONS (Change to Base)	- 1.00	1.00	0.00
[Change to Bill]	2.50	- 2.50	0.00]

3. In addition to one of the above, specify that municipalities can contract with DATCP for weights and measures enforcement, at the Department's discretion.

4. Maintain current law. (The 2¢ per ton fee would continue to be deposited to the agrichemical management fund.)

<u>Alternative 4</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$0	\$0	\$0
[Change to Bill]	-\$286,000	0	-\$286,000]
1999-01 FUNDING (Change to Base)	\$0	\$0	\$0
[Change to Bill]	\$187,800	-\$187,800	\$0]
2000-01 POSITIONS (Change to Base)	0.00	0.00	0.00
[Change to Bill]	3.50	- 3.50	0.00]

Prepared by: David Schug

Representative Duff

AGRICULTURE, TRADE AND CONSUMER PROTECTION**Towns Weights and Measures Provisions
[Paper #216]****Motion:**

Move to require any town with a population over 5,000 to enforce, within its jurisdiction, the weights and measures provisions under Chapter 98 and to establish a department of weights and measures with sufficient qualified testers and inspectors to ensure compliance with Chapter 98 provisions, unless DATCP contracts with the town to provide weights and measures services. Give town testers or inspectors the same authority as DATCP testers or inspectors. Select town sealers or inspectors from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. Require towns to procure and keep a complete set of standards and regularly submit the standards to DATCP for certification. Require towns to keep complete records of their work and annually submit a report of weights and measures work undergone to DATCP. Allow towns to enact weights and measures ordinances and assess fees, not to exceed the actual cost of the town's weights and measures program.

Allow the Department to charge any town contracting with DATCP fees sufficient to cover DATCP's cost under the contract. Allow any town contracting with DATCP to assess the receiver of weights and measures services fees up to the amount charged by the Department.

Note:

The motion treats towns with populations over 5,000 the same as municipalities over 5,000 under the bill. The effect would be to require 29 or 36 towns (1990 census or 1998 DOA estimate) to either contract with DATCP or provide their own weights and measures services.

Motion #215



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0284/1
MGG.....
RMR
jlg

noon

LFB:.....Schug - Weights and measures changes

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

Fix component 1 2

At the locations indicated, amend the bill as follows:

1. Page ⁹⁵³ 954, line ⁹ 3: ^{after} before that line insert:

¹⁹⁴⁷ SECTION ~~1950~~g. 97.30 (3m) (a) 3. of the statutes is amended to read:

97.30 (3m) (a) 3. An annual weights and measures inspection fee of \$45, except that this fee does not apply to a retail food establishment that is located in a municipality that has established a municipal department of weights and measures under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.

History: 1987 a. 399; 1989 a. 174; 1991 a. 39, 210; 1993 a. 16, 27, 264, 491; 1995 a. ⁷ ss. 3599, 9126 (19); 1997 a. 27.

SECTION ^{1950m.} 97.30 (3m) (b) 3. of the statutes is amended to read:

97.30 (3m) (b) 3. An annual weights and measures inspection fee of \$100, except that this fee does not apply to a retail food establishment that is located in a

1 municipality that has established a municipal department of weights and measures
2 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
3 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.

History: 1987 a. 399; 1989 a. 174; 1991 a. 39, 210; 1993 a. 16, 27, 264, 491; 1995 a. 27 ss. 3599, 9126 (19); 1997 a. 27.

4 SECTION 1950r. 97.30 (3m) (c) 3. of the statutes is amended to read:

5 97.30 (3m) (c) 3. An annual weights and measures inspection fee of \$25, except
6 that this fee does not apply to a retail food establishment that is located in a
7 municipality that has established a municipal department of weights and measures
8 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
9 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98."

History: 1987 a. 399; 1989 a. 174; 1991 a. 39, 210; 1993 a. 16, 27, 264, 491; 1995 a. 27 ss. 3599, 9126 (19); 1997 a. 27.

10 2. Page 954, line 3: delete lines 3 and 4 and substitute:

11 "SECTION 1951g. 98.04 (1) of the statutes is renumbered 98.04 (1m) and
12 amended to read:

13 98.04 (1m) Each Except as provided in sub. (2), each municipality having a".

14 3. Page 954, line 12: after "department" insert "of agriculture, trade and
15 consumer protection".

Fix component

16 4. Page 954, line 17: after "department" insert "of agriculture, trade and
17 consumer protection".

18 5. Page 954, line 19: after "department" insert "of agriculture, trade and
19 consumer protection".

20 6. Page 954, line 21: after "department" insert "of agriculture, trade and
21 consumer protection".

22 7. Page 954, line 23: after that line insert:

23 "SECTION 1951r. 98.04 (1b) of the statutes is created to read:

Plain period
Strike
department

delete

and substitute

WFO - See me if you have a question on this - JLG

"and"

1 98.04 (1b) In this section, [✓]“municipality” means city, village or town.”.

2 8. Page 955, line 1: delete lines 1 to 4 [✓]and substitute:

3 “98.04 (2) A municipality that is required to establish a department of weights
4 and measures under sub. (1) ^mmay contract with the department of agriculture, trade,
5 and consumer protection to enforce the provisions of this chapter within the
6 municipality’s jurisdiction instead of establishing its own department if the
7 department of agriculture, trade and consumer protection agrees to enter into such
8 a contract. The department of agriculture, trade and consumer protection may
9 charge the municipality”.

10 (END)

RMR/2

DOON

LFB:.....Schug - Weights and measures changes

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 1. Page 953, line 9: after that line insert:

3 "SECTION 1947g. 97.30 (3m) (a) 3. of the statutes is amended to read:

4 97.30 (3m) (a) 3. An annual weights and measures inspection fee of \$45, except
5 that this fee does not apply to a retail food establishment that is located in a
6 municipality that has established a municipal department of weights and measures
7 under s. 98.04 ~~(1)~~ (1m) or that recovers fees from the retail food establishment under
8 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.

9 SECTION 1947m. 97.30 (3m) (b) 3. of the statutes is amended to read:

10 97.30 (3m) (b) 3. An annual weights and measures inspection fee of \$100,
11 except that this fee does not apply to a retail food establishment that is located in a
12 municipality that has established a municipal department of weights and measures

1 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
2 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.

3 SECTION 1947r. 97.30 (3m) (c) 3. of the statutes is amended to read:

4 97.30 (3m) (c) 3. An annual weights and measures inspection fee of \$25, except
5 that this fee does not apply to a retail food establishment that is located in a
6 municipality that has established a municipal department of weights and measures
7 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
8 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.”

INSERT
2-8

9 2. Page 954, line 3: delete lines 3 and 4 and substitute:

10 ~~“SECTION 1951g. 98.04 (1) of the statutes is renumbered 98.04 (1m) and~~
11 ~~amended to read:~~

12 98.04 (1m) Each Except as provided in sub. (2), each municipality having a”.

13 3. Page 954, line 12: after “department” insert “of agriculture, trade and
14 consumer protection”.

15 4. Page 954, line 17: delete “department. It” and substitute “department. It
16 of agriculture, trade and consumer protection”.

17 5. Page 954, line 19: after “department” insert “of agriculture, trade and
18 consumer protection”.

19 6. Page 954, line 21: after “and” insert “of agriculture, trade and consumer
20 protection”.

21 7. Page 954, line 23: after that line insert

22 “SECTION 1951r. 98.04 (1b) of the statutes is created to read:
23 98.04 (1b) In this section, “municipality” means city, village or town.”

24 8. Page 955, line 1: delete lines 1 to 4 and substitute:

1 “98.04 (2) A municipality that is required to establish a department of weights
2 and measures under sub. (1m) may contract with the department of agriculture,
3 trade, and consumer protection to enforce the provisions of this chapter within the
4 municipality’s jurisdiction instead of establishing its own department if the
5 department of agriculture, trade and consumer protection agrees to enter into such
6 a contract. The department of agriculture, trade and consumer protection may
7 charge the municipality”. ✓

8

(END)

Page 95A, line 2: after that line insert:

1950 m ← (B)
Section # 98.01 (3) of the statutes is amended to read:

98.01 (3) "Municipality" means a city or ²village or town .
↑ ↑ ↑

History: 1983 a. 189.



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR

LRBb0284/3
MGG:jlj:km

soon

LFB:.....Schug - Weights and measures changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 953, line 9: after that line insert:

3 ~~SECTION 1947g. 97.30 (3m) (a) 3. of the statutes is amended to read:~~

4 97.30 (3m) (a) 3. An annual weights and measures inspection fee of \$45, except
5 that this fee does not apply to a retail food establishment that is located in a
6 municipality that has established a municipal department of weights and measures
7 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
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9 ~~SECTION 1947m. 97.30 (3m) (b) 3. of the statutes is amended to read:~~

10 97.30 (3m) (b) 3. An annual weights and measures inspection fee of \$100,
11 except that this fee does not apply to a retail food establishment that is located in a
12 municipality that has established a municipal department of weights and measures

1 under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under
2 s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.

3 **SECTION 1947r.** ~~97.30 (3m) (c) 3. of the statutes is amended to read:~~

4 ~~97.30 (3m) (c) 3. An annual weights and measures inspection fee of \$25, except~~
5 ~~that this fee does not apply to a retail food establishment that is located in a~~
6 ~~municipality that has established a municipal department of weights and measures~~
7 ~~under s. 98.04 (1) (1m) or that recovers fees from the retail food establishment under~~
8 ~~s. 98.04 (2) for the purpose of enforcement of the provisions of ch. 98.”.~~

9 **2.** Page 954, line 2: after that line insert:

10 “**SECTION 1950m.** 98.01 (3) of the statutes is amended to read:

11 98.01 (3) “Municipality” means a city ~~or~~, village or town.”.

12 **3.** Page 954, line 12: after “department” insert “of agriculture, trade and
13 consumer protection”.

14 **4.** Page 954, line 17: delete “department. It” and substitute “department. It
15 of agriculture, trade and consumer protection.”.

16 **5.** Page 954, line 19: after “department” insert “of agriculture, trade and
17 consumer protection”.

18 **6.** Page 954, line 21: after “and” insert “of agriculture, trade and consumer
19 protection”.

20 **7.** Page 955, line 1: delete lines 1 to 4 and substitute:

21 “98.04 (2) A municipality that is required to establish a department of weights
22 and measures under sub. ~~(1m)~~⁽¹⁾ may contract with the department of agriculture,
23 trade, and consumer protection to enforce the provisions of this chapter within the
24 municipality’s jurisdiction instead of establishing its own department if the

1 department of agriculture, trade and consumer protection agrees to enter into such
2 a contract. The department of agriculture, trade and consumer protection may
3 charge the municipality”.

4 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0284/3
MGG:jlj:ijs

LFB:.....Schug – Weights and measures changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 954, line 2: after that line insert:

3 “SECTION 1950m. 98.01 (3) of the statutes is amended to read:

4 98.01 (3) “Municipality” means a city ~~or~~, village or town.”

5 **2.** Page 954, line 12: after “department” insert “of agriculture, trade and
6 consumer protection”.

7 **3.** Page 954, line 17: delete “department. It” and substitute “department. It
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5 and measures under sub. (1) may contract with the department of agriculture, trade,
6 and consumer protection to enforce the provisions of this chapter within the
7 municipality’s jurisdiction instead of establishing its own department if the
8 department of agriculture, trade and consumer protection agrees to enter into such
9 a contract. The department of agriculture, trade and consumer protection may
10 charge the municipality”.

11

(END)