

## 1 SENATE BILL NO. 53

2 INTRODUCED BY M. LANG

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO WEIGHTS AND MEASURES  
6 FEES COLLECTED BY THE DEPARTMENT OF LABOR AND INDUSTRY; PROVIDING RULEMAKING  
7 AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY ON FEES FOR WEIGHTS AND  
8 MEASURES; LIMITING THE FEE INCREASE ON A LICENSE FOR A WEIGHING DEVICE; ESTABLISHING  
9 REPORTING REQUIREMENTS; REQUIRING A ONE-TIME-ONLY TRANSFER OF FUNDS; AMENDING  
10 SECTIONS 30-12-202 AND 30-12-203, MCA; AND PROVIDING EFFECTIVE DATES."  
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 **Section 1.** Section 30-12-202, MCA, is amended to read:15 **"30-12-202. Specific powers and duties of department -- rules.** (1) The department shall adopt  
16 from time to time reasonable rules for the enforcement of parts 1 through 5, and the rules have the effect of law.

17 These rules may include:

- 18 (a) schedules of fees for licensing, testing, and certification;
- 19 (b) standards of net weight, measure, or count and reasonable standards of fill for any commodity  
20 in package form;
- 21 (c) rules governing the technical and reporting procedures to be followed and the report and  
22 record forms and marks of approval and rejection to be used by the department in the discharge of its official  
23 duties;
- 24 (d) exemptions from the sealing or marking requirements of 30-12-209 with respect to weights and  
25 measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to  
26 the apparatus involved; and
- 27 (e) rules governing the voluntary registration of service providers and service agencies.
- 28 (2) The rules described in subsection (1) must include specifications, tolerances, and other

1 technical requirements for weights and measures subject to inspection and testing under 30-12-205, designed  
2 to eliminate from use, without prejudice to apparatus that conforms as closely as practicable to the official  
3 standards, those:

4 (a) that are not accurate;

5 (b) that are not reasonably permanent in their adjustment or will not repeat their indications  
6 correctly; or

7 (c) that facilitate the perpetration of fraud.

8 (3) The specifications, tolerances, and other technical requirements for commercial weighing and  
9 measuring devices, together with amendments to the specifications, as recommended by the national institute  
10 of standards and technology and published in national institute of standards and technology Handbook 44 and  
11 supplements to that handbook or in any publication revising or superseding Handbook 44, are the  
12 specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of  
13 this state, except as specifically modified, amended, or rejected by a rule issued by the department.

14 (4) An apparatus is considered to be "correct" when it conforms to all applicable requirements  
15 adopted as specified in this section. Other apparatus are considered to be "incorrect".

16

17 **Section 2.** Section 30-12-203, MCA, is amended to read:

18 **"30-12-203. Licensing of weighing devices.** (1) A person may not knowingly operate or use an  
19 unlicensed weighing device in trade or commerce for ascertaining the weight of any commodity.

20 (2) A license must be obtained by applying to the department ~~upon~~on a form provided by the  
21 department. Each license must require at least one inspection a year.

22 ~~(3) An application must be accompanied by the proper fee, as established by this section, except~~  
23 ~~that fees may be paid by credit card and may be discounted for payment processing charges paid by the~~  
24 ~~department to a third party.~~

25

**WEIGHING DEVICES**

Capacity	Fees
499 pounds or less	\$20
500 pounds through 1,999 pounds	\$33

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1	2,000 pounds through 7,999 pounds	\$64
2	8,000 pounds through 60,000 pounds	\$165
3	60,001 pounds or more	\$280

4           (3) (A) AN APPLICATION MUST BE ACCOMPANIED BY THE PROPER FEE, AS ESTABLISHED BY THIS SECTION  
 5 AND SUBJECT TO SUBSECTION (3)(B), EXCEPT THAT FEES MAY BE PAID BY CREDIT CARD AND MAY BE DISCOUNTED FOR  
 6 PAYMENT PROCESSING CHARGES PAID BY THE DEPARTMENT TO A THIRD PARTY.

WEIGHING DEVICES

8	<u>CAPACITY</u>	<u>FEES</u>
9	<u>499 POUNDS OR LESS</u>	<u>\$20</u>
10	<u>500 POUNDS THROUGH 1,999 POUNDS</u>	<u>\$33</u>
11	<u>2,000 POUNDS THROUGH 7,999 POUNDS</u>	<u>\$64</u>
12	<u>8,000 POUNDS THROUGH 60,000 POUNDS</u>	<u>\$165</u>
13	<u>60,001 POUNDS OR MORE</u>	<u>\$280</u>

14           (B) THE DEPARTMENT MAY INCREASE FEES IN SUBSECTION (3)(A) EVERY 2 YEARS BY RULE, PROVIDED THE  
 15 FEES ARE COMMENSURATE WITH THE COST OF ISSUING A LICENSE AND THE FEE INCREASE DOES NOT EXCEED 15%.

16           (4)     The capacity of a weighing device must be determined by the manufacturer's rated capacity.

17           (5)     (a) All licenses are annual and, except for those described in subsection (5)(b), expire on the  
 18 anniversary date established by rule by the board of review established in 30-16-302.

19           (b)     Licenses for on-farm scales expire at the end of the calendar year.

20           (6)     (a) A late renewal fee equal to 50% of the renewal license fee established in subsection (3)  
 21 must be assessed if the fee is not paid:

22           (i)     for on-farm scales, before the first day of the sixth month of the year in which the license fee is  
 23 due; or

24           (ii)    for all other licenses, within 60 days of the anniversary date.

25           (b)     If the fee is not paid by the respective due date listed in subsection (6)(a), the weighing device  
 26 may be sealed and removed from service by the department.

27           (c)     A person may not use a weighing device that has been removed from service or break the seal  
 28 on a device removed from service until all fees have been paid.

