**WMSD Legislative Proposal #2**

**Weights and Measures Licenses**

**\*\*\*\*\*DRAFT - FOR DISCUSSION PURPOSES ONLY\*\*\*\*\***

**10/26/2022**

This proposal does the following:

1. Removes the text “and who has been issued a license by the division” from the definitions of a registered service agency (“RSA”) and registered service representative (“RSR”) in A.R.S. § 3-3401, as A.R.S. § 3-3454 already clarifies that a person shall not operate as an RSA or RSR unless they have been issued a license by the division;

2. Removes outdated requirements in A.R.S. § 3-3451 regarding commercial livestock scales and portable batch plants;

3. Transfers language regarding commercial device licenses from A.R.S. § 3-3471(A), (C), (D), and (E) to A.R.S. § 3-3451(K) through (N);

4. Removes annual license fee categories from A.R.S. § 3-3452(A)(3) for the following devices:

* Keylock, limited access, with accumulators per hose and nozzle
* Remote indicator and control units (no hoses or nozzles) (accessory only); and

5. Establishes a $24.00 annual license fee for electric vehicle charging stations.

Proposed language is provided below. Note that strike-through text is proposed for deletion, and underlined text is proposed to be added.

**3-3401. Definitions**

In this chapter, unless the context otherwise requires:

1. "Area A" has the same meaning prescribed in section 49-541.

2. "Area B" has the same meaning prescribed in section 49-541.

3. "Area C" means that portion of Pinal county lying west of range 11 east, excluding that portion of the county lying within area A as defined in section 49-541 and that portion of the county within the jurisdiction of any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

4. "Associate director" means the associate director of the division.

5. "Biodiesel" means a mono-alkyl ester that meets ASTM D6751.

6. "Biodiesel blend" means a motor fuel that is composed of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.

7. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a blend component in motor fuel.

8. "Biofuel blend" means a motor fuel that is composed of a biofuel, that is combined with a petroleum-based fuel and that is designated by the volume percentage of biofuel in the blend.

9. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.

10. "Biomass-based diesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency under 42 United States Code 7545 and includes fuel derived from animal wastes, including poultry wastes and other waste materials, municipal solid waste and sludge and oil derived from wastewater and the treatment of wastewater. Biomass-based diesel does not include biodiesel.

11. "Biomass-based diesel blend" means a blend of petroleum-based diesel fuel with biomass-based diesel.

12. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the division.

13. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

14. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

15. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

16. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

17. "Division" means the weights and measures services division of the department.

18. "Ethanol flex fuel" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798 standard specification for ethanol fuel blends for flexible-fuel automotive spark-ignition engines.

19. "Fleet owner" means a registered owner or lessee of at least twenty-five vehicles.

20. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a fuel for spark-ignition internal combustion engines. Gasoline does not include diesel fuel or ethanol flex fuel.

21. "Gasoline provider" means any manufacturer of gasoline or any person who imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area. Gasoline provider does not mean a person with respect to a gasoline supplied or sold by the person to another person for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.

22. "Inspector" means a state official of the division.

23. "Liquid measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

24. "Manufacturer's proving ground" means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.

25. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.

26. "Motor fuel" means a petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and ethanol flex fuels.

27. "Motor vehicle racing event" means a race that uses unlicensed vehicles designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. Motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.

28. "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

29. "Oxygenated fuel" means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half percent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

30. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

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

32. "Product transfer document" means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.

33. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight on which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for-hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

34. "Reference 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.

35. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components ~~and that has been issued a license by the division~~.

36. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components ~~and who has been issued a license by the division~~.

37. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

38. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

39. "Supplier" means any person that imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person that sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.

40. "Vehicle emissions control area" means a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, or any portion of area B or C, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

41. "Weight" as used in connection with any commodity means net weight.

42. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring, metering or counting and any appliance and accessories associated with any or all such instruments and devices.

**3-3451. Licensing devices used for commercial purposes; authorization to test devices used for all other purposes; fees; certification; issuance of license; violation; classification**

A. A person shall not use a commercial device unless the device is licensed or certified as provided in this chapter.

B. A license shall be obtained annually from the division on forms prescribed and furnished by the division. The fee prescribed in this chapter shall be submitted with the prescribed form.  A license shall be obtained not later than thirty days following the first day of commercial use for original installations.  If the ownership of a device that is licensed is transferred, the ownership of the license may be transferred. On transfer of a license, new licensees shall notify the division of the licensee's name and address and the location of the device.  A license for a device shall be posted at the licensed business location in a manner that provides the division with access to the license during normal business hours.  The division may issue or renew a device license for two or three years at the option of the applicant or licensee if the applicant or licensee pays the total amount of applicable annual fees in full at the time of issuance or renewal.

C. Any license issued under this chapter applies only to the instrument or device specified in the license, except that the associate director may allow the license to apply to a replacement for the original instrument or device.

~~D. Noncommercial devices may be tested by the division pursuant to this chapter. A weighing device owned by a person who uses it only for the purpose of weighing the person's own livestock or agricultural products and for no commercial purposes is declared to be a noncommercial device, and the owner of the device is exempt from paying any licensing fees collected pursuant to this chapter.~~

E. If a commercial livestock scale is used for thirty or more days in a calendar year, the scale is required to be licensed. ~~If a commercial livestock scale is used for fewer than thirty days in a calendar year, the scale is required to be certified. If an owner or operator of a commercial livestock scale requests that the division certify the scale, the certification fee shall be comparable to the license fee prescribed in section 3-3452.  If an owner or operator of a noncommercial scale requests that the division certify the scale, the certification fee shall be comparable to the license fee prescribed in section 3-3452.~~

~~F. At the request of the owner or user of a portable batch plant, the division may certify the portable batch plant. If the division certifies a portable batch plant, the certification fee shall be comparable to the license fee prescribed in section 3-3452.~~

G. Any portable measuring device that is five gallons or less and that is properly marked by the manufacturer according to standards established by the national institute of standards and technology is exempt from the licensing and certification provisions of this chapter.

H. For the purpose of ascertaining compliance with the licensing provisions of this article, the department of revenue, upon request by the division, shall provide the division with a ~~monthly~~ report of all transaction privilege tax licenses issued in the prior month.  The report shall include the business name, type of business and business address of the licensee.

I. The department of revenue shall annually notify each transaction privilege tax licensee that the licensee is required to register new or existing weighing or measuring devices with the division.

J. A person or the person's agent who knowingly files with the division any notice, statement or other document required under this section that is false or that contains any material misstatement of fact is guilty of a class 2 misdemeanor.

K. When any commercial device specified in this chapter is in commercial use and a valid license for the device has not been procured by the owner, the owner's agent or the operator of the device, the division, after giving notice of the licensing requirements to the owner, the owner's agent or the operator, shall prohibit the further commercial use of the unlicensed device until the proper license has been issued. The division may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.

L. The owner of any business who has not applied for and has not been issued a license for the right to do business, involving the use of a commercial device, by the division and who is found selling or offering for sale or delivering or distributing to a consumer is guilty of a class 2 misdemeanor, and the division shall confiscate and seize the commercial device or any vehicle tank, or vehicle tank and meter, or any other such measuring device used by the business for the sale, delivery or distribution as evidence.

M. The associate director and any other authorized personnel shall not be liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.

N. If a commercial device licensed pursuant to this chapter is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the division, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the license.

**3-3452. Licensing fees; proration; cancellation for nonpayment**

A. The following fees shall be paid to the division as license fees for devices used for commercial purposes:

    Schedules of Fees

1. Weighing devices:

       0 - 500 pounds capacity (or metric equivalent)     $ 12.00

       501 - 2,000 pounds capacity  18.00

     2,001 - 7,500 pounds capacity  36.00

     7,501 - 20,000 pounds capacity 80.00

    20,001 - 60,000 pounds capacity 120.00

    60,001 pounds capacity and over 180.00

2. Liquid metering devices (meters) other than for liquid petroleum gas and utility meters:

        maximum 12 gallons per minute and under 12.00

        maximum 13 - 150 gallons per minute     36.00

        maximum 151 - 500 gallons per minute    90.00

        maximum 501 - 1,000 gallons per minute  138.00

        maximum 1,001 gallons per minute and over     168.00

3. Motor fuel devices (dispensers) other than for liquid petroleum gas (not including satellite hoses or nozzles):

      Standard  Vapor Recovery Test

        each meter        15.00     30.00

        each blending valve     15.00     30.00

        high volume (over 19 gallons per minute)

             diesel per hose and nozzle   15.00

~~keylock, limited access, with accumulators,~~

~~per hose and nozzle    22.50~~

~~remote indicator and control unit (no hoses~~

~~or nozzles) (accessory only) 22.50~~

4. Liquid measuring devices for liquid petroleum gas (meters):

        small bottle fill measuring devices     24.00

        motor fuel measuring devices, uncompensated   24.00

        motor fuel measuring devices, temperature

             compensating, including compressed natural

             gas filling devices    48.00

        motor fuel measuring devices, keylocks  48.00

        3/4" and 1" meters, uncompensated 48.00

        1 1/4", 1 1/2" and 1 3/4" meters, uncompensated     72.00

        2" meters and larger, uncompensated     72.00

        3/4" and 1" meters, temperature compensating  54.00

        1 1/4", 1 1/2" and 1 3/4" meters, temperature

             compensating     90.00

        2" meters and larger, temperature compensating      96.00

5. Linear measuring devices: all linear measuring mechanical devices 24.00

6. Time measuring devices: all time measuring mechanical, electrical and

 electronic devices     24.00

7. Counting devices: all mechanical and electronic counting devices      12.00

8. Electric vehicle charging stations, per vehicle connection point 24.00

B. Testing, inspection, certification and calibration fees shall be paid pursuant to the fee schedule set forth in subsection A of this section or the rules of the division.  The division shall waive license fees for customer parking time measuring meters owned by municipalities.

C. Issuance or renewal of license as:

1. Public weighmaster  48.00

2. Registered service agency 24.00

3. Registered service representative       4.80

D. The fees set forth in this section are the maximum amounts that may be charged, but the associate director, at the associate director's discretion, may reduce the fees to any amount the associate director deems necessary.

E. The associate director may prorate the fees set forth in this section for partial-year application.

F. If a person fails to pay a license, permit or certification fee on or before the date the fee is due, the division shall impose a penalty equal to twenty percent of the fee.  For each thirty-day period after the date the fee is due, the division shall impose an additional penalty equal to twenty percent of the fee. If a person fails to pay a license, permit or certification fee and all related penalties for ninety days after the fee is due, the division shall cancel the license, permit or certification.

**3-3471. Registered service representative; powers~~; violation; classification~~**

~~A. When any commercial device specified in this chapter is in commercial use and a valid license for the device has not been procured by the owner, the owner's agent or the operator of the device, the division, after giving notice of the licensing requirements to the owner, the owner's agent or the operator, shall prohibit the further commercial use of the unlicensed device until the proper license has been issued. The division may employ and attach to the device such forms, notices or security seals as it considers necessary to prevent the continued unauthorized use of the device.~~

~~B.~~ A registered service representative may:

1. With approval of the division, remove an official rejection tag placed on a commercial device, vapor recovery system or vapor recovery component.

2. Place in service, until such time as an official examination can be made, a commercial device, vapor recovery system or vapor recovery component that has been officially rejected or placed out of service.

3. Place in service, until such time as an official examination can be made, a commercial device for which a commercial device application has been completed and submitted to the division.

~~C. The owner of any business who has not applied for and has not been issued a license for the right to do business, involving the use of a commercial device, by the division and who is found selling or offering for sale or delivering or distributing to a consumer is guilty of a class 2 misdemeanor, and the division shall confiscate and seize the commercial device or any vehicle tank, or vehicle tank and meter, or any other such measuring device used by the business for the sale, delivery or distribution as evidence.~~

~~D. The associate director and any other authorized personnel shall not be liable to the owner or any other persons, firms, partnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from the seizure.~~

~~E. If a commercial device licensed pursuant to this chapter is used contrary to any provision of this chapter or any rule adopted pursuant to this chapter, the division, in addition to any other penalty imposed by this chapter, shall suspend, revoke or refuse to renew the license.~~