

HOUSE BILL NO. 4377

February 25, 2021, Introduced by Reps. Anthony, Schroeder, Martin, Bezotte, Howell, Maddock, Pohutsky and Yaroach and referred to the Committee on Regulatory Reform.

A bill to amend 2016 PA 407, entitled
"Skilled trades regulation act,"
by amending sections 103, 105, 107, 219, and 417 (MCL 339.5103,
339.5105, 339.5107, 339.5219, and 339.5417), and by adding section
223.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

1 (a) "Administrative procedures act of 1969" means the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328.

4 (b) "Armed forces" means the United States Army, Air Force,
5 Navy, Marine Corps, or Coast Guard or other military force
6 designated by Congress as a part of the armed forces of the United
7 States.

8 (c) "Board" means, in each article of this act that is related
9 to a specific occupation or occupations, the board that is created
10 in that article and composed principally of members of the
11 regulated occupation or occupations, or the commission or other
12 agency that is defined in or designated as the board for purposes
13 of that article. In this article, "board" means any board created
14 or agency designated as a board under any other article of this
15 act.

16 (d) "Board files" means the records, memoranda, opinions,
17 minutes, and similar written materials that were formerly in the
18 physical possession and control of a board abolished by this act
19 and the records, memoranda, opinions, minutes, and similar written
20 materials of a board created under this act.

21 (e) "Censure" means an expression of disapproval of a
22 licensee's or registrant's professional conduct, whether or not the
23 conduct is a violation of this act or a rule promulgated or an
24 order issued under this act.

25 (f) "Charitable organization" means a not-for-profit tax-
26 exempt religious, educational, or humane organization.

27 (g) "Citation" means that term as described in section 537.

28 (h) "Competence" means a degree of expertise that enables an
29 individual to engage in an occupation at a level that meets or

1 exceeds minimal standards of acceptable practice for the
2 occupation.

3 (i) "Complaint" means an oral or written grievance.

4 (j) "Completed application" means an application that is
5 complete on its face and submitted with any applicable licensing or
6 permit fees and any other information, records, approval, security,
7 or similar item required by law or rule from a local unit of
8 government, a federal agency, or a private entity but not from
9 another department or agency of this state.

10 (k) "Contested case hearing" means a hearing under chapter 4
11 of the administrative procedures act of 1969, MCL 24.271 to ~~24.287,~~
12 **24.288**, as authorized under chapter 5 of the administrative
13 procedures act of 1969, MCL 24.291 to 24.292.

14 (l) "Department" means the department of licensing and
15 regulatory affairs.

16 (m) **"Dependent" means a spouse, surviving spouse, child under**
17 **26 years of age, or surviving child under 26 years of age.**

18 (n) ~~(m)~~ "Director" means the director of the department of
19 licensing and regulatory affairs or his or her authorized
20 representative.

21 (o) ~~(n)~~ "Disability" means an infirmity that prevents a board
22 member from performing a duty assigned to the board member.

23 Sec. 105. As used in this act:

24 (a) "Enforcing agency" means that term as defined in section
25 2a of the Stille-DeRossett-Hale single state construction code act,
26 MCL 125.1502a.

27 (b) "Formal complaint" means a document that states the
28 charges of each alleged violation and is prepared by the department
29 or the department of attorney general after a complaint is received

1 by the department.

2 (c) "Former act" means former 1956 PA 217; former 1984 PA 192;
3 former 1986 PA 54; former 2002 PA 733; or former 1965 PA 290, as
4 applicable.

5 (d) "General public" means each individual who resides in this
6 state and is 18 years of age or older, other than an individual or
7 the spouse of an individual who is licensed or registered in the
8 occupation or who has a material financial interest in the
9 occupation that is regulated by the specific article in which the
10 term is used.

11 (e) "Good moral character" means ~~good moral character that~~
12 **term** as defined in ~~section 1 of and determined under~~ 1974 PA 381,
13 MCL 338.41 **to 338.47**.

14 (f) "Governmental subdivision" means a governmental
15 subdivision as defined in section 2a of the Stille-DeRossett-Hale
16 single state construction code act, MCL 125.1502a.

17 (g) "Incompetence" means a departure from, or a failure to
18 conform to, minimal standards of acceptable practice for an
19 occupation.

20 (h) "Knowledge and skill" means information, education,
21 practical experience, and the facility to apply that information,
22 education, and practical experience.

23 (i) "License" includes the whole or part of a governmental
24 permit, certificate, approval, registration, charter, or similar
25 form of permission required under a specific article of this act.

26 (j) "Licensee" means a person that is issued a license under
27 this act.

28 (k) "Limitation" means a condition, stricture, constraint,
29 restriction, or probation attached to a license that relates to the

1 scope of practice of that occupation by the licensee. The term
2 includes, but is not limited to, any of the following:

3 (i) A requirement that the licensee perform only specified
4 functions of the licensee's occupation.

5 (ii) A requirement that the licensee perform the licensee's
6 occupation only for a specified period of time.

7 (iii) A requirement that the licensee perform the licensee's
8 occupation only within a specified geographical area.

9 (iv) A requirement that restitution be made or certain work be
10 performed before a license is issued or renewed or the licensee is
11 relicensed.

12 (v) A requirement that a person file a financial statement
13 certified by an individual who is licensed as a certified public
14 accountant under article 7 of the occupational code, 1980 PA 299,
15 MCL 339.720 to 339.736, with the department at regular intervals.

16 (vi) A requirement that reasonably ~~assures~~**ensures** a licensee's
17 competence to perform the licensee's occupation.

18 (vii) A requirement that all contracts of a licensee are
19 reviewed by an attorney.

20 (viii) A requirement that a licensee have on file with the
21 department a bond issued by a surety insurer that is approved by
22 the department or cash in an amount determined by the department.

23 (ix) A requirement that a licensee deposit money received in an
24 escrow account from which money may be disbursed only under certain
25 conditions as determined by the licensee and another party.

26 (x) A requirement that a licensee file reports with the
27 department at intervals determined by the department.

28 Sec. 107. As used in this act:

29 (a) "Michigan building code" means part 4 of the state

1 construction code, R 408.30401 to R 408.30499 of the Michigan
2 Administrative Code.

3 (b) "Michigan electrical code" means part 8 of the state
4 construction code, R 408.30801 to R 408.30873 of the Michigan
5 Administrative Code.

6 (c) "Michigan mechanical code" means part 9A of the state
7 construction code, R 408.30901a to R 408.30996 of the Michigan
8 Administrative Code.

9 (d) "Michigan plumbing code" means part 7 of the state
10 construction code, R 408.30701 to R 408.30792 of the Michigan
11 Administrative Code.

12 (e) "Municipality" means a city, village, or township.

13 (f) "Occupation" means a field of endeavor regulated under
14 this act.

15 (g) "Person" means an individual, sole proprietorship,
16 partnership, association, limited liability company, corporation,
17 or common law trust or a combination of those legal entities.
18 Person includes a department, board, school, institution,
19 establishment, or governmental entity.

20 (h) "Probation" means a sanction that permits a board to
21 evaluate over a period of time a licensee's fitness to practice an
22 occupation regulated under this act while the licensee continues to
23 practice the occupation.

24 (i) "Public access" means the right of a person to view and
25 copy files under the freedom of information act, 1976 PA 442, MCL
26 15.231 to 15.246.

27 (j) "Rule" means a rule promulgated under the administrative
28 procedures act of 1969.

29 (k) "State construction code" means the rules promulgated by

the state construction code commission under section 4 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1504, R 408.30101 to R 408.31194 of the Michigan ~~administrative code~~, **Administrative Code**, including each part of that code that is of limited application, and any modification of or amendment to those rules.

(l) "Stille-DeRossett-Hale single state construction code act" means 1972 PA 230, MCL 125.1501 to 125.1531.

(m) **"Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.**

Sec. 219. (1) The department may grant a nonrenewable temporary license to an individual who is applying for licensure under a specific article of this act if the individual meets both of the following:

(a) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States, or a foreign country.

(b) He or she did not previously have a license denied, revoked, or suspended.

(2) If approved by a board, a temporary license issued under subsection (1) is valid until 1 or more of the following occur:

(a) The results of the next scheduled examination are available.

(b) The results of the next required evaluation procedure are

1 available.

2 (c) A license is issued.

3 (d) The next examination date of an examination for licensure
4 in the applicable occupation, if the applicant does not take the
5 examination.

6 (e) The applicant fails to meet the requirements for a
7 license.

8 (f) A change in employment is made.

9 (3) In addition to a temporary license under subsection (1),
10 the department shall grant a temporary license under a specific
11 article of this act to an individual who applies for a temporary
12 license if the applicant meets all of the following:

13 (a) He or she provides proof acceptable to the department that
14 he or she is ~~married to an individual who is serving in the armed~~
15 ~~forces and~~ **a dependent of either a member of the armed forces who**
16 **is on active duty or a veteran.**

17 (b) He or she provides proof acceptable to the department that
18 he or she holds a current license in good standing, or a current
19 registration in good standing, in the trade or occupation for which
20 he or she is seeking a temporary license, issued by an equivalent
21 licensing department, board, or authority, as determined by the
22 department, **in consultation with the board**, in another state of the
23 United States, the District of Columbia, Puerto Rico, the United
24 States Virgin Islands, another territory or protectorate of the
25 United States, or a foreign country.

26 ~~(c) He or she provides proof acceptable to the department that~~
27 ~~his or her spouse is assigned to a duty station in this state and~~
28 ~~that he or she is also assigned to a duty station in this state~~
29 ~~under his or her spouse's permanent change of station orders.~~

1 (4) A temporary license issued under subsection (3) is valid
2 for 6 months and may be renewed for 1 additional 6-month term if
3 the department determines the temporary licensee continues to meet
4 the requirements of subsection (3) and needs additional time to
5 fulfill the requirements for initial licensure in this state.

6 (5) An individual shall not receive more than 2 temporary
7 licenses described in subsection (1) under a specific article of
8 this act within a 4-year period.

9 (6) The department may place a limitation on a temporary
10 license granted under this section.

11 **Sec. 223. (1) The department shall issue a license or a**
12 **certificate of registration for an occupation under this act**
13 **without examination to an individual who demonstrates to the**
14 **satisfaction of the department that he or she meets all of the**
15 **following at the time of application:**

16 (a) Provides proof that the individual is 1 of the following:

17 (i) A member in the armed forces on active duty.

18 (ii) A veteran.

19 (iii) A dependent of either a member in the armed forces on
20 active duty or a veteran.

21 (b) Holds a valid license or registration in that occupation
22 from an equivalent licensing department, board, or authority, as
23 determined by the department, in at least 1 other state of the
24 United States. For each license or registration described in this
25 subdivision that he or she holds, all of the following must be met:

26 (i) The license or registration is in good standing and he or
27 she has held that license or registration for at least 1 year.

28 (ii) There were minimum education requirements and, if
29 applicable, work experience requirements in effect for licensure or

1 registration in the other state, and the other state verifies that
2 he or she met those requirements for licensure or registration in
3 that state.

4 (iii) If the other state required an examination for licensure
5 or registration, he or she passed the examination.

6 (c) Has not had a license or registration revoked, and has not
7 voluntarily surrendered a license or registration, in any other
8 state of the United States or a foreign country while under
9 investigation for unprofessional conduct.

10 (d) Has not had discipline imposed by any equivalent licensing
11 department, board, or authority in another state of the United
12 States. If another state of the United States has taken
13 disciplinary action against the applicant, the department shall
14 determine if the cause for the action was corrected and the matter
15 resolved. If the matter has not been resolved by that other state,
16 the department shall not issue or deny a license or registration
17 until the matter is resolved.

18 (e) Does not have a complaint, allegation, or investigation
19 pending before an equivalent licensing department, board, or
20 authority in another state of the United States or a foreign
21 country that relates to unprofessional conduct. If the applicant
22 has any complaints, allegations, or investigations pending, the
23 department shall suspend the application process and shall not
24 issue or deny a license or registration to the applicant until the
25 complaint, allegation, or investigation is resolved.

26 (f) Pays all applicable fees.

27 (g) Is of good moral character.

28 (h) Meets the age requirement of that occupation under this
29 act, if applicable.

1 (2) This section does not prevent the department from issuing
2 a temporary license under section 219 or issuing a license under
3 section 731(5), 907(3), or 1019(1).

4 Sec. 417. The department shall waive the fee for an initial
5 license or initial registration that is otherwise required under
6 this act, or an application processing fee charged by the
7 department for an initial license or initial registration, if the
8 applicant ~~is an~~ **meets either of the following requirements:**

9 **(a) Is an** individual who served in the armed forces and he or
10 she provides to the department a form DD214, form DD215, or any
11 other form that is satisfactory to the department that demonstrates
12 he or she was separated from that service with an honorable
13 character of service or under honorable conditions (general)
14 character of service.

15 **(b) Is a dependent of either a member of the armed forces who**
16 **is on active duty or a veteran and he or she provides proof**
17 **acceptable to the department that he or she is a dependent as**
18 **described in this subdivision.**

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.