



General Assembly

January Session, 2015

Raised Bill No. 6808

LCO No. 3950



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

***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. Section 20-341 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Any person who wilfully or negligently engages in or practices
4 the work or occupation for which a license is required by this chapter
5 or chapter 399b without having first obtained an apprentice permit or
6 a certificate and license for such work, as applicable, or who wilfully or
7 negligently employs or supplies for employment a person who does
8 not have a certificate and license for such work, or who wilfully and
9 falsely pretends to qualify to engage in or practice such work or
10 occupation, including, but not limited to, offering to perform such
11 work in any print, electronic, television or radio advertising or listing
12 when such person does not hold a license for such work as required by
13 this chapter, or who wilfully or negligently engages in or practices any
14 of the work or occupations for which a license is required by this
15 chapter after the expiration of such person's license, shall be guilty of a

16 class B misdemeanor, except that 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 (b) (1) When any person is found in violation of the provisions of
32 this section, the appropriate examining board and the Commissioner
33 of Consumer Protection, either jointly or separately, shall, within forty-
34 eight hours, issue a cease work order to the person responsible for the
35 violation and deliver such order to such person. Such order shall
36 require that any person working at the site without the required
37 license, permit or certificate cease work and leave the site immediately.
38 A copy of the order shall be given to the board if issued by the
39 commissioner, and to the commissioner if issued by the board. The
40 board and the commissioner, either jointly or separately, may request
41 that the local building official issue a cease work order in accordance
42 with the provisions of subsection (c) of section 29-261, or may notify
43 the local building official of the action taken by the department.

44 (2) Any person issued a cease work order pursuant to this
45 subsection may request a hearing before the commissioner and the
46 board. Such request shall be made in writing to the commissioner not
47 more than ten days after the issuance of such order. Such hearing shall
48 be conducted in accordance with the provisions of chapter 54.

49 [(b)] (c) The appropriate examining board [or] and the
50 Commissioner of Consumer Protection, either jointly or separately,
51 may, after notice and hearing, impose a single civil penalty for each
52 violation on any person who (1) engages in or practices the work or
53 occupation for which a license or apprentice registration certificate is
54 required by this chapter, chapter 394, chapter 399b or chapter 482
55 without having first obtained such a license or certificate, or (2)
56 wilfully or negligently employs or supplies for employment a person
57 who does not have such a license or certificate or who wilfully and
58 falsely pretends to qualify to engage in or practice such work or
59 occupation, or (3) engages in or practices any of the work or
60 occupations for which a license or certificate is required by this
61 chapter, chapter 394, chapter 399b or chapter 482 after the expiration of
62 the license or certificate, or (4) violates any of the provisions of this
63 chapter, chapter 394, chapter 399b or chapter 482 or the regulations
64 adopted pursuant thereto. Such penalty shall be in an amount not
65 more than one thousand dollars for a first violation of this subsection,
66 not more than one thousand five hundred dollars for a second
67 violation of this subsection and not more than three thousand dollars
68 for each violation of this subsection occurring less than three years
69 after a second or subsequent violation of this subsection, except that
70 any individual employed as an apprentice but improperly registered
71 shall not be penalized for a first offense.

72 [(c)] (d) If an examining board or the Commissioner of Consumer
73 Protection imposes a civil penalty under the provisions of subsection
74 [(b)] (c) of this section as a result of a violation initially reported by, a
75 municipal building official in accordance with subsection (c) of section
76 29-261, the commissioner shall, not less than sixty days after collecting
77 such civil penalty, remit one-half of the amount collected to such
78 municipality.

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

82 [(e)] (f) This section shall not apply to any person who (1) holds a
83 license issued under this chapter, chapter 394, chapter 399b or chapter
84 482 and performs work that is incidentally, directly and immediately
85 appropriate to the performance of such person's trade where such
86 work commences at an outlet, receptacle or connection previously
87 installed by a person holding the proper license, or (2) engages in work
88 that does not require a license under this chapter, chapter 394, chapter
89 399b or chapter 482.

90 Sec. 2. Subsection (a) of section 21a-8 of the general statutes is
91 repealed and the following is substituted in lieu thereof (*Effective*
92 *October 1, 2015*):

93 (a) The Department of Consumer Protection shall have the
94 following powers and duties with regard to each board or commission
95 transferred to the Department of Consumer Protection under section
96 21a-6:

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

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

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

106 (4) The department shall conduct any necessary review, inspection
107 or investigation regarding qualifications of applicants for licenses or
108 certificates, possible violations of statutes or regulations, accreditation
109 of schools, disciplinary matters and the establishment of regulatory
110 policy, and make recommendations to the appropriate board or
111 commission. In connection with any such investigation, the

112 Commissioner of Consumer Protection, or the commissioner's
113 authorized agent, may administer oaths, issue subpoenas, compel
114 testimony and order the production of books, records and documents.
115 If any person refuses to appear, to testify or to produce any book,
116 record or document when so ordered, a judge of the Superior Court
117 may make such order as may be appropriate to aid in the enforcement
118 of this section.

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

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

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

131 (8) The department shall receive complaints concerning the work
132 and practices of persons licensed, registered or certified by such boards
133 or commissions and shall receive complaints concerning unauthorized
134 work and practice by persons not licensed, registered or certified by
135 such boards or commissions. The department shall distribute monthly
136 a list of all complaints received within the previous month to the
137 chairperson of the appropriate board or commission. The department
138 shall screen all complaints and dismiss any in which the allegation, if
139 substantiated, would not constitute a violation of any statute or
140 regulation. The department shall distribute notice of all such
141 dismissals monthly to the chairperson of the appropriate board or
142 commission. The department shall investigate any complaint in which

143 the allegation, if substantiated, would constitute a violation of a statute
144 or regulation under its jurisdiction. In conducting the investigation, the
145 commissioner may seek the assistance of a member of the appropriate
146 board, an employee of any state agency with expertise in the area, or if
147 no such member or employee is available, a person from outside state
148 service licensed to perform the work involved in the complaint. Board
149 or commission members involved in an investigation shall not
150 participate in disciplinary proceedings resulting from such
151 investigation. The Commissioner of Consumer Protection may dismiss
152 a complaint following an investigation if the commissioner determines
153 that such complaint lacks probable cause. Notice of such dismissal
154 shall be given only after approval by the appropriate board or
155 commission. The commissioner may authorize a settlement if the
156 settlement is approved by the complainant, the practitioner, and the
157 board or commission. [The] In cases that are not dismissed and for
158 which settlement is not authorized, the commissioner [may] shall bring
159 a complaint before the appropriate board or commission for a formal
160 hearing if the commissioner determines that there is probable cause to
161 believe that the offense alleged in the complaint has been committed
162 and that the practitioner named in the complaint was responsible. The
163 commissioner, or the commissioner's authorized agent, shall have the
164 power to issue subpoenas to require the attendance of witnesses or the
165 production of records, correspondence, documents or other evidence
166 in connection with any hearing of a board or commission. All
167 dispositions and final decisions by the Department of Consumer
168 Protection after an investigation into a complaint has begun shall be
169 forwarded to the chairperson of the appropriate board or commission
170 on a monthly basis.

171 (9) The department may contract with a third party, if the
172 commissioner deems it necessary and if the appropriate board or
173 commission consents, to administer licensing examinations and
174 perform all attendant administrative functions in connection with such
175 examination and to monitor continuing professional education

176 requirements, and may require the payment of a fee to such third
177 party.

178 Sec. 3. Section 21a-9 of the general statutes is repealed and the
179 following is substituted in lieu thereof (*Effective October 1, 2015*):

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

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

194 (c) Each such board or commission may act in accordance with the
195 provisions of subdivision (7) of section 21a-7, and the commissioner
196 may act in accordance with the provisions of subdivision (3) of
197 subsection [(b)] (c) of section 21a-8, in the case of a practitioner who:
198 (1) Engages in fraud or material deception in order to obtain a license,
199 registration or certificate issued by the board or commission or to aid
200 another in obtaining a license, registration or certificate issued by the
201 board or commission; (2) performs work beyond the scope of the
202 license, registration or certificate issued by the board or commission;
203 (3) illegally uses or transfers a license, registration or certificate issued
204 by the board or commission; (4) performs incompetent or negligent
205 work; (5) makes false, misleading or deceptive representations to the
206 public; (6) has been subject to disciplinary action similar to that

207 specified in subdivision (7) of section 21a-7 or subdivision (3) of
208 subsection [(b)] (c) of section 21a-8 by a duly authorized professional
209 agency of the United States, any state within the United States, the
210 District of Columbia, a United States possession or territory or a
211 foreign jurisdiction; or (7) violates any provision of the general statutes
212 or any regulation established thereunder, relating to the practitioner's
213 profession or occupation.

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

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

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

234 (3) "Registration" includes the whole or part of any Department of
235 Consumer Protection permit which the department issues under
236 authority of the general statutes and which (A) requires persons to
237 place their names on a list maintained by the department before they

238 can engage in the practice of a specified profession or occupation, (B)
239 does not require a person to demonstrate competence by examination
240 or other means, and (C) may be revoked or suspended by the
241 commissioner for cause.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2015</i> | 20-341 |
| Sec. 2 | <i>October 1, 2015</i> | 21a-8(a) |
| Sec. 3 | <i>October 1, 2015</i> | 21a-9 |

Statement of Purpose:

To specify the responsibilities of the Commissioner of Consumer Protection and examining boards regarding occupational licensing enforcement.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]