

CHAPTER 13

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**PROFESSIONS AND OCCUPATIONS**

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**HOUSE BILL 94-1038**

BY REPRESENTATIVES Chlouber, Armstrong, Entz, Fleming, Foster, Friednash, Greenwood, Hagedorn, R. Hernandez, June, Keller, Lawrence, Mattingly, Nichol, Reeser, and Tucker;  
also SENATORS Wattenberg, Cassidy, Gallagher, Norton, Ruddick, and Thiebaut.

**AN ACT**

**CONCERNING VIOLATIONS OF THE LAWS REGULATING ELECTRICIANS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-23-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-23-113. Disposition of fees and expenses of board.** All moneys collected under this article, EXCEPT FOR FINES COLLECTED PURSUANT TO SECTION 12-23-118 (7) (a), shall be transmitted to the state treasurer, who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for expenditures of the board incurred in the performance of its duties under this article, which expenditures shall be made from such appropriations upon vouchers and warrants drawn pursuant to law.

**SECTION 2.** 12-23-115, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-23-115. Inspectors - qualifications.** (3) STATE ELECTRICAL INSPECTORS APPOINTED OR EMPLOYED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY:

(a) CONDUCT INSPECTIONS AND INVESTIGATIONS PURSUANT TO SECTION 12-23-118 (4) ON BEHALF OF THE PROGRAM ADMINISTRATOR;

(b) PROVIDE SERVICE OF PROCESS FOR A CITATION SERVED PURSUANT TO SECTION 12-23-118 (6) (b) IN COMPLIANCE WITH RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 3.** 12-23-118, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-23-118. Violations - citations - settlement agreements - hearings - fines.**

(1) The board may deny, suspend, revoke, or refuse to renew any license or registration issued or applied for under the provisions of this article, ~~or~~ may place a licensee or registrant on probation, ~~OR MAY ISSUE A CITATION TO A LICENSEE, REGISTRANT, OR APPLICANT FOR LICENSURE~~ for any of the following reasons:

(a) Violation of or aiding or abetting in the violation of any of the provisions of this article;

(b) Violation of the rules and regulations or orders promulgated by the board in conformity with the provisions of this article or aiding or abetting in such violation;

(c) Failure or refusal to remove within a reasonable time the cause of the disapproval of any electrical installation as reported on the notice of disapproval, but such reasonable time shall include time for appeal to and a hearing before the board;

(d) Failure or refusal to maintain or adhere to the minimum standards set forth in rules and regulations adopted by the board pursuant to section 12-23-104 (2) (a);

(e) Any cause for which the issuance of the license could have been refused had it then existed and been known to the board;

(f) Commitment of one or more acts or omissions that do not meet generally accepted standards of electrical practice;

(g) Conviction of or acceptance of a plea of guilty or nolo contendere by a court to a felony. In considering the disciplinary action, the board shall be governed by the provisions of section 24-5-101, C.R.S.

(h) Advertising by any licensee or registrant which is false or misleading;

(i) Deception, misrepresentation, or fraud in obtaining or attempting to obtain a license; ~~or in obtaining or attempting to obtain the renewal of a license or registration;~~

(j) Failure of a master electrician who is charged with supervising all electrical work performed by a contractor pursuant to section 12-23-106 (5) (c) to adequately supervise such work or failure of any licensee to adequately supervise an apprentice who is working at the trade pursuant to section 12-23-110.5;

(k) Employment of any person required by this article to be licensed or registered or to obtain a permit who has not obtained such license, registration, or permit;

(l) Disciplinary action against an electrician's license in another jurisdiction. Evidence of such disciplinary action shall be prima facie evidence for denial of licensure or other disciplinary action if the violation would be grounds for such disciplinary action in this state.

(2) ~~When a complaint or an investigation discloses an instance of misconduct~~

~~which, in the opinion of the board, does not warrant formal action by the board but which should not be dismissed as being without merit, a letter of admonition may be sent by certified mail to the licensee or registrant against whom a complaint was made and a copy thereof to the person making the complaint, but, when a letter of admonition is sent by certified mail by the board to a licensee or registrant complained against, such person shall be advised that he has the right to request in writing, within twenty days after proven receipt of the letter, that formal disciplinary proceedings be initiated against him to adjudicate the propriety of the conduct upon which the letter of admonition is based. If such request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.~~

~~(3) Any disciplinary action taken by the board and judicial review of such action shall be in accordance with the provisions of article 4 of title 24, C.R.S., and the hearing and opportunity for review shall be conducted pursuant to said article by the board or an administrative law judge at the board's discretion.~~

(4) (a) IF PURSUANT TO AN INSPECTION OR INVESTIGATION BY A STATE ELECTRICAL INSPECTOR THE BOARD CONCLUDES THAT ANY LICENSEE, REGISTRANT, OR APPLICANT FOR LICENSURE HAS VIOLATED ANY PROVISION OF SUBSECTION (1) OF THIS SECTION AND THAT DISCIPLINARY ACTION IS APPROPRIATE, THE PROGRAM ADMINISTRATOR OR THE PROGRAM ADMINISTRATOR'S DESIGNEE MAY ISSUE A CITATION IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION TO SUCH LICENSEE, REGISTRANT, OR APPLICANT.

(b) (I) THE LICENSEE, REGISTRANT, OR APPLICANT TO WHOM A CITATION HAS BEEN ISSUED MAY MAKE A REQUEST TO NEGOTIATE A STIPULATED SETTLEMENT AGREEMENT WITH THE PROGRAM ADMINISTRATOR OR THE PROGRAM ADMINISTRATOR'S DESIGNEE, IF SUCH REQUEST IS MADE IN WRITING WITHIN TEN WORKING DAYS AFTER ISSUANCE OF THE CITATION WHICH IS THE SUBJECT OF THE SETTLEMENT AGREEMENT.

(II) ALL STIPULATED SETTLEMENT AGREEMENTS SHALL BE CONDUCTED PURSUANT TO RULES ADOPTED BY THE BOARD PURSUANT TO SECTION 12-23-104 (2) (a). THE BOARD SHALL ADOPT A RULE TO ALLOW ANY LICENSEE, REGISTRANT, OR APPLICANT UNABLE, IN GOOD FAITH, TO SETTLE WITH THE PROGRAM ADMINISTRATOR TO REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (4).

(c) (I) THE LICENSEE, REGISTRANT, OR APPLICANT TO WHOM A CITATION HAS BEEN ISSUED MAY REQUEST AN ADMINISTRATIVE HEARING TO DETERMINE THE PROPRIETY OF SUCH CITATION IF SUCH REQUEST IS MADE IN WRITING WITHIN TEN WORKING DAYS AFTER ISSUANCE OF THE CITATION WHICH IS THE SUBJECT OF THE HEARING OR WITHIN A REASONABLE PERIOD AFTER NEGOTIATIONS FOR A STIPULATED SETTLEMENT AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4) HAVE BEEN DEEMED FUTILE BY THE PROGRAM ADMINISTRATOR.

(II) FOR GOOD CAUSE THE BOARD MAY EXTEND THE PERIOD OF TIME IN WHICH A PERSON WHO HAS BEEN CITED MAY REQUEST A HEARING.

(III) ALL HEARINGS CONDUCTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE CONDUCTED IN COMPLIANCE WITH SECTION 24-4-105, C.R.S.

(d) ANY ACTION TAKEN BY THE BOARD PURSUANT TO THIS SECTION SHALL BE DEEMED FINAL AFTER THE PERIOD OF TIME EXTENDED TO THE LICENSEE, REGISTRANT, OR APPLICANT TO CONTEST SUCH ACTION PURSUANT TO THIS SUBSECTION (4) HAS EXPIRED.

(5) (a) THE BOARD SHALL ADOPT A SCHEDULE OF FINES PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (5) AS PENALTIES FOR VIOLATING SUBSECTION (1) OF THIS SECTION. SUCH FINES SHALL BE ASSESSED IN CONJUNCTION WITH THE ISSUANCE OF A CITATION, PURSUANT TO A STIPULATED SETTLEMENT AGREEMENT, OR FOLLOWING AN ADMINISTRATIVE HEARING. SUCH SCHEDULE SHALL BE ADOPTED BY RULE IN ACCORDANCE WITH SECTION 12-23-104 (2) (a).

(b) IN DEVELOPING THE SCHEDULE OF FINES, THE BOARD SHALL:

(I) PROVIDE THAT A FIRST OFFENSE MAY CARRY A FINE OF UP TO ONE THOUSAND DOLLARS;

(II) PROVIDE THAT A SECOND OFFENSE MAY CARRY A FINE OF UP TO TWO THOUSAND DOLLARS;

(III) PROVIDE THAT ANY SUBSEQUENT OFFENSE MAY CARRY A FINE OF UP TO TWO THOUSAND DOLLARS FOR EACH DAY THAT SUBSECTION (1) OF THIS SECTION IS VIOLATED;

(IV) CONSIDER HOW THE VIOLATION IMPACTS THE PUBLIC, INCLUDING ANY HEALTH AND SAFETY CONSIDERATIONS;

(V) CONSIDER WHETHER TO PROVIDE FOR A RANGE OF FINES FOR ANY PARTICULAR VIOLATION OR TYPE OF VIOLATION; AND

(VI) PROVIDE UNIFORMITY IN THE FINE SCHEDULE.

(c) ANY PERSON WHO DOES NOT COMPLY WITH A CITATION, A STIPULATED SETTLEMENT AGREEMENT, OR AN ORDER ISSUED PURSUANT TO AN ADMINISTRATIVE HEARING AND WHO HAS EXHAUSTED ANY REMEDY AVAILABLE PURSUANT TO THIS SECTION OR SECTION 12-23-120 COMMITS A CLASS 1 MISDEMEANOR AND SHALL PAY A FINE AS PROVIDED IN SECTION 18-1-106, C.R.S.

(6) (a) (I) ANY CITATION ISSUED PURSUANT TO THIS SECTION SHALL BE IN WRITING, SHALL ADEQUATELY DESCRIBE THE NATURE OF THE VIOLATION, AND SHALL REFERENCE THE STATUTORY OR REGULATORY PROVISION OR ORDER ALLEGED TO HAVE BEEN VIOLATED.

(II) ANY CITATION ISSUED PURSUANT TO THIS SECTION SHALL CLEARLY STATE WHETHER A FINE IS IMPOSED, THE AMOUNT OF SUCH FINE, AND THAT PAYMENT FOR SUCH FINE MUST BE REMITTED WITHIN THE TIME SPECIFIED IN SUCH CITATION IF SUCH CITATION IS NOT CONTESTED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(III) ANY CITATION ISSUED PURSUANT TO THIS SECTION SHALL CLEARLY SET FORTH HOW SUCH CITATION MAY BE CONTESTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, INCLUDING ANY TIME LIMITATIONS.

(b) A CITATION OR COPY OF A CITATION ISSUED PURSUANT TO THIS SECTION MAY BE SERVED BY CERTIFIED MAIL OR IN PERSON BY A STATE ELECTRICAL INSPECTOR OR THE ADMINISTRATOR'S DESIGNEE UPON A PERSON OR THE PERSON'S AGENT IN ACCORDANCE WITH RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(c) IF THE RECIPIENT FAILS TO GIVE WRITTEN NOTICE TO THE BOARD THAT THE RECIPIENT INTENDS TO CONTEST SUCH CITATION OR TO NEGOTIATE A STIPULATED SETTLEMENT AGREEMENT WITHIN TEN WORKING DAYS AFTER SERVICE OF A CITATION BY THE BOARD, SUCH CITATION SHALL BE DEEMED A FINAL ORDER OF THE BOARD.

(d) THE BOARD MAY SUSPEND OR REVOKE A LICENSE OR REGISTRATION OR MAY REFUSE TO RENEW ANY LICENSE OR REGISTRATION ISSUED OR MAY PLACE ON PROBATION ANY LICENSEE OR REGISTRANT IF THE LICENSEE OR REGISTRANT FAILS TO COMPLY WITH THE REQUIREMENTS SET FORTH IN A CITATION DEEMED FINAL PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6).

(e) THE FAILURE OF AN APPLICANT FOR LICENSURE TO COMPLY WITH A CITATION DEEMED FINAL PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6) IS GROUNDS FOR DENIAL OF A LICENSE.

(f) NO CITATION MAY BE ISSUED UNDER THIS SECTION UNLESS THE CITATION IS ISSUED WITHIN THE SIX-MONTH PERIOD FOLLOWING THE OCCURRENCE OF THE VIOLATION.

(7) (a) ANY FINE COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT ONE-HALF OF THE AMOUNT OF ANY SUCH FINE TO THE GENERAL FUND, AND ONE-HALF OF THE AMOUNT OF ANY SUCH FINE SHALL BE SHARED WITH THE APPROPRIATE CITY, TOWN, COUNTY, OR CITY AND COUNTY, WHICH AMOUNTS SHALL BE TRANSMITTED TO ANY SUCH ENTITY ON AN ANNUAL BASIS.

(b) ANY FINE ASSESSED IN A CITATION OR AN ADMINISTRATIVE HEARING OR ANY AMOUNT DUE PURSUANT TO A STIPULATED SETTLEMENT AGREEMENT THAT IS NOT PAID MAY BE COLLECTED BY THE PROGRAM ADMINISTRATOR THROUGH A COLLECTION AGENCY OR IN AN ACTION IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE PERSON AGAINST WHOM THE FINE IS IMPOSED RESIDES OR IN THE COUNTY IN WHICH THE OFFICE OF THE PROGRAM ADMINISTRATOR IS LOCATED.

(c) THE ATTORNEY GENERAL SHALL PROVIDE LEGAL ASSISTANCE AND ADVICE TO THE PROGRAM ADMINISTRATOR IN ANY ACTION TO COLLECT AN UNPAID FINE.

(d) IN ANY ACTION BROUGHT TO ENFORCE THIS SUBSECTION (7), REASONABLE ATTORNEY FEES AND COSTS SHALL BE AWARDED.

**SECTION 4.** 12-23-118.2, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

**12-23-118.2. Reconsideration and review of board action.** ~~The board, on its own motion or upon application, at any time after the imposition of any discipline as provided for in section 12-23-118, may reconsider its prior action and reinstate or restore such license or terminate probation or reduce the severity of its prior~~

~~disciplinary action. The taking of any such further action, or the holding of a hearing with respect thereto, shall rest in the sole discretion of the board.~~

**SECTION 5.** 12-23-119, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

**12-23-119. Unlawful acts.** (1) It is unlawful for any person:

(a) To violate the provisions of section 12-23-105, except for those practicing pursuant to section 12-23-107 or 12-23-111;

(b) To practice as a residential wireman, journeyman, master, contractor, or apprentice during a period when ~~his~~ THE LICENSEE'S license or THE REGISTRANT'S registration has been suspended or revoked;

(c) To sell or fraudulently obtain or furnish a license to practice as a residential wireman, journeyman, or master or to aid or abet therein;

(d) IN CONJUNCTION WITH ANY CONSTRUCTION OR BUILDING PROJECT REQUIRING THE SERVICES OF ANY PERSON REGULATED BY THIS ARTICLE, TO WILLFULLY DISREGARD OR VIOLATE:

(I) ANY BUILDING OR CONSTRUCTION LAW OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS;

(II) ANY SAFETY OR LABOR LAW;

(III) ANY HEALTH LAW;

(IV) ANY WORKERS' COMPENSATION INSURANCE LAW;

(V) ANY STATE OR FEDERAL LAW GOVERNING WITHHOLDINGS FROM EMPLOYEE INCOME INCLUDING BUT NOT LIMITED TO INCOME TAXES, UNEMPLOYMENT TAXES, OR SOCIAL SECURITY TAXES; OR

(VI) ANY REPORTING, NOTIFICATION, OR FILING LAW OF THIS STATE OR THE FEDERAL GOVERNMENT.

(2) Any person who violates any provision of this section commits a ~~class 3~~ CLASS 1 misdemeanor and shall ~~be punished~~ PAY A FINE as provided in section 18-1-106, C.R.S.

**SECTION 6. Effective date - applicability.** This act shall take effect July 1, 1994, and shall apply to acts committed on or after said date.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 11, 1994