



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1515 (as reported without amendment)  
House Bill 4938 (Substitute S-2 as reported)  
Sponsor: Senator Alan Sanborn (S.B. 1515)  
Representative Barbara Farrah (H.B. 4938)  
Senate Committee: Economic Development and Regulatory Reform  
House Committee: Regulatory Reform (H.B. 4938)

## **CONTENT**

Senate Bill 1515 would amend the Occupational Code to do all of the following:

- Increase the criminal penalty for engaging in or attempting to engage in the practice of architecture, engineering, or surveying without a license.
- Establish a felony penalty for a violation that caused death or serious injury.
- Prohibit a licensee under Article 20 (Architects, Professional Engineers, and Land Surveyors) from bringing an action for the collection of compensation for services that require licensure, without proving that he or she was licensed at the time of the services.
- Allow a person who used the services of someone engaging or attempting to engage in an occupation regulated under Article 20, without being licensed, to bring an action for a refund of compensation.
- Require that repair or corrective work be performed by someone licensed under Article 20 and paid for by a licensee whose license was suspended for failure to make restitution.
- Exempt from the Code a person engaging in or practicing residential building design.

The Code prohibits a person from engaging in or attempting to engage in the practice of a regulated occupation or using a designated title unless the person possesses a license or registration issued by the Department of Labor and Economic Growth (DLEG) for the occupation. The Code also prohibits a school, institution, or person from operating or attempting to operate a barber college, school of cosmetology, or real estate school without a license or approval by DLEG. With a few exceptions, a violation of either of those prohibitions is a misdemeanor punishable by a maximum fine of \$500 and/or up to 90 days' imprisonment. A second or subsequent offense is punishable by a maximum fine of \$1,000 and/or up to one year's imprisonment.

Under the bill, a person not licensed under Article 20 who violated the prohibitions described above would be guilty of a crime and subject to penalties shown in the table below.

Offense	Level	Fine	Maximum Imprisonment
First	Misdemeanor	\$5,000 - \$25,000	93 days
Second	Misdemeanor	\$5,000 - \$25,000	1 year
Causing death or serious injury	Felony	\$5,000 - \$25,000	4 years

House Bill 4938 (S-2) would amend the Code of Criminal Procedure to include in the sentencing guidelines a felony violation proposed in Senate Bill 1515. Under the House bill, the unauthorized practice of an occupation or unauthorized operation of a school teaching an occupation, by a person not licensed under Article 20 of the Occupational Code, causing serious injury or death, would be designated in the sentencing guidelines as a Class F felony against the public trust, with a statutory maximum sentence of four years' imprisonment.

House Bill 4938 (S-2) is tie-barred to Senate Bill 1515.

MCL 339.601 et al. (S.B. 1515)  
777.13p (H.B. 4938)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of practicing or attempting to practice as an architect, engineer, or surveyor without a license, or committing such an offense that caused serious injury or death. An offender convicted of the Class F offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months. To the extent the bills resulted in increased incarceration time, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$33,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 10-21-08

Fiscal Analyst: Lindsay Hollander

Floor/sb1515

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.