

SENATE BILL No. 1187

May 11, 2004, Introduced by Senators LELAND and SCHAUER and referred to the Committee on Commerce and Labor.

A bill to regulate persons engaged in carpentry; to create a board of carpentry; to provide for powers and duties of certain state agencies and departments; to establish standards; to provide for the licensing of carpenter contractors and journey carpenters; to prescribe fees; to provide for the promulgation of rules; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "carpentry licensure act".

3 Sec. 3. (1) As used in this act:

4 (a) "Board" means the board of carpentry.

5 (b) "Carpenter contractor" means a person engaged in the
6 business of carpentry for a fixed sum, price, fee, percentage, or
7 other valuable consideration, other than wages for personal labor
8 only. Carpenter contractor does not include a governmental

1 subdivision.

2 (c) Subject to subsection (2), "carpentry" means activity
3 involving both of the following:

4 (i) The erecting, installing, altering, repairing, servicing,
5 or maintaining of wooden structures or their structural parts and
6 includes, but is not limited to, all framing, decks, walls,
7 ceilings, roofs, drywall, flooring, trim, and any components that
8 go to make the framing of a structure complete in wood
9 construction, including the prefabrication of any wood structure
10 or component. For purposes of this subparagraph, wood
11 construction and wooden structure include construction methods
12 utilizing substitute materials including, but not limited to,
13 metal stud and composite framing and finish materials that
14 replace or are used in conjunction with traditional wood
15 construction.

16 (ii) The application for a building permit from an enforcing
17 agency under the Stille-DeRossett-Hale single state construction
18 code act, 1972 PA 230, MCL 125.1501 to 125.1531.

19 (d) "Department" means the department of consumer and
20 industry services.

21 (e) "Enforcing agency" means an enforcing agency as defined
22 in section 2a of the Stille-DeRossett-Hale single state
23 construction code act, 1972 PA 230, MCL 125.1502a.

24 (f) "Governmental subdivision" means a governmental
25 subdivision as defined in section 2a of the Stille-DeRossett-Hale
26 single state construction code act, 1972 PA 230, MCL 125.1502a.

27 (g) "Journey carpenter" means an individual other than a

1 carpenter contractor who, as his or her principal occupation, is
2 engaged in carpentry for a fixed sum, price, fee, percentage, or
3 other valuable consideration. A carpenter contractor may also
4 act as a journey carpenter.

5 (h) "Person" means an individual, association, firm,
6 partnership, corporation, limited liability company, and other
7 legal entity but not including a governmental subdivision,
8 college, or university.

9 (2) Carpentry does not include either of the following:

10 (a) The construction, maintenance, or repair of farm
11 buildings and their appurtenances, greenhouses, fences, or
12 structures used for the production or care of farm plants and
13 animals.

14 (b) The use of materials or activities associated with
15 concrete, road, and bridge construction.

16 Sec. 5. (1) There is created within the department a board
17 of carpentry consisting of 7 residents of the state to be
18 appointed by the governor with the advice and consent of the
19 senate. Appointed members shall be not less than 18 years of age
20 and qualified in their respective fields. Of the members first
21 appointed, 2 members shall have a term of 2 years, 2 members
22 shall have a term of 3 years, and 3 members shall have a term of
23 4 years. Appointed members of the board shall include all of the
24 following:

25 (a) Two members of organized labor representing carpenters
26 that are from diverse geographical locations, 1 of whom shall be
27 from the Upper Peninsula. The initial members appointed under

1 this subdivision shall be individuals required to be licensed
2 under this act, have actively been engaged in carpentry at a
3 journey carpenter level or higher for at least 3 out of the
4 5 years immediately preceding the date of appointment, and become
5 licensed under this act within 1 year after the effective date of
6 this act.

7 (b) Two members of regional carpenter contractor associations
8 that are from diverse geographical locations, 1 of whom shall be
9 from the Upper Peninsula. The initial members appointed under
10 this subdivision shall be individuals required to be licensed
11 under this act, have actively been engaged in carpentry
12 contracting for at least 3 out of the 5 years immediately
13 preceding the date of appointment, and become licensed under this
14 act as a carpentry contractor within 1 year after the effective
15 date of this act.

16 (c) One licensed journey carpenter. The initial member
17 appointed under this subdivision shall be an individual required
18 to be licensed under this act, has actively been engaged in
19 carpentry at a journey carpenter level or higher for at least
20 3 out of the 5 years immediately preceding the date of
21 appointment, and becomes licensed under this act within 1 year
22 after the effective date of this act.

23 (d) Two members of the general public.

24 (2) Except for the initial members, a member of the board
25 shall be appointed for a term of 2 years. A vacancy shall be
26 filled for the unexpired portion of the term. A member of the
27 board may be removed from office by the governor in accordance

1 with section 10 of article V of the state constitution of 1963.
2 A member of the board who has a pecuniary interest in a matter
3 shall disclose that interest before the board takes action in the
4 matter, which disclosure shall be made a matter of record in the
5 board's official proceedings. Each member of the board shall
6 receive per diem compensation and actual expenses incurred by the
7 member in the performance of his or her duties as a member of the
8 board.

9 (3) Annually, the legislature shall fix the per diem
10 compensation of a member of the board. Travel or other expenses
11 incurred by a member of a board in the performance of an official
12 function shall be payable by the department pursuant to the
13 standardized travel regulations of the department of management
14 and budget. A member of the board shall not serve more than 2
15 consecutive terms.

16 (4) The board shall hold an organizational meeting within
17 60 days after the effective date of this act. At the first
18 meeting of each year, the board shall elect from its membership a
19 chairperson, vice-chairperson, and secretary. The chairperson,
20 vice-chairperson, and secretary shall be elected from those
21 members appointed to the board by the governor.

22 Sec. 7. (1) The board shall hold regular quarterly
23 meetings. Special meetings may be held at the call of the
24 chairperson or 3 members of the board. Written notice of a
25 special meeting shall be mailed to each member not less than
26 12 days before the date of the meeting.

27 (2) Five members of the board shall constitute a quorum for

1 the transaction of business. An approval, decision, or ruling of
2 the board shall not become effective unless approved by 2/3 of
3 the board members attending a meeting.

4 (3) The board may request a person to appear before the board
5 to advise the board regarding the implementation of this act.

6 (4) The business which the board performs shall be conducted
7 at a public meeting of the board held in compliance with the open
8 meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public
9 notice of the time, date, and place of the meeting shall be given
10 in the manner required by that act.

11 (5) A writing prepared, owned, used, in the possession of, or
12 retained by the board in the performance of an official function
13 shall be made available to the public in compliance with the
14 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

15 Sec. 9. (1) The board may recommend to the state
16 construction code commission created in the Stille-DeRossett-Hale
17 single state construction code act, 1972 PA 230, MCL 125.1501 to
18 125.1531, the promulgation of rules necessary for the safe
19 design, construction, alteration, servicing, and inspection of
20 carpentry and any components regarding carpentry and may
21 recommend modifications, additions, or deletions to this act to
22 update and maintain this act as an effective and enforceable
23 instrument. The board may also recommend to the state
24 construction code commission, after testing and evaluating a
25 material, product, method of manufacture, or method of
26 construction or installation for acceptability under the code
27 that the commission issue certificates of acceptability.

1 (2) The department, in consultation with the board, may
2 promulgate rules pursuant to the administrative procedures act of
3 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide an
4 examination and qualification procedure for applicants for
5 licensure under this act as carpenter contractors and journey
6 carpenters. Before an examination or other test required under
7 this act is administered, the department and the board, acting
8 jointly, shall review and approve the form and content of the
9 examination or other test. Unless otherwise provided by rules
10 promulgated by the department in consultation with the board
11 under subsection (4), an individual having successfully completed
12 an appropriate United States department of labor bureau of
13 apprenticeship training program or its equivalent acceptable to
14 the board and adopted by rule of the department, in consultation
15 with the board, within 1 year before application for a journey
16 carpenter license is not required to take the initial licensure
17 examination.

18 (3) Beginning on the effective date of this act and until the
19 rules required to be promulgated under subsection (4) are
20 adopted, the board shall utilize the appropriate United States
21 department of labor bureau of apprenticeship training standards
22 for licensure in the categories in this act. The appropriate
23 United States department of labor bureau of apprenticeship
24 standards in effect on the enactment date of this act are
25 incorporated by reference.

26 (4) Not less than 180 days after the effective date of this
27 act, the department, in consultation with the board, shall

1 promulgate and adopt rules under the administrative procedures
2 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to set standards
3 for licensure for the categories prescribed in this act. The
4 department, in consultation with the board, may develop its own
5 unique standards or incorporate by reference all or part of
6 existing standards developed by a private trade organization or a
7 governmental agency. Changes, supplementation, or amendment of
8 the standards described in this subsection shall be pursuant to
9 rules promulgated by the department in consultation with the
10 board.

11 (5) The rules promulgated under subsection (4) shall provide
12 that the board may approve the issuance of a license in the
13 appropriate category to an applicant who demonstrates to the
14 satisfaction of the board that the written examination
15 requirements do not serve as an adequate basis for determining
16 whether a particular person could engage in carpentry with
17 competence.

18 Sec. 11. (1) Upon the filing of an application on a form
19 prescribed by the department and payment of the examination fee
20 prescribed in section 17, the department shall conduct
21 examinations to establish the qualifications and competency of
22 applicants not exempt from the examination requirements and
23 seeking licensing for the category for which the application is
24 submitted and, except as otherwise provided, shall issue licenses
25 to those who pass the examinations or are otherwise qualified and
26 pay the initial issuance fee.

27 (2) A person applying for a license under this act shall also

1 pay the amount required to be paid under the construction lien
2 act, 1980 PA 497, MCL 570.1101 to 570.1305, which amount shall be
3 paid to the department for deposit in the homeowner construction
4 lien recovery fund. A person shall not be required to pay more
5 than \$50.00 in an assessment period, regardless of the number of
6 licenses applied for or held.

7 (3) An applicant is not considered eligible for examination
8 unless the applicant is of good moral character, as defined and
9 determined under 1974 PA 381, MCL 338.41 to 338.47.

10 Sec. 13. (1) A person who, on the effective date of this
11 act, has been engaged in, or worked at, a business as a journey
12 carpenter or carpenter contractor and is required to be licensed
13 under this act shall be issued a license in a category for which
14 he or she is qualified without taking an examination upon
15 fulfilling all of the following:

16 (a) Furnishing the department with satisfactory evidence of
17 having been engaged in a business as a journey carpenter or
18 carpenter contractor for a minimum of 3 out of the 5 years
19 immediately preceding the effective date of this act or
20 furnishing the department with satisfactory evidence of having
21 successfully completed an appropriate United States department of
22 labor bureau of apprenticeship training program within the
23 preceding 5 years.

24 (b) Demonstrating to the department of having the other
25 necessary qualifications.

26 (c) Applying within 1 year after the effective date of this
27 act.

1 (d) Paying the initial license fee prescribed in
2 section 17.

3 (2) A person who on the effective date of this act is
4 licensed by a municipal licensing board as a journey carpenter or
5 carpenter contractor may furnish the department with satisfactory
6 evidence of the municipal license. The department shall issue to
7 a person complying with this subsection the license for which the
8 person seeks licensure and for which the person is qualified
9 without examination if the person applies within 1 year after the
10 effective date of this act and pays the initial license fee
11 prescribed in section 17.

12 (3) A person who on the effective date of this act is
13 employed as a code inspector for a governmental subdivision and
14 has engaged in, or worked at, a business as a journey carpenter
15 or carpenter contractor for 3 out of the 5 years immediately
16 preceding the date of the person's employment as a code inspector
17 may furnish the department with satisfactory evidence of the
18 employment and experience. The department shall issue to a
19 person complying with this subsection the license for which the
20 person seeks licensure and for which the person is qualified
21 without examination if the person applies within 1 year after the
22 effective date of this act and pays the initial license fee
23 prescribed in section 17.

24 (4) A person who on the effective date of this act is
25 licensed as a residential builder, or a residential maintenance
26 and alteration contractor in the trade of carpentry or a related
27 subject matter area, under section 2404 of the occupational code,

1 1980 PA 299, MCL 339.2404, may furnish the department with
2 satisfactory evidence of the license. The department shall issue
3 to a person complying with this subsection a license as a journey
4 carpenter or carpenter contractor without examination if the
5 person applies within 1 year after the effective date of this act
6 and pays the initial license fee prescribed in section 17.

7 (5) The department may license, without examination and upon
8 the payment of the initial license fee prescribed in section 17,
9 an applicant who is a legally authorized journey carpenter or
10 carpenter contractor in another state or country if the licensing
11 requirements of the state or country are considered by the board
12 and the department to be substantially equivalent to the
13 licensing requirements of this state and the state or country
14 observes reciprocity in regard to journey carpenters and
15 carpenter contractors licensed under this act.

16 (6) The holder of a license issued under this section may
17 renew the license pursuant to section 17.

18 Sec. 15. (1) A person shall not, for compensation, engage
19 in carpentry unless licensed in the appropriate category or
20 exempt from licensure under this act. This act does not prevent
21 a person from performing any activities within the scope of
22 licensure or carpentry work incidental to the scope of licensure
23 under any other licensure act including, but not limited to,
24 activities performed by a person licensed under the following:

25 (a) 1976 PA 333, MCL 338.2151 to 338.2160.

26 (b) The state plumbing act, 2002 PA 733, MCL 338.3511 to
27 338.3569.

1 (c) The Forbes mechanical contractors act, 1984 PA 192, MCL
2 338.971 to 338.988.

3 (d) The electrical administrative act, 1956 PA 217, MCL
4 338.881 to 338.892.

5 (e) The boiler act of 1965, 1965 PA 290, MCL 408.751 to
6 408.776.

7 (2) This act does not require an employee, subcontractor,
8 contractor, or other person working under the control and
9 authority of a licensed residential builder or a licensed
10 maintenance and alteration contractor to be licensed under this
11 act even though that person's activities, in whole or part,
12 involve carpentry.

13 (3) Beginning on the effective date of this act, a
14 governmental subdivision shall not establish or maintain local
15 licensing requirements for journey carpentry or carpenter
16 contractors. A governmental subdivision shall not prohibit a
17 journey carpenter or carpenter contractor licensed under this act
18 from engaging in the work for which the journey carpenter or
19 carpenter contractor has a license.

20 Sec. 17. (1) The examination fee for a journey carpenter's
21 or carpenter contractor's license is \$25.00. Except as otherwise
22 provided in subsection (2), the initial and per-year fee for the
23 issuance of a journey carpenter or carpenter contractor license
24 is \$75.00.

25 (2) A license issued under this act expires on August 31.
26 The department shall issue an annual license to applicants
27 seeking journey carpenter licensure and a 3-year license to

1 applicants seeking carpenter contractor licensure. A license is
2 renewable not later than October 31 upon application and payment
3 of the appropriate license fee. In the case of a person applying
4 for an initial or reinstatement carpenter contractor license at a
5 time other than between August 31 and October 31 of the year in
6 which the department issues renewal licenses, the department
7 shall compute and charge the license fee on a yearly pro rata
8 basis beginning in the year of the application until the last
9 year of the 3-year license cycle. All licenses not renewed are
10 void and may be reinstated only upon application for
11 reinstatement and the payment of the license fee. A person who
12 renews his or her license within 3 years after the license is
13 voided under this section is not subject to reexamination for the
14 license.

15 (3) All fees and money received by the department for the
16 licensing of persons under this act, and any other income
17 received under this act, shall be paid into the general fund for
18 appropriation to the department for enforcement and
19 administration of this act.

20 Sec. 19. (1) The department may investigate the activities
21 of a licensee related to the licensee's activities as a journey
22 carpenter or carpenter contractor. The department may hold
23 administrative hearings, administer oaths, and order relevant
24 testimony to be taken and shall report its findings to the
25 board. The board shall proceed under section 25 if the board
26 finds that any of the following grounds exist:

27 (a) The practice of fraud or deceit in obtaining a license

1 under this act.

2 (b) The practice of fraud or deceit in the performance of
3 work for which a license is required under this act.

4 (c) An act of gross negligence.

5 (d) The practice of false advertising.

6 (e) An act which demonstrates incompetence.

7 (f) A violation of this act or rule promulgated under this
8 act.

9 (2) The board, upon recommendation of the department, shall
10 suspend or revoke the license of any person whose failure to pay
11 a lien claimant results in a payment being made from the
12 homeowner construction lien recovery fund pursuant to the
13 construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.
14 The department shall not renew the license and a new license
15 shall not be issued until the person whose license has been
16 suspended or revoked under this subsection has repaid in full to
17 the fund the amount paid out plus the costs of litigation and
18 interest at the rate set by section 6013 of the revised
19 judicature act of 1961, 1961 PA 236, MCL 600.6013.

20 (3) The department shall conduct a review upon notice that
21 the licensee has violated the asbestos abatement contractors
22 licensing act, 1986 PA 135, MCL 338.3101 to 338.3319, and may
23 suspend or revoke that person's license for a knowing violation
24 of that act.

25 (4) A revocation, suspension, or other sanction set forth in
26 subsection (3) or section 25 shall be imposed only after an
27 opportunity for an administrative hearing pursuant to the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328.

3 (5) A person required to be licensed in a category under this
4 act shall not perform carpentry under a license that has been
5 suspended or revoked or has expired.

6 Sec. 21. (1) The owner and a friend or relative of an owner
7 of a single family dwelling that is, or upon completion becomes,
8 the owner's place of residence may personally engage in carpentry
9 in the dwelling without licensure under this act if the owner,
10 upon application for a permit, affirms that he or she is the
11 owner and occupant of the dwelling or shall become the owner and
12 occupant upon completion of the dwelling in which the carpentry
13 is done and that the applicant will perform the carpentry in the
14 dwelling for which the permit is requested.

15 (2) Any friend or relative of the owner of a residence
16 described in subsection (1) may engage in carpentry in the
17 dwelling as long as the activity is performed without
18 compensation.

19 (3) The owner of a residence described in subsection (1)
20 shall apply for and secure the required permits from the
21 enforcing agency of the governmental subdivision pursuant to the
22 Stille-DeRossett-Hale single state construction code act, 1972
23 PA 230, MCL 125.1501 to 125.1531, and shall obtain the required
24 inspection after the carpentry is completed.

25 Sec. 23. A person who violates this act is guilty of a
26 misdemeanor punishable by a fine of not more than \$1,000.00 for a
27 first offense and \$2,000.00 for a second or subsequent offense,

1 or imprisonment for not more than 90 days, or both.

2 Sec. 25. After finding the existence of 1 or more of the
3 grounds for board action described in section 19(1) and after
4 having provided an opportunity for a hearing, the board, except
5 as provided in section 19(2), shall impose 1 or more of the
6 following sanctions on the license issued under this act for each
7 violation:

8 (a) Suspension.

9 (b) Denial.

10 (c) Revocation.

11 (d) Limitation.

12 (e) A requirement that restitution be made.

13 (f) An administrative fine of not more than \$1,000.00 for a
14 first offense and \$2,000.00 for a second or subsequent offense.

15 Sec. 27. If restitution is required to be made under
16 section 25, the department may suspend the license of the person
17 required to make the restitution until restitution is made.

18 Sec. 31. This act takes effect January 1, 2005.