

Commissioner of Agriculture—Cities and Towns—Counties—Scales.

It is proper to collect a fee from counties, cities or towns for testing scales belonging to such counties, cities or towns.

Chester C. Davis, Esq.,
Commissioner of Agriculture,
Helena, Montana.

My dear Mr. Davis:

You have submitted to this office the question whether a charge can be made for testing scales that belong to a county, city or other municipality, under the provisions of Section 3575, R. C. M. 1921, as amended by Chapter 41, Laws of 1923. This section, as amended, reads as follows:

“The Commissioner of Agriculture shall employ an expert tester of scales, whose duty it shall be under such rules and regulations as the Commissioner may prescribe to test the scales within this state where grain is weighed at elevators and public warehouses; also to test all wagon scales, coal scales and track scales in the State of Montana where grain is weighed for the public. The person employed by the Commissioner of Agriculture as an expert tester of scales shall collect from such person, firm, co-partnership or corporation for each track scale tested, \$10.00; for each wagon scale, coal scale, dump scale and shipping scale, \$5.00; and for each portable scale and grain tester, \$1.00.”

This section requires that wagon scales, coal scales and track scales in the State of Montana where grain is weighed for the public shall be tested, and provides for the collection of fees for such inspection.

I believe it is within the power of the Legislature to provide a system of checking weights and measures and to require public corporations, as well as private companies and individuals, to pay for this testing.

Section 4236, R. C. M. 1921, provides for a state sealer of weights and measures who is to have full authority and supervision over this matter, and who is required to take charge of the standards of weights and measures. He is required to keep them in good order and have them tested once in ten years by a national bureau of standards. He is required to correct the standards of the several counties, cities and towns as often as deemed necessary, and at least once in five years.

Section 4238, R. C. M. 1921, provides, in substance, for the inspection in cities and counties of weights and measures and balances used in weighing goods.

Under Section 4242, R. C. M. 1921, it is made the duty of the sealer of weights and measures, or his deputy, to try, adjust, and seal every hay scale, wagon scale, railroad track scale, or platform scale or balances used in the trade of buying and selling, or selling or for public weighing. This section is very similar in its provisions to that of Section 3575, except that no fee is provided for.

As before stated, I can see no reason why the Legislature cannot require of counties, cities and towns the necessary expense of testing these instruments, which must be kept uniform if they are of any value, and it is my opinion that, where scales are tested for counties, cities or towns, the same fees should be collected as in other cases.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.