

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 744

Introduced by Senator Wyland

February 18, 2011

An act to amend Section 12531 of, and to add and repeal Chapter 17 (commencing with Section 13850) of Division 5 of, the Business and Professions Code, relating to water submeters.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Wyland. Water submeters: testing.

(1) Existing law requires that a person who uses, or intends to use, any weight or measure, or weighing or measuring instrument for commercial purposes, cause them to be sealed by a sealer before using the same, unless they have been sealed before sale, in which case existing law allows the purchaser to use them for the remainder of the period authorized by regulations adopted by the Secretary of Food and Agriculture. There is within the Department of Food and Agriculture the Division of Measurement Standards, whose activities are designed to ensure, among other things, the accuracy of commercial weighing and measuring devices.

This bill would provide that any water submeter tested by ~~a test bench that is regularly calibrated by a cross-check measure~~ *equipment that is regularly calibrated by tests that are directly traceable to standards promulgated by the National Institute of Standards and Technology* shall be deemed to be sealed and approved for commercial use, as

specified, provided that the submeter satisfies certain criteria, including that the submeter is otherwise a type approved by the Division of Measurement Standards.

(2) Existing law regulates the utilization and repair of weighing or measuring devices. Under existing law, for purposes of weighing and measuring devices, the term “placed in service” means to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided, or to submit a device to a sealer for verification prior to installation. Under existing law, a device may only be placed in service by a sealer or a service agency.

This bill would provide that for the purposes of any applicable law or regulation relating to the placing of a water submeter in service, including, but not limited to, the above provisions, no water submeter shall be considered to have been put into service prior to its installation if the water submeter is to be used in a multiunit residential structure. The bill would require manufacturers of submeters, *or the licensed service agent responsible for the installation of water submeters*, to notify the county sealer of water submeters at the time a meter is installed or otherwise placed in service and would provide that a failure to do so shall only be punishable by a civil penalty of not more than \$1,000, as provided. The bill would also make related conforming changes.

This bill would make the above provisions operative until January 1, 2015, and would state that the repeal of these provisions renders the provisions subject to review by the appropriate policy committees of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12531 of the Business and Professions
- 2 Code is amended to read:
- 3 12531. As used in this chapter, the following definitions are
- 4 applicable:
- 5 (a) “Service agency” means any person, as defined in Section
- 6 12011, that for hire, award, commission, or any other payment of
- 7 any kind, repairs a commercial device.
- 8 (b) “Service agent” means any person employed by a service
- 9 agency to repair a commercial device.

1 (c) “Device” means any weighing or measuring equipment,
2 contrivance, or instrument used, or designed to be used, for
3 determining weight or measure, and includes any tool, appliance,
4 or accessory used in connection therewith, that is used for
5 commercial purposes as defined in subdivision (e) of Section
6 12500.

7 (d) “Placed in service” means, except as described in Section
8 13855, to permit the use of a device that has been tested and found
9 to be correct, as defined in subdivision (c) of Section 12500, and
10 type approved, as provided for in Section 12500.5, or to submit a
11 device to a sealer for verification prior to installation.

12 (e) “Correct” means any device that meets all of the tolerance
13 and specification requirements of Section 12107.

14 (f) “Repair,” in any of its variant forms, means to provide
15 maintenance, or to install, adjust, recondition, or service a device.

16 SEC. 2. Chapter 17 (commencing with Section 13850) is added
17 to Division 5 of the Business and Professions Code, to read:

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CHAPTER 17. WATER SUBMETERS

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13850. (a) Any water submeter tested by ~~a test bench that is~~
~~regularly calibrated by a cross-check measure~~ *equipment that is*
regularly calibrated by tests that are directly traceable to standards
promulgated by the National Institute of Standards and Technology
shall be deemed to be tested and sealed and approved for
commercial use pursuant to any regulations related to the testing
and oversight of submeters by the Division of Measurement
Standards, including, but not limited to, Sections 12501.1 and
12502, provided that all the following conditions are met:

(1) The submeter complies with the accuracy tolerance for
submeters as published in the National Institute of Standards and
Technology Handbook 44.

(2) The submeter is otherwise a type approved by the Division
of Measurement Standards.

(3) The test results are attached to the submeter.

(b) Nothing in this section shall be construed to limit or alter
any additional regulations relating to testing and oversight of
submeters by the Division of Measurement Standards. Nothing in
this section shall be construed to affect any regulations promulgated

1 by any city, county, city and county, utility, water district, or
2 similar entity.

3 13855. For purposes of any applicable law or regulation relating
4 to the placing of a water submeter in service, including, but not
5 limited to, subdivision (d) of Section 12531 and Section 4085 of
6 Title 4 of the California Code of Regulations, no water submeter
7 shall be considered to have been put into service prior to its
8 installation if the water submeter is to be used in a multiunit
9 residential structure.

10 13856. (a) Manufacturers of water submeters, *or the licensed*
11 *service agent responsible for the installation of water submeters,*
12 shall notify the county sealer of water submeters at the time a meter
13 is installed or otherwise placed in service.

14 (b) Notwithstanding Section 12026, *and subdivision (f) of*
15 *Section 12015.3,* a violation of this section shall only be punishable
16 pursuant to *the civil penalty provisions of* Section 12015.3.

17 13859. (a) This chapter shall remain in effect only until January
18 1, 2015, and as of that date is repealed, unless a later enacted
19 statute, that is enacted before January 1, 2015, deletes or extends
20 that date.

21 (b) Notwithstanding any other provision of law, the repeal of
22 this chapter renders the chapter subject to review by the appropriate
23 policy committees of the Legislature.