



House of Representatives

General Assembly

File No. 550

January Session, 2011

Substitute House Bill No. 6265

House of Representatives, April 18, 2011

The Committee on Judiciary reported through REP. FOX of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ADVERTISING BY NONLICENSED TRADESPERSONS.

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

1 Section 1. Subsection (a) of section 20-341 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (a) Any person who wilfully engages in or practices the work or
5 occupation for which a license is required by this chapter without
6 having first obtained an apprentice permit or a certificate and license
7 for such work, or who wilfully employs or supplies for employment a
8 person who does not have a certificate and license for such work, or
9 who wilfully and falsely pretends to qualify to engage in or practice
10 such work or occupation, including, but not limited to, offering to
11 perform such work in any print, electronic, television or radio
12 advertising or listing when such person does not hold a license for
13 such work as required by this chapter, or who wilfully engages in or
14 practices any of the work or occupations for which a license is required

15 by this chapter after the expiration of such person's license, shall be
 16 guilty of a class B misdemeanor, provided no criminal charges shall be
 17 instituted against such person pursuant to this subsection unless the
 18 work activity in question is reviewed by the Commissioner of
 19 Consumer Protection, or the commissioner's authorized agent, and the
 20 commissioner or such agent specifically determines, in writing, that
 21 such work activity requires a license and is not the subject of a bona
 22 fide dispute between persons engaged in any trade or craft, whether
 23 licensed or unlicensed. Notwithstanding the provisions of subsection
 24 (d) or (e) of section 53a-29 and subsection (d) of section 54-56e, if the
 25 court determines that such person cannot fully repay any victims of
 26 such person within the period of probation established in subsection
 27 (d) or (e) of section 53a-29 or subsection (d) of section 54-56e, the court
 28 may impose probation for a period of not more than five years. The
 29 penalty provided in this subsection shall be in addition to any other
 30 penalties and remedies available under this chapter or chapter 416.

31 Sec. 2. Subsection (a) of section 20-334 of the general statutes is
 32 repealed and the following is substituted in lieu thereof (*Effective*
 33 *October 1, 2011*):

34 (a) No person shall engage in, practice or offer to perform the work
 35 of any occupation subject to this chapter in this state, including
 36 offering to perform such work in any print, electronic, television or
 37 radio advertising or listing, unless such person has first obtained a
 38 license as provided in section 20-333, or possesses a card of registration
 39 from the Labor Department or the board and is subject to all of the
 40 regulations adopted under this chapter for the purpose of governing
 41 apprenticeship training, or has been issued a license for such particular
 42 work under this chapter prior to July 6, 1967.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	20-341(a)
Sec. 2	<i>October 1, 2011</i>	20-334(a)

JUD *Joint Favorable Subst.*

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 12 \$	FY 13 \$
Judicial Dept.	GF - Revenue Gain	less than 10,000	less than 10,000
Judicial Dept. (Probation)	GF - Potential Cost	less than 10,000	less than 10,000
Consumer Protection, Dept.	GF - Revenue Gain	less than 10,000	less than 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes advertising to practice a licensed trade without a license as a class B misdemeanor, which is punishable by a fine of up to \$1,000 and/or imprisonment for up to 6 months. If found guilty of this offense, the offender may be required to pay restitution. In cases where restitution payments cannot be made, the court may sentence the offender to probation.

To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties than currently provided for, a potential revenue gain from criminal fines and potential cost for probation supervision in the community would result. It is anticipated that relatively few fines would be imposed on an annual basis, and, consequently, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$3,736 to supervise an offender on probation.

The bill would also result in additional hearings before the court. It is anticipated that the number of additional hearings would be minimal, and would not result in additional cost to the Judicial

Department.

The Department of Consumer Protection currently receives approximately 100 complaints in which occupational trades people fail to properly disclose their license numbers. Additional complaints due to provisions in the bill are anticipated to result in additional revenue of less than \$10,000 through civil penalties.

The Out Years

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

OLR Bill Analysis**sHB 6265*****AN ACT CONCERNING ADVERTISING BY NONLICENSED TRADESPERSONS.*****SUMMARY:**

The law prohibits anyone from willfully and falsely pretending to qualify to practice, or practicing a licensed trade without a license, certificate, or apprentice permit. This bill specifies that the prohibition applies to people who, in a print, electronic, television or radio advertisement, or listing offer to perform work when not licensed to do such work. The covered trades are: electrical; plumbing; heating, piping, and cooling; elevator installation and repair; solar electrical; solar thermal; fire protection sprinkler systems; gas hearths; irrigation; medical gas and vacuum systems; sheet metal; and automotive and flat glass.

By law, the consumer protection commissioner and the licensing boards overseeing these trades may impose civil penalties for licensure violations, including the advertising ban the bill establishes. In addition, violators may be guilty of a class B misdemeanor, an unfair or deceptive trade practice, and required to pay restitution. If they cannot pay restitution, courts may sentence them to probation.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Civil Penalties***

The consumer protection commissioner may impose fines of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring less than three years after a previous violation.

Criminal Penalty

A class B misdemeanor is punishable by up to six month's imprisonment, a fine of up to \$1,000, or both. Before anyone may be prosecuted for a licensing law violation, the consumer protection commissioner must (1) review the activity in question and (2) make a written determination that the activity requires a license and is not the subject of a bona fide dispute between members of a trade or craft, regardless of whether they are licensed.

Connecticut Unfair Trade Practices Act (CUTPA)

CUTPA prohibits unfair and deceptive acts or practices. It allows the Department of Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Legislative History

The House referred the bill (File 84) to the Judiciary Committee, which reported a substitute that made clarifying changes.

COMMITTEE ACTION

General Law Committee

Joint Favorable

Yea 15 Nay 0 (03/03/2011)

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (04/05/2011)