

**PROPOSED REGULATION OF THE STATE SEALER OF
MEASUREMENT STANDARDS**

LCB File No. R026-21

October 18, 2021

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

AUTHORITY: §§ 1 and 2, NRS 581.050, as amended by section 5 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3600, NRS 581.067, as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601, and NRS 581.075, as amended by section 9 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3603; §§ 3, 4 and 7, NRS 581.050, as amended by section 5 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3600, NRS 581.065, as amended by section 7 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601, and NRS 581.067, as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601; §§ 5 and 6, NRS 581.050, as amended by section 5 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3600, NRS 581.057, as amended by section 6 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3600, NRS 581.065, as amended by section 7 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601, and NRS 581.067, as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601; §§ 8, 9 and 10, NRS 581.050, as amended by section 5 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3600, and NRS 581.067, as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601.

A REGULATION relating to measurement standards; imposing certain fees for the inspection and testing of certain cannabis weighing and measuring equipment; requiring a device licensed for use as cannabis weighing and measuring equipment to pass reinspection for a suspended license to be reinstated; revising provisions governing the issuance of a certificate of conformance of certain weighing and measuring devices before use for a commercial or governmental purpose; providing for the issuance and renewal of a license to use a weighing or measuring device as cannabis weighing and measuring equipment; requiring public display of such a license; requiring certain reporting by a person who installs or makes a repair or adjustment to cannabis weighing and measuring equipment; authorizing a person who holds a license to use a weighing or measuring device as cannabis weighing and measuring equipment to transfer ownership or operation of the device and to move the device to a new location; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Sealer of Measurement Standards to adopt regulations necessary to carry out the provisions governing weights and measures, including cannabis weighing and measuring equipment. (NRS 581.050, 581.067, as amended by sections 5 and 8, respectively, of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at pages 3600 and 3601).

Existing law requires the State Sealer to conduct various inspections and tests. (NRS 581.067, as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601) Existing law also authorizes the State Sealer to establish a schedule of fees for any necessary tests of weighing and measuring devices and existing regulations establish such fees. (NRS 581.075, as amended by as amended by section 9 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3603; NAC 581.210, 581.220) **Section 1** of this regulation adds to the schedule of fees various inspections and tests of cannabis weighing and measuring equipment. **Section 2** of this regulation adds fees for travel to and time spent on inspections and tests of cannabis weighing and measuring equipment conducted during a special trip.

Existing regulations require the issuance of a certificate of conformance by the National Institute of Standards and Technology of the United States Department of Commerce for certain weighing and measuring devices before a device may be used for a commercial or governmental purpose. (NAC 581.230) **Section 3** of this regulation includes a weighing or measuring device kept or used in proving the count of certain quantities, things, produce or articles among the types of devices requiring the issuance of such a certificate of conformance.

Existing regulations prohibit a person from using any weighing or measuring device as commercial weighing and measuring equipment unless the Division of Measurement Standards of the State Department of Agriculture has issued a license for that device. (NAC 581.275) Existing regulations also set forth the requirements for a person to obtain a license to use a weighing or measuring device as commercial weighing and measuring equipment and provide for the annual renewal of such a license. (NAC 581.280, 581.285) **Sections 4 and 5** of this regulation add a weighing or measuring device used as cannabis weighing and measuring equipment to this category of licensure and **section 6** of this regulation adds such a license to the provisions governing renewal.

Existing regulations require that a license issued for a weighing or measuring device used as commercial weighing and measuring equipment be publicly displayed at the business location where the device is located. (NAC 581.290) **Section 7** of this regulation adds a license issued for a weighing or measuring device used as cannabis weighing and measuring equipment to the requirements governing public display.

Existing regulations require a person who installs or makes a repair or adjustment to a weighing or measuring device to: (1) notify the State Sealer within 24 hours after installing the device or making the repair or adjustment to the device 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 a written notification of the installation, repair or adjustment on a form prescribed by the State Sealer. (NAC 581.370) **Section 8** of this regulation revises the terminology from “device” to “equipment” and requires the reporting of installation, repairs or adjustments to cannabis weighing and measuring equipment to the State Sealer in the same manner as commercial weighing and measuring equipment.

Existing regulations authorize a person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment to transfer ownership or operation of the weighing or measuring device to another person. (Section 2 of LCB File No. R079-20) **Section 9** of this regulation authorizes a person to transfer ownership or operation of a device used as cannabis weighing and measuring equipment to another person in the same manner as commercial weighing and measuring equipment.

Existing regulations authorize a person to whom a license is issued to use a weighing or measuring device as commercial weighing and measuring equipment to move the device to a location different than the location identified in the original application. (Section 3 of LCB File No. R079-20) **Section 10** of this regulation authorizes a person to move a weighing or measuring device used as cannabis weighing and measuring equipment to a different location in the same manner as commercial 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, ~~13~~ or ~~22~~ **23** of NRS 581.067, *as amended by section 8 of Senate Bill No. 404, chapter 534, Statutes of Nevada 2021, at page 3601*, 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 Measurement Standards;

(2) A packaged commodity found to not be in compliance during an inspection or test conducted pursuant to subsection ~~14~~ **15** 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 Measurement Standards;

(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~~ **16** of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Measurement Standards; 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~~ 19 of NRS 581.067 and for which an order stating “hold” or some other such order was issued by the State Sealer of Measurement Standards.

(5) A point-of-sale system or cash register found to not be in compliance during a test conducted pursuant to subsection ~~19~~ 20 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 ~~for 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
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(c) For meter devices:

Dispenser, hose, meter or octane grade tested with a 5-gallon prover	30
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
Nontemperature-compensated meter used to measure liquid	222

petroleum gas.....	
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 {a commercial device} <i>commercial weighing and measuring equipment or cannabis weighing and measuring equipment</i> 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 {a commercial device} <i>commercial weighing and measuring equipment or cannabis weighing and measuring equipment</i> 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 Measurement Standards 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 except as otherwise provided in this section:

- (a) For each 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 15

inspector, in addition to the fees specified in paragraph (b).....

(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 Measurement Standards 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 Measurement Standards 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 581.275 is hereby amended to read as follows:

581.275 A person shall not use any weighing or measuring device as commercial weighing and measuring equipment *or cannabis weighing and measuring equipment* unless the Division has issued a license for that device pursuant to NAC 581.280 and 581.285.

Sec. 5. 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 a reinspection conducted by the Division, or is otherwise approved for use by the State Sealer of Measurement Standards, the Division will reinstate the license.

(b) Fails to pass a reinspection 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. 6. 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 a reinspection conducted by the Division, or is otherwise approved for use by the State Sealer of Measurement Standards , the Division will reinstate the license.

(b) Fails to pass a reinspection conducted by the Division, the Division may revoke the license.

Sec. 7. NAC 581.290 is hereby amended to read as follows:

581.290 The license issued for a weighing or measuring device used as commercial weighing and measuring equipment *or as cannabis weighing and measuring equipment* pursuant to NAC 581.280 and 581.285 must be publicly displayed at the business location where the device is located.

Sec. 8. NAC 581.370 is hereby amended to read as follows:

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

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

2. Within 5 days after installing the ~~device~~ *equipment* or making the repair or adjustment to the ~~device,~~ *equipment*, submit to the State Sealer of Measurement Standards a written notification of the installation, repair or adjustment on a form prescribed by the State Sealer of Measurement Standards.

Sec. 9. Section 2 of LCB File No. R079-20 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 Measurement Standards 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 Measurement Standards will, upon receiving the notice of transfer required by subsection 2, reissue the license to use the weighing or measuring device as commercial weighing or 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. 10. Section 3 of LCB File No. R079-20 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 Measurement Standards 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.