WEIGHTS AND MEASURES

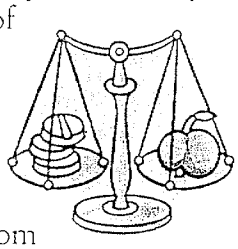
A DIVISION OF THE

MISSOURI DEPARTMENT OF AGRICULTURE

REQUIREMENTS FOR SALES AT OPEN AIR MARKETS, FARMERS' MARKETS, ROADSIDE STANDS, AND OTHER COMMERCIAL OUTLETS

Retail sales of fruits, vegetables and other items are regulated by the Missouri Division of Weights and Measures.

Open air vendors are **NOT** exempt from these regulations because they sell relatively little compared to a supermarket or because they only sell for a few months of the year.



The Missouri Weights and Measures Laws and Regulations apply to all sales. The laws and regulations were established to ensure buyers receive sufficient and accurate information with which to compare quantity and price.

As a vendor, complying with the laws and regulations protects you from perceptions of short-changing or misrepresenting your product.

The focus of this bulletin is on the sale of fresh produce at farmers' markets, roadside stands and other seasonal outlets.

METHOD OF SALE

Units of sale for fruits and vegetables are found in Appendix A of this bulletin. Sometimes, these units are not the same as those used in wholesale markets or within specific markets, such as restaurants. However, legal weights and measures are required at all times.

Produce may be sold by weight, measure, or count, depending on the commodity. Selling something "by count" is pretty simple to understand.

Selling by "weight" or "measure" involves legally defined weights and measures.

- A quart is a legal dry quart or legal liquid quart, not necessarily a quart basket filled as full as you feel like filling it.
- A pound is a legal pound, as judged by specially calibrated weights certified by the National Institute of Standards and Technology (NIST).

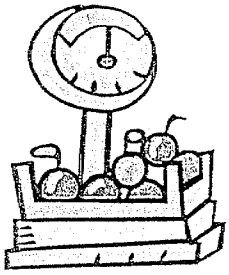
These are weights used to certify all commercial trade scales, including those used at farmers' markets, roadside stands, or your supermarket.

DIRECT SALES

Direct sales, such as farmers' markets, roadside stands, or from a pickup truck, are those where the weight of a product is determined at the time of the sale.

Direct sales by weight or measure are also called bulk sales. For example, when a customer tells the seller he wants "two pounds of potatoes"; the seller places potatoes on the scale until it reads two (2) pounds.

This scale is being used for direct sales. **Scales used in direct sales must be inspected and approved** by the Division of Weights and Measures of the Missouri Department of Agriculture.



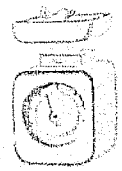
To be certified, the scale must be an approvable, legal for trade type device. **Scales must be inspected and approved at least once each calendar year by a Weights and Measures Official.**

There will be a fifteen dollar (**$15.00**) fee charged for each approvable type scales tested and approved or rejected for commercial use.

There is no additional fee for retest of rejected and repaired devices, if rechecked in the same calendar year.

NOT ALL SCALES CAN BE CERTIFIED

It doesn't matter if it is an analog or digital scale. Scales stamped or labeled by the factory **"Not Legal For Use In Trade"**,



- baby scales,
- bathroom scales,
- restaurant portion scales,
- postal scales,
- kitchen utility scales

will not be approved because these devices were not manufactured to meet the standards necessary for commercial trade and certification.

These devices will be rejected and tagged **"Not Legal For Trade."** There will be no fee charged since no test is done.

An approval seal is placed on the scale indicating it is certified. It is illegal to sell by weight using an uncertified scale.

If purchasing a new or used scale, get the make and model number and call **Weights and Measures** before you buy to be certain it can be certified.

Certifiable used scales may be available at a reasonable cost, as many grocery stores or other vendors replace older models of scales for electronic scanners and scales.

If you have any questions or want to know if your scale can be certified, call the Missouri Department of Agriculture,
Division of Weights and Measures at 573-751-5639.

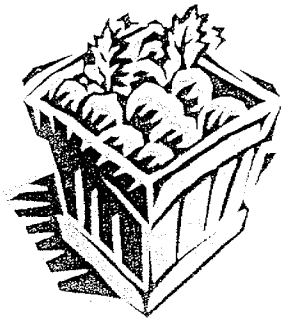
The Division of Weights and Measures also can provide suggestions on how to stay within the law if you don't use a scale.

> NOTE: **PRESUMPTIVE EVIDENCE**- section 413.215 RSMo. –
> "Whenever there shall exist a weighing or measuring device in or about any place in which or from which buying or selling is carried on, there shall be rebuttable presumption that the device is regularly used for the business purposes of that place."

PREPACKAGED SALES

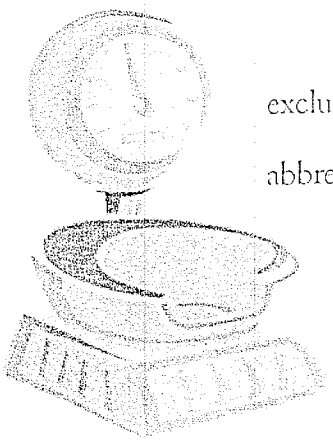
Prepackaged sales occur when you weigh the product before sale and package the product with a quantity statement on the package. A 5-pound bag of potatoes or a 2-pound bag of green beans are examples of prepackaged produce sales. **Scales used for prepackaging products do not have to meet the requirements of the Missouri Weights and Measures Laws and Regulations.** However, the package must contain **at least** the weight specified on the package.

The Weights and Measures inspector's job in this case is to check the weight of the package for accuracy, not the scale. As long as the contents of the package weigh at least what it is labeled, it is in compliance. When, if you prepackage, there are legal requirements for what must be on the label.



All prepackaged products, that is, all products packaged by weight, measure or count prior to sale, must have an individual label that:

1) gives the name of the product if it cannot be easily identified through the wrapper;
2) a quantity statement (weight, measure or count).



Net Weight

Weight statement must be **net weight** (the weight of the product excluding the weight of the wrapping material or container).

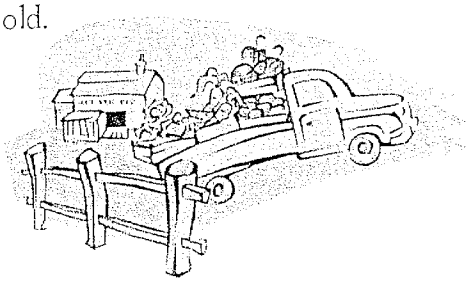
The only wording preceding or following the weight can be net weight, or abbreviated net wt. You cannot say "approximate net weight" "more than net-wt", or "at least net-weight." **An example of proper wording is: Net wt. 2 pounds.**

An inspector checking this prepackaged item for accuracy of net weight would randomly sample the packages. The net weight of the samples would have to average the stated net weight or more. **For example, on a selection of 2-pound packages, the lot would be approved if the average weight of the selections was 2 pounds or over without any unreasonable variation established by law.**

The lot would be rejected if the average of the weights was less than 2 pounds. Remember, fruits and vegetable will lose water weight after being harvested.

If you package your produce in advance, the weight of a bag of carrots packaged Tuesday won't be the same by Saturday's market.

In this case, you need to determine how much weight is lost over the time period (under a consistent set of storage conditions) and add that much extra weight when preparing the package to be sure the net weight is accurate when it is sold.



Label requirements are to your advantage. In addition to stating the net weight or count (quantity) of the product, the label provides an opportunity to identify the source of the product.

The name of your business, address and perhaps a phone number can be printed on the label to let customers know how to reach you.

SELLING BY MEASURES

When **selling by measure**, a standard dry pint or dry quart container is actually measured by the cubic inches it contains, not the shape.

- **A dry quart is 67.2 cubic inches.**
- **A dry pint is half that amount.**
- **A bushel contains 32 dry quarts (2150.42 cubic inches)**
- **1 peck = 8 dry quarts**

An accurate measure would be when the container is filled and struck level across the top.

The product should not be compressed and it does not have to be rounded above the sides of the container unless necessary to achieve the legal volume.

When purchasing containers, be certain they meet the legal definition of pints, quarts, pecks, etc.

Just as water weight can be lost after harvest, volume can decrease as well. Some settling also can occur in transit. The contents must be level with the top of the container at the time of sale.

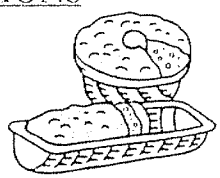
It is recommended sellers over-fill containers slightly to allow for these two factors. Most items sold by measures at a farmers' market will be sold by dry measure, described above.

CIDER and OTHER LIQUIDS

Cider and other liquids are sold by liquid measure, which is slightly smaller since there in no possibility of air spaces in a liquid.

For example, a dry quart is 67.2 cubic inches; a fluid quart is 57.75 cubic inches. If selling fluid, determine exactly how full the container must be to hold the full, accurate fluid measure.

OTHER IMPORTANT WIEGHTS AND MEASURES LAWS AND REGULATIONS



All bakery products must have stated net weight.

Berries and small fruits may be sold by weight or by dry measure in U.S. Standard ½ dry pint, 1 dry quart containers. Any larger size must be sold by bushel or in units not less than 1 peck, or by weight.

To obtain additional information contact the Missouri Department of Agriculture, Division of Weights & Measures at 573-751-5639 or visit their website at www.mda.mo.gov/

Registered Scale Companies

With Scales Suitable For Missouri Farmers' Markets

Provided by Missouri Department of Agriculture Weights and Measures Division

NAME	ADDRESS	PHONE #
Ace Scale Co	P O Box 387 Elwood, KS 66024	913-365-9398
C M Marrs Sales	1300 Liberty St. Kansas City, MO 64102	816-221-5090
Cardinal Scale – MFG – St. Louis	11005 Lin-Valle Dr. St. Louis, MO 63123	314-487-1215
Cash Register Sales	1566 N Topping Ave Kansas City, MO 64120	816-231-8599
Custom Scale	P O Box 63418 St. Louis, MO 63163	314-772-5100
Deskin Scale Company	437 W. Cherokee St Springfield MO 65807	417-883-0055
Digitron	2000 William St. Cape Girardeau, MO 63703	573-651-4029
Fairbanks	1675 Shelby Oaks Dr. Ste. 3 Memphis, TN 38134	901-332-8000
Fairbanks Scales	4000 NE 33rd Terr Suite #11 Kansas City, MO 64117	800-458-7005 816-455-7337
Four State Scale Company	1504 S Madison Webb City, MO 64870	417-782-4740
Hobart Sales & Service	5154 N. Main St Joplin, MO 64801	800-451-5993 417-624-1100
Hobart Sales & Service	711 Good Hope Cape Girardeau, MO 63701	573-334-5094
Hobart Sales & Service	10905 Harnson St. LaVista, NE 68128	800-762-6689 402-339-0550
Hobart Sales & Service	630 N Prince Lane Springfield, MO 65802	800-777-5562 417-862-1779
Hobart Corporation	10631 Summit St. Lenexa KS 66215	913-469-9600
Memphis Scale Works, Inc.	505 Sanders Avenue Springdale, AR 72764	501-750-2470
Mettler Toledo Inc.	6018 Morganford St. Louis, MO 63116	314-574-8777
Pioneer Scale Co. Inc	P O Box 1255 Benton, AR 72018	800-530-7716 501-778-7315
Precision Scale & Controls Inc	3501-03 Grace Avenue St. Louis MO 63116	314-773-5449
Roy E Schmidt Inc	411 Eichelberger St St. Louis, MO 63104	800-444-7942 314-353-6600
Scale Systems Inc	8300 NE Underground Dr/P O Box 4982 Kansas City, MO 64161/ 64120	816-231-5550
WH Scale Co	4145 NW 25th Topeka KS 66618	785-357-5191

Want to make sure a scale is approvable before you purchase it?
Get the brand name and model number of the scale and call the Missouri Department of Agriculture Weights & Measures office at 573-751-5639.

APPENDIX A

Method of Retail Sale for Fresh Fruits and Vegetables Specific Commodity					
Commodity	Weight	Count	Head or Bunch	Dry Measure (any size)	Dry Measure (1 dry qt or larger)
Artichokes	X	X			
Asparagus	X		X		
Avocados		X			
Bananas	X	X			
Beans (green, yellow, etc.)	X				X
Brussels Sprouts (loose)	X				
Brussels Sprouts (on stalk)			X		
Cherries	X			X	X
Coconuts	X	X			
Corn on the Cob		X			X
Dates	X				
Eggplant	X	X			
Figs	X				
Grapes	X				
Melons (cut in pieces)	X				
Mushrooms (small)	X			X	X
Mushrooms (portobello, large)	X	X			
Okra	X				
Peas	X				X
Peppers (bell and other varieties)	X	X			X
Pineapples	X	X			
Rhubarb	X		X		
Tomatoes (except cherry/grape)	X	X			X

Method of Retail Sale for Fresh Fruits and Vegetables General Commodity Groups					
Commodity	Weight	Count	Head or Bunch	Dry Measure (any size)	Dry Measure (1 dry qt or larger)
Berries and Cherry/Grape Tomatoes	X			X	
Citrus Fruits (oranges, grapefruits, lemons, etc.)	X	X			X
Edible Bulbs (onions [spring or green], garlic, leeks, etc.)	X	X	X		X
Edible Tubers (Irish potatoes, sweet potatoes, ginger, horseradish, etc.)	X				X
Flower Vegetables (broccoli, cauliflower, brussels sprouts, etc.)	X		X		
Gourd Vegetables (cucumbers, squash, melons, etc.)	X	X			X
Leaf Vegetables (lettuce, cabbage, celery, etc.)	X		X		
Leaf Vegetables (parsley, herbs, loose greens)	X		X	X	
Pitted Fruits (peaches, plums, prunes, etc.)	X	X			X
Pome Fruits (apples, pears, mangoes, etc.)	X	X			X
Root Vegetables (turnips, carrots, radishes, etc.)	X		X		

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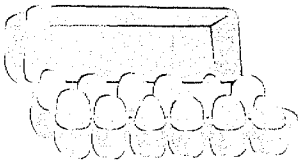
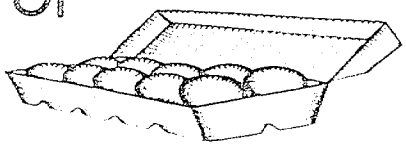




Requirements for Shell Eggs Sold in Missouri

(Disclaimer: These are excerpts from the Missouri Egg Laws & Regulations publication).

Eggs are defined as eggs in the shell from chickens.

A license is not required for those who sell only eggs produced by their own flocks, provided such eggs are not sold at an established place of business away from the premises of such producer.

Retailer's License

A Retailer's license is required of any person who sells eggs to a consumer.

A holder of a Retailer's license shall not be permitted or authorized to buy eggs from persons other than licensed Dealers.

Any retailer desiring to buy eggs from persons other than licensed Dealer's shall obtain a Dealer's license in addition to a Retailer's license.

Dealer's license

A Dealer's license shall be required of any person who purchases eggs from producers thereof or another dealer, for the purpose of selling such eggs to another dealer, processor, or retailer. Any Dealer desiring to sell eggs to consumers shall obtain a Retailer's license in addition to a Dealer's license.

A producer, who sells to consumers at a place other than their residence, such as at a farmers ' market, must purchase a Dealer's license in addition to a Retailer's license.

License Fees (Annual)

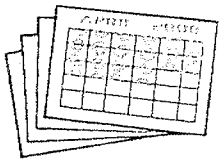
Retailer License $ 5.00

Dealer's License fees shall be determined on the basis of cases (30 dozen per case) of eggs sold in the shell in any one week, as follows:

1-25 cases per week	$ 5.00
26-50 cases per week	$12.50
51-100 cases per week	$25.00
More than 100 cases per week	$50.00

License Year

The license year shall be 12 months or any fraction thereof, for each separate place of business from the director, beginning July 1 and ending June 30. No license shall be transferable, but it may be moved from one place to another by the consent of the director.



Identification of Graded Eggs in Containers

1. Eggs packaged in containers by licensed dealers for supply or sale to retailers must be identified on each container with either the name and address (city and state), or approved identification number of the dealer under whose authority the eggs were packaged and the day, month, and year when said eggs were graded. Example July 1, 1966, or 182-6; July 2, 1996, or 183-6.
2. Only eggs to be sold to any consumer by any person shall be of the quality standard designated Grade and size established by USDA (Example Grade A Large)

Eggs

No person shall sell or represent eggs from any other species of fowl as chicken eggs or sell mixed eggs from more than one species of fowl, eggs from ducks, turkeys, geese, or any other species of fowl other than chickens without marking the container and sub containers of such eggs or otherwise indicating fully by sign or other inscriptions the species of fowl from which such eggs were produced.

Temperature

Temperature for shell eggs shall be held at a maximum temperature of no greater than 45° F.

To obtain a complete copy of Missouri Egg Laws & Regulations, call the Missouri Department of Agriculture, **Division of Weights & Measures** at **573-751-5639** or visit their website at **www.mda.mo.gov/**

August 26, 2004

NOTICE

"No Tax Due Statement" is now required for Missouri Retail Egg Licenses

Please provide your Missouri Tax Identification (Sales Tax) number on your remittance stub along with your check. This will allow our agency to verify and process your egg licenses quickly. Otherwise, you must submit a "No Tax Due Statement" issued by the Missouri Department of Revenue each year with your annual renewal.

Background information below is provided by the Missouri Department of Revenue:
Beginning January 1, 2009, according to Missouri law, cities, counties and state agencies must require a statement of no tax due from the Department of Revenue before issuing or renewing any city or county occupation license or any state license required for conducting any business where goods are sold at retail. The statement of no tax due will verify that the retail business has filed and paid all of its sales and withholding tax obligations. Please remember that if a business does not make retail sales, it is not required to present a statement of no tax due in order to issue a license.

The Department of Revenue is committed to making this new requirement as easy as possible for political subdivisions, state agencies and taxpayers. The goal is a process requiring as little paper as possible in order to comply with the new law. As a result, an On-line License No Tax Due system that will allow political subdivisions, state agencies, and business owners to access our website to quickly determine if a business has "no tax due" without requiring that piece of paper to be issued by the Department of Revenue.

- A business owner can enter their Missouri Tax Identification Number and PIN (The Department of Revenue has already assigned the PIN number and it can be found on the front of your return or voucher book.)
- On-Line License No Tax Due will access our tax system, determine whether the taxpayer is in compliance and provide instantly:
  - A Statement of No Tax Due. The business owner can print their own Statement of No Tax Due to provide to the political subdivision or state agency, or;
  - If, through the On-line system, a Statement of No Tax Due cannot be issued because a business is not in full compliance, directs the business owner to contact the Department of Revenue to obtain one.

If you have any questions, please contact:

Missouri Department of Revenue
Taxation Division
P.O. Box 3666
Jefferson City, MO 65105-3666
Fax: (573) 522-1265
Telephone: (573) 751-9268
E-mail: taxclearance@dor.mo.gov