



## Do store ads in the newspaper reflect accurate prices?

State investigators put advertising to the test over 2 1/2 month period

Leading up to a busy Memorial Day weekend of shopping for deals, the Arizona Department of Weights and Measures released a 2 1/2 month statewide investigation of 57 retail stores to determine whether consumers are actually receiving the sale price in ads found in local newspapers, online coupons and in-store ads.

Department officials also audited the advertisements to verify the product was actually available in the store and that the shelf price matched the sale ads.

The final results show 19 stores that had at least one sale item overcharged from the original newspaper or in-store advertisement price totaling \$398.93 in overcharges to consumers. Interestingly, the results also showed that retailers undercharged customers at 20 stores totaling \$228.49 below what was priced in the ad.

“More often than not, Arizona consumers will find accurate advertised pricing -- 38 retail locations finished with a perfect 100% compliance rating as the advertisement perfectly matched the price charged at the cash register,”

stated Kevin Tyne, Director of the Department of Weights and Measures, “In very few instances were the prices on the shelf missing altogether.”

The inspections were conducted throughout Arizona from March to May and incorporated investi-

In 6 stores, the advertisement item was not available or in stock. Good news for shoppers was that in each of those instances customers were afforded an opportunity to purchase the items via “rain check” or efforts were made to find the product at another location. In one instance, the investigator found the store offered customers an upgrade to a more expensive item at the same price.

“The best advice that we can give consumers is to take the advertisement with you to the store,” stated Director Tyne, “each retail location is required to have a price error policy which dictates how the store will handle a pricing discrepancy.”

Department Investigators cited 7 of the stores where the cash register price did not match the advertised price, with \$5,200 in fines levied. 3 stores were also cited for not having prices posted on the shelf, or nearby as required by law, resulting in another \$2,100 in penalties.



gators bringing newspaper ads with them during the audit, then verifying approximately 3,600 advertised sale items that were then individually scanned at the cash register.

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## Weights and Measures Week

*Department teaches 500 elementary school kids how to be good consumers*

Over 500 third and fourth grade students from various elementary schools throughout Arizona participated in an educational event as part of the 2012 Arizona

Weights and Measures Week. The exercise was a collaborative effort with the Arizona Department of Weights and Measures, Fry's Safeway, Basha's, Albertson's and Pro's Ranch Market. During one event, the Phoenix Suns Gorilla and members of the Phoenix Suns dance team also made an appearance adding to the fun atmosphere for the children.

Demonstrations and examples were provided about the different types of inspections made to ensure that shoppers are getting what they pay for. The students toured throughout the stores specifically focusing in the produce, meat, and UPC scanning (cash register) areas.

In addition, the kids were taught how to read grocery store labels and signs, why it's important to watch your prices and how to check for fresh items at the gro-

cery store. Each student was afforded an opportunity to check prices on items they selected.

"The goal of today's exercise was to teach students about the regulatory and retail side of business and ultimately equip these young consumers with shopping tips they can use every day," said Shawn Marquez, Compliance Director at Weights and Measures. "We are very grateful to partner with the generous food marketing industry and be afforded an opportunity to invite the community into their stores and to specifically help children have the confidence they are receiving what they pay for," added Marquez.



*DWM Insp. Bill Wristen has help checking prices*

"I think everyone also leaves with a better understanding of what Weights and Measures is doing to keep a level playing field for business to compete, while protecting the Arizona consumers each day."

## New Transportation Fuels and Air Quality Director

*Brings 20 years of experience in the environmental field*

DWM is excited to welcome Michelle Wilson to our team as the Director of Trans. Fuels and Air Quality Programs. She replaces Duane Yantorno who recently retired from state government.

Michelle has been working in the environmental field for 20 years, for the past 6 years, she has been with the City of Glendale performing work on environmental databases and managing environmental programs.

After several years as an environmental consultant, Michelle joined the Arizona Department of Environmental Quality Air Quality Planning Section in 1996, where she was the staff person writing the Cleaner Burning Gasoline rules. In 1999, Michelle joined Circle K, where she managed environmental programs for gasoline service stations.

In addition to Michelle's extensive capabilities and experience in environmental

programs, she is also playing an integral part in upgrading Weights and Measures operational and regulatory processes. Since arriving this past Spring, Michelle has made a point of reaching out to industry and businesses to learn, build, and promote relationships, increase communication, and improve the way the agency conducts itself.

"There is no question that Michelle is having a very positive impact, and I am confident that industry, government and the public are going to be very happy with the direction she leads us," said Kevin Tyne, Director of Weights and Measures.

Michelle will administer the air and fuel quality program, develop internal policies and procedures regarding these issues, oversee enforcement and compliance for these programs, and administer the registration and process required by state law



*Michelle Wilson, new Director of Trans. Fuels & Air Qual.*

for all gasoline refineries, third party terminals and pipelines.

The entire department is thrilled to add someone as talented and capable as Michelle who is well known and well thought of by industry and her peers.

## DIRECTOR'S MESSAGE

In April, I sent a letter to all major Arizona petroleum marketers and gas stations encouraging their consideration of new protective measures to combat against credit card and debit card fraud at local gas stations.

The unfortunate reality is that our state still ranks high in identity theft and credit card fraud cases. In one particular instance, we found a credit card "skimming device" inside the gas pump – yet just 2 days later – new skimmers were confiscated at the exact same location. To me, this indicates that additional protective measures should be considered by the stations themselves.

My recommendations were extremely cognizant of limiting the overall costs to gas stations, thus many of the suggestions came with little to no cost whatsoever.

Suggestions:

• Consider having the station clerks take time during their daily required inspections to check inside the gas pumps for credit card skimmers each morning, or before each shift. It takes the bad guys

about 30 seconds to install these devices, and it would take the station employees nearly the same amount of time to check.

• Consider utilizing tamper proof tape on the pump that can help retailers identify potential security breaches should a skimming device be inserted at fuel dispensers. The idea is for gas stations to make themselves a hard target where criminals won't want to tamper with the equipment.

• Consider positioning existing cameras in the station to better assist law enforcement in getting a picture of the thief or a shot of their license plate. To date, cameras have been of little to no use as they are not positioned in a way that can be utilized efficiently by law enforcement.

• Consider better defenses for gas dispenser security. Criminals throughout the country have figured out that there are basic master keys that can access the gas pumps. Replacement of manufacturer access keys with site specific keys or cheap locks are a potentially effective new safeguard.

• Consider additional training and proce-



Kevin Tyne - W&M Director

dures for the gas station employees. For instance, if a skimmer is found, employees should immediately run a receipt for the last transaction on that dispenser. This will help establish a timeline of use, and assist law enforcement investigations.

In the end, we all have a vested interest in protecting Arizona consumers as well as jointly pursuing collaborative strategies so we can be even more effective in protecting against identity theft and credit card fraud.

### Inspectors uncover Water Dispenser violations *Many unlicensed and inaccurate machines throughout the state*

Weights and Measures officials recently concluded a one month investigation where 70 individual water dispensers at 35 locations were inspected



Inspector Damian DeSantiago

throughout the State of Arizona. These water dispensers were either stand alone dispensers or located at retail businesses.

According to test results conducted in March of this year, 23% of the water dispensers inspected (8 out of 35) had civil penalties assessed which totaled \$ 3,300 in violations. The violations included shorting the customer, un-licensed commercial devices, missing state and federal identification marking requirements and violations of dispensers giving away too much product.

Devices found out of tolerance detrimental to the public were immediately placed out of service and those dispensers that were giving away too much product were given 30 days to recalibrate.

"It is the responsibility of the business owner to properly license any device used commercially in Arizona" stated Dan Egge, Fuel Inspections and Regulatory Programs

Director, "water vending dispensers are used by consumers more and more each day and these businesses owe it to their customers to provide a legal and accurate device in all aspects of commerce" stated Egge.

Ironically, as these inspections were taking place, the Department noted a spike in voluntary licensure of unknown water dispensers by local Arizona businesses.

Egge added, "Indeed, the Department has also seen a drastic increase from the water dispenser industry to certify their own service personnel for self inspection and better testing."

Businesses throughout Arizona are required to license any measuring device that is used to determine the direct cost of things sold or offered for sale. This includes any device that weighs, measures, meters, or counts a product exposed for sale.

## Irregularities in “Gold Buying Stores” Yet Again

*State Investigators Find Illegal Scales and Short Weight at Many Locations*

The Department of Weights and Measures officials recently concluded a six month investigation where 45 gold and jewelry buying businesses were inspected throughout the State of Arizona. This was the second gold scale investigation that again led to multiple violations.

In all, over one-third of the ‘We Buy Gold’ businesses inspected (18 of 45) had civil penalties assessed which totaled \$14,700 in violations. The violations ranged from non-licensed and inaccurate scales to businesses using scales that were not legal for trade. In many cases, investigators found scales which under-registered the actual weight indicating a situation detrimental to the customer.

This was the second round of random inspections conducted by Weights and Measures following the dismal “gold buying” inspections conducted in 2010, which revealed 39 of 43 gold buying businesses being cited for multiple infractions and \$45,000 in civil penalties levied.

In the past few months, Department officials also have participated in joint inspections with law enforcement pawn detail after receiving specific requests for assistance.

“These violations don’t necessarily mean that in every instance customers selling their gold were not getting their fair share, but these stores were definitely not in compliance with state law and further investigations are certainly warranted” added Kevin Tyne, Director of the Department of Weights and Measures.

Of the 45 store locations recently inspected, 10 businesses were specifically cited for violations of under-registering or un-



der weight to the detriment of the customer. State investigators also found violations ranging from devices not legal for trade, scales that were unregistered or unlicensed, scales not federally accredited for use in Arizona, and for devices that had no required tamper-proof seal thus leaving the ability of tampering.

In all, Weights and Measures actually seized 15 scales, placed many other scales “out-of-service”, and further required the gold buying stores to obtain legal commercial devices.

Federal and state laws are clear that businesses must properly register and license all of their commercial weighing devices.

“In this tough economic climate it is imperative that the consumer get what they pay for in all aspects of commerce, and equally important is the role of Weights and Measures to ensure that businesses have a level playing field in which to compete,” stated Tyne.

The one-third rate of non-compliance by “We Buy Gold” stores indicates that additional inspections will need to be conducted over the next year.

## Good Air Quality Inspection Results at area Gas Stations

*Weights and Measures assuring gas pumps not leaking fugitive emissions into the air*

Weights and Measures officials released the latest air quality inspection results of valley gas stations that were tested between November, 2011 and March, 2012. In all, nearly 90 percent of all stations fueling systems inspected were in full compliance with air quality standards and the gasoline systems were safeguarding against emitting fugitive emissions as required.

The Department results indicate that 223 locations were inspected of which 195 stations passed their tests with a 100% compliance rating. The remaining 28 had various violations some of which led to notices of violations for non-compliance

with federal and state requirements. Violations included failures due to leaking hoses, underground storage tanks not holding the vapors, failed vapor exhaust systems, or improper maintenance of the entire vapor systems themselves.

Federal and state regulations require all service stations throughout Maricopa County to maintain vapor recovery pollution control systems that protect the ozone. Vapor control systems manage vapor releases at the gas pump during the refueling of motor vehicles. This process captures the vapors normally emitted directly into the atmosphere when pumping gas and recycles them back into the

underground fuel storage tank, preventing them from polluting the air. The Department of Weights and Measures is statutorily responsible for testing to ensure these systems are operational and mitigating ozone pollution throughout the greater Phoenix area.

“We are pleased that industry is working hard to properly maintain their environmental controls at each gas station,” stated Michelle Wilson, Transportation Fuels and Air Quality Director, “Any gas stations where there were violations were required to immediately update all control equipment to ensure their gasoline dispensing systems were (*Cont on Pg. 5*)

## Good Air Quality Inspection Results at area Gas Stations

*Weights and Measures assuring gas pumps not leaking fugitive emissions into the air*

(from Pg. 4) not leaking fugitive emissions into the environment,” said Wilson.

Vapor-recovery systems are not required at gasoline stations outside of the greater Phoenix area.

Weights and Measures testing program for Stage I and II vapor recovery systems is part of Arizona’s State Implementation Plan (SIP) to help assure that gasoline vapors are not emitted into the environment and is part of the

overall strategy to reduce ozone emissions as required by the federal government.

The first component (Stage I) involves auditing the fueling system to ensure it captures and stores vapors in the underground storage tanks at gas stations while the second component (Stage II) tests the gas dispenser and nozzles ability to retain these vapors.

Recently, the EPA passed a final rule that determined there are enough new vehicles operating on the road today with their own vapor recovery systems inside the engine, so

that states may consider decommissioning Stage II tests. However, Stage II requirements in Arizona do not automatically go away as the state still needs to finalize calculations as to the air quality impacts locally, and demonstrate that the region can still maintain ozone air quality standards.

Over the next year, the Maricopa Association of Governments (MAG) and the Arizona Department of Environmental Quality (ADEQ) will be reviewing Arizona’s vapor recovery Stage II requirements.

## Weights and Measures Finds 86% Failure at BBQ Propane Refuel Spots

*Audit of propane tank refill locations find numerous discrepancies*

Recent unannounced inspections conducted by the Weights and Measures reveals an alarming failure rate at propane filling locations where Arizona consumers refill their propane barbecue tanks. According to test results conducted between April 1st and May 10th 2012, fully nineteen of twenty-two locations resulted in inaccurate individual propane meters being discovered.

The silver lining for shoppers was that in the majority of cases, consumers are receiving more than they paid for. In all, Weights and Measures tested 26 individual propane meters at 22 locations throughout Arizona.

3 locations were tested and received a perfect 100% percent compliance rating.

9 locations were tagged with 35 individual meter violations,

10 meters were out of tolerance in the customers favor,

3 meter violations were cited for shorting the public and the propane refilling equipment was placed out of service.

8 locations were cited for violations as the price for propane was missing altogether or not located in plain sight for the customer. State law requires the price must be on or adjacent to the device.



Civil penalties will be assessed on all violations considered detrimental to the consumer.

The propane dispensers tested were located at gas stations, RV parks, rental yards and even a smoke shop. Of the 22 locations reviewed, Department officials also found a wide range of violations from meters that would not zero, to devices that would suddenly stop working in the middle of the test, to meters in which the required tamper proof seals were missing or broken.

“In this tough economic climate the consumer should always get what they pay for in all aspects of commerce, yet it is of paramount importance that the propane

industry also put in place a strong self maintenance program” stated Kevin Tyne Director of the Department of Weights and Measures. “To find this many meters out of calibration in this competitive market is hopefully an eye opener to the industry itself.” added Tyne.

The most unexpected violation occurred at 8 of the 22 separate locations, where the price for propane was completely missing or not available for customers review.

“Arizona consumers should never have to guess at what the price is, whether its propane, gasoline or any commodity offered or exposed for sale, and it is clear to me that based on the dismal results of these 26 locations, further inspections are certainly warranted” added Tyne.

The Department of Weights and Measures inspectors travel all across the state each day conducting unannounced inspections at retail, for more information, or to file a complaint contact the Arizona Department of Weights and Measures at (602) 771 – 4920 or to file a complaint online please visit our website at [www.azdwm.gov](http://www.azdwm.gov).

Arizona Department of Weights and Measures  
**TOP TEN CONSUMER COMPLAINTS**  
 February, 2012 – May 2012

<u>Type</u>	<u># of complaints</u>		
<b>1. Gas Pump (operational) –</b> <i>Defective Equipment/Amount Dispensed</i>	<b>195</b>	<b>6. Small Scales –</b> <i>Defective equipment/price</i>	<b>22</b>
<b>2. Price of Gasoline –</b> <i>Price/advertising/billing dispute</i>	<b>131</b>	<b>7. Large Scales –</b> <i>Price/defective equipment</i>	<b>17</b>
<b>3. Cash register/UPC scanner –</b> <i>Price discrepancy/billing dispute</i>	<b>47</b>	<b>8. Fuel Quality –</b> <i>Octane Discrepancy/Quality dispute</i>	<b>14</b>
<b>4. Vehicles for Hire (Taxi/Limo) –</b> <i>Taxi overcharges/billing dispute</i>	<b>34</b>	<b>9. Packaging –</b> <i>Weight discrepancy/advertising discrepancy</i>	<b>10</b>
<b>5. Retail Price Posting –</b> <i>Price/advertising/billing dispute</i>	<b>29</b>	<b>10. Moving –</b> <i>Price/advertising discrepancy/billing dispute</i>	<b>5</b>

**Collaborative Law Enforcement Effort Leads to Drug Seizure**

*DWM State Investigators assist local police with confiscation of 8 Kilo's of illegal drugs*

Recently, the Arizona Department of Weights and Measures joined with local and federal law enforcement agencies to execute an operation that resulted in a major drug seizure.

The Multi-Enforcement Group targeted illegal substance usage specifically within the Arizona taxi community.

The operation which currently has culminated in the arrest of one driver, the seizure of the vehicle and approximately 8 kilos of illegal substances; is still on-going and will likely lead to other arrests.

Both uniform and undercover officers, using various vehicles including a taxi, observed the loading and transportation of the illegal substances via a taxicab.

Ultimately, the suspect and taxi was stopped once it was on city streets.

Upon inspection, numerous violations were uncovered; including violations of both Weights and Measures laws and other serious criminal infractions as well.

Thanks to the quick actions by Weights and Measures investigators to assist in



*Multi Enforcement Group operation (including AZ DWM) seizes taxi vehicle carrying illicit drugs confiscated in the trunk*

the operation, law enforcement officers were ultimately successful in the protection of the public by seizing the illegal substances before they could be sold or released out onto the streets. In recent years, Weights and Measures has been

proactive in assisting law enforcement and collaborating in joint enforcement operations at gas stations, in moving company investigations, and with taxi cab businesses specifically suspected of criminal activity.

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## LEGISLATIVE/REGULATORY UPDATE

### 2012 New Laws

**SB 1497/HB 2103 – Taxi Maintenance Records** – (*Sponsored by Sen. Burges, signed by Governor Brewer*) – Clarifies last year's bill which required owners of taxi, livery and limousines to keep vehicle maintenance records. This year's new law would define those records at a minimum, to include the vehicle's brake and tire inspection data.

### CLARIFICATION — 2011 Rulemaking

**R-20-2-759 - Test Methods for Arizona CBG and AZRBOB— (amended March 12, 2011)** - While this rule's footnote gives the impression that the CARB equation is to be utilized by registered suppliers when certifying Arizona CBG or AZRBOB, the Environmental Protection Agency has not approved this equation for use in Arizona. Until such time as this equation is approved for use in Arizona by the EPA (or another compliant alternative is found), all suppliers must use the ASTM equation.

# Consumer Q & A

**Q: I know Weights and Measures checks the gas pump dispensers at a service station to make sure the customers are getting what they pay for; but who checks to make sure the actual fuel being sold commercially is up to specifications?**

**A: Unlike many other states, Arizona's Department of Weights and Measures investigators are conducting all sorts of inspections at a gas station including that the gas pump is calibrated to provide accurate amounts of fuel, that federal requirements to retain ozone emissions are followed, and to verify the quality of fuel (including that the octane level and amount of ethanol is correct). Our investigators carry portable fuel analyzers with them which provide instant results and are followed up via laboratory analysis.**

**Q: What do the different color stickers in the rear window of taxi's mean?**

**A: According to Arizona statute §41-2091, every taxi in Arizona shall have a Weights and Measures License Decal posted on the rear window, and each of those vehicles is to be re-licensed by June 1 of each year. From June 1, 2012 till May 31, 2013, the decals are green, but they change color annually. The decal indicates that the driver is registered and the vehicle is properly insured. Weights and Measures inspects all taxi, limousine or livery operators to prove that they have met these requirements before they are issued a decal that designates them as legally for hire.**