

SENATE BILL No. 839

October 18, 2007, Introduced by Senators RICHARDVILLE and BASHAM and referred to the Committee on Commerce and Tourism.

A bill to regulate persons engaged in commercial 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 register apprentices; 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 "commercial carpentry licensure act".

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

4 (a) "Apprentice" means an individual registered under this act
5 to act as an apprentice carpenter.

1 (b) "Board" means the board of commercial carpentry.

2 (c) "Carpenter contractor" means a licensed journey carpenter
3 or a person who employs a licensed journey carpenter full-time to
4 directly supervise the installation of carpentry on a commercial
5 structure as his or her representative, that is engaged in the
6 business of carpentry for a fixed sum, price, fee, percentage or
7 other valuable consideration, or other compensation. Carpenter
8 contractor does not include a governmental agency.

9 (d) "Carpentry" means activity on a commercial structure
10 involving the erecting, installing, framing, altering, or repairing
11 of structures and their structural parts including decks, walls,
12 doors, windows, ceilings, roofs, drywall, countertops, cabinets,
13 flooring, trim, and any components that make the framing of a
14 structure complete, including the prefabrications of any structure.
15 For purposes of this subdivision, "wood construction" and "wooden
16 structure" include construction methods utilizing substitute
17 materials, including, but not limited to, metal stud and composite
18 framing and finish materials that replace or are used in
19 conjunction with traditional wood construction and the preparation
20 and installation of concrete foundation forms or wood foundations
21 that do not include trench footers. Carpentry does not include
22 minor repair or the construction, maintenance, or repair of farm
23 structures and their appurtenances, greenhouses, fences, or
24 structures used for the production or care of farm plants and
25 animals.

26 (e) "Commercial structure" means any structure not involving
27 either a residential structure or a farm structure.

1 (f) "Department" means the department of labor and economic
2 growth.

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

6 (h) "Farm structure" means a farm building and its
7 appurtenances, a greenhouse, a fence, or a structure used for the
8 production or care of farm plants and animals.

9 (i) "Governmental subdivision" means a governmental
10 subdivision as defined in section 2a of the Stille-DeRossett-Hale
11 single state construction code act, 1972 PA 230, MCL 125.1502a.

12 (j) "Journey carpenter" means an individual other than a
13 carpenter contractor who, as his or her principal occupation, is
14 engaged in practical installation carpentry. A carpenter contractor
15 may also act as a journey carpenter.

16 (k) "Michigan construction code" means the rules promulgated
17 under the authority of the Stille-DeRossett-Hale single state
18 construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, and
19 known as the Michigan building code.

20 (l) "Minor repair" means a repair which involves the
21 replacement of existing materials to maintain an existing facility
22 not exceeding \$600.00 in aggregate cost, when the work is not a
23 part of a larger project and is not subject to the requirement of
24 obtaining a permit under the Michigan construction code, including,
25 but not limited to, window sash and glazing replacements; door
26 slabs, frames, and hardware replacements; roofing and exterior wall
27 repairs to maintain the enclosure of the building from the

1 elements; interior wall and floor ceiling repairs not involving
2 structural elements, fire resistance rated assemblies and means of
3 egress, or the removal or alteration of a means of egress; or the
4 removal or alteration of a means of egress.

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

9 (n) "Residential structure" means 1- and 2-family residential
10 dwellings, including detached 1- and 2-family dwellings and
11 multiple single-family dwellings not more than 3 stories in height
12 with a separate means of egress, and their accessory structures as
13 further described in R 408.30401 of the Michigan administrative
14 code.

15 Sec. 5. (1) There is created within the department a board of
16 commercial carpentry consisting of 9 residents of the state to be
17 appointed by the governor with the advice and consent of the
18 senate. Appointed members shall be not less than 18 years of age
19 and qualified in their respective fields. Of the members first
20 appointed, 3 members shall have a term of 2 years, 3 members shall
21 have a term of 3 years, and 3 members shall have a term of 4 years.
22 Appointed members of the board shall include all of the following:

23 (a) One member of organized labor representing carpentry
24 trades, who is licensed under this act.

25 (b) Two members of regional carpenter contractor associations
26 that are from diverse geographical locations and who are licensed
27 under this act.

1 (c) Two members of the general public.

2 (d) Two building inspectors affiliated with a governmental
3 subdivision.

4 (e) Two members licensed under this act.

5 (2) Except for the initial members, a member of the board
6 shall be appointed for a term of 4 years. A vacancy shall be filled
7 for the unexpired portion of the term. A member of the board may be
8 removed from office by the governor in accordance with section 10
9 of article V of the state constitution of 1963. A member of the
10 board who has a pecuniary interest in a matter shall disclose that
11 interest before the board takes action in the matter, which
12 disclosure shall be made a matter of record in the board's official
13 proceedings. Each member of the board shall receive travel and
14 actual expenses incurred by the member in the performance of his or
15 her duties as a member of the board.

16 (3) Travel or other expenses incurred by a member of a board
17 in the performance of an official function shall be payable by the
18 department pursuant to the standardized travel regulations of the
19 department of management and budget. A member of the board shall
20 not serve more than 2 consecutive terms.

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

27 Sec. 7. (1) The board shall hold regular quarterly meetings.

1 Special meetings may be held at the call of the chairperson or 3
2 members of the board. Written notice of a special meeting shall be
3 mailed to each member not less than 12 days before the date of the
4 meeting.

5 (2) Five members of the board shall constitute a quorum for
6 the transaction of business. An approval, decision, or ruling of
7 the board shall not become effective unless approved by 2/3 of the
8 board members attending a meeting.

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

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

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

20 Sec. 9. (1) Within 1 year after the effective date of this
21 act, the department, in consultation with the board, shall
22 promulgate rules pursuant to the administrative procedures act of
23 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of
24 this act and to provide for 1 or more examinations and for
25 establishing a procedure for the registration of apprentices.

26 (2) Before an examination or other test required under this
27 act is administered, the department and the board, acting jointly,

1 shall review and approve the form and content of the examination or
2 other test.

3 (3) The board may approve an applicant in the appropriate
4 classification who demonstrates equivalent experience to that
5 prescribed under this act.

6 Sec. 11. (1) Upon the filing of an application on a form
7 prescribed by the department and payment of the examination fee
8 prescribed in section 23, the department shall conduct examinations
9 to establish the qualifications and competency of applicants
10 seeking licensure for the classification for which the application
11 is submitted and, except as otherwise provided, shall issue
12 licenses to those who pass the examinations or are otherwise
13 qualified and who pay the initial issuance fee.

14 (2) An applicant is not considered eligible for examination
15 unless the applicant is of good moral character, as defined and
16 determined under 1974 PA 381, MCL 338.41 to 338.47, and has
17 established, in a manner acceptable to the board, the experience
18 requirements, or equivalent, for the particular classification of
19 license.

20 Sec. 13. (1) A carpenter contractor license is classified and
21 limited to 1 or more of the following classifications:

22 (a) Exterior systems, which include the placement and
23 installation of roof covering membranes, except hot tar
24 applications; siding and gutters; exterior trim materials; and
25 window, screens, and sash installation.

26 (b) Finish and trim carpentry, which includes the installation
27 of molding and trim, such as door and window casings, mantles,

1 baseboard, and other types of ornamental work, and cabinet
2 installation and countertop installation.

3 (c) Formwork and foundations, which include the installation
4 of formwork used in concrete construction and foundation systems.

5 (d) Interior systems, which include the placement and
6 installation of office partition systems and related furniture;
7 drywall and other interior finish systems attached to wood or metal
8 framing systems; acoustical ceiling system; and insulation in
9 interior or exterior cavity systems for sound or thermal
10 protection.

11 (e) Rough carpentry, which includes framing with wood or light
12 gauge metal framing members to form walls, floor systems, or roof
13 framing systems that comprise the skeletal structure or framework
14 of buildings; formwork; roof construction concentrating on rafters,
15 beams, and trusses roofing; and other structural or other large-
16 scale work that need not be finely joined or polished in
17 appearance.

18 (2) The department shall not require a separate carpenter
19 contractor license for each classification for which the applicant
20 applies and shall not impose an additional and separate license fee
21 for each classification for which the license is issued.

22 (3) A carpenter contractor shall have at least 2 years'
23 experience as a licensed journey carpenter or have at least 1
24 journey carpenter who possesses not less than 2 years' experience
25 as a licensed journey carpenter residing in this state and who is
26 in his or her full-time employ. That journey carpenter shall be
27 actively in charge of, and responsible for, Michigan construction

1 code compliance of all installation performed by the carpenter
2 contractor.

3 Sec. 15. (1) The department shall issue a journey carpenter
4 license to a person not less than 19 years of age who does all of
5 the following:

6 (a) Files a completed application form provided by the
7 department.

8 (b) Pays the examination fee prescribed in section 23 and
9 passes the examination provided by the board and the department.

10 (c) Pays the licensing fee prescribed in section 23.

11 (d) Has not less than 6,000 hours of experience obtained over
12 a period of not less than 4 years related to carpentry under the
13 direct supervision of a licensed carpenter contractor.

14 (2) Upon failure to pass the journey examination 2 times
15 within a 2-year period, an applicant is ineligible to sit for
16 another examination until a period of not less than 1 year from the
17 date of failure of the second examination, at which time he or she
18 shall present to the board proof of the successful completion of a
19 course on the Michigan construction code, carpentry fundamentals,
20 or carpentry theory, as approved by the board, in order to be
21 eligible to again sit for an examination.

22 Sec. 17. (1) An individual employed as an apprentice carpenter
23 shall register with the department on a form provided by the
24 department within 30 days after the date of employment.

25 (2) An apprentice registration is invalid after 5 years from
26 the date of initial registration unless the registered apprentice
27 applies for and takes the examination for journey carpenter

1 license. The registration remains valid until either a license is
2 issued or the apprentice fails to take the journey carpenter exam.

3 (3) Upon request by the apprentice to the board, the board may
4 grant an extension of an apprentice registration for a period of
5 time as determined appropriate by the board.

6 (4) An apprentice carpenter shall, as his or her principal
7 occupation, be engaged in learning and assisting in the
8 installation of carpentry under the direct on-site jobsite
9 supervision of a journey carpenter with at least 2 years of
10 experience as a licensed journey carpenter.

11 Sec. 19. (1) Except as otherwise provided in this act or in
12 subsection (3), a person shall not engage in the business of being
13 a carpentry contractor unless the person has received from the
14 department a carpenter contractor license.

15 (2) Except as otherwise provided in this act or in subsection
16 (3), a person other than a person duly licensed under this act and
17 employed by and working under the direction of a holder of a
18 carpenter contractor license shall not in any manner engage in
19 carpentry. This subsection does not prevent an individual,
20 practicing within the scope of practice of his or her license or
21 registration, from performing incidental carpentry activities that
22 are within his or her scope of licensed or registered practice.

23 (3) This act does not require a carpentry license in a
24 facility that regularly employs a qualified maintenance crew to
25 perform within the facility carpentry work regulated by this act.

26 Sec. 21. (1) A person who, on the effective date of this act,
27 has been actively engaged in, or worked at, a business as a journey

1 carpenter or carpenter contractor in 1 or more of the
2 classifications and is required to be licensed under this act shall
3 be issued a license in a classification for which he or she is
4 qualified without taking an examination upon furnishing the
5 department with satisfactory evidence of having been engaged in a
6 business as a journey carpenter or carpenter contractor in 1 or
7 more of the classifications for a minimum of 3 out of the 5 years
8 immediately preceding the effective date of this act. The
9 application, accompanied by the appropriate license fee, shall be
10 submitted within 1 year after the effective date of this act.

11 (2) A person who on the effective date of this act is actively
12 engaged in carpentry and is licensed by a municipal licensing board
13 as a journey carpenter or carpenter contractor in 1 or more of the
14 classifications may furnish the department with satisfactory
15 evidence of the municipal license. The department shall issue to a
16 person complying with this subsection the license for which the
17 person seeks licensure and for which the person is qualified
18 without examination if the person applies within 1 year after the
19 effective date of this act and pays the initial license fee
20 prescribed in section 23.

21 (3) A person who on the effective date of this act is employed
22 as a code inspector for a governmental subdivision and has engaged
23 in, or worked at, a business as a journey carpenter or carpenter
24 contractor in 1 or more of the classifications for 3 out of the 5
25 years immediately preceding the date of the person's employment as
26 a code inspector may furnish the department with satisfactory
27 evidence of the employment and experience. The department shall

1 issue to a person complying with this subsection the license for
2 which the person seeks licensure and for which the person is
3 qualified without examination if the person applies within 1 year
4 after the effective date of this act and pays the initial license
5 fee prescribed in section 23.

6 (4) A person who on the effective date of this act is actively
7 engaged in carpentry and is licensed as a residential builder, or a
8 residential maintenance and alteration contractor in the trade of
9 carpentry or a related subject matter area, under section 2404 of
10 the occupational code, 1980 PA 299, MCL 339.2404, may furnish the
11 department with satisfactory evidence of the license and
12 documentation demonstrating experience in being actively engaged in
13 the construction business and carpentry under that license. The
14 department shall issue to a person complying with this subsection a
15 license as a journey carpenter or carpenter contractor without
16 examination if the person applies within 1 year after the effective
17 date of this act and pays the initial license fee prescribed in
18 section 23.

19 (5) The department shall license, without examination and upon
20 the payment of the initial license fee prescribed in section 23, an
21 applicant who is a legally authorized journey carpenter or
22 carpenter contractor in another state or country if the licensing
23 requirements of the state or country are considered by the board
24 and the department to be substantially equivalent to the licensing
25 requirements of this state and the state or country observes
26 reciprocity in regard to journey carpenters and carpenter
27 contractors licensed under this act.

1 (6) The holder of a license issued under this section may
2 renew the license pursuant to section 23.

3 (7) Beginning on the effective date of this act, a
4 governmental subdivision shall not establish or maintain local
5 licensing requirements for work classifications under this act. A
6 governmental subdivision shall not prohibit a carpenter contractor
7 licensed under this act from engaging in the work classifications
8 for which the carpenter contractor has a license, unless the
9 carpenter contractor is in violation of the Michigan construction
10 code.

11 Sec. 23. (1) The examination fee for a journey carpenter's or
12 carpenter contractor's license is \$100.00. Except as otherwise
13 provided in subsection (2), the initial and per-year fee for the
14 issuance of a carpenter contractor license is \$100.00, and \$50.00
15 for a journey carpenter license. The initial and per-year
16 registration fee for an apprentice is \$15.00. The department may
17 issue licenses for up to 3 years in duration.

18 (2) The fees in this subsection may be adjusted as follows:

19 (a) At the beginning of each state fiscal year, the
20 department, by order, may increase the fees collected in this
21 section by a percentage amount equal to not more than the average
22 percentage wage and salary increase granted for that fiscal year to
23 classified civil service employees employed by the department.

24 (b) If the department increases fees under subsection (1), the
25 increase shall be effective for that fiscal year. The increased
26 fees shall be used by the department as the basis for calculating
27 fee increases in subsequent fiscal years.

1 (c) By August 1 of each year, the department shall provide to
2 the director of the department of management and budget and the
3 chairpersons of the appropriations committees of the senate and
4 house of representatives a complete schedule of fees to be
5 collected under this section for the following fiscal year.

6 (3) An initial or renewal carpenter contractor's license
7 issued under this act expires on April 30 every third year after
8 April 30 of the year after the effective date of this act and is
9 renewable not later than June 30 upon application and payment of
10 the license fees prescribed in this section. For a person applying
11 for an initial or reinstatement carpenter contractor's license at a
12 time other than between April 30 and June 30 of the year in which
13 the department issues renewal licenses, the department shall
14 compute and charge the license fee on a yearly pro rata basis
15 beginning in the year of the application until the last year of the
16 3-year license cycle. All licenses not renewed are void and may be
17 reinstated only upon application for reinstatement and the payment
18 of the license fee. A person who renews his or her license within 3
19 years after the license is voided pursuant to this section is not
20 subject to reexamination for the license.

21 (4) The department shall issue an initial or renewal license
22 not later than 90 days after the applicant files a completed
23 application. Receipt of the application is considered the date the
24 application is received by any agency or department of the state of
25 Michigan. If the application is considered incomplete by the
26 department, the department shall notify the applicant in writing,
27 or make the information electronically available, within 30 days

1 after receipt of the incomplete application, describing the
2 deficiency and requesting the additional information. The 90-day
3 period is tolled upon notification by the department of a
4 deficiency until the date the requested information is received by
5 the department. The determination of the completeness of an
6 application does not operate as an approval of the application for
7 the license and does not confer eligibility of an applicant
8 determined otherwise ineligible for issuance of a license.

9 (5) All fees and money received by the department for the
10 licensing of persons under this act, and any other income received
11 under this act, shall be paid into the state construction code fund
12 created by section 22 of the Stille-DeRossett-Hale single state
13 construction code act, 1972 PA 230, MCL 125.1522.

14 (6) If a license or registration is lost or destroyed, a new
15 license or registration shall be issued without examination, upon
16 payment of a \$20.00 fee and a written statement made by the
17 licensee or registrant that the license or registration has been
18 lost or destroyed.

19 (7) A licensee or registrant shall report a change of address
20 within 60 days after the change. The failure of a licensee to
21 notify the department of a change of address does not extend the
22 expiration date of a license or registration.

23 (8) As used in this section, "completed application" means an
24 application complete on its face and submitted with any applicable
25 licensing fees as well as any other information, records, approval,
26 security, or similar item required by law or rule from a local unit
27 of government, a federal agency, or a private entity but not from

1 another department or agency of the state of Michigan.

2 Sec. 25. (1) The department may investigate the activities of
3 a licensee related to the licensee's activities as a journey
4 carpenter or carpenter contractor based upon information and belief
5 that the licensee has violated this act or a rule promulgated under
6 this act. The department may hold administrative hearings,
7 administer oaths, and order relevant testimony to be taken and
8 shall report its findings to the board. The board shall proceed
9 under section 33 if the board finds that any of the following
10 grounds exist:

11 (a) The practice of fraud or deceit in obtaining a license
12 under this act.

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

15 (c) An act of gross negligence.

16 (d) The practice of false advertising.

17 (e) An act which demonstrates incompetence.

18 (f) A violation of the Michigan construction code.

19 (g) A violation of this act or rule promulgated under this
20 act.

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

25 (3) A revocation, suspension, or other sanction set forth in
26 subsection (2) or section 35 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 (4) The installation, alteration, or servicing of carpentry
4 systems shall not be performed under a license that has been
5 suspended or revoked or has expired. A license, other than a
6 license issued under this act, shall not be presented for the
7 securing of permits to install, alter, or service carpentry
8 systems.

9 Sec. 27. (1) If a carpenter contractor is represented by a
10 licensed journey carpenter who ceases to represent the carpenter
11 contractor, the carpenter contractor has 30 days thereafter in
12 which to designate another licensed journey carpenter as the
13 representative of the carpenter contractor. The carpenter
14 contractor shall notify the department in writing of the change.

15 (2) If a carpenter contractor who is represented by a licensed
16 journey carpenter ceases to do business as a carpenter contractor
17 and sells his or her business interest to another person, the buyer
18 has 90 days to designate an employee or officer who is the holder
19 of a journey carpenter license as the licensee of record for the
20 licensed carpenter contractor purchasing the business.

21 Sec. 29. A carpenter contractor licensed under this act who
22 performs work in a governmental subdivision shall register his or
23 her license with the enforcing agency that issues permits and
24 provides inspection services of the carpenter contractor's work.
25 The registration is valid until the expiration date of the
26 carpenter contractor's license. Registration shall be granted by
27 all governmental subdivisions in this state to a carpenter

1 contractor licensed under this act upon payment of a fee not to
2 exceed \$15.00.

3 Sec. 31. A person licensed or registered under this act who
4 commits a violation of this act, or a person not licensed or
5 registered under this act who is performing any activity regulated
6 by this act and is not exempt from licensure or registration under
7 this act, is guilty of a misdemeanor punishable by a fine of not
8 less than \$1,000.00 per day for each day the violation occurs
9 except that a fine shall not exceed \$5,000.00 in total per
10 violation or punishable by imprisonment for not more than 93 days,
11 or both. A second or subsequent violation is punishable by a fine
12 of not less than \$2,000.00 per day for each day the violation
13 occurs except that a fine shall not exceed \$10,000.00 in total per
14 violation.

15 Sec. 33. After finding the existence of 1 or more of the
16 grounds for board action described in section 25(1) and after
17 having provided an opportunity for a hearing, the board, except as
18 provided in section 25(2), shall impose 1 or more of the following
19 sanctions on the license issued under this act for each violation:

20 (a) Suspension.

21 (b) Denial.

22 (c) Revocation.

23 (d) Limitation.

24 (e) A requirement that restitution be made.

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

27 Sec. 35. If restitution is required to be made under section

1 33, the department may suspend the license of the person required
2 to make the restitution until restitution is made.

3 Sec. 37. This act takes effect 12 months after the date it is
4 enacted into law.