

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.

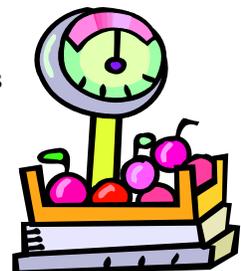
DIRECT SALES

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 five dollar **(\$5.00)** 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 is no possibility of air spaces in a liquid.

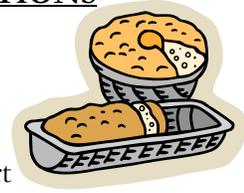
For example, a dry quart is 67.2 cubic inches; a fluid quart is 57.75 cubic inches. If selling fluid, determine exactly how full the container must be to hold the full, accurate fluid measure.

OTHER IMPORTANT WEIGHTS 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 $\frac{1}{2}$ 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/