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AB-347 Weights and measures: inspection: fees. (2017-2018)

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Assembly Bill No. 347

CHAPTER 521

An act to amend Sections 12240 and 12246 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 347, Chau. Weights and measures: inspection: fees.

(1) Existing law provides for the regulation of commercial weighing and measuring devices by the Department of Food and Agriculture, and provides for the enforcement of those provisions by the Secretary of Food and Agriculture and by county sealers of weights and measures in each county. Existing law requires the secretary to establish or adopt tolerances and specifications and other technical requirements for commercial weighing and measuring.

Existing law requires the sealer of a county to inspect and test weighing and measuring devices, as specified, that are used or sold in the county. Existing law also requires the sealer of a county to weigh or measure packages to determine whether they contain the amount represented, as provided. Existing law, until January 1, 2019, authorizes the board of supervisors of a county, by ordinance, to charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing weighing and measuring devices required of the county sealer, to recover the costs of the county sealer to perform these duties.

Existing law, until January 1, 2019, requires the secretary to establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed by county sealers described above, and requires the administrative fee to be collected for every device registered with each county office of weights and measures and paid annually to the Department of Food and Agriculture Fund.

This bill would extend the authority of the board of supervisors of a county to charge an annual registration fee to recover the costs of the county sealer, as provided, until January 1, 2022, and would extend certain other related provisions. The bill would also continue the annual administrative fee to recover the costs incurred by the department described above until January 1, 2022.

(2) Existing law specifies that the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a location fee, the Department of Food and Agriculture administrative fee described above, and a device fee. Existing law provides that the device fee for liquefied petroleum gas meters, truck mounted or stationary, shall not exceed \$185 per device.

This bill would revise this limitation to also apply to compressed natural gas and liquefied natural gas meters beginning in 2021, but would impose a limitation on the device fee for compressed natural gas and liquefied natural gas meters of up to \$75 in 2019 and up to \$125 in 2020.

(3) Existing law provides that the device fee for computing scales shall not exceed \$20 per device.

This bill would instead provide that the device fee shall not exceed \$23 per device.

(4) Existing law provides that the device fee for jewelry and prescription scales shall not exceed \$80 per device and specifies that, for purposes of this provision, a jewelry or prescription scale is a scale that meets the specifications, tolerances, and sensitivity requirements established or adopted by the Secretary of Food and Agriculture applicable to those devices.

This bill would revise this limitation to also apply to scales marked as, or meeting the design and performance requirements of, a Class II weighing device.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to enact legislation to include in Section 12240 of the Business and Professions Code a device fee for electric vehicle charging stations and hydrogen fuel cell pumps when the testing methods for those devices become available and approved by the Department of Food and Agriculture's Division of Measurement Standards.

SEC. 2. Section 12240 of the Business and Professions Code is amended to read:

12240. (a) Except as otherwise provided in this section, the county board of supervisors, by ordinance, may charge an annual registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.

(b) Except as otherwise provided in this section, the annual registration fee shall not exceed the amount set forth in subdivisions (f) to (r), inclusive.

(c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual registration fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(d) Retail gasoline pump meters, for which the above fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.

(e) Livestock scales, animal scales, and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) For purposes of this section, the annual registration fee for a business that uses a commercial weighing or measuring device or devices shall consist of a business location fee, a department administrative fee, as specified in Section 12241, and a device fee, as specified in subdivisions (g) to (r), inclusive. The business location fee and device fee shall not exceed one hundred dollars (\$100) per business location, plus 100 percent of the maximum applicable device fee listed in subdivisions (g) to (r), inclusive.

(g) (1) For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the marina, park, or complex owns and is responsible for the utility meters, the device fee shall not exceed the following:

(A) For water submeters, two dollars (\$2) per device per space or apartment.

(B) For electric submeters, three dollars (\$3) per device per space or apartment.

(C) For vapor submeters, four dollars (\$4) per device per space or apartment.

(2) Marinas, mobilehome parks, recreational vehicle parks, and apartment complexes for which the above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock, with capacities of 10,000 pounds or greater, the device fee shall not exceed two hundred fifty dollars (\$250) per device; for weighing devices, other than livestock scales, with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred fifty dollars (\$150) per device.

(i) This section does not apply to farm milk tanks.

(j) A scale or device used in a certified farmers' market, as defined by Section 113742 of the Health and Safety Code, is not required to be registered in the county where the market is conducted, if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(k) For livestock scales with capacities of 10,000 pounds or greater, the device fee shall not exceed one hundred fifty dollars (\$150) per device; for livestock scales with capacities of at least 2,000 pounds but less than 10,000 pounds, the device fee shall not exceed one hundred dollars (\$100) per device.

(l) (1) For liquefied petroleum gas (LPG) meters, truck mounted or stationary, the device fee shall not exceed one hundred eighty-five dollars (\$185) per device.

(2) For compressed natural gas (CNG) and liquefied natural gas (LNG) meters, truck mounted or stationary, the device fee shall not exceed seventy-five dollars (\$75) per device in 2019, one hundred twenty-five dollars (\$125) per device in 2020, and one hundred eighty-five dollars (\$185) per device beginning in 2021.

(m) For wholesale and vehicle meters, the device fee shall not exceed seventy-five dollars (\$75) per device.

(n) For computing scales, the device fee shall not exceed twenty-three dollars (\$23) per device. For purposes of this subdivision, a computing scale shall be a weighing device with a capacity of less than 100 pounds that indicates the money value of any commodity weighed, at predetermined unit prices, throughout all or part of the weighing range of the scale. For purposes of this subdivision, the portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars (\$1,000) for each business location.

(o) For jewelry and prescription scales and scales marked as, or meeting the design and performance requirements of, a Class II weighing device, the device fee shall not exceed eighty dollars (\$80) per device. For purposes of this subdivision, a jewelry or prescription scale or a scale marked as, or meeting the design and performance requirements of, a Class II weighing device shall be a scale that meets the specifications, tolerances, and sensitivity requirements established or adopted by the secretary applicable to those devices in accordance with Section 12107.

(p) For weighing devices, other than computing, jewelry, and prescription scales and scales marked as, or meeting the design and performance requirements of, a Class II weighing device, as defined in subdivisions (n) and (o), with capacities of at least 100 pounds but less than 2,000 pounds, the device fee shall not exceed fifty dollars (\$50) per device.

(q) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions or in computing other charges for service, including, but not limited to, ambulance, towing, or limousine services, the device fee shall not exceed sixty dollars (\$60) per device.

(r) This section does not apply to odometers in rental passenger vehicles, as defined in Section 465 of the Vehicle Code, that are subject to Section 1936 of the Civil Code. If a person files a complaint with the county sealer regarding the accuracy of a rental passenger vehicle odometer, the county sealer may charge a fee to the operator of the vehicle rental business sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

(s) For vehicle odometers utilized to charge mileage usage fees in vehicle rental transactions involving nonpassenger vehicles that are not subject to Section 1936 of the Civil Code, the portion of the annual registration fee consisting of the business location fee and the device fee authorized pursuant to subdivision (q) shall not exceed the sum of three hundred forty dollars (\$340) for each business location.

(t) For all other commercial weighing or measuring devices not listed in subdivisions (g) to (r), inclusive, the device fee shall not exceed twenty dollars (\$20) per device. For purposes of this subdivision, the total portion of the annual registration fee consisting of the business location fee and the device fees authorized by this subdivision shall not exceed the sum of one thousand dollars (\$1,000), for each business location.

(u) For purposes of this section, a single business location is defined as:

(1) Each business location that uses one or more categories or types of commercial devices as set forth in subdivisions (g) to (p), inclusive, and in subdivision (t), that require the use of specialized testing equipment and that necessitates not more than one inspection trip by a weights and measures official.

(2) Each vehicle, except for those vehicles that are employed in vehicle rental transactions, in which one or more commercial devices is installed and used.

(3) (A) For vehicles that are employed in vehicle rental transactions and that are not subject to Section 1936 of the Civil Code, each business location at which vehicles are stored or maintained by a vehicle rental company for the purposes of renting vehicles to customers.

(B) A facility that meets all of the following criteria shall not be considered a business location for the purposes of this paragraph:

(i) The facility is not wholly, or in any part, owned, leased, or operated by the vehicle rental company.

(ii) The facility is not operated or staffed by an employee of the vehicle rental company.

(iii) The facility stores or maintains, on a temporary basis, vehicles at the location for customer convenience.

(C) If a person files a complaint with the county sealer regarding the accuracy of an odometer in a vehicle found or located at a facility described in subparagraph (B), the county sealer may charge a fee to the operator of the vehicle rental company sufficient to recover, but not to exceed, the reasonable cost of testing the device in investigation of the complaint.

SEC. 3. Section 12246 of the Business and Professions Code is amended to read:

12246. This article shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.