

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1117

Short Title: Electrical Contractor Change.

(Public)

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Sponsors: Representative G. Thompson.

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Referred to: State Government.

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April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ISSUANCE OF CITATIONS AGAINST  
PERSONS VIOLATING THE PROVISIONS AND RULES REGARDING THE  
LICENSING OF ELECTRICAL CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-41.1 is amended by adding a new subdivision to read:

"(4) A 'nonlicensee' is a person who is not licensed by the Board."

Sec. 2. G.S. 87-47 reads as rewritten:

**"§ 87-47. Jurisdiction of Board.**

(a) Repealed by Session Laws 1989, c. 709, s. 9.

(a1) In the interest of protecting the public, whenever the Board finds that (i) an applicant for certification as a qualified individual, (ii) an applicant for a license, (iii) an applicant for a renewal of a license, (iv) a qualified individual, or (v) a person, partnership, firm or corporation to whom or to which a certification or license has been issued, is guilty of one or more of the following:

- (1) Offering to engage or engaging in electrical contracting without being licensed;
- (2) Selling, transferring, or assigning a license, regardless of whether for a fee;
- (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to offer to engage or to engage in electrical contracting;
- (4) A crime involving fraud or moral turpitude by conviction thereof;
- (5) Fraud or misrepresentation in obtaining a certification, in obtaining or renewing a license, or in the practice of electrical contracting;

- 1 (6) False or misleading advertising; or  
2 (7) Malpractice, unethical conduct, fraud, deceit, gross negligence, gross  
3 incompetence, or gross misconduct in the practice of electrical  
4 contracting;

5 the Board may refuse or revoke certification as a qualified individual, or may refuse to  
6 issue or renew a license.

7 (a2) In addition to the administrative action authorized by subdivision (a1) above,  
8 the Board may administer one or more of the following penalties if the applicant,  
9 licensee, or qualified individual is found to be guilty of one or more of the acts listed in  
10 subdivision (a1):

- 11 (1) Reprimand;  
12 (2) Suspension from practice for a period not to exceed 12 months;  
13 (3) Revocation of the right to serve as a listed qualified individual on any  
14 license issued by the Board;  
15 (4) Revocation of license; and  
16 (5) Probationary revocation of license or the right to serve as a listed  
17 qualified individual on any license issued by the Board, upon  
18 conditions set by the Board as the case shall warrant, with revocation  
19 upon failure to comply with the conditions.

20 (a2a) The Board may issue citations against licensees, qualified individuals, and  
21 nonlicensees for violations of Article 4 of Chapter 87 of the General Statutes or the  
22 rules of the Board. The citation shall state that the person to whom it is issued may  
23 choose, in lieu of complying with the citation, a hearing in accordance with Chapter  
24 150B of the General Statutes. If the person does not choose to have a hearing within 20  
25 days after being served with the citation, the citation becomes a final decision of the  
26 Board. The penalty imposed under a citation or upon a finding of guilt after a hearing  
27 pursuant to this subsection shall be a fine of not more than one thousand dollars  
28 (\$1,000) and other conditions as established by rule. All such fines collected by the  
29 Board shall be deposited in the General Fund of North Carolina. A person failing to pay  
30 a fine or to comply with any other conditions duly imposed under this subsection shall  
31 be guilty of a misdemeanor and shall be punished pursuant to G.S. 87-48(a).

32 (a3) The Board shall, in accordance with Chapter 150B of the General Statutes,  
33 formulate rules of procedure governing citations and the hearings of charges against  
34 nonlicensees, applicants, qualified individuals and licensees. Any person may prefer  
35 charges against any nonlicensee, applicant, qualified individual, or licensee, and such  
36 charges must be sworn to by the complainant and submitted in writing to the Board. In  
37 conducting hearings of charges, the Board may remove the hearings to any county in  
38 which the offense, or any part thereof, was committed if in the opinion of the Board the  
39 ends of justice or the convenience of witnesses require such removal.

40 (b) The Board shall adopt and publish rules, consistent with the provisions of this  
41 Article, governing the matters contained in this section.

42 (c) The Board shall establish and maintain a system whereby detailed records are  
43 kept regarding complaints against each nonlicensee, applicant, qualified individual and  
44 licensee. This record shall include, for each nonlicensee, applicant, qualified individual

1 and licensee, the date and nature of each complaint, investigatory action taken by the  
2 Board, any findings by the Board, and the disposition of the matter.

3 (d) The Board may reinstate a qualified individual's certification and may  
4 reinstate a license after having revoked it, provided that one year has elapsed from  
5 revocation until reinstatement and that the vote of the Board for reinstatement is by a  
6 majority of its members.

7 The Board shall immediately notify the Secretary of State and the electrical  
8 inspectors within the licensee's county of residence upon the revocation of a license or  
9 the reissuance of a license which had been revoked.

10 (e) In any case in which the Board is entitled to convene a hearing to consider a  
11 charge under subsection (a1) of this section, the Board may accept an offer in  
12 compromise of the charge, whereby the accused shall pay to the Board a penalty of not  
13 more than one thousand dollars (\$1,000). All such penalties collected by the Board  
14 shall be deposited in the General Fund of North Carolina."

15 Sec. 3. G.S. 87-48 reads as rewritten:

16 **"§ 87-48. Penalty for violation of Article; powers of Board to enjoin violation.**

17 (a) Any person, partnership, firm or corporation who shall violate any of the  
18 provisions of this Article or any rule of the Board adopted pursuant to this Article or  
19 who shall engage or offer to engage in the business of installing, maintaining, altering or  
20 repairing within the State of North Carolina any electric wiring, devices, appliances or  
21 equipment without first having obtained a license under the provisions of this Article  
22 shall be guilty of a ~~misdemeanor~~ misdemeanor, ~~and upon conviction thereof shall, for each~~  
23 ~~offense, be subject to a fine of not more than three hundred dollars (\$300.00) or imprisonment~~  
24 ~~for not more than three months or both.~~

25 (b) Whenever it shall appear to the State Board of Examiners of Electrical  
26 Contractors that any person, partnership, firm or corporation has violated, is violating,  
27 or threatens to violate any provisions of this Article, the Board may apply to the courts  
28 of the State for a restraining order and injunction to restrain such practices. If upon  
29 such application the court finds that any provision of this Article is being violated, or a  
30 violation thereof is threatened, the court shall issue an order restraining and enjoining  
31 such violations, and such relief may be granted regardless of whether criminal  
32 prosecution or citation procedure is instituted under the provisions of this Article. The  
33 venue for actions brought under this subsection shall be the superior court of any county  
34 in which such acts are alleged to have been committed or in the county where the  
35 defendants in such action reside."

36 Sec. 4. This act becomes effective December 1, 1993.