

FARM MARKETS – WISCONSIN WEIGHTS AND MEASURES LAWS

Wisconsin farm markets are governed under the same laws as other retail business establishments. Compliance with Wisconsin's Weights and Measures law is an integral part of fair trade among businesses and fair treatment of consumers.

Wisconsin Weights and Measures law, Wis. Stat. ch. 98, is the main dynamic in maintaining equality in the market place. Along with the National Institute of Standards and Technology or NIST Handbook 44, Wis. Stat. ch. 98 protects consumers by ensuring that weighing devices meet a high standard of quality and accuracy. City sealers and state weights and measures inspectors use state and federal standards to determine if a device is correct for the application. State inspectors and city sealers have full enforcement authority to uphold these laws. The following are excerpts from Wis. Stat. ch. 98.

CHAPTER 98

WEIGHTS AND MEASURES LAW

98.03 State standards; specifications and tolerances.

98.03(2)

(2) The department may issue rules governing the construction, installation and use of commercial weights and measures and prescribing tolerances therefor. The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the national institute of standards and technology shall apply in this state except as modified by such rules.

98.05 Enforcement authority; measurement center laboratory.

98.05(2)

(2) Sealers or inspectors may enter and go into or upon any structure or premises, and may stop any person or vehicle for the purpose of enforcing this chapter. They shall inspect and test any weights and measures or commodities which are sold or used commercially as often as necessary to secure compliance with this chapter, and may seize as evidence, or reject and mark or tag as "rejected" those which are incorrect. A representative sample may be used as the basis to determine whether any lot is incorrect.

Inspectors and sealers also look at the selling methods used for different commodities. They must determine if the method of sale is correct for each particular commodity sold. All commodities not in liquid form can be sold by net weight. However, there are

exceptions to this rule, which allow some commodities to be sold by other methods such as count, bunch, etc. Fruit and vegetables have many exceptions that are found on the attached table at the back of this handout.

98.06 Method of sale of commodities.

98.06(1)

(1) Commodities in liquid form shall be sold by liquid measure and commodities not in liquid form shall be sold by weight but liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure if such methods are in general use and give accurate information as to the quantity of commodity sold.

Some sellers may determine prepackaging and prepricing of commodities makes sense for their business. Besides the requirements for labeling a prepackaged item with the product identity and declaration of responsibility (name, complete address and zip code) the package must also have a declaration of net weight. It is important to understand that **NET WEIGHT** is the weight of the product only, subtracting the weight of all wrappers, plastic, labels and other non-consumable items known as tare.

98.07 Declaration of quantity.

98.07(1)

(1) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling price, shall be sold unless the weight, measure or count of the commodity is conspicuously declared on the commodity or its tag, label or sign, but a declaration of count is not required if the selling price is for a single unit, or a set or combination of commodities customarily sold to and understood by consumers as a single unit, or if the commodity is packaged prior to sale and the package contains 6 units or less which can be easily counted without opening the package.

Wis. Stat. ch. 98 is very specific on the method of sale for bread. Bread must be sold by weight. The weight must either be stated on a placard, if sold from a bulk case, or as a net weight on the bread's package label.

98.21 Sale of bread.

98.21(1)

(1) Except as provided in sub. (2), no person may manufacture for sale in this state, offer to sell or sell bread unless the bread is sold by weight.

Because there may be penalties for non-compliance with Wis. Stat. ch. 98, the first step is to educate the seller about the laws and provide assistance in understanding how to comply with those laws. That is why this handout was developed. The enforcement

process is a progressive one. State inspectors and city sealers work diligently to gain compliance through education.

98.26 Prohibited acts; penalty; injunction.

98.26

(1) A person who does any of the following acts shall forfeit not less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$1,000 for a subsequent offense. A person who intentionally does any of the following acts shall be fined not more than \$10,000 or imprisoned not more than 9 months or both:

98.26(1)(a)

(a) Hinders, obstructs or impersonates a sealer or inspector.

98.26(1)(b)

(b) Uses or has in possession for use in buying or selling any commodity or service, or sells, any incorrect weight or measure or causes a weight or measure to be incorrect.

98.26(1)(c)

(c) Represents in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.

98.26(1)(d)

(d) Uses or disposes of any rejected weight or measure, or commodity, or removes therefrom any official tag, seal, stamp or mark, without written authority from a sealer or inspector.

Specific requirements do exist for scales used for retail. All scales shall be of a commercial type meeting NIST Handbook 44 requirements. Those newer than 1986 shall be marked with NIST Class III; those newer than January 1, 1997 must also be NTEP (National Type Evaluation Program) approved. These strict standards ensure accurate devices are used for all retail transactions. Scales found not in compliance will, in some cases, receive a grace period before they need to be replaced. Inaccurate scales are either rejected or given a deadline for calibration, repair or replacement.

If you have specific questions concerning any weights and measures issue, inspectors or program staff can help you. Copies of Wis. Stat. ch. 98, Wis. Admin. Code ch. ATCP 90 and Wis. Admin. Code ch. ATCP 91 are available by calling us.

The following area offices are open Monday through Friday from 7:45 a.m. to 4:30 p.m.

Madison Region 608-224-4957

Eau Claire Region 715-839-3848

Green Bay Region 920-448-5110

Milwaukee Region 414-266-1231

Madison Central Office 608-224-4952 or Consumer Hotline 800-422-7128

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE, AND CONSUMER PROTECTION
P.O. BOX 8911 MADISON, WI 53708**

**REQUIRED METHODS OF SALE FOR RETAIL SALES OF PRODUCE
SECTION ATCP 91.03 WI ADMINISTRATIVE CODE 7/01/98**

COMMODITY	METHOD OF SALE
Apples	Count, Dry Measures of Bushel, 1/2 Bushel, Peck, or Net Weight
Apples Coated with Taffy or Caramel	Count or Net Weight
Artichokes	Count or Net Weight
Asparagus	Net Weight Only
Avocados	Count or Net Weight
Bananas	Net Weight Only
Beans, Green and Wax	Net Weight Only
Beets (without tops)	Net Weight Only
Berries	Dry Measures of Quart, Pint, 1/2 Pint, or Net Weight
Broccoli	Net Weight Only
Cabbage	Net Weight Only
Carrots (without tops)	Net Weight Only
Cauliflower	Count or Net Weight
Celery	Count or Net Weight
Chard	Bunch or Net Weight
Cherries	Dry Measures of Quart, Pint, 1/2 Pint, or Net Weight
Choke cherries	Dry Measures of Quart, Pint, 1/2 Pint, or Net Weight
Corn on the Cob	Count or Net Weight
Coconut	Count or Net Weight
Cucumbers	Count or Dry Measures of Bushel, 1/2 Bushel, Peck, or Net Weight
Currants	Dry Measures of Quart, Pint, 1/2 Pint, or Net Weight
Dill	Bunch or Net Weight
Eggplant	Count or Net Weight
Endive	Bunch or Net Weight
Escarole	Bunch or Net Weight
Fruit, Citrus, Kiwi, Star, Ugli	Count or Net Weight
Garlic	Count or Net Weight
Grapes (Concord)	Dry Measures of Quart, Pint, 1/2 Pint, or Net Weight
Grapes (all others)	Net Weight Only
Green Top Root Vegetables	Bunch or Net Weight