



City of Columbus

Office of City Clerk
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Legislation Text

File #: 2454-2014, **Version:** 1

BACKGROUND: This Ordinance amends various Sections of Title 29 of the Columbus City Codes, 1959, which deals with the regulation of Weights and Measures.

The Weights and Measures Section of the Department of Public Safety currently performs price verification tests at grocery markets, retail outlets, department stores and other establishments. The Columbus City Code does not address the subject of a fee for the Universal Pricing Code (UPC) price verification tests. The purpose of this ordinance is to propose that all business establishments that verify pricing by a UPC scanning device be assessed a fee after proper inspection for accuracy. According to the City Extra Annual Metro Data Book, there are over 2,800 retail establishments in the City of Columbus and over 96 percent of these businesses use scanners for verifying shelf prices or prices otherwise posted. Weights and Measures has averaged approximately 80 scanner inspections per year since 2005 and has documented failure rates averaging approximately 42 percent per year. Finally, this legislation introduces fees for nine new devices and two inspection fees that are not listed in the Columbus City Code as weighing and measuring devices, namely Vehicle On Board Weighing Systems, Pet Washes, Air Hoses, Reverse Vending Machines, CNG (Compressed Natural Gas) Devices, LNG (Liquid Natural Gas) Devices, Electrical Vehicle Charging Devices, Price Verification Inspections, Packaging Inspection Lots, LPG (Liquified Petroleum Gas) Meters and Parking Meters, as well as increases to many of the current inspection fees already listed in the City Code.

FISCAL IMPACT: Increasing existing fees and the introduction of new fees for some inspections and devices may generate approximately \$173,000.00 in additional revenue. Weights and Measures generated total revenues of approximately \$346,000 in 2012 and \$356,000 in 2013.

To amend various sections of Title 29 of the Columbus City Code in order to increase existing fees and to implement nine new device fees and two new inspection fees regulated by the Weights and Measures Section of the Support Services Division, Public Safety Department.

WHEREAS, there is a need to make various changes in The Columbus City Code, Title 29, Weights and Measures Code, to address and provide fees for new device inspections, as well as increase current device fees, and

WHEREAS, the Columbus City Code does not currently address fees for nine devices, such as Vehicle On Board Weighing Systems, Pet Washes, Air Hoses, Reverse Vending Machines, CNG Devices, LNG Devices, Electrical Vehicle Charging Devices, LPG Meters and Parking Meters and 2 inspection fees, namely Price Verification Inspections and Packaging Inspection Lots, which are not currently listed in the City Code; and

WHEREAS, UPC Price Verification (Scanner) Inspection and Testing Procedures are adopted from Nist Handbook 130 per Columbus City Code 2909.09, Requirements for Unit Pricing, and

WHEREAS, it is necessary for the Department of Public Safety, Division of Support Services, to revise and amend various sections of Title 29 of the Columbus City Codes, 1959 by increasing existing fees and implementing new device and inspection fees not currently listed in the City Code; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS

SECTION 1. That Section 2901.01 of the Columbus City Code is hereby amended to read as follows:

2901.01 Definitions.

When in this code the words "city sealer" are used, they shall mean the city sealer of weights and measures, or any of his deputies or assistants duly authorized to perform the duties of such officer.

(a) 1. "Weight(s) and(or) measure(s)" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices.

(b) 2. "Weight" as used in connection with any commodity means net weight; except where the label declares that the produce is sold by drained weight, the term means net drained weight.

(c) 3. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this code.

(d) 4. "Primary standards" means the physical standards of the State that serve as the legal reference from which all other standards and weights and measures are derived.

(e) 5. "Secondary standards" means the physical standards that are traceable to the primary standards through comparisons, used in acceptable laboratory procedures, and used in the enforcement of weights and measures and regulations in the City of Columbus.

(f) 6. "Person" means both plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.

(g) 7. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of the sale.

(h) 8. "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(i) 9. "Short-weight packages" means any "standard pack" or "pre-pack" commodity whose net content(s) does not meet or exceed the labeled or advertised quantity at the retail outlet.

10. Vehicle On Board Weighing System - A weighing system designed as an integral part of or attached to the frame, chassis, lifting mechanism, or bed of a vehicle, trailer, industrial tractor, or forklift truck.

11. Computing Scale - A device that indicates the money values of amounts of commodity weighed at predetermined unit prices throughout all or part of the weighing range of the scale.

12. Computing Scale LP - Same as a computing scale but with the capability of printing a label.

13. Counter Scale - A device that only gives a weight indication and has a maximum capacity of 20 pounds or less.

14. Platform Scale - A device that only gives a weight indication and has a range of greater than 20 pounds to a maximum of 2000 pounds. Usually the scale can be easily transported by lifting, or it is mounted on wheels and can be rolled.

15. Dormant Scale - This device is the same as a platform, except the capacity is greater than 2000 pounds. Usually this type is installed permanently, or is so large that it is not easily moved.

16. Hanging Spring Scale - A device that is suspended, has a spring mechanism, and is usually with a capacity of less than 100 pounds.

17. Track Scale - A device incorporated into a transport system, where a commodity (usually meat) is weighed in transit. This system is a monorail type and the commodity is suspended by a hook that moves along the rail.
18. Butcher Beam - A device used to weigh a commodity (usually meat) by means of suspending the article from a beam. Similar to a track scale, except the commodity is not in transit.
19. Hopper Scale - A device designed for weighing bulk commodities whose load - receiving element is a tank, box, or hopper mounted on a weighing element.
20. Jeweler Scale - A device adapted to weighing gems and precious metals.
21. Vehicle Scale - A device adapted to weighing highway, farm, or other large industrial vehicles, (except railroad freight cars) loaded or unloaded.
22. Livestock Scale - A device equipped with stock racks and gates and adapted to weighing livestock standing on the scale platform.
23. Taximeter - A device that automatically calculates at a predetermined rate or rates and indicates the charge for hire of a vehicle.
24. Liquid Measuring Device - A mechanism or machine or combination designed to measure and deliver liquid by definite volume. Means may or may not be provided to indicate automatically for one of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
25. Car Wash Timer - A timer used in conjunction with a coin operated device to measure the time during which car wash water, cleaning solutions, or waxing solutions are dispensed.
26. Vacuum Timer - A timer used in conjunction with a coin operated device to measure the time the vacuum operates.
27. Dryer Timer - A timer used in conjunction with a coin operated device to measure the time during which clothes are dried.
28. Parking Clock Timer - A timer used to measure parking time for vehicles.
29. CNG Device- A mechanism or machine designed to measure and deliver compressed natural gas by definite volume. Means may or may not be provided to indicate automatically for one of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
30. LNG Device- A mechanism or machine designed to measure and deliver liquidified natural gas by definite volume. Means may or may not be provided to indicate automatically for one of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
31. Electrical Vehicle Charging Device- A mechanism or machine designed to measure and deliver electrical charge by definite volume. Means may or may not be provided to indicate automatically for one of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
32. LPG Meter- A mechanism or machine or combination designed to measure and deliver liquefied petroleum gas by definite volume. Means may or may not be provided to indicate automatically for one of a series of unit prices, the total money value of the liquid measured, or to make deliveries corresponding to specific money values at a definite unit price.
33. Parking Meter- A timer used to measure parking time for vehicles.

35. Price Verification Inspection- Verifying labeled shelf prices in an establishment by way of automated or manual inspection to ensure scanned price matches labeled price.

36. Package Inspection Lot- A collection of identically labeled (random packages, in some cases, are exempt from identity and labeled quantity when determining the inspection lot) packages available for inspection at one time.

SECTION 2. That Section 2903.01 of the Columbus City Code is hereby amended to read as follows:

The sealer of weights and measures is authorized and directed within ten (10) days of making any test as authorized by Article One, to present the owner of any scale, measure, or other article so tested with a bill, payable upon receipt directly to the city treasurer, for testing fees as follows:

TABLE INSET:

Computer Scales LP (Label Printer)	\$36.00	\$40.00
Butcher Beams	\$30.00	\$30.00
Counter Scales	\$20.00	\$25.00
Computing Scales	\$31.00	\$35.00
Dormant Scales	\$60.00	\$75.00
Platform Scales	\$36.00	\$45.00
Hanging Spring Scales	\$31.00	\$35.00
Vehicle Scales	\$150.00	\$200.00
Track Scales	\$41.00	\$45.00
Vehicle Tank Meters	\$70.00	\$100.00
Hopper Scales	\$125.00	\$150.00
Taxi Meters	\$31.00	\$35.00
Liquid Measuring Devices	\$24.00	\$30.00 per fuel grade
Linear Measuring Devices	\$24.00	\$30.00
Jewelers Scales	\$34.00	\$40.00
Livestock Scales	\$46.00	\$100.00
Volume Metric	\$5.00	\$0.00
Car Wash	\$20.00	\$20.00
Vacuums	\$20.00	\$20.00
Laundry Dryers	\$26.00	\$26.00
Parking Garage Clocks	\$25.00	\$25.00
<u>Vehicle on board weighing system</u>		<u>\$ 50.00</u>
<u>Pet Wash</u>		<u>\$ 20.00</u>
<u>Air Hoses</u>		<u>\$ 20.00</u>
<u>Reverse Vending Machine</u>		<u>\$ 40.00</u>
<u>CNG Device</u>		<u>\$100.00</u>
<u>LNG Device</u>		<u>\$100.00</u>
<u>Electrical Vehicle Charging Device</u>		<u>\$60.00</u>
<u>LPG Meter</u>		<u>\$125.00</u>
<u>Parking Meter</u>		<u>\$25.00</u>
<u>Price Verification Inspection</u>		<u>\$125.00</u>
<u>Package Inspection Lot</u>		<u>\$50.00</u>

SECTION 3. That Section 2905.07 of the Columbus City Code is hereby amended to read as follows:

2905.07 Requirements for merchandisers.

(A) It should be unlawful for any person to use any weighing or measuring device which has been marked "condemned" or "rejected for use" until the same is repaired and "condemned" or "rejected for use" tag is removed upon explicit authorization by the Sealer.

(B) It shall be unlawful for any person to operate any weighing or measuring device which is to be used commercially in the city of Columbus without the explicit authorization of the Sealer and the current seal of approval has been attached thereto.

(C) It shall be unlawful for any person to offer for sale by weight, measure or count in the city of Columbus any labeled commodity which is short-weight, short-measure or short-by-count, contrary to the labeled and/or advertised weight, measure or count of said commodity(s).
(Ord. 2442-86.)

(D) It shall be unlawful for any person to misrepresent the price of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

SECTION 4. That Section 2907.01 of the Columbus City Code is hereby amended to read as follows:

2907.01 Duty of testing and sealing.

(a) When necessary for the enforcement of the weights and measures codes, the Sealer shall and is hereby:

(1) Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained.

(2) Empowered to issue stop-use, hold, and removal orders with respect to any weights and measures commercially used, and stop-sale, hold, and removal orders with respect to any packaged commodities or bulk commodities kept, offered, or exposed for sale.

(3) Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package, or commodity found to be used, retained, offered, or exposed for sale or sold in violation of the provisions of this code or regulations promulgated pursuant thereto.

(4) Empowered to stop any commercial vehicle and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents, and require him to proceed with the vehicle to some specified place for inspection.

(5) With respect to the enforcement of the Weights and Measures Codes of the city of Columbus, the sealer is hereby vested with the authority and is commanded to file charges against any commercial vendors within the city of Columbus found to possess weighing and/or measuring devices which are in violation of the Weights and Measures Code.

(b) It shall be the duty of the sealer of weights and measures and he is authorized and required to test all weighing and measuring devices in the fee schedule used commercially in the city of Columbus at least once each calendar year, or as often as deemed desirable by him. However, in no case will the owner, operator, or user of said devices be charged for the required inspection fee more than once in any calendar year, unless the device(s) are found to be faulty, or by request of the vendor, or if the initial inspection fails, in which case the owner, operator, or user will be charged the appropriate fee regardless of the number of inspections in a calendar year. If he shall have found the same to be correct, according to the standards established by the Department of Agriculture of the state of Ohio, he shall seal and mark the same with a stamp or seal, or by pasting a card thereon, or with a tag showing that such weighing or measuring device has been tested, or in any other manner that he may deem proper, and the character or letters and figures to be stamped thereon shall be "C.S.," meaning thereby "Columbus Standard" and the date or year in which it was stamped or sealed.

SECTION 5. That Section 2911.99 of the Columbus City Code is hereby amended to read as follows:

2911.99 Penalty for Code Violations.

(a) If an inspection fee prescribed by Section 2903.01 is not received by the auditor's office within forty-five (45) days from the date it is due, a penalty of fifty (50) percent of any such fee shall be imposed in addition to the original fee.

(b) If an inspection fee prescribed by Section 2903.01(a) is not received by the auditor's office within ninety (90) days from the date it is due, all approval seals may be pulled from the devices (at location) and be tagged non-sealed, thus placing them out of order until all outstanding fees have been paid.

~~(b)~~ (c) No person shall:

(1) Use or have in possession for use in commerce any incorrect weight or measure.

(2) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority.

(3) Hinder or obstruct any weights and measures official in the performance of his duties.

~~(e)~~ (d) Any person who violates the provisions or any provision of this section or any provision of this code regulations promulgated pursuant thereto, for which specific penalty has not been prescribed, shall, on first conviction, be guilty of a minor misdemeanor and shall be charged in accordance with Ohio Revised Code section 2929.28 a fine not to exceed \$150.00. Upon each subsequent conviction, the individual shall be guilty of a misdemeanor of the fourth degree and shall be charged in accordance with Ohio Revised Codes sections 2929.24 and 2929.28 a fine not to exceed \$250.00, or by imprisonment for up to thirty (30) days, or both.

SECTION 6. That prior existing sections 2901.01, 2903.01, 2905.07, 2907.01, and 2911.99 are hereby repealed.

SECTION 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.