



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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12/8/2017 11:25:53 AM

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## NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Labor

RULE TYPE: Legislative

TITLE-SERIES: 42-36

RULE NAME: Registration of Weighing and Measuring  
Devices Used By Businesses In  
Commercial Transactions

CITE AUTHORITY: W. Va. Code §47-1-3-(c) and §47-1-21(d)

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

TITLE 42  
LEGISLATIVE RULE  
WEST VIRGINIA DIVISION OF LABOR

SERIES 36  
REGISTRATION OF WEIGHING AND MEASURING DEVICES  
USED BY BUSINESSES IN COMMERCIAL TRANSACTIONS

**§42-36-1. General.**

1.1. Scope. -- This rule governs the registration of weighing and measuring devices used by businesses in commercial transactions, the issuance of certificates of device registration, and fees.

1.2. Authority. -- W. Va. Code §§47-1-3(c) and 47-1-21(d).

1.3. Filing Date. -- .

1.4. Effective Date. -- .

1.5. Sunset Date. This rule shall terminate and have no further force or effect upon the expiration of 2 years from its effective date.

**§42-36-2. Application and Enforcement.**

2.1. Application. This rule applies to all businesses that use weighing and measuring devices in commercial transactions with the public.

2.2. Enforcement. The enforcement of this legislative rule is vested in the West Virginia Division of Labor.

**§42-36-3. Definitions.**

3.1. "Certificate of device registration" means the document issued by the Division to a business upon receipt of a complete application and payment of the required fee for each weighing or measuring device used in commercial transactions.

3.2. "Commissioner" means the Commissioner of the Division of Labor and his or her authorized representatives.

3.3. "Complete application" means an application that includes all the information required by the Commissioner on the form supplied by the Division.

3.4. "Device" means any instrument, apparatus or piece of equipment that is used in commercial transactions to weigh or measure goods or products for sale to the public.

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

**§42-36-4. Device Registration Required.**

A business that uses weighing or measuring devices in commercial transactions for the sale of goods or products to the public shall register each device with the Division prior to placing the device in service and annually thereafter.

**§42-36-5. Device Registration Application; Payment of Fees; Renewal.**

5.1. A business that uses weighing or measuring devices in commercial transactions shall submit a written application and provide all information as the Commissioner may require on a form supplied by the Division and shall pay the applicable registration fee as prescribed in section 6 of this rule.

5.2. If a business operates in more than one commercial location, the business shall submit a separate device registration application for each commercial location where weighing or measuring devices are used in commercial transactions.

5.3. The preferred means of paying device registration fees is by credit card.

5.4. Upon receipt of a complete application, the Commissioner shall issue a certificate of device registration for each device registered with the Division.

5.5. A certificate of device registration shall expire one year from the date of issuance.

5.6. The Division shall provide a renewal application to each business that has registered weighing and measuring devices at least 30 days prior to the certificate of device registration's expiration date.

**§42-36-6. Fees.**

6.1. The Division shall charge device registration fees according to the Annual Device Registration Fee Schedule for Scales in Appendix A and the Annual Device Registration Fee Schedule for Meters in Appendix B.

6.2. If a business submits a renewal application that is postmarked more than fifteen days past the expiration of certificate of device registration, there shall be a \$25.00 late fee in addition to the annual device registration fee.

6.3. The fee for a duplicate or replacement certificate of device registration shall be \$10.00.

**§42-36-7. Failure to Register; Expired Certificate of Device Registration.**

A business that fails to register its weighing and measuring devices that are used in commercial transactions for the sale of goods or products to the public or has an expired certificate of device registration may be subject to civil penalties as set forth in W. Va. Code §47-1-22.

**Appendix A - Annual Device Registration Fee Schedule for Scales**

<b><u>ID #</u></b>	<b><u>Scale Capacity or Type</u></b>	<b><u>Fee Per Scale</u></b>
<u>01</u>	<u>0 - 50 pounds</u>	<u>\$25.00</u>
<u>02</u>	<u>51 - 1,000 pounds</u>	<u>\$50.00</u>
<u>03</u>	<u>1,001 - 5,000 pounds</u>	<u>\$150.00</u>
<u>04</u>	<u>5,001 - 10,000 pounds</u>	<u>\$250.00</u>
<u>05</u>	<u>10,001 pounds and over</u>	<u>\$350.00</u>
<u>06</u>	<u>Wheel Load Weighers</u>	<u>\$50.00</u>
<u>07</u>	<u>Forklift Scales</u>	<u>\$75.00</u>
<u>08</u>	<u>Monorail Scales</u>	<u>\$150.00</u>
<u>09</u>	<u>Animal Scales</u>	<u>\$100.00</u>
<u>10</u>	<u>Vehicle or Railroad Scales</u>	<u>\$300.00</u>
<u>11</u>	<u>Hopper Scales</u>	<u>\$300.00</u>
<u>12</u>	<u>Belt Conveyor Scales</u>	<u>\$300.00</u>
<u>13</u>	<u>Livestock Scales</u>	<u>\$200.00</u>

**Appendix B - Annual Device Registration Fee Schedule for Meters**

<b><u>ID #</u></b>	<b><u>Type of Meter</u></b>	<b><u>Fee Per Meter</u></b>
<u>14</u>	<u>Retail Meter or Blend Valve Meter under 20 gallons per minute</u>	<u>\$25.00</u>
<u>15</u>	<u>Retail Diesel Exhaust Fluid (“DEF”) Meter under 20 gallons per minute</u>	<u>\$25.00</u>
<u>16</u>	<u>Retail Meter over 20 gallons per minute</u>	<u>\$35.00</u>
<u>17</u>	<u>Vehicle Tank Meter (“VTM”) up to 100 gallons per minute</u>	<u>\$75.00</u>
<u>18</u>	<u>Vehicle Tank Meter (“VTM”) over 100 gallons per minute</u>	<u>\$100.00</u>
<u>19</u>	<u>Mass Flow Meter</u>	<u>\$100.00</u>
<u>20</u>	<u>Compressed Natural Gas (“CNG”) Meter</u>	<u>\$100.00</u>
<u>21</u>	<u>Liquid Propane (“LP”) Meter - Truck or Stationary</u>	<u>\$100.00</u>