

SHORT TITLE: Plumbing; requiring standard of clear and convincing evidence for certain disciplinary actions; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 305

By: Long

AS INTRODUCED

An Act relating to plumbing; amending 59 O.S. 1991, Section 1010, as amended by Section 1, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1010), which relates to investigation and hearing of complaints; requiring standard of clear and convincing evidence for certain disciplinary actions; modifying gender references; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1010, as amended by Section 1, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1010), is amended to read as follows:

Section 1010. A. The State Commissioner of Health, as ~~chairman~~ chair, and the members of the Oklahoma State Committee of Plumbing Examiners shall constitute a Plumbing Hearing Board, which may on its own motion make investigations and conduct hearings and may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the licensee, suspend any license issued under ~~this act~~ Section 1001 et seq. of this title, and may revoke such license in the manner hereinafter provided, if by clear and convincing evidence it ~~has~~ ~~reason to believe or~~ finds that the holder of the license has:

1. Made a material misstatement in the application for license or renewal thereof;

2. Loaned or illegally used his or her license;

3. Demonstrated incompetency to act as a journeyman plumber or plumbing contractor, as the case may be;

4. Violated any provision of ~~this act~~ Section 1001 et seq. of this title, or any rule, ~~regulation~~ or order prescribed by the Board, or any ordinance or regulation for the installation of plumbing made or enacted by a city, town, or sewer commission by authority of ~~this act~~ Section 1001 et seq. of this title; or

5. Willfully and unreasonably failed to perform his or her normal business obligations without justifiable cause.

B. A copy of the complaint with notice of the suspension of license, if ordered by the Plumbing Hearing Board, shall be served on the person complained against, and his or her answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of ~~the State of Oklahoma~~ this state.

C. No order revoking a license shall be made until after a public hearing set by the Plumbing Hearing Board which shall not be less than thirty (30) days and not more than sixty (60) days after the date of notice of ~~such~~ suspension. ~~Such~~ The hearing shall be ~~had~~ held at the place designated by the Plumbing Hearing Board. The person complained against shall have the right to be represented by counsel and to introduce any evidence in ~~his~~ defense. The conduct of the hearing shall be in accordance with recognized rules of legal procedure and any member of the Plumbing Hearing Board or a representative designated by the Plumbing Hearing Board shall have authority to administer oaths and take testimony.

D. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

E. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of ~~said~~ the code and the installation of all plumbing work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act, Section 1031 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title. Provided, a state inspector may work directly with a plumbing contractor or journeyman plumber in such a locality if a violation of the code creates an immediate threat to life or health.

F. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or plumbing in any political subdivision of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work, the State Commissioner of Health shall have jurisdiction over such matters.

G. 1. No individual, business, company, corporation, association or other entity subject to the provisions of Section 1001 et seq. of this title shall install, modify or alter plumbing in any incorporated area of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work without providing notice of such plumbing to the State Commissioner of Health. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the State Commissioner of Health upon request.

2. Notice to the State Commissioner of Health pursuant to this subsection shall not be required for plumbing maintenance or replacement of an existing plumbing device or fixture, unless such

device is gas fired, or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1001 et seq. of this title, or under authority granted to the State Commissioner of Health.

SECTION 2. This act shall become effective November 1, 1997.

46-1-0318

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