

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 485

Introduced by Senator Calderon

(~~Coauthors:~~(*Coauthors:* 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~~ *The* 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~~ *the* bill would require the department to *immediately inform the county sealer who is then required to* make a thorough investigation of all of the information contained in the application within 90 days. *The bill would require the county sealer to report to the department if the county sealer determines that the application contains materially inaccurate information.* If the department determines that information submitted in the application is materially inaccurate, ~~this~~ *the* 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~~ *The* bill would provide that a junk dealer or recycler whose weighmaster license has been revoked is entitled to a hearing. ~~This~~ *The* bill would require a junk dealer or recycler who is a weighmaster to pay an additional annual fee of ~~\$250~~ \$500 to the department for the administration and enforcement of these provisions. *By imposing new duties on a county sealer, the bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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.

14 (c) Because the division and county sealers are responsible for
15 periodically inspecting and regulating all weighing and measuring
16 devices utilized by all scrap recyclers doing business within the
17 state, they are perfectly suited to review and verify the
18 recordkeeping and reporting requirements for the scrap recycling
19 industry.

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

22 12703.1. (a) In addition to any other requirements for issuance
23 of a license pursuant to this chapter, if the applicant is a recycler
24 or junk dealer as defined in Section 21601, the department shall
25 require the applicant to furnish all of the following information
26 accurately on any application for a new license or the renewal of
27 a license issued pursuant to this chapter:

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

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

32 (3) A statement indicating that the applicant has the equipment
33 necessary to comply with the photographic and thumbprinting
34 requirements for the purchase and sale of nonferrous materials
35 pursuant to Section 21608.5 or a statement indicating that the
36 applicant will not be purchasing or selling nonferrous materials
37 and is not required to comply with Section 21608.5.

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

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

5 (c) Upon issuance of a license to a junk dealer or recycler, the
6 department shall *immediately inform the county sealer who shall*
7 *then* make a thorough investigation of all of the information
8 contained in the application within 90 days. ~~Notwithstanding~~ *The*
9 *county sealer shall report to the department if the county sealer*
10 *determines that the application contains materially inaccurate*
11 *information, and, notwithstanding* Section 12708, if the department
12 determines that the information submitted pursuant to subdivision
13 (a) is materially inaccurate, the department shall revoke the license
14 issued to a junk dealer or recycler unless the junk dealer or recycler
15 complies with the requirements of subdivision (a) within 14 days
16 of notice from the department of a proposed revocation pursuant
17 to this subdivision. A junk dealer or recycler whose license has
18 been revoked pursuant to this subdivision is entitled to a hearing
19 conducted pursuant to Chapter 5 (commencing with Section 11500)
20 of Part 1 of Division 3 of Title 2 of the Government Code.

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

23 12704. (a) A weighmaster shall pay to the department the
24 following license fee for each license year as applicable to the
25 operation:

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

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

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

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

33 (5) ~~Two hundred fifty dollars (\$250)~~ *Five hundred dollars*
34 *(\$500)* if the weighmaster is a recycler or junk dealer as defined
35 in Section 21601 or is performing services on behalf of a recycler
36 or junk dealer.

37 (b) “License year” means the period of time beginning with the
38 first day of the month the weighmaster is required to be licensed
39 in this state, and ending on the date designated by the director for
40 expiration of the license, or yearly intervals after the first renewal.

1 (c) “Location” means a premise on which weighing, measuring,
2 or counting devices are used.

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

5 12709. (a) All license fees collected pursuant to this chapter
6 shall be deposited in the Department of Food and Agriculture Fund
7 to be expended by the department for the administration and
8 enforcement of this chapter, except as provided in subdivision (b).

9 (b) License fees collected pursuant to paragraph (5) of
10 subdivision (a) of Section 12704 shall be deposited in a special
11 account in the Department of Food and Agriculture Fund to be
12 expended by the department for the administration and enforcement
13 of Section 12703.1.

14 *SEC. 5. If the Commission on State Mandates determines that*
15 *this act contains costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code.*

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