

CHAPTER 240

PROFESSIONS AND OCCUPATIONS

SENATE BILL 07-137

BY SENATOR(S) Tochtrop;
also REPRESENTATIVE(S) White, Frangas, and McFadyen.

AN ACT

CONCERNING THE REGULATION OF PLUMBERS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-58-102 (4) and (5) (a), Colorado Revised Statutes, are amended to read:

12-58-102. Definitions. As used in this article, unless the context otherwise requires:

(4) "Colorado plumbing code" means a code established by the board ~~which~~ THAT consists of standards for plumbing installation, plumbing materials, MEDICAL GAS, SANITARY DRAINAGE SYSTEMS, and solar plumbing ~~which~~ THAT could directly affect the potable water supply.

(5) (a) "Plumbing" includes the following items located within the building or extending five feet from the building foundation, ~~to the first joint,~~ excluding any service line extending from the first joint to the property line: All potable water supply and distribution pipes and piping; all plumbing fixtures and traps; all drainage and vent pipes; all building drains, including their respective joints and connections, devices, receptacles, and appurtenances; and all medical gas and vacuum systems in health care facilities. "Plumbing" does not include:

(I) The installation, extension, alteration, or maintenance, including the related water piping and the indirect waste piping therefrom, of domestic appliances equipped with backflow preventers, including lawn sprinkling systems, residential ice makers, humidifiers, electrostatic filter washers, water heating appliances, water conditioning appliances not directly connected to the sanitary sewer system,

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

building heating appliances and systems, fire protection systems, air conditioning installations, process and industrial equipment and piping systems, or indirect drainage systems not a part of a sanitary sewer system; or

(II) The repair and replacement of garbage disposal units and dishwashers directly connected to the sanitary sewer system, including the necessary replacement of all tail pipes and traps, or the repair, maintenance, and replacement of sinks, faucets, drains, showers, tubs, and toilets.

SECTION 2. 12-58-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-58-104. Powers of board - fees. (1) In addition to all other powers and duties conferred or imposed upon the board by this article, the board is authorized and empowered to:

(c.5) ESTABLISH FEES FOR THE ISSUANCE OF A NEW REGISTRATION AND FOR EACH RENEWAL OF REGISTRATION, PURSUANT TO SECTION 24-34-105, C.R.S.

SECTION 3. 12-58-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-58-105. Plumber must have license - control and supervision. (3) NO PERSON, FIRM, PARTNERSHIP, CORPORATION, OR ASSOCIATION SHALL OPERATE AS A PLUMBING CONTRACTOR UNTIL SUCH CONTRACTOR HAS OBTAINED REGISTRATION FROM THE BOARD. THE BOARD SHALL REGISTER A PLUMBING CONTRACTOR UPON PAYMENT OF THE FEE AS PROVIDED IN SECTION 12-58-104 AND PRESENTATION OF EVIDENCE THAT THE APPLICANT HAS COMPLIED WITH THE APPLICABLE WORKERS' COMPENSATION AND UNEMPLOYMENT COMPENSATION LAWS OF THIS STATE. IN ORDER TO ACT AS A PLUMBING CONTRACTOR, THE PERSON, FIRM, PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER ORGANIZATION MUST EITHER BE, OR EMPLOY FULL-TIME, A MASTER PLUMBER, WHO SHALL BE IN CHARGE OF THE SUPERVISION OF ALL PLUMBING WORK PERFORMED BY SUCH CONTRACTOR. A MASTER PLUMBER SHALL BE RESPONSIBLE FOR NO MORE THAN ONE PLUMBING CONTRACTOR AT A TIME. THE MASTER PLUMBER SHALL BE REQUIRED TO NOTIFY THE BOARD WITHIN FIFTEEN DAYS AFTER HIS OR HER TERMINATION AS A MASTER PLUMBER FOR THAT PLUMBING CONTRACTOR. THE MASTER PLUMBER IS RESPONSIBLE FOR ALL PLUMBING WORK PERFORMED BY THE PLUMBING CONTRACTOR. FAILURE TO COMPLY WITH A NOTIFICATION MAY LEAD TO SUSPENSION OR REVOCATION OF THE MASTER PLUMBER LICENSE AS PROVIDED IN SECTION 12-58-110.

SECTION 4. The introductory portion to 12-58-110 (1), Colorado Revised Statutes, is amended, and the said 12-58-110 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-58-110. Disciplinary action by board - licenses or registrations denied, suspended, or revoked - cease and desist orders. (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 place a licensee OR A REGISTRANT on probation for any of the following reasons:

(q) IN CONNECTION WITH A CONSTRUCTION OR BUILDING PROJECT REQUIRING THE SERVICES OF A 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.

SECTION 5. 12-58-116.5 (1), (2), and (4), Colorado Revised Statutes, are amended, and the said 12-58-116.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-58-116.5. Violation - fines - rules. (1) (a) ~~Notwithstanding the provisions of section 12-58-116, the board shall have authority to assess a fine for any violation of the provisions of this article or any standard, rule, or regulation adopted by the board.~~ IF THE BOARD CONCLUDES THAT ANY LICENSEE, REGISTRANT, OR APPLICANT FOR LICENSURE HAS VIOLATED ANY PROVISION OF SECTION 12-58-110 AND THAT DISCIPLINARY ACTION IS APPROPRIATE, THE PROGRAM ADMINISTRATOR OR THE PROGRAM ADMINISTRATOR'S DESIGNEE MAY ISSUE A CITATION IN ACCORDANCE WITH SUBSECTION (2.5) 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 12-58-104 (1) (d). 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 (1).

(III) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, WARRANTS FORMAL ACTION, THE COMPLAINT SHALL NOT BE RESOLVED BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR PROSECUTION.

(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 (1) 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 (1) HAS EXPIRED.

(2) (a) ~~Such fine shall not be less than five hundred dollars or greater than one thousand dollars and shall be transmitted to the state treasurer, who shall credit the same to the general fund.~~ THE BOARD SHALL ADOPT A SCHEDULE OF FINES PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AS PENALTIES FOR VIOLATING SECTION 12-58-110. 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 12-58-104 (1) (d).

(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 ANY PROVISION OF SECTION 12-58-110 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.

(2.5) (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 (1) OF THIS SECTION.

(III) ANY CITATION ISSUED PURSUANT TO THIS SECTION SHALL CLEARLY SET FORTH HOW SUCH CITATION MAY BE CONTESTED PURSUANT TO SUBSECTION (1) 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 PROGRAM ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE UPON A PERSON OR THE PERSON'S AGENT IN ACCORDANCE WITH C.R.C.P. 4.

(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 (2.5).

(e) THE FAILURE OF AN APPLICANT FOR LICENSURE TO COMPLY WITH A CITATION DEEMED FINAL PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2.5) 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.

(4) (a) ~~Any administrative fines collected pursuant to this section shall be transmitted to the state treasurer, who shall credit such fines to the general fund~~ 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 (4), REASONABLE ATTORNEY FEES AND COSTS SHALL BE AWARDED.

SECTION 6. 12-58-117 (1), Colorado Revised Statutes, is amended to read:

12-58-117. Apprentices. (1) Any person may work as a plumbing apprentice for a licensed plumber but shall not do any plumbing work for which a license is required pursuant to this article except under the supervision of a licensed plumber. Supervision requires that the licensed plumber supervise apprentices at the jobsite. ONE LICENSED JOURNEYMAN PLUMBER, MASTER PLUMBER, OR RESIDENTIAL PLUMBER SHALL NOT SUPERVISE MORE THAN THREE APPRENTICE PLUMBERS AT THE SAME JOBSITE.

SECTION 7. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office, for legal services, for the fiscal year beginning July 1, 2007, the sum of twenty-eight thousand four hundred sixty-three dollars (\$28,463), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for regulation of plumbers, for the fiscal year beginning July 1, 2007, the sum of one hundred thirty thousand nine hundred fifty-six dollars (\$130,956) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of twenty-eight thousand four hundred sixty-three dollars (\$28,463) and 0.2 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the executive director's office out of the appropriation made in subsection (1) of this section.

SECTION 8. Effective date. This act shall take effect January 1, 2008.

SECTION 9. 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: May 17, 2007