

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:09 a.m./~~p.m.~~ on February 20, 1990 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Fred Carman, Revisor of Statutes Department

Conferees appearing before the committee: Bob Gunja, Weights and Measures, Kansas City, KS.
John Bichelmeyer, Owner, Bichelmeyer Meats,
Kansas City, Kansas
Thad Lawrence, Balls Grocery, Kansas City, KS.
Bill Dean, Roach Hardware, Topeka
Ed Herman, Jr. Herman Beef and Sausage House,
Topeka
John Hamill, Owner of a scale company, Wichita
Dennis Johnson, J and S Scale Company,
Hutchinson, Kansas
Larry D. Woodson, Director, Division of
Inspections, Kansas State
Board of Agriculture

Senator Allen called the Committee to order and attention to SB 632 and then the following to testify.

Bob Gunja gave the Committee copies of his testimony (attachment 1) and explained that the proposed SB 632 pertained only to Topeka and Kansas City and requested the Committee to act favorably for SB 632.

In answer to a Committee question Mr. Gunja answered that the Weights and Measures Division of Kansas City costs each taxpayer there \$.88 each year.

The comments of John Bichelmeyer are included in (attachment 2). Mr. Bichelmeyer explained that the Kansas City Weights and Measures Division does a good job of testing scales and that a duplication of that service if not needed. Mr. Bichelmeyer stated that they did not need the State of Kansas to also test their scales.

Thad Lawrence provided copies of his comments (attachment 3) and requested the Committee to let the testing of scales continue as is so that their Division of Weights and Measures can test their scales. Mr. Lawrence expressed a concern for the additional expenses of the state also testing their scales.

Bill Dean gave the Committee copies of his testimony (attachment 4) and requested that the City of Topeka be exempted from the state checking their scales as the City of Topeka does a good job of checking scales.

Mr. Dean answered that the City of Topeka does a good job of testing scales but that if it was determined that a good scale testing job was not being done then the department should clean house.

Ed Herman, Jr. requested that the law be amended so that the City of Topeka be exempt from the law requiring that the state inspect scales. Mr. Herman stated that to pay for double inspection, that is by the state and by the city, is just too much cost for a business especially when considering the recent increases in property taxes.

John Hamill gave the Committee copies of his testimony (attachment 5)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:09 a.m. ~~p.m.~~ on February 20, 190.

and stated that SB 632 would be taking a step backward instead of forward. Mr. Hamill expressed support for the present system of scale testing.

Mr. Hamill answered that his scale testers take a test for certification and that some of his employees attend school to learn about new equipment yearly and that then some employees do training classes for the remaining scale testers. Mr. Hamill answered that his company sets up appointments for checking scales and that their fee is either by the hour plus mileage or by a flat rate. Mr. Hamill answered that his company sells new scales and very few used scales. Mr. Hamill answered that his company does not contract scale work out that his company does all its own repair work. Mr. Hamill explained that all their repair work is done either in their place of business or at the place of business where the scale is that needs repair.

The Chairman called attention to written testimony (attachment 6) by Dennis Johnson who could not be present for the Committee meeting on this day. Mr. Johnson expressed support for the present scale testing program and requested that the program continue as it is.

Larry Woodson provided the Committee with copies of his testimony (attachment 7) and expressed approval and success with the present system of scale testing. Mr. Woodson expressed cooperation with the cities that have Weights and Measures Divisions that do scale testing and stated that the Division of Inspections did not desire to force cities to give up their programs. Mr. Woodson stated that the present system is working well for the Division of Inspections.

In answer to a Committee question, Mr. Woodson answered that under the present system that his department had held a hearing concerning four complaints received from scale testing companies and that one tester's license was revoked because of the hearing. Mr. Woodson answered that with the present scale testing program there is less income for the Division of Inspections and that should SB 632 be passed there would be no fiscal impact.

Mr. Gunja was asked if his city had discussed dropping their Weights and Measures scale testing program and he answered that they had not.

The Chairman declared the hearing closed for SB 632 and called for action on Committee minutes.

Senator Daniels made a motion that the Committee minutes of February 14 be approved; Senator Francisco seconded the motion; motion carried.

The Chairman adjourned the Committee at 10:55 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: February 20, 1990

NAME	ADDRESS	ORGANIZATION
<i>Brenda Hirsch</i>	Rm 612 701 N. 7th St. KCK	City of K.C.K. Wks. & Mens.
<i>Frank Lawrence</i>	5300 SPEAKER RD K.C., KS	DO
Bob Guig	701 N. 7th St. KCK	City of K.C.K. Wks. & Mens.
<i>John Richlmeyer</i>	7th Chippewick KCK	DO
LARRY D. WOODSON	TOPEKA	Ks Bd of Ag.
<i>Ed Demma</i>	TOPEKA	
Linton Bartlett	Kansas City, KS	City of KCK
<i>Mike Miller</i>	Topoka	City of Topoka
Don Weick.	Topoka	City Consumer Protection
<i>Donald E. Waggle</i>	3703 SE INDIANA Topoka, KS	WH Scale Co.
<i>John B. Hammett</i>	1530 N. Masloer	Hammel Scale Co. Inc.
<i>John H. Hammett</i>	710 E. 8th St	Hammel Scale of Topoka
RALPH E TAYLOR	612 KANSAS AVE ^{KC} KS	HAMMEL SCALE K.C.
<i>William Dean</i>	1321 W. 21st, Topoka	Roach Adw Inc
ART BROWN	K.C. MO	KS - Lumber dealer
<i>Lee Eisenhower</i>	701 Jackson, Topoka	Ks. LP Gas Assn
GREG KRISSEK	Topoka	KS Bd of Ag
Scott C. Bangert	Topoka	KS Bd of Ag
<i>Ken Neufeld</i>	Topoka	NCR Corp.
<i>Walter H. Phillips</i>	Topoka	KSBA



DEPARTMENT OF FINANCE

Municipal Office Building
One Civic Plaza
Kansas City, Kansas 66101
Phone (913) 573-5080



Weights and Measures Division

February 20, 1990

Kansas Statutes 83-304 & 83-404 presently require the owner of both large and small capacity scales and retail motor fuel dispensing devices (gas pumps) to have these devices tested yearly by a licensed and registered scale or pump company. What we are proposing is a change to these statutes which would effect the cities of Kansas City, Kansas and Topeka, as this is a service already provided by these two jurisdictions. I would like to offer a little background to this proposal.

When this law first went into effect in 1985, it only encompassed large capacity (over 5000 lb.) scales. In 1988, the law was amended to include small capacity scales, and in 1989, gasoline pumps. As these laws were being revised, the State Office of Weights and Measures began to change their procedures and are now only randomly testing the weighing and measuring devices in their jurisdiction. This program, called "privatization", has virtually put the inspection of weighing and measuring devices into the hands of the people who service these devices, or in some cases, the device owners.

At the National Conference of Weights and Measures in July, 1989, Ray Kammer, Acting Director of the National Institute of Standards and Technology addressed this same issue in his keynote speech. He emphasized that privatization was an extremely poor idea as it "puts the fox in charge of the chicken coop" and can allow for some unethical business practices. I have provided you copies of an excerpt of this speech by Mr. Kammer, and also additional information from Al Tholen, Chief of the Office of Weights and Measures National Institute of Standards and Technology. Mr. Tholen explains the National Institutes negative position on "privatization".

The last aspect to consider is the expense to the scale and pump owners. Two scale companies in the Kansas City area stated that they would charge around \$35.00 for a "trip charge" and approximately \$35.00 per hour with a one hour minimum. This \$70.00 or more could create a burden on the smaller "mom and pop" type of business within the city.

Senate Agriculture Committee

2-20-90

attachment 1

The gasoline pump inspection is another area that the expense to the device owners can be great. A pump company in Hutchinson told me earlier this month that they will be charging \$15.00 per pump to merely inspect and test it. At a large station with 20 or more pumps, the bill to inspect the devices would be \$300.00 or more, depending on if any pumps needed to be calibrated.

What some weighing and measuring device owners have been doing however, is to license themselves as a scale or pump company. They do this by paying the \$50.00 licensing fee and having an employee or employees pass the state test, investing in the necessary test equipment and testing the devices themselves. Most of the time this will probably work out, but I am concerned about the possibility of fraud. Suppose the device owner never puts certified weights on the scale, or never put one drop of gasoline into his 5 gallon test measure, yet he sends a report of these devices being tested to the state and shows they are all in compliance with the specific tolerance for that particular device. I have also heard reports that right here in Topeka, a certain scale company has gone into businesses and said that since they own or use a certain brand scale, this scale company was required to check it since they were an authorized dealer for this brand of scale. This was done even after the scale owner had paid to have the scales tested by the City of Topeka and another scale company. The possibilities of this type of fraud are endless.

Our proposal for the statute change is that the law have an exemption for any cities within the State of Kansas that have a Weights and Measures Department. The only two cities that this would affect are Kansas City, Kansas and Topeka. My rationale for this idea is that since we are performing 100 percent testing of these devices yearly, not just random testing, this test should suffice as a yearly inspection. However, if we do find a device out of tolerance, we would reject it and require the necessary repairs before this device would be considered as having met its yearly inspection requirement.

Our inspectors have been trained in the inspection of these devices through the implementation of a National Training Program with the National Conference of Weights and Measures. I can also state that I believe our inspections are more thorough than those of a scale company whose main goal is profit.



DEPARTMENT OF FINANCE

Municipal Office Building
One Civic Plaza
Kansas City, Kansas 66101
Phone (913) 573-5080



Weights and Measures Division

**EXCERPT FROM KEYNOTE
SPEECH BY RAYMOND KAMMER,
ACTING DIRECTOR OF THE NATIONAL
INSTITUTE OF STANDARDS TECHNOLOGY,
GIVEN TO THE NATIONAL CONFERENCE
ON WEIGHTS AND MEASURES IN SEATTLE, WASHINGTON,
JULY 18, 1989**

Concerning the maintenance of "third party objectivity," my advice here to the State weights and measures officials is to consider defending, perhaps even aggressively, the regulatory mission that is associated with your offices. There has been a trend in some States to have weights and measures inspections done by private sector firms. A conflict-of-interest problem arises when these same firms vend repair services for scales and other measuring devices that are broken. In such a situation, it is difficult to maintain third party objectivity. If your State is considering private sector involvement in weights and measures regulation and you do not think it is an appropriate thing, NIST will be happy to provide you or your political leaders with advice.

A second aspect of third party objectivity is to make sure that the standards that we adopt are enforceable in the field. The Conference, I believe, has violated this precept because it has adopted a temperature range for testing scales that goes from about -10 C to about 40 C. At the present time, only three States can test over that range. I suggest to you that it is hard to command respect for standards that most people cannot implement.



February 1, 1990

Mr. Robert P. Gunja
Standards Administrator
Department of Finance
Kansas City, Kansas

Dear Mr. Gunja:

The authority for regulation of weights and measures is clearly spelled out in the Uniform Weights and Measures Law. Such regulatory authority rests with the "Director" of weights and measures.

Referring to the Uniform Law, consider the following points:

Section 11. "There shall be a State Division of Weights and Measures".

Section 12. All weights and measures "powers and duties" reside in the "Director" of the State Division of Weights and Measures.

Section 13. "Special Police Powers" are reserved for the Director who is "hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of this Act".

Section 14. "Any weights and measures official appointed for a county or city shall have the duties and powers enumerated in this Act".

Interpretation. In the development of the Uniform Law, the role of the Director is cast in the same legal context as that of police officers. All responsibilities and powers of the Director derive from the Law and can only be delegated to weights and measures officials hired by a state or local jurisdiction for the purposes defined in the Law. There is no provision in the Law to delegate the police and regulatory responsibilities and/or powers to the employee of a private sector organization.

The National Conference on Weights and Measures (NCWM) and the National Institute of Standards and Technology (NIST) (formerly the National Bureau of Standards) have held to the policy that weights and measures programs, being regulatory by law, and including police powers, can only be enforced by state or local government officials.

Further, the NCWM and the NIST hold the opinion that the weights and measures official is the unbiased "third party" who regulates equitably, protecting both the consumer and the merchant. Such even-handedness is not possible if the private sector is put in the role of a weights and measures official.

The "fox watching the chicken coop" principle applies in the latter situation. Governmental bodies have historically viewed this responsibility as a basic function of government; the Uniform Weights and Measures Law precludes assigning self-policing authority to the private sector. The principle of "third party objectivity" can be seriously jeopardized when the powers of the Weights and Measures Director are appropriated to the private sector.

Employment of the private sector for the performance of governmental regulatory functions is not appropriate and, at best, is evidence of the abdication of the responsibility of the government that takes this course for "policing" the conduct of commerce in its jurisdiction.

Sincerely,



Albert D. Tholen
Chief
Office of Weights and Measures



WORLD

Honoring Our Past While Preparing For Our Future

Trego County, Kansas — Official County and City Paper

Thursday, January 25, 1990 — 111th Year — No. 48

The Great WaKeeney Peanut War

By Kathleen Fabrizio

Abeth Cunningham was a true distinction, as she was the baby of the New Decade Year of 1990.

She was born at the Trego County Memorial Hospital on Jan. 8 p.m. and weighed 7 lbs. She was 20 inches long. She is the daughter of proud William and Mary Cunningham.

Her parents are Dean and Rose Bill and Norma Cunningham. Her grandmother was Molly all of WaKeeney.

The baby received many gifts. From Crossroads EHU with a gift certificate to the local store. The Hospital gave the baby a tote bag, rattle, bib and other items.

More than they did in 1988

Legislature members then Department of Administration took a sample of city and county nuts, Trego county was one of the counties chosen.

It came out smelling like a nut. As one said, "We were well within the state law." The two counties and three slight infractions and proven to be mathematically there was no intent to tax lid. Those were in Trego, Graham County, Lawrence, city of Marion and LITTLE RIVER.

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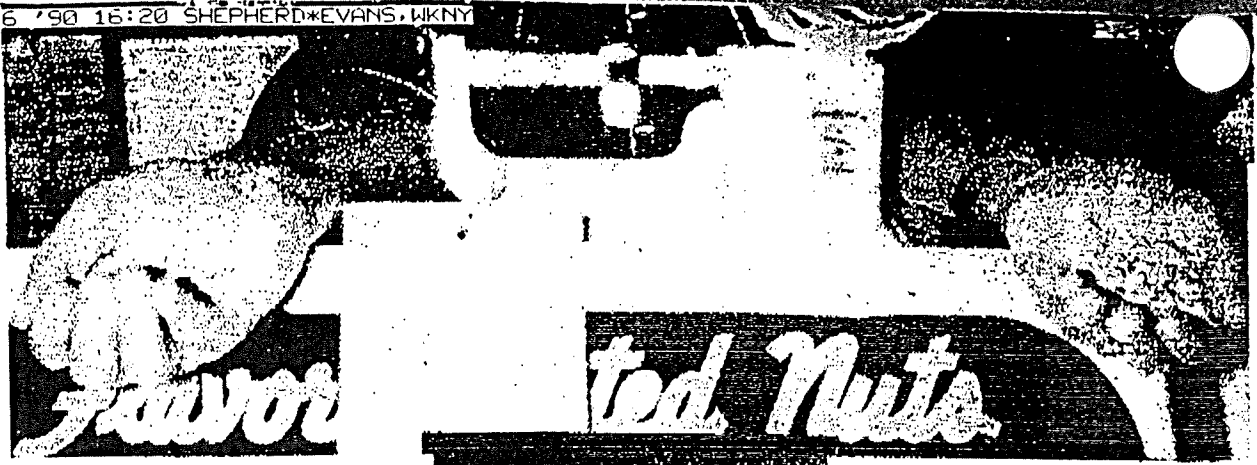
By Kathleen Fabrizio

"The Great Peanut War" is on in WaKeeney, Kansas, and on one side is Jim Cleland, owner of Cleland Drug Store and the opposing force is the Kansas State Board of Agriculture.

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Other scales in WaKeeney were also checked and some business owners have stopped using their

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By Kathleen Fabrizius
"The Great Peanut War" is on in WaKeeney, Kansas, and on one side is Jim Cleland, owner of Cleland Drug Store and the opposing force is the Kansas State Board of Agriculture's section of weights and measures.

According to an article in the Salina Journal the fighting started in the drugstore when a state inspector threatened to shut down the peanut scale that has been used in his family's business for decades.

Cleland said inspectors from the weights and measures have checked the scale annually for more than 30 years to make sure that it was accurate. The scale weighs up to 16 ounces of peanuts.

However, 15 months ago responsibility for the accuracy of scales was shifted from the state to scale owners. For those who have scales that weigh more than 5,000 pounds of merchandise the change came in 1985, said DeVern H. Phillips, state sealer.

According to the article Phillips said the cost of an inspection by a licensed company can be anywhere from \$25 to \$300 depending upon how far the scale-testing company has to drive. Cleland estimated his cost will be between \$35 and \$50.

Cleland said he sells approximately \$100 worth of peanuts a year and he probably consumes most of them himself.

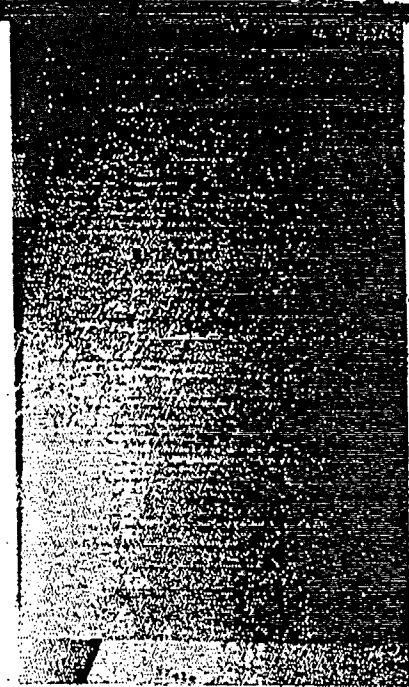
The scale has been tagged with a "rejection of device" label and in 30 days the inspector will be back to make sure Cleland has had the scale tested.

Cleland says he has no intention of having the scale checked. "How bad can the public be at risk with a peanut scale?"

The pharmacist says they have to catch him first. "We figure they'll send an undercover agent out so we're going to be checking identification and we're not going to be selling to strangers anymore. It will only be locals we will trust."

In the interview with the Salina Journal Cleland also told of how

NOTICE
The Federal Land Bank outpost normally scheduled for February 1 will be changed to Wednesday, January 31 for just this one time. The outpost is located in Shepherd and Evans offices in WaKeeney.



before the inspector came in, he was talking to a woman who could not pay her pharmacy bill over \$10-a-month payments. He suggested some type of public assistance and the woman explained that she would have to sell her home and small acreage to be eligible.

The main source of the conflict centers around the fact that Cleland thinks that people are more important than peanut scales, and evidently the state does not agree.

He and others are upset over cutbacks by the Department of Social and Rehabilitation Services in its Aid To Families with Dependent Children and other programs.

"I don't know how much money we spend checking peanut scales, but something is out of whack. Something is really wrong," Cleland said.

"Are we really spending our money wisely on behalf of our citizens? It's not that I want to do away with any jobs. I just wonder about priorities."

Cleland also said he wonders about the effects of such regulations on owners of small businesses.

"There aren't going to be any little

guys left," he said. "I just say enough is enough. Back off of us, please. Give us some breathing space. Let us survive."

Other scales in WaKeeney were also checked and some business owners have stopped using their scales because of the cost of having them checked. For instance, J&R Gambles has ceased using their scale to weigh nails, because they don't sell enough nails to pay for checking the scale, other scale owners in town will have to bite the bullet and pay for having it checked because their business depends on it.

According to the Journal, Phillips said he sympathizes with Cleland, but his section has saved money by the change in the law—and the law was written with consumer protection in mind.

"If I were a device owner I would probably feel the same way," he said. "But we either had to get bigger or we had to get smarter. We've saved \$1 million a year in our large-scale program (by the change in the law). There are other states that are looking favorably at what Kansas has done."

Phillips said that state regulations give a scale owner 30 days to have the scale tested. If a check has not been made by then, and inspector can red tag the device and take it out of service. The next step is the seizure of action in court.

If found guilty the user of an illegal scale can be fined as much as \$500.

But Cleland says he is not backing down. "If they come to take my scale they will have to physically remove me and my family and put us in jail."

It is very important that every one have principals to believe in and Jim Cleland is definitely a man of principals and is willing to go to jail to prove it!

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WED. MORNING MARKET
Wheat ... \$3.73 Milo \$3.50
Generic (Trego County) 95%



KANSAS DAY TEA
Kansas Day Tea will be Sunday, January 28, 1990 from 1 to 3 p.m. at the Trego County Historical Society Museum. Entertainment will be a film on "Ike" and music sponsored by Trego Arts Council.

Bichelmeyer Meats

a Corporation

704-714 CHEYENNE AVE.

KANSAS CITY, KANSAS 66105

342-5945

Feb. 15, 1990

Mr. Robert Munja
Kansas City Kansas
Weights & Measures

Dear Mr. Munja,

Please be advised that we are opposed to the state plan of mandatory testing of our scales by an independent company to be paid for by our company. Last year we spent \$315.00 to have this done on 7 meat counter scales, 2 dial scales, & 1 micro beam scale. The city weights & measures department does the exact same thing at no additional cost. I feel that having just had our property taxes triple! - from \$2900.00 to \$9000.00 a year -

Senate Agriculture Committee

1-20-90

attachment 2

Bichelmeyer Meats

a Corporation

704-714 CHEYENNE AVE.

KANSAS CITY, KANSAS 66105

342-5945

a service such as testing the scales & approving them should be included in those taxes.

Being a small business, and having been in business for over 40 years, we feel the pressure of every new law and resulting expense putting us to the limit as to being able to remain competitive and serving our customers as we have in the past. Our representatives need to be made aware of the fact that this is just one more of those regulations. Soon they are going to regulate and tax us out of business.

Sincerely,
Jim Bichelmeyer

Balls PRICE CHOPPER

"TO WHOM IT MAY CONCERN"

As required by the State of Kansas Law, starting in 1989 we employed a scale company to test and certify our scales. This was previously done by our local Weights and Measures Department.

I realize that the intent of this requirement is to protect the consumer, the tax paying citizen of Kansas, by assuring that they pay for the correct weight of their products purchased. We, the grocery retailer, share in that responsibility and I assure you we do not take that responsibility lightly. however, we do not feel it is in the best interest of that same consumer to put us, the retailer, in a position of having to pay more than once for the same service.

Let me clarify:

Local Weights and Measures Departments provide us with that same service paid for through the enormous tax dollars we pay.

And why shouldn't we receive that service from our tax dollars, when in one of our stores alone, our real estate taxes increased in 1989 by over \$53,000 from \$28,742 in 1988 to \$82,000 in 1989.

Why shouldn't we receive that service for that tax dollar, when having this done by a private scale company cost us \$44.00 per hour and a minimum of \$25.00 trip charge. The irony of it is that we still must respond to the Weights and Measures findings regardless of the scale company's certification, and we are still paying that tax.

We, the Retailer, believe that the local Weights and Measures Department are checking our scales with the interest of the tax paying citizen in mind and no other influence. But, we have a concern that the private scale company may at times be tempted to check our scales with sales and profits in mind, which will not be in the best interest of our customer, the citizen of Kansas, and that will also not be in the best interest of our business.

Maybe, someone will be kind enough to explain because we have not yet been able to understand why the State wants to increase our operational expenses by forcing us to pay a scale company for what our tax dollars are already paying our Weights and Measures Department to provide.

Senate Agriculture Committee

2-20-90

attachment 3

Finally, I ask the questions:

Who gains from this requirement, and who loses?

Of course the private scale company gains.

Does the consumer, that taxpaying citizen gain? NO.

Does the State gain? I don't think so, but I do know that we, the Retailer loses because we cannot continue to absorb unnecessary increases in our operational expenses without passing it on through retails. Ultimately, the consumer, the taxpaying citizen will lose and in that case, all of us will lose.

All we ask is to reconsider in areas where there are local Weights and Measures Departments and allow that department to continue to certify our scales within the tax dollar we already pay.

Thad Lawrence
District Manager/Retail Operations



R OACH HARDWARE, INC.

1321 WEST TWENTY-FIRST ST.
TOPEKA, KANSAS 66604
913 233-9606

Kansas Board of Agriculture
109 SW 9th Street
Topeka, Kansas

February 20, 1990

Dear Sir:

It is the opinion and request of Roach Hardware that the cities of Topeka and Kansas City, Kansas be exempt from the recent new State scale law. With Topeka having it's own City Ordinance, the new State requirement creates two entities policing our scales. Which also creates two sets of fees to pay. For years the City of Topeka has kept our scales regulated without any intervention from other entities. The new regulation has only caused an additional burden on businesses in Topeka that use scales.

The idea of having private regulators enforcing the law is open to fraud. Who's going to keep the private regulators honest? Do I have to enlist a second regulator to confirm the first one is being honest. The job of law enforcement doesnot belong in the private sector of our society and that is exactly what the new scale law has done.

It is our opinion that this is a bad law the way it is being implemented and should be stricken and started over with proper regulation and exemptions where applicable.

Thank You,

William Dean
General Manager/Vice President
Roach Hardware Inc.

Senate Agriculture Committee

2-20-90

attachment 4

MY CONCERN WITH THIS ISSUE IS WHAT IS RIGHT FOR ALL PARTIES.
(THESE COMMENTS REFLECT MY FEELINGS IN THIS MATTER)

ACCORDING TO HANDBOOK 44 - "THE WEIGHTS AND MEASURES OFFICIAL HAS ONE OFFICIAL DUTY, TO DETERMINE THAT EQUIPMENT IS OR IS NOT SUITABLE FOR COMMERCIAL USE. " THAT INCLUDES CHECKING FOR NTEP APPROVAL AS WELL AS PROPER CALIBRATION, IT DOES NOT SAY ANYTHING ABOUT A REGULAR TEST.

SEE ATTACHED FOR DEFINITION OF A TEST.

SEE ATTACHED FOR DEFINITION OF INSPECT.

WHAT IS THE JOB OF TODAY'S WEIGHTS AND MEASURES PEOPLE?

1. KEEP CONSUMERS PROTECTED. SEE THAT WHENEVER THEY PURCHASE AN ITEM THEY GET WHAT THEY PAY FOR.
2. SPOT CHECK BEHIND TESTING AGENCIES AND MONITOR THE QUALITY OF THE WORK THAT BOTH THE PEOPLE AND THE COMPANY ARE DOING.
3. FROM COMPUTER INFORMATION FIND PROBLEM UNITS AND SEE THAT THEY ARE REPAIRED OR REPLACED.
4. TEST THE WEIGHT OR MEASURE ACCURACY OF ITEMS ONLY --- NO PREVENTATIVE WORK, NO CLEANING, NO SUGGESTIONS OF WORK TO BE DONE, ETC. JUST TEST AND SEE THAT THE DEVICE IS AN APPROVED AND ACCURATE DEVICE. THEN EITHER APPROVE OR CONDEMN.
5. THE CITY WEIGHTS AND MEASURES OFFICIALS ARE NOT LICENSED, REGISTERED AND WITH A TECHNICAL REPRESENTATIVE EMPLOYED.

HOW WILL THIS BILL EFFECT THE SCALE OWNER?

1. GIVE THEM A TEST FOR ACCURACY ONLY AND NOT A TEST FOR ACCURACY ALONG WITH PREVENTATIVE MAINTENANCE. AND MOST OF ALL, NOT FIXING A PROBLEM IF ONE EXISTS.
2. THE INSPECTOR WILL NOT GO IN A PIT TO CHECK FOR PROBLEMS.
3. THE INSPECTOR DOES NOT JACK UP A SCALE TO SEE IF

*Senate Agriculture Committee
2-20-90
attachment 5*

THE PIVOTS AND BEARINGS ARE OK OR NEED TO BE GREASED.

HOW WILL THIS BILL EFFECT THE LICENSED AND REGISTERED TESTING AGENCIES?

1. IT WILL ALLOW PEOPLE TO TEST AND INSPECT WHO ARE NOT QUALIFIED TO DO THE COMPLETE JOB.
2. IT WILL REMOVE THE FREE ENTERPRISE SYSTEM THAT EXISTS TODAY AND COULD PUT PEOPLE OUT OF BUSINESS.
3. TESTING AGENCIES CANNOT COMPETE WITH CITY WEIGHTS AND MEASURES PERSONNEL WHO ARE FINANCED BY CITY AND/OR STATE FUNDS.

WHAT IS COMING NEXT ----?

1. IN MY OPINION THE NEXT BILL WILL SAY WE DO NOT HAVE THE PEOPLE AND EQUIPMENT TO GET THE JOB DONE AND WE NEED MORE MONEY.
2. THE "MORE MONEY" WILL COME FROM CHARGING A FEE FOR THE TEST. (THE FEE CHARGE HAS BEEN TALKED ABOUT SEVERAL TIMES IN THE PAST.)
3. WHEN THE FEE IS CHARGED THEN NOT ONLY ARE THEY TAKING WORK AND INCOME FROM THE REGISTERED AGENCIES, BUT THEY ARE TAKING MONEY FROM A DEVICE OWNER AS WELL.
4. AT THAT POINT THE DEVICE OWNER IS PAYING TWICE AND THE SERVICE AGENCY IS ALSO PAYING TWICE (A LOSS OF INCOME AND AS YOU KNOW, WE ALL PAY TAXES AND TAXES PAY WAGES.)

IN CLOSING LET ME SAY THAT I AM VERY SUPPORTIVE OF WEIGHTS AND MEASURES. THE WORLD WOULD BE A SAD PLACE IF THERE WERE NO WEIGHTS AND MEASURES TO PROTECT THE MERCHANTS AS WELL AS THE CONSUMER. CITY WEIGHTS AND MEASURES SHOULD DO THEIR JOB AND LEAVE OTHER RESPONSIBILITIES TO THE PEOPLE THAT ARE RESPONSIBLE FOR THEM.

I FEEL THAT WEIGHTS AND MEASURES IN OUR STATE IS IN THE BEST SHAPE IT HAS EVER BEEN AND THAT THIS BILL IS A STEP BACKWARD INSTEAD OF A STEP FORWARD.

I AM A MEMBER OF THE WEIGHTS AND MEASURES ASSOCIATION OF KANSAS AND HAVE TALKED TO 12 OR 15 OF THE MEMBERS --- THEY ARE ALL AGAINST THE PROPOSED CHANGES.

THE LAW IS:

COMMERCIAL SCALES BE TESTED AND INSPECTED
ANNUALLY BY A LICENSED SERVICE COMPANY.

LICENSED SERVICE COMPANY IS:

1. SERVICE COMPANY LICENSED BY THE STATE (FEE CHARGED)
2. EACH TECHNICIAN REGISTERED BY THE STATE

TEST IS:

CHECK TO MEET:

1. CONFORMANCE
2. NTEP
3. H44
4. ACCURACY AND SENSITIVENESS
5. DECREASING LOAD TEST
6. INCREASING LOAD TEST
7. ETC.

INSPECT IS:

TO CHECK FOR:

1. CONFORMITY
2. MECHANICAL FITNESS
3. CONDITIONS THAT COULD CAUSE PROBLEMS
4. GENERAL SUITABILITY OF THE DEVICE FOR SERVICE REQUIREMENTS
5. CALIBRATE AS NEEDED



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DATE: 2-19-90

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Senator Allen

FIRM: Senate Ag Comm.

TELECOPIER NO: 913-296-1153

REFERENCE: Senate Bill # 632

SENDER: Dominic S. Johnson

TOTAL PAGES INCLUDING COVER SHEET: 2

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE
OR FAX US AT THE NUMBERS LISTED ABOVE. THANK YOU!

*Senate Agriculture Committee
2-20-90
attachment 6*

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FEBRUARY 19, 1990

SENATE AGRICULTURE COMMITTEE
STATE CAPITAL BUILDING
TOPEKA, KANSAS 66600

REF: SENATE BILL # 632

ATTN. SENATOR ALLEN, CHAIRMAN

GENTLEMEN,

I WANTED VERY MUCH TO BE AT THE FEBRUARY 20 HEARING ON THIS BILL, BUT MY SCHEDULE DOES NOT PERMIT ME TO DO SO. I HOPE THIS LETTER WILL SUFFICE FOR THE TESTIMONY I WANT TO GIVE CONCERNING THE ABOVE REFERENCED SENATE BILL.

I AM PRESIDENT OF J & S SCALE COMPANY, WITH OUR HOME OFFICE LOCATED IN HUTCHINSON, KANSAS. WE HAVE BRANCH OFFICES IN DODGE CITY AND MERRIAM, KANSAS. OUR PRESENT EMPLOYMENT IS 25 AND WE HAVE APPROXIMATELY \$ 3,000,000.00 IN ANNUAL SALES. WE MANUFACTURE, SELL, TEST AND SERVICE ALL TYPES OF SCALE EQUIPMENT. WE HAVE BEEN IN BUSINESS SINCE 1958.

SEVERAL YEARS AGO THE STATE LEGISLATURE PASSED K.S.A. # 83-304 AND 83-404 WHICH IN PART REQUIRED THAT ALL COMMERCIAL WEIGHING EQUIPMENT BE TESTED AND SERVICED BY QUALIFIED AND LICENSED SCALE TECHNICIANS. SINCE THAT TIME WE, AND I KNOW THAT SEVERAL OF OUR COMPETITORS, HAVE MADE A CONSIDERABLE INVESTMENT IN PEOPLE AND EQUIPMENT TO PROVIDE THIS NECESSARY SERVICE FOR SCALE OWNERS, AND FOR THE PEOPLE OF KANSAS WHO BENEFIT FROM WEIGHTS MADE OVER ACCURATE SCALES. I THINK YOU WILL FIND IN CHECKING WITH THE KANSAS DIV. OF WEIGHTS AND MEASURES THAT THERE HAS BEEN A MARKED INCREASE IN COMMERCIAL SCALE OWNERS COMPLYING WITH THE LAW RESULTING IN HIGHER ACCURACY OF THE WEIGHTS BEING DETERMINED.

THE STATE AND CITY WEIGHTS AND MEASURES DEPARTMENTS ARE PERFORMING A VERY VALUABLE SERVICE IN ADMINSTRATING AND POLICING THE LAWS OF THE WEIGHTS AND MEASURES PROGRAMS. THEY IN NO WAY HAVE THE EXPERTISE THAT IS NECESSARY TO PROPERLY TEST, ADJUST, AND CERTIFY THE SCALE EQUIPMENT THAT IS IN THE FIELD. FOR THE STATE OR CITY PERSONAL TO PROPERLY PROVIDE THIS TYPE OF SERVICE IS GOING TO EVENTUALLY REQUIRE A CONSIDERABLE INVESTMENT, BY THE STATE OR CITY GOVERNMENTS, IN TRAINING AND EQUIPMENT TO DO THIS JOB CORRECTLY.

SINCE PASSING THE ABOVE MENTIONED LAWS PROVIDING FOR THE TESTING AND CERTIFYING OF ALL WEIGHING EQUIPMENT BY PRIVATE COMPANIES I THINK YOU WILL FIND THAT THE STATE OF KANSAS HAS HAD A CONSIDERABLE SAVINGS IN THE WEIGHTS AND MEASURES DEPARTMENT, ALONG WITH THE INCREASED ACCURACY OF SCALE EQUIPMENT. WITH THIS KIND OF TRACK RECORD I THINK IT IS HARD TO JUSTIFY MAKING CHANGES IN A LAW THAT IS QUITE OBVIOUSLY GOING TO COST THE STATE OR CITY GOVERNMENTS MORE MONEY TO ADMINISTER, IN THE LONG RUN. I ALSO AM OPPOSED TO THE FEDERAL, STATE, OR CITY GOVERNMENTS PROVIDING SERVICES TO THE PUBLIC THAT ARE PRESENTLY BEING PROVIDED BY THE TAX PAYING PRIVATE SECTOR.

I RESPECTFULLY REQUEST THAT YOU VOTE DOWN THIS AMENDMENT # 632. THANK YOU.

J & S SCALE COMPANY, INC.
DENNIS T. JOHNSON. PRES.

6-2

SENATE COMMITTEE ON AGRICULTURE

February 20, 1990

Mr. Chairman, members of the Senate Committee on Agriculture, my name is Larry D. Woodson, Director of the Division of Inspections, Kansas State Board of Agriculture, and I am here to offer testimony on Senate Bill 632.

In 1984, the Kansas State Board of Agriculture started exploring the concepts of privatization as a result of shrinking revenues. Our challenge was to reduce expenditures without sacrificing the integrity of our weights and measures program. The specific issue at that time was the need to reduce our large scale program from three vehicles to two.

We embarked upon a privatized program in which large scales would be required to be tested by licensed private scale companies on an annual basis with oversight by the Kansas State Board of Agriculture. This placed more of the responsibility for the accuracy of the device upon the device owner and not upon the Board of Agriculture. It also assured at minimum, the annual testing and servicing of all scales by the licensed scale companies. This permitted the agency to provide oversight of both the weighing and measuring devices and the service companies.

Based on the acceptance and the positive results of privatization, annual testing is also required on LP-Gas meters, small capacity scales, refined fuel meters (bulk delivery vehicles), meters at terminals or pipelines, and gas pumps.

As one can expect, high volume devices are often tested several times a year by the device owners as the devices are used for sales and purchasing. It is simply good insurance.

Service companies who perform the testing and servicing are required to provide information on the devices to the Division of Inspections, pay a \$50 licensing fee, have their test equipment certified annually, as well as having

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their technicians certified annually which requires them to pass a written test.

Through our privatized weights and measures program, we feel we are maintaining accountability at a significant savings to the taxpayer.

Few programs are perfect and we must recognize that the annual testing of devices has placed a hardship on a few owners of small devices that are used on a limited basis.

The weights and measures program has benefitted from the cooperation and participation of Topeka and Kansas City in the testing of devices used for commercial purposes in those metropolitan areas. Their weights and measures officials regularly participate with our inspectors in training programs provided by the National Institute of Standards and Technology (formerly the Bureau of Standards).

The Kansas State Board of Agriculture has enjoyed a favorable working relationship with both Topeka and Kansas City over the years and acknowledges the additional oversight provided by the two programs. We also recognize that we do not have the resources to provide the same level of testing as is being provided by the two respective programs.

Prior to privatization, or the mandating of annual inspections by licensed private scale companies by certified technicians, the annual testing of scales and other measuring devices such as meters used in taxi cabs, car washes, parking meters, etc. were performed by city weights and measures inspectors. The decision to have city programs was made at the local government level. It was also advantageous to the consumers and to the state as the programs complimented and enhanced the state weights and measures laws.

When the state furthered its participation into the privatization concept, the responsibility for device accuracy was transferred to the device owner with the work being performed by the private scale company with

oversight from the state. In making these changes, we put the testing and repair into the hands of private scale companies and put them into competition with the cities in the testing area - not in the repair area.

I believe the intent of this bill is to allow local weights and measures officials to test the device to assure accuracy and to verify that repairs or adjustments performed by private scale companies were performed accurately by qualified technicians. While there may be some competition between the cities and the scale companies for the testing responsibility, there is no competition on the repair side of the issue, except that healthy competition between the private service companies.

While it may be a slightly modified version of our privatization efforts, it is being approved by the local governments; funded by the local governments and finally it does provide for additional oversight and consumer protection.

In conclusion, the Kansas State Board of Agriculture has reduced our revenue exposure while encouraging more involvement by the private sector through privatization. While it is working for the agency, it is not our intent to force the cities to follow suit; thus, we are neutral on the issue.

We conclude our testimony and will stand for any questions.