



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

Regulatory Considerations for Legalized Marijuana

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Minnesota Medical Cannabis

- No recreational marijuana
- Medicinal Cannabis
 - Registered patients treated by registered physicians for listed conditions only
 - Sold through licensed dispensaries
 - Sold as tincture (liquid); no scales involved





Address Groups of Products

- Medical marijuana similar to prescription drugs
- Recreational marijuana
 - 'baked' goods resemble any other pre-packaged bakery item
 - Declaration of quantity
 - Declaration of responsibility
 - Nutritional label
 - Ingredients
 - Vaping products similar to nicotine vaping products sold by liquid volume
 - Leaf products resemble spices, herbs, tobacco, tea, and other light products



Policy: Spice, Herb, Tobacco and Similar Products

- Specifies suitability of scale for light but expensive products based upon two principles:
 - Small loads mean high percentage errors, therefore adhere to recommended minimum load (20d) in HB44, Section 2.20 U.R. 3.1. Table 8.
 - Permissible errors should not cause economic harm per the “Theory of Tolerances” per HB 44, Appendix A, Fundamental Considerations:

“2.2. Theory of Tolerances. – Tolerance values are so fixed that the permissible errors are sufficiently small that there is no serious injury to either the buyer or the seller of commodities, yet not so small as to make manufacturing or maintenance costs of equipment disproportionately high...”



HB 44 Section 2.20 Table 8

UR.3. Use Requirements.

UR.3.1. **Recommended Minimum Load.** – A recommended minimum load is specified in Table 8 since the use of a device to weigh light loads is likely to result in relatively large errors.

Table 8. Recommended Minimum Load		
Class	Value of Scale Division (d or e*)	Recommended Minimum Load (d or e*)
I	equal to or greater than 0.001 g	100
II	0.001 g to 0.05 g, inclusive	20
	equal to or greater than 0.1 g	50
III	All**	20
III L	All	50
IIIH	All	10

*For Class I and II devices equipped with auxiliary reading means (i.e., a rider, a vernier, or a least significant decimal differentiated by size, shape or color), the value of the verification scale division “e” is the value of the scale division immediately preceding the auxiliary means. For Class III and IIIH devices the value of “e” is specified by the manufacturer as marked on the device; “e” must be less than or equal to “d.”

**A minimum load of 10 d is recommended for a weight classifier marked in accordance with a statement identifying its use for special applications.

(Amended 1990)



Small Transactions High Percentage Tolerance Errors

- Scales are not more inaccurate during the first 20 divisions, errors are just a bigger percentage of the total transaction
 - 30 x 0.01 lb scale, purchase 0.03 lbs. spice
 - Tolerance = $1d = 0.01$
 - Error could be +/- 33%
- Scale error per transaction potentially greater if you use subtraction method (put 6 lb. jar of spice on scale and scoop product into bag; measure how much is subtracted from the jar)
 - Eliminates problem of determining tare on bag
 - Tolerance at 6lbs = $2d = 0.02$ lbs = 66% of 0.03 lb



Examples of Spice Prices

- 6/1/2016 – Amazon.com
 - Wasabi powder \$7.45/1.06 oz bottle = \$7.03/oz
 - Madagascar vanilla beans \$29.99/3.5 oz = \$8.57/oz
 - Course ground black cardamom \$13.07/oz
 - Saffron \$119.95/oz
- 5/12/2015 Forbes.com average price per ounce of marijuana by state
 - Oregon \$204
 - Washington \$232
 - Colorado \$243





Cost Per Scale Division Error Pounds

Price/ounce	Price /lb	.01lb division	.005 lb division	.002 lb division	.001 lb division
\$ 60.00	\$ 960.00	\$ 9.60	\$ 4.80	\$ 1.92	\$ 0.96
\$ 50.00	\$ 800.00	\$ 8.00	\$ 4.00	\$ 1.60	\$ 0.80
\$ 40.00	\$ 640.00	\$ 6.40	\$ 3.20	\$ 1.28	\$ 0.64
\$ 30.00	\$ 480.00	\$ 4.80	\$ 2.40	\$ 0.96	\$ 0.48
\$ 10.00	\$ 160.00	\$ 1.60	\$ 0.80	\$ 0.32	\$ 0.16
\$ 5.00	\$ 80.00	\$ 0.80	\$ 0.40	\$ 0.16	\$ 0.08



Cost Per Scale Division Error Grams

Price/ounce	Price /gram	.5 g division	.1 g division
\$ 60.00	\$ 2.12	\$ 1.06	\$ 0.21
\$ 50.00	\$ 1.76	\$ 0.88	\$ 0.18
\$ 40.00	\$ 1.41	\$ 0.71	\$ 0.14
\$ 30.00	\$ 1.06	\$ 0.53	\$ 0.11
\$ 10.00	\$ 0.35	\$ 0.18	\$ 0.04
\$ 5.00	\$ 0.18	\$ 0.09	\$ 0.02



Policy for products costing more than \$5/ounce

If a retail location is selling products with a unit price of \$5.00 per ounce or greater that are not pre-packaged, but weighed at the checkout at the point of purchase, the retail location must:

- Have at least 1 scale available to weigh the products at checkout with a division size of:
 - .001 lb or less or
 - .5 grams or less
- They must not weigh amounts of less than 20d.
- The scale must be Class II, or III.
- Meet all other requirements in Minnesota Statute, Department of Commerce Rules 7601, and NIST Handbook 44.



Opportunity for POS Mfg's

- Current POS systems do not allow manual entry of weights in divisions which are different than attached POS scale, or allow multiple scales to be interfaced
- Most POS systems set up for 30 x 0.01lb.
- Retailers can't use PLU's and input actual weight, must put a misc. code in and enter total dollar amount
 - Forces them to handwrite a receipt ticket for the product
 - Prevents them from using the POS for inventory control
- Potential market
 - Spices
 - Tobacco
 - Tea/Coffee
 - Cannabis



Policy for products costing less than \$5/ounce

When weighing products with a unit price of less than \$5.00 per ounce that are not pre-packaged, but weighed at the checkout at the point of purchase, the retail location must post signs informing customers that:

“For weighing accuracy, the recommended minimum sale of bulk items is 0.2 lbs.”



Employer Considerations

- What does legalized marijuana mean for agencies employing:
 - CDL drivers
 - Others for whom driving or operating equipment is a major job duty
 - Lone-worker employees





Legal Marijuana ≠ Legal Impairment

- Nothing changes from current alcohol/prescription drug/recreational substance world
 - Employees cannot come to work under the influence of substances (legal or illegal) which impair their ability to do their jobs safely or to meet performance standards
 - Prescribed medical cannabis is just like other prescription and over-the-counter drugs which may prevent employees from operating motor vehicles or heavy machinery
 - Goal is safety for employee/co-workers/public



Know Your State's Laws

- <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>
- Definition of impairment differs by state and licensure
 - Some, but not all, define by THC blood levels
- Some states specifically ban driving or other safety sensitive functions
- Employer policies may be tighter than state law if
 - Written policy exists
 - Employees are trained on policy
 - Policy is consistently enforced



Drug Testing – Work with HR!

- Pre-employment testing decisions affected by ADA
 - Testing can't be done until conditional job offer made
 - Positive results related to covered medical condition cannot affect hiring unless reasonable accommodations cannot be made
- Random testing
 - Remains the same for CDL's
 - Non-CDL employees covered by state law and employer policy



Post-Accident Testing

- Federal post-accident decision chain is still the same for CDL's
 - Fatality, or CDL driver cited and person injured, or CDL driver cited and vehicle towed = test
- Timing of death, reported injury, or citation determines what testing is done on CDL's
 - Both drug and alcohol testing if within 8 hours
 - Just drug if between 8 hours and 32 hours
 - No testing after 32 hours
- Non-CDL's covered by state law and existing employer policy



Proactive Removal from Duty

Documented behavior indicating impairment observed by a trained supervisor is required in most situations

- Safety is the goal; cause of impairment is secondary
- Have your supervisors been trained in recognizing and documenting the signs of impairment?
- Do your supervisors have a chance to observe inspectors in the field and lab?
- How do you determine lone workers are fit for duty?
- Do you have a written drug and alcohol policy that allows for removal from duty on suspicion of impairment?
- Ask if they want medical attention
- Arrange transportation, don't let them drive anywhere if they seem to be impaired



Have Policy in Place Before Problems

- Written policy
 - Expectations
 - Testing? Observation? Under what conditions?
 - Consequences
 - Uniform enforcement
- Address medical use in addition to recreational use
 - Know how your state addresses Americans with Disabilities Act (ADA) in relation to conditions requiring medication
 - Include employee responsibility to notify on use of OTC and prescription drugs
- Document employee training on the written policy



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Questions?