



General Assembly

Substitute Bill No. 412

February Session, 2014



**AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN
OCCUPATIONAL LICENSING STATUTES.**

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 2014 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

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] and the commissioner, [or the
9 commissioner's authorized agent,] either jointly or separately, shall
10 report such violation to the office of the state's attorney 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 Section 20-341 of the general statutes is repealed and the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, 2014*):

14 (a) Any person who wilfully or negligently engages in or practices
15 the work or occupation for which a license is required by this chapter
16 or chapter 399b without having first obtained an apprentice permit or
17 a certificate and license for such work, as applicable, or who wilfully or
18 negligently employs or supplies for employment a person who does

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

42 (b) If the commissioner or the appropriate examining board finds (1)
43 any person in violation of the provisions of this section, and (2) that the
44 work activity in question is not the subject of a bona fide dispute
45 between persons engaged in any trade or craft, whether licensed or
46 unlicensed, the commissioner and the appropriate examining board,
47 either jointly or separately, shall, within forty-eight hours of such
48 finding, issue a cease work order to the person responsible for the
49 violation and deliver such order to such person. Such order shall
50 require that any person working at a worksite without a required
51 permit, certificate or license cease work and leave the worksite
52 immediately. A copy of the order shall be given to the examining

53 board if issued by the commissioner, and to the commissioner if issued
54 by the examining board. The commissioner and the examining board,
55 either jointly or separately, may request a municipal building official to
56 issue a cease work order in accordance with the provisions of
57 subsection (c) of section 29-261 or may notify a municipal building
58 official of the issuance of a cease work order issued by the
59 commissioner or the examining board. Any person who has been
60 issued a cease work order pursuant to this subsection may request a
61 hearing before the commissioner and the appropriate examining
62 board. Such request for a hearing shall be made in writing to the
63 commissioner not more than ten days after the issuance of such order.
64 Such hearing shall be conducted in accordance with the provisions of
65 chapter 54 and shall commence not later than ten days after such
66 request.

67 [(b)] (c) The appropriate examining board [or] and the
68 Commissioner of Consumer Protection may, either jointly or
69 separately, after notice and hearing, impose a single civil penalty for
70 each violation on any person who (1) engages in or practices the work
71 or occupation for which a license or apprentice registration certificate
72 is required by this chapter, chapter 394, chapter 399b or chapter 482
73 without having first obtained such a license or certificate, or [who] (2)
74 wilfully or negligently employs or supplies for employment a person
75 who does not have such a license or certificate or who wilfully and
76 falsely pretends to qualify to engage in or practice such work or
77 occupation, or [who] (3) engages in or practices any of the work or
78 occupations for which a license or certificate is required by this
79 chapter, chapter 394, chapter 399b or chapter 482 after the expiration of
80 the license or certificate, or [who] (4) violates any of the provisions of
81 this chapter, chapter 394, chapter 399b or chapter 482 or the regulations
82 adopted pursuant thereto. Such penalty shall be in an amount not
83 more than one thousand dollars for a first violation of this subsection,
84 not more than one thousand five hundred dollars for a second
85 violation of this subsection and not more than three thousand dollars
86 for each violation of this subsection occurring less than three years

87 after a second or subsequent violation of this subsection, except that
88 any individual employed as an apprentice but improperly registered
89 shall not be penalized for a first offense.

90 ~~[(c)]~~ (d) If an examining board or the Commissioner of Consumer
91 Protection imposes a civil penalty under the provisions of subsection
92 ~~[(b)]~~ (c) of this section as a result of a cease work order issued by, or
93 violation initially reported by, a municipal building official in
94 accordance with subsection (c) of section 29-261, the commissioner
95 shall, not less than sixty days after collecting such civil penalty, remit
96 one-half of the amount collected to such municipality.

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

100 ~~[(e)]~~ (f) This section shall not apply to any person who (1) holds a
101 license issued under this chapter, chapter 394, chapter 399b or chapter
102 482 and performs work that is incidentally, directly and immediately
103 appropriate to the performance of such person's trade where such
104 work commences at an outlet, receptacle or connection previously
105 installed by a person holding the proper license, or (2) engages in work
106 that does not require a license under this chapter, chapter 394, chapter
107 399b or chapter 482.

108 Sec. 3. Subsection (a) of section 21a-8 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2014*):

111 (a) The Department of Consumer Protection shall have the
112 following powers and duties with regard to each board or commission
113 transferred to the Department of Consumer Protection under section
114 21a-6:

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

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

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

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

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

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

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

149 (8) The department shall receive complaints concerning the work
150 and practices of persons licensed, registered or certified by such boards
151 or commissions and shall receive complaints concerning unauthorized
152 work and practice by persons not licensed, registered or certified by
153 such boards or commissions. The department shall distribute monthly
154 a list of all complaints received within the previous month to the
155 chairperson of the appropriate board or commission. The department
156 shall screen all complaints and dismiss any in which the allegation, if
157 substantiated, would not constitute a violation of any statute or
158 regulation. The department shall distribute notice of all such
159 dismissals monthly to the chairperson of the appropriate board or
160 commission. The department shall investigate any complaint in which
161 the allegation, if substantiated, would constitute a violation of a statute
162 or regulation under its jurisdiction. In conducting the investigation, the
163 commissioner may seek the assistance of a member of the appropriate
164 board, an employee of any state agency with expertise in the area, or if
165 no such member or employee is available, a person from outside state
166 service licensed to perform the work involved in the complaint. Board
167 or commission members involved in an investigation shall not
168 participate in disciplinary proceedings resulting from such
169 investigation. The Commissioner of Consumer Protection may dismiss
170 a complaint following an investigation if the commissioner determines
171 that such complaint lacks probable cause. Notice of such dismissal
172 shall be given only after approval by [the chairperson of] the
173 appropriate board or commission. The commissioner may authorize a
174 settlement if the settlement is approved by the complainant, the
175 practitioner, and the board or commission. [The] With respect to any
176 complaint that is not authorized for settlement, the commissioner
177 [may] shall bring a complaint before the appropriate board or
178 commission for a formal hearing if the commissioner determines that
179 there is probable cause to believe that the offense alleged in the
180 complaint has been committed and that the practitioner named in the
181 complaint was responsible. The commissioner, or the commissioner's
182 authorized agent, shall have the power to issue subpoenas to require
183 the attendance of witnesses or the production of records,

184 correspondence, documents or other evidence in connection with any
185 hearing of a board or commission. All dispositions and final decisions
186 by the Department of Consumer Protection after an investigation into a
187 complaint has begun shall be forwarded to the chairperson of the
188 appropriate board or commission on a monthly basis.

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

196 Sec. 4. Section 21a-9 of the general statutes is repealed and the
197 following is substituted in lieu thereof (*Effective October 1, 2014*):

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

207 (b) Any rules of procedure and regulations adopted pursuant to this
208 section shall be adopted in accordance with chapter 54. No regulation
209 shall be adopted by the commissioner pursuant to this section until the
210 appropriate board or commission has [had reasonable opportunity to
211 review] approved the proposed regulation, [and to offer comments
212 thereon.]

213 (c) Each such board or commission may act in accordance with the
214 provisions of subdivision (7) of section 21a-7, and the commissioner

215 may act in accordance with the provisions of subdivision (3) of
216 subsection (b) of section 21a-8, in the case of a practitioner who: (1)
217 Engages in fraud or material deception in order to obtain a license,
218 registration or certificate issued by the board or commission or to aid
219 another in obtaining a license, registration or certificate issued by the
220 board or commission; (2) performs work beyond the scope of the
221 license, registration or certificate issued by the board or commission;
222 (3) illegally uses or transfers a license, registration or certificate issued
223 by the board or commission; (4) performs incompetent or negligent
224 work; (5) makes false, misleading or deceptive representations to the
225 public; (6) has been subject to disciplinary action similar to that
226 specified in subdivision (7) of section 21a-7 or subdivision (3) of
227 subsection (b) of section 21a-8 by a duly authorized professional
228 agency of the United States, any state within the United States, the
229 District of Columbia, a United States possession or territory or a
230 foreign jurisdiction; or (7) violates any provision of the general statutes
231 or any regulation [established] adopted thereunder [,] relating to the
232 practitioner's profession or occupation.

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

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

245 (2) "License" includes the whole or part of any Department of
246 Consumer Protection permit, approval, or similar form of permission
247 which the department issues under authority of the general statutes

248 and which requires (A) practice of the profession by licensed persons
249 only, (B) demonstration of competence to practice by examination or
250 other means and meeting of certain minimum standards, and (C)
251 enforcement of standards by the department or regulatory board or
252 commission.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	20-332(c)
Sec. 2	<i>October 1, 2014</i>	20-341
Sec. 3	<i>October 1, 2014</i>	21a-8(a)
Sec. 4	<i>October 1, 2014</i>	21a-9

GL *Joint Favorable Subst.*

JUD *Joint Favorable*

LAB *Joint Favorable*