

HOUSE BILL NO. 117

INTRODUCED BY R. LYNCH

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ADDITIONAL MECHANISMS FOR REGULATING UNLICENSED PRACTICE OF A PROFESSION OR OCCUPATION FOR THE STATE ELECTRICAL BOARD, BOARD OF PLUMBERS, AND BOARD OF REALTY REGULATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Administrative proceedings to stop unlicensed practice -- board of realty regulation -- state electrical board -- board of plumbers. (1) For purposes of this section, the term "board" means the board of realty regulation provided for in 2-15-1757, the state electrical board provided for in 2-15-1764, or the board of plumbers provided for in 2-15-1765.

(2) (a) After investigation under 37-1-317, the board may establish a screening panel to determine if there is reasonable cause to believe a person has engaged in or is engaging in any act or practice constituting unlicensed practice of a profession or occupation.

(b) If reasonable cause is found under subsection (2)(a), the board may initiate a contested case proceeding against the person pursuant to the Montana Administrative Procedure Act in Title 2, chapter 4, part 6.

(3) Following a contested case proceeding, the board may apply any of the following sanctions to a person found to have engaged in the unlicensed practice of a profession or occupation:

(a) impose a civil penalty not to exceed \$1,500 for each violation and not to exceed a total of \$5,000 for all related violations; and

(b) require the person to pay up to \$5,000 for the costs of the administrative proceedings, including but not limited to costs allowable under Title 25, chapter 10, ~~as well as~~ BUT EXCLUDING the costs of investigation and the board's attorney fees.

(4) Judicial review of any contested case under this section must be filed with the first judicial district or the district where the violation occurred, pursuant to the Montana Administrative Procedure Act in Title 2, chapter

1 4, part 7.

2 ~~(5) Any amounts collected by the board pursuant to this section must first be deposited into the special~~
3 ~~revenue fund for the board to reimburse costs and fees. Any additional amount collected must be deposited into~~
4 ~~the state general fund.~~

5 ~~———— (6) For purposes of this section, each day or part of a day of unlicensed practice constitutes a separate~~
6 ~~violation.~~

7 ~~(7)(5) The remedies provided by this section are in addition to all other remedies or actions that may be~~
8 ~~taken, including those authorized by 37-1-317. THE REMEDIES PROVIDED BY THIS SECTION MAY NOT BE APPLIED EITHER~~
9 ~~TO LICENSEES OR TO EMPLOYEES OF LICENSEES.~~

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11 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 37, chapter 1, part 3, and the provisions of Title 37, chapter 1, part 3, apply to [section 1].

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14 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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16 NEW SECTION. Section 4. Applicability. [This act] applies to acts or practices constituting unlicensed
17 practice of a profession or occupation on or after [the effective date of this act].

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