

**PROPOSED REGULATION OF THE  
STATE SEALER OF CONSUMER EQUITABILITY**

**LCB FILE NO. R026-211**

**The following document is the initial draft regulation proposed  
by the agency submitted on 07/28/2021**

## PROPOSED PERMANENT REGULATION OF THE STATE SEALER OF CONSUMER EQUITABILITY

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2 NRS 581.050, 581.067 and 581.075; §3 NRS 581.050, 581.065 and 581.067; §§4, 5, 7 and 8 NRS 581.050, 581.057, 581.065 and 581.067; §6 NRS 581.050 and 581.067

PURPOSE: To implement the provisions of Senate Bill 404 of the 81<sup>st</sup> Legislative Session pertaining to licensing, inspection and testing of cannabis weighing and measuring equipment.

**Section 1.** NAC 581.210 is hereby amended to read as follows:

581.210 1. The inspections, tests and services for which fees will be charged pursuant to this section include, without limitation:

(a) A reinspection or retest of:

(1) A device found to not be in compliance during an inspection or test conducted pursuant to subsection 2, 7, 10, 11, 12 or 22 of NRS 581.067 and for which a notice or order stating “repair,” “stop-use,” “hold,” “out of order” or some other such notice or order was issued by the State Sealer of Consumer Equitability;

(2) A packaged commodity found to not be in compliance during an inspection or test conducted pursuant to subsection 14 of NRS 581.067 and for which an order stating “hold” or “stop-use” or some other such order was issued by the State Sealer of Consumer Equitability;

(3) A commodity for which the method of sale was found to not be in compliance during an inspection or test conducted pursuant to subsection 15 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Consumer Equitability;

or

(4) A commodity for which the advertised price was found to not be in compliance during an inspection or test conducted pursuant to subsection 18 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Consumer Equitability.

(5) A point-of-sale system or cash register found to not be in compliance during a test conducted pursuant to subsection 19 of NRS 581.067.

↪ If, upon the arrival of the inspector during normal business hours, a reinspection or retest described in subparagraphs (1) to (5), inclusive, cannot be performed for any reason which is not

the fault of the Division or the inspector, any fee which would have been charged for the reinspection or retest remains due.

(b) A trip to inspect or test a device which was not available or ready for inspection or testing at the time:

(1) Of a routine inspection or test conducted on any commercial premises during normal business hours pursuant to subsection 11 of NRS 581.067; or

(2) Scheduled for a special trip to inspect or test a device.

(c) An inspection or test requested for a device if a special trip is required to perform the inspection or test. If, upon the arrival of the inspector, the inspection or test scheduled for the device cannot be performed for any reason which is not the fault of the Division or the inspector, any fee which would have been charged for that inspection or test remains due.

(d) A test requested for a noncommercial device.

(e) A calibration according to industrial standards of weights and measures.

(f) An adjustment of ~~[a commercial device]~~ *commercial weighing and measuring equipment or cannabis weighing and measuring equipment* immediately following a determination of noncompliance during a test conducted by the Division.

2. The fees for inspections and tests of devices conducted by the Division pursuant to this section are:

(a) For scale devices:

500 pounds and under tested with a Class F, Echelon III weight kit .....	\$32
500 pounds and under tested with a Class II, Echelon II weight kit .....	45
Over 500 pounds through 2,000 pounds .....	90
Over 2,000 pounds through 5,000 pounds .....	240
Over 5,000 pounds through 30,000 pounds .....	420
Over 30,000 pounds .....	450
Hopper, 5,000 pounds and under .....	600
Hopper, over 5,000 pounds .....	750

(b) For linear devices .....

42

(c) For meter devices:

Dispenser, hose, meter or octane grade tested with a 5-gallon prover .....	30
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Dispenser tested with a prover larger than 5 gallons .....	222
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute .....	222
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute .....	420
Non-temperature-compensated meter used to measure liquid petroleum gas .....	222
Temperature-compensated meter used to measure liquid petroleum gas .....	450
(d) For standards of mass, volume or length, per hour:	
For certification of standards for use in testing <del>[a-commercial-device]</del> <b>commercial weighing and measuring equipment or cannabis weighing and measuring equipment</b> for a service agency or serviceperson .....	75
For certification of standards for use in testing a noncommercial device .....	95
(e) For point-of-sale systems and cash registers not in compliance:	
For not more than five point-of-sale systems or cash registers .....	50
For six or more point-of-sale systems or cash registers .....	125
3. The fees for reinspecting or retesting <del>[a-commercial-device]</del> <b>commercial weighing and measuring equipment or cannabis weighing and measuring equipment</b> which has been repaired or adjusted following a determination of noncompliance pursuant to subsection 1 and for which no follow-up trip is required to perform the reinspection or retest are:	
(a) For scale devices:	
500 pounds and under tested with a Class F, Echelon III weight kit .....	\$16
500 pounds and under tested with a Class II, Echelon II weight kit .....	23
Over 500 pounds through 2,000 pounds .....	45
Over 2,000 pounds through 5,000 pounds .....	120
Over 5,000 pounds through 30,000 pounds .....	210
Over 30,000 pounds .....	250

Hopper, 5,000 pounds and under .....	300
Hopper, over 5,000 pounds .....	375
(b) For linear devices .....	21
(c) For meter devices:	
Dispenser, hose, meter or octane grade tested with a 5-gallon prover .....	15
Dispenser tested with a prover larger than 5 gallons .....	111
Truck- or rack-mounted meter, rated to a maximum capacity of up to 120 gallons per minute .....	111
Truck- or rack-mounted meter, rated to a maximum capacity of over 120 gallons per minute .....	210
Nontemperature-compensated meter used to measure liquid petroleum gas .....	111
Temperature-compensated meter used to measure liquid petroleum gas .....	225

4. The fee for each 15-minute time period, or portion thereof, required to witness an inspection or test of a device which is not conducted by the Division or the State Sealer of Consumer Equitability is \$15.

5. The fee for each 15-minute time period, or portion thereof, required to conduct a reinspection or retest of labels, packaged commodities, advertised prices or commodity methods of sale is \$15.

6. Failure to pay a fee required pursuant to this section by the due date indicated on the bill, which must not be less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalty that may be imposed pursuant to NAC 581.260, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

7. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring [devices] *equipment or cannabis weighing and measuring equipment* at a time scheduled specifically for the convenience of the owner of such devices.

**Sec. 2.** NAC 581.220 is hereby amended to read as follows:

581.220 1. In addition to the fees prescribed in NAC 581.210, the following fees will be charged for an inspection or test conducted during a special trip [test] except as otherwise provided in this section:

(a) For each [hour] 15-minute period, or portion thereof, for inspecting or testing a device or commodity above the time normally required to perform that test..... \$15

(b) For mileage, per mile for:

Pickup truck ..... 1  
Petroleum prover truck ..... 3  
Test truck for scale devices over 2,000 pounds ..... 4

(c) For each 15-minute period, or portion thereof, of required travel of the inspector, in addition to the fees specified in paragraph (b) .....15

(d) For the per diem of the inspector, the amounts allowed by law for state employees, under conditions set by the Division.

2. The fees for mileage, travel and per diem will be prorated among persons requiring inspections or tests of devices or commodities in the same area if all the devices or commodities can be inspected or tested during the same trip.

3. Only the fee prescribed by NAC 581.210 for an inspection or test of a device or commodity will be charged if the inspection or test can be made during a scheduled trip for other inspections or tests in the vicinity.

4. The amount of charges for:

- (a) The testing of devices or standards not listed on the schedule of fees;
- (b) Testing of standards from out of State; or
- (c) Testing which requires special arrangements or conditions,

↪ will be determined by agreement between the State Sealer of Consumer Equitability and the owner or operator of the device or standard to be tested.

5. Failure to pay a fee required pursuant to this section by the due date indicated on the bill for the fee, which must be not less than 30 days after the bill is issued by the Division, is a violation of this section and the Division will, in addition to any civil penalty that may be imposed pursuant to NAC 581.260, impose a late fee equal to 10 percent of the amount of the fee that is paid late.

6. As used in this section, “special trip” includes, without limitation, the inspection or testing of licensed commercial weighing and measuring [devices] *equipment or cannabis weighing and*

*measuring equipment* at a time scheduled specifically for the convenience of the owner of such devices.

**Sec. 3.** NAC 581.230 is hereby amended to read as follows:

581.230 1. Except as otherwise provided in subsection 2, before use for a commercial or governmental purpose, a type of:

(a) Weighing or measuring device kept or used in:

(1) Proving the size, quantity, extent, area, *count* or measurement of quantities, things, produce or articles for distribution or consumption, which are purchased, offered or submitted for sale, hire or award;

(2) Computing a basic charge or payment for services rendered on the basis of weight and measure; or

(3) Determining weight or measure when a charge is made for the determination;

(b) Accessory attached to or used in connection with a commercial weighing or measuring device which is designed so that its operation affects the accuracy of the device; and

(c) Weighing and measuring device in official use for law enforcement or the collection of statistical information by a governmental agency

↪ must have been issued a certificate of conformance.

2. The State Sealer of Consumer Equitability will authorize the use of a type which has not been issued a certificate of conformance if the type:

(a) Was in use before January 2, 1995; and

(b) Subsequently passes the applicable tests for tolerance.

3. As used in this section:

(a) “Certificate of conformance” means a document issued by the National Institute of Standards and Technology of the Technology Administration of the United States Department of Commerce, which guarantees that a weight, measure or weighing or measuring device meets the standards set forth in the *National Institute of Standards and Technology Handbook 44*.

(b) “Type” means a model of a particular system of measurement, instrument or element or a field *reference* standard which positively identifies the design.

**Sec. 4.** NAC 581.280 is hereby amended to read as follows:

581.280 1. To obtain a license to use a weighing or measuring device as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*, an applicant must provide to the Division information concerning the device, including:

- (a) The date on which the device was purchased or installed;
- (b) The manufacturer and model or type of the device;
- (c) The address where the device is located; and
- (d) The name of the person who installed the device.

2. Except as otherwise provided in this section, upon receiving the information pursuant to subsection 1 about a weighing or measuring device, the Division will, as soon as practicable, inspect the device. If the Division determines that the device meets all the applicable standards and the applicant has paid the applicable fees, the Division will issue a license for the device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*.

3. The Division may waive the initial inspection of a weighing or measuring device required pursuant to subsection 2 if the Division determines that the device was adjusted after installation by a person who is registered with the Division pursuant to NRS 581.103 to adjust such a device. If the Division waives the initial test, the Division will:

- (a) Immediately issue a license for the weighing or measuring device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*; and
- (b) As soon as practicable thereafter, inspect the device to ensure that it meets all the applicable standards.

4. If a weighing or measuring device fails an inspection conducted pursuant to subsection 3, the Division will immediately suspend the license issued for the device. If, during the period for which the license was issued, the device:

- (a) Passes an inspection conducted by the Division, the Division will reinstate the license.
- (b) Fails to pass an inspection conducted by the Division, the Division may revoke the license.

5. A license issued for a weighing or measuring device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* is valid from September 1 or the date on which it is issued, whichever is later, until the next following August 31.



6. If a weighing or measuring device used as commercial weighing and measuring equipment was approved by the Department for use on or after July 1, 2003, but before January 27, 2004, a license shall be deemed to have been issued for the device by the Division pursuant to this section, effective on the date on which the device was approved for commercial use

**Sec. 5.** NAC 581.285 is hereby amended to read as follows:

581.285 1. On or before July 10 of each year, the Division will send a notice of renewal for each license then in force that has been issued by the Division for a weighing or measuring device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*. If a license that is suspended as of the date the Division sends the notices of renewal is subsequently reinstated, the Division will, at the time of the reinstatement of the license, provide a notice of renewal to the holder of the license.

2. The notice of renewal must include the amount of the renewal fee which must be paid on or before August 31 of that year. If the renewal fee is paid timely, the Division will:

(a) Renew the license for the weighing or measuring device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*; and

(b) As soon as practicable thereafter, inspect the device to ensure that the device continues to meet all the applicable standards.

3. If, at the inspection conducted pursuant to subsection 2, a weighing and measuring device fails to meet the applicable standards, the Division will immediately suspend the license issued for the device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment*. If, during the period for which the renewal was issued, the device:

(a) Passes an inspection conducted by the Division, the Division will reinstate the license.

(b) Fails to pass an inspection conducted by the Division, the Division may revoke the license.

**Sec. 6.** NAC 581.370 is hereby amended to read as follows:

581.370 A person who installs or makes a repair or adjustment to [a] *commercial* weighing or measuring [device] *equipment or cannabis weighing and measuring equipment* shall:

1. Within 24 hours after installing the device or making the repair or adjustment to the device, notify the State Sealer of Consumer Equitability by oral communication that the device has been installed or that the repair or adjustment has been made; and

2. Within 5 days after installing the device or making the repair or adjustment to the device, submit to the State Sealer of Consumer Equitability a written notification of the installation, repair or adjustment on a form prescribed by the State Sealer of Consumer Equitability.

**Sec. 7.** Section 2. of LCB File No. R079-20A, which amended chapter 581 of NAC by adding a new section thereto, is hereby amended to read as follows:

1. A person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* pursuant to NAC 581.280 and 581.295 may transfer ownership or operation of the weighing or measuring device to another person.

2. A person who transfers ownership or operation of a weighing or measuring device pursuant to subsection 1 shall provide notice of the transfer to the Division on a form prescribed by the State Sealer of Consumer Equitability not later than 10 days after the transfer occurs.

3. If the weighing or measuring device is to be operated at the same physical location where it was operated by the original owner, the State Sealer of Consumer Equitability will, upon receiving the notice of transfer required by subsection 2, reissue the license to use the weighing or measuring device as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* in the name of the new owner or operator.

4. If the weighing or measuring device is to be operated at a different physical location than where it was operated by the original owner, the new owner or operator must apply for a new license pursuant to NAC 581.280 and pay the fee for the annual licensing of the device set forth in NAC 581.295.

**Sec. 8.** Section 3. of LCB File No. R079-20A, which amended chapter 581 of NAC by adding a new section thereto, is hereby amended to read as follows:

1. A person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* pursuant to NAC 581.280 and 581.295 may move the device to a location different than the location indicated in the information submitted pursuant to NAC 581.280.

2. A person who moves a weighing or measuring device to a different location pursuant to subsection 1 shall provide notice of the move to the Division on a form prescribed by the State Sealer of Consumer Equitability not later than 10 days after the move occurs.

3. Except as otherwise provided in subsection 4, upon receiving the notice required by subsection 2, the Division will, as soon as practicable, inspect the device. If the Division determines that the device meets all the applicable standards and the owner or operator of the device has paid the fee for the annual licensing of the device pursuant to NAC 581.295, the Division will issue a license for the device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* at the new location.

4. The Division may waive the inspection required by subsection 3 if the Division determines that the device was adjusted after installation by a person who is registered with the Division pursuant to NRS 581.103 to adjust such a device. If the Division waives the inspection and the owner or operator of the device has paid the fee for the annual licensing of the device pursuant to NAC 581.295, the Division will:

(a) Immediately issue a license for the weighing or measuring device to be used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* at the new location; and

(b) As soon as practicable thereafter, inspect the device to ensure that it meets all the applicable standards.

**Sec. 9.** This section and sections 1 to 8, inclusive, of this regulation become effective on the date on which this regulation is filed by the Legislative Counsel with the Secretary of State.