



**House  
Legislative  
Analysis  
Section**

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**OCCUPATIONAL CODE VIOLATIONS**

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House Bill 4701 as enrolled  
Second Analysis (1-22-90)

JAN 25 1990

Sponsor: Rep. Donald Van Singel  
House Committee: State Affairs  
Senate Committee: Economic Development

***THE APPARENT PROBLEM:***

The Department of Licensing and Regulation reports a backlog of cases awaiting disciplinary action under the Occupational Code. As many of these cases are of a relatively minor or routine nature, they could, according to the department, be handled by a citation system analogous to that used for traffic tickets. However, without legislation, such cases would continue to be put through the full disciplinary process, with its time-consuming and cumbersome paperwork, including notices for hearings and the like. The department seeks legislation to authorize a citation system for minor violations of the Occupational Code.

***THE CONTENT OF THE BILL:***

The bill would amend the Occupational Code to create a citation system for violations of the code involving penalties of up to \$100 for each violation. The bill would take effect January 1, 1990.

Allowable actions against alleged violators. Under the code, if the investigative unit of the Department of Licensing and Regulation issues a report that gives evidence that the code (or rule or order issued under the code) was violated, the department or the attorney general can prepare a formal complaint to be served on the person against whom the complaint was lodged (the "respondent"). The bill would allow the department or attorney general to take one of four "appropriate" actions against a respondent: (a) a formal complaint; (b) a cease and desist order; (c) a notice of summary suspension; or (d) a citation.

Informal conferences. At any time during its investigation or after issuing a formal complaint, the department could bring together the complainant and the respondent for an informal conference at which the department would attempt to resolve the issues raised in the complaint. The department could try to aid the parties in reaching a formal settlement or stipulation.

At present, after a formal complaint is prepared, the department notifies the parties of the opportunity to settle a complaint through an informal conference; the conference is held at the request of the respondent with the approval of the complainant. Under the bill, when the department served a formal complaint upon a respondent, the department also would provide an explanation of the compliance conference and hearing processes and offer the respondent a choice of one of the following: meeting with the department to negotiate a settlement of the matter; demonstrating compliance prior to holding a contested case hearing, providing the respondent was a licensee or registrant; or proceeding with a contested case hearing. If the respondent failed to select an option within 15 days after receiving the notice, the matter would proceed to a contested case hearing.

Citation program. If an employee of the Department of Licensing and Regulation (DLR) believed that someone had violated the Occupational Code, the employee could issue a citation to that person (the "respondent"), by certified mail, return receipt requested, or deliver the citation in person to the respondent. The citation would contain the following:

- the date of the citation;
- the name and title of the person issuing the citation;
- the name and address of the respondent, indicating that he or she was being cited for a violation of the code;
- a brief description of the alleged violation;
- the proposed penalties or actions required for compliance (including a fine of up to \$100);
- a space for the respondent to sign to indicate receipt of the citation;
- a space where the respondent could either accept the citation and agree to comply or else contest the citation;
- a notice that the respondent has 30 days to accept or reject the terms of the citation; and
- a description of the hearing process and the process of settlement through an informal conference.

The respondent would have 30 days to notify the DLR in writing whether or not he or she admitted to the violation cited. If the respondent accepted the conditions set forth in the citation, he or she would have 30 days to sign the citation and return it to the DLR along with any fine or other material required by the citation to be submitted. The citation (and accompanying material) would be placed in the person's records with the DLR, and would have the same force and effect as a final order issued by a board. If the respondent had no further complaints or disciplinary actions placed in his or her record for five calendar years after the citation, the DLR would remove the citation from his or her records. At the respondent's request, a one page explanation (prepared by the respondent) would be placed in his or her record and disclosed each time the citation was disclosed.

If the respondent didn't admit to the violation, he or she could say so on the citation and return one copy to the DLR within 30 after receiving the citation. When the department received this copy, the process initiated under the code after an investigation had been conducted and a formal complaint prepared would be invoked, with the citation serving as the formal complaint.

When the bill took effect, the DLR could review all pending cases and identify all those that would fall under the citation program. The department would notify each respondent in these cases that he or she could end the department's proceedings by accepting the penalties and proposed compliance actions as set forth in a citation or that he or she could continue the proceedings under the code's regular complaint processes.

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Penalties. Someone who failed to respond to a citation or who violated or failed to comply with a final order issued by a board (including a stipulation, settlement agreement, or a citation) would be subject to the same penalties for those violating the act (including license limitation, suspension, or revocation; censure; probation; and a civil fine of up to \$10,000).

MCL 339.411 et al.

***FISCAL IMPLICATIONS:***

According to the Senate Fiscal Agency, the bill would have no fiscal impact on state or local government. The additional costs to develop the citation form would be offset by a reduction in administrative costs. (12-7-89)

***ARGUMENTS:***

***For:***

The bill would provide a simplified process under which minor and uncontested violations of the occupational code could be handled in a manner analogous to traffic tickets.