



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

August 17, 2017

Dear Scale Owner/Operator:

This notice is to inform all owners and operators of scales that offer food or meals sold by weight that they are exempt from Department registration and inspection requirements if the scale is used only for the sale of food immediately consumed on premises.

Beginning September 1, 2017, all scales defined as "Immediate Consumption Food Scales" are exempt from the regulations regarding the registration and inspections of these devices used in commercial transactions. Immediate consumption is defined as "food or meals when served or sold on premises requiring no further preparation and is to be consumed on premises." Only those scales used *exclusively* to weigh food for immediate consumption are excluded from statutory registration and inspection requirements.

Amendments were adopted to align the Department's administrative rules with changes made as a result of House Bill 2029, which was enacted during the 2017 Regular Legislative Session. The bill amended §13.1002 of the Agriculture Code to create the exemption for those immediate consumption food scales from registration and inspection requirements.

If you have any questions concerning the new calibration requirement, please email the Texas Department of Agriculture, at WeightsMeasures@TexasAgriculture.gov or call (512) 463-7698.

Sincerely,

Commissioner Sid Miller

Enclosure

Immediate Consumption Food Scales FAQ

- **Does HB 2029 require my facility to register my scales if all prepared food sold by weight is consumed on premises?** No, your scales do not have to be registered if prepared food sold by weight is consumed on premises where sold.
- **Does HB 2029 require my facility to register my scales if prepared food is sold by the pound and is consumed off premises where prepared and sold (To Go Orders)?** Yes, the regulations in the Texas Administrative Code in Ch. 12 §12.1 “Definitions” and §12.13 “Devices Subject to Registration and Inspection; Exemptions” identifies all scales used to sell food by weight (pound) has to be licensed and certified by the department when the food is not immediately consumed on premise where sold. All “To Go Orders” of foods sold by weight requires at least one scale per location selling to go orders be legal for trade, licensed and certified by the department.
- **Does HB 2029 require my facility to register my scales if when prepared foods sold by the count/plate is used to determine portion sizes? My restaurant’s menu currently offers all items for sale by the plate with no advertised price per-pound.** No, if your restaurant’s current business model and method of sale is by the count/plate for prepared food sold on premises and to go orders than your scales do not have to be registered with or certified by the department.