



November 6, 2009

SELLING FARM DIRECT

I had a question come in last week from an area farmer that was a good one. He is gearing up next year to sell at farmers markets in Lincoln and surrounding areas. The question was about weighing produce and the type of scale needed.

Retail sale of fruits, vegetables, and other items is regulated by the Nebraska Weights and Measures Act within the Nebraska Department of Agriculture. Farmers market vendors may erroneously believe that they are 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. They are wrong. The Nebraska Weights and Measures Act applies to all sales regardless of volume.

The regulation was established to ensure that buyers receive sufficient and accurate information with which to compare quantity and price. Even if you sell by count, “Three ears of corn for \$1.00,” for example, compliance with the Weights and Measures Act is necessary. As a vendor, complying with the regulations protects you from perceptions of shortchanging or misrepresenting your product. Also, consumers have an even playing field when buying produce at markets.

Direct sales, which may occur at a farmers’ market, roadside stand or pickup, are those where the weight of the product is determined at the time of the sale. For example, when a customer tells the seller he wants “two pounds of those potatoes,” the seller places potatoes on the scale until it reads two pounds. This scale is being used for direct sales. Scales used in direct sales must be registered and certified by the Division of Nebraska Weights and Measures of the Nebraska Department of Agriculture (NDA). To be certified, the scales must be designed for commercial use.

Not all scales can be certified. Almost all home postal scales, baby scales, diet scales, or other portion-type scales were not manufactured to meet the standards necessary for commercial trade and certification. It doesn’t matter if it is an analog or digital scale. It doesn’t matter if it will give you a weight of 0.01 gram or a fraction of an ounce. Many scales available at office supply stores cannot be certified for legal trade. Scales for direct sales in commercial trade must meet certain standards, be registered with the NDA, and be certified yearly as accurate. A stamp is placed on the scale indicating it is certified. It is illegal to sell by weight using an uncertified scale. Direct sales by weight or measure also are called bulk sales by weight or measure.

If purchasing a scale, new or used, get the make and model number and call the Nebraska Weights and Measures before you buy it to be certain it can be certified. Make sure the scale, whether new or used, is NTEP certified which means it passed rigorous national testing protocol across various temperature, time and use conditions. Certifiable used scales may be available at a reasonable cost, as many grocery stores replace older models of scales for electronic scanners and scales. For more information on scales, permits and certifying process, call the NDA Division of Weights and Measures, (402) 471-4292. An excellent NebGuide is also available, just simply Google the key words “G1944 UNL NebGuide.”

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