



Substitute Senate Bill No. 412

Public Act No. 14-210

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

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

Section 1. Subsection (c) of section 20-332 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(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,] either jointly or separately, 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 Section 20-341 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

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

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supplies for employment a person who does not have a certificate and license for such work, or who wilfully and falsely pretends to qualify to engage in or practice such work or occupation, including, but not limited to, offering to perform such work in any print, electronic, television or radio advertising or listing when such person does not hold a license for such work as required by this chapter, or who wilfully 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] except that no criminal charges shall be instituted against such person pursuant to this subsection unless the work activity in question is reviewed by the Commissioner of Consumer Protection, or the commissioner's authorized agent, and the 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) or (e) 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) or (e) 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 the Commissioner of Consumer Protection may, after notice and hearing, impose a civil penalty for each violation on any person who (1) engages in or practices the work or occupation for which a license or apprentice registration certificate is required by this chapter, chapter 394, chapter 399b or chapter 482 without having first obtained such a license or certificate, or [who] (2) wilfully employs or supplies for employment a person who does not have such a license or certificate or who wilfully

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and falsely pretends to qualify to engage in or practice such work or occupation, or [who] (3) engages in or practices any of the work or occupations for which a license or certificate is required by this chapter, chapter 394, chapter 399b or chapter 482 after the expiration of the license or certificate, or [who] (4) violates any of the provisions of this chapter, chapter 394, chapter 399b 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 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 building official in accordance with subsection (c) of section 29-261, 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, chapter 399b 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, chapter

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399b 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, 2014*):

(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.

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(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

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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) Not later than January 15, 2015, and annually thereafter, the commissioner, in accordance with section 11-4a, shall report the following to the joint standing committee of the General Assembly having cognizance of matters relating to consumer protection and

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occupational licensing: (1) The total number of complaints received by the department in the previous calendar year concerning the work and practice of persons licensed, registered or certified by the boards or commissions specified in subdivisions (1) and (3) of section 21a-6, (2) the nature of each complaint, (3) the department's resolution of each complaint, including, if applicable, whether the complaint (A) was dismissed because the allegation, if substantiated, would not constitute a violation of any statute or regulation, (B) was investigated, (C) was dismissed, following an investigation, for lack of probable cause, (D) was resolved by a settlement, and whether a penalty was imposed pursuant to such settlement, or (E) was brought for formal hearing, and whether a violation was found and a penalty imposed.

[(b)] (c) The Commissioner 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 commissioner may, 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, 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

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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 may 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. 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 may, upon a finding of any cause specified in subsection (c) of section 21a-9: (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.

Approved June 13, 2014