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Code: Section:

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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 5. WEIGHTS AND MEASURES [12001 - 13800] (Division 5 added by Stats. 1939, Ch. 43.)

CHAPTER 2. Administration [12100 - 12246] (Chapter 2 added by Stats. 1939, Ch. 43.)

ARTICLE 1. State Administration [12100 - 12108] (Article 1 added by Stats. 1939, Ch. 43.)

12100. Where not otherwise provided by law, the Department of Food and Agriculture has general supervision of the weights and measures and weighing and measuring devices sold or used in the state.

(Amended by Stats. 1989, Ch. 246, Sec. 3.)

12101. The department shall investigate conditions in the various counties and cities in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers.

(Added by Stats. 1939, Ch. 43.)

12102. The department shall annually report to the Governor, and shall prior to each regular session report to the Legislature the work under this division, and shall make such recommendations as may be proper and necessary.

(Added by Stats. 1939, Ch. 43.)

12103. The department shall keep a complete record of all of its acts, a record of prosecutions, and the reports of the various sealers. These records and reports shall be open to the public.

(Added by Stats. 1939, Ch. 43.)

12103.5. The duty of enforcing this division and carrying out its provisions and requirements is vested in the secretary and in each sealer acting under the supervision and direction of the secretary.

(Amended by Stats. 2017, Ch. 573, Sec. 47. (SB 800) Effective January 1, 2018.)

12104. (a) The department shall issue instructions and make recommendations to the county sealers, and the instructions and recommendations shall govern the procedure to be followed by these officers in the discharge of their duties.

(b) Instructions and recommendations that are made to ensure statewide weights and measures protection shall include a local administration cost analysis utilizing data provided by the county sealer. The cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate county administration and enforcement have not been provided. The secretary shall develop, jointly with the county sealers, county priorities for the enforcement programs and activities of the secretary.

(Amended by Stats. 2013, Ch. 275, Sec. 3. (AB 1420) Effective January 1, 2014.)

12104.5. The secretary may allocate annually to each county an amount determined by the secretary not to exceed one-third of the amount expended by the county pursuant to this division during the previous fiscal year for weights and measures programs. The allocation shall be made from funds appropriated to the secretary for the administration and enforcement of this division at the local level.

(Amended by Stats. 2012, Ch. 661, Sec. 23. (SB 1576) Effective January 1, 2013.)

12105. The department shall, at a frequency determined by the secretary, inspect the work of the local sealers and may inspect the weights, measures, balances, or any other weighing or measuring devices of any person.

(Amended by Stats. 2012, Ch. 661, Sec. 24. (SB 1576) Effective January 1, 2013.)

12106. The department shall, at least once annually and as often as requested by the Department of General Services or the executive officer of a state institution, test the scales, weights and measures used in checking the receipt and disbursement of supplies in any state institution, and shall report in writing its findings to the executive officer of the institution concerned.

(Amended by Stats. 1965, Ch. 371.)

12106.5. The secretary may accept the testing and sealing of weighing and measuring devices by another state upon a finding that the requirements of California for testing and sealing such devices have been met.

(Amended by Stats. 2012, Ch. 661, Sec. 25. (SB 1576) Effective January 1, 2013.)

12107. The secretary shall establish tolerances and specifications and other technical requirements for commercial weighing and measuring. In doing so, the secretary shall adopt, by reference, the latest standards as recommended by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 44 "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices," except as specifically modified, amended, or rejected by regulation adopted by the secretary.

The secretary may, by regulation, establish tolerances and specifications for commercial weighing and measuring devices not included in Handbook 44.

Any regulation shall be adopted, amended, or repealed in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

It shall be unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards established under this section.

(Amended by Stats. 2012, Ch. 661, Sec. 26. (SB 1576) Effective January 1, 2013.)

12107.1. The secretary, by regulation, may establish a standard or standards of net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients. These standards, whenever applicable, shall be based upon published, official federal or state specifications and requirements or, in the absence of any published official specifications, upon established and accepted common usage. Any regulation shall be adopted, amended, or repealed in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Whenever a standard, net weight, net measure, or net count has been established for any commodity, it is unlawful to sell the commodity by, at, or for a quantity greater or less than the standard.

(Amended by Stats. 2012, Ch. 661, Sec. 27. (SB 1576) Effective January 1, 2013.)

12108. The secretary may arrange for the services of a sealer employed in a county on a collaborative basis and allow reasonable compensation and expenses for the purpose of performing services not already within his or her duties and that are subject to administration or enforcement by the department under the provisions of this code or of the Food and Agricultural Code.

(Amended by Stats. 2012, Ch. 661, Sec. 28. (SB 1576) Effective January 1, 2013.)