
OLR Bill Analysis**sSB 863*****AN ACT CONCERNING THE LICENSING OF SWIMMING POOL INSTALLERS.*****SUMMARY:**

This bill (1) creates a new swimming pool builder's license and (2) extends existing penalties to swimming pool builders and swimming pool maintenance and repair contractors who work without a license. Although swimming pool maintenance and repair contractors are already required to be licensed, there is currently no penalty for doing such work without a license. The bill also specifies that swimming pool maintenance and repair work includes tiling and coping.

EFFECTIVE DATE: Upon passage for the swimming pool builder's license and July 1, 2012 for the penalties and repair work definition.

SWIMMING POOL BUILDER'S LICENSE

The bill requires the Department of Consumer Protection (DCP) commissioner to adopt regulations, by July 1, 2012, to establish the amount and type of experience, training, continuing education, and examination requirements for obtaining and renewing a license to build swimming pools.

Upon the adoption of regulations, the bill bans anyone from building a swimming pool, except on his or her own property, without a swimming pool builder's license issued by DCP and being a registered home improvement contractor. The bill defines a swimming pool to mean a permanent spa or any in-ground or partially above-ground structure intended for swimming that is more than 24 inches deep. The initial license fee is \$150 and is renewable annually for \$100.

A swimming pool builder is defined as a person who, for monetary gain, excavates and grades for and constructs and builds a swimming pool, including, but not limited to, tiling, coping, decking, and

installation of associated circulation equipment such as pumps, filters, and chemical feeders. A person licensed as a swimming pool builder must not perform electrical; plumbing and piping; or heating, piping and cooling work, unless he or she is licensed to do such work.

From adoption of the regulations until January 1, 2014, DCP must issue a swimming pool builder's license without examination to any person who applies if he or she demonstrates the experience and training equivalent to that required to qualify for the license examination.

LICENSE PENALTIES

The bill extends to swimming pool builders and swimming pool maintenance and repair contractors the existing penalty statutes for contractors who work without a license.

The law prohibits anyone without a license from willfully engaging in work that requires an occupational license. The prohibition also applies to willfully employing or supplying someone without a license, willfully and falsely pretending to qualify to practice a licensed trade, or willfully practicing work after license expiration.

The law authorizes the DCP commissioner to impose civil penalties for violating the licensing law. If a civil penalty is imposed and the violation was initially reported by a municipal building official, the commissioner must remit one-half of the amount to such municipality. In addition, violators are guilty of a class B misdemeanor, an unfair or deceptive trade practice, and must pay restitution. If they cannot pay restitution, a court may sentence them to probation.

BACKGROUND

Civil Penalties

Civil penalties for working without a license consist of a fine 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 the previous violation.

Criminal Penalty

A class B misdemeanor is punishable by up to six months imprisonment, a fine of up to \$1,000, or both. Before anyone may be prosecuted for a licensing law violation, the law requires the consumer protection commissioner to (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)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP 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.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/10/2011)