



National Conference on Weights and Measures
"That Equity May Prevail"

February 24, 2011

EXECUTIVE DEPARTMENTS AND ADMINISTRATION
C/o The Honorable Sharon Carson, Chair
Statehouse Room 106
107 N. Main Street
Concord, NH 03301

RE: SB 157-FN Department of Agriculture, Markets and Food

Dear Senator Carson,

I strongly urge you to find SB 157 inexpedient to legislate for the people of New Hampshire. This bill would place the responsibility and privilege of regulatory authority in the hands of private industry. Privatization is a buzz word across the country as states attempt to cut costs. Please consider the true cost of privatization of weights and measures to the tax payers of New Hampshire and the reputation of the government entrusted to protect them.

The transfer of inspection responsibilities to the private sector creates serious conflict of interest. The service industry is competitive. Without a regulatory presence, servicepersons are less likely to set devices as closely to zero error as practicable, a requirement under New Hampshire law. Instead, they may be compelled to set devices predominately in the business owner's favor as a way of securing the account. Many service agencies voluntarily admit that this practice is necessary for survival. Even more disturbing, this bill would actually allow business owners to use their own employees to conduct the testing and calibration.

Without question, the accuracy of measurements in New Hampshire would shift, even if only slightly, in favor of scale and meter owners. To understand the impact of slight adjustments, consider that nearly 788 million gallons of motor fuel were sold in New Hampshire in 2008. If the meters measuring these gallons were set to a mere 1 cubic inch error in the seller's favor, the loss would go undetected by consumers, yet amount to 3.4 million gallons paid for and not delivered in just one year. This scenario or worse could occur without unannounced regulatory inspections and it is just one sector of New Hampshire's market place. Certainly there are business owners who would strive for fairness in the calibration and reporting of their meters, but how long can they compete against less scrupulous business owners?

Conflict of interest aside, should service agents or employees be put in the position of regulating their customers or employers? This is a primary distinction between a person who provides a service and a person who enforces laws. The inspector undergoes extensive and ongoing training to not only test, but to inspect, investigate, document, and take regulatory action. Who will ensure that the service agents are trained to understand the specifications, tolerances, test procedures, installation and user requirements currently enforced by weights and measures officials? Who will ensure that service agents properly apply the requirements on a daily basis? History shows us that it takes just as many resources to regulate a service industry entrusted with official inspections as it does to conduct the actual device inspections. Why? Because service agents have free will to make decisions; scales and meters do not. No cost savings are realized without opening the door for fraud and corruption.

Concern for accurate weights and measures predates modern civilization to the earliest recorded existence of commerce as exemplified in Leviticus 19:35-36. Throughout history, businesses have never successfully regulated themselves or each other. The United States Constitution has entrusted the regulatory oversight of weights and measures within your borders to the State of New Hampshire. Privatization of this authority will betray the trust of the tax payers and honest business owners. That is not the society that John Adams had in mind when he signed the first weights and measures law in 1799.

Weights and measures enforcement is an example of government at its best, protecting the public where the public cannot protect itself. The cost for weights and measures under current funding is about 50 cents per year for each New Hampshire resident. This legislation could cost each consumer far more than that in a single trip to the supermarket or filling station through inaccuracies and misrepresentations.

Clearly, governments need to make cuts as we weather this economy. At a time when businesses are struggling to survive, this legislation would open many doors of temptation for private interests to tip the competitive balance in their favor. This legislation would be at great cost to taxpayers, honest businesses, and the reputation of commerce in the New Hampshire. Privatize services. Law enforcement is a government's responsibility.

Respectfully,



Don Onwiler

Executive Director

Copy: New Hampshire Senators
Commissioner Loraine Merrill