



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Labor TITLE-SERIES: 42-36
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Registration of Weighing and Measuring Devices
Used by Businesses in Commercial Transactions

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

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) SB 409

Section §64-10-2(e) Passed On 3/10/2023 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 5, 2023

This rule shall terminate and have no further force or effect from the following date:

August 01, 2028

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. -- April 5, 2023.

1.4. Effective Date. -- April 5, 2023.

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on 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.