

**WEST VIRGINIA
SECRETARY OF STATE
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OFFICE WEST VIRGINIA
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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 26

TITLE OF RULE BEING PROPOSED: Weights and Measures Calibration Fees

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 2718

SECTION §64-10-3(c), PASSED ON April 9, 2005

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2005


Authorized Signature

TITLE 42
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF LABOR

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Series 26
Weights and Measures Calibration Fees

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§42-26-1. General.

1.1. Scope. – This legislative rule establishes laboratory calibration fees for weights and measures testing standards which are used to verify the accuracy of weighing and measuring devices used for commercial purposes.

1.2. Authority. – W.Va. Code §47-1-20.

1.3. Filing Date. – May 13, 2005

1.4. Effective Date. – July 1, 2005

§42-26-2. Application and Enforcement.

2.1. Application. This legislative rule governs all persons, firms, corporations, government entities, materials and transactions covered by the provisions of W.Va. Code §47-1-1, et seq.

2.2. Enforcement. The enforcement of this legislative rule is vested with the West Virginia Division of Labor or its designated representatives as authorized by W.Va. Code §47-1-3.

§42-26-3. Definitions.

3.1. "Division" means the West Virginia Division of Labor.

3.2. "Device" means any weighing or measuring apparatus used in this state for commercial purposes.

3.3. "Standards" means weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology.

§42-26-4. Fees. The division shall charge laboratory calibration fees for all testing standards according to the table in appendix A.

§42-26-5. Payment of fees. The division shall provide the owner of any standards calibrated by the division with an invoice for services rendered. The owner shall pay the invoice within thirty (30) days of the date of the invoice. The division may refuse services to any person, firm, corporation or government entity who has failed to pay an invoice for services.

Appendix A. Weights & Measures Laboratory Fee Structure

Description of Standards	Per	Calib Freq,	Calib Fee	Storage Fees (see Note 10 below)
5 gallon Test Measure	each	1 year	\$20.00	Storage fee is \$2.00 / day after 10 days from notification
Provers >5 gal and <=50gal	each	1 year	\$75.00	Storage fee is 15% of calibration fee after 10 days from notification
Provers >50 <400 gal	each	1 year	\$150.00	Storage fee is 15% of calibration fee after 10 days from notification
Provers >=400 gal	each	5 years	\$300.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights Carts	each	1 year	\$125.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >= 2000lbs	per weight	see note 8	\$25.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >=500lb <2000lb	per weight	1 year	\$20.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights >=20 <500lb	per weight	1 year	\$5.00	Storage fee is 15% of calibration fee after 10 days from notification
Weights <20lb	per weight	1 year	\$3.00	Storage fee is \$2.00 / day after 10 days from notification
Pharmacy Weight Kits	up to 16 weights	5 years	\$50.00	Storage fee is \$2.00 / day after 10 days from notification
Lottery Daily 3, per set of 10	per set	see note 9	\$25.00	No Storage fee
Lottery Cash 25, per case	per case	see note 9	\$50.00	No Storage fee

Notes relative to Appendix A.

1. The Weights & Measures laboratory staff reserves the right to refuse any standards that are considered not suitable for testing
2. A cleaning fee of \$25 will be added to the regular test fee for each 5 gallon test measure, if cleaning is considered to be necessary
3. A \$25 fee for appointment cancellation will be levied if less than 48 hours notice of cancellation is given by company representatives
4. Fees for metric standards will be charged at the comparable rate for customary standards as shown in Appendix A
5. Subsequent retesting for rejected or condemned standards will be charged at the applicable rate shown in Appendix A
6. For Pharmacy weight kits with more than 16 weights, additional weights will be charged as individual weights at \$3 each
7. All applicable shipping charges to and from Weights & Measures Laboratory shall be paid by company or person submitting the standards
8. Calibration frequency for fixed location coal loadout weights is 5 years; all others 1 year
9. Monthly Calibration frequency on Lottery balls is set by Lottery Commission rather than Weights & Measures rule
10. Depending on the standard type, a storage fee of either 15% of the total Calibration Fee or \$2 per day will be added to the amount due for that calibration, beginning 10 days after written or verbal notice is given to an authorized company representative