



General Assembly

Substitute Bill No. 6983

January Session, 2007

* _____ HB06983JUD__041307_____ *

**AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN
PROFESSIONAL AND OCCUPATIONAL LICENSING, CERTIFICATION
AND REGISTRATION LAWS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 20-332 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (c) If, after a hearing in accordance with the regulations adopted by
5 the Commissioner of Consumer Protection, it appears that the
6 provisions of this chapter or the regulations adopted under this
7 chapter have been violated, in addition to the penalties in this chapter,
8 the appropriate examining board, or the commissioner or the
9 commissioner's authorized agent, shall report such violation to the
10 office of the state's attorney for the [superior court for the] judicial
11 district in which such violation occurred.

12 Sec. 2. Section 20-341 of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2007*):

14 (a) Any person who engages in or practices the work or occupation
15 for which a license is required by this chapter without having first
16 obtained an apprentice permit or a certificate and license for such
17 work, or who wilfully employs or supplies for employment a person

18 who does not have a certificate and license for such work, or who
19 wilfully and falsely pretends to qualify to engage in or practice such
20 work or occupation, or who engages in or practices any of the work or
21 occupations for which a license is required by this chapter after the
22 expiration of [his] such person's license, or who violates any other
23 provision of this chapter, [unless the penalty is otherwise specifically
24 prescribed, shall be fined not more than two hundred dollars for each
25 such violation] shall be guilty of a class B misdemeanor, provided no
26 criminal charges shall be instituted against such person pursuant to
27 this subsection unless the work activity in question is reviewed by the
28 Commissioner of Consumer Protection, or the commissioner's
29 authorized agent, and the commissioner or such agent specifically
30 determines that such work activity requires a license and is not a bona
31 fide dispute between persons engaged in any trade or craft, whether
32 licensed or unlicensed. Notwithstanding the provisions of subsection
33 (d) of section 53a-29 and subsection (d) of section 54-56e, if the court
34 determines that such person cannot fully repay any victims of such
35 person within the period of probation established in subsection (d) of
36 section 53a-29 or subsection (d) of section 54-56e, the court may impose
37 probation for a period of not more than five years. The penalty
38 provided in this subsection shall be in addition to any other penalties
39 and remedies available under this chapter or chapter 416.

40 (b) The appropriate examining board or the Commissioner of
41 Consumer Protection may, after notice and hearing, impose a civil
42 penalty on any person who engages in or practices the work or
43 occupation for which a license or apprentice registration certificate is
44 required by this chapter, chapter 394 or chapter 482 without having
45 first obtained such a [certificate or] license or certificate, or who
46 wilfully employs or supplies for employment a person who does not
47 have such a license or certificate or who wilfully and falsely pretends
48 to qualify to engage in or practice such work or occupation, or who
49 engages in or practices any of the work or occupations for which a
50 license or certificate is required by this chapter, chapter 394 or chapter
51 482 after the expiration of the license or certificate or who violates any

52 of the provisions of this chapter, chapter 394 or chapter 482 or the
53 regulations adopted pursuant thereto. Such penalty shall be in an
54 amount not more than one thousand dollars for a first violation of this
55 subsection, not more than one thousand five hundred dollars for a
56 second violation of this subsection and not more than three thousand
57 dollars for each violation of this subsection occurring less than three
58 years after a second or subsequent violation of this subsection, except
59 that any individual employed as an apprentice but improperly
60 registered shall not be penalized for a first offense.

61 (c) If an examining board or the Commissioner of Consumer
62 Protection imposes a [fine or] civil penalty under the provisions of
63 subsection (b) of this section as a result of a violation initially reported
64 by a municipal official, the commissioner shall, not less than sixty days
65 after collecting such [fine or] civil penalty, remit one-half of the
66 amount collected to such municipality.

67 (d) A violation of any of the provisions of this chapter shall be
68 deemed an unfair or deceptive trade practice under subsection (a) of
69 section 42-110b.

70 (e) This section shall not apply to any person who (1) holds a license
71 issued under this chapter, chapter 392 or chapter 482 and engages in
72 incidental work in an occupation for which a different license is
73 required, or (2) engages in work that is not licensable, including any of
74 the following activities: (A) The unloading or hoisting of any material
75 related to work for which a license is required; (B) millwright work,
76 including the dismantling, placing, erecting, assembling, aligning,
77 leveling and adjusting of all machinery, apparatus, devices and
78 component parts of gas and steam turbine powertrains and equipment;
79 (C) carpentry work, including the installation and replacement of
80 safety-backed mirror products, glass or metal railing assemblies or
81 architectural louvers; and (D) the installation and replacement of
82 aeration and odor control systems in water and waste water treatment
83 facilities.

84 Sec. 3. Section 21a-8 of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2007*):

86 (a) The Department of Consumer Protection shall have the
87 following powers and duties [,] with regard to each board or
88 commission transferred to the Department of Consumer Protection
89 under section 21a-6:

90 (1) The department shall control the allocation, disbursement and
91 budgeting of funds appropriated to the department for the operation
92 of each board or commission transferred to said department.

93 (2) The department shall employ and assign such personnel as the
94 commissioner deems necessary for the performance of each [board]
95 board's or commission's functions.

96 (3) The department shall perform all management functions,
97 including purchasing, bookkeeping, accounting, payroll, secretarial,
98 clerical, record-keeping and routine housekeeping functions.

99 (4) The department shall conduct any necessary review, inspection
100 or investigation regarding qualifications of applicants for licenses or
101 certificates, possible violations of statutes or regulations, accreditation
102 of schools, disciplinary matters and the establishment of regulatory
103 policy, and make recommendations to the appropriate board or
104 commission. In connection with any such investigation, the
105 Commissioner of Consumer Protection, or the commissioner's
106 authorized agent, may administer oaths, issue subpoenas, compel
107 testimony and order the production of books, records and documents.
108 If any person refuses to appear, to testify or to produce any book,
109 record or document when so ordered, a judge of the Superior Court
110 may make such order as may be appropriate to aid in the enforcement
111 of this section.

112 (5) The department shall administer any examinations necessary to
113 ascertain the qualifications of applicants for licenses or certificates and
114 shall issue licenses or certificates to qualified applicants. The

115 department shall maintain rosters of licensees or registrants [updated]
116 and update such rosters annually, and may provide copies of such
117 rosters to the public for an appropriate fee.

118 (6) The department shall conduct any necessary investigation and
119 follow-up in connection with complaints regarding persons subject to
120 regulation or licensing by the board or commission.

121 (7) The department shall perform any other function necessary to
122 the effective operation of the board or commission and not specifically
123 vested by statute in the board or commission.

124 (8) The department shall receive complaints concerning the work
125 and practices of persons licensed, registered or certified by such boards
126 or commissions and shall receive complaints concerning unauthorized
127 work and practice by persons not licensed, registered or certified by
128 such boards or commissions. The department shall distribute monthly
129 a list of all complaints received within the previous month to the
130 chairperson of the appropriate board or commission. The department
131 shall screen all complaints and dismiss any in which the allegation, if
132 substantiated, would not constitute a violation of any statute or
133 regulation. The department shall distribute notice of all such
134 dismissals monthly to the chairperson of the appropriate board or
135 commission. The department shall investigate any complaint in which
136 the allegation, if substantiated, would constitute a violation of a statute
137 or regulation under its jurisdiction. In conducting the investigation, the
138 commissioner may seek the assistance of a member of the appropriate
139 board, an employee of any state agency with expertise in the area, or if
140 no such member or employee is available, a person from outside state
141 service licensed to perform the work involved in the complaint. Board
142 or commission members involved in an investigation shall not
143 participate in disciplinary proceedings resulting from such
144 investigation. The Commissioner of Consumer Protection may dismiss
145 a complaint following an investigation if the commissioner determines
146 that such complaint lacks probable cause. Notice of such dismissal
147 shall be given only after approval by the chairperson of the

148 appropriate board or commission. The commissioner may authorize a
149 settlement if the settlement is approved by the complainant, the
150 practitioner, and the board or commission. The commissioner may
151 bring a complaint before the appropriate board or commission for a
152 formal hearing if [he] the commissioner determines that there is
153 probable cause to believe that the offense alleged in the complaint has
154 been committed and that the practitioner named in the complaint was
155 responsible. The commissioner, or the commissioner's authorized
156 agent, shall have the power to issue subpoenas to require the
157 attendance of witnesses or the production of records, correspondence,
158 documents or other evidence in connection with any hearing of a
159 board or commission. All dispositions and final decisions by the
160 Department of Consumer Protection after an investigation into a
161 complaint has begun shall be forwarded to the chairperson of the
162 appropriate board or commission on a monthly basis.

163 (9) The department may contract with a third party, if the
164 commissioner deems it necessary and if the appropriate board or
165 commission consents, to administer licensing examinations and
166 perform all attendant administrative functions in connection with such
167 examination and to monitor continuing professional education
168 requirements, and may require the payment of a fee to such third
169 party.

170 (b) The Commissioner of Consumer Protection shall have the
171 following powers and duties with regard to each board or commission
172 transferred to the Department of Consumer Protection under section
173 21a-6:

174 (1) The commissioner may, in the commissioner's discretion, issue
175 an appropriate order to any person found to be violating any statute or
176 regulation within the jurisdiction of such board or commission
177 providing for the immediate discontinuance of the violation or
178 requiring the violator to make restitution for any damage caused by
179 the violation, or both. The commissioner may, through the Attorney
180 General, petition the superior court for the judicial district in which the

181 violation occurred, or in which the person committing the violation
182 resides or transacts business, for the enforcement of any order issued
183 by the commissioner under this subdivision and for appropriate
184 temporary relief or a restraining order. The commissioner shall certify
185 and file in the court a transcript of the entire record of the hearing or
186 hearings, including all testimony upon which such order was made
187 and the findings and orders made by the commissioner. The court may
188 grant such relief by injunction or otherwise, including temporary
189 relief, as the court deems equitable and may make and enter a decree
190 enforcing, modifying and enforcing as so modified, or setting aside, in
191 whole or in part, any order of the commissioner issued under this
192 subdivision.

193 (2) The commissioner may conduct hearings on any matter within
194 the statutory jurisdiction of such board or commission. Such hearings
195 shall be conducted in accordance with chapter 54 and the regulations
196 established pursuant to subsection (a) of section 21a-9, as amended by
197 this act. In connection with any such hearing, the commissioner may
198 administer oaths, issue subpoenas, compel testimony and order the
199 production of books, records and documents. If any person refuses to
200 appear, testify or produce any book, record or document when so
201 ordered, a judge of the Superior Court may make such order as may be
202 appropriate to aid in the enforcement of this subdivision.

203 (3) In addition to any other action permitted under the general
204 statutes, the commissioner may, upon a finding of any cause specified
205 in subsection (c) of section 21a-9, as amended by this act: (A) Revoke or
206 suspend a license, registration or certificate; (B) issue a letter of
207 reprimand to a practitioner and send a copy of such letter to a
208 complainant or to a state or local official; (C) place a practitioner on
209 probationary status and require the practitioner to (i) report regularly
210 to the commissioner on the matter which is the basis for probation, (ii)
211 limit the practitioner's practice to areas prescribed by the
212 commissioner, or (iii) continue or renew the practitioner's education
213 until the practitioner has attained a satisfactory level of competence in
214 any area which is the basis for probation. The commissioner may

215 discontinue, suspend or rescind any action taken under this
216 subdivision.

217 Sec. 4. Section 21a-9 of the general statutes is repealed and the
218 following is substituted in lieu thereof (*Effective October 1, 2007*):

219 (a) With regard to the boards and commissions within the
220 Department of Consumer Protection, the Commissioner of Consumer
221 Protection (1) shall adopt uniform rules of procedure, consistent with
222 chapter 54, for hearings and other proceedings to be conducted by the
223 boards or commissions or by the commissioner and for the giving of
224 notice to persons affected by such proceedings, and (2) may, where
225 authorized by statute, adopt regulations regarding any subject within
226 the jurisdiction of a board or commission.

227 (b) Any rules of procedure and regulations adopted pursuant to this
228 section shall be adopted in accordance with chapter 54. No regulation
229 shall be adopted pursuant to this section until the appropriate board or
230 commission has had reasonable opportunity to review the proposed
231 regulation and to offer comments thereon.

232 (c) Each such board or commission may act in accordance with the
233 provisions of subdivision (7) of section 21a-7, and the commissioner
234 may act in accordance with the provisions of subdivision (3) of
235 subsection (b) of section 21a-8, as amended by this act, in the case of a
236 practitioner who: (1) Engages in fraud or material deception in order to
237 obtain a license, registration or certificate issued by the board or
238 commission or to aid another in obtaining a license, registration or
239 certificate issued by the board or commission; (2) performs work
240 beyond the scope of the license, registration or certificate issued by the
241 board or commission; (3) illegally uses or transfers a license,
242 registration or certificate issued by the board or commission; (4)
243 performs incompetent or negligent work; (5) makes false, misleading
244 or deceptive representations to the public; (6) has been subject to
245 disciplinary action similar to that specified in subdivision (7) of section
246 21a-7 or subdivision (3) of subsection (b) of section 21a-8, as amended

247 by this act, by a duly authorized professional agency of the United
248 States, any state within the United States, the District of Columbia, a
249 United States possession or territory or a foreign jurisdiction; or (7)
250 violates any provision of the general statutes or any regulation
251 established thereunder, relating to the practitioner's profession or
252 occupation.

253 (d) As used in chapters 390, 391, 392, 393, 394, 396, 400g, 400j, 482
254 and 400l:

255 (1) "Certificate" includes the whole or part of any Department of
256 Consumer Protection permit which the department issues under
257 authority of the general statutes and which (A) authorizes practice of
258 the profession by certified persons but does not prohibit the practice of
259 the profession by others, not certified, (B) prohibits a person from
260 falsely representing that such person is certified to practice the
261 profession unless the person holds a certificate issued by the
262 department, and (C) requires as a condition of certification that a
263 person submit specified credentials to the department which attest to
264 qualifications to practice the profession.

265 (2) "License" includes the whole or part of any Department of
266 Consumer Protection permit, approval, or similar form of permission
267 which the department issues under authority of the general statutes
268 and which requires (A) practice of the profession by licensed persons
269 only, (B) demonstration of competence to practice by examination or
270 other means and meeting of certain minimum standards, and (C)
271 enforcement of standards by the department or regulatory board or
272 commission.

273 (3) "Registration" includes the whole or part of any Department of
274 Consumer Protection permit which the department issues under
275 authority of the general statutes and which (A) requires persons to
276 place their names on a list maintained by the department before they
277 can engage in the practice of a specified profession or occupation, (B)
278 does not require a person to demonstrate competence by examination

279 or other means, and (C) may be revoked or suspended by the
280 commissioner for cause.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	20-332(c)
Sec. 2	<i>October 1, 2007</i>	20-341
Sec. 3	<i>October 1, 2007</i>	21a-8
Sec. 4	<i>October 1, 2007</i>	21a-9

JUD *Joint Favorable Subst.*