

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 288 Session of 2009

INTRODUCED BY ERICKSON, TARTAGLIONE, GREENLEAF, WAUGH, O'PAKE, LOGAN AND WASHINGTON, FEBRUARY 20, 2009

AS AMENDED ON THIRD CONSIDERATION, MAY 3, 2010

AN ACT

1 Providing for plumbing contractors licensure; establishing the
2 State Board of Plumbing Contractors and providing for its
3 powers and duties; conferring powers and imposing duties on
4 the Department of Labor and Industry; establishing fees,
5 fines and civil penalties; creating the Plumbing Contractors
6 Licensure Account; and making an appropriation.

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17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 CHAPTER 1

20 PRELIMINARY PROVISIONS

21 Section 101. Short title.

22 This act shall be known and may be cited as the Plumbing
23 Contractors Licensure Act.

24 Section 102. Definitions.

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

28 "Apprentice plumber." An individual who is registered as an
29 apprentice under the act of July 14, 1961 (P.L.604, No.304),
30 known as The Apprenticeship and Training Act, and who is

1 licensed by the State Board of Plumbing Contractors as an
2 individual whose principle occupation is learning and assisting
3 in the performance of plumbing services.

4 "Board." The State Board of Plumbing Contractors.

5 "Conviction." The term includes a judgment, an admission of
6 guilt or a plea of nolo contendere.

7 "Department." The Department of Labor and Industry of the
8 Commonwealth.

9 "Journeyman plumber." An individual who is licensed by the
10 State Board of Plumbing Contractors to assist a master plumber
11 with the performance of plumbing services.

12 "Master plumber" or "licensed plumbing contractor." An
13 individual who has been licensed by the State Board of Plumbing
14 Contractors and who is authorized to perform plumbing services
15 and to supervise plumbing services provided by an apprentice
16 plumber or a journeyman plumber.

17 "Minor repairs." The repair of an existing plumbing fixture,
18 including the replacement of faucets or valves or parts of
19 faucets or valves, the clearance of stoppages, the stopping of
20 leaks without replacement of water, drainage or vent piping, the
21 relieving of frozen pipes or other minor replacement or repair
22 of existing plumbing fixtures.

23 "Plumbing services." The installation, maintenance,
24 extension, erection, repair or alteration of piping, plumbing
25 fixtures, plumbing appliances and plumbing apparatus in
26 connection with sanitary drainage, storm facilities and building
27 sewers to the facility's or sewer's final connection to an
28 approved point of disposal, venting systems, public and private
29 water supply systems of a premises or building within the
30 property line and to the final connection with an approved

1 supply system. The term also includes the installation,
2 maintenance, extension, erection, repair or alteration of
3 piping, plumbing fixtures and plumbing apparatus used for storm
4 facilities and building sewers, liquid waste or sewage.

5 CHAPTER 3

6 BOARD

7 Section 301. State Board of Plumbing Contractors.

8 (a) Establishment.--There is hereby established the State
9 Board of Plumbing Contractors within the department.

10 (b) Composition.--The board shall consist of the following:

11 (1) The Secretary of Labor and Industry or a designee.

12 (2) Two public members.

13 (3) Six professional members. Professional members shall
14 have been actively engaged in providing plumbing services in
15 this Commonwealth for at least ten years immediately
16 preceding appointment. Two professional members shall reside
17 in a county of the first class. One professional member shall
18 reside in a county of the second class and the other shall
19 reside in a county of the third class. Three professional
20 members shall be subject to collective bargaining agreements.
21 Three professional members shall not be subject to collective
22 bargaining agreements. Except as set forth in subsection (f),
23 professional members shall be licensed under this act as
24 master plumbers.

25 (c) Meeting.--The board shall meet within 30 days after the
26 appointment of its first members and shall set up operating
27 procedures and develop application forms for licensure. It shall
28 be the responsibility of the board to circulate the forms and
29 educate the public regarding the requirements of this act and
30 providing plumbing services in this Commonwealth.

1 (d) Term of membership.--Professional and public members
2 shall be appointed by the Governor with the advice and consent
3 of the Senate. Professional and public members shall be citizens
4 of the United States and residents of this Commonwealth. Except
5 as provided in subsection (e), professional and public members
6 shall serve a term of four years or until a successor has been
7 appointed and qualified but in no event longer than six months
8 beyond the four-year period. In the event that a member dies or
9 resigns or is otherwise disqualified during the term of office,
10 a successor shall be appointed in the same way and with the same
11 qualifications and shall hold office for the remainder of the
12 unexpired term. A professional or public member shall not be
13 eligible to hold more than two consecutive terms.

14 (e) Appointments.--For professional and public members
15 initially appointed to the board pursuant to this act, the term
16 of office shall be as follows:

17 (1) Five members shall serve for a term of four years.

18 (2) Two members shall serve for a term of three years.

19 (3) One member shall serve for a term of two years.

20 (f) Professional members and initial appointments.--A
21 professional member initially appointed to the board pursuant to
22 this act need not be licensed at the time of appointment but, at
23 the time of appointment, must have satisfied eligibility
24 requirements for licensure as provided in this act.

25 (g) Quorum.--A majority of the members of the board shall
26 constitute a quorum. Except for temporary and automatic
27 suspensions under section 705, a member may not be counted as
28 part of a quorum or vote on any issue unless the member is
29 physically in attendance at the meeting.

30 (h) Chairman.--The board shall select annually a chairman

1 from among its members.

2 (i) Expenses.--With the exception of the secretary, each
3 member of the board shall receive \$60 per diem when actually
4 attending to the work of the board. A member shall also receive
5 the amount of reasonable traveling, hotel and other necessary
6 expenses incurred in the performance of the member's duties in
7 accordance with Commonwealth regulations.

8 (j) Forfeiture.--A professional or public member who fails
9 to attend three consecutive meetings shall forfeit the member's
10 seat unless the secretary, upon written request from the member,
11 finds that the member should be excused from a meeting because
12 of illness or the death of a family member.

13 (k) (Reserved).

14 (l) Frequency of meetings.--The board shall meet at least
15 four times a year in the City of Harrisburg and at such
16 additional times as may be necessary to conduct the business of
17 the board.

18 Section 302. Powers and duties of board.

19 (a) General rule.--The board shall have the following powers
20 and duties:

21 (1) To provide for and regulate the licensing of
22 individuals engaged in providing plumbing services.

23 (2) To issue, renew, reinstate, fail to renew, suspend
24 and revoke licenses as provided for in this act.

25 (3) To administer and enforce the provisions of this
26 act.

27 (4) To approve professional testing organizations to
28 administer tests to qualified applicants for licensure as
29 provided in this act. Written, oral or practical examinations
30 shall be prepared and administered by a qualified and

1 approved professional testing organization approved by the
2 board.

3 (5) To investigate applications for licensure and to
4 determine the eligibility of an individual applying for
5 licensure.

6 (6) To promulgate and enforce regulations, not
7 inconsistent with this act, as necessary only to carry into
8 effect the provisions of this act. This paragraph includes
9 the setting of fees. Regulations shall be adopted in
10 conformity with the provisions of the act of July 31, 1968
11 (P.L.769, No.240), referred to as the Commonwealth Documents
12 Law, and the act of June 25, 1982 (P.L.633, No.181), known as
13 the Regulatory Review Act.

14 (7) To keep minutes and records of all its proceedings.

15 (8) To keep and maintain a registry of individuals
16 licensed by the board. The board shall provide access to the
17 registry to the public, including making the registry
18 available on a publicly accessible Internet website. The
19 registry shall contain the home improvement contractor
20 registration number required by the act of October 17, 2008
21 (P.L.1645, No.132), known as the Home Improvement Consumer
22 Protection Act, and provide access information for the
23 website containing registration information if the contractor
24 is required to be registered as a residential home
25 improvement contractor.

26 (9) To submit annually to the department an estimate of
27 financial requirements of the board for its administrative,
28 legal and other expenses.

29 (10) To submit annually a report to the Consumer
30 Protection and Professional Licensure Committee of the Senate

1 and the Professional Licensure Committee of the House of
2 Representatives. The report shall include a description of
3 the types of complaints received, the status of cases, the
4 action which has been taken and the length of time from
5 initial complaint to final resolution.

6 (11) To submit annually to the Appropriations Committee
7 of the Senate and the Appropriations Committee of the House
8 of Representatives, 15 days after the Governor has submitted
9 a budget to the General Assembly, a copy of the budget
10 request for the upcoming fiscal year which the board
11 previously submitted to the department.

12 CHAPTER 5

13 LICENSURE

14 Section 501. Licensure.

15 (a) General rule.--An individual may not provide plumbing
16 services, offer himself for employment as an individual who may
17 provide plumbing services or hold himself out as an individual
18 authorized to perform plumbing services unless licensed by the
19 board.

20 (b) Business entities.--An individual, corporation,
21 partnership, firm or other entity shall not:

22 (1) Employ an individual to provide plumbing services or
23 direct an individual to provide plumbing services unless the
24 individual is licensed under this act.

25 (2) Use the term "licensed plumbing contractor" in
26 connection with the entity unless at least one employee or
27 the owner of the entity is licensed as a master plumber in
28 accordance with this act.

29 (c) Title.--An individual who holds a license as a master
30 plumber or is maintained on inactive status pursuant to section

1 505(b) shall have the right to use the title "licensed plumbing
2 contractor" and the abbreviation "L.P.C." No other individual
3 shall use the title "licensed plumbing contractor" or the
4 abbreviation "L.P.C." Except as provided in subsection (d), no
5 individual shall hold himself out as being authorized to provide
6 plumbing services.

7 (d) Exceptions.--The following exceptions apply:

8 (1) A journeyman plumber or an apprentice plumber may
9 hold himself out as being authorized to perform plumbing
10 services if the journeyman plumber or the apprentice plumber
11 works under the direction and supervision of a master
12 plumber.

13 (2) An individual who is not in the business of
14 providing plumbing services and who performs minor repairs in
15 a residence shall not be required to obtain a license under
16 this act.

17 (e) Responsibility.--A licensed plumbing contractor shall
18 assume full responsibility for inspection of plumbing services
19 irrespective of whether the plumbing services were performed by
20 the licensed plumbing contractor or by a journeyman plumber or
21 an apprentice plumber working under the direction and
22 supervision of the licensed plumbing contractor. In addition,
23 the licensed plumbing contractor shall direct and supervise
24 plumbing services performed by a journeyman plumber or an
25 apprentice plumber. This subsection includes the responsibility
26 of the licensed plumbing contractor to ensure conformance with
27 safety standards and applicable plumbing codes, including
28 plumbing codes for first class counties and second class
29 counties as provided under the act of November 10, 1999
30 (P.L.491, No.45), known as the Pennsylvania Construction Code

1 Act.

2 Section 502. Qualifications.

3 (a) Master plumber.--To be eligible to apply for licensure
4 as a master plumber, an applicant must fulfill the following
5 requirements:

6 (1) Be at least 18 years of age.

7 (2) Submit proof satisfactory to the board that the
8 applicant has provided plumbing services for not less than
9 five years prior to application. Of the five years'
10 experience, five years shall have been as a master plumber or
11 one year shall have been as a journeyman plumber and four
12 years shall have been as an apprentice plumber. In lieu of
13 the five years' experience provided in this paragraph, an
14 applicant may submit proof of the applicant's experience
15 satisfactory to the board that the individual has sufficient
16 training and experience to sit for the examination.

17 (3) Pay the fee set by the board.

18 (4) Pass the examination provided by the board.

19 (5) Provide a current certificate of liability insurance
20 in the amount of \$500,000.

21 (b) Journeyman plumber.--To be eligible for licensure as a
22 journeyman plumber, an applicant must fulfill the following
23 requirements:

24 (1) Be of good moral character.

25 (2) Be at least 18 years of age.

26 (3) Submit proof satisfactory to the board that the
27 applicant has provided plumbing services for not less than
28 four years as a journeyman or an apprentice plumber or has
29 served 8,000 hours as an apprentice plumber and has
30 satisfactorily completed at least 576 hours of related

1 technical education at an accredited school.

2 (4) Pay the fee set by the board.

3 (5) Pass the examination provided by the board.

4 (c) Additional requirement.--In addition to passing the
5 examination set forth in subsection (a)(4) or (b)(5), an
6 individual applying for licensure as a master plumber or a
7 journeyman plumber who provides or will provide plumbing
8 services in either a first class county or a second class county
9 must pass an examination on the plumbing code of the first class
10 county or the second class county, as appropriate.

11 (d) Apprentice plumber.--To be eligible for licensure as an
12 apprentice plumber, an applicant shall fulfill the following
13 requirements:

14 (1) ~~Be of good moral character.~~ ←

15 ~~(2)~~ Be at least 16 years of age.

16 ~~(3)~~ (2) Register with the Department of Labor and ←
17 Industry as set forth in the act of July 14, 1961 (P.L.604,
18 No.304), known as The Apprenticeship and Training Act. The
19 apprentice plumber shall submit proof of current registration
20 to the board.

21 ~~(4)~~ (3) Pay the fee set by the board. ←

22 (e) Renewal of license of apprentice plumber.--In the case
23 of an apprentice plumber applying for renewal of a license where
24 registration under subsection ~~(d)(3)~~ (D)(2) has expired or ←
25 otherwise lapsed before the biennial renewal cycle will expire,
26 the apprentice plumber shall submit evidence satisfactory to the
27 board that the apprentice plumber has renewed registration to
28 the board. Failure to notify the board within 30 days that
29 registration has expired or otherwise lapsed shall subject the
30 apprentice plumber to disciplinary action. In the case of an

1 apprentice plumber whose registration has expired or otherwise
2 lapsed, the license shall be immediately placed in inactive
3 status by the board. The board shall promulgate regulations in
4 order to carry out the provisions of this subsection, including
5 regulations setting forth the evidence necessary to demonstrate
6 renewal of registration.

7 (f) Waiver of examination.--Notwithstanding the provisions
8 of subsections ~~(a)-(5)~~ (A) (4) and (b) (5), the board shall grant a ←
9 license to an individual applying to become either a master
10 plumber or a journeyman plumber without examination if the
11 individual meets all of the following requirements:

12 (1) The individual applies within 18 months of the
13 effective date of this section.

14 (2) The individual meets the requirements of age and
15 character and pays the required fee.

16 (3) For an individual applying for a license as a master
17 plumber under this subsection, the individual submits proof
18 satisfactory to the board of any of the following:

19 (i) Five years of prior experience immediately
20 preceding application providing plumbing services within
21 this Commonwealth.

22 (ii) Five consecutive years of possession of a
23 current business license as a plumber from a municipality
24 or other agency recognized by the respective county and
25 the board where applicable.

26 (iii) Successful completion of a test administered
27 by the respective county or city on the plumbing code of
28 either the county or city of the first class or a county
29 or city of the second class or a county or city of the
30 third class, as appropriate to working as a licensee in

1 those specific counties or cities.

2 (4) For an individual applying for a license as a
3 journeyman plumber under this subsection, the individual
4 submits proof satisfactory to the board of:

5 (i) Four years of prior experience immediately
6 preceding the application for licensure providing
7 plumbing services under the supervision of an individual
8 licensed as a plumber by a municipality or other agency
9 recognized by the board.

10 (ii) Successful completion of a test administered by
11 the respective county or city on the plumbing code of
12 either the county or city of the first class or a county
13 or city of the second class or a county or city of the
14 third class, as appropriate to working as a licensee in
15 those specific counties or cities.

16 (g) Convictions prohibited.--The board shall not issue a
17 license to an individual who has been convicted of a felonious
18 act prohibited by the act of April 14, 1972 (P.L.233, No.64),
19 known as The Controlled Substance, Drug, Device and Cosmetic
20 Act, or convicted of a felony relating to a controlled substance
21 in a court of law of the United States or any other state,
22 territory or country unless:

23 (1) At least five years have elapsed from the date of
24 conviction.

25 (2) The individual satisfactorily demonstrates to the
26 board that he has made significant progress in personal
27 rehabilitation since the conviction such that licensure of
28 the individual should not be expected to create a substantial
29 risk of harm to the health and safety of the public or a
30 substantial risk of further criminal violations.

1 (3) The individual otherwise satisfies the
2 qualifications provided in this act. An individual's
3 statement on the application declaring the absence of a
4 conviction shall be deemed satisfactory evidence of the
5 absence of a conviction unless the board has some evidence to
6 the contrary.

7 Section 503. Continuing education.

8 (a) Regulations.--The board shall adopt, promulgate and
9 enforce rules and regulations consistent with the provisions of
10 this act establishing continuing education to be met by
11 individuals licensed as master plumbers and journeyman plumbers.
12 Regulations shall include any fees necessary for the board to
13 carry out its responsibilities under this section. The board may
14 waive all or part of the continuing education requirement for a
15 master plumber or a journeyman plumber who shows evidence
16 satisfactory to the board that the individual was unable to
17 complete the requirement due to illness, emergency, military
18 service or other hardship. All courses, materials, locations and
19 instructors shall be approved by the board. No credit shall be
20 given for a course in office management or practice building.

21 (b) Requirement.--Beginning with the licensure period
22 designated by regulation, an individual applying for renewal of
23 a license as a master plumber or a journeyman plumber shall be
24 required to obtain 10 hours of continuing education during the
25 two calendar years immediately preceding the application for
26 renewal.

27 Section 504. Plumbing contractors in other states.

28 (a) Reciprocity established.--Subject to subsections (b) and
29 (c), the board may issue a license without examination to an
30 individual who is licensed as a master plumber or journeyman

1 plumber in any other state, territory or possession of the
2 United States if all of the following requirements are met:

3 (1) The individual meets the requirements as to
4 character and age.

5 (2) The individual pays the required fee.

6 (3) The individual demonstrates to the satisfaction of
7 the board that the individual meets the experience
8 requirement for master plumbers and journeyman plumbers, as
9 appropriate.

10 (4) The individual provides evidence satisfactory to the
11 board that the individual has passed an examination in
12 another jurisdiction demonstrating knowledge of a plumbing
13 code.

14 (b) Requirement.--For an individual to be eligible to apply
15 for a license as a master plumber or a journeyman plumber under
16 subsection (a), the other state, territory or possession of the
17 United States must provide an opportunity for reciprocal
18 licensure which is substantially similar to the opportunity
19 provided by the Commonwealth under this section.

20 (c) Counties of the first or second class.--An individual
21 applying for a license as a master plumber or journeyman plumber
22 under subsection (a) who provides or will provide plumbing
23 services in either a county of the first class or a county of
24 the second class must pass an examination administered by the
25 respective county on the plumbing code of either the county of
26 the first class or the county of the second class, as
27 appropriate.

28 Section 505. Duration of license.

29 (a) Duration of license.--A license issued pursuant to this
30 act shall be on a biennial basis. The biennial expiration date

1 shall be established by the board. Application for renewal of a
2 license shall biennially be forwarded to an individual holding a
3 current license prior to the expiration date of the current
4 biennium. For individuals applying for licensure as an
5 apprentice plumber, the application form must indicate whether
6 registration as an apprentice under the act of July 14, 1961
7 (P.L.604, No.304), known as The Apprenticeship and Training Act,
8 has expired or otherwise lapsed before the biennial renewal
9 cycle will expire.

10 (b) Inactive status.--An individual licensed under this act
11 may request an application for inactive status. The application
12 form may be completed and returned to the board. Upon receipt of
13 an application, the individual shall be maintained on inactive
14 status without fee and shall be entitled to apply for a
15 licensure renewal at any time. An individual who requests the
16 board to activate the license of the individual and who has been
17 on inactive status shall, prior to receiving an active license,
18 satisfy the requirements of the board's regulations regarding
19 continuing education and remit the required fee. In the case of
20 an apprentice plumber who is placed on inactive status pursuant
21 to section 502(e), the apprentice plumber shall provide evidence
22 to the board of renewal of registration before the board may
23 activate the license. The board shall promulgate regulations to
24 carry into effect the provisions of this subsection.

25 Section 506. Reporting of multiple licensure.

26 A licensee who is also licensed to perform plumbing services
27 in any other state, territory or possession of the United States
28 shall report this information to the board on the biennial
29 registration application. Any disciplinary action taken in
30 another state, territory, possession of the United States or

1 country shall be reported to the board on the biennial
2 registration application or within 90 days of final disposition,
3 whichever is sooner. Multiple licensure shall be noted by the
4 board on the individual's record, and such state, territory,
5 possession or country shall be notified by the board of any
6 disciplinary action taken against the licensee in this
7 Commonwealth.

8 Section 507. Prohibition.

9 This act shall not prohibit the installation, modification or
10 replacement of propane-related systems or appliances by the
11 owner, principal or employee of a propane distributor if the
12 propane distributor is registered with the department under the
13 act of June 19, 2002 (P.L.421, No.61), known as the Propane and
14 Liquefied Petroleum Gas Act, and with the Attorney General under
15 the act of October 17, 2008 (P.L.1645, No.132), known as the
16 Home Improvement Consumer Protection Act.

17 CHAPTER 7

18 ADMINISTRATION AND ENFORCEMENT

19 Section 701. Fees, fines and civil penalties.

20 (a) Fees.--All fees required under this act shall be fixed
21 by the board by regulation and shall be subject to the act of
22 June 25, 1982 (P.L.633, No.181), known as the Regulatory Review
23 Act. If the revenues raised by the fees, fines and civil
24 penalties imposed under this act are not sufficient to meet
25 expenditures over a two-year period, the board shall increase
26 those fees by regulation so that projected revenues will meet or
27 exceed projected expenditures.

28 (b) Fee increase.--If the department determines that the
29 fees established by the board under subsection (a) are
30 inadequate to meet the minimum enforcement efforts required by

1 this act, then the department, after consultation with the board
2 and subject to the Regulatory Review Act, shall increase the
3 fees by regulation in an amount such that adequate revenues are
4 raised to meet the required enforcement effort.

5 (c) Account.--A restricted account is hereby created in the
6 State Treasury which shall be known as the Plumbing Contractors
7 Licensure Account. Beginning July 1, 2010, and thereafter, all
8 moneys collected by the State Board of Plumbing Contractors
9 shall be paid into the Plumbing Contractors Licensure Account.
10 Funds in this account are hereby appropriated upon approval of
11 the Governor for payment of the costs of processing licenses and
12 renewals and for other general costs of board operations.

13 (d) Renewal fee.--The board may charge a fee, as set by the
14 board by regulation, for licensure, for renewing licensure and
15 for other administrative actions by the board as permitted by
16 this act or by regulation.

17 Section 702. Violations.

18 (a) General rule.--An individual or the responsible officers
19 or employees of a corporation, partnership, firm or other entity
20 violating a provision of this act or a regulation of the board
21 commits a misdemeanor and shall, upon conviction, be sentenced
22 to pay a fine of not more than \$1,000 or to imprisonment for not
23 more than six months for the first violation. For the second and
24 each subsequent conviction, the person shall be sentenced to pay
25 a fine of not more than \$2,000 or to imprisonment for not less
26 than six months or more than one year, or both.

27 (b) Civil penalty.--In addition to any other civil remedy or
28 criminal penalty provided for in this act, the board, by a vote
29 of the majority of the maximum number of the authorized
30 membership of the board as provided by law or by a vote of the

1 majority of the duly qualified and confirmed membership or a
2 minimum of five members, whichever is greater, may levy a civil
3 penalty of up to \$10,000 on any of the following:

4 (1) A licensee who violates a provision of this act.

5 (2) An individual who performs plumbing services in
6 violation of this act.

7 (3) An individual who holds himself out as an individual
8 authorized to perform plumbing services without being
9 properly licensed as provided in this act.

10 (4) The responsible officers or employees of a
11 corporation, partnership, firm or other entity violating a
12 provision of this act.

13 (c) Procedure.--The board shall levy the civil penalty set
14 forth in subsection (b) only after affording the accused the
15 opportunity for a hearing as provided in 2 Pa.C.S. (relating to
16 administrative law and procedure).
17 Section 703. Refusal, suspension or revocation of license.

18 (a) General rule.--The board may refuse to issue, suspend or
19 revoke a license in a case where the board finds:

20 (1) The licensee is or has been negligent or incompetent
21 in the performance of plumbing services.

22 (2) The licensee is or has been unable to perform
23 plumbing services with reasonable skill and safety by reason
24 of mental or physical illness or condition or physiological
25 or psychological dependence upon alcohol, hallucinogenic or
26 narcotic drugs or other drugs which tend to impair judgment
27 or coordination, so long as such dependence shall continue.
28 In enforcing this paragraph, the board shall, upon probable
29 cause, have authority to compel a licensee to submit to a
30 mental or physical examination as designated by it. After

1 notice, hearing, adjudication and appeal, failure of a
2 licensee to submit to such examination when directed shall
3 constitute an admission of the allegations unless failure is
4 due to circumstances beyond the licensee's control,
5 consequent upon which a default and final order may be
6 entered without the taking of testimony or presentation of
7 evidence. A licensee affected under this paragraph shall at
8 reasonable intervals be afforded the opportunity to
9 demonstrate that he can resume competent, safe and skillful
10 performance of plumbing services.

11 (3) The licensee has violated any of the provisions of
12 this act or a regulation of the board.

13 (4) The licensee has committed fraud or deceit in:

14 (i) the performance of plumbing services; or

15 (ii) securing licensure.

16 (5) The board shall not issue a license to an individual
17 who has been convicted of a felonious act prohibited by the
18 act of April 14, 1972 (P.L.233, No.64), known as The
19 Controlled Substance, Drug, Device and Cosmetic Act, or
20 convicted of a felony relating to a controlled substance in a
21 court of law of the United States or any other state,
22 territory or country unless:

23 (i) At least five years have elapsed from the date
24 of conviction.

25 (ii) The individual satisfactorily demonstrates to
26 the board that he has made significant progress in
27 personal rehabilitation since the conviction such that
28 licensure of the individual should not be expected to
29 create a substantial risk of harm to the health and
30 safety of the public or a substantial risk of further

1 criminal violations.

2 (iii) The individual otherwise satisfies the
3 qualifications provided in this act. An individual's
4 statement on the application declaring the absence of a
5 conviction shall be deemed satisfactory evidence of the
6 absence of a conviction unless the board has some
7 evidence to the contrary.

8 (6) The licensee has had the licensee's license
9 suspended or revoked or has received other disciplinary
10 action by the proper licensing authority in another state,
11 territory or possession of the United States or country.

12 (7) (Reserved).

13 (8) With respect to a master plumber, the master plumber
14 failed to properly direct and supervise a journeyman plumber
15 or apprentice plumber or failed to properly inspect plumbing
16 services. This paragraph includes failure to ensure
17 compliance with safety standards and applicable plumbing
18 codes.

19 (9) (Reserved).

20 (10) (Reserved).

21 (11) The licensee falsely advertised or made misleading,
22 deceptive, untrue or fraudulent material representations
23 regarding licensure or in the performance of plumbing
24 services.

25 (12) Unless waived by the board in accordance with
26 section 503, the licensee failed to satisfy the continuing
27 education requirements of this act.

28 (b) Acts authorized.--When the board finds that the license
29 of an individual may be refused, revoked or suspended pursuant
30 to subsection (a), the board may:

- 1 (1) Deny the application for a license.
- 2 (2) Administer a public reprimand.
- 3 (3) Revoke, suspend, limit or otherwise restrict a
4 license.
- 5 (4) Suspend enforcement of its finding and place a
6 licensee on probation with the right to vacate the
7 probationary order for noncompliance.
- 8 (5) Restore or reissue, in its discretion, a suspended
9 license and impose any disciplinary or corrective measure
10 which it might originally have imposed.

11 Section 704. Suspensions and revocations.

12 A suspension or revocation shall be made only in accordance
13 with the regulations of the board and only by majority vote of
14 the members of the board after a full and fair hearing. An
15 action of the board shall be taken subject to the right of
16 notice, hearing and adjudication, and the right of appeal, in
17 accordance with the provisions of 2 Pa.C.S. (relating to
18 administrative law and procedure). The board, by majority action
19 and in accordance with its regulations, may reissue a license
20 which has been suspended. If a license has been revoked, the
21 board shall reissue a license only in accordance with section
22 706.

23 Section 705. Temporary and automatic suspensions.

24 (a) General rule.--A license issued under this act may be
25 temporarily suspended under circumstances determined by the
26 board to be an immediate and clear danger to public health or
27 safety or property. The board shall issue an order to that
28 effect without a hearing, but upon due notice, to the licensee
29 concerned at the licensee's last known address, which shall
30 include a written statement of all allegations against the

1 licensee. The provisions of section 704 shall not apply to
2 temporary suspension. The board shall commence formal action to
3 suspend, revoke or restrict the license of the individual as
4 otherwise provided for in this act. All actions shall be taken
5 promptly and without delay. Within 30 days following the
6 issuance of an order temporarily suspending a license, the board
7 shall conduct or cause to be conducted a preliminary hearing to
8 determine that there is a prima facie case supporting the
9 suspension. The individual whose license has been temporarily
10 suspended may be present at the preliminary hearing and may be
11 represented by counsel, cross-examine witnesses, inspect
12 physical evidence, call witnesses, offer evidence and testimony
13 and make a record of the proceedings. If it is determined that
14 there is not a prima facie case, the suspended license shall be
15 immediately restored. The temporary suspension shall remain in
16 effect until vacated by the board, but in no event longer than
17 180 days.

18 (b) Commitment of licensee.--A license issued under this act
19 shall automatically be suspended upon the legal commitment of a
20 licensee to an institution because of mental incompetency from
21 any cause upon filing with the board a certified copy of such
22 commitment, conviction of a felony under the act of April 14,
23 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
24 Device and Cosmetic Act, or conviction of an offense under the
25 laws of another jurisdiction, which, if committed in
26 Pennsylvania, would be a felony under The Controlled Substance,
27 Drug, Device and Cosmetic Act. Automatic suspension under this
28 subsection shall not be stayed pending an appeal of a
29 conviction. Restoration of the license shall be made as provided
30 in the case of revocation or suspension of a license.

1 Section 706. Reinstatement of license.

2 Unless ordered to do so by the Commonwealth Court or an
3 appeal therefrom, the board shall not reinstate the license of
4 an individual which has been revoked. An individual whose
5 license has been revoked may reapply for a license, after a
6 period of at least five years, but must meet all of the
7 licensing requirements of this act.

8 Section 707. Surrender of suspended or revoked license.

9 The board shall require an individual whose license has been
10 suspended or revoked to return the license in such manner as the
11 board directs. Failure to do so, and upon conviction thereof,
12 shall be a misdemeanor of the third degree.

13 Section 708. Injunction.

14 Whenever, in the judgment of the board, a person has engaged
15 in an act or practice which constitutes or will constitute a
16 violation of this act, the board or its agents may make
17 application to the appropriate court for an order enjoining such
18 act or practice. Upon a showing by the board that the person has
19 engaged or is about to engage in such act or practice, an
20 injunction, restraining order or such order, as may be
21 appropriate, may be granted by the court. The remedy by
22 injunction is in addition to any other civil or criminal
23 penalty.

24 Section 709. Subpoenas and oaths.

25 (a) Authority granted.--The board shall have the authority
26 to issue subpoenas, upon application of an attorney responsible
27 for representing the Commonwealth in disciplinary matters before
28 the board, for the purpose of investigating alleged violations
29 of the act or regulation of the board. The board shall have the
30 power to subpoena witnesses, to administer oaths, to examine

1 witnesses and to take such testimony or compel the production of
2 such books, records, papers and documents as it may deem
3 necessary or proper in and pertinent to any proceeding,
4 investigation or hearing held or had by it. The board is
5 authorized to apply to Commonwealth Court to enforce its
6 subpoenas. The court may impose limitations in the scope of the
7 subpoena as are necessary to prevent unnecessary intrusion into
8 client confidential information.

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

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Municipalities.

20 (a) Municipal licensed not required.--Licensure under this
21 act shall be acceptable to a municipality or public entity in
22 this Commonwealth as proof of competence to perform plumbing
23 services and no municipality may require an individual licensed
24 under this act to obtain an additional license to perform
25 plumbing services.

26 (b) Certain powers preserved.--Nothing in this act shall be
27 construed to prevent a municipality from doing any of the
28 following:

29 (1) Inspecting plumbing services or regulating the
30 manner in which plumbing services are performed in compliance

1 with the current Commonwealth plumbing code or applicable
2 municipal plumbing code.

3 (2) Levying lawful taxes and fees.

4 (3) Requiring the purchase of a business privilege
5 license that is unrelated to demonstrating competence in the
6 performance of plumbing services.

7 (4) Denying or revoking local permits for failure to
8 comply with ordinances.

9 (c) Plumbing construction standards.--Nothing in this act
10 authorizes the board or a municipality to adopt plumbing
11 construction standards except within the relevant provisions of
12 the act of November 10, 1999 (P.L.491, No.45), known as the
13 Pennsylvania Construction Code Act. Nothing in this act
14 authorizes the board or a municipality to adopt a standard or
15 regulation of propane, propane distributors or installation of
16 propane-related systems or appliances which differs or conflicts
17 with sections 15 and 16 of the act of June 19, 2002 (P.L.421,
18 No.61), known as the Propane and Liquefied Petroleum Gas Act.
19 Section 2102. Appropriation.

20 The sum of \$85,000, or as much thereof as may be necessary,
21 is hereby appropriated to the Department of Labor and Industry
22 for the payment of costs associated with processing licenses and
23 renewing licenses, for the operation of the board and for other
24 costs associated with this act. The appropriation shall be
25 repaid by the department within three years of the beginning of
26 issuance of licenses by the board.

27 Section 2103. Regulations.

28 Within 18 months of the effective date of this section, the
29 board shall begin to promulgate regulations to carry out this
30 act.

1 Section 2104. Effective date.

2 This act shall take effect as follows:

3 (1) Section 501 shall take effect in one year.

4 (2) This section shall take effect immediately.

5 (3) The remainder of this act shall take effect in 60
6 days.