

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1522

By: Fields

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1992, Sections 1002, 1018, 1681, 1694, 1695, 1850.5, 1850.11 and 1850.13, which relate to The Plumbing License Law of 1955, the Electrical License Act, and the Mechanical Licensing Act; authorizing the State Board of Health to establish and levy administrative fines for certain violations of such acts; authorizing such Board to initiate disciplinary proceedings, request prosecution of and initiate injunctive and other proceedings against violators of such acts; directing the administrative fines to be deposited in certain funds for certain purposes; authorizing the surrender of certain licenses in lieu of certain administrative fines; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1002, is amended to read as follows:

Section 1002. The State Board of Health, in pursuance of its general power of supervision over the interests of the health and life of the citizens of this state, and over the sanitary conditions under which they live, is hereby authorized, empowered and directed, through the Commissioner of Health, to make, prescribe, enforce, amend and repeal rules and regulations governing the examination and licensing of persons desiring or intending to engage in the business, trade or calling of master plumber (plumbing contractor) or journeyman plumber, the registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice, the

establishment and levying of administrative fines, the initiation of disciplinary proceedings, the requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of this act or any rule promulgated pursuant to this act, and to establish bonding requirements for the issuance of a license as a plumbing contractor, provided, such rules and regulations shall not be inconsistent with the terms and conditions hereinafter provided. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality, provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with any municipality in which the licensee does work as a plumbing contractor. A copy of the bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with the municipality prior to the commencement of any such work by the licensee.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1018, is amended to read as follows:

Section 1018. All fees, administrative fines or payments of any type collected by the Commissioner under this act shall be paid directly into the State Treasury where they shall be kept in a separate fund in trust and for use only by the Commissioner to meet all expenses deemed necessary to incur in carrying out the intent and purposes of this act. The funds are to be expended only through the Commissioner's authorization and are to be used for paying operating expenses and in carrying out programs and devices designed to further the efficacy of the plumbing industry and public understanding of it. This may include, among other expenditures to be determined through the Commissioner's discretion, preparation and printing of regulations, bulletins, or other documents and the furnishing of copies to those engaged in the plumbing industry or to the public.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1010 of this title, the Plumbing Hearing Board shall find any person to be in violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the fund established in Section 1018 of this title. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

B. The Plumbing Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Plumbing Hearing Board that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1681, is amended to read as follows:

Section 1681. The State Board of Health is hereby authorized to adopt, amend and repeal rules and regulations governing the examination and licensing of electrical contractors and journeymen electricians, the defining of categories and limitations for such licenses, the establishment and levying of administrative fines, the initiation of disciplinary proceedings, the requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of this act or any rule promulgated pursuant to this act, the establishment of bonding and insurance requirements precluding municipal requirements, the requirement of proof of possession of a Federal Tax ID Number and a State of Oklahoma Employment Security Commission identification number, the registration of electrical

apprentices and the standard of electrical installations, and to adopt future editions of the Code. Provided, broiler houses will not be required to meet the electrical wiring requirements for environmentally controlled poultry houses as set out in the National Electric Code.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1694, is amended to read as follows:

Section 1694. All monies received by the Commissioner under the Electrical License Act, including the administrative fines authorized by Section 6 of this act, shall be deposited with the State Treasurer and credited to the "Electrical Revolving Fund". The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the Commissioner. Expenditures from this fund shall be made pursuant to the purposes of the Electrical License Act and shall include, but not be limited to, payment of operating costs and the costs of programs designed to promote public awareness of the electrical industry, and expenditures for the preparation and printing of regulations, bulletins or other documents and the furnishing of copies of such documents to those persons engaged in the electrical industry or the public. Warrants for expenditures shall be drawn by the State Auditor and Inspector based on claims signed by the Commissioner and approved for payment by the Director of State Finance. The revolving fund shall be audited at least once each year by the State Auditor and Inspector.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1695, is amended to read as follows:

Section 1695. A. Any person who violates any of the provisions of the Electrical License Act or any provision of an ordinance or regulation enacted by a city or town by authority of the Electrical License Act, in addition to suffering possible suspension or revocation of a license or registration, shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00).

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1689 of this title, the Electrical Hearing Board shall find any person to be in violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Electrical Revolving Fund. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. The Electrical Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Electrical Hearing Board that the person has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

D. If any electrical facilities as defined in the Electrical License Act are in violation of the National Electrical Code set forth in the National Fire Code (Electrical) issued by the National Fire Protection Association, NFPA number 70, current edition, as amended, or any ordinance or other regulation of a city or town, the proper authorities of that city or town, in addition to other remedies, may institute appropriate action or proceedings to prevent any illegal installation or use of such facilities, to restrain, correct or abate any violation, or to prevent illegal occupancy of a building or structure.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1850.5, is amended to read as follows:

Section 1850.5 The Department shall have the power and duty to:

1. Issue, renew, suspend, revoke, modify or deny licenses to engage in mechanical work pursuant to the Mechanical Licensing Act;
2. Register apprentices;

3. Enter upon public and private property for the purpose of inspecting workers' licenses and mechanical work for compliance with the provisions of the Mechanical Licensing Act and of the rules and regulations of the Board promulgated thereto;

4. Employ personnel to conduct investigations and inspections;

5. Enforce the standards and rules and regulations promulgated pursuant to the Mechanical Licensing Act;

6. Reprimand or place on probation, or both, any holder of a license or registration pursuant to the Mechanical Licensing Act;

7. Investigate complaints and hold hearings;

8. ~~Initiate prosecutions; and~~ disciplinary proceedings,
request prosecution of and initiate injunctive proceedings against
any person who violates any of the provisions of this act or any
rule promulgated pursuant to this act;

9. Establish and levy administrative fines against any person
who violates any of the provisions of this act or any rule
promulgated pursuant to this act; and

~~To otherwise exercise~~ 10. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Mechanical Licensing Act and the rules and regulations of the Board promulgated thereto.

SECTION 8. AMENDATORY 59 O.S. 1991, Section 1850.11, is amended to read as follows:

Section 1850.11 A. Any mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm who violates any of the provisions of the Mechanical Licensing Act in addition to suspension or revocation of a license, upon conviction, shall be guilty of a misdemeanor and punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment together with the costs of prosecution.

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1850.14 of this title, the Mechanical Hearing Board shall find any mechanical contractor, mechanical journeyman, mechanical apprentice or

mechanical firm to be in violation of any of the provisions of this act, such person or firm may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person or firm is in violation of this act may constitute a separate violation. All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Mechanical Licensing Revolving Fund. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. The Mechanical Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Mechanical Hearing Board that the person or firm has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 9. AMENDATORY 59 O.S. 1991, Section 1850.13, is amended to read as follows:

Section 1850.13 There is hereby created in the State Treasury a revolving fund for the Oklahoma State Department of Health, to be designated the "Oklahoma Mechanical Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department pursuant to the Mechanical Licensing Act, including administrative fines authorized by Section 8 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing the Mechanical Licensing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 10. This act shall become effective July 1, 1993.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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