



Senate

General Assembly

File No. 121

January Session, 2009

Substitute Senate Bill No. 849

Senate, March 19, 2009

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL ENFORCEMENT OF OCCUPATIONAL LICENSURE LAWS.

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

1 Section 1. Section 29-261 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) The building official, to be eligible for appointment, shall have
4 had at least five years' experience in construction, design or
5 supervision and assistant building officials shall have had at least three
6 years' experience in construction, design or supervision, or equivalent
7 experience as determined by the Commissioner of Public Safety. They
8 shall be generally informed on the quality and strength of building
9 materials, on the accepted requirements of building construction, on
10 the accepted requirements of design and construction relating to
11 accessibility to and use of buildings by the physically disabled, on
12 good practice in fire prevention, on the accepted requirements
13 regarding light and ventilation, on the accepted requirements for safe
14 exit facilities and on other items of equipment essential for the safety,

15 comfort and convenience of occupants and shall be certified under the
16 provisions of section 29-262.

17 (b) The building official or assistant building official shall pass upon
18 any question relative to the mode, manner of construction or materials
19 to be used in the erection or alteration of buildings or structures,
20 pursuant to applicable provisions of the State Building Code and in
21 accordance with rules and regulations adopted by the Department of
22 Public Safety. They shall require compliance with the provisions of the
23 State Building Code, of all rules lawfully adopted and promulgated
24 thereunder and of laws relating to the construction, alteration, repair,
25 removal, demolition and integral equipment and location, use,
26 accessibility, occupancy and maintenance of buildings and structures,
27 except as may be otherwise provided for.

28 (c) A building official may request proof of licensure from any
29 person at a construction site for which a building permit was issued. If
30 such official finds any person engaging in or practicing work in an
31 occupation for which a license is required under chapters 393 and
32 393a, without first having obtained an apprentice permit or a license
33 for such work or occupation, the building official may notify the
34 Commissioner of Consumer Protection of such violation and may issue
35 a written order and personally deliver such order or send such order
36 by certified mail to the person holding such building permit. Such
37 order may require that any person working at such site without the
38 required permit or license shall cease work at the site immediately. The
39 unlicensed person may perform such work or occupation at the
40 construction site upon submission of documentation satisfactory to the
41 building official of compliance under said chapters 393 and 393a.

42 (d) The building official or his assistant shall have the right of entry
43 to such buildings or structures, except single-family residences, for the
44 proper performance of his duties between the hours of nine a.m. and
45 five p.m., except that in the case of an emergency he shall have the
46 right of entry at any time, if such entry is necessary in the interest of
47 public safety.

48 (e) Notwithstanding any provision of the Freedom of Information
49 Act, as defined in section 1-200, or the State Building Code, upon
50 receipt of a written request signed by the owner of plans and
51 specifications on file for a single-family dwelling or out-building, the
52 building official shall immediately return the original plans and
53 specifications to the owner after a certificate of occupancy is issued
54 with respect to the plans and specifications.

55 Sec. 2. Section 20-341 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective July 1, 2009*):

57 (a) Any person who wilfully engages in or practices the work or
58 occupation for which a license is required by this chapter without
59 having first obtained an apprentice permit or a certificate and license
60 for such work, or who wilfully employs or supplies for employment a
61 person who does not have a certificate and license for such work, or
62 who wilfully and falsely pretends to qualify to engage in or practice
63 such work or occupation, or who wilfully engages in or practices any
64 of the work or occupations for which a license is required by this
65 chapter after the expiration of such person's license, shall be guilty of a
66 class B misdemeanor, provided no criminal charges shall be instituted
67 against such person pursuant to this subsection unless the work
68 activity in question is reviewed by the Commissioner of Consumer
69 Protection, or the commissioner's authorized agent, and the
70 commissioner or such agent specifically determines, in writing, that
71 such work activity requires a license and is not the subject of a bona
72 fide dispute between persons engaged in any trade or craft, whether
73 licensed or unlicensed. Notwithstanding the provisions of subsection
74 (d) or (e) of section 53a-29 and subsection (d) of section 54-56e, if the
75 court determines that such person cannot fully repay any victims of
76 such person within the period of probation established in subsection
77 (d) or (e) of section 53a-29 or subsection (d) of section 54-56e, the court
78 may impose probation for a period of not more than five years. The
79 penalty provided in this subsection shall be in addition to any other
80 penalties and remedies available under this chapter or chapter 416.

81 (b) The appropriate examining board or the Commissioner of
82 Consumer Protection may, after notice and hearing, impose a civil
83 penalty on any person who engages in or practices the work or
84 occupation for which a license or apprentice registration certificate is
85 required by this chapter, chapter 394 or chapter 482 without having
86 first obtained such a license or certificate, or who wilfully employs or
87 supplies for employment a person who does not have such a license or
88 certificate or who wilfully and falsely pretends to qualify to engage in
89 or practice such work or occupation, or who engages in or practices
90 any of the work or occupations for which a license or certificate is
91 required by this chapter, chapter 394 or chapter 482 after the expiration
92 of the license or certificate or who violates any of the provisions of this
93 chapter, chapter 394 or chapter 482 or the regulations adopted
94 pursuant thereto. Such penalty shall be in an amount not more than
95 one thousand dollars for a first violation of this subsection, not more
96 than one thousand five hundred dollars for a second violation of this
97 subsection and not more than three thousand dollars for each violation
98 of this subsection occurring less than three years after a second or
99 subsequent violation of this subsection, except that any individual
100 employed as an apprentice but improperly registered shall not be
101 penalized for a first offense.

102 (c) If an examining board or the Commissioner of Consumer
103 Protection imposes a civil penalty under the provisions of subsection
104 (b) of this section as a result of a violation initially reported by a
105 municipal building official in accordance with subsection (c) of section
106 29-261, as amended by this act, the commissioner shall, not less than
107 sixty days after collecting such civil penalty, remit one-half of the
108 amount collected to such municipality.

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

112 (e) This section shall not apply to any person who (1) holds a license
113 issued under this chapter, chapter 394 or chapter 482 and performs

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 10 \$ | FY 11 \$ |
|----------------------------|-------------------|----------|----------|
| Consumer Protection, Dept. | GF - Revenue Gain | Minimal | Minimal |

Note: GF=General Fund

Municipal Impact:

| Municipalities | Effect | FY 10 \$ | FY 11 \$ |
|--------------------|--------------|----------|----------|
| All Municipalities | Revenue Loss | Minimal | Minimal |

Explanation

The bill results in a minimal revenue gain to the state and conversely a minimal revenue loss to municipalities by narrowing the circumstances under which a municipality gets half the revenue from fines collected for certain occupational violations. Under current law the sharing of fine revenue can occur if any town official makes a report. The bill narrows the fine sharing to reports made by local building officials.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 849*****AN ACT CONCERNING MUNICIPAL ENFORCEMENT OF OCCUPATIONAL LICENSURE LAWS.*****SUMMARY:**

This bill narrows the circumstances under which a municipality gets half the revenue from fines collected for certain occupational violations. It also codifies a local building official's authority to notify the consumer protection commissioner of anyone working at a building construction site without the requisite permit or license.

EFFECTIVE DATE: July 1, 2009

FINES AND PENALTIES

By law, the consumer protection commissioner or appropriate occupational examining board may levy civil penalties on people who violate occupational licensing laws by working without the requisite license or certificate. Under current law, the commissioner must remit to municipalities one-half of the amount he collects from penalties for violations initially reported by a municipal official. The bill limits municipal remittances to fines collected in cases (1) reported by building officials, rather than all municipal officials, and (2) involving violations of chapter 393 at a building construction site. Under current law, remittances also apply to violations of chapters 394 and 482 (see BACKGROUND).

BACKGROUND***Occupational Licensing and Examining Boards***

The law establishes examining boards to (1) determine who is qualified to take a licensing examination, (2) create or select the appropriate licensing examination, (3) determine who is qualified for a license, (4) rule on disciplinary matters, and (5) recommend

regulations to the consumer protection commissioner. The occupations the boards oversee are shown on Table 1.

Table 1: Occupations Overseen by Examining Boards

| <i>Chapter 393</i> | <i>Chapter 394</i> | <i>Chapter 482</i> |
|--|---|---------------------------|
| Electricians, plumbers, solar heating and piping contractors and journeymen, elevator and fire protection sprinkler craftsmen, irrigation contractors and journeymen, gas hearth installer contactors and journeymen | TV and radio service dealers and electronic technicians | Well drilling contractors |

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference

Yea 20 Nay 0 (02/17/2009)

General Law Committee

Joint Favorable

Yea 18 Nay 0 (03/05/2009)