



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia  
Secretary Of State

## 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.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Mitchell E Woodrum -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

42CSR36

TITLE 42  
LEGISLATIVE RULE  
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, and the issuance of certificates of device registration.

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

1.3. Filing Date. -- ~~March 23, 2018.~~

1.4. Effective Date. -- ~~March 30, 2018.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on ~~March 30, 2023~~  
August 1, 2028.

**§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.

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; 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.

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

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

5.5. 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. 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.