

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1217 Session of
2001

INTRODUCED BY BARLEY, BARRAR, BELFANTI, CAPPELLI, CAWLEY,
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WALKO, C. WILLIAMS AND WOJNAROSKI, MARCH 29, 2001

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 29, 2001

AN ACT

1 Regulating the licensure of electrical contractors; providing
2 for licensure by the Department of Labor and Industry and for
3 its powers and duties; establishing the State-licensed
4 Electrical Contractors Advisory Committee; providing
5 penalties; and making an appropriation.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Electrical
18 Contractors Licensure Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Committee." The State-licensed Electrical Contractors
24 Advisory Committee established by this act.

25 "Department." The Department of Labor and Industry of the
26 Commonwealth.

27 "Electrical services." The installation, erection, repair or
28 alteration of electrical equipment for the generation,
29 transmission or utilization of electricity. The term shall not
30 include work done by or for an electrical public utility,

1 electric cooperative or a municipal electrical system which work
2 is performed on a plant or equipment used in the generation,
3 transmission and distribution of electricity to the public up to
4 the point of attachment or the provision of the communications
5 or telecommunications services.

6 "State-licensed electrical contractor." An individual
7 holding a current license under this act issued by the
8 Department of Labor and Industry.

9 Section 3. Powers and duties of department.

10 The department shall have the following powers:

11 (1) To pass upon the qualifications and fitness of
12 applicants for certification and reciprocal certification and
13 to adopt and revise rules and regulations requiring
14 applicants to pass examinations relating to their
15 qualifications as a prerequisite to the issuance of a
16 certificate.

17 (2) To adopt and, from time to time, revise those rules
18 and regulations as may be necessary to carry into effect
19 provisions of this act. The regulations shall include, but
20 shall not be limited to, standards of professional practice
21 and conduct for certification under this act.

22 (3) To examine for, deny, approve, issue, revoke,
23 suspend or renew certification authorized pursuant to this
24 act and to conduct hearings in connection therewith.

25 (4) To conduct hearings upon complaints concerning
26 violations of this act and the rules and regulations adopted
27 pursuant to this act and to seek the prosecution and
28 enjoinder of all such violations.

29 (5) To expend moneys necessary to the proper carrying
30 out of its assigned duties.

(6) To waive examination and to grant a license in cases deemed exceptional by the department and in accordance with regulations promulgated by the department.

Section 4. State-licensed Electrical Contractors Advisory Committee.

(a) Establishment.--There is hereby established the State-licensed Electrical Contractors Advisory Committee which shall be an advisory committee in the Department of Labor and Industry. The committee shall consist of seven members who are citizens of the United States and who have been residents of this Commonwealth for a two-year period, six of whom shall be qualified electrical contractors with experience of not less than ten years as an electrical contractor and one of whom shall be a qualified electrical inspector with experience of not less than five years as an electrical inspector. Three of the electrical contractor members shall be signatories to collective bargaining agreements and the remaining three shall be nonsignatories.

(b) Terms of office.--The members shall serve for four-year terms except as provided in subsection (c) and shall be appointed by the Governor and with the advice and consent of a majority of the members elected to the Senate.

(c) Initial appointments.--Within 90 days of the effective date of this act, the Governor shall nominate two electrical contractors to serve four-year terms; two electrical contractors and one electrical inspector to serve three-year terms; and two electrical contractors to serve two-year terms.

(d) Continuation in office.--Each committee members shall continue in office until a successor is duly appointed and qualified but no longer than six months after the expiration of

1 the term. In the event that a committee member dies, resigns or
2 otherwise becomes disqualified during the term of office, a
3 successor shall be appointed in the same way and with the same
4 qualifications as set forth in this section and shall hold
5 office for the unexpired term.

6 (e) Limit on terms.--No committee member shall be eligible
7 for appointment to serve more than two consecutive four-year
8 terms.

9 (f) Forfeiture of membership.--A committee member who fails
10 to attend three consecutive meetings shall forfeit that member's
11 seat unless the Secretary of Labor and Industry, upon written
12 request from the member, finds that the member shall be excused
13 from a meeting because of illness or the death of a family
14 member.

15 (g) Compensation.--Each member of the committee shall
16 receive \$60 per diem when actually attending to the work of the
17 committee. Members shall also receive reasonable traveling,
18 hotel and other necessary expenses incurred in the performance
19 of their duties in accordance with the rules and regulations of
20 the Executive Board of the Commonwealth.

21 (h) Quorum.--A majority of the members serving in accordance
22 with law shall constitute a quorum for purposes of conducting
23 the business of the committee. Except for temporary and
24 automatic suspensions, a member may not be counted as part of a
25 quorum or vote on any issue unless that member is physically in
26 attendance at the meeting.

27 (i) Meetings.--The board shall meet at least four times a
28 year in Harrisburg.

29 (j) Notice.--Reasonable notice of all meetings shall be
30 given in conformity with 65 Pa.C.S. Ch. 7 (relating to open

1 meetings).

2 Section 5. Powers and duties of committee.

3 The committee shall advise the department on the following:

4 (1) Qualifications and fitness of applicants for
5 licenses and reciprocal licenses.

6 (2) Standards of professional practice and conduct for
7 licenses and registrations issued under this act.

8 (3) Examinations.

9 (4) Complaints and violations of this act.

10 (5) Waiver of examination and granting of a license in
11 cases deemed exceptional by the department and in accordance
12 with regulations promulgated by the department.

13 Section 6. Licensure required.

14 It shall be unlawful for any person to hold himself forth as
15 a State-licensed electrical contractor unless that person shall
16 first have obtained a license in accordance with this act. The
17 State-licensed electrical contractor shall assume full
18 responsibility for inspection and supervision of all electrical
19 services to be performed in accordance with recognized safety
20 standards adopted by regulation of the department.

21 Section 7. Qualifications for licensure.

22 No person shall be granted licensing as a State-licensed
23 electrical contractor under this act or hold himself out as a
24 State-licensed electrical contractor unless that person submits
25 proof satisfactory to the department of the following:

26 (1) The person has performed electrical services for a
27 period of not less four years preceding the time of the
28 application or shall otherwise demonstrate, pursuant to
29 regulations of the department, that the person is qualified
30 to take the examination for licensing.

1 (2) Payment of the appropriate fees.

2 (3) Passage of the required examination.

3 Section 8. Examination required.

4 (a) General rule.--The department may require an applicant
5 for a licensure to take and pass an examination based on the
6 electrical code to the satisfaction of the department. The
7 department shall contract with a professional testing service
8 for the preparation, development, administration and grading of
9 the examination. Written, oral and practical examinations shall
10 be prepared and administered by a qualified and approved
11 professional testing organization.

12 (b) Exemption from examination.--The requirements of
13 subsection (a) shall not apply and a license shall be issued
14 without examination to a person:

15 (1) Who submits an application for licensure,
16 accompanied by the required fee, within two years of the
17 effective date of this act.

18 (2) Is a resident of this Commonwealth.

19 (3) Submits proof of performing electrical services
20 within this Commonwealth for a period of at least four years
21 prior to the effective date of this act.

22 (4) Demonstrates to the satisfaction of the department
23 that the person has passed an examination for licensure based
24 upon the National Electrical Code or other similar code
25 acceptable to the department.

26 Section 9. Reciprocity.

27 The department shall have the power to grant a reciprocal
28 license to an applicant who is licensed as an electrical
29 contractor in another state and who demonstrates qualifications
30 which equal or exceed those required, provided that no license

1 shall be granted under this section to an applicant unless the
2 state in which the applicant is licensed affords reciprocal
3 treatment to persons who are residents of this Commonwealth and
4 who are licensed pursuant to this act.

5 Section 10. Continuing education.

6 The department may promulgate regulations establishing
7 continuing education to be met by individuals seeking to renew
8 licenses issued under this act. State-certified electrical
9 contractors shall during the two-year period immediately
10 preceding biennial renewal of licenses issued under this act
11 complete a program of continuing education in the requirements
12 of the National Electrical Code, as defined by and acceptable to
13 the department, except that no credit may be given for courses
14 in office management or practice building.

15 Section 11. Refusal, suspension and revocation of license.

16 (a) Grounds.--The department may refuse, suspend, revoke,
17 limit or restrict a license or issue a public reprimand for any
18 of the following:

19 (1) Securing a license by fraud, deceit or
20 misrepresentation.

21 (2) Being unfit or unable to perform electrical services
22 by reason of illness, drunkenness, excessive use of drugs,
23 narcotics, chemicals or any other type of material,
24 bankruptcy or as a result of any mental or physical
25 condition.

26 (3) Engaging in false, deceptive or fraudulent business
27 activities or in misleading advertising.

28 (4) Violating a provision of this act or regulations of
29 the department.

30 (5) Committing an act of negligence or incompetence or

1 authorizing such an act by an employee.

2 (6) Failing to properly supervise employees in
3 accordance with this act and with recognized electrical
4 safety standards of the National Electrical Code in effect at
5 the time an act is committed or authorizing an unqualified
6 individual to assume responsibility for supervisory work.

7 (7) Failing to secure an inspection of electrical
8 construction as required by law.

9 (8) Failing to perform electrical services in
10 conformance with standards in effect in the municipality
11 wherein the services were performed or, in the absence of
12 such standards, in conformance with standards of the National
13 Electrical Code.

14 (9) Failing to comply with a municipal ordinance
15 concerning the inspection of electrical work and services, or
16 with the manner in which the municipality requires electrical
17 work to be performed.

18 (10) Being convicted of a felony in a court of any
19 jurisdiction. As used in this paragraph, the term "convicted"
20 includes a finding or verdict of guilt, an admission of guilt
21 or a plea of nolo contendere or receiving probation without
22 verdict, disposition in lieu of trial or an Accelerated
23 Rehabilitative Disposition in the disposition of felony
24 charges.

25 (11) Having a license to perform electrical services
26 suspended, revoked or refused or receiving other disciplinary
27 action by the proper licensing authority or any other state,
28 territory, possession or country.

29 (b) Department action.--When the department finds that the
30 license or application for license of any person should be

1 refused, revoked, restricted or suspended under the terms of
2 subsection (a), the department may:

3 (1) Deny the application for a license.

4 (2) Administer a public reprimand.

5 (3) Revoke, suspend, limit or otherwise restrict a
6 license as determined by the department.

7 (4) Suspend enforcement of its findings thereof and
8 place a State-licensed electrical contractor on probation
9 with the right to vacate the probationary order for
10 noncompliance.

11 (5) Restore the suspended license and impose any
12 disciplinary or corrective measure which it might originally
13 have imposed.

14 (c) Hearing.--All actions of the department shall be taken
15 subject to the right of notice, hearing and adjudication and the
16 right of appeal therefrom in accordance with 2 Pa.C.S. (relating
17 to administrative law and procedure).

18 (d) Temporary suspension.--

19 (1) The department shall temporarily suspend a license
20 under circumstances as determined by the department to be an
21 immediate and clear danger to the public health and safety.
22 The department shall issue an order to that effect without a
23 hearing but upon due notice to the State-licensed electrical
24 contractor concerned at his last known address, which shall
25 include a written statement of all allegations against the
26 individual. The provisions of subsection (c) shall not apply
27 to temporary suspension.

28 (2) The department shall then commence formal action to
29 suspend, revoke or restrict the license of the person
30 concerned as otherwise provided for in this act. All actions

1 shall be taken promptly and without delay.

2 (3) Within 30 days following issuance of an order
3 temporarily suspending a license, the department shall
4 conduct or cause to be conducted a preliminary hearing to
5 determine if there is a prima facie case supporting the
6 suspension.

7 (4) The individual whose license has been temporarily
8 suspended may be present at the preliminary hearing and may
9 be represented by counsel, cross-examine witnesses, inspect
10 physical evidence, call witnesses, offer evidence and
11 testimony and make a record of the proceedings.

12 (5) If it is determined that there is not a prima facie
13 case, the suspended license shall be immediately restored.
14 The temporary suspension shall remain in effect until vacated
15 by the department but in no event longer than 180 days.

16 (e) Automatic suspension.--

17 (1) A license issued under this act shall automatically
18 be suspended upon the legal commitment of a State-licensed
19 electrical contractor to an institution because of mental
20 incompetence from any cause upon filing with the department a
21 certified copy of the commitment; conviction of a felony
22 under the act of April 14, 1972 (P.L.233, No.64), known as
23 The Controlled Substance, Drug, Device and Cosmetic Act; or
24 conviction of a felony offense under the laws of another
25 jurisdiction, which, if committed in this Commonwealth, would
26 be a felony under The Controlled Substance, Drug, Device and
27 Cosmetic Act.

28 (2) An automatic suspension under this subsection shall
29 not be stayed pending an appeal of conviction. Restoration of
30 the license shall be made as provided in this act for

1 revocation or suspension of the license.

2 Section 12. Reinstatement of license.

3 Unless otherwise ordered to do so by Commonwealth Court or an
4 appeal from Commonwealth Court, the department may not reinstate
5 the revoked license of a person to practice as a State-licensed
6 electrical contractor pursuant to this act. Any person whose
7 license has been revoked may apply for a reinstatement after a
8 period of at least five years, but must meet all of the
9 licensure qualifications of this act, including the examination
10 requirement, if that person desires to practice as a State-
11 licensed electrical contractor pursuant to this act at any time
12 after the revocation.

13 Section 13. Reporting of multiple licensure.

14 Any State-licensed electrical contractor in this Commonwealth
15 who is also licensed in any other state, territory or country
16 shall report this information to the department on the biennial
17 renewal application. Any disciplinary action taken in any other
18 state, territory or country shall be reported to the department
19 on the biennial renewal application or within 90 days of
20 disposition, whichever is sooner. Multiple licensure shall be
21 noted by the department on the individual's record, and the
22 state, territory or country shall be notified by the department
23 of any disciplinary actions taken against the individual in this
24 Commonwealth.

25 Section 14. Surrender of suspended or revoked license.

26 The department shall require a person whose license has been
27 suspended or revoked to return the license in a manner as the
28 department directs. Failure to do so shall be a misdemeanor of
29 the third degree.

30 Section 15. Delegation permitted.

1 Nothing in this act shall prohibit a State-licensed
2 electrical contractor from delegating the performance of
3 electrical services to a person under the State-licensed
4 electrical contractor's supervision who is not licensed under
5 this act, provided the State-licensed electrical contractor
6 program is responsible for the performance of all electrical
7 services and any required inspections.

8 Section 16. Transferability of license.

9 No license issued under this act shall be assignable or
10 transferable. No person licensed under this act shall permit any
11 other person to use that license for any purpose inconsistent
12 with this act. A violation of this section shall be grounds for
13 license revocation.

14 Section 17. Powers of municipalities.

15 (a) Municipal ordinances preserved.--

16 (1) Nothing in this act shall be construed to supersede
17 the power of a municipality to:

18 (i) Inspect electrical work or equipment or to
19 regulate the manner in which electrical work shall be
20 performed.

21 (ii) Levy lawful taxes and fees.

22 (iii) Require the purchase of a business privilege
23 license that is unrelated to competence in the license or
24 in the performance of electrical services.

25 (2) No municipality shall require a State-licensed
26 electrical contractor to obtain a municipal license to
27 perform electrical services in the municipality.

28 (3) Nothing in this act shall be construed to preclude
29 municipalities from denying or revoking local permits for
30 failure to comply with local ordinances not inconsistent with

1 this act or regulations of the department.

2 (b) Failure to comply with local ordinance.--A State-
3 licensed electrical contractor who fails to comply with a
4 municipal ordinance concerning the inspection of electrical work
5 and services or with the manner in which the municipality
6 requires electrical work to be performed shall be subject to
7 disciplinary proceedings under this act.

8 Section 18. Local rulemaking.

9 Licensure under this act shall be acceptable to any
10 municipality in this Commonwealth as proof of competence to
11 perform electrical services. No municipality may require a
12 State-licensed electrical contractor to obtain an additional
13 license as an electrical contractor issued by that municipality
14 prior to contracting to perform services in the municipality.

15 Section 19. License renewal, records and fees.

16 (a) Renewal term.--The renewal of a license shall be on a
17 biennial basis.

18 (b) Records.--A record of all persons licensed to practice
19 as State-licensed electrical contractors in this Commonwealth
20 shall be kept in the department and shall be open to public
21 inspection and copying upon payment of a nominal fee for copying
22 the record.

23 (c) Fees.--

24 (1) All fees collected pursuant to this section shall be
25 deposited into the restricted revenue account established in
26 the State Treasury under section 7(c) of the act of December
27 19, 1990 (P.L.805, No.194), known as the Asbestos Occupations
28 Accreditation and Certification Act.

29 (2) Moneys deposited in the account shall be nonlapsing
30 and are hereby appropriated on a continuing basis and upon

1 approval of the Governor to the department to carry out the
2 purposes of this act, the Asbestos Occupations Accreditation
3 and Certification Act and the act of July 6, 1995 (P.L.291,
4 No.44), known as the Lead Certification Act.

5 (3) Notwithstanding the provisions of section (7)(c) of
6 the Asbestos Occupations Accreditation and Certification Act
7 regarding the deposit and use of fees, moneys in this account
8 shall be used for expenses related to the development,
9 implementation and operation of programs under this act, the
10 Asbestos Occupations Accreditation and Certification Act and
11 the Lead Certification Act and of programs, as approved by
12 the department, developed in relation to these acts and
13 carried out by other administrative agencies.

14 (4) All fees required pursuant to this act shall be
15 fixed by regulation and shall be subject to the act of June
16 25, 1982 (P.L.633, No.181), known as the Regulatory Review
17 Act.

18 Section 20. Subpoenas.

19 (a) Power to issue.--

20 (1) The department shall have the authority to issue
21 subpoenas for witnesses upon application of the attorney
22 responsible for representing the Commonwealth in disciplinary
23 matters before the department for the purpose of
24 investigating alleged violations of this act, to administer
25 oaths, to examine witnesses and to take testimony or compel
26 the production of those books, records, papers and documents
27 as it may deem necessary or proper in and pertinent to any
28 proceeding, investigation or hearing held or had by it.

29 (2) Client records may not be subpoenaed without consent
30 of the client or without order of a court of competent

1 jurisdiction on a showing that the records are reasonably
2 necessary for the conduct of the investigation. The court may
3 impose such limitations on the scope of the subpoena as are
4 necessary to prevent unnecessary intrusion into client
5 confidential information.

6 (3) The department may apply to Commonwealth Court to
7 enforce its subpoenas.

8 (b) Notification of department.--An attorney responsible for
9 representing the Commonwealth in disciplinary matters before the
10 department shall notify the department immediately upon
11 receiving notification of an alleged violation of this act. The
12 department shall maintain current records of all reports of
13 alleged violations and periodically review the records for the
14 purpose of determining that each alleged violation has been
15 resolved in a timely manner.

16 Section 21. Unlawful practice.

17 (a) General rule.--It shall be unlawful for any person to
18 hold himself out as a State-licensed electrical contractor
19 without possessing a valid, unexpired, unrevoked and unsuspended
20 license issued under this act. It shall be unlawful for any
21 business, firm, corporation or other entity to use the term
22 "State-licensed electrical contractor" or any title or
23 designation implying or connoting accreditation by the
24 Commonwealth unless at least one employee or owner is licensed
25 under this act.

26 (b) Injunction.--Unlawful practice may be enjoined by the
27 courts upon petition of the department. In any proceeding under
28 this section, it shall not be necessary to show that any person
29 is individually injured by the complained of actions. If the
30 court finds that the respondent has violated this section, it

1 shall enjoin the respondent from so practicing until the
2 respondent has been duly licensed. The procedure in such cases
3 shall be the same as in any other injunction suit.

4 (c) Remedy.--The injunctive remedy provided in this section
5 shall be in addition to any other civil or criminal prosecution
6 and punishment.

7 Section 22. Penalties.

8 (a) Criminal penalty.--A person who violates this act
9 commits a misdemeanor of the third degree and shall, upon
10 conviction, be sentenced to pay a fine of \$1,000 or less or to
11 imprisonment for not more than 90 days, or both.

12 (b) Civil penalty.--In addition to any other civil remedy or
13 criminal penalty provided for in this act, the department may
14 levy a civil penalty of \$1,000 or less per incident on a State-
15 licensed electrical contractor who violates any provision of
16 this act or any person who holds himself out as a State-licensed
17 electrical contractor without being so licensed pursuant to this
18 act. The department shall levy this penalty only after affording
19 the accused party the opportunity for a hearing, as provided in
20 2 Pa.C.S. (relating to administrative law and procedure).

21 (c) Disposition.--All fees, fines and civil penalties
22 collected under this act shall be deposited in the separate
23 restricted account in the State Treasury identified in section
24 19(c). All moneys in this account are hereby appropriated to the
25 department on a continuing basis to carry out the purposes of
26 this act.

27 Section 23. Severability.

28 The provisions of this act are severable. If any provision of
29 this act or its application to any person or circumstance is
30 held invalid, the invalidity shall not affect other provisions

1 or applications of this act which can be given effect without
2 the invalid provision or application.

3 Section 24. Effective date.

4 This act shall take effect as follows:

5 (1) Sections 4, 6 and 19 shall take effect in 24 months.

6 (2) The remainder of this act shall take effect in 90
7 days.