



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

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LOCAL 90

Good afternoon Senators Colapietro and Witkos, Representatives Shapiro and Bacchiochi, members of the General Law Committee, my name is Roger Johnson. I have sat on the CT Electrical Licensing and Examining Board since 1997 and am here on behalf of the IBEW to testify in support of HB 5220 AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING, CERTIFICATION AND REGISTRATION LAWS.

To provide some brief background, there was legislation enacted in 2007 which made a variety of changes to the occupational and professional licensing and certification laws. The IBEW worked with the Department of Consumer Protection (DCP) on some aspects of that bill, as there were some provisions within the legislation that the IBEW could support. Having said that, one

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piece of the legislation which dealt with enforcement of occupational licensing laws bestowed authority in enforcing such laws to the DCP that was previously held solely by the occupational licensing boards.

While it was not fully recognized at the time, it appears to the IBEW that an unintended consequence of this law has resulted in the Electrical Examining Board (the Board) being void of all responsibility and influence when it comes to oversight of the electrical licensing laws. In the first quarter of 2008 alone the department received 87 complaints and closed out another 166 complaints. All of this disciplinary action was handled within the commissioner's office. While the original intent of the 2007 legislation, as we understood, was to allow both the Commissioner and the Boards to administer disciplinary action upon finding violations of the occupational licensing laws, in the year 2008 the Board has not seen a single case come across its desk. The Commissioner is not required to send cases to the Boards before

imposing discipline. Consequently, the Boards are left in the dark when it comes to knowing how often individuals in the field are being found to violate licensing laws, and are also unaware when and if there is proper punishment.

The IBEW feels this is most importantly an issue of safety and quality. We do not feel confident at this time that occupational licensing laws are being enforced in a strict manner. We feel that if the Examining Boards are acknowledged and included in the disciplinary process, we can feel confident offenders will receive suitable penalties, and therefore maintain the integrity of our industry.

We have attached language we feel will address our concerns. We are willing to be active participants in ongoing discussion to craft language and resolve the issue.

Thank you for your time.

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:

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

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

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

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

(b) The appropriate examining board [or] and the Commissioner of Consumer Protection may, after notice and hearing, impose a civil penalty on any person who engages in or practices the work or occupation for which a license or apprentice

registration certificate is required by this chapter, chapter 394 or chapter 482 without having first obtained such a license or certificate, or who willfully employs or supplies for employment a person who does not have such a license or certificate or who willfully and falsely pretends to qualify to engage in or practice such work or occupation, or who engages in or practices any of the work or occupations for which a license or certificate is required by this chapter, chapter 394 or chapter 482 after the expiration of the license or certificate or who violates any of the provisions of this chapter, chapter 394 or chapter 482 or the regulations adopted pursuant thereto. Such penalty shall be in an amount not more than one thousand dollars for a first violation of this subsection, not more than one thousand five hundred dollars for a second violation of this subsection and not more than three thousand dollars for each violation of this subsection occurring less than three years after a second or subsequent violation of this subsection, except that any individual employed as an apprentice but improperly registered shall not be penalized for a first offense.

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

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

(e) This section shall not apply to any person who (1) holds a license issued under this chapter, chapter 394 or chapter 482 and performs work that is incidentally, directly and immediately appropriate to the performance of such person's trade where such work commences at an outlet, receptacle or connection previously installed by a person holding the proper license, or (2) engages in work that does not require a license under this chapter, chapter 394 or chapter 482.

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

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

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

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

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

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

(5) The department shall administer any examinations necessary to ascertain the qualifications of applicants for licenses or certificates and shall issue licenses or certificates to qualified applicants. The department shall maintain rosters of licensees or registrants and update such rosters annually, and may provide copies of such rosters to the public for an appropriate fee.

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

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

(8) The department shall receive complaints concerning the work and practices of persons licensed, registered or certified by such boards or commissions and shall receive complaints concerning unauthorized work and practice by persons not licensed, registered or certified by such boards or commissions. The department shall distribute monthly a list of all complaints received within the previous month to the chairperson of the appropriate board or commission. The department shall screen all complaints and dismiss any in which the allegation, if substantiated, would not constitute a violation of any statute or regulation. The department shall distribute notice of all such dismissals monthly to the chairperson of the appropriate board or commission. The department shall investigate any complaint in which the allegation, if substantiated, would constitute a violation of a statute or regulation under its jurisdiction. In

conducting the investigation, the commissioner may seek the assistance of a member of the appropriate board, an employee of any state agency with expertise in the area, or if no such member or employee is available, a person from outside state service licensed to perform the work involved in the complaint. Board or commission members involved in an investigation shall not participate in disciplinary proceedings resulting from such investigation. The Commissioner of Consumer Protection may dismiss a complaint following an investigation if the commissioner determines that such complaint lacks probable cause. Notice of such dismissal shall be given only after approval by the chairperson of the appropriate board or commission. The commissioner may authorize a settlement if the settlement is approved by the complainant, the practitioner, and the board or commission. The commissioner may bring a complaint before the appropriate board or commission for a formal hearing if the commissioner determines that there is probable cause to believe that the offense alleged in the complaint has been committed and that the practitioner named in the complaint was responsible. The commissioner, or the commissioner's authorized agent, shall have the power to issue subpoenas to require the attendance of witnesses or the production of records, correspondence, documents or other evidence in connection with any hearing of a board or commission. All dispositions and final decisions by the Department of Consumer Protection after an investigation into a complaint has begun shall be forwarded to the chairperson of the appropriate board or commission on a monthly basis.

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

(b) The Commissioner of Consumer Protection and the appropriate examining board shall have the following powers and duties with regard to each board or commission. [transferred to the Department of Consumer Protection under section 21a-6:]

(1) The commissioner or board [may] shall, [in the commissioner's discretion,] issue an appropriate order to any person found to be violating any statute or regulation within the jurisdiction of such board or commission providing for the immediate discontinuance of the violation or requiring the violator to make restitution for any damage caused by the violation, or both. The commissioner [may] shall, through the Attorney General, petition the superior court for the judicial district in which the violation occurred, or in which the person committing the violation resides or transacts business, for the enforcement of any order issued by the commissioner under this subdivision and for appropriate temporary relief or a restraining order. The commissioner shall certify and file in the court a transcript of the entire record of the hearing or hearings, including all testimony upon which such order was made and the

findings and orders made by the commissioner. The court may grant such relief by injunction or otherwise, including temporary relief, as the court deems equitable and may make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, any order of the commissioner issued under this subdivision.

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

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

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

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

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

(c) Each such board or commission may act in accordance with the provisions of subdivision (7) of section 21a-7, and the commissioner may act in accordance with the provisions of subdivision (3) of subsection (b) of section 21a-8, as amended by this act, in the case of a practitioner who: (1) Engages in fraud or material deception in order to obtain a license, registration or certificate issued by the board or commission or to aid another in obtaining a license, registration or certificate issued by the board or commission; (2) performs work beyond the scope of the license, registration or certificate issued by the board or commission; (3) illegally uses or transfers a license, registration or certificate issued by the board or commission; (4) performs incompetent or negligent work; (5) makes false, misleading or deceptive representations to the public; (6) has been subject to disciplinary action similar to that specified in subdivision (7) of section 21a-7 or subdivision (3) of subsection (b) of section 21a-8, as amended by this act, by a duly authorized professional agency of the United States, any state within the United States, the District of Columbia, a United States possession or territory or a foreign jurisdiction; or (7) violates any provision of the general statutes or any regulation established there under, relating to the practitioner's profession or occupation.

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

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

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

(3) "Registration" includes the whole or part of any Department of Consumer Protection permit which the department issues under authority of the general statutes and which (A) requires persons to place their names on a list maintained by the department before they can engage in the practice of a specified profession or occupation, (B) does not require a person to demonstrate competence by examination or other means, and (C) may be revoked or suspended by the commissioner for cause.