

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 485

Introduced by Senator Calderon
(~~Coauthor~~ *Coauthors: Senator Senators Berryhill and Galgiani*)

February 21, 2013

An act to amend Sections 12704 and 12709 of, and to add Section 12703.1 to, the Business and Professions Code, relating to weighmasters.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, as amended, Calderon. Weighmasters: junk dealers and recyclers.

Existing law vests the Department of Food and Agriculture with general supervision of weights and measures and weighing and measuring devices sold or used in the state, and authorizes the Secretary of Food and Agriculture to exercise any power conferred upon the department or upon the State Sealer, who is the chief of the division of the department charged with the enforcement of the provisions relating to weights and measures. Existing law defines a weighmaster as any person, who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service. Existing law requires a weighmaster to obtain a license and to pay a license fee, as prescribed. Existing law authorizes the secretary to refuse to grant a license, to refuse to renew a license, or to revoke or suspend a license if, after a specified hearing, the secretary is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a

weighmaster or has been found guilty of a misdemeanor relating to the regulation of weighmasters.

This bill would require the department to require a recycler or junk dealer, as defined, who is an applicant for a new weighmaster license or a renewal of a weighmaster license to furnish specified additional information on the application. This bill would require the department to issue a *weighmaster* license to a junk dealer or recycler upon receipt of an application for a new license or the renewal of a license that contains the appropriate information and fee. Upon issuance of a *weighmaster* license to a junk dealer or recycler, this bill would require the department to make a thorough investigation of all of the information contained in the application within 90 days. If the department determines that information submitted in the application is materially inaccurate, this bill would require the department to revoke the license issued to the junk dealer or recycler unless the junk dealer or recycler complies with these information requirements within 14 days of notice, as specified. This bill would provide that a junk dealer or recycler whose *weighmaster* license has been revoked is entitled to a hearing. This bill would require a junk dealer or recycler *who is a weighmaster* to pay an additional ~~unspecified~~ annual fee of \$250 to the department for the administration and enforcement of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The recordkeeping and reporting requirements for
4 commercial scrap recycling transactions, as set forth generally in
5 Article 3 (commencing with Section 21600) of Chapter 9 of
6 Division 8 of the Business and Professions Code, are intended
7 primarily to discourage metal theft and to promote honest
8 competition within the scrap metal recycling industry.
9 (b) According to the Division of Measurement Standards, the
10 agency responsible for enforcement of weights and measures laws
11 and regulations, the primary functions carried out by the division
12 are to ensure fair and honest competition for industry and accurate
13 value comparison for consumers.

1 (c) Because the division and county sealers are responsible for
2 periodically inspecting and regulating all weighing and measuring
3 devices utilized by all scrap recyclers doing business within the
4 state, they are perfectly suited to review and verify the
5 recordkeeping and reporting requirements for the scrap recycling
6 industry.

7 SEC. 2. Section 12703.1 is added to the Business and
8 Professions Code, to read:

9 12703.1. (a) In addition to any other requirements for issuance
10 of a license pursuant to this chapter, if the applicant is a recycler
11 or junk dealer as defined in Section 21601, the department shall
12 require the applicant to furnish all of the following information
13 accurately on any application for a new license or the renewal of
14 a license issued pursuant to this chapter:

15 (1) A copy of the applicant's current business license.

16 (2) A statement indicating that the applicant has either filed an
17 application for a stormwater permit or is not required to obtain a
18 stormwater permit.

19 (3) A statement indicating that the applicant has the equipment
20 necessary to comply with the photographic and thumbprinting
21 requirements for the purchase and sale of nonferrous materials
22 pursuant to Section 21608.5 or a statement indicating that the
23 applicant will not be purchasing or selling nonferrous materials
24 and is not required to comply with Section 21608.5.

25 (4) The name or names of any deputy weighmasters.

26 (b) The department shall issue a license to a junk dealer or
27 recycler upon receipt of an application for a new license or renewal
28 of a license that contains the information required by subdivision
29 (a) and that is accompanied by the appropriate fee.

30 (c) Upon issuance of a license to a junk dealer or recycler, the
31 department shall make a thorough investigation of all of the
32 information contained in the application within 90 days.
33 Notwithstanding Section 12708, if the department determines that
34 the information submitted pursuant to subdivision (a) is materially
35 inaccurate, the department shall revoke the license issued to a junk
36 dealer or recycler unless the junk dealer or recycler complies with
37 the requirements of subdivision (a) within 14 days of notice from
38 the department of a proposed revocation pursuant to this
39 subdivision. A junk dealer or recycler whose license has been
40 revoked pursuant to this subdivision is entitled to a hearing

1 conducted pursuant to Chapter 5 (commencing with Section 11500)
2 of Part 1 of Division 3 of Title 2 of the Government Code.

3 SEC. 3. Section 12704 of the Business and Professions Code
4 is amended to read:

5 12704. (a) A weighmaster shall pay to the department the
6 following license fee for each license year as applicable to the
7 operation:

8 (1) Seventy-five dollars (\$75) if the weighmaster is operating
9 at a fixed location.

10 (2) Thirty dollars (\$30) for each additional fixed location the
11 weighmaster is operating at.

12 (3) Two hundred dollars (\$200) if the weighmaster is operating
13 at other than a fixed location.

14 (4) Twenty dollars (\$20) for each deputy weighmaster.

15 (5) ~~Two hundred fifty dollars~~ (~~\$~~) (\$250) if the
16 weighmaster is a recycler or junk dealer as defined in Section
17 21601 or is performing services on behalf of a recycler or junk
18 dealer.

19 (b) "License year" means the period of time beginning with the
20 first day of the month the weighmaster is required to be licensed
21 in this state, and ending on the date designated by the director for
22 expiration of the license, or yearly intervals after the first renewal.

23 (c) "Location" means a premise on which weighing, measuring,
24 or counting devices are used.

25 SEC. 4. Section 12709 of the Business and Professions Code
26 is amended to read:

27 12709. (a) All license fees collected pursuant to this chapter
28 shall be deposited in the Department of Food and Agriculture Fund
29 to be expended by the department for the administration and
30 enforcement of this chapter, except as provided in subdivision (b).

31 (b) License fees collected pursuant to paragraph (5) of
32 subdivision (a) of Section 12704 shall be deposited in a special
33 account in the Department of Food and Agriculture Fund to be
34 expended by the department for the administration and enforcement
35 of Section 12703.1.