

SKILLED TRADES REGULATION ACT (EXCERPT)
Act 407 of 2016

ARTICLE 6
PENALTIES AND REMEDIES

339.5601 Engaging in occupation or using title without license prohibited; violation; penalty; restitution; injunctive relief; "affected person" defined; construction contrary to permit; investigation; remedies; conviction; notice to department; enforcement.

Sec. 601. (1) A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license issued by the department for the occupation.

(2) Subject to section 411, a person whose license is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed.

(3) A person that violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

(4) A person that violates subsection (1) a second time is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

(5) A person that violates subsection (1) a third or subsequent time is guilty of a felony punishable by a fine of not more than \$25,000.00 or imprisonment for not more than 5 years, or both.

(6) The remedies or penalties imposed for a violation of subsection (1) may include a requirement that restitution be made, based on proofs submitted to and findings made by the trier of fact as provided by law.

(7) Notwithstanding the existence and pursuit of any other remedy or penalty, an affected person may pursue an action for injunctive relief to restrain or prevent a person from violating subsection (1). If successful in obtaining injunctive relief, the affected person is entitled to actual costs and attorney fees. As used this subsection, "affected person" means a person that is directly affected by the actions of another person that is suspected of violating subsection (1) and includes, but is not limited to, a licensee, a board, the department, a person that has utilized the services of the person suspected of violating subsection (1), or a private association that is composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without a license under this act.

(8) If construction is being undertaken contrary to a building permit, this act, or other applicable laws or ordinances, the enforcing agency shall give written notice to the person that holds the building permit, or if a permit has not been issued then to the person doing the construction, notifying that person of the violation of this act, or other applicable laws and ordinances, and that the person should appear and show cause why the construction should not be stopped. If the person doing the construction is not known, or cannot be located with reasonable effort, the enforcing agency may deliver the notice to the individual in charge of, or apparently in charge of, the construction. If the holder of the permit or the person doing the construction fails to appear and show good cause within 1 full working day after notice is delivered, the enforcing agency shall cause a written order to stop construction to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction in violation of a stop construction order, except with permission of the enforcing agency to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the stop construction order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(9) An investigation may be conducted under article 5 to enforce this section. A person that violates this section is subject to this section and sections 511, 603, and 611.

(10) The remedies under this section are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

(11) If a conviction under subsection (3), (4), or (5) is entered by a court, the court shall notify the department by mail, facsimile transmission, or electronic mail.

(12) The attorney general or the prosecuting attorney of a county may bring an action in a court of competent jurisdiction to enforce this section.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5603 Violation of act, rule, or order; penalties.

Sec. 603. If a person violates this act or a rule or order promulgated or issued under this act, the department

shall assess 1 or more of the following penalties:

- (a) Placement of a limitation on a license.
- (b) Suspension of a license.
- (c) Denial of a license or renewal of a license.
- (d) Revocation of a license.
- (e) If the person is licensed under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement for the payment of restitution, based on proof submitted to and findings made by the hearing examiner after a contested case hearing.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5605 Suspension of license until restitution made.

Sec. 605. If payment of restitution is required under section 603, the department may suspend the license of the person required to pay the restitution until the restitution is made.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5607 Violation of article or commission of certain acts.

Sec. 607. A person that violates 1 or more of the provisions of a specific article of this act or that commits 1 or more of the following is subject to the penalties described in section 603:

- (a) Practices fraud or deceit in obtaining a license.
- (b) Practices fraud, deceit, or dishonesty in practicing an occupation.
- (c) Violates a rule of conduct of an occupation.
- (d) Demonstrates a lack of good moral character.
- (e) Commits an act of gross negligence in practicing an occupation.
- (f) Practices false advertising.
- (g) Commits an act that demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.
- (i) Fails to comply with a subpoena issued under this act.
- (j) Fails to respond to a citation under section 539.
- (k) Violates or fails to comply with a final order issued by a board, including a stipulation, settlement agreement, or a citation.
- (l) Aids or abets another person in the unlicensed practice of an occupation.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5609 Agreeing to fact by stipulation or finding of act violation; costs of investigation and prosecution.

Sec. 609. If the parties in a contested case under article 5 agree to any fact involved in the controversy by stipulation or there is a finding of fact and conclusion of law in an action under that article that a person has violated this act, the hearing examiner shall assess costs related to the investigation of the violation and costs related to the prosecution of the action. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney general's office and other personnel working on the action, and any other expenses incurred by the department for the action.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5611 Action in name of state; intervention by attorney general; action by department.

Sec. 611. (1) The department may bring any appropriate action, including mediation or other alternative dispute resolution, in the name of the people of this state to carry out this act and to enforce this act.

(2) If the attorney general considers it necessary, the attorney general shall intervene in and prosecute any case that arises under this act.

(3) This section does not prohibit the department from bringing any civil, criminal, or administrative action for the enforcement of section 601.

(4) The department has standing to bring an administrative action or to directly bring an action in a court of competent jurisdiction regarding the unlicensed practice of an occupation regulated under this act.

History: 2016, Act 407, Eff. Apr. 4, 2017.

339.5613 Forfeiture.

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Sec. 613. In the event of a criminal violation of this act, the department, the attorney general, and a county prosecutor may utilize the forfeiture provisions of chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4710, for items seized and determined to be proceeds of a crime, substituted proceeds of a crime, or the instrumentality of a crime as those terms are defined in section 4701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701.

History: 2016, Act 407, Eff. Apr. 4, 2017.